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BORDER SECURITY: INFRASTRUCTURE, TECHNOLOGY, AND THE HUMAN ELEMENT PART I AND II

HEARING

BEFORE THE

SUBCOMMITTEE ON BORDER, MARITIME, AND GLOBAL COUNTERTERRORISM

OF THE

COMMITTEE ON HOMELAND SECURITY HOUSE OF REPRESENTATIVES

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CONTENTS

Page

STATEMENTS

The Honorable Loretta Sanchez, a Representative in Congress From the State of California, and Chairwoman, Subcommittee on Border, Maritime, and Global Counterterrorism 1
The Honorable Mark E. Souder, a Representative in Congress From the State of Indiana, and Ranking Member, Subcommittee on Border, Maritime, and Global Counterterrorism 2
The Honorable Bennie G. Thompson, a Representative in Congress From the State of Mississippi, and Chairman, Committee on Homeland Security
Oral Statement 4
Prepared Statement 4
The Honorable Gus M. Bilirakis, a Representative in Congress From the State of Florida 25
The Honorable Henry Cuellar, a Representative in Congress From the State of Texas 27
The Honorable Al Green, a Representative in Congress From the State of Texas 29
The Honorable Jane Harman, a Representative in Congress From the State of California 105
The Honorable Sheila Jackson Lee, a Representative in Congress From the State of Texas
Oral Statement 34
Prepared Statement 35
The Honorable Zoe Lofgren, a Representative in Congress From the State of California 32

WITNESSES

TUESDAY, FEBRUARY 13, 2007

David V. Aguilar, Chief, Border Patrol, U.S. Customs and Border Protection, U.S. Department of Homeland Security:
Oral Statement 6
Prepared Statement 7
David Pekoske, Rear Admiral, U.S. Coast Guard, U.S. Department of Homeland Security:
Oral Statement 10
Prepared Statement 12

THURSDAY, MARCH 8, 2007

Dr. Jeffrey Scott McIllwain, Co-Director, Homeland Security Program, San Diego State University:
Oral Statement 45
Prepared Statement 47
Mr. Michael O'Hanlon, Senior Fellow, Brookings Institution:
Oral Statement 57
Prepared Statement 59

VerDate Nov 24 2008 07:41 Nov 03, 2009 Jkt 000000 PO 00000 Frm 00003 Fmt 5904 Sfmt 5904 H:\DOCS\110-HRGS\110-4\35263.TXT HSEC PsN: DIANE

Page

Mr. Andrew M. Ramirez, Chairman, Friends of the Border Patrol:
Oral Statement 74
Prepared Statement 76
Mr. Michael Wermuth, Director, RAND Homeland Security Program:
Accompanied by Mr. Jack Riley:
Oral Statement 88
Prepared Statment 70

BORDER SECURITY: INFRASTRUCTURE, TECHNOLOGY, AND THE HUMAN ELEMENT PART I

Tuesday, February 13, 2007

U.S.HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOMELAND SECURITY,
SUBCOMMITTEE ON BORDER, MARITIME,
AND GLOBAL COUNTERTERRORISM,
Washington, DC.

The subcommittee met, pursuant to call, at 10:05 a.m., in Room 311, Cannon House Office Building, Hon. Loretta Sanchez [chairman of the subcommittee] presiding.

Present: Representatives Sanchez, Lofgren, Jackson Lee, Cuellar, Green, Thompson, Souder, and Bilirakis.

Ms. SANCHEZ. [Presiding.] The subcommittee will come to order.

The subcommittee is meeting today to receive testimony on border security, infrastructure, technology and the human element.

And I want to begin by thanking the witnesses, Chief Aguilar and Rear Admiral David Pekoske, who are joining us today at this important hearing on border security, infrastructure, technology and the human element.

This is the first hearing in the Border, Maritime and Global Counterterrorism Terrorism Subcommittee, and I hope today's discussion will be the first of many useful discussions between this committee and the department. And I look forward to a very productive Congress this year.

One of the top issues that this subcommittee will focus on is border security. And today, we have the opportunity to explore broadly the challenges we face in securing our borders and the ways in which infrastructure, technology and personnel can be used to secure our country.

To begin with, I am interested in discussing the diversity of the issues that we face on the northern, the southern and the coastal borders, and how Customs and Border Protection and the Coast Guard work independently and how you work jointly to get this done.

In addition, I would like to learn more about the various mix of the infrastructure, the technology and the personnel resources that are used to address the different challenges at the different borders, and to sort of get a best practices or some idea from you on how this works, what is working well, and what we need to do to improve, and what kind of resources you need, because I believe—and I think most of us realize now—that a one-size-fits-all doesn't

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work with respect to securing our borders, and because we have limited resources, we are trying to figure out how to prioritize those resources and use them effectively.

I also want to hear about the fencing and the barrier situation, because there have been many misinterpretations, I think, in particular in the press, about what the new 700 miles of wall or fence would be and what that looks like. My interpretation of the language is that it could be technology sensors; it could be personnel; it doesn't necessarily have to be a physical barrier. So I hope you will give us or enlighten us on what you think works effectively with respect to that.

And, of course, the SBI*net* technology project, I look forward to seeing the Project 28 pilot when it is complete. And I want to let our members know that we will have ample time to review this project. And today I hope we will discuss the technology currently being used at both Customs and Border Protection and the Coast Guard.

And in terms of the human element, I would like to hear about, not just the plans for increasing the Border Patrol, because I know we have challenges in recruitment, in training, and retention, but also, again, how do we use them to maximize what we are doing at our border?

Given the variety and the complexity of the issues, I am sure that we will hold additional hearings on these topics. And today's hearing is really just a starting point for this subcommittee, so that hopefully we can get this right. With this looming issue of whether we do a comprehensive immigration reform or not, you know, I just want to be on record saying that we want to get this part of this reform correct in order for the rest of it to work.

So I would like to thank my ranking member for his interest in this topic, and I look forward to working with him on this and on other issues of importance in the future.

And the chair now recognizes the ranking member of the subcommittee, the gentleman from Indiana, for an opening statement.

Mr. SOUDER. I thank the chairlady, and I appreciate her leadership and interest. And I look forward to working with her on a complex issue that probably never will be solved and on how we totally protect our borders that clearly we have.

And the challenges here are mixed. And those of us who have worked with it realized their mixed, because you have the people problem, which would be terrorists, smugglers, as well as probably 2 million illegal aliens coming across. And it is hard to tell when somebody is coming whether they are initially a drug smuggler, a people smuggler, or a terrorist, or just somebody coming to work in Indiana.

The second part is contraband, whether it is chemical, biological, nuclear, or narcotics, which up to this point, since 9/11, we have had 20,000 people a year die from illegal narcotics in the United States or, at this point, 100,000 since 9/11, that is a continuing form of terrorism in the United States, or protection, where China, India, other countries send things in that are stolen and can put different industries out.

So you have both on the Border Patrol and in the Coast Guard multitask missions that are huge challenges. My questions—reflect two concerns.

One as is the stated goal of the President, and many of us in Congress realize we need some type of, at some point, comprehensive immigration reform, but what has to be in place before that occurs? How secure does the border have to be? How secure does our exit visa program have to be? And how secure do our IDs need to be, prior to implementation of that?

Because the general consensus is, is the failure of Simpson–Mazzoli was that there was amnesty with no enforcement, so the American people believe that, when we come forward and say, "Oh, we are going to do comprehensive immigration reform, but the other things aren't in place," that they are fearful that there is going to be another sleight of hand, that we agree for some type of work permit amnesty, but there is no real commitment to finishing off border security. And that is why many of us feel we need to show more progress there before we do immigration reform.

The second part of this is much more complex; not more complex overall, but more in particular policies. In Colombia, the only way we could tell we were making progress on eliminating coca is if they shoot. Because if they never fight back, it means it is just cost of goods, you know, it is a bad debt.

So if they don't shoot at your spray planes, if they don't shoot at the Coast Guard ships, if they don't fire at our Border Patrol, it means so many narcotics are pouring across the border and so much is being grown that they don't even feel a need to protect their asset.

So as we get better at sealing the border, and one measure of some success to me, rather than just the stacks that the Border Patrol shows or the Coast Guard claims each year of how many narcotics we are getting or how many people we are interdicting—because we know the numerator. We don't know the denominator.

We know how much we are seizing, but we don't know how much is coming, that when you look at that statistic, that, quite frankly, if there is no conflict, it means so much is coming through that what we interdicted is irrelevant. What we are seeing on the border is more violence right now. That suggests that there is some success right now in the drug smuggling area and in the people smuggling area.

However, that, I believe, means we need to look at other policies such as the two Border Patrol agents who admittedly committed some doctoring of evidence crimes. The question is, what policy underneath that led them to be fearful of prosecution? Has there been a chilling effect on the Border Patrol for their willingness to defend our borders?

Similarly, the National Guard, from my district, as they go to the border, can't have bullets if they are working on the fence. Well, if our deterrent in between the ports of entry are, in effect, have to wait until shot at, which is one of the problems we have had in Iraq, do we really have border security at a time when we are continuing to clamp down and the pressure for violence is increasing?

Similarly, if we don't have adequate boats, if we don't have HITRON helicopters, if we don't have the ability to defend our-

selves and to keep up with the go-fast boats and take them, it isn't going to work.

So a lot of my questions are going to be related to those type of things. I thank you both for your service. I look forward to continuing to work with you.

Ms. SANCHEZ. Thank you.

The chair now recognizes the chairman of the full committee, the gentleman from Mississippi, Mr. Thompson, for an opening statement.

Mr. THOMPSON. Thank you very much, Madam Chairman. And I, too, am looking forward to the testimony of our two witnesses today. Hearing their testimony, I am looking forward to seeing where infrastructure, technology and personnel will be needed to strengthen America's border security.

For decades, our men and women on the Border Patrol have done a wonderful job. But at this point after 9/11, we all know that they have taken on additional responsibilities in the fight against terror.

One of the things I want to know is, now that we are getting 6,000 new agents, can we really bring them on line in a reasonable period of time? If so, how do we plan to do that over the next year, year and a half?

With respect to the Coast Guard, I thank you for what you did during Katrina. You made all of us feel that some part of government really works. And because of that, Deepwater is a vital program for us. If we can't get the ships redone, there is only so much life left in them. But in doing that, I want to make sure that we get a product.

The National Security Cutter and the 123-foot cutters are real problems for us. We can't spend $700 million on a ship and it not perform the duties for which it was designed. And that is a real problem. I have shared it with the commandant and others, but we will have hearings on that later.

The other thing is whether or not, given the substantial miles from a maritime standpoint that the Coast Guard is charged with guarding, whether or not the present personnel is sufficient to do the job, or have we taxed the Coast Guard with new missions that stretches them beyond their capacity?

But I look forward to this hearing and the testimony. And I yield back the rest of my time, Madam Chairman.

FOR IMMEDIATE RELEASE

Statement of Chairman Bennie G. Thompson

"Border Security: Infrastructure,

Technology, and the Human Element"

February 13, 2007 (WASHINGTON)—Today, Committee on Homeland security Chairman Bennie G. Thompson (D-MS) delivered the following prepared remarks for the Border, Maritime, and Global Counterterrorism Subcommittee Hearing entitled "Border Security: Infrastructure, Technology, and the Human Element":

For decades, the men and women of the United States Border Patrol have been on the front lines of our border security efforts. In the wake of the attacks of 9/11, they have taken on added responsibilities in the fight against terror. I know I join my colleagues in thanking the approximately 13,000 Border patrol agents who work hard every day to help keep the American people safe.

I have also long supported increasing the size of the Border Patrol, so we have the personnel required to manage our borders effectively. President Bush has made a commitment to doubling the size of the Border Patrol during his term in office., which would mean adding an additional 6,000 agents over the next two years. This is an ambitious goal, and I am looking forward to hearing more about Border Patrol's plans to recruit, hire, train, and retain these agents.

In addition, I am a strong proponent of providing Border Patrol with the technology in infrastructure they need to get their job done. At the same time, any such initiatives need careful oversight to ensure that we are making the best possible use of our homeland security funding.

As Chairman, I can assure you that the Homeland Security Committee will provide such oversight this year.

As we strengthen our security along the northern and southern borders with more manpower and other resources, it is likely that our maritime borders will become an increasingly attractive target for those seeking to enter the United States illegally or to bring drugs or other contraband into the country. Therefore, securing our nation's maritime borders is also vitally important to our homeland security.

About 95 percent of goods coming into the United States arrive by ship, and our economy depends on a continuous flow of commerce. Also, though our maritime borders are 12,400 miles long, there are actually 95,000 miles of coastline in the United States and 3.4 million square miles within the United States Exclusive Economic Zone. Facilitating legitimate trade and travel while also addressing threats across this vast area is no easy task.

It is up to 40,150 active duty Coast Guard men and women to protect this immense area. It is essential that these men and women have the necessary tools to be successful. Recently, however, we learned about structural problems with the National Security Cutters and the 123 foot cutters.

I am deeply concerned about these problems. The valiant men and women of the Coast Guard, who risk their lives each, must be able to depend on Coast Guard assets.

As Chairman of this Committee, I intend to work closely with the Coast Guard to ensure that similar problems do not occur in the future. I am also committed to working with the Commandant to ensure that he has an adequate number of personnel to meet the Coast Guard's mission.

We can not afford for maritime security to be the weak link in the fight against terrorism. I look forward to continuing to work with my congressional colleagues and the Department of Homeland Security on these and many other important border security issues in the 110th Congress.

Ms. SANCHEZ. Thank you, Mr. Chairman.

Other members of the subcommittee are reminded that, under the committee rules, opening statements may be submitted for the record.

And so, I welcome our panel of witnesses.

Our first witness, Chief David V. Aguilar, is the chief of the United States Border Patrol, a position that he has held since June of 2004. And his career in the Border Patrol spans nearly three decades and includes service as the chief patrol agent of Border Patrol's Tucson sector, which is one of the most active areas of the border region, and a great area, I might add. It is the home of my father.

And our second witness, Rear Admiral David Pekoske—it is a difficult one to pronounce—was assigned as the Coast Guard's assistant commandant for response in July of 2006. And his responsibilities include management, oversight of a wide range of Coast Guard programs essential to public safety, to national and to homeland security.

So, without objection, the witnesses' full statements will be inserted in the record. And I now ask each witness to summarize his or her statement for 5 minutes, beginning with Chief Aguilar.

STATEMENT OF CHIEF DAVID V. AGUILAR, BORDER PATROL, U.S. CUSTOMS AND BORDER PROTECTION, U.S. DEPARTMENT OF HOMELAND SECURITY

Chief AGUILAR. Good morning.

Chairwoman Sanchez, Ranking Member Souder and Committee Chairman Thompson, it is a pleasure and an honor to be here this morning to be able to speak to you and answer any questions that you might have, relative to Border Patrol, Border Patrol operations, and our activities along our nation's borders with the Canada, Mexico and, of course, the coastal borders that we share responsibility with our partners, the U.S. Coast Guard.

I would like to cover just a little bit about what we do, how we do it, and where we do it, which summarizes my statement.

The Border Patrol is responsible for over 6,000 miles of land border with Canada and Mexico. Last year, we apprehended over 1.1 million apprehensions between the ports of entry. In addition to that, we apprehended over 1.3 million pounds of narcotics, again, between the ports of entry. We apprehended over 98,000 other than Mexicans, within that group of 1.1 million apprehensions that we apprehended between the ports of entry.

Now, there were several initiatives that were undertaken last year that made a world of difference, in my opinion, from an enforcement activity for the Border Patrol, the commencement of Operation Jump Start.

Operation Jump Start began about July 15th. We deployed up to 6,000 National Guard personnel. These citizen-soldiers are doing a tremendous job for us.

As an example, I will state that, by implementing these National Guard personnel, one of the very important things that they did for us was entry identification teams, whereby they literally gave us an additional eyes and ears subset of our operations, over 300 miles of border, that we just didn't have in the past. So we had a tremendous increase in our surveillance capability.

We commenced Operation Streamline in Del Rio sector, a very specific operation that we worked in conjunction with our ICE partners, with the judiciary down there in the Del Rio sector of operation, the U.S. attorney's office, and the U.S. magistrates, whereby we basically concentrated our joint efforts in prosecuting every entry that occurred within a specific area of that piece of the border.

We commenced with an area no larger than four miles of that border. Within about eight months, we expanded to over 200 miles of that entire border. As a result of that collaborative effort and partnership with the state, local, tribal and federal entities, we reduced the levels of activities by over 66 percent, tremendous increase in operational effectiveness.

We had additional bed space given to the Border Patrol. We are literally in the process and have ended what was known as catch and release. We are now basically applying catch and return, where all OTMs that are being apprehended are now being placed in detention. There are some that are being released only for humanitarian purposes. An example would be a female who is pregnant, for example, that cannot and probably should not be detained.

But other than, upwards of 95 percent of all OTM apprehension by the United States Border Patrol are, in fact, being detained and returned to their country of origin. To date, on a national level, we have reduced the levels of OTMs coming into this country by over 52 percent. In past years, we were releasing on own recognizance over 90 percent; today, we are holding the vast majority, over 95 percent of all OTMs.

Border violence protocols. We have instituted with the government of Mexico, where we are working with them in order for them to be responsive on the south side, in order to address what Congressman Souder just spoke to. We actually use within the Border Patrol as a measure of our success and a measure of our effectiveness the levels of violence and assaults against our officers.

Simply stated, the way I put is that, when the smugglers are reluctant to give up areas that they have built historically, that they have owned and operated with impunity, they are reluctant to give up those areas. They fight us for that piece of the border. Violence escalates. It is critical that the government of Mexico work with us—and they are working with us—in order to be responsive on the south side.

SBI*net*. SBI*net* is something that, September of last year, the contract was let. We will probably be speaking more about this, but, succinctly, it is a system of systems, technology-based, as a backbone to the system that will maximize the effectiveness of Border Patrol agents on the ground.

Today, as we speak, we have over 12,500 agents on the ground, 6,000 to be added by the end of calendar year 2008. I feel confident that we are on track to do that. We will hire 2,500 this year, 3,000 next year, and 500 by the end of calendar year 2008, to get us at 6,000 net new.

I would like to address just very succinctly the fence issue. We are on track this year to build 70 miles of additional fence, in addition to the already existing 70, 72 miles that we have. We are on track to build 225 miles of fence next year, that will get us to the 370 miles that we are looking to build.

Fence is absolutely a critical part of our enforcement initiatives, but I will summarize by saying that the fence is important where it makes sense. Where it makes sense is specifically in our urban areas and some rural and remote areas that will specifically give us the latitude to operate more efficiently and maximize our Border Patrol agents. Technology, the virtual fence, 21st-century fence is where we look to expand our infrastructure in the out years.

With that, I will close out my oral summary. I thank you for the opportunity, and I look forward to answering any questions that you might have.

[The statement of Chief Aguilar follows:]

PREPARED STATEMENT OF DAVID AGUILAR

Chairwoman Sanchez, Ranking Member Souder, and distinguished Subcommittee Members, it is my honor to have the opportunity to appear before you today to discuss the successes and challenges of border security, as demonstrated by the operations and law enforcement initiatives of the United States Border Patrol, a component of the Department of Homeland Security's (DHS) U.S. Customs and Border Protection (CBP). My name is David Aguilar, and I am the Chief of the U.S. Border Patrol. I would like to begin by giving you a brief overview of our agency and mission.

CBP, as the guardian of the Nation's borders, safeguards the homeland—foremost, by protecting the American public against terrorists and the instruments of terror, while at the same time enforcing the laws of the United States and fostering the Nation's economic security through lawful travel and trade. Since 1924, the Border Patrol has grown from a handful of mounted agents patrolling desolate areas along U.S. borders to today's highly-trained, dynamic work force of almost 13,000 men and women supported by sophisticated technology, vehicles, aircraft, and other equipment. Contributing to all this is the Border Patrol's time-honored duty of interdicting illegal aliens and narcotics and those who attempt to smuggle them across our borders. We cannot protect against the entry of terrorists and the instruments of terror without also reducing the clutter that is caused by illegal migration across our borders.

To most effectively secure the border, we must reform our immigration system to relieve this pressure. We need comprehensive immigration reform that increases border security, establishes a robust interior enforcement program, and creates a temporary worker program. The Administration is dedicated to comprehensive reform of America's immigration laws by increasing border security, while maintaining the Nation's tradition of welcoming immigrants who enter the country legally. For immigration reform to succeed, it must be based on five pillars: 1) strengthening security at the borders; 2) substantially increasing enforcement in the interior to remove those who are here illegally, and to prevent employers from deliberately or inadvertently hiring illegal immigrants; 3) implementing a Temporary Worker Program to provide a legal channel for employers to hire foreign workers to do jobs Americans are unwilling to do; 4) addressing the millions of illegal immigrants already in the country; and 5) helping new immigrants assimilate into American society. The Administration's plan will deter and apprehend migrants attempting to enter the country illegally and decrease crime rates along the border. The plan also will serve the needs of the economy by allowing employers to hire legal foreign workers on a temporary basis when no American is willing to take the job, bring illegal immigrants out of the shadows without providing amnesty, and restore public confidence in the Federal Government's ability to enforce immigration laws.

The Border Patrol's national strategy is an "all threats" strategy with anti-terrorism as our main priority. This strategy has made the centralized chain of command a priority and has increased the effectiveness of our agents by using a risk-management approach to deploy our resources. The strategy recognizes that border awareness and cooperation with our law enforcement partners are critical. Partnerships with the Department of the Interior; Immigration and Customs Enforcement; Drug Enforcement Administration; Federal Bureau of Investigation; State, local, and tribal law enforcement agencies; and State Homeland Security offices play a vital role in sharing and disseminating information and tactical intelligence that assists our ability to rapidly respond to an identified threat or intrusion, which is essential to mission success.

Recognizing that we cannot control our borders by merely enforcing the law at the "line," our strategy incorporates a "defense in depth" component, to include transportation checks away from the physical border. Traffic checkpoints are critical to our enforcement efforts, for they deny major routes of egress from the borders to smugglers intent on delivering people, drugs, and other contraband into the interior of the United States. Permanent traffic checkpoints allow the Border Patrol to establish an important second layer of defense and help deter illegal entries through improved enforcement.

To carry out its mission, the Border Patrol has a clear strategic goal: to establish and maintain effective control of the border of the United States. Effective control is defined in the Border Patrol's strategy as the ability to detect, respond, and interdict border penetrations in areas deemed a high priority for threat potential or other national security objectives. In order to establish effective control in a given geographical area, we must be able to consistently:

- Detect an illegal entry;
- Identify/Classify the entry and determine the level of threat involved;
- Respond to the entry; and
- Bring the event to a satisfactory law enforcement resolution.

Gaining, maintaining, and expanding a strong enforcement posture with sufficient flexibility to address potential exigent enforcement challenges is critical in bringing effective control to the borders. Guidance at the national level for planning and implementation ensures resources are initially targeted to gain and maintain effective control in the most vulnerable, highest-risk border areas, and then to expand this level of border control to all Border Patrol Sectors.

Crucial to our mission is SBI*net*. Through SBI*net,* the technological component of the Secure Border Initiative (SBI), the Border Patrol will continue to assess, de-

velop, and deploy the appropriate mix of technology, personnel, and infrastructure to gain, maintain, and expand coverage of the border in an effort to use our resources in the most efficient fashion. The expansion of a system of cameras, biometrics, sensors, air assets, improved communications systems, and new technology will provide the force multiplier that the Border Patrol needs to perform its mission in the safest and most effective manner.

While it is key that the right combination of personnel, infrastructure, and technology be achieved, it must be coupled with improved rapid response capability and organizational mobility. Each of these components is inter-dependent and is critical to the success of the Border Patrol's strategy. We are fully engaged with the DHS Science and Technology (S&T) Directorate in our efforts to identify, develop and acquire technology to help us gain enhanced awareness and control of our borders. Our participation in S&T's Integrated Process Team on Border Security, for example, will help us use S&T resources to develop technology that will better secure our borders. Systems with the technological ability to predict, detect, and identify illegal entries and other criminal activity, but lacking the capacity for a rapid response or reaction, cannot complete the enforcement mission. Conversely, enforcement personnel with inadequate intelligence or poor technological support to provide situational awareness, access, and adequate transportation or equipment necessary to conduct enforcement activity are much less likely to be effective in today's dynamic border environment.

There is no stretch of border in the United States that can be considered completely inaccessible or lacking in the potential to provide an entry point for a terrorist or terrorist weapon. Therefore, securing every mile of diverse terrain is an important and complex task that cannot be resolved by a single solution, such as installing fence alone. To secure each unique mile of the border requires a balance of technology, infrastructure and personnel that maximizes the government's return on investment and is tailored to each specific environment. Some of the components included by the Border Patrol and SBI*net* in evaluating tactical infrastructure needs are border access (the existence of all-weather roads), border barriers (vehicle and pedestrian), and the lack of non-intrusive inspections equipment at checkpoint facilities.

The hiring and training of agents present both a challenge and an opportunity for the Border Patrol. CBP expects all training directed at achieving the President's target of 18,000 Border Patrol agents on board by December 31, 2008, to be conducted at the Border Patrol Academy in Artesia, New Mexico. CBP and the Federal Law Enforcement Training Center (FLETC) have agreed upon a plan to train a minimum of 3,600 new trainees in fiscal year 2007, 4,350 trainees in fiscal year 2008, and 850 trainees in the first quarter of fiscal year 2009. The Academy has increased the number of permanent instructors, detailed instructors, and rehired annuitants to meet the increased training load. Advanced Instructor Training to ensure that instructors have appropriate technical and teaching skills is being conducted at the FLETC facility in Charleston, South Carolina. CBP and FLETC have agreed to do everything possible to ensure that the Artesia facility is fully prepared for the Border Patrol training requirements, and with the addition of infrastructure, it is anticipated that the facility will meet the need. However, both CBP and FLETC have committed to exploring other options should there be a need for a contingency.

The proper mix of personnel, technology, and infrastructure will vary with differing border environments and enforcement challenges. The Border Patrol operates in three basic geographical environments: urban, rural, and remote. Each of these environments requires a different mix of resources.

In an urban environment, enforcement personnel generally have only minutes, or sometimes seconds, to identify an illegal entry and to bring the situation to resolution. This dynamic is a result of the fact that significant infrastructure exists to facilitate an illegal entrant's approach to the border and entry and to permit the violator to escape within moments of effecting the entry by blending in with the legitimate traffic in the community. Typically, smugglers and potential illegal entrants prefer urban areas due to the available infrastructure.

In urban areas, the deployment mix will lean heavily on SBInet-provided tactical infrastructure, such as lights and fences, supported by sufficient personnel to quickly respond to intrusions. The deployment tends to be of high visibility in that a potential intruder actually sees the barriers, lights, detection capability, and patrols occurring on or near the immediate border. The goal of deployment in an urban area is to deter and/or divert potential illegal traffic into areas where the routes of egress are not immediately accessible and enforcement personnel have a greater tactical advantage.

In a rural environment, response time to an incursion can be greater, as the time from the point of entry to assimilation into the local infrastructure may be minutes

or hours, exposing the violator for a longer period of time and allowing for a more calculated enforcement response. Deployment in a rural area will be less dependent upon such things as pedestrian fences and stadium lighting and more dependent upon SBI*net* solution sets involving detection technology, rapid access, and barriers designed to limit the speed and carrying capability of the violators.

In remote terrain it may take a violator hours or even days to transit from the point of entry to a location where the entry may be considered successful. This allows for a significantly more deliberate response capability geared toward fully exploiting the terrain and environmental advantages. Deployments in remote areas will lean very heavily on detection technology and will include infrastructure geared toward gaining access to permit enforcement personnel to confront and resolve the event at a time and location that are most tactically and strategically advantageous. Other infrastructure/facilities that may be employed in a remote area include remote operating bases to provide for full enforcement coverage in areas that are difficult to access on a shift-to-shift basis.

Historically, major Border Patrol initiatives, such as Operation Hold the Line in the El Paso Sector, Operation Gatekeeper in the San Diego Sector, Operation Rio Grande in Rio Grande Valley Sector, and the Arizona Border Control Initiatives in Tucson and Yuma Sectors, respectively, have had great border enforcement impact on illegal migration patterns along the Southwest border, proving that with the proper resources, a measure of control is possible. Collectively, they have laid the foundation for newer strategies and enforcement objectives and an ambitious goal to gain effective control of our Nation's borders, particularly our borders with Mexico.

These initiatives will significantly affect illegal migration as we seek to bring the proper balance of personnel, equipment, technology, and infrastructure into areas experiencing the greatest level of cross-border illegal activity along our Nation's borders. The most recent example of these initiatives is the Arizona Border Control Initiative, currently in its fourth phase. In this effort, we partner with other DHS components and other Federal, State, and local law enforcement agencies and the Government of Mexico, bringing together resources and fused intelligence into a geographical area that has been heavily impacted by illicit smuggling activity. Our efforts include building on partnerships with the Government of Mexico to create a safer and more secure border through the Border Safety Initiative, Expedited Removal, and Interior Repatriation programs. In doing so, we continue to have a significant positive effect on fighting terrorism, illegal migration, and crime in that border area.

On the Northern border, the vastness and remoteness of the area and the unique socio-economic ties between the U.S. and Canada are significant factors in implementing the Border Patrol's national strategy. Severe weather conditions on the Northern border during winter intensify the need to expand "force-multiplying" technology to meet our enforcement needs. The number of actual illegal border penetrations along the U.S.-Canada border is small in comparison to the daily arrests along the U.S.-Mexico border. The threat along the Northern border results from the fact that over ninety percent of Canada's population of 30 million live within one hundred miles of the U.S.-Canada border. It is most likely that potential threats to U.S. security posed by individuals or organizations present in Canada would also be located near the border. While manpower on the U.S.-Canada border has significantly increased since 9/11, the Border Patrol's ability to detect, respond to, and interdict illegal cross-border penetrations there remains limited. Continued testing, acquisition, and deployment of sensing and monitoring platforms will be key to the Border Patrol's ability to effectively address the Northern border threat situation.

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

Ms. SANCHEZ. Thank you for you testimony.

I now recognize the rear admiral for his testimony.

STATEMENT OF DAVID PEKOSKE, REAR ADMIRAL, U.S. COAST GUARD, U.S. DEPARTMENT OF HOMELAND SECURITY

Admiral PEKOSKE. Thank you. And good morning, Madam Chairwoman, and Representative Souder, Ranking Member and mem-

bers of the committee. It is a privilege for me to appear before the subcommittee as your very first Coast Guard witness.

It is also a privilege to share this table with Chief Aguilar, one of my colleagues at the Department of Homeland Security. I very much appreciate the subcommittee's leadership, and we very much value your oversight of our operations.

In my oral summary, I will briefly describe why the maritime border is unique and then, given the nature of the borders that I describe, I will discuss our strategy to provide for maritime security. And then, finally, I will describe our plans to increase our capability to achieve the strategy's objectives.

The maritime border is quite different than the land border. And I would just like to highlight a couple of aspects of the maritime border that make it unique and make our border security operations different.

First off, it is longer than the land border. The chief testified that the land border is about 6,000 miles long. The maritime border, if you just go in a straight line, is about 12,400 miles long. But if you account for all the bays, the inlets, and go around the islands, count for Puerto Rico, Guam and Alaska, the maritime border is about 95,000 miles long. And so the task is enormous.

And then when you think about the maritime border, rather than thinking of a line in the sand, you really need to think in two dimensions, because the border extends outward from the United States. And if you include the United States' 200-nautical-mile exclusive economic zone, the size of our maritime border is about 3.3 million square miles.

And within this border, in addition to its size, it is made additionally complex by the different regimes that are in place as you move from the inlet waters of the United States, out into the territorial sea, into the United States contiguous zone, out into the exclusive economic zone, going further off-shore, and then onto the high seas. The laws, the regulations, the regimes that operate in each one of those is different.

The other aspects of the maritime border and maritime border security operations that make it exceedingly complex are the pure logistics and pure communications challenges that occur at sea that don't occur on land. At sea, you can't pick up a landline telephone and talk to somebody reliably. It is all by either satellite or radio communications at sea.

The other aspect of maritime border security is, its very nature makes it more expensive. And certainly there is a weather impact, a weather factor, not just on our ability to operate at sea, but importantly our ability to surveil and detect targets of interest on the water.

Another important and final distinction I will make between the land border and the maritime border is, the land border is essentially shared with two countries, Canada and Mexico. Our maritime border really is shared with all coastal nations.

Now, our strategy—and I have placed a copy of our brand-new "U.S. Coast Guard Strategy for Maritime Safety, Security and Stewardship" at each one of your chairs—our strategy reflects the uniqueness of this border. And essentially what our strategy calls for, for border security, is a defense in depth.

We want to not make the ports our last line of defense; we want to be able to move our security operations as far off shore as we can to be able to handle all security issues at sea. Our strategic priorities are awareness, regimes, partnerships, and unity of effort. And I would like to take this opportunity to highlight our partnerships with the U.S. Customs and Border Protection, which I consider to be at an all-time high and truly outstanding.

The commissioner of customs and the commandant of the Coast Guard have commissioned workgroups that regularly meet and look at issues like joint boardings, joint operation centers. One of the issues that was raised in opening statements was joint professional exchanges, so that our people are familiar with each other and we adopt standard procedures as we have worked together, and, importantly, common platforms.

The final topic that I would like to highlight in my opening statement is our capability to be able to implement the strategy. We have a project, the biggest project in the history of the Coast Guard, called the Deepwater project. When this project is done, it will be a $24 billion over the course of 25 years.

That means that this project won't be complete until the year 2030. But when it is complete, we will have doubled the number of maritime patrol aircraft in the Coast Guard inventory, and will have doubled the number of patrol boats that patrol in our coastal regions.

And I would just like to highlight one aspect. It just happened last week, last Thursday, to illustrate to you the importance of getting on with the Deepwater project. We just decommissioned the older commissioned Coast Guard cutter in service, the Coast Guard Cutter Storis, 65 years old. It was first commissioned in 1942. So, clearly, we need to move on with this project.

One other aspect that I would like to briefly highlight is, we have worked a proof of concept, along with Customs and Border Protection and the U.S. Attorney's Office, in the Mona Pass, which is between the Dominican Republic and Puerto Rico. This biometrics project allows us to identify through fingerprints individuals that we intercept at sea.

Over the course of this proof of concept, which has been going on since November, we have intercepted 500 persons. Of those 500 people, 22 percent have had some criminal history in their background. And we have importantly achieved, through the cooperation of the U.S. attorney, 16 prosecutions already, where there were none last year. And prosecutions are very important to a deterrent effect.

Madam Chairman, that concludes my oral statement. I think that, in my opinion, we are making good progress. Our efforts are well-coordinated within the Department of Homeland Security. Again, I appreciate your interest and your oversight, and thank you very much for the opportunity to testify today.

I would be happy to answer any questions.

[The statement of Admiral Pekoske follows:]

PREPARED STATEMENT OF RADM DAVID P. PEKOSKE ASSISTANT, COMMMANDANT FOR OPERATIONS, U. S. COAST GUARD, DEPARTMENT OF HOMELAND SECURITY

Introduction

Good morning Madam Chair, Ranking Member Souder, and distinguished members of the subcommittee. It is a pleasure to be here today to discuss the Coast Guard's role in border security.

When most Americans think of border security, they often think of a line in the desert sand along the Southwest border. There has understandably been much emphasis placed on the need to secure this and other U.S. land borders. There have also been considerable efforts to secure America's air borders. The fact that you have called the Coast Guard to testify at this hearing is a testament to the priority this Subcommittee places on all border security domains — air, land and sea. America's vast maritime borders and approaches must be protected as part of an effective approach to border security efforts.

Effective Border Security Depends on Cooperative Relationships

The U.S. maritime border extends as far as 200 miles offshore, protecting our national sovereignty and resources. Inside this border are relatively open ports and coastlines that present an attractive avenue for entering illegally, conducting terrorist attacks, trafficking contraband, smuggling aliens or conducted other illicit activities. As the United States improves control over its air and land borders, the nation's expansive maritime borders could become a less risky alternative for illegally bringing people and materials into the country. The key to an effective, layered system of border controls, then, is balance and coverage across the air, land and maritime domains. Just as there are controls for the nation's airspace and land crossings, there is an essential "wet" component to securing the nation's borders.

The thick blue line in figure 1 shows the expanse of our maritime borders.

Figure 1

A fundamental responsibility of national government is to protect its citizens and maintain sovereign control of its land, air and sea borders. In the maritime domain, this means exerting and safeguarding sovereignty in the nation's internal waters, ports, waterways and the littorals, as well as protecting vital national interests on the high seas.

The U.S. maritime border, like the land and air borders, is integral to the global system of trade. Securing the maritime border is an *international activity* that requires developing a layered approach to border security—through U.S. waters, onto a well governed ocean commons, then seamlessly joining the secure maritime domain of foreign partners. It also requires *extensive partnerships* that integrate and build unity of effort among governments, agencies, and private-sector stakeholders around the world.

Coast Guard's Relationship with Customs and Border Protection (CBP)

Leveraging its longstanding partnerships and unique maritime authorities and capabilities, the Coast Guard and CBP have significantly enhanced nationwide mari-

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time security. Significant challenges remain and much more work needs to be done, but we're focused on the right priorities.

The Coast Guard and CBP are working closely and collaboratively in areas of shared responsibility. Just this past year, ADM Allen and Commissioner Basham reported to Secretary Chertoff on a number of cooperative ventures undertaken by the two agencies. As a result, numerous Coast Guard/CBP Working Groups were formed to address such issues as:

- KJoint boardings;
- Joint operation centers;
- Cooperative development of a Small Vessel Security Strategy;
- Container security;
- International Ship and Port Facility Security (ISPS) code compliance initiatives;
- Information sharing and professional exchange; and
- Maritime recovery.

In addition, the Coast Guard and CBP currently work together daily through the following initiatives:

- **KIntegrated Border Enforcement Team (IBET)**—The Coast Guard, CBP and Immigration and Customs Enforcement (ICE) are the core U.S. partners, and the Royal Canadian Mounted Police and Canada Border Services Agency represent the core Canadian partners. This includes eight maritime IBET regions (one on the west coast, one on the east coast, and six on the Great Lakes) where CBP/Office of Border Patrol (OBP) and the Coast Guard conduct joint inter-agency operations. The maritime threats in these regions are many, including migrant smuggling vessels, stowaways, absconders, international vessels arriving from high-risk countries, containers arriving from high-risk countries, ferry services (international and domestic), use of busy marinas and harbors by recreational vessel operators and fishermen to conceal illicit activities, and the use of remote marine locations along coastlines for illicit purposes. Some of the criminal acts prosecuted include human, drug, currency, and weapons smuggling. Drug smuggling continues to be the most prevalent illicit activity in the IBET regions.
- The **Coast Guard Intelligence Coordination Center and CBP's National Targeting Center (NTC)** have exchanged liaison representatives and work closely together to facilitate information exchange on any passenger or crew member of interest aboard commercial vessel to enhance and coordinate enforcement efforts with the Department of Homeland Security (DHS) components working at the national level
- In Fiscal Year 2006, the **Coast Guard's Intelligence Coordination Center (ICC) COASTWATCH** processed 270,702 Notice of Arrivals (NOAs), an increase of approximately 140 percent from Fiscal Year 2005, and 41.5 million crew and passenger records, a ten-fold increase from Fiscal Year 2005. One hundred percent (100%) of the crew and passengers onboard foreign and U.S.-flagged merchant vessels over 300 gross tons, are checked by the Coast Guard against intelligence and law enforcement databases. Cruise ships crews are checked by COASTWATCH on law enforcement databases; passengers are checked on law enforcement databases by CBP.
- **USCG/CBP/OBP patrol assets are now co-located** at Station Bellingham, Station Alexandria Bay, Station Washington, DC, Sector New York, Sector Miami, Sector Key West, Sector South Padre Island, Sector San Diego and Sector San Juan. CBP/OBP Massena, NY will soon have space for a Coast Guard detachment and we have new Joint Operations Center for Puget Sound.
- **CBP/OBP is using an existing USCG contract to purchase the 25' safe boat and 33' Special Purpose Craft—Law Enforcement,** enabling them to obtain proven assets, ensures interoperability through use of a common platform while leveraging economies of scale.
- In Florida, the **USCG and CBP have joint standard operating procedures (SOP)** for maritime law enforcement (MLE) operations in Counterdrug and migrant interdiction. In recent years there has been in illegal migrant smuggling across the Caribbean and southern border; USCG/CBP/OBP have worked together to adapt tactics, techniques and procedures to more effectively execute the illegal migrant smuggling interdiction mission.
- In Texas and California the USCG turns over illegal migrants from Mexico to CBP for repatriation via the expedited removal process.
- Joint patrols, boardings and inspections are commonplace. Examples can be found anywhere both agencies operate.
- CBP/OBP supports USCG Search and Rescue (SAR) efforts throughout the U.S. as needed

• CBP/Air and Marine Operations (AMO) and the Coast Guard provide the bulk of the Maritime Patrol Aircraft (MPA) support for JIATF-South in the Transit Zone.

•Joint design and procurement of proof of concept Manned Covert Surveillance Aircraft.

Finally, in the event that a significant incident occurs the USCG and CBP are working extremely close and focused on collaboration on marine transportation system (MTS) recovery, including resumption of commerce. This effort will result in the development of protocols and communications mechanisms to ensure rapid resumption of maritime trade and limit negative economic ramifications to the nation following a significant disruption to the MTS.

Coast Guard's Role in Securing the Maritime Border

The Coast Guard's overarching strategy is to, through a layered security architecture, *"push out our borders."* The *National Strategy for Maritime Security* emphasizes the need to patrol, monitor and exert control over our maritime borders and maritime approaches. It goes on to emphasize that *at-sea presence* reassures U.S. citizens, *deters* adversaries and lawbreakers, provides better mobile surveillance coverage, adds to the warning time, allows seizing the initiative to influence events at a distance, and facilitates the capability to surprise and engage adversaries well before they can cause harm to the United States. Our unambiguous goal is to meet threats far offshore in order to avoid hostile persons, vessels or cargoes entering our ports or coastal regions. The Coast Guard operates in every maritime layer in anticipation of, or in response to, changing threats, adversary tactics and operational conditions. During the course of routine operations, as well as specified security missions, Coast Guard cutters and aircraft operate in the offshore waters of the Atlantic and Pacific Oceans, and in the Caribbean Sea, to provide Maritime Domain Awareness (MDA), command and control and capability to respond to maritime threats.

In the maritime realm, a goal line defense is no defense at all. This principle is exemplified daily as we intercept drug and migrant laden vessels as far away as the Galapagos Islands. Last year, Coast Guard units, working with an interagency team, intercepted a suspect cargo ship over 900 miles east of Cape Hatteras, NC. In this case the threat was determined to be benign, but we demonstrated that our ability to push the borders out is an essential element in protecting our homeland.

Admiral Allen's has directed the establishment of a Deployable Operations Group (DOG) to provide adaptable force packages for a myriad of contingencies, ranging from environmental clean up to counterterrorism events. The DOG will provide organized, equipped, and trained deployable, specialized forces (DSF) to Coast Guard, DHS and interagency operational and tactical commanders. These forces will deploy in support of national requirements as tailored, integrated force packages, throughout the United States and to other high interest areas. Organizing these units into a single command maintains a national focus, enhances inherent unit capabilities for execution of daily Coast Guard missions and rounds out the nation's "tool kit" for maritime disaster and threat response. Under a unified command structure, these units are better positioned to integrate with the Department of Defense (DOD), DHS and other Federal entities. The DOG is not an operational commander, but rather the sole DSF force provider and force manager for operational commanders.

Improving Maritime Security—Coast Guard Equipment

The centerpiece of the Coast Guard's future capability is the Integrated Deepwater System. This 25-year $24 billion acquisition program reflects post-9/11 mission requirements, Deepwater assets are the first layer in a defense-in-depth strategy to push out our nations borders and intercept threats further from our shores.

For example, figure 2 shows the current gap in Coast Guard patrol boat hours; it is affected most adversely by the difficulties encountered in the 123-foot patrol boats conversion program. This project has not provided the bridge to the future Fast Response Cutter (FRC) that we had hoped. As a result, we have taken steps to advance the design and construction of the Fast Response Cutter (FRC) in order to restore this critical capacity as quickly as possible and have entered into a Memorandum of Understanding (MOU) with the U.S. Navy for use of three 179-foot patrol coastal (WPC) to mitigate this gap in the near term.

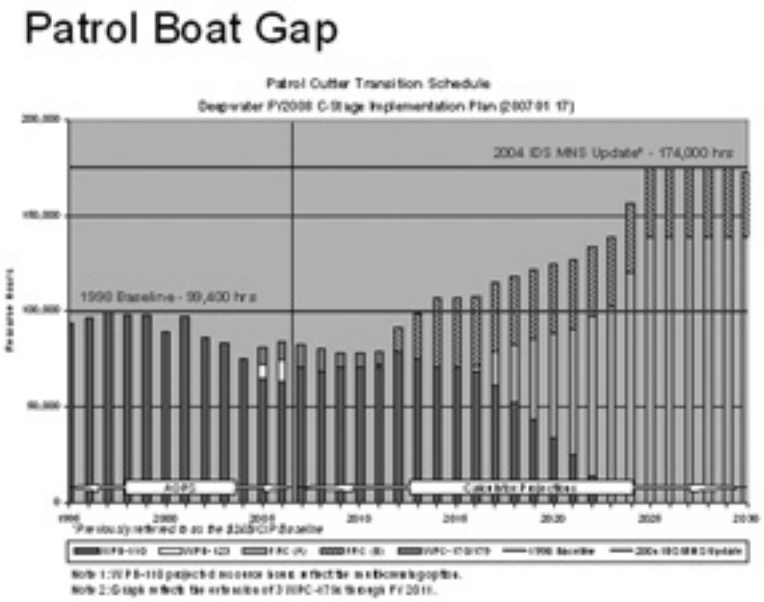

FIGURE 2

Similarly, figure 3 shows the pre-existing Maritime Patrol Aircraft (MPA) gap. The revised Deepwater implementation plan strives to mitigate this gap by keeping more legacy HC–130H aircraft in service longer, while concurrently adding new HC–144A Maritime Patrol Aircraft (CASA–235's) to the Coast Guard's aviation fleet. Additionally, the USCG and Customs and Border Protection are working together to fill the gap with a Manned Covert Surveillance Aircraft, currently under joint development projected to serve as a surveillance platform in the Caribbean risk vectors.

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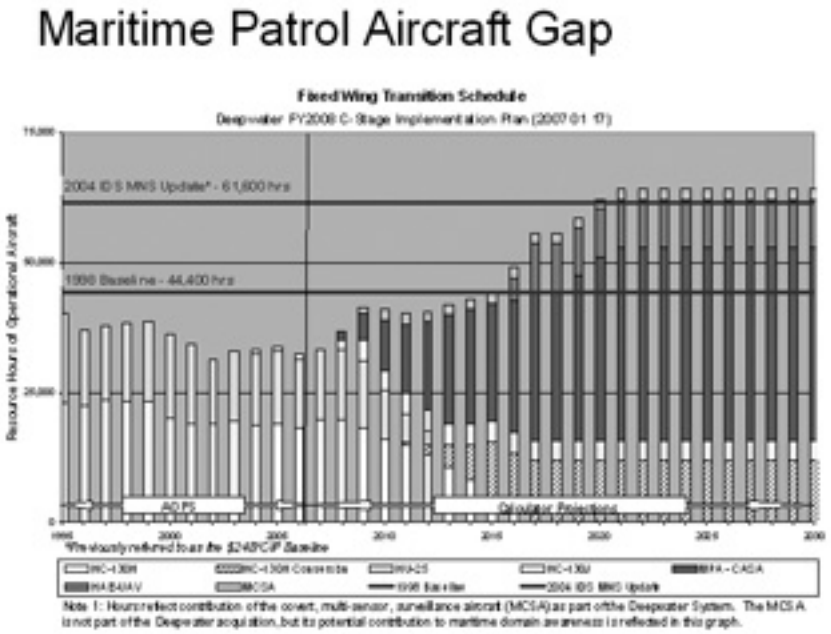

FIGURE 3

Improving Maritime Security - Coast Guard Technology

Vessel Tracking: Securing our vast maritime borders requires improved awareness of the people, vessels and cargo approaching and moving throughout U.S. ports, coasts and inland waterways. The most pressing challenges we now face involve tracking the vast population of vessels operating in and around the approaches to the United States, and detecting and intercepting the small vessels used for migrant and drug smuggling; such vessels can easily be used by terrorists seeking to do us harm. It is against this threat that we need to continually improve, and we are taking significant steps in the right direction. The Coast Guard needs as much information as possible about vessels operating in the maritime domain, particularly their location and identity, in order to enable effective and timely decisions and identify friend from foe. In support of this requirement, the Coast Guard has:

- Established the Automatic Identification System (AIS) to provide continuous, real-time information on the identity, location, speed and course of vessels in ports that are equipped with AIS receivers. AIS is currently operational in several major U.S. ports for vessels greater than 300 gross tons, and the Coast Guard's Nationwide Automatic Identification (NAIS) project will expand AIS capabilities to ports nationwide; and
- Initiated development of a long-range vessel tracking system to receive information on vessels beyond the scope of the existing and planned AIS system. Long-range vessel tracking systems are designed to extend tracking capabilities up to 2,000 nautical miles offshore.
- In partnership with US-VISIT, CBP/OBP and the U.S. Attorney in San Juan, the Coast Guard has deployed mobile biometrics collection equipment on our cutters operating in the Mona Passage between the Dominican Republic and Puerto Rico as a proof of concept. Since implementing this operation in mid-November, we have found that 22 percent (103 of 464) of the interdicted undocumented migrants attempting illegal entry into Puerto Rico, were enrolled in the U.S. VISIT database as prior felons, prior violators of U.S. immigration laws or other persons of interest.

Weapons of Mass Destruction (WMD) Detection and Response: The Coast Guard is an active partner and ardent supporter of the Department's Domestic Nuclear Detection Office (DNDO). As part of this cooperative arrangement, we have

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initiated and implemented a Joint Acquisition Strategy Plan with the DNDO for the development, procurement and deployment of next generation radiation detection equipment. This plan includes the development of "stand-off" detection capability and the use of transformational technology to counter the "small vessel" threat. Similarly, we are working diligently with the Department's Science & Technology Directorate and the Interagency Technical Support Working Group (TSWG) to enhance and expand our capabilities in the detection and interdiction of chemical and/or biological agents, specifically with the WMD threat in mind. We are fully aware of the trauma that infiltration of WMD could cause our nation, and remain determined and vigilant in preventing this from ever happening.

Since 9/11, the Coast Guard is outfitting all of its boarding and inspection teams with personal radiation detectors, and we are deploying hand-held isotope detectors and other equipment that can be used to identify illicit radiological material and Special Nuclear Materials, as well as to transmit critical related information to appropriate agencies for action. We have effectively deployed such equipment throughout the Coast Guard to include: 212 Cutters, 189 Boat Stations, 35 Sectors, 12 Maritime Safety and Security Teams (MSST), 1 Maritime Security Response Team (MSRT), 2 Tactical Law Enforcement Teams (TACLET), and 3 National Strike Force (NSF) Teams. This effort encompassing the fielding of over 3,000 gamma/neutron radiation pagers; 560 handheld isotope detectors and 140 wide-area search gamma/neutron Backpacks. We have established a resident radiation detection operator course at the Maritime Law Enforcement Academy in Charleston, SC, with a throughput of 510 students annually. We continue to work closely with the Federal Bureau of Investigation (FBI), CBP, and the Department of Energy (DOE) to respond immediately to any indications of radiation encountered aboard a vessel at sea or in port.

In the area of WMD response, the Coast Guard continues to train for and equip its NSF, MSST and MSRT personnel with the capabilities they need to respond to all types of WMD incidents. As part of this process, we are developing a "First Responder" capability to address WMD incidents. The purpose of this program is to address the time-gap that exists from the onset of an event until the arrival of fully mission capable units (e.g., MSSTs, MSRT, NSF). Aspects of this program include training; detection equipment; personal protective equipment; and tactics, techniques, and procedures.

Personnel security and credentialing. The Coast Guard has made a number of critical improvements to the security and vetting procedures surrounding the issuance of merchant mariner credentials. This effort has been bolstered with funding provided in fiscal year 2006 to restructure the merchant mariner licensing and documentation program by centralizing security and vetting functions in a new, enhanced National Maritime Center. Future efforts will focus on:

- Working on an accelerated schedule with the Transportation Security Administration to implement the Transportation Worker Identification Credential (TWIC). A final rule was published on January 25, 2007, establishing application and enrollment requirements for the credential. TSA and the Coast Guard are currently working on a second rulemaking project regarding the technology requirements for the card readers pursuant to the SAFE Port Act. A contract has been awarded by TSA to Lockheed Martin for TWIC enrollment, which is expected to begin soon.
- Streamlining the credential application process. Simultaneously with the TWIC final rule, the Coast Guard published a Supplementary Notice of Proposed Rulemaking proposing the consolidation of the four current Coast Guard-issued credentials into a single credential called the Merchant Mariner Credential (MMC). This proposed rule works with the TWIC rule, and is intended to streamline the application process, speed application review time and lessen burdens placed on mariners.
- Continuing to explore technologies that will allow Coast Guard boarding teams to access existing databases and information sources such as US VISIT.

Command, Control, Communications, Computers, Intelligence, Surveillance and Reconnaissance (C4ISR): C4ISR systems and operational concepts must be re-oriented and integrated with current and emerging sensor capabilities and applicable procedures. Similar to the nation's air space security regime, the maritime security regime must integrate existing C4ISR systems with new technologies and national command and control systems and processes. For example:

- The Common Operating Picture (COP) and corresponding Command Intelligence Picture (CIP) must continue to grow and expand to federal, state, and local agencies with maritime interests and responsibilities. The COP provides a shared display of friendly, enemy/suspect and neutral tracks on a map with applicable geographically referenced overlays and data enhancements. The COP

is also a central element of the Deepwater solution, tying Deepwater assets and operational commanders together with dynamic, real-time maritime domain information. This link is essential to ensure effective command and control of all available Coast Guard assets responding to a myriad of border security threats.

• Our ability to coordinate responses and provide the correct response to the myriad of maritime and border threats has improved greatly. The Coast Guard was instrumental in drafting the Maritime Operational Threat Response plan (MOTR) for use by all government agencies charged with responding to threats within the maritime regions. The plan was signed by the President and ensures threat response is fully coordinated both inside DHS and outside with our partner agencies such as Department of Justice (DOJ) and Department of State (DOS). We use the MOTR coordination process on a daily basis to prosecute illegal migration and drug smuggling cases, as well as the resolution of radiation alarms and response to intelligence reports of suspicious people. It has proven to be a model process to coordinate U.S. government response across all agencies

• An expansive and interoperable communications network is critical for maritime security operations and safety of life at sea. In the coastal environment, the Coast Guard's Rescue 21 system will provide the United States with an advanced maritime distress and response communications system that bridges interoperability gaps, saves lives and improves maritime security.

• Hurricanes Katrina and Rita demonstrated the need for robust and resilient port and coastal command and control. Through test-beds at command centers in Miami, FL, Charleston, SC and elsewhere; and joint harbor operations centers established with the U.S Navy in Hampton Roads, VA, and San Diego, CA; the power of partnership, technology and co-location has been proven. The Coast Guard will continue working to expand on these successes and export them to other ports nationwide.

Conclusion

Madam Chair, we are proud of the great strides we have made to enhance maritime security. I credit the innovation, resourcefulness and devoted service of the American people for much of our progress to date. The United States Coast Guard has a clear strategy with well understood goals and we continue to refine our tactics, techniques and procedures to attain those goals. We are actively pursing acquisition strategies that will deliver more capable and reliable operational assets and systems to the men and women of the Coast Guard.

Thank you for the opportunity to testify before you today. I will be happy to answer any questions you may have.

Ms. SANCHEZ. I thank both witnesses.

And I will remind each member that he or she will have 5 minutes to question the panel. And with that, I will recognize myself for the questions I have.

Admiral about a year ago, I was in Miami, and I had the opportunity on a recreational boat with friends, and they were telling me that, if they would go off—I think it was to Bermuda for the weekend, and come back in, what they are technically supposed to do when they come back to Miami is motor up—now, they are one of these people that has one of those little slips on some condo right on the coast in Miami, that they would motor up one of the rivers and go to a certain point, maybe about a mile or two miles up, get out, make a phone call, talk to officials they said would be at the airport, the Miami Airport, tell them they had come back in, and that then they were requested to photocopy their passports and send that by mail, you know, the next Monday or what have you.

They said, however, nobody does it. I mean, the reality is, people go out, and they come back, and they go straight to their slips. And they don't motor up the riverway. They don't make the phone call. They don't go back into the office on Monday morning with all their passports, and photocopy them, and send them off to the people at the airport.

And they said, you know, you can just as easily go to Bermuda, and pick somebody up there, and bring them in, and nobody will ever know. So my question to you is: Is that true? Is that the way it works? And is that happening in other areas?

I mean, if somebody gets into Catalina, do they have a free ride into California because that is just, you know, 16 miles away from where I live? And what kind of resources do you need? Or what do you envision you need to do in order to get this under control? Because it seems to me like that is a big hole in our border.

Admiral PEKOSKE. Yes, Madam Chairman. You have identified a very significant issue for us. If you look at the global maritime security regimes in place right now, the only vessels that are required to give us advanced notice of arrival before they come into the United States are those that are 300 gross tons and larger, basically our largest commercial ships calling in our ports.

We recognize that the vast number of smaller vessels, recreational vessels, small passenger vessels, fishing vessels, that operate in our ports, that operate internationally, as you described, that operate in our fishing grounds just off our country, do not have the same reporting requirements.

We are looking very carefully at that issue. In fact, we plan to hold a seminar in June to discuss what the various interest groups, from the fishermen, to the recreational boaters, to the organizations that represent their interests. What we might do, to be able to provide a greater degree of awareness of those vessels, move right now—and I mentioned in my opening statement that one of our strategic priorities is to improve our awareness.

We do not have the level of awareness that we desire for all the vessels that operate in the maritime arena. We clearly need to do that. So you have identified an issue that we are working very hard on, and I think you will see more on that over the course of the next several months.

Ms. SANCHEZ. Now, these friends of mine also said that there is a Coast Guard patrol boat, about one, in the port during the weekend, where there are many, many vessels, you can imagine. It was pretty interesting. And they said you may, you know, once in a while get stopped, but it is incredibly rare, and that is why they thought anybody could really get into our country this way.

What is the process for handling people trying to enter the country illegally when they are picked up by the Coast Guard?

Admiral PEKOSKE. When they are picked up by the Coast Guard, Madam Chairman, we pick up. As I mentioned in our project with biometrics in the Mona Pass, if we have the capability—and we will, over the course of time, be able to move this biometric project to other parts of the country—we identify them, and then we work closely with our counterparts in Customs and Border Protection, the Border Patrol, citizenship and immigration services, to come to a mutual agreement as to what the disposition of those persons would be.

One of the other issues that you highlighted—I mentioned that we need to improve our awareness. What is also very important for us is to improve and increase our presence on the water. The Coast Guard, as you know, has a very limited number of vessels on the water. Those vessels are awareness platforms in and of themselves,

but they are also presence platforms that deter illegal behavior, and certainly response platforms, when you do detect it, to be able to prosecute it.

Ms. SANCHEZ. So in Miami, if you boarded a recreational boat, and you found people whose documents didn't coincide with being into the country, you would land, where—you would take them, what, to the airport, would be the nearest place to take them to somebody to take them in custody? Or do you have a place there? Or what is the process there?

Admiral PEKOSKE. Ma'am, the process is that we deal with it on a case-by-case basis. It depends on where we interdict the individuals and then what, either Immigration and Customs Enforcement, customs and border patrol, or the Border Patrol want to do with those individuals. And what we do is we coordinate with them over the radio, make those arrangements before we come into port.

Oftentimes, we will come right into our base in Miami Beach.

Ms. SANCHEZ. Thank you very much. And I see my time is up.

And I now recognize the ranking member from Indiana for 5 minutes.

Mr. SOUDER. I thank the chairwoman.

I want to make a brief comment for the Coast Guard. I know we will be following this up as we go into future hearings, because, as we have success in the land border, presumably more of this is going to move to the water. In narcotics, the Bahamas, the upper gulf, where we have historically not focused very much. British Columbia has become a narco-province. If we could control the north border there, it is going to move into the San Juan.

On terrorism, if indeed, we do increasingly, and we have had tremendous improvement on OTMs, its greatest potential is through the north border. And that means Saint Lawrence River. It means the Lake Huron islands, where you can literally swim for 2 minutes and be from one island to the other.

And the challenges of the Coast Guard are to ramp up, because, as we focus on southwest border, the question is: Are you ramping up to prepare for the movement? So we don't go, "Oh, what happened over here?" And we don't do a balloon effect, moving it to water, and the north border is going to become vulnerable as we do the south border.

You can't put all of your eggs in any one place. Just like fixing eastern Arizona is good, but it isn't the only—not that it is fixed yet, but making progress in eastern Arizona moves it along the border. That has been one of my concerns with the Boeing project, is that you have a "A." But while you are doing "A," you are doing "B," and you are preparing for "C," because overall we need a holistic strategy.

So I presume that pressure is going to get even greater on the water, which is why we have a little bit of lead time to work through Deepwater, but it is absolutely essential—not to mention the whole eastern Pacific question.

But I wanted to get to Chief Aguilar, if I could, for a couple of questions.

First, I remember when you were stringing together your own portable cameras, putting together in the Tucson sector, wich Boe-

ing is getting lots of millions to do. You were a very innovative leader early on in trying to figure out how to do this.

But part of my concern, as I mentioned in my opening statement, about this escalating level of violence and what your response is going to be, and I feel that right now we have sent a double chilling message. One is, to our own Border Patrol agents, they are afraid of being prosecuted, what actions they can take. We have more or less told the other side that they can only shoot when fired upon and that our Guard isn't armed.

How do you propose to deal with this? And what message can we send to our agents? Let me ask a particular thing in the case of the two agents that are imprisoned. Had that been chemical, biological or nuclear weapons, and this person was trying to flee the border, and his capture may have taken down a whole cell that was going to blow up thousands of people, were they prohibited from shooting unless fired upon?

Chief AGUILAR. The men in which you pose a question, Congressman, is kind of difficult to answer, and for the following reason. Our officers are not constrained in any matter of firing upon an individual when that individual is posing a threat to the officer or an innocent third party.

Mr. SOUDER. What about to the nation?

Chief AGUILAR. Absolutely. Absolutely. Had we known that that was a WMD in that van, then the actions of those officers should have been and would have been, I assure you, very different.

In the case of these officers, they did not know what was in the van. They had made a stop with an individual. The individual was running.

Mr. SOUDER. Presumably he is not bringing a van over and running because he is innocent. The question here is, if you know there is nothing—in other words, if one individual is walking across and doesn't appear to have anything on them, which even itself is an assumption—why does the assumption go to the person who has committed a violation of the law?

I am not proposing shoot to kill, by the way. I am proposing disable so they can't escape, which is a normal law enforcement technique that you would use in domestic situations.

Chief AGUILAR. Well, Congressman, I hope I understood your question correctly. But if I did, I do not know of any one law enforcement agency that would shoot to disable in the situation such as what these officers faced. We make all attempts to apprehend, given the situation that we are facing. Our officers are very familiar with the policy.

If there is a threat against the officers, an innocent third party, or, as you stated, against the nation, absolutely, they are authorized to take deadly force. An escalation of force is what our officers encounter everyday. Our people, day in and day out, perform a very, very dangerous job, a very volatile job, and a job that demands split-second decisions.

One of the things I looked at, Congressman—for example, I received the invitation to come to this hearing on February the 7th. Since February the 7th, there have been 12 assaults on our officers. There has been a very serious shooting against our officers, and we

have apprehended over 34,488 pounds of marijuana. That is just since I received the invitation.

In all of those, the potential for violence was there. In none of those instances were our officers in any way constrained to take deadly force had the need been identified by those officers. This is the border, volatile, dangerous.

Our people are trained; our people are equipped. And they had the intermediary weapons to do what they needed to do before they take deadly force actions, if, in fact, that is the determination made by the officer at the point that the incident is occurring.

Mr. SOUDER. The problem is the uncertainty.

Chief AGUILAR. I am sorry?

Mr. SOUDER. The problem is the uncertainty, what you don't—

Chief AGUILAR. Absolutely, yes, sir. And unfortunately, that is a part of our job. That is a part of our job.

Congressman if you don't mind, I will just address one other thing, because I think it is very important that you brought up, and that is the morale of the agents, the impacts on the agents. I travel our border quite a bit, because I am very interested in what our officers are feeling, what they are reading, what they are seeing from the media, from the American public.

I can assure that the agency population understands the situation that we are facing as an organization with these two officers. Criminal actions were identified by a jury. Prosecutorial actions were taken by our United States attorney. And our officers on the line understand this. They do not feel constrained. They do not feel as if they will be prosecuted for taking the appropriate action.

Ms. SANCHEZ. I will now recognize the chairman of the full committee, Mr. Thompson.

Mr. THOMPSON. Thank you very much, Madam Chairman. I appreciate the testimony of our two witnesses.

Chief, can you tell me if we now have the capacity to bring the 6,000 agents online within 2 years?

Chief AGUILAR. Yes, sir. I feel certain about that. We have a very professional staff that is actually recruiting, hiring, and in the process of training the 6,000 net new agents that we will bring on board by the end of calendar year 2008. Of course, they will be hired over that 2 1/4-year period.

Mr. THOMPSON. Now, is that the stack and level that you feel you need? Or do you feel that we need more than 6,000 agents?

Chief AGUILAR. At the present time, Congressman, the target level we are shooting for is 18,319. We feel that that is appropriate because of the technology and the infrastructure that we are getting as a part of SBI*net*. That force multiplication effect of technology and infrastructure is such that we feel that 18,319—we have got an exact figure?

Mr. THOMPSON. So, excuse me, would the 6,000 bring you up to 18,000?

Chief AGUILAR. Yes, sir.

Mr. THOMPSON. Okay.

Chief AGUILAR. Yes, sir. We will be at 18,000 by the end of calendar year 2008. That, in combination with the technology and infrastructure, should suffice.

Mr. THOMPSON. All right. Two things, then. Can you provide the committee with your timetable for bringing those 6,000 people on board?

Chief AGUILAR. Yes, sir.

Mr. THOMPSON. Can you also provide us with how much it will cost us to train each agent, each of those 6,000 people? There has been some discussion in the past about how much the training actually costs.

Chief AGUILAR. We can provide you with that, yes, sir.

Mr. THOMPSON. And if you can break it out, not the lump sum, but the sum total.

Chief AGUILAR. I understand. Yes, sir, we will provide you with it.

Mr. THOMPSON. Thank you.

Admiral I mentioned our National Security Cutter. What should the Coast Guard have done differently to prevent that situation from occurring? And if something we didn't do, have we instituted a plan that would not let it occur again? I hope you understand where I am going.

Admiral PEKOSKE. Yes, sir. And we are focused on ensuring that this never happens again. In fact, the commandant has a blueprint for acquisition reform that we hope and we are convinced will ensure that these problems will not reoccur in the Deepwater fleet or in any other of the major acquisitions that we are doing.

In looking back, some of the things that perhaps we should have done that we didn't do—and we have since done these things—is, one, designate our chief engineer as the technical authority for the project. That has since been done.

I am the sponsor for the Deepwater project; one of my colleagues is the technical authority. We meet on a regular basis with the program executive officer. So that high-level interaction is occurring on a regular basis, and those conversations are very frank.

The other thing, sir, that we recognize and we are working very hard to address is, we need to improve the size and the professionalism of our acquisition staff. This is a very, very complex acquisition. It was originally conceived as a system of systems approach.

We think that that idea at the beginning was the right idea, but now that we are in the production phase of this project, we need to take an approach that looks at the prime vendor that we are dealing with to produce those assets and have a better discussion, a franker discussion with them, a clear discussion with them.

Mr. THOMPSON. Well, I think one of the things that some of us are concerned about is that the Coast Guard could not even, in this situation, when they identified something that was gone wrong, under the procurement, they really didn't have the authority to change it or stop it. And so what you are telling me is, we have now put someone in place with the authority to stop construction or anything if there is a question from the Coast Guard perspective?

Admiral PEKOSKE. Yes, sir. When that person raises his or her hand and says, "This is not right," we stop, and we go back and reassess. And it goes all the way up to the commandant. So it is

not resolved at some lower level; it goes up to the boss. And then he makes a judgment as to how we should proceed.

Mr. THOMPSON. Chief, one last thing. You mentioned SBI*net*—

Chief AGUILAR. Yes, sir.

Mr. THOMPSON. —giving you the force multiplier. Can you share with the committee how much actual involvement that you have or your department have in this procurement?

Chief AGUILAR. Yes, sir. SBI*net* is a part of Customs and Border Protection. It is actually a component of CBP. It is headed by Mr. Greg Giddens, who is a director for purchase for the acquisition portion of SBI*net* and working with Boeing.

But very importantly, the actual stand-up director before Mr. Greg Giddens was my full deputy, Deputy Chief Stevens, who actually stood up this department. We handed off to the professional in the area of acquisition. He is now managing. His full deputy is now one of my chiefs in the field, so that we give the operational input into that very important acquisition project.

The program management office, which is a subset component of the overall SBI*net*, also has one of my Border Patrol agents, very high-ranking division chief within headquarters Border Patrol, as a full deputy. So the inclusion of the operators is absolutely essential.

We have learned. We have learned from the Coast Guard. We have learned on the acquisition portion of this. And I feel very confident that the operators will be at the helm, if you will, of this effort.

Mr. THOMPSON. Thank you. And my time is gone, but I look forward to more discussion around SBI*net* as we go forward, because we are just beginning the process, Madam Chairman. And I am sure at some point we will kind of zero in on that project specifically, but it is a big project.

Ms. SANCHEZ. I think we specifically have it as an item of this subcommittee's jurisdiction that we want to take a look at.

Mr. THOMPSON. Thank you.

Ms. SANCHEZ. The chair will now recognize other members for questions they may wish to ask the witnesses. And in accordance with our committee rules and practice, I will recognize members who were present at the start of the hearing, based on seniority on the subcommittee, alternating between the majority and the minority. And those members coming in later will be recognized in the order of their arrival.

With that said, I would now like to recognize the gentleman from Florida, Mr. Bilirakis, for 5 minutes.

Mr. BILIRAKIS. Thank you, Madam Chairwoman. I appreciate it very much.

Chief, how far away are we from, as you refer to in your written statement, the ambitious goal of gaining effective control of our nation's borders?

Chief AGUILAR. SBI*net*, Congressman, is basically moving forward at a rate that we feel that, by 2012, we will have the southwest border. This does not mean that this will be to the exclusion of the northern border, because, of course, we will be working on the northern border, also, but that is the objective of SBI*net*, to get us that operational control of the southwest border.

We will commence on the northern border. I will share with you that, on the northern border, SBI*net* will also be concentrating. And the backbone up there, more so than the southern border, will be heavy technology, because of the vastness and the remoteness of our northern border with Canada.

Mr. BILIRAKIS. Thank you. Is securing the southwest border simply a question of providing increased funding to hire more Border Patrol agents?

Chief AGUILAR. No, sir. What we have always put forth, as operators within the Border Patrol, is that to bring operational control to any section of our nation's borders is a proper mix of technology, personnel and infrastructure. Now, personnel is absolutely key, because tactical infrastructure and technology wouldn't do us any good if we couldn't be responsive to any kind of incursion that occurs.

It is that proper mix that we need to literally design for every piece of that border that we are approaching. Area of operation, for example, that proper mix would be very different from what we would be doing in California, because of the terrain that we are addressing, the infrastructure that is on the south side. So it is a very specific system that we apply, specific to the area of where we are focusing on.

Mr. BILIRAKIS. With regard to the Border Patrol agents, what is the average salary of the rank-and-file Border Patrol agent?

Chief AGUILAR. At the journeyman level, our Border Patrol agents are GS–11s. Of course, they are GS–11s and earning uncontrollable overtime, administrative and uncontrollable overtime. At the present time, we do assign them overtime.

Congressman I would rather get back to you on the average time. Because of those overtime applicabilities, I would rather get you and accurate number. So if you don't mind, I will get that for you.

Mr. BILIRAKIS. Sure. Are you having difficulty retaining and recruiting agents?

Chief AGUILAR. Recruiting is a little bit of a challenge, but we are on track to get us to where we need to get for the 6,000 net new. That we feel very confident about. Because of the enhanced recruiting requirements, we are looking to areas that we have never looked at before and conducting our recruitment processes.

Let me give you an example. We are looking at places such as NASCAR. We are looking at places such as a rodeo circuit. We have got a chief, for example, on the northern border, Chief Harris from Spokane, who is actually a bull-rider. We are using him as a means of reaching out to this population, if you will, of individuals that are a sturdy breed that we feel they need to be in order to survive on the border out there.

So, yes, but we are going the extra mile, and we feel confident that we can do it and we will do it.

Mr. BILIRAKIS. Okay. Two more questions. Do you agree with the comments of Secretary Chertoff that he made before our committee last Friday, that Border Patrol agents have the necessary authority and resources to do their job effectively?

Chief AGUILAR. Absolutely, yes, sir.

Mr. BILIRAKIS. Do you think the average Border Patrol agent feels that way, as well?

Chief AGUILAR. I believe so. Does everybody have the system, if you will, of SBI*net* that Tucson is experiencing right now? No, because that is evolving. We are incrementally adding that. But as far as tools such as weaponry, such as vehicles and things of that nature, yes, sir.

Mr. BILIRAKIS. Thank you, Madam Chairwoman. I appreciate it.

Ms. SANCHEZ. I had a question with respect to your recruitment.

Chief AGUILAR. Yes, ma'am.

Ms. SANCHEZ. What I find with my law enforcement officers, especially with the war in Iraq, and the recruitment that is going on by our military, and the inability for us to graduate from our high schools, high school graduates who can actually pass academies and the tasks, that there is a lot of lateral movement going on between law enforcement, at least in California, meaning people are stealing from each other.

Do you find that in any case that you are trying to take from other law enforcement agencies, which are already impacted?

Chief AGUILAR. We are not doing it intentionally, but that is, unfortunately, happening, yes. We are recruiting some of—the state, municipal and county law enforcement entities are, unfortunately, losing their officers to us.

Now, that also happens in our case, where DEA, FBI, CIA, everybody else is looking at our pool of very well-trained officers that they can go to and take into their ranks. ICE, for example, is going to grow this coming year. We fully expect that some of our officers will go over to the ICE ranks, which is not a bad thing. That is actually a good thing.

Ms. SANCHEZ. And are you finding that, in particular, the lateral movements that you are seeing are of more seasoned personnel coming over? Or are you seeing that you are taking entry-level people?

I am just asking, because you are growing so fast that, not only do you have to worry about coming in from the bottom, but you have to worry about what you have got at the management layers and the seasoned people in between.

Chief AGUILAR. You have hit on something that is of very, very high interest to me and my executive staff within the Border Patrol, because we have one band of officers, if you will?this is what we refer to the band of first-line supervisors, that is absolutely critical to the United States Border Patrol.

That is the critical link between that agent in the ground that finds himself or herself out in the middle of the night, in the middle of nowhere, having to make a decision. And that supervisor is the one that is going to give the input and the clarity to how that officer conducts his or her job.

We are finding ourselves promoting people that have been in service at a younger rate. When I came into the Border Patrol, if you were promoted to first-line supervisor anywhere below 9 years, you were considered a riser. Today, we are promoting people with 3 years, 4 years of service.

And we are also digging into that band and promoting into the upper echelons of the Border Patrol, but we are taking some actions to mitigate that situation. As an example, OMB has given us the ability to now bring back rehired annuitants, individuals that

have retired that we now bring back, not as full officers, but as mentors for that band of officers. We are bringing back retired trainers or retired Border Patrol agents as trainers to assist us with that kind of a situation.

So it is a challenge. We are looking at it. And we are working with a situation, and we feel that we are doing everything that we can to mitigate that potential for a situation where our balance of supervisors to agents is not enough.

Ms. SANCHEZ. Thank you, Chief.

I would like to recognize now the gentleman from Texas, Mr. Cuellar, for 5 minutes.

Mr. CUELLAR. Thank you, Madam Chair.

And to both of you, thank you very much.

Being from Laredo, being from the border, let me go ahead and focus on the fence issue. As you know, the issue of the border fence has been a subject of debate, not only in Congress, but in, I think, a lot of members' districts that we have. Let me go ahead and just focus on what you said.

Fencing is necessary if it makes sense, I believe you said something like that. Let me focus on what makes sense.

Under what circumstances is fencing useful to the Border Patrol mission? What are the specific circumstances?

Chief AGUILAR. Specifically, to the Border Patrol mission, a fence becomes very critical in the urban area of operation. The reason for that is it serves two purposes. One is a deterrent for those people looking to cross into the United States, whether they are illegal immigrants or people trying to bring narcotics into the United States. It creates a deterrent situation.

In addition to that, it also acts as an obstacle, so that people that are going to move into our country have to cross that fence. We literally slow them down. It gives us a greater opportunity to make the apprehension.

Very quickly, in an urban environment, Laredo, River Drive Mall, for example, I worked it many, many years ago. In the absence of a fence—and we are not saying we need one there—but in the absence of a fence, they will cross a river and go up to River Drive Mall. They are there literally within minutes. Under 3 minutes, they can go onto River Drive Mall.

Would a fence make sense there? It may, but one of the things that we are looking at is this virtual fence that we are talking about, whereas opposed to a physical pedestrian fence, we have ground surveillance radar, which is being actually used right now in Tucson, Arizona, whereby an officer sitting behind a screen will actually be able to identify that an incursion across that river has occurred, be able to tag and track that individual as he or she moves towards River Drive Mall.

That kind of fence is the kind of technology we are looking to potentially implement.

Mr. CUELLAR. Or if you get rid of the carrizo—

Chief AGUILAR. The carrizo, yes, sir—

Mr. CUELLAR. And what is the status on that? I know that I added some language to the last homeland security bill that we had. What is the status? I know there was an issue of what herbicide to use to make sure that we keep the Rio Grande safe, and

I am in full agreement with that. But my understanding, talking to Carlos Marin from International Boundary Commission, that you all have reached an agreement.

Because, I mean, if you get rid of that carrizo—and I know it is—you know, you find it some areas of the border, in some areas, but I know that, in the Laredo area, for example, if you get rid of that, you provide a line of sight that would be tremendous to your men and women working there.

Chief AGUILAR. Absolutely. Yes, sir. And we are very appreciative of the fact that you put that into language, because it has now given us the ability to take a look at actually taking actions on that. Of course, because of the environment and the sensitivities associated with it, we need to be very careful.

Our science and technology branch of DHS is actually looking at what is known as a biological agent. It is a little animal that actually eats away this non-indigenous carrizo cane. It is going through the study and through the research right now.

If we can do that, that will be a tremendous solution. In the absence of that, we have moved forth, as we have at the gravel pit in Laredo—and, by the way, I know Laredo, because that is where I started off my career—

Mr. CUELLAR. 1978?

Chief AGUILAR. Yes, sir. And I know that carrizo very well. At that gravel pit area, we actually cleared that carrizo out of that point there, and it is helped tremendously.

So we will continue moving in that direction of clearing the carrizo cane as much as we can, until we get the solution, such as possibly that biological agent that we are referring to.

Mr. CUELLAR. Okay. Going back to your circumstances, urban area is one. What is another circumstance that would be good? You can just list them.

Chief AGUILAR. Yes, sir. Well, an urban area is more than likely where we are going to apply it. That is where most of our fencing is right now. If there is an area where infrastructure is being built up on the south side, new ports of entry, things of that nature, where there are some areas, especially in Texas, we would look to basically build fence around the immediate ports of entry areas.

There is another more important utility of vehicle barrier to keep vehicles from driving. As you know, in Placido, vehicles actually drive across the Rio Grande, and they go straight into our highways of egress. They keep them from driving across the Rio Grande in very remote areas.

So fencing is actually going to be a small portion of the 2,000 miles that is operationally required. Does it add up to 700 miles? Potentially could, 370 right now. We know it absolutely makes sense, and that is what we are building towards.

Mr. CUELLAR. Do you have—

Ms. SANCHEZ. The gentleman's time has expired.

Oh, I am sorry.

Mr. CUELLAR. I have 7 seconds. But could you give me, in the last 7 seconds, can you turn in the specific—I still want to know the specific circumstances where you think a fence is required. If you can just turn that into me and the committee, I would really appreciate it.

Chief AGUILAR. Yes, sir. Definitely.

Mr. CUELLAR. Thank you.

Ms. SANCHEZ. I will give you more time on the second round. How is that?

We will recognize the gentleman from Texas, Mr. Green, for 5 minutes.

Mr. GREEN. Thank you, Madam Chair.

And I also thank the chairman of the full committee for being with us today.

Thank you, Mr. Ranking Member, as well.

And I thank the two outstanding witnesses who are here.

If I may, I would like to ask—well, let me start with a comment for the admiral. Our records indicate that, on a average day, you save 15 lives, assist 114 people in distress, protect $4.9 million in property, interdict 26 illegal immigrants at sea, conduct 82 search and rescue missions, seize $2.4 million worth of illegal drugs, conduct 23 waterfront facility safety or security inspections, respond to 11 oil and hazardous chemical spills, and you board 202 vessels.

I think you should be commended, if that is a typical day for you, because I think that is outstanding work. And the record ought to reflect that we salute you for this.

A question for you—and I ask that you not answer right now, but at the end of my comments and questions. But the question for you will deal with the fleet that you have of 123-foot cutters, 15 percent of the cutter fleet, as I understand it, and it is right now drydocked. So I would like for you to, if you would, give a comment on what the situation is with those cutters.

To Chief Aguilar, I compliment you, as well. You have 12,000 agents, and you are about to double in size at some point, and you have a very large border that you are patrolling.

But I ask, if you would, to shed some additional ocularity on this concern, with reference to the agents that are involved in the shooting. And my first question to you, sir, is: Is there a policy that prohibits you from defending your officers if you believe that they are right?

Chief AGUILAR. That prohibits us?

Mr. GREEN. You. You.

Chief AGUILAR. Or the organization—

Mr. GREEN. Yes, sir.

Chief AGUILAR. —defending our officers? No, sir.

Mr. GREEN. And would you defend your officers if you thought they were right?

Chief AGUILAR. Yes, sir.

Mr. GREEN. Were you briefed on this case of the shooting?

Chief AGUILAR. Of the Compean–Ramos case?

Mr. GREEN. Yes, sir. Were you briefed?

Chief AGUILAR. Personally, no.

Mr. GREEN. Did you receive any information concerning this case, such that you can claim that you have some understanding of what occurred?

Chief AGUILAR. Yes, sir. Every time that we have a high-profile instance such as this, we receive what are known as significant incident reports. We depend on our chiefs on the ground to actually handle and manage those situations.

Mr. GREEN. And pursuant to your briefing and your understanding, if you had thought the officers were right, would you speak up on behalf of the officers?

Chief AGUILAR. Yes, sir, as we have in the past.

Mr. GREEN. And in this case, have you made comments with reference to your believing that these two officers were right in doing what they did?

Chief AGUILAR. No, sir, we have not.

Mr. GREEN. May I assume that, because you have not made comments, that you think that the finding of the court is an appropriate finding?

Chief AGUILAR. The assumption that can be made, Congressman, by yourself and the American public is that I am confident in the investigation. I am confident that the investigation that was handled by the Department of Homeland Security inspector general. I am confident in the judicial system and the trial that was held and the outcome, yes, sir.

Mr. GREEN. And if you discovered that something improprietous took place that changed your opinion, would you then call that to our attention?

Chief AGUILAR. I would call it to the immediate attention of the proper authorities in order for a follow-up, yes, sir.

Mr. GREEN. Have you at any point discovered anything that would cause you to report to the proper authorities that your opinion has in some way changed?

Chief AGUILAR. No, sir.

Mr. GREEN. Now, with reference to the case itself, were the only witnesses to this persons who were not citizens of the United States? Or did we have some United States citizens to witness this incident? Citizens would include Border Patrol agents.

Chief AGUILAR. Right. Congressman, let me just say, of course, that I was not there, and that is a given. What I can give you is my understanding on the case on the readings of the incident that I received.

Mr. GREEN. I would like for you to do that. And then, Admiral, I would like for you to answer the question that I posed, and I will yield back the balance of time that I have afterwards. Please do.

Ms. SANCHEZ. The gentleman has no time, so as expeditiously as you may answer his question.

Chief AGUILAR. Answer the question? As I understand the situation, and as was discovered in court, the two officers were by themselves. One illegal alien, Mr. Aldrete, the individual that was shot. Response to the situation was such that at least three other officers found it post-incident. That I know of, there is no other witness at the time of the shooting.

Admiral PEKOSKE. Thank you, sir, for your question on the 123-foot patrol boats. As you know, sir, we had eight of those vessels home-ported in Key West, Florida. I flew with the commandant down to Key West to talk with every single one of those crews, when the commandant made the decision to take them out of service.

The reason he took them out of service was a very simple fact that those vessels we didn't feel could any longer safely operate in the very same conditions as the vessels they were trying to inter-

dict. And so we were very concerned that we would have to lower their operating parameters to the extent where they would be operationally, totally ineffective.

They have all been taken out of service. They are all up at our yard in Curtis Bay, Maryland, in storage. What we have done to bridge that gap in the near term is all the crews are still assigned to those cutters. And what we have done with each one of those eight crews is we have married them up with another crew on another patrol boat in Florida.

And so all of these patrol boats are now running dual-crew operations. So we have gotten the full benefit of having all of those people still assigned to those ships still able to serve, using existing platforms. That is clearly a temporary measure, because we cannot run these cutters at that pace for the long term.

One of the other things that we did immediately was—we have been privileged to have five of the Navy 179-foot Patrol Coastals in the Coast Guard inventory for several years. We were due to return those to the Navy in 2008.

The commandant asked the chief of naval operations if we could retain three of those five vessels, and the CNO agreed to that. So we have a three-year extension on three of those five vessels, which will bring it to 2011.

Another remediation effort that we have undertaken is, we have looked at other vessels we have in the Coast Guard inventory that are of larger size, that can perform the same function that these patrol boats performed, and we are asking them to perform that mission.

But that has other mission impacts throughout the rest of the service, which we don't want to incur over the long term, because it will affect our other mission performance.

What all of this highlights is?and one of the questions before was, how long will it take you to have adequate resources for your required border security? The answer from the Coast Guard is, that will take us until 2030. And that is why the Deepwater project is so very important to us, and that is why we need, inside the Coast Guard, to ensure we get this right.

Thank you.

Ms. SANCHEZ. The chair will recognize the gentlewoman from California, Ms. Lofgren, for 5 minutes.

Ms. LOFGREN. Thank you, Madam Chairwoman.

And let me start by thanking both of you for your service to our country. It is a difficult job, and clearly you have made our country proud of your service.

And I hope, also, that you will pass on our thanks to the men and women in your service. It is a tough job that they do, and our job is oversight. But I think it is important to also remember how much we appreciate what they are doing.

Chief, I know that you needed to summarize within 5 minutes, but I wanted to specifically thank you for your written statement, and specifically your statement that, to effectively secure the border, we must reform our immigration system, and that we need comprehensive immigration reform, in order to make your job more viable.

And I think the Congress is going to take that advice very seriously and try and put that comprehensive reform measure in place, while certainly continuing to support your very important efforts at the border and the brave work that your men and women do.

I was interested, Admiral, in your comment about the biometrics that you are using. And I am wondering, Chief, is that biometrics system available to your agents when you apprehend and return? Are you routinely taking the biometric information from everybody you apprehend?

Chief AGUILAR. Yes, ma'am. In fact, I believe it is the exact same system that we are procuring, yes.

Ms. LOFGREN. Very good.

Chief AGUILAR. Upwards of 95 percent, 96 percent of all the 1.1 million apprehensions that we make are, in fact, captured biometrically on our—

Ms. LOFGREN. And that is all 10 fingerprints?

Chief AGUILAR. Yes, ma'am, now it is.

Ms. LOFGREN. Very good. Thank you very much.

I am interested, I am sure, Chief, that you are aware that the bipartisan U.S. Commission on International Religious Freedom issued a report just last week, saying that the department is falling short in the protection of asylum-seekers under the expedited removal procedures and also expressed concern that asylum-seekers are housed with criminals.

I am wondering—clearly, you have a very difficult task ahead of you, but I am wondering if you can share with us what efforts you are making to address the issues raised by the commission last week, in terms of who makes the decision, what kind of training is being provided to your agents so that they can separate the scammers from the real asylum-seekers.

Chief AGUILAR. Yes, ma'am, a very important point. And I would like to begin, first of all, by addressing the national report. And I read about it in The Washington Post over the weekend, also.

As we know, some reports are written, and the terminology leaves a little bit to be desired. I would like to point out that the report that was written and was actually in The Washington Post related to ports of entry.

Ms. LOFGREN. Not to your agency?

Chief AGUILAR. Not to Border Patrol.

Ms. LOFGREN. I thank you for that clarification.

Chief AGUILAR. There are several here. And, in fact, one of the footnotes actually says, "Our file samples were drawn from periods prior to August 2004, so this report analyzes only the actions of inspectors, not Border Patrol agents."

Ms. LOFGREN. Well, I will reserve my question for the inspectors at the port of entry at a later date then.

Chief AGUILAR. But we do deal with credible fear, and I would just like very briefly to touch on that. Our officers engaged in processing of aliens coming in from countries where they may be a credible fear follow a very stringent processing guideline. And they are required to go through training.

At the moment that there is any kind of indication of credible fear for political asylum, they are then handed off to experts within

the asylum program, that then take on that for the rest of the credible fear and asylum process.

Ms. LOFGREN. One final question before my time expires. In the last Congress, we were advised in this committee that there was a problem in repatriating illegal entrants to certain countries, for example, to China and to others. Can you update us on the status of that issue now?

Chief AGUILAR. Yes, on some of them, because some of them we are still working on. For example, China, the Secretary is working very aggressively and working with China to get them to accept their repatriated citizens back into those countries.

In other areas, we have been very successful in working with South Central American countries that in the past were not very efficient in issuing travel documents back into their country. We have actually been very successful in that.

As an average example, I will tell you that we used to return OTMs on an average of about 89 days, 86 to 89 days. We have now reduced that on the average to about 16 to 19 days from the point of apprehension.

Ms. LOFGREN. Well, that is very interesting. And I wonder if, subsequent to this, if you could just provide me in writing or the committee in writing the list of those countries that you consider still outstanding, so that we might spend some attention on that diplomatic effort.

And, again, I just want to thank you and the men and women for putting your lives on the line and really, from what you are telling us, making significant process in securing the border. And I give you much credit, both of you, for that.

Thank you very much.

Chief AGUILAR. Thank you.

Ms. SANCHEZ. Chief, I would assume that that does not include people who have criminal backgrounds that you have stopped, with these countries taking them back so quickly. Is that correct?

Chief AGUILAR. I want to make sure I understand the question correctly, ma'am.

Ms. SANCHEZ. When you apprehend and you are trying to return these people to their country, what happens is they have had some sort of a criminal background, either in their home country or our country? Those are much more difficult to return, I would assume, to these countries?

Chief AGUILAR. They present a bigger challenge than just your run-of-the-mill illegal entrant into the United States, yes, ma'am.

Ms. SANCHEZ. Okay.

I now recognize the gentlewoman from Texas, Ms. Jackson Lee, for 5 minutes.

Ms. JACKSON LEE. I thank the distinguished chairwoman, and I thank my full committee for this hearing and this subcommittee, as well.

As all of the members have said, let me thank both of you distinguished gentlemen for your service.

And, Admiral, might I acknowledge again, as we have done over and over again, the work of the Coast Guard during Hurricane Katrina.

Though this is not the appropriate place to talk about movies, but "The Guardian" captures the intensity of your work. And I hope a lot of schoolchildren will see it, because it certainly commends your men and women very well.

I happen to have had the opportunity to speak at one of the Texas A&M graduating classes down in Galveston and met a number of young recruits there. So I thank you.

Let me, if I might, to Chief Aguilar, just a follow-up on my colleague's comments—and thank you for what has been an improved service at the border. But could you tell me, what are your direct needs?

Noticing that you may be absorbing 6,000 agents, are you going to be able to absorb them with equipment, such as power boats, and helicopters, and laptops, and night goggles? Do you have enough equipment and enough funding for professional training of these new agents as they come in?

CONGRESSWOMAN SHEILA JACKSON LEE, OF TEXAS

STATEMENT BEFORE THE SUBCOMMITTEE ON BORDER, MARITIME, AND GLOBAL COUNTERTERRORISM

Border Security: Infrastructure, Technology, and the Human Element

FEBRUARY 13, 2007

I thank Chairwoman Sanchez for convening this important hearing examining the infrastructure, technology, and the human element of our border security. I welcome Chief David Aguilar of the U.S. Border Patrol and Rear Admiral David Pekoske of the U.S. Coast Guard to this hearing, and I look forward to both of your testimony.

In the aftermath of September 11, 2001, the American people became painfully aware of the difference between feeling secure and actually being secure. The Committee on Homeland Security was created to ensure that the American people were fully protected and safe from terrorist attacks. The purpose of this hearing is to receive testimony from Chief Aguilar and Rear Admiral Pekoske on the state of their respective agencies' border security activities and to assess the infrastructure, technology, and personnel requirements necessary to strengthening America's border security.

It is of paramount importance for us to convene to discuss the critical issues currently facing our nation's border security. The U.S. Border Patrol is charged with enforcing U.S. immigration law and other federal laws along the border, between the ports of entry. Its integral mission is to detect and prevent the entry of terrorists, drug smugglers, other criminals, and unauthorized aliens, along with weapons of mass destruction into the country. Despite only slightly more than 12,000 border patrol agents, the Border Patrol must guard and protect over 6,000 miles of our international land borders with Mexico and Canada.

President Bush has committed to doubling the size of the Border Patrol during his term in office. I welcome this commitment, especially because in previous Congresses I have introduced both bills and amendments calling for similar increases in the size of the border patrol. I hope President Bush lives up to his commitment to add an addition 6,000 agents over the next two years, and I hope that the Border Patrol will be able to recruit, hire, train, and retain a sufficient number of agents to meet this goal in a short time. I also look forward to hearing from Chief Aguilar how he and the Border Patrol propose to recruit, hire, train, and retain such a high number of agents. Currently, it does not appear that the Border Patrol is meeting these goals.

In order for the Border Patrol to succeed, we must work together to create, authorize, and implement the policies and incentives necessary to ensure the effective recruitment and retention of Border Patrol agents. I know that much is needed to deal effectively with the substantial retention and recruitment issues the Border Patrol faces.

In addition, we also need to provide the Border Patrol with the equipment and resources they need to secure the border. In the last Congress, I introduced H.R. 4044, the Rapid Response Border Protection Act of 2005, that would provide the

Border Patrol with the equipment and resources they need. I plan to reintroduce this legislation in the 110th Congress. This legislation calls for an additional 15,000 Border Patrol agents over the next five years and has provisions for equipping them with body armor, special weapons, and night vision equipment. H.R. 4044 was strongly endorsed by the National Border Patrol Council and the National Homeland Security Council, organizations that represent the front-line employees who enforce our immigration and customs laws.

In order for our Border Patrol agents to effectively secure our border, we need a Border Patrol with enough adequately trained agents to patrol the entire border efficiently with the weapons and other equipment that is necessary for confrontations with heavily armed drug smugglers and the other dangerous criminals who cross the border illegally. In light of the recent controversial prosecutions of former Border Agents Igancio Ramos and Jose Compean, this hearing and the issue of how effectively our border patrol are trained, equipped, managed, and staffed could not be convened at a more important time. Former agents Ramos and Compean are currently serving 11 and 12 year terms respectively in federal prison for shooting an unarmed Mexican national who was running drugs across the border near El Paso, Texas in February 2005. However, it appears that 3 other agents who participated in this incident were not prosecuted, but rather faced administrative penalties resulting in terminations. I would like to hear more from Chief Aguilar regarding this case, whether you agree with the way the prosecution was handled, and whether you feel like administrative remedies were exhausted. I would also like to hear from Chief Aguilar regarding what factors contributed to the occurrence of this incident, especially as it relates to the role played by a lack of sufficiently trained personnel and mangers on duty.

I also look forward to hearing more about DHS' Secure Border Initiative (SBI), which is a multi-year plan aimed at securing our borders and reducing illegal immigration by implementing new border security technology such as constructing additional border infrastructure including material and virtual fencing, adding more agents to patrol our borders, better securing the ports of entry, ending the "catch and release" policy through expedited removal and additional detention space, and increasing the enforcement of immigration laws inside the U.S.

I especially would like to hear about SBInet, which represents the technology and infrastructure component of SBI, whose goal is to create a virtual fence along the nation's borders using cameras, sensors, and other equipment. DHS Inspector General Richard Skinner has raised serious concerns with SBInet, including DHS lacking the capacity to properly oversee implementation of the program and granting too much discretion to the contractor. Inspector General Skinner has also warned that SBInet is a costly program which could reach $8 billion on the southwest border alone, while some have estimated that the entire project could exceed $30 billion. A serious and detailed discussion of SBInet's cost and implementation is both necessary and long overdue.

I also look forward to hearing from Rear Admiral Pekoske regarding the Coast Guard's mission of protecting the public, the environment, and our maritime economic and security interests, especially at our ports. On behalf of the thousands of Katrina evacuees that live in my district of Houston, Texas, I would like to thank you Rear Admiral Pekoske and the entire U.S. Coast Guard for their heroism, which saved countless innocent lives during the aftermath to Hurricane Katrina.

The Coast Guard's 40,150 men and women are entrusted with protecting 95,000 miles of coastline, 12, 400 miles of our nation's maritime border, and 3.4 million square miles of the Exclusive Economic Zones. Our nation's maritime border is composed of relatively open ports and coastlines that present an attractive venue for illegal entry, potential terrorist attacks, trafficking contraband, and other criminal activities.

I look forward to hearing from Rear Admiral Pekoske regarding the implementation and enforcement of two key pieces of legislation passed by this Committee to improve the security of our nation's maritime border—namely, the Maritime Transportation Security Act (MTSA) of 2002, which requires all vessels, facilities, and ports within the U.S. to complete security plans, and the SAFE Port Act, which was signed into law last year. I would also like to hear from you regarding the feasibility and efficacy of 100% scanning of contents bound for U.S. borders, which was not a provision of the SAFE Port Act, but which nonetheless is an important step in better securing our ports.

I would also like to hear from Rear Admiral Pekoske regarding the DHS Inspector General's recently released report regarding the Coast Guard's Legend-class National Security Cutter (NSC). The NSC, which is the largest and most technically advanced class of the Deepwater Program's three classes of cutters, was designed to be the flagship of the U.S. Coast Guard's fleet, capable of executing the most

challenging maritime security missions. However, the Inspector General's audit determined that the NSC, as designed and constructed, would not meet the performance specifications described in the original Deepwater contract. Moreover, the Inspector General report found that the NSC's design and performance deficiencies are the result of the Coast Guard's failure to exercise technical oversight over the design and construction of its Deepwater assets, which for National Security Cutters 1 and 2 has gone over $250 million over budget. Rear Admiral Pekoske, I eagerly look forward to further elucidation on this critical matter.

I again thank both of our witnesses for their testimony and eagerly look forward to further discussion of today's issues. I thank you Madam Chairwoman, and I yield back the balance of my time.

Chief AGUILAR. Let me take that piece by piece.

As far as the equipping of the agents, I feel very confident that we—Congress gives us what we refer to as a modular cost. So everything from uniforms, to weaponry, a bullet-proof vest, vehicles, things of that nature, I feel very confident that that will continue at the rate that it has in the past.

And, in fact, it has been improving. So, from that aspect, absolutely I feel confident that we will get the equipment that we need.

As far as aircraft are concerned, my colleague, General Kostelnik, who heads up the air and marine portion of CBP, is also working very diligently. As we speak, there is a procurement ongoing—additional procurement of UAVs, for example. We will have four by the end of this calendar year. An additional two will be coming by 2008.

Additional platforms, such as AS350s, helicopters that are of absolute essence to us on the southwest border and on the coastal borders, also. Black Hawks that we will utilize over water and on the northern border are also being looked at for procurement purposes.

I will state—and I am not the expert here, but my colleague, General Kostelnik, one of his concerns is, is the production timeline to actually procure these and get them on the ground, if you will.

Ms. JACKSON LEE. If I might, because my time is short, I have got the sense of it. Are you a supporter of the fence? Or do you believe that we can secure the border with increased personnel and technology?

Chief AGUILAR. There are going to have—

Ms. JACKSON LEE. A 700-mile fence, can you just say yes or no?

Chief AGUILAR. Seven-hundred-mile fence?

Ms. JACKSON LEE. Yes.

Chief AGUILAR. We are building towards that. Three hundred and seventy, absolutely. Seven hundred, will we get to that? It all depends on the technology—

Ms. JACKSON LEE. So you support a 700-mile fence?

Chief AGUILAR. I support a 370-mile fence. And as we progress to 700—I don't necessarily think we will get to that. But if we need to get to that, we have got the—

Ms. JACKSON LEE. Let me pose the question, also. I don't believe that we have all the facts, even with a judicial decision, on the two Border Patrol agents. One of the problems I understand is that the shooter of a weapon does not fill out paperwork. It is the manager that fills out paperwork.

But the real question is, are there administrative procedures in place, one, for grievance of the Border Patrol agents? Do they have a union? Is there a grievance procedure? Is there procedure where

the employees could have been reprimanded by administrative procedure, as opposed to putting them in a judicial process?

I think we are not having all the facts, members don't have all the facts. But I would argue that the actions were excessive, not questioning the DHS investigation. We had the inspector general here. But I do believe that there are questions that undermine the morale of the Border Patrol agents.

And my question to you, is that not true?

Chief AGUILAR. Your questions were a grievance procedure? Yes. Union, yes. Is this situation undermining morale? I answered part of the question a few minutes ago. I don't believe so. I think there is a clear understanding of the Border Patrol agent population in the field of what is available to them.

Ms. JACKSON LEE. You would not be opposed to an expanded investigation?

Chief AGUILAR. No. No, ma'am.

Ms. JACKSON LEE. Thank you.

Ms. SANCHEZ. The gentlewoman's time has expired.

We have some votes coming up on the floor, supposedly beginning about 11:30. I would like to try to get another round of questioning in, but maybe we can hold it down to 3 minutes per person, and that way, if anybody has some leftover questions they have, we can do that, if that would be okay with the ranking member.

So I have a question, back to Admiral. In terms of increasing the Coast Guard's maritime awareness, does the Coast Guard have the capacity, either internally or working with the private sector, to implement right now a voluntary, long-range vessel tracking program, in order to meet the requirements set by Congress in the SAFE Port Act?

And in particular, what is the Coast Guard doing to meet upcoming International Maritime Organization requirements on long-range vessel tracking? And will the Coast Guard consider using existing vessel-tracking systems to meet requirements set by Congress and the International Maritime Organization?

Admiral PEKOSKE. Yes, ma'am. I will take the last question first. We will consider using existing programs and will meet the 1 April deadline set by Congress in the SAFE Port Act in that regard.

As you know, there is an international agreement for long-range tracking that comes into force the 1st of January, 2008, and then everybody has to be in full compliance by December 2008. We anticipate that we will be able to fully participate in that process internationally, as well, and are working very hard in that endeavor.

It is critical important. Long-range tracking is very, very important to awareness to us.

Ms. SANCHEZ. Great. And I would yield back the remainder of my time, and I will my ranking member from Indiana ask his questions.

Mr. SOUDER. Thank you. I am going to—submit some additional questions for the record. Some here I have wrote out that I would like to put on the record and make sure we get answers.

On the OTMs, which I believe, Mr. Aguilar, you said were over 100,000, how many of those were from countries of interest? I know

at San Ysidro at one point we had, in one month hundreds that were OTMs.

Then there were, I think, 38 from countries of interest and a number of those on the watch list, so we get an idea of how much that is varying. And, also, if we could have that for the north border.

Two is, I talked to the distinguished ambassador from Mexico. And I believe President Calderon is committed to the border. I don't believe they have control of Nueva Laredo or other areas.

But what I would like to know is: Has the bulldozer been removed from across from Neely's Crossing? Because one of the assumptions that you stated in your testimony was is that the Mexican government would be responsible and work with us on trying to control the opposite side.

One test here is, is in the area across from the Marfa sector where the cartels control it. It is not even clear the Mexican government can enter that zone. And they have a bulldozer that knocks down everything we do.

One test of this is, is that bulldozer gone? And that is my question. I have been raising the question now for roughly eight months, and I would like to know if the bulldozer is gone.

Three, whether you said, in 2012, you believed that the southwest border would be secure, at least between the ports of entry—obviously, visa-jumpers is a whole another question that you wouldn't have any control over—did that presume a compromise immigration bill?

And, if so, what kind of compromise immigration bill? Was that part of your assumption, that we were going to be able to control the southwest border?

Maybe you could give me a yes or no on that, because you don't need to answer it if it is no. Did you assume an immigration bill in saying that you would control the southwest border?

Chief AGUILAR. No. With the proper technology, infrastructure and personnel.

Mr. SOUDER. Okay. Then you don't need to answer that question.

Chief AGUILAR. I will just clarify that they are going to get hit hard.

Mr. SOUDER. In other words, it will move?

Chief AGUILAR. Yes, sir.

Mr. SOUDER. A third question, then. You stated that real fencing, as opposed to virtual fencing, at least other than vehicle barriers, was not needed in the rural areas, that it would be concentrated in the urban areas. You also granted that real fencing slows people down.

Clearly, east of San Ysidro, we have lots of fencing in semi-rural areas, as well. Why wouldn't fencing almost be as critical in rural areas, where our agents are more sparsely distributed, to buy time?

I mean, it isn't like it takes a lot of time to go over, and you certainly need something strong enough to do vehicle barriers. I am a big supporter of vehicle barriers, like in New Mexico.

But part of the challenge here is, how do you, in these areas, buy enough time for agents to get there, particularly if they are trying to load contraband over the top? At the very least, you force them

to cut fences, which becomes another challenge. And I would like some additional comment on that.

Then lastly, on the case—and I just want to make these comments and you have stated again today, that the only people who actually saw the shooting included a drug smuggler and our agents. And T.J. Bonner, who represents the union, believes that, in effect, the word of a drug smuggler was taken, as opposed to our agents, which admittedly were contradictory at times.

And I understand the difficulty. And the question comes, why were they? What were they afraid of? Why did they become—and that is what the union is asking. That is what the American people are asking. It is anybody who looks at the case realizes there was contradictory evidence. The question is, why?

And why would the presumption have gone to the drug dealer? We don't know whether he had a gun. He fled. So there is a dispute on even whether he was armed or whether he was pulling a gun. It is not provable, because he got away.

Furthermore, as anybody who has looked the case knows, there was certain evidence excluded from the case, which is debatable whether it would have impacted the case, but certainly will come up in any retrial.

Another question is—one of these agents has apparently been beaten up. The question is, do we have a bail process for federal law enforcement officers that enables them to not have to go to prison while a case is still being appealed? Because they become sitting targets.

And I would also like to put in the record that this isn't the only case that this has happened, and that is why some of us are worried about the chilling effect. There have been other cases, and we will put that in, both with you and other law enforcement officials.

And this is a very troubling process. As the violence escalates I am worried that we are going to have a repeat of San Diego, after what we saw in these covered-head guys beating up other smugglers. It wasn't even our agents that were necessarily in the middle of this.

But the violence along the border is escalating, and we have to know what the ground rules are for our guys, in uncertain circumstances, whether somebody has got a gun, not a gun. Are they pulling it? Where are they going? What do they have? It is a very, very difficult process, and it is one we will continue to discuss.

Ms. SANCHEZ. Chief, if you will submit those in writing.

Chief AGUILAR. I will be glad to, yes.

Ms. SANCHEZ. Thank you.

And I would like to now recognize Mr. Green from Texas.

Mr. GREEN. Thank you again, Madam Chair.

For you, please, Chief, and for the admiral, as well, we know of the 9/11 hijackers, and we know of the millennium bomber.

Are there other circumstances that we are not aware of that you can discuss with us, with reference to persons who were actually trying to enter the country for terroristic purposes, especially as it relates to the southern border? Have we had any encroachments that you can share with us?

Chief AGUILAR. On the southern border, there have been arrests—one that I can speak to, because it was in the media, in

McAllen, Texas, by Border Patrol agents, of an individual, a female, that crossed into the United States, across the Rio Grande River, with a nexus to an incident—not to 9/11—but an incident in one of our embassies foreign.

I can submit to the committee other instances of encounters of potential. Anything of substance that I can give you today? No.

Mr. GREEN. I would await your response.

Admiral?

Admiral PEKOSKE. Mr. Green, we have had encounters with individuals that were of interest to us from an intelligence perspective and from a law enforcement, criminal history perspective. And these individuals are on vessels, they are on recreational vessels, on board fishing vessels, and also on board large commercial vessels that we could become aware when they are 2,000 miles offshore.

And that is why that reach for us into the high seas, literally hundreds of miles, 900 miles offshore, is important.

I would just highlight for you, sir, the importance of biometrics in this regard. You get a positive identity on an individual—oftentimes, people we encounter are not able or refuse to identify themselves, and we have no way to figure out who they are at times. This biometric project has proven to be incredibly useful to us.

Mr. GREEN. Thank you.

I yield back, Madam Chair.

Ms. SANCHEZ. I have one last question for you gentlemen. Last week, we were informed by the department that the apprehension numbers for 2006 were 98,000 people on the southern border and 2,800 people on the northern border. How many people were apprehended at maritime borders in 2006?

Admiral PEKOSKE. Madam Chairman, I would like to get that answer for you on the record. I don't have it off the top of my head.

In fiscal year 2006, 7,886 migrants were interdicted at sea by the U.S. Coast Guard.

But I would note, to follow up on a comment Mr. Souder made earlier, is that, as you squeeze in one area of operations, you see that balloon effect. The people either take the sea or take a different land route. We are watching that very closely with the counter-drug movements in both the eastern Pacific and the Caribbean.

One other aspect, with respect to the northern border, is the work we are doing right now with the Canada government. We have in place, along with Customs and Border Protection, Immigration and Customs Enforcement, and the Border Patrol, integrated border enforcement teams, where we work together to enforce our border with the Canadian government.

And, also, we are working very hard with the Canadians to achieve a shiprider agreement, wherein Coast Guard officers could be aboard Canadian ships underway in the Great Lakes, and Canadian officers, RCMP officers, aboard our vessels, so that we can jointly enforce our security requirements. So these are—

Ms. SANCHEZ. Are you sharing intelligence with what is going on, on the northern border, and these teams that are working together, between the Canadians and our people?

And the reason I asked is because there was a big uproar?I don't know, maybe about six or eight months ago?with the sharing of intelligence or the supposed sharing of intelligence on the southern border with the Mexican government officials, or the federales, or whoever it is that is handling it from that end.

Do we do that on the northern border with the Canadians?

Admiral PEKOSKE. We do share intelligence information with the Canadians. And part of what we found in our discussions with them is that it is not so much the policies, necessarily, that inhibit that, but sometimes it is the mere practice of how we do things.

For example, some of the default settings on classified traffic automatically add the label to the classification that prohibits sharing with foreign entities. What we have done inside the Coast Guard is asked our people to make sure that we don't automatically hit those default settings, because to undo it is very, very difficult and takes?it takes longer than the information is actionable. So we are working very hard on that.

Ms. SANCHEZ. And, Chief, I have one last question. The number of apprehensions on the northern border for 2006, 2,800, do you think that is really reflective of what is going on there? Or is it because we have less resources, really, stationed?

I mean, we did a hearing, I think, on immigration and border in Seattle, back in August. And your Border Patrol people who were there talking to us said, you know, they get very little coverage up there, and they have very little assets, and they really need more help on the northern border. It was pretty apparent.

Do you think that one of the reasons why we are not getting so many is that there might be a lot slipping through? Because, you know, that is such a big border, much more than the southern border, and yet we have so little assets.

Chief AGUILAR. It is a vast and very rural border out there. But as the admiral spoke, we have worked very closely with our—and it is a different environment on the Canadian border—I am proud to say, is that we worked very closely with our Canadian neighbors.

We share information, especially tactical information. We also have the IBETs. We have 15 across the northern border that we work with the Canadian partners. We work very closely up there as a force multiplier, with state, local and tribal entities on both sides of the border.

The Border Patrol, for example, has what we refer to as BSET teams, border security enforcement teams, where even though the small nature of our Border Patrol stations are such that we can't deploy along the entire border, but what we do is we make intelligence runs with the communities on both sides of the border to check with them on an ongoing basis what it is that they are seeing.

Are they seeing activity? Are they sensing anything that is different in those areas? Things of this nature that we are working very closely with.

Ms. SANCHEZ. Great. Well, that would be the end of my questions.

I thank the witnesses for their valuable testimony before us today and the members, of course, for their questions. The members of this subcommittee may have additional questions for the

witnesses, and we will ask you to respond expeditiously in writing to those questions.

And hearing no further business before the subcommittee, it stands adjourned.

[Whereupon, at 11:42 a.m., the subcommittee was adjourned.]

BORDER SECURITY: INFRASTRUCTURE, TECHNOLOGY, AND THE HUMAN ELEMENT, PART II

Thursday, March 8, 2007

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOMELAND SECURITY,
SUBCOMMITTEE ON BORDER, MARITIME,
AND GLOBAL COUNTERTERRORISM,
Washington, DC.

The subcommittee met, pursuant to call, at 1:06 p.m., in Room 1539, Longworth House Office Building, Hon. Loretta Sanchez [chairwoman of the subcommittee] presiding.

Present: Representatives Sanchez, Harman, Langevin, Cuellar, Green, Souder, McCaul, and Bilirakis.

Ms. SANCHEZ. [Presiding.] Good afternoon. The subcommittee will come to order.

The subcommittee is meeting today to receive testimony on "Border Security: Infrastructure, Technology, and the Human Element, Part II. So this is our second hearing.

And I want to thank our witnesses—let's see if I get these names right; it is a great array of American names here: Dr. Jeffrey McIllwain, Mr. Wermuth, Dr. O'Hanlon, and Mr. Ramirez—got that one right—for joining us today for the second hearing of our subcommittee that we are holding on "Border Security: Infrastructure, Technology, and the Human Element."

In the previous hearing on this topic, we heard from Border Patrol Chief Aguilar and Coast Guard Rear Admiral Pekoske about the border security challenges our nation faces on the northern, the southern and the maritime borders and the plans to use infrastructure, technology and personnel to address those challenges.

Today I am looking forward to hearing from the academic, think-tank and the nongovernmental communities about the perspectives on our border security, our challenges and how we can best address them.

And I am interested in the witnesses' thoughts on the border security efforts currently in place, the ones that we have planned for the future by our government, and if there are ways to strengthen and improve those plans.

Specifically, how should the Border Patrol structure and place fencing and barriers to get the most return? How effective is the technology currently in use on the border, and how will the planned SBInet initiative change that situation on the border? And how will the planned increase in Border Patrol agents be affected

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by challenges in recruitment, training, retention, and how the Border Patrol can best maximize the impact of each marginal agent as we bring him or her on?

In addition, I am very concerned about the Coast Guard and the Border Patrol and how they work together in order to get these border security issues done, because I was concerned to learn in our last hearing that there is no set process on how the Coast Guard transfers people when they have been turned over to the Border Patrol or detention facilities.

And another issue that deserves, I think, attention is how the three countries are working together—meaning Canada, Mexico and the United States—with respect to border security. And I would also be interested to hear the witnesses' thoughts on what we can do to maximize our positive returns from those relationships with the other two countries.

And, obviously, these are very complex issues. I know you are going to provide us with your best professional and analytical analysis of the situation.

And I would like to thank my ranking member, Member Souder, for his interest in this topic. And I look forward to working with him to really make America secure and know who is coming in and out of our country.

And now I will turn it over to our ranking member.

Mr. SOUDER. I thank you. I thank the chairwoman, chairlady, for her leadership and continuing hearings on this subject.

Clearly, as Congress both looks at how to secure America and how to look at comprehensive immigration reform, one of the fundamental questions is, is the border actually secure? And if that isn't answered in a favorable way, it is hard to see how either the country can be secure or we can move ahead on immigration reform.

So I don't have a formal statement this morning. And I have been working this issue since I have been elected to Congress, through the narcotics area in particular, which is smuggling of people, smuggling of contraband—basically all the same subject, just different types and different approaches depending on the high value of the asset.

And I look forward to hearing your ongoing testimony and assume this is just a start, not an end.

Thank you very much.

Ms. SANCHEZ. The chair now recognizes—oh, I already did that. The chair now recognizes—the chairman of the full committee is not here.

Other members of the subcommittee are reminded that, under the committee rules, opening statements may be submitted for the record.

So I welcome our panel of witnesses.

Our first witness is Jeffrey McIllwain, Ph.D., of San Diego State University, of course in the great state of California. And the doctor is the associate director and the co-founder of the interdisciplinary graduate degree program in homeland security at SDSU, the first of its kind in the United States. And as part of his work with the Homeland Security Program, the doctor works extensively with his homeland security colleagues in the College of Sciences at

SDSU to help meet the technological and scientific needs of community partners in the public and private sectors.

Our second witness is Michael O'Hanlon, a senior fellow in foreign policy studies at the Brookings Institute, where he specializes in U.S. defense strategy, homeland security, and American foreign policy. He is a visiting lecturer at Princeton University and a member of the International Institute for Strategic Studies and the Council on Foreign Relations. And in 2002, O'Hanlon and several colleagues wrote "Protecting the American Homeland," a book updated in 2003 and 2006.

And our third witness is Michael—oh, forgive me here—Wermuth, the director of the RAND Homeland Security Program, which addresses issues pertaining to critical infrastructure protection, emergency management and response, terrorism risk management, border control, domestic intelligence and threat assessments, and manpower.

You are doing a lot over there.

Since joining RAND in the summer of 1999, Mr. Wermuth has directed numerous projects dealing with homeland security. And for the past 2 years, he has been manager of domestic counterterrorism programs in the National Security Research Division at RAND. He also has over 30 years of military experience, including both active and reserve duty, with the U.S. Army and is retired as a Reserve colonel.

And our final witness is Mr. Andy Ramirez, chairman of Friends of the Border Patrol, a 501(c)(3) nonprofit organization that was created in 2004. And Mr. Ramirez has repeatedly testified before Congress and the California state legislature on border security, illegal immigration, and U.S.-Mexico relations. He has also appeared frequently as a guest on news programs like CNN's "Lou Dobbs," Fox News Channel, and nationally syndicated radio talkshows. Additionally, Mr. Ramirez was nominated for the California State Assembly's 60th District in 1994 and 1995.

So, without objection, the witnesses' full statements, which you submitted, are inserted into the record. And I now ask each witness to summarize his statement for 5 minutes, beginning with Dr. McIllwain.

STATEMENT OF JEFFREY McILLWAIN, CO-DIRECTOR, HOMELAND SECURITY PROGRAM, SAN DIEGO STATE UNIVERSITY

Mr. MCILLWAIN. Thank you, Madam Chair.

Good afternoon, Madam Chair, Ranking Member Souder and distinguished subcommittee members. My name is Jeffrey McIllwain, and I am the co-director of the graduate program in homeland security at San Diego State University.

It is my honor to provide you with an assessment of border security from an interdisciplinary academic perspective. It is also my purpose to inform you about some of the intersections between the human element, technology, and infrastructure that create and respond to these challenges, relying heavily on the San Diego-Tijuana border region as a case study.

Before moving forward, please allow me a moment to look back.

During the Second World War, my grandfather, Enrique Estrada, was serving as a sergeant in the United States Air Corps when he was approached by his superiors to serve as a liaison and translator for members of the Mexican military.

The U.S. military was working with the Mexican military to create the Mexican Air Force, so that Mexico could finally shed its international isolationism and take a small but crucial step onto the world's stage by wielding a military unit in support of the Allied campaign in the Pacific theater.

Working in solidarity with Mexico, the United States was able to overcome language and cultural differences and a history of mutual distrust to tackle the predominant security challenge of that day.

Years later, the U.S. and Mexico find themselves jointly facing new security challenges of global significance—challenges that are not confined to faraway shores but to both our shared border and the combined borders of the U.S., Mexico and Canada.

The challenges are numerous. Combating powerful narcotraficantes, weapon smugglers, transnational street gangs, human traffickers, corruption, intellectual property theft, and environmental health and sustainability traditionally come to mind.

Since 9/11, the most tangible challenge is that posed by terrorist organizations bent on attacking the U.S., Canada and Mexico as a means of undermining our collective political will to thwart their authoritarian ideologies.

For example, last month, al-Qa'ida in the Arabian Peninsula stated, "It was imperative that we strike petroleum interests in all regions that the United States benefits from," specifically naming Canada and Mexico, the first and second largest crude oil suppliers to the U.S., as possible targets.

This has serious implications for binational energy infrastructures and national security, given the U.S. exchanges major amounts of energy via extensive oil and gas pipelines with Canada and Mexico.

The United States cannot respond effectively and efficiently to border security challenges like terrorism, drug smuggling and human trafficking alone. Such challenges require strong binational and trinational cooperation and coordination. It also requires an approach that emphasizes the intersection of infrastructure, technology, and the human element.

My written testimony provides a number of examples illustrating these two approaches.

One of them concerns the challenges and opportunities inherent to the coming mega-port and rail complex at Punta Colonet, 150 miles south of the border on Baja, California's Pacific coast. Punta Colonet will rival, if not exceed, the size and capacity of the combined ports of Long Beach and Los Angeles, which account for almost 44 percent of the foreign containers coming into U.S. ports last year.

Consequently, there will be massive new infrastructure, technology, and security needs for these containers crossing into the U.S. from Baja, California, that will ensure the secure, effective and efficient flows of goods and people across the border.

Another example of how massive new infrastructure is being built that links the countries together in physical character but

also in symbiotic business ventures is the construction of a large liquefied natural gas facility on the coast 50 miles south of San Diego. This facility will process and ship most of the natural gas imported from Indonesia, Australia and Russia north to the Southern California energy market.

The footprint of these pipelines will likely also contain telecommunications infrastructure, linking energy and information technology as a collaboration between the two countries.

These two examples illustrate how infrastructure development can actually assist with homeland security, as corporations, governments and agencies link to each other for cost-effective uses of technology for dual purposes.

Yet the long-term planning to make homeland security a foundational design principle of this effort does not seem to be a currently critical THS task given other pressing concerns.

However, U.S., Mexican and Canadian universities can help in the design, testing and analyses of various technologies and policy and governance issues, all the while identifying and assessing how dual-purpose technology and infrastructure, linked to economic development and human capital, can simultaneously assist both countries in meeting their security challenges.

In order to be successful, dual-use approaches must take advantage of the existing foundations of U.S.–Mexican cooperation and coordination, as well as the limitless human capital offered by the citizens of border regions. Such trust-building initiatives are simply in our national interest and will go a long way toward providing short-and long-term security for our borders.

While infrastructure and technology are important for border security, the collaboration and coordination of people in the U.S. and across our borders is critical. By encouraging and supporting the effective and efficient interoperability of these three elements, Congress will take a major step in furthering our security goals.

Thank you again for the opportunity to present my testimony to the subcommittee. I appreciate it.

[The statement of Mr. McIllwain follows:]

PREPARED STATEMENT OF DR. JEFFREY SCOTT MCILLWAIN

Good afternoon Madam Chair, Ranking Member Souder, and distinguished subcommittee members. My name is Jeffrey McIllwain and I am the Co-Director of the Graduate Program in Homeland Security and an Associate Professor of Public Affairs and Criminal Justice at San Diego State University. It is my honor to provide you with an assessment of border security from an interdisciplinary academic perspective. I provide this assessment at a time when the need for border security has been underscored by recent events. For example,

> Last month al-Qa'ida's Committee in the Arabian Peninsula (Saudi Arabia) stated it was "imperative that we strike petroleum interests in all regions that the United States benefits from. . .," specifically naming Canada and Mexico, the first and second largest crude oil suppliers to the U.S., as possible targets.This has serious implications for binational energy infrastructures and national security given the U.S. exchanges major amounts of via extensive oil and gas pipelines with Canada[ii] and Mexico,[iii] and companies like ExxonMobil are making major contributions to the recent major discoveries of oil off the Gulf coast of Mexico.[iv] Add to this the fact that in many oil pipeline right-of-ways, fiber-optic cables are also laid, as the continuous rights-of-way needed for pipelines also provide pathway for communication infrastructure.[v] Critical information for business and banking are thus passed along these same routes and would negatively impact both countries as well as many other global trading partners if truncated. Because of the difficulty of getting permits to cross the border, the

number of fiber and pipeline crossings is very limited, making a small number of high-value targets.

• Last week Operation Imperial Emperor resulted in the arrest of approximately 400 alleged members of the drug cartel run by cartel kingpin Victor Emilio Cazares-Gastellum, a cartel responsible for smuggling metric tons of drugs from Colombia and Venezuela to the U.S.[vi]

• Also last week Attorney General Gonzales highlighted the transnational nature of many of the violent street gangs in cities like Los Angeles, gangs with established pipelines between the U.S. and counties like Mexico, Guatemala, and El Salvador.[vii]

• The summer 2006 bomb plot thwarted in Toronto illustrates the "homegrown" nature of the suspects.[viii] This plot is linked directly to two American "homegrown" terrorist suspects arrested in Georgia who stand accused of making "casing videos" of the U.S. Capitol Building and other Washington, D.C. landmarks.[ix] Both cases, in addition to the arrest of two men at the Buffalo/Fort Erie border crossing who are also allegedly related to the plot, illustrate the relative ease with which some of these suspects had traveled across the U.S./Canadian border.[x]

These examples represent the breadth and complexity of the border security challenges faced by the American people. It is my purpose to inform you about some of the intersections between the human element, technology, and infrastructure that create and respond to these challenges, relying heavily on the San Diego/Tijuana border region as a case study. Specifically, I will:

• Illustrate the complexity of border security as it impacts various stakeholders living in border communities;

• Assess the role of human capital in aiding network-centric strategies countering the efforts of criminal networks operating in the border region;

• Discuss the role of regional cooperation and integration as a means of effectively and efficiently marshalling resources for a more secure border that also facilitates the flow of people and goods;

• Point to areas of binational cooperation as models of trust building that allow for more effective and efficient border governance; and

• Provide suggestions that would tap the underutilized resources and the intellectual capital of universities and other sources that could supplement current efforts to provide effective and efficient border security.

Background

As the Co-Director of the Graduate Program in Homeland Security at San Diego State University, I have the privilege of working with a number of scholars and practitioners in the U.S., Mexico, and Canada who focus on these varied and complex border security problems on a daily basis. Living in San Diego, I have the additional privilege of working in what is arguably one of the most significant "living l aboratories" for border security research in the world, the greater San Diego/Tijuana border region.

As such, I have come to recognize that the term "border" has as many different meanings as there are stakeholders on the issue. For example, "border" can mean a wall or a fence; a place of interaction; a marketplace for goods and services; a community of people; a way of life; arbitrary lines on a map; interdependence; a revenue source; an ecosystem; or a line of defense or defensible space. Therefore, when applying theoretical and manifested concepts of security to the term "order," these meanings are impacted in a number of varied and substantive ways.

In a sense, the border becomes a vibrant ecosystem that is impacted by the laws, policies, procedures, practices, and people that define its use on a daily basis. For example, on average more than 136,000 cars and 6,200 trucks, and nearly 340,000 people, travel between the U.S. and Mexico via the San Ysidro, Otay Mesa, and Tecate border crossings each day, making the San Diego-Baja California Point of Entry (POE) the busiest in the world. The Otay Mesa-Mesa de Otay POE is the busiest commercial border crossing between California and Mexico. In 2004, this POE handled more than 1.4 million trucks and $22.2 billion worth of goods in both directions, which represents the third highest dollar value of trade among all land border crossings between the United States and Mexico. Another $1 billion in goods and more than 139,000 trucks crossed at the Tecate-Tecate POE, numbers that will grow exponentially in years to come.[xi]

Currently, there are about 4.5 million people living in the greater San Diego-Tijuana region and by 2020 the total regional population will be approximately 6 million, with most living in a large transborder contiguously urbanized metropolitan area separated by the international border. This binational region is increasingly interdependent through trade flows, labor flows (40,000 workers commute from Ti-

juana to San Diego each day), family ties (30% of San Diego's population is Mexican in origin), transportation and infrastructure planning, energy and resource management, and crime fighting. When working cooperatively, U.S. and Mexican authorities do a good job solving these problems for mutual benefit.

After the attacks of September 11, 2001, the border crossing points between San Diego and Tijuana were shut down as a precautionary measure. The permanent changes to border security policies that followed have had substantial, long-standing implications for the region. A study commissioned by the San Diego Association of Governments (SANDAG) found that the increased border wait time for personal trips and freight movements cost the U.S. and Mexican economies an estimated $6 billion in gross output and 51,325 jobs (tied to this output) in 2005. This projects to almost $14 billion in economic output and 123,682 jobs by 2014.[xii] These future forecasts do not take into account the massive new deep-water port to be built south of Ensenada at Punta Colonet.[xiii] This port will be larger than the combined Ports of Long Beach/Los Angeles (San Pedro), which accounted for almost 44% of foreign containers coming into U.S. ports last year.[xiv] Consequently, there will be massive new infrastructure and security needs for these containers crossing into the U.S. from Baja California.

This example is not meant to suggest current security mechanisms are less important than the flow of people and trade goods. It only serves to show the symbiotic nature of the border and how border security policies can have both intended and unintended consequences. These consequences are realized and interpreted in different ways depending on the stakeholder that is impacted by them and how these stakeholders construct their particular meaning of the border (*i.e.,* a defensible space, a marketplace for goods and services, a revenue source, etc.). It is from the multi-faceted meanings of the term "border," and the functions these meanings entail, that our border security challenges and opportunities derive. I will now share with you some of the challenges faced and lessons learned, many from the San Diego/Tijuana border region, as examples of the complexities that impact our border communities and our nation.

Criminal Networks, Human Capital, and Network-Centric Approaches to Security

The San Diego/Tijuana border region is an economically robust region for the very reason that a vast amount of people and goods flow between two sovereign states on a daily basis.[xv] This flow largely occurs through formal, legal channels. For example, many Americans ride their off-road vehicles in Baja California deserts; automobile parts are manufactured in maquiladoras and shipped to the U.S. for assembly; American retirees spend their golden years living in Mexican beach communities, including one owned by the Trump Corporation;[xvi] and soon computer chips will be sent to the U.S. from the "Silicon Border" development in Mexicali.[xvii] This list can go on and on.

Shadowing these legal, formal channels is a major illicit economy that exploits the opportunities for financial gain borders create. This illicit economy has been around for well over a century.[xviii] The premise behind these opportunities is quite simple. Sovereign states establish rules and regulations that reflect value systems that may not coincide with those of a neighboring sovereign state. This creates structural holes in which inherent asymmetries develop around differential access to resources and opportunities.[xix] These inherent asymmetries create the opportunity for profit for those willing and able to assume the risk and marshal the networks and resources to do so.[xx]

For example, Mexico has strict laws covering the importation of firearms. The U.S., which has relatively liberal firearm laws, has a steady supply of firearms available that can be smuggled into Mexico for a substantial profit. Conversely, the U.S. has strict laws and regulations regarding the importation of labor. Mexico has an abundance of labor. Criminal entrepreneurs step into this breach, smuggling undocumented laborers (and others) by the thousands into the U.S. for a substantial profit. The wages from this labor traveling south to Mexico obviously have a significant impact on Mexico's economy. The economic impact on the U.S. is much more controversial.

The creation of such illegal markets is unavoidable and it is not unique to the U.S./Mexico border. Such practices are the norm in border communities around the world. In all of these cases, extensive social networks develop to ensure that supply meets demand, regardless of what legal and technological weapons the state musters against them. Indeed these networks—composed of criminal entrepreneurs, enforcers, and the upper-world institutions and individuals that benefit from the illegal market (*i.e.,* corrupt officials, etc.)—remain remarkably resilient in the face of such challenges and may even make more profit per transaction as a result of the

increased risk.[xxi] This resiliency is evident in the construction of tunnels burrowed under the U.S./Mexico border for the purposes of smuggling drugs, people, and other items.[xxii] Indeed, over twenty have been found linking Mexico to the United States since 9/11.[xxiii] The U.S./Canadian border has been breached in such a manner as well.[xxiv]

U.S. border security policy has reasonably emphasized its national strengths, focusing on using infrastructure, technology, and manpower at the border to counter such activities. These policies have arguably proven relatively effective in disrupting the flow of people and goods in some areas (for example, the border fence, manpower surge, and sensor networks used on the westernmost portion of the urban border between San Diego County and Tijuana during Operation Gatekeeper). However, for every countermeasure the U.S. provides, criminal organizations devise a response. In the case of Operation Gatekeeper, which secured the coastal portion of the border through infrastructure and increased patrols, smugglers moved to more rural, mountainous, and desert routes east of San Diego or used tunnels, corruption, and other means of moving people and goods across the border, often with deadly results.[xxv] Smuggling operations are a moving target for DHS. After all, the red tape, laws and regulations, human rights and environmental concerns, bureaucratic turf wars, and budget and appropriations battles that are the every day concerns of our government agencies do not encumber these criminal networks. These criminal organizations can remain flexible and respond in near real time, whereas our agencies are often constrained and must be reactive in nature, if they can react at all.

Given the constraints that exist on the U.S. *vis-à-vis border security, it is imperative that the U.S. complements its current responses with an increased emphasis on human capital.*[xxvi] As mentioned before, borders are not just defensible spaces. They are also a community of people and a way of life. Just like in other border communities, people in Tijuana and San Diego live, work, and play on both sides of the border. Business relationships, families, and friendships readily thrive in this condition. As such, at a given moment, there are literally thousands of potential sources of information regarding criminal activities and security threats going untapped.

Indeed, the physical security of many areas of San Diego is dependent upon the physical security of adjacent areas of Tijuana: an earthquake, flood, catastrophic fire, chemical spill, or terrorist incident requires a coordinated response by Mexican and U.S. authorities. However, the governmental linkages, personal ties, and resources are not in place for adequate regional, binational emergency response. The investment in transborder human infrastructure needs to improve to help rectify this.

To paraphrase the words of two well-known proponents of network-centric warfare strategies in the military realm, what is needed here is a detailed understanding of the appropriate competitive space, the close linkage among actors in the illicit market's social system. If border security professionals can produce and analyze more real-time information drawn from non-traditional forms of human intelligence, they can more readily mirror the linkages, interactions, and the environment of their criminal adversaries. This would improve response time to rapidly evolving security risks and would potentially provide a much stronger return on our border security investments.[xxvii]

The effectiveness of current network-centric strategies that rely on technical and human intelligence flows can be augmented significantly with a concerted effort to tap into non-traditional information flows. I cannot begin to tell you how common these information flows are in a border community. For example, the family of one of my students grew up next door to the family of a major drug cartel enforcer; another worked as a receptionist for a shipping company in Tijuana that shipped more than the legal goods listed on its manifests; a close friend went to high school with the children of a major Mexican crime family; another friend is related to a senior prosecutor responsible for uprooting police corruption. Other students have shown me Spanish language blogs, web sites, and audio and video media hosting sites that provide very valuable information about the goings on in the border underworld (remarkably similar to, but on a smaller scale than, what we see in the Islamic extremist community).[xxviii] These connections have been valuable to me in my research, allowing me to navigate what is actually a very easily identified social system of organized crime.[xxix] Such connections working for border security professionals can help reverse current asymmetries in information flows that favor the underworld.

The relative ease with which I, a university-based researcher and educator, can learn such things has always amazed me. I asked contacts in the American and Mexican criminal justice and security communities why it seemed so difficult to tap into the same information. The answers I received were reasonable ones: concern for the safety of informants, admissibility in court, possibility of disinformation, po-

litical and diplomatic concerns, and issues of trust routinely take center stage. Yet I am still left with the belief that a more concerted effort must be made to tap into the human capital at our disposal, not just for information flows but for establishing a substantial cadre of bilingual public servants with a functional understanding of the many nuances of border community life. This cadre can make immediate contributions in the production and analyses of the intelligence that is crucial to network-centric responses to border security challenges. Border universities like San Diego State University can take a major role in helping recruit such public servants while at the same time work with border security agencies to develop educational and research opportunities that will substantively reinforce and contextualize their border life experiences.

Dual-Use Infrastructure and Technology and Binational Collaboration

One way of looking at the border in a manner that reflects its daily reality is to view it as an opportunity for dual-use technologies, especially in infrastructure, which can assist in joining different countries together for their mutual benefit and security. We are historically, economically, culturally, and morally linked to others around us; we cannot exist in isolation from others. Shared infrastructure is an excellent physical demonstration of this. One of the most powerful ways to ensure U.S. interests across the border is to innovatively link to multiple groups to share the responsibilities, opportunities, and impacts of the border, which is what shared infrastructure does. A few general thoughts may help flesh out such innovative approaches to border security, approaches we at San Diego State University are using to train and educate public and private sector officials and first responders who bear the daily burden of dealing with the practical realities of securing and governing the border. As we shall see, linking infrastructure and technology to the human element is key.

It is important to recognize that though Canada and Mexico both have land borders with the U.S., they are profoundly different in many ways. Simply treating them as the same with laws, regulations, and policies is a major over simplification that does not serve either well. Canadian groups, such as those presenting at the recent ComDef Border security conference in Tucson,xxx emphatically emphasized over and over how the border needs to be open for rapid trade and passage of goods from one country to the other. Canada is the single biggest trading partner of the U.S. How that trade can be nurtured and enhanced has a different reality than the same effort with Mexico, let alone more than 100 other countries via air and water borders. One size cannot fit all, for it creates a larger challenge for developing effective and efficient laws, regulations, policies.

Canada and its infrastructure for oil and gas, electricity, communications, and transportation have a profoundly positive impact on the U.S. Security efforts to protect this infrastructure both assist in the normal business processes of making a profit, but can also assist in security. Thus applying dual-use technologies for enhanced security of infrastructure and at the same time assisting with profit generation is an attractive linkage. Oil-and-gas pipelines are an excellent example, where ensuring the appropriate flow, temperature, and pressure, and guarding against disruption, clearly aid and can optimize the business aspect of the infrastructure. Most of this can be done by sensors along the pipeline and infrastructure, with the sensors fused into actionable, real-time intelligence just as is done on the power grid. Technology-assisted security guarding infrastructure can thus help assist in facilitating business processes.

A specific example from the San Diego-Tijuana area where massive new infrastructure is being built that links the countries together in physical character, but also in symbiotic business ventures, is the construction of a large liquefied natural gas (LNG) facility on the coast 50 miles south of San Diego.[xxxi] This facility will process and ship most of the natural gas imported from Indonesia, Australia, and Russia north to the Southern California market. When fully functioning this facility will be directly linked to the energy infrastructure of Southern California. Consequently, the pipelines that carry the gas north will also be a security concern

The footprint of these pipelines will likely also contain telecommunications infrastructure—linking energy and information technology as a collaboration between the two countries. Trans-oceanic fiber coming in at these ports can connect the world to Mexico and then to the U.S. along the same routes that the energy travels. Linking economic incentives for security and infrastructure, as well as providing energy and IT assets to the Baja population, will assist with infrastructure security using technology to cross the border and assist Southern California in its energy and communications challenges. Infrastructure development then can actually assist with homeland security as corporations, governments, and agencies link to each other for cost-effective uses of technology for dual purposes. Universities can help in the de-

sign and testing of sensor networks, communication technologies, data fusion techniques, policy and governance issues, and design and permitting studies to assist this dual-use. Given the importance of these developments to U.S. energy needs, it should come as no surprise that al-Qa'ida's Committee in the Arabian Peninsula has placed Mexico on notice.

In much the same way, consider the aforementioned massive new deep-water port being planned for the Punta Colonet region south of Ensenada. This will be the largest port development on the west coast of North America and is planned to handle more containers than are currently being shipped through the Long Beach/Los Angeles ports (currently 43.9% of all foreign containers coming into the U.S. in FY 06).[xxxii] The infrastructure needed to move these containers by truck and rail into the U.S. will be staggering in some ways. Yet the long-term planning to make homeland security a foundational design principle of the effort does not seem to be a currently critical DHS task given other pressing concerns. By helping design and test sensors, transportation corridors, inspection sites, monitoring sites, and public benefits, U.S. and Mexican universities can provide research-based examples of how technology and infrastructure linked to economic development and human capital could simultaneously assist both countries in meeting their security challenges.

Epidemics and natural disasters like wild fires, hurricanes, and earthquakes are another example of cross-border collaboration that has technology and infrastructure connection. Without the communications infrastructure in place to communicate with first responders, most efforts to immediately respond during and after a disaster are extremely limited. Physical infrastructure such as towers on mountaintops to provide coverage to fire and law enforcement are obvious, but are also obviously disconnected from each other. Less obvious is the radio spectrum that is used by first responders, which is regulated by both countries. If a Mexican agency uses a specific radio frequency, this usage eliminates that frequency from being useful in the U.S. spectrum along the border. Thus only about half of the spectrum that other first responders in the U.S. can use is available. Collaboration across the border, both to eliminate interference, and also to enhance interoperability during shared emergencies like wild fires, is a major challenge to both countries. Yet it is an opportunity for collaboration that universities in both countries, serving as honest and neutral brokers and facilitators, can assist in solving.

San Diego State University is helping with these issues on the U.S. side of the border. Mexican universities could do likewise on the southern side of the border, as international interoperability and collaboration is significantly more elusive than interoperability is in the U.S. Mutual aid between Mexican and U.S. firefighters and law enforcement personnel is far from being solved, both because of technical issues and matters of trust. Isolation rarely enhances trust, however, and universities that already work well together can help facilitate the building of trust and therefore capability when it is needed during and after disasters. Without a communications infrastructure or technologies to link together for mutual aid, epidemics and disasters will have much more of a negative impact than if the two countries could communicate. To help with this, university-based, non-tactical communications that can link both countries together could offer assistance to both countries, while perhaps being primarily used as educational, environmental, and health-related networks outside the time of disasters.

Security and Border Cooperation and Coordination

Oftentimes we hear of the numerous issues that serve as impediments to binational approaches towards border security. We hear stories of the corruption, nationalism, and turf battles that make the idea of border governance, let alone border security, a seemingly unobtainable goal. These issues are very real and very daunting. Yet they are not insurmountable, as other areas of border governance and coordination that were once thought impossible are now being overcome.[xxxiii]

For example, the San Diego Association of Governments (SANDAG) has a Borders Committee that brings together elected officials and representatives from San Diego, Imperial, Riverside, and Orange Counties, and Baja California/Mexico with the goal to create a regional community where San Diego, neighboring counties, tribal governments, and northern Baja California mutually benefit from their varied resources and international location.[xxxv] Even the local office of the Customs and Border Patrol joined SANDAG's efforts last year and a strong, constructive relationship between both parties has emerged. The Borders Planning and Coordination Division of the Borders Committee identified six critical planning areas around which to focus its collaborative efforts: jobs/housing accessibility; transportation; energy and water supply; environment; economic development; and homeland security. Subsequent opportunities have been identified, conferences held, strategies developed, research reports and plans written, and agreements reached.[xxxvi] Indeed, since 2004

homeland security concerns have been formally part of the regional decision-making process under SANDAG's auspices.

Another example is the Southwest Consortium for Environmental Research & Policy (SCERP). SCERP is a collaboration five Mexican universities and five American universities located in all ten border states. It assists U.S.-Mexican border peoples and their environments by applying research information, insights, and innovations. SCERP was created in 1989 and was first funded by Congress in 1990 to address environmental issues of the U.S./Mexico border region and to "initiate a comprehensive analysis of possible solutions to acute air, water and hazardous waste problems that plague the U.S./Mexico border region." Since then SCERP has implemented about 400 projects involving as many as a thousand individuals. SCERP has the multi-fold mission of applied research, outreach, education, policy development, and regional capacity building for border communities. SCERP informs the decision-making process in both the U.S. and Mexico without advocating for or against a particular position. By interpreting the results of unbiased scientific inquiry it provides motivation to adopt comprehensive, regional, and long-term policies, solution sets, and environmental security.[xxxii]

Thanks to organizations like SANDAG and SCERP, institutional and individual trust relationships are built, relationships that lead to higher levels of trust which, in turn, lead to even more cooperation and coordination. Of course it is trust building that is an important step towards creating a secure border. Yet sharing information from one side of the border to the other reasonably remains a challenge. When it comes to security concerns, trust wrongly placed can, and has, lead to the loss of life, fortunes, and careers. However, areas for trust building in the border security realm do exist. For example, Mexican police would like to have access to stolen car records from the U.S., as they recognize that cars in Mexico with valid California plates may well be stolen, but they have no way to check this. They see these cars as a potential gold mine (insurance companies pay handsome rewards for the return of stolen vehicles). This is in addition to gaining the substantial revenue from the thousands of stolen cars currently operating in Mexico that are not paying any licensing fees. Similarly, Mexican police would like to provide intelligence to U.S. police forces on terrorist suspects—many of who would be a threat to Mexico as well—but the information provided to them is limited at best. Mexican police have significant capabilities (including state-of-the-art public surveillance, biometric, and facial-recognition technologies), but the ability to share such information across international boundaries is very limited. During events such as wild fires, flooding, or public health concerns such as avian influenza or a bioterrorism attack, this challenged shared operational picture may well produce disastrous results. Obviously many things cannot be shared, but some can. The architecture of such sharing both physically (fiber) and via agreement are significant opportunities to assist in shared border and homeland security.

Recommendations on How Congress Can Further Promote Border Security

In the context of this hearing about infrastructure, technology, and the human element, Congress can actually take some specific actions that would significantly assist the nation using the expertise of universities like San Diego State University, of which hundreds would likely be interested in assisting DHS and its member agencies. Many universities would like to help shoulder the load with DHS and Congress, helping discover policy, technology, and infrastructure solutions in ways that we can uniquely do.

Lessons learned from Canada can be very useful for assisting with Mexico in terms of the border and trade. Linking efforts for monitoring the northern and southern land borders is a fruitful endeavor, as the same things do not need to be discovered over and over again. Drawing together even U.S. groups working on one border with those on the other border is not as common as would be fruitful, as the challenge of each border is so overwhelming that people simply cannot integrate an even more difficult reality of different borders with different needs and opportunities. Universities in all three countries could be of significant assistance in providing this integration.

The DHS Center of Excellence idea with its new view of deliverables to the nation in the near term is very commendable, but the problem is enormously greater than the proposed solution. As an example, DHS is proposing to fund a single center for focusing on Border Security and Immigration for the whole nation, yet likely more than 100 universities are competing in different teams with their varied expertise to land that one, single center. With funding at $3 million per year to look at the legal and illegal transport of people and goods across the border worth hundreds of billions of dollars yearly, it seems that DHS could be greatly assisted by enabling the intellectual creativity and wide-

spread focus of numerous universities on finding real answers. The challenge to DHS is profoundly overwhelming. The challenge to efforts like SBINet alone is staggering; they are trying to find answers to profoundly difficult problems and against thousands of adversaries who are actively seeking to counteract any technology that is deployed. Yet the U.S. is not engaging university expertise or creativity at anything like the level that universities would like to be engaged to positively assist DHS and the nation. In some ways, this is much like deciding that the U.S. will have one center to study cancer, thereby leaving a number of "have not" universities who willingly want to bring a variety of different skills, resources, regional expertise, intellectual capital, and creativity unable to do so.

• A similar example would be the Center of Excellence on Maritime, Island and Extreme/Remote Environment Security. This is unquestionably a positive step forward and we certainly applaud DHS in holding this competition. Nevertheless, I am again struck by the huge breadth of subject matter from ocean and river ports to islands such as Hawaii and Guam to remote environments like Alaska. Many groups within dozens of universities are interested in actually helping be part of the solution and not just throwing academic stones at DHS or the U.S. government as some are wont to do. Yet at this time there will be only one group in the entire nation trying to assist DHS with this, when clearly dozens of university groups could be helping and covering different aspects of the problem in support of the complex DHS mandates. Aggressively tapping into universities with diverse resources and proximate access to research sites, comprehensive expertise of regional environments, and the pre-existing personal and institutional relationships to make things work, just makes sense.

• As a specific example of this dual-use view of the problems DHS agencies are tasked with addressing, consider the ports that are a significant lifeline for the economic well being of the U.S. and its trading partners. These ports are revenue centers and revenue generators and DHS agencies are tasked with trying to securely enhance this trade for the benefit of the nation and its people. The adjacent ports of Long Beach/Los Angeles (LB/LA), for example, had cargo valued at nearly $200 billion flow through them during FY 06. This generated $6.7 billion dollars in direct FY 06 revenue for the U.S.

In the six-year life of each of the proposed DHS Centers of Excellence, likely more than $40 billion dollars in revenue will be generated directly to the U.S. government from the LB/LA port complex, as part of the likely more than $200 billion collected by CBP over the next 6 years, based on a simple extrapolation of last year's figures. Yet, DHS plans to invest $18 million over 6 years, or less than 0.05% of the actual direct revenue collected by CBP from the LB/LA ports alone for the U.S. government, and less than 0.01% of CBP revenues on all ports alone for that same period. There is certainly no assurance that groups focusing on the LB/LA ports will win the Centers for Excellence competition; indeed no group of universities can easily address the unique challenges faced by several hundred active ports in the U.S., especially for a grand total of $3 million a year. Still, hundreds of university researchers in policy and technology are anxious to help. Assisting DHS by perhaps linking incoming revenue with research dollars to assist DHS in a port-by-port (or even regional) basis is something Congress could do. This might be something like port revenue rebate to a port region to foster innovation and encourage even higher port revenues This rebate could be linked to individual ports or port regions have pre-existing relationships with regional research universities that will provide tailored assistance and appropriate deliverables to them. There is major interest from U.S. and international partner universities in assisting DHS with this awesome task, yet linking income to research assistance is not a policy of the government. This seems like something that Congress could address as it appropriates funds in the national interest.

• Universities and university researchers can assist DHS and its agencies in many other ways, yet the interface between the academic community and homeland security efforts is still in its infancy. Universities can assist with studies on organized crime and corruption, the milieu from which many border security threats emanate, and violent political movements, which often operate within the milieu created by organized criminals and corrupt officials (drug and weapons trafficking, immigrant smuggling, money laundering, fraudulent documents, intellectual property theft, etc.). Supporting homeland and national security programs, border studies programs, and programs that emphasize language and cultural education would help provide cohorts of public servants who can not only help with border security, but with our future military, intelligence, trade, and diplomatic professions as well. Attendant to this goal is the need for expanded and vigorous support of international study abroad initiatives (like

grants or tax breaks) that would allow secondary and higher education students to learn new languages and cultures and develop a more sophisticated, nuanced, and socially responsible view of life in a globalized world. Universities with computing, communication, data mining, sensor fusion, and intelligence gathering tools around the world could be of significant assistance to law enforcement and security personnel who are tasked with actually providing border security and do not have the luxury of real time research and discovery as is possible at universities (including universities in dozens of allied countries that could significantly assist their own security and that of the U.S. from their knowledge gained from their own worlds). Universities can also assist in rapid prototyping and predicting using commodity technologies and generally assisting those who are literally putting their lives on the line to provide security.

• I would also encourage Congress to tap into the expertise of other governments from around the world who are experiencing border security challenges. For example, the European Union has concerted multinational policy efforts and significant research expenditures in areas like the security of transport and energy infrastructure, transnational policing, intelligence sharing, data fusion and management, human trafficking, drug smuggling, and organized crime and counterterrorism policies, just to mention a few.[xxxix] I have visited European ports to study the balance between the movement of goods and people and security, established U.S./European border security technology collaborations, and participated in European organized crime policy symposia. As a result of these experiences, I have learned that our allies have much to teach us and we can benefit from their experiences. I have also learned that cooperation and coordination is possible between states, even when history, language, and culture present substantive obstacles to overcome. Encouraging state-level dialogue that respects traditional state sovereignty, like that stemming from the Security and Prosperity Partnership of North America (SPP), the trilateral effort to increase security and enhance prosperity among the U.S., Canada and Mexico through greater cooperation and information sharing, is a positive step.xl

• Finally, trade flows, economic interdependence, the presence of large binational metropolitan urban areas, and the linkages of families all suggest that security efforts of the U.S. must extend beyond the physical international boundary to include these border regions. While infrastructure and technology are important for border security, the collaboration and coordination of people in the U.S., across the border, and abroad is critical. By encouraging and supporting the effective and efficient interoperability of these three elements, Congress will take a major step in furthering our security goals.

Concluding Remarks

Thank you again for this opportunity to present my views and the views of some of my colleagues at San Diego State University. It is our hope that you will continue to view our University and the California State University System as a resource as grapple with the pressing security challenges that face our nation.

Attachment I: Notes

[i] Adeeb al-Bassam (representing Al-Qaida's Committee in the Arabian Peninsula), "Bin Laden and the Oil Weapon," *Sawt al-Jihad ("The Voice of Jihad") Magazine,* Issue 30 (February 8, 2007), as found on www.globalterroralert.com; "Al Qaeda Group Calls for Attacks on U.S. Oil Sources," CNN (February 14, 2007).

[ii] Technological developments in heavy oil technology will only add to this amount in the future. See "Harnessing Heavy Oil Technology," The Lamp 87:2 (2005); National Energy Board, *Conventional Heavy Oil Resources of the Western Canada Sedimentary Basin* (August 2001); and National Energy Board, *Canada's Oil Sands-Opportunities and Challenges to 2015: An Update* (June 2006).

[iii] A discussion of this infrastructure can be found in The North American Energy Working Group, "The Energy Picture" (June 2002), as found on http://www.eia.doe.gov/emeu/northamerica/enginfr1.htm#_VPID_1.

[iv] "Energy Means Business in Mexico," *The Lamp* 86:1 (2004).

[v] CANARIE, 2005—2006 *Annual Report* (2006), as found on http://www.canarie.ca/press/publications.html; CANARIE, "Canada's Research and Education Network" (nd), as found on http://www.canarie.ca/about/downloads/c4map—national.png.

[vi] "Investigation of Major Mexican Drug Trafficking Organization Results in Hundreds of Arrests Nationwide," Press Release, Department of Justice (February 28, 2007); "Drug Ring Busted: 'Operation Imperial Condor' Seizes Cash, Drugs," ABC News (February 28, 2007); and "Nationwide Sting Nets $45 Million in Drugs," *Houston Chronicle* (February 28, 2007).

[vii] "Los Angeles Summit Seeks to Stop Spread of Gangs into Central America," *International Herald Tribune* (February 7, 2007); "Attorney General Gonzales Highlights Department Efforts to Fight Gang Violence in Los Angeles," Press Release, Department of Justice (March 2, 2007).

[viii] "Overview: Toronto Bomb Plot," CBC News Online (August 4, 2006); "Homegrown Extremism: Toronto Bomb Plot," CBC News Online (June 4, 2006); "Profiles of the Suspects: Toronto Bomb Plot," CBC News Online (June 12, 2006).

[ix] "Atlanta Men Met with Extremists in Toronto: FBI," CTV (April 21, 2006); "Prosecutors Allege Terror Suspects Shot 'Casing Video,'" Fox News (April 29, 2006); "Atlanta Man Indicted for Material Support of Terrorism," Press Release-Atlanta Field Division, Department of Justice (April 20, 2006).

[x] "School Ties Link Alleged Plotters," Washington Post (June 11, 2006); "Timeline: Probe into Alleged Plot Began in 2004," CTV (June 5, 2006).

[xi] SANDAG, "Economic Impacts of Border Wait Times at the San Diego-Baja California Border Region: Key Findings," as found on http://www.sandag.org/index.asp?projectid=253&fuseaction=projects.detail.

[xii] SANDAG, "Economic Impacts of Wait Times at the San Diego-Baja California Border: Final Report" (January 19, 2006): vii, ix.

[xiii] "New Port on Horizon," *The San Diego Union-Tribune* (August 14, 2005); "Major Seaport Proposed for Baja California Norte," BajaInsider (nd).

[xiv] U.S. Customs and Border Protection, "The Port of Los Angeles/Long Beach and CBP: The Giant of the Pacific Rim" (January 25, 2007), as found on http://www.cbp.gov/xp/cgov/newsroom/full__text__articles/tours__cbp__facilities/giant__pacific__rim.xml

[xv] For more on the need for the free trade "circuit" to flow smoothly, see Lawrence Herzog, *Cross-border Flows and the Future of the California-Baja California Border Region, California Economic Policy Report* (San Francisco: Public Policy Institute of California, 2007—08 forthcoming).

[xvi] "Trump Ocean Resort Baja Mexico," http://www.trump-baja.com.

[xvii] "Silicon Border: Science Park of the Americas," http://www.siborder.com/.

[xviii] For example, see Jeffrey Scott McIllwain, "An Equal Opportunity Employer: Chinese Opium Smuggling Syndicates in and around San Diego during the 1910s," *Transnational Organized Crime* 4:2 (1999); Jeffrey Scott McIllwain, "Bureaucracy, Corruption, and Organized Crime: Enforcing Chinese Exclusion in San Diego, 1897—1902," Western Legal History 17:1 (2004); Ethan Nadlemann, *Cops across Borders: The Internationalization of U.S. Criminal Law Enforcement* (Penn State University Press, 1993); James Sandos, "Northern Separatism during the Mexican Revolution: An Inquiry into the Role of Drug Trafficking, 1910—1920," *The Americas* 41:2 (1984); James Sandos, *Rebellion in the Borderlands: Anarchism and the Plan of San Diego,* 1904—1923 (University of Oklahoma Press, 1992); George E. Paulsen, "The Yellow Peril at Nogales: The Ordeal of Collector William M. Hoey," *Arizona and the West* 13 (1971); Lawrence D. Taylor, "The Wild Frontier Moves South: U.S. Entrepreneurs and the Growth of Tijuana's Vice Industry, 1908—1935," *The Journal of San Diego History* 48:3 (Summer 2002).

[xix] Carlo Morselli, *Contacts, Opportunities, and Criminal Enterprise* (Toronto: University of Toronto Press, 2005): 22.

[xx] Jeffrey Scott McIllwain, "Organized Crime: A Social Network Approach," *Crime, Law & Social Change: An International Journal* 32:4 (1999): 301—323.

[xxi] Peter Reuter, *Disorganized Crime: Illegal Markets and the Mafia* (M.I.T. Press, 1986).

[xxii] "Unfilled Tunnels a Weak Link at Border," *Los Angeles Times* (January 30, 2007); "2 Tons of Pot Found Inside Mexico-U.S. Border Tunnel," *The San Diego Union-Tribune* (January 26, 2007); "Feds Smoke Out Largest Drug Tunnel Yet," CNN (January 26, 2006); "Two Tunnels Found Under U.S. Border," BBC (January 12, 2006); "Anti-Drug Efforts Have Taken a Hit as the Fight against Terrorism Has Siphoned Away Money and Personnel," *San Diego Union-Tribune* (July 31, 2005); "New Drug Tunnel Discovered under Arizona-Mexico Border," CNN (February 28, 2001).

[xxiii] "Tunnel Found on Mexican Border," *Washington Post* (January 27. 2006).

[xxiv] "Drug Tunnel Found Under Canada Border," CNN (July 22, 2005).

[xxv] This eastward shift has created substantive human rights concerns due to the hazardous and often deadly nature of the terrain and climate through which much of the smuggling occurs, concerns that have compelled the CBP to create and extensive search and rescue capability. These concerns are continuously and fervently expressed by Mexican officials, media, academics, and students whenever I lecture on the subjects of, or simply discussed, border and homeland security.

[xxvi] For a general discussion on constraints faced by democracies against asymmetrical threats, see Roger W. Barnett, *Asymmetrical Warfare: Today's Challenge to U.S. Military Power* (Potomac Books, 2003).

[xxvii] Arthur K. Cebrowski and John Garstka, "Network-Centric Warfare: Its Origin and Future," *Proceedings* (January 1998).

[xxviii] "Terrorists Take Recruitment Efforts Online," 60 Minutes, CBS News (March 4, 2007).

[xxix] For more on social systems of organized crime and the social networks that form them, see Jeffrey Scott McIllwain, "Organized Crime: A Social Network Approach," *Crime, Law & Social Change: An International Journal 32:4* (1999): 301—323.

[xxx] Conference itinerary and speakers can be found at http://www.ideea.com/comdef06tucson/.

[xxxi] "ChevronTexaco Announces Plans for an Offshore LNG Terminal in Baja California," Press Release, Chevron Texaco (October 30, 2003), as found on http://www.chevron.com/news/press/2003/2003–10–30.asp; "Sempra's Gas Venture Gathering Steam at Baja Site," The San Diego Union Tribune (October 24, 2005).

[xxxii] U.S. Customs and Border Protection, "The Port of Los Angeles/Long Beach and CBP: The Giant of the Pacific Rim" (January 25, 2007), as found on http://www.cbp.gov/xp/cgov/newsroom/full__text__articles/tours__cbp__facilities/giant__pacific__rim.xml.

[xxxiii] For example, see Lawrence Herzog, *Cross-border Flows and the Future of the California-Baja California Border Region, California Economic Policy Report* (Public Policy Institute of California, 2007—08 forthcoming); Lawrence A. Herzog (ed.), *Shared Space: Rethinking The Mexico-United States Border Environment* (Center for U.S.-Mexican Studies, UC San Diego, 2000); and Lawrence A. Herzog, *Where North Meets South: Cities, Space and Politics on the U.S.-Mexico Border* (CMAS/ILAS/University of Texas Press, 1990).

[xxxiv] SANDAG, "Borders Coordination," as found on http://www.sandag.org/index.asp?classid=19&fuseaction=home.classhome.

[xxxv] SANDAG, "Border Coordination: Comprehensive Borders Coordination Projects," as found on http://www.sandag.org/index.asp?projectid=234&fuseaction=projects.detail.

[xxxvi] A list of current projects can be found at SANDAG, "Borders Coordination: Binational Projects," as found on http://www.sandag.org/index.asp?subclassid=104&fuseaction=home.subclasshome.

[xxxvii] More information on SCERP can be found at http://www.scerp.org/.

[xxxviii] U.S. Customs and Border Protection, "The Port of Los Angeles/Long Beach and CBP: The Giant of the Pacific Rim" (January 25, 2007), as found on http://www.cbp.gov/xp/cgov/newsroom/full__text__articles/tours__cbp__facilities/giant__pacific__rim.xml.

[xxxix] These and other border security related initiatives are linked from "The European Commission—A to Z," as found at http://ec.europa.eu/atoz__en.htm.

[xl] "Security and Prosperity Partnership of North America," as found on http://www.spp.gov/.

Ms. SANCHEZ. Thank you.

Dr. O'Hanlon?

STATEMENT OF MICHAEL O'HANLON, SENIOR FELLOW, BROOKINGS INSTITUTION

Mr. O'HANLON. Thank you, Congresswoman. It is an honor to be here.

I want to talk briefly about some of the work we have done at Brookings, along with Jim Steinberg and others, on the importance of information technology and intelligence-gathering in the counterterrorism mission and how this question today of the border relates to that.

And I want to do it in a fairly general way, recognizing others on the committee I think have more technical expertise on the Secure Border Initiative.

The point I want to make is that, in our Brookings work that you kindly mentioned earlier, Congresswoman, we have really empha-

sized that prevention has to be seen as the most important tier in homeland security.

Not everyone agrees with this. There are a lot of people who talk about consequence management and response. We certainly acknowledge the importance of those sorts of efforts as well. But we believe that stopping actions as they are being hatched or as people are trying to get in position has to be seen as the most important approach.

What that means for today's subject is that you need to know who you are dealing with. You need to know who is in the country, who is trying to get in the country. You have to use the opportunity that you have at the border and other places to spotlight attention on individuals if you are going to be effective in counterterrorism.

You cannot wait for people to get within a few hundred yards of a building and figure out then what they are trying to attack. And you cannot wait for them to have done the attack and then do consequence management.

Some of the ideas that are out there with other advocates of new homeland security initiatives—to spend $20 billion a year, for example, on additional consequence management and response capability—we don't really agree with in the Brookings analysis. We want to focus on prevention.

A lot of the steps we recommend, such as further tightening of terror watch lists; creating a Google-like capability to look at, if you are a policeman in one city, you see some kind of suspicious behavior, you want to know if it has been detected elsewhere, so you want to go Google computer records of other police departments to know what they have seen; creating more cells in police units, like New York City's, where you have a counterterrorism unit.

A lot of these sorts of efforts only work if you have good databases and you know who you are dealing with. You have to be able to get information on the people who might be troublesome to you. You have to know who they are. I also am a strong supporter of biometric robust indicators on driver's licenses and passports for this same sort of reason.

But all these different kinds of efforts that we try to emphasize in the Brookings work and which are a little bit tangential to your focus today still come back to today's topic, and they tell you, if you don't know who is coming in the country, these methods probably won't work. You have to get a good handle on the border to do everything else correctly in counterterrorism, especially if you have the prevention focus that we argue is necessary in the Brookings analysis.

And so, this is really not a specific assessment of the Secure Border Initiative or any other particular program, but I certainly want to applaud the emphasis on this question.

And I think the magnitude of expense that is envisioned for the Secure Border Initiative of about $10 billion is the right kind of magnitude of numbers that we should be talking about. If you are going to make that kind of an additional investment in homeland security, we argue, it should be at the level of intelligence-gathering and of knowing who you are dealing with, rather than waiting to protect buildings and protect—or clean up after an attack,

which is important, which requires some attention, but it is not the best expenditure of your dollar.

So, from a straight counterterrorism perspective, a Secure Border Initiative-like program is paramount in importance.

Thanks for the chance to make that argument.

[The statement of Mr. O'Hanlon follows:]

PREPARED STATEMENT OF MICHAEL O'HANLON, BROOKINGS INSTITUTION[1]

A critical issue in any national security agenda for the United States is how to protect America against the most immediate and direct threat to U.S. security the possibility that future attacks like those of September 11, 2001 will again kill large numbers of American citizens here in the homeland. If they able to obtain weapons of mass destruction, particularly nuclear weapons or advanced biological agents, the toll could easily be 10 or even 100 times worse. Politically, the issue of counterterrorism and homeland security is of manifest importance too. The Bush administration achieved a greater advantage over Democrats in general and Senator John Kerry in particular on this issue than on any other in the 2004 presidential race.

Homeland security is a matter on which this Congress as well as the next Congress and administration will have to make great progress because much remains to be done. That said, the arguments of critics are often too harsh and sweeping. Much remains to be accomplished, to be sure, in protecting the United States against al Qaeda and related groups. And on some questions, such as the long-term battle of ideas and the execution of the Iraq war, the Bush Administration's record should indeed be subject to severe criticism. But it is misleading to suggest that the Bush administration has been weak on what might be termed the hard power aspects of the homeland security agenda improving the country's defenses against their aspirations for further attacks. Democrats and moderate Republicans who would challenge the Bush legacy and chart a future path for the country of their own need to develop a clearer sense of what has been achieved, and of what must still be done. More important than the politics of it, of course, America's security and the well-being of its citizens depend on such a clear-headed assessment and sound policy agenda from their future political leaders.

The war on terror has been a hot subject in American politics at least since President Bush broadened the scope of his definition of the effort to include the doctrine of military preemption and the overthrow of the Saddam Hussein regime. In fact, it has been controversial even longer. Mr. Bush's State of the Union speech of January 29, 2002 also known as the "axis of evil" speech signaled a broader scope for the war on terror than originally described by the president in his address to another joint session of Congress the previous September 20, just nine days after the September 11 attacks.[2] The debate over the creation of a new Department of Homeland Security was central in the Congressional midterm elections of 2002, in which President Bush campaigned more actively than presidents typically do at such points in the political cycle. Mr. Bush had originally opposed the idea of a new department, which in fact was initially Senator Joseph Lieberman's idea. But after accepting the notion in the spring of 2002, and proposing a bill to create it that year, the president argued that Democrats were placing their political interests in defending unions ahead of their obligations to help defend the American people. Democrats countered that protecting workers remains a critically important goal for the country itself, and that a federal workforce deprived of core rights and protections might suffer weaker morale and as a result perform suboptimally in trying to protect the country. But Mr. Bush's argument seemed to resonate with voters, helping Republican candidates win several tight races and take back the Senate.

Democrats have responded by arguing that the Bush Administration has tolerated glaring gaps in the nation's protection against terrorism here at home even as it has prosecuted wars abroad with vigor. For example, they point to the very slow integration of terrorist watchlists during Mr. Bush's first term, and to the adminis-

[1] Much of this comes from Kurt Campbell and Michael O'Hanlon, *Hard Power: The New Politics of National Security* (Basic, 2006); and Michael d'Arcy, Michael O'Hanlon, Peter Orszag, Jeremy Shapiro, and James Steinberg, *Protecting the Homeland 2006/2007* (Brookings, 2006).

[2] See President George W. Bush, "Address to a Joint Session of Congress and the American People," September 20, 2001, available at *www.whitehouse.gov/news/releases/2001/09/print/20010920–8.html*; President George W. Bush, "State of the Union Address," January 29, 2002, available at *www.whitehouse.gov/news/releases/2002/01/print/20020129–11.html;* and President George W. Bush, "National Security Strategy of the United States of America," September 17, 2002, available at *www.whitehouse.gov/nsc/nssall.html.*

tration's weak efforts to help states and localities improve their counterterror capabilities.

The president has weathered sharp critiques in part because his critics have been less than skilful. That said, Democrats have arguably often raised the wrong issues or done so in the wrong way on both policy and political grounds. In the 2004 presidential race, for example, Senator Kerry and President Bush competed to see which could more quickly and convincingly align himself with the recommendations of the 9/11 commission on matters such as reform and restructuring of America's intelligence community, with Kerry often criticizing Bush for delay. But many of the key changes to intelligence that were most needed to break down stovepipes in the system had already been fixed prior to the release of that report. Critics of the Bush Administration from both parties have also argued that the Patriot Act did not give proper due to the civil liberties of American citizens just as detention policies at Guantanamo Bay and prison policies at Abu Ghraib have hurt America's reputation for fairness and created even more hatred of this country that has helped al Qaeda with its recruiting worldwide. These criticisms of the latter policies have generally been appropriate and fair. But the Patriot Act, which updated surveillance methods for the era of computers and cell phones, broke down barriers to sharing of intelligence across agencies, and strengthened standards on documents such as passports was far better legislation than critics often allowed. By so strongly condemning it, many Democrats therefore set themselves up for Bush Administration counterattack.

Finally, Democrats and other administration critics have often purported that the Bush Administration did not do enough to train and equip first responders around the country to deal with possible attacks. In some ways that charge is correct, but it would have been expensive folly to invest tens of billions of dollars in protective gear and rudimentary training for all the nation's first responders, as often proposed. A more targeted set of investments focused on the most likely terror targets in the country geographically, as well as on the types of technologies and training that provide the most capability per dollar makes a good deal more sense.[3]

I argue here for several specific policy initiatives on homeland security, and somewhat greater spending by the federal government as well as the private sector, but not for a kitchen-sink approach to the problem or any radical increase in resources. In dealing with this huge set of challenges, clear priorities and a clear conceptual framework for guiding investments are essential. Otherwise costs can be exorbitant, and less-important tasks may distract attention from more important ones.

Specifically, I advocate new initiatives to encourage the private sector to protect itself more effectively, especially in sectors such as the chemical industry and high-rise buildings; to develop a more comprehensive system for cargo security on airplanes and in shipping containers entering the country and in trucks and trains carrying toxic materials domestically; to create national standards for driver's licenses with biometric indicators (not photos) and, similarly, improvement of the biometric indicators used on US passports; to encourage more large-city police departments to build dedicated counterterror cells as New York has done; and to develop a quick-manufacture capacity for vaccines and antidotes to new pathogens that it does not now possess.

Before developing the logic behind these prescriptions, however, it is first important to assess where we stand in the war on terror. (Those not wishing this background can certainly feel free to skip ahead a section.)

A Status Report for the War on Terror

In developing their policies and positions on counterterrorism strategy for the coming years, candidates need to begin with a clear sense of the facts. While much is still undone, the fact is that much has also been accomplished in the last five years. Much of that increase in safety has come from offensive operations abroad the military overthrow of the Taliban and associated attacks against al Qa'eda, as well as the intelligence and covert operations conducted by the United States in conjunction with key allies such as Pakistan and Saudi Arabia.

Homeland security spending is up by at least 300 percent hardly fitting the charge that its funding is on "life support" that some critics have offered. U.S. intelligence spending is now reportedly up to $44 billion a year, as much as $10 billion more than estimated levels from the 1990s, with nearly 100,000 individuals working for American intelligence agencies.[4] There is more debate in the analytic process, and a clearer emphasis in finished reports on the uncertainties of various types of assessments (to avoid the mistakes not only of 9/11, but of the Iraqi WMD experi-

[3] For more on some of these issues, see Richard A. Falkenrath, The 9/11 Commission Report: A Review Essay, *International Security,* vol. 29, no. 3 (Winter 2004/05), p. 184.

[4] Mark Mazzetti, Spymaster Tells Secret of Size of Spy Force, *New York Times,* April 21, 2006.

ence).[5] Terror watch lists are now integrated, perhaps belatedly; domestic and foreign intelligence operations no longer have strong "firewalls" between them, and that change was made quickly.

The Patriot Act, whatever its problems in insufficiently protecting civil liberties, or its possible over-exuberance in allowing subpoenas of library records and the like, on balance has been good legislation. Democrats and other Bush administration critics need to acknowledge that updating wiretap authority for the era of the internet, allowing "roving wiretaps" not fixed to one phone or location, breaking down barriers between the FBI and CIA, making banks report suspicious money transfers, requiring visa-waiver countries to have biometric indicators on their passports, prohibiting possession of dangerous biological materials without good research or medicinal reasons, and similar measures were overdue and prudent.[6] There is room for debate about specific provisions of the Patriot Act, but it is neither sound policy nor sound politics to rail against it categorically as critics have sometimes done.

Similarly, in the debate over domestic eavesdropping, Democrats and many Republicans have been right to expect Mr. Bush not to disobey the law (or push it all the way to the breaking point). Asserting greater executive privilege should not extend to flouting existing legislation or claiming to find incredulous loopholes within it. But Democrats should also recognize that obtaining warrants in advance for all eavesdropping, even from a court set up to do so quickly and secretly, is neither practical nor prudent, as argued convincingly by law professors and judges with experience in the field such as Philip Bobbitt and Richard Posner.[7]

On Guantanamo, critics have again been largely right to criticize as un-American and counterproductive the willingness of the administration to hold detainees indefinitely without charges or any type of due process. This has been a huge policy mistake of the United States. It reflects some partially correct observations that terrorists are not like soldiers, that introducing the cases of detainees into normal American criminal courts is not practical given the kinds of classified information, including sources and methods on how we monitor possible terrorists, that would then have to be discussed openly. On the whole, however, the Bush administration's treatment of terrorist detainees has caused far more damage to the United States than any of the policy's authors seem to appreciate and far more damage than can be easily or quickly repaired.

Yet critics must themselves be careful. Tone matters when critiquing such policies, for Bush administration critics will not succeed when they sound as if they fear a hypothetical executive threat to civil liberties more than they fear another al Qaeda attack. So does any suggestion that the country is now safe enough that we can always place every last hypothetical civil liberties concern ahead of confronting al Qaeda. In this regard, a recent quote by a senior Democratic political strategist, reflective of a good deal of ongoing thinking, is in our view wrongheaded. In regard to the eavesdropping issue, he stated early in 2006 that "I don't think the national security attack works this time we have a politically weakened president whose poll numbers are down and whose credibility is under increased scrutiny."[8] This is exactly the wrong kind of political thinking to engage in for anyone wishing to win an election.

Guantanamo has been a travesty. A smarter policy would recognize the need for special legal procedures for suspected terrorists but create a legal firewall inside the government between those charged with arresting and holding terrorists, on the one hand, and those determining their fate on the other. In particular, the administration should have moved far more quickly to create an independent authority inside the executive branch with the binding power to release detainees it deemed no longer a threat, and it should have set up a regularized hearing process to assess the status of detainees promptly and fairly. But it is also perfectly clear that trying terrorist cases in normal criminal courts would have been unworkable.

The United States now processes and shares information about specific individuals suspected of ties to terrorism much more efficiently throughout the federal government. It does so through increased integration of databases (even if that process took longer than it should have after 9/11), and greater collaboration between the FBI and the intelligence community (which began to occur shortly after 9/11). These initial efforts have now been reinforced by the passage of the Intelligence Reform

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[5] John A. Kringen, How We've Improved Intelligence, *Washington Post,* April 3, 2006, p. 19.

[6] Charles Doyle, The USA Patriot Act: A Sketch, *CRS Report for Congress* (Washington, D.C.: Congressional Research Service, April 18, 2002).

[7] Richard A. Posner, A New Surveillance Act, *Wall Street Journal,* February 15, 2006, p. 16; and Philip Bobbitt, Why We Listen, New York Times, January 30, 2006, p. A27.

[8] Jim VandeHei, Rift Between Parties Over NSA Wiretapping Grows, *Washington Post,* January 26, 2006, p. 4.

and Terrorism Prevention Act of 2004 that restructured the intelligence community and created the position of director of national intelligence. These linked databases enable more effective offensive operations abroad and homeland security operations within American borders.

The share of FBI resources devoted to counterterrorism has doubled, and the combined CIA/FBI personnel working on terrorist financing alone have increased from less than a dozen to more than 300 since September, 2001.[9] International cooperation in sharing information on suspected terrorists has improved. Many close allies, such as France and Britain, have been helpful for many years, but intelligence sharing on known al Qaeda threats has also become reasonably good with states such as Pakistan and Saudi Arabia in part because some such states now take the jihadist threat to their own interests more seriously than they used to.

Air travel is also much safer today than before 9/11. The United States now conducts screening of all passenger luggage, requires hardened cockpit doors on all large American commercial aircraft, deploys thousands of air marshals on commercial carriers, and allows armed pilots on commercial and cargo flights.

Suspicious ships entering U.S. waters are now screened more frequently, and containers coming into the United States are two to three times more likely to be inspected than before. Hundreds of millions of doses of antibiotics and enough smallpox vaccine for every man, woman, and child in the United States have been stockpiled.[10] Oversight rules have been tightened on labs working with biological materials (including background checks on lab employees).[11] Terrorism insurance is backstopped by a new federal program, recently renewed in 2005.

Well-known bridges and tunnels are protected by police and National Guard forces during terrorism alerts. Nuclear reactor sites have better perimeter protection than before.[12] Federal agencies are required to have security programs for their information technology networks. Many private firms have backed up their headquarters and their databanks so that operations and information systems could survive the catastrophic loss of a main site.[13]

What all of these efforts amount to, in short, is this: we have prepared fairly well to fight the last war that is, to stop the kinds of attacks that the United States has already experienced. Importantly, the United States has also gotten much better at trying to prevent attacks by tracking suspected terrorists more assertively. Since prevention should be seen as the most crucial stage of the homeland security effort, more important for example than hardening most individual targets, this is real progress.

The United States cannot be complacent, however. We have done much less than we should in the way of detailed preparation to thwart other kinds of plausible strikes. It made sense to move quickly to prevent al Qa'eda, with its longstanding interest in airplanes, from easily repeating the 9/11 attacks. But it is high time to do a more comprehensive and forward-looking job of protecting the American people.

Al Qa'eda may not be as capable as before of "spectacular" attacks in coming years. It is, however, certainly still capable of using explosives and small arms, with considerable lethality.[14] There have not been more attacks within the United States. But according to an October, 2005 speech by President Bush, the United States has disrupted three attempted al Qa'eda strikes inside the United States, and intercepted at least five plots to case targets or infiltrate terrorists into this country.[15] There were serious worries that al Qa'eda would use truck bombs to destroy key financial institutions in New York, Newark, and Washington in 2004.[16] The "shoe

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[9] Vicky O'Hara, "Terrorist Funding," National Public Radio, Morning Edition, November 20, 2003; Speech of George W. Bush at the FBI Academy, Quantico, VA, September 10, 2003; and Philip Shenon, "U.S. Reaches Deal to Limit Transfers of Portable Missiles," *New York Times,* October 21, 2003, p. A1.

[10] Tom Ridge, "Since That Day," *Washington Post,* September 11, 2003, p. 23.

[11] Martin Enserink, "Facing a Security Deadline, Labs Get a 'Provisional' Pass," *Science,* November 7, 2003, p. 962.

[12] There may be some gaps in these types of protective measures to date, but the overall level of security is generally good. See Statement of Jim Wells, General Accounting Office, "Nuclear Regulatory Commission: Preliminary Observations on Efforts to Improve Security at Nuclear Power Plants," GAO-04-1064T, September 14, 2004.

[13] John Moteff, "Computer Security: A Summary of Selected Federal Laws, Executive Orders, and Presidential Directives," Congressional Research Service Report for Congress RL32357, April 16, 2004, p. 2.

[14] David Johnston and Andrew C. Revkin, "Officials Say Their Focus Is on Car and Truck Bombs," *New York Times,* August 2, 2004, p. A13.

[15] President George W. Bush, Speech on Terrorism at the National Endowment for Democracy, October 6, 2005, available at *www.whitehouse.gov* [accessed October 6, 2005].

[16] Eric Lichtblau, "Finance Centers Are Said to Be the Targets," *New York Times,* August 2, 2004, p. 1.

bomber," Richard Reid, attempted to destroy an airplane headed to the United States in 2002.[17] U.S. intelligence reports in early 2005 suggested the possibility of attacks using private aircraft or helicopters.[18] Al Qa'eda prisoner interviewers and confiscated documents suggest other possible attacks ranging from blowing up gas stations to poisoning water supplies to using crop dusters to spread biological weapons to detonating radioactive dirty bombs.[19]

The years 2002, 2003, and 2004 were among the most lethal in the history of global terrorism, with attacks afflicting a wide swath of countries from Spain to Morocco to Tunisia to Saudi Arabia to Pakistan to Indonesia and of course Iraq.[20] The pattern continued in 2005, a year during which the number of global terrorist attacks again grew relative to the year before (though new counting methods and limits upon the public release of data make it somewhat difficult to compare precisely from year to year).[21] The July 7 London attacks that year should have vividly reminded westerners in general of their continued vulnerability.[22] According to Hillary Peck of the RAND Corporation, even though fewer Americans were the victims, global fatalities from terrorist action exceeded the 2001 total of 4,555 in both 2004 and 2005 (the death toll exceeded 5,000 in each of those latter two years).[23]

Al Qa'eda has clearly been weakened at the top since 9/11. That said, it remains extremely dangerous, and not just because bin Laden and al-Zawahiri remain at large. [24] Al Qaeda is now less of a vertical organization than an ideology or a method used by collection of loosely affiliated local groups that share similar goals. They also watch and learn from each other, through television and the internet and extended family connections and other social networks.[25] Former CIA Director Tenet put it succinctly in 2004: "Successive blows to al Qa'eda's central leadership have transformed the organization into a loose collection of regional networks that operate more autonomously."[26]

There are benefits from dispersing al Qa'eda in this way; the near-term risk of sophisticated catastrophic attacks has probably declined as a result. But the risk of smaller and sometimes quite deadly strikes clearly has not and the possibility of further catastrophic attacks may well increase again in the future. To underscore the enduring risks, a U.N. study in early 2005 argued that al Qa'eda continues to have easy access to financial resources and bomb-making materials.[27]

Great benefits were gained by depriving al Qa'eda of its sanctuary in Afghanistan in Operating Enduring Freedom. Al Qa'eda may learn to reconstitute itself with a less formal and more virtual and horizontal network, however. It could also avoid terrorist watch lists with some effectiveness, for example by using new recruits including possibly women, non-Arabs, and European passport holders to conduct fu-

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[17] Shaun Waterman, "Al Qa'eda Warns of Threat to Water Supply," *Washington Times,* May 29, 2003, p. 6; and Eric Lichtblau, "U.S. Cites al Qa'eda in Plan to Destroy Brooklyn Bridge," *New York Times,* June 20, 2003, p. 1.???

[18] Eric Lichtblau, "Government Report on U.S. Aviation Warns of Security Holes," *New York Times,* March 14, 2005, p. A1.

[19] Matthew Brzezinski, *Fortress America* (New York: Bantam Books, 2004), pp. 16–17.

[20] See Gilmore Commission (Advisory Panel to Assess Domestic Response Capabilities for Terrorism Involving Weapons of Mass Destruction), Fifth Annual Report, *Forging America's New Normalcy: Securing Our Homeland, Preserving Our Liberty* (Arlington, Va.: RAND Corporation, December 15, 2003), p. 1; Alan B. Krueger and David D. Laitin, "'Misunderestimating' Terrorism," Foreign Affairs, vol. 83, no. 5 (September/October 2004), p. 9; and Susan B. Glasser, "U.S. Figures Show Sharp Global Rise in Terrorism," *Washington Post,* April 27, 2005, p. 1.

[21] Warren P. Strobel, U.S.: Terrorist Attacks Increased Last Year, *Philadelphia Inquirer,* April 21, 2006.

[22] Richard Benedetto, Americans Expect Attacks, Poll Finds, *USA Today,* July 12, 2005, p. 1.

[23] Will Marshall and Jeremy Rosner, Introduction: A Progressive Answer to Jihadist Terror, in Will Marshall, ed., *With All Our Might: A Progressive Strategy for Defeating Jihadism and Defending Liberty* (Lanham, Maryland: Rowman & Littlefield Publishers, Inc., 2006), p. 2.

[24] See Marc Sageman, *Understanding Terror Networks* (Philadelphia: University of Pennsylvania Press, 2004).

[25] The Advisory Panel to Assess Domestic Response Capabilities for Terrorism Involving Weapons of Mass Destruction (Gilmore Commission), *Implementing the National Strategy* (December 2002), p. 11; and Douglas Farah and Peter Finn, "Terrorism, Inc.," Washington Post, November 21, 2003, p. 33. On the assertion that modern terrorist groups watch and learn from each other, see Bruce Hoffman, "Terrorism Trends and Prospects," in Ian O. Lesser, Bruce Hoffman, John Arquilla, David Ronfeldt, and Michele Zanini, *Countering the New Terrorism* (Santa Monica, Calif.: RAND, 1999), pp. 8—28; and on the nature of al Qa'eda and affiliated as well as sympathetic organizations, see Paul R. Pillar, *Terrorism and U.S. Foreign Policy* (Washington, D.C.: Brookings, 2001), pp. 54—55.

[26] Cited in Daniel L. Byman, "Homeland Security: We're Safer Than You Think," *Slate,* August 2, 2004.

[27] Leyla Linton, "Al-Qa'eda, Taliban Can Still Launch Attacks, Report Says," *Philadelphia Inquirer,* February 16, 2005.

ture attacks against Western countries.[28] The United States is fortunate not to have, as far as we know, many al Qa'eda cells presently on its soil, as several European countries do. It is not a foregone conclusion that things will stay this way, however.[29] For all these reasons, it is hard to disagree with former CIA Director Porter Goss, who told Congress in February 2005 that "It may be only a matter of time before al Qa'eda or another group attempts to use chemical, biological, radiological, and nuclear weapons."[30]

The Iraq war, whatever its other merits, has probably not alleviated the global terrorism problem. Indeed, it may have worsened it, by aiding al Qa'eda's recruiting efforts and providing jihadists a focal point to practice their crafts and establish new networks. To quote Goss again, "Islamic extremists are exploiting the Iraqi conflict to recruit new anti-U.S. jihadists. These jihadists who survive will leave Iraq experienced and focused on acts of urban terrorism."[31] The National Intelligence Council reached a similar conclusion in its 2004 report, *Mapping the Global Future.*[32]

The Agenda for this Congress and the Next

Of course, it is not possible to defend a large, open, advanced society from all possible types of terrorism. The United States contains more than half a million bridges, nearly 500 skyscrapers, nearly 200,000 miles of natural gas pipelines, more than 2,800 power plants the list of critical infrastructure alone is far too long to protect everything, to say nothing of subways, restaurants and movie theaters and schools and malls.[33] Certain special measures, such as providing extremely tight security around the nation's 104 nuclear power plants, clearly cannot be extended to all possible targets.[34]

But by focusing on the worst possible attacks, the United States can establish priorities and make further progress in protecting the country. Several guidelines should inform future efforts, and politicians' efforts to speak to the American people about what broad principles should guide next steps in enhancing homeland security:

First, while it was correct to focus initially on preventing al Qaeda from carrying out attacks similar to those of 9/11, we have prepared a bit too exclusively to fight "the last war." Heeding the counsel of the 9/11 commission, we now need to stretch our imaginations a bit to identify other key national vulnerabilities, such as possible attacks on chemical plants or skyscrapers or the air circulation systems of stadiums

Second, we should focus first and foremost on prevention that is, on obtaining good intelligence on terrorists, and impeding their movements and their financial transactions and their communications, rather than focusing on point defense of the nation's key assets or on mitigating the consequences of successful attacks (the latter tasks are important but are not as optimal as preventive efforts).

Third, since we cannot protect everything, we should worry most about possible terrorist strikes that would cause large numbers of casualties. Only slightly less critically, we should focus intensively on preventing attacks that might cause only a relatively few casualties, but huge economic ripple effects, such as episodes of attempted smuggling that revealed gaping holes in shipping container security.

Here is another example of the latter type of scenario. If a shoulder-launched surface-to-air missile took down an airplane, casualties might be relatively modest dozens or hundreds a tragedy for those involved to be sure, but in and of itself not debilitating to the nation. The effects on the nation's air travel could be devastating, however. They also could endure much longer than those of September 11, 2001, since it would take a good deal of time to figure out a workable response to avoid future SAM attacks. Another example could be the use of a radiological weapon, which uses conventional explosive to disperse radioactive material, in an urban area. It would not kill many people, but would likely cause mass panic. It would also probably require a very costly and time-consuming cleanup as well as implementation of disruptive security measures throughout the country.[35]

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[28] Washington in Brief, *Washington Post,* July 17, 2004, p. A5.

[29] Byman, "Homeland Security," *Slate,* August 2, 2004; and ABC News, "No 'True' Al Qa'eda Sleeper Agents Have Been Found in U.S.," abcnews.com, March 9, 2005.

[30] Bill Gertz, "Goss Fears WMD Attack in U.S. 'A Matter of Time,'" *Washington Times,* February 17, 2005, p. 3.

[31] Dana Priest and Josh White, "War Helps Recruit Terrorists, Hill Told," *Washington Post,* February 17, 2005, p. 1.

[32] National Intelligence Council, *Mapping the Global Future* (December 2004), p. 94.

[33] Richard K. Betts, "The Soft Underbelly of American Primacy: Tactical Advantages of Terror," *Political Science Quarterly,* vol. 117, no. 1 (Spring 2002), p. 30.

[34] On jamming, see "U.S. Homeland Defense Strategists," *Aviation Week and Space Technology,* September 6, 2004, p. 20.

[35] Peter D. Zimmerman with Cheryl Loeb, "Dirty Bombs: The Threat Revisited," *Defense Horizons,* no. 38 (January 2004).

There are also general areas of homeland security where important progress has occurred in some ways but where key shortcomings remain. Consider America's vulnerability to biological attack. Although antibiotic stocks for addressing any anthrax attack are now fairly robust, means of quickly delivering the antibiotics are not.[36] Longer-term worries about biological attacks remain acute, since there could be many types of infectious agents for which antidotes and vaccines prove unavailable (or non-existent) when they are most needed.

As for air travel, most passengers are still not screened for explosives, cargo carried on commercial jets is usually not inspected either, and private planes face minimal security scrutiny. For all the security improvements that have been made for U.S. carriers, moreover, fewer have been made to many foreign carriers that transport large numbers of Americans to and from the United States.

More generally, the U.S. private sector has done very little to protect itself.[37] From chemical plants to trucking carrying hazardous shipping to skyscrapers, vulnerabilities are often acute and not far different from how they presented themselves prior to 2001.[38] Owners of private infrastructure know that the chances of any one facility they own being attacked are miniscule, so they are not apt to incur added costs and concede to shareholders and neighbors that their facilities might vulnerable on their own volition. Yet viewed from a national perspective, these means that certain systemic vulnerabilities remain unaddressed.

The creation of the Department of Homeland Security has not automatically led to better protection against such threats, as the hapless response to Hurricane Katrina revealed. DHS has many capable and dedicated individuals serving within it. However, reorganizations can distract attention from efforts to identify remaining key American vulnerabilities and then mitigate them.[39] Carrying out a major governmental overhaul during what is essentially a time of war is a risky proposition. It is also not the way the country has typically responded to national crises. The Department of Defense was not created during World War II, but afterwards. The Goldwater-Nichols Pentagon reorganization in 1986 was carried out during a time of relative international peace.

Congress has improved its ability to address homeland security issues by creating dedicated authorization committees and appropriations subcommittees in both houses somewhat. Yet it has not gone far enough. These dedicated committees and subcommittees must share jurisdiction with many other committees and subcommittees that insist on a share of the decision-making power.[40] This approach breeds parochialism among the individual committees and subcommittees about the particular dimensions of homeland security they address. It can also reinforce the tendency for Congressmen to allocate precious homeland security to dollars to their districts rather than to where they might do the most good.[41] Congress should ensure that homeland security committees and subcommittees should generally have exclusive jurisdiction over funding that is found within the homeland security realm.

In sum, then, much has been done in homeland security, and much remains to be done. That message, with that balanced tone, may be less appealing to politicians seeking to excoriate the Bush administration's record, but it is a fairer reflection of reality. In tone and temperament, it also conveys a seriousness of purpose Americans may appreciate more than the wanton partisanship of recent years. A candidate offering specific critiques not only can come across as more affable, but sends a message that he or she is seeking concrete, specific improvements in policy rather than opportunities for partisan attack that are of little use once in office.

The organizing philosophy of our future efforts on homeland security should be to protect against attacks with potentially catastrophic impact on the country, in human or economic or political terms. In the interest of cost effectiveness, where possible action should focus on prevention of attacks rather than site defense of potential targets or consequence mitigation after attacks have occurred. But a blend of all approaches will be needed:

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[36] Lawrence M. Wein and Edward H. Kaplan, "Unready for Anthrax," *Washington Post,* July 28, 2003, p. A21.

[37] Statement of Richard Falkenrath before the Senate Committee on Homeland Security and Governmental Affairs, January 26, 2005, pp. 14-15.

[38] Statement of Richard Falkenrath before the Senate Committee on Homeland Security and Governmental Affairs, January 26, 2005, pp. 12-14.

[39] Statement of Richard Falkenrath before the Senate Committee on Homeland Security and Governmental Affairs, January 26, 2005, pp. 2, 7.

[40] For a similar critique of Congress's role, see 9/11 Commission, *The 9/11 Commission Report* (New York: W.W. Norton and Co., 2004), pp. 420—422.

[41] See Statement of Richard Falkenrath before the Senate Committee on Homeland Security and Governmental Affairs, January 26, 2005, p. 4.

•creating incentives for the private sector to protect itself more effectively, especially in sectors such as the chemical industry and high-rise buildings
•developing a better and much more rigorous security system for container cargo
•greatly expanding screening of cargo on airplanes
•creation of national standards for driver's licenses with biometric indicators (not photos) and, similarly, improvement of the biometric indicators used on US passports
•encouragement to more large-city police departments to build dedicated counterterror cells as New York has done
•with terror watch lists now largely integrated, movement to the next step in using information technology in the war on terror creation of a "google-like" search capacity across different police and intelligence databases for correlations of suspicious behavior
•examination of how the country can develop a quick-manufacture capacity for vaccines and antidotes to new pathogens that it does not now possess. This could also be of great importance in addressing such scenarios as a possible mutation of the bird flu H5N1 virus to a form highly dangerous to humans.[42]

It is always sound to begin discussion of a new homeland security agenda by focusing on intelligence the front lines in the effort, and the most important type of homeland security effort since an ounce of prevention is worth a pound of cure (or consequence management). Since there is too much to protect in this country, the only way to make homeland security successful is to stop most terrorists before they can even get in position to attempt an attack.

One key area of needed improvement in this domain is coordination between the federal government on the one hand and state and local governments on the other. Today, although the FBI runs the Joint Terrorism Task Forces (JTTFs) in major cities, and is beginning to help state and local police forces more effectively, it is very small compared with police forces. That means it can have nothing like the same presence on the ground. In addition, while changes have occurred, it has been slow to change its traditional focus on solving criminal cases. An approach recommended recently by a team of Brookings scholars would use federal funds to expand local police intelligence and counterterrorism units in America's larger cities.[43] Today, only New York really takes this task seriously. The use of federal funds to recruit an extra 10,000 police officers for this purpose would cost around $1 billion a year.

Other steps are needed too. Notably, despite the opposition of a number of states, federal standards for driving licenses must be mandated. U.S. security agencies should also create "data czars"—to protect information, and also to facilitate its timely exchange when appropriate.

As Brookings scholar Jeremy Shapiro and Dean of the LBJ School of Public Policy James Steinberg have recently argued, the transatlantic homeland security agenda requires further work as well. For example, an assistance and extradition treaty was signed between the U.S. and E.U. in June 2003. But there is still a need for measures on both sides of the Atlantic that allow the admission of intelligence information as evidence in court while protecting against its disclosure.[44]

There are also some areas where existing European efforts at homeland security exceed those of the United States. In particular, as Michael d'Arcy of King's College in London has argued, the U.S. choice of using just a facial image as the biometric indicator in its passports is unwise. Photographs are inherently unreliable. The U.S. should follow the E.U. in incorporating fingerprints data, and ideally both sides of the Atlantic will move to using iris data in time.[45]

Foreign airliners should also be expected to meet tighter security standards within short order. This problem is of particular concern outside the European Union. Deployments of hardened aircraft doors and air marshals are imperative. They are also overdue.

Considerable progress has been made in the US-VISIT program, which requires most people entering the United States to submit fingerprints and a digital photograph. These biometrics can then be checked against the DHS IDENT database and

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[42] Kendall Hoyt, Bird Flu Won't Wait, *New York Times,* March 3, 2006.

[43] Michael d'Arcy, Michael O'Hanlon, Peter Orszag, Jeremy Shapiro, and James Steinberg, *Protecting the Homeland 2006/2007* (Washington, D.C.: Brookings, 2006), pp. 122—124.

[44] James Steinberg, Intelligence Reform, in Michael d'Arcy, Michael O'Hanlon, Peter Orszag, Jeremy Shapiro, and James Steinberg, Protecting the Homeland 2006/2007 (Washington, D.C.: Brookings Institution, 2006),pp. 27-30; and Jeremy Shapiro, "International Cooperation on Homeland Security," in d'Arcy, O'Hanlon, Orszag, Shapiro, and Steinberg, Protecting the Homeland 2006/2007, pp. 58-69.

[45] Michael d'Arcy, Technology Development and Transportation Security," in d'Arcy, O'Hanlon, Orszag, Shapiro, and Steinberg, Protecting the Homeland 2006/2007, pp. 135-39.

the records of visa holders. The United States should also speed up efforts to track the exits of visa holders. This is important to prevent people who have managed to get into the country on visa to overstay their legally allowed stay, with the possibility of conducting terror attacks over a long period of time.

There are also still major problems at the U.S. borders, which remain porous despite major improvements. The PATRIOT Act increased the number of patrol agents at the U.S.-Canadian border to 1,000, but more are needed, as evidenced by the continued high flow of people across the border. The SBI is appears to be an initiative that in scale and scope is commensurate with the seriousness of this challenge. In this context, the United States and its neighbors should continue to move to a regime in which all people who cross the border, including passengers in cars, are individually screened. This is not standard practice today.

Those who have traveled by plane from certain airports in the United States in recent months may have undergone the straightforward process of explosives "sniffing." This should become standard practice at all U.S. airports as quickly as possible. A national trace detector network would cost about $250 million. Just as importantly, this country needs a comprehensive means of either screening cargo carried on airplanes or hardening aircraft cargo holds. And private aircraft are still insufficiently monitored. To prevent plane-based suicide attacks, there should be greater screening of private aircraft pilots by the federal government.

The threat to aircraft from surface-to-air missiles is real. Unfortunately, the technology to counter them is not yet ready for deployment. A sustained and serious R&D program is appropriate and might be expanded, but on this issue, available technology does not yet offer a good enough option to warrant the effort and expense of deployment. After a shootdown of a civilian aircraft, however, that assessment could quickly change.

The container trade is another area of major potential vulnerability. As with many issues considered above, perfect solutions are elusive, and brute-force methods of providing comprehensive security could be hugely expensive. But there are still practical steps that could be taken to substantially improve American security. Over the period 2001 to 2004 the number of cargo inspectors in the United States grew by 40 percent and the number of inspections by 60 percent. Even so, only 6 percent of seaborne cargo containers are inspected. To have a good chance of inspecting any suspicious container that is not being shipped by a company and port with strong security records, it would be safer according to informal conversations with experts to aim for inspecting 10 to 15 percent of all traffic. Over the longer term, a new type of system might provide positive confidence in virtually all containers and such a system is now in use in Hong Kong.[46]

As for state and local governments, in addition to the greater prevention efforts noted above, they do need the right kinds of improved consequence management capabilities. For example, a major city could purchase several dozen mobile interoperable communications systems, at a cost of perhaps $1 million each, to facilitate communication between different first responders. The idea is that not every police radio need have the capacity to talk with every fire or rescue radio but interfaces are needed that can go to the scene of an incident and facilitate the cross-communications that are required. Huge additional expenditures are not needed, but targeted additional investments make sense in such cases. Technologies are available, and procedures already have been tested, to make these interlinkages work (through some first responder communities, as well as the militiary's Joint Forces Command and Northern Command). But procurement practices need to be standardized and concrete plans need to be devised and implemented.

Since 9/11, as noted, key parts of the private sector have done relatively little to protect themselves. And Washington needs to spur them to do so. The role of the government is not to regulate onerous security standards everywhere, but to catalyze the private sector to protect itself. As suggested by Peter Orszag, an appealing approach would make use of the nation's insurance system, coupled with some minimal regulation of safety standards. By this concept, terrorism coverage would be mandatory on all commercial policies above some minimum threshold (such as several million dollars). The government would play the role of a financial backstop, as indeed it already is given the renewal of the Terrorism Risk Insurance Act in 2005 but with the modifications that only extreme, catastrophic losses should be covered. A graduated rate structure in the insurance market, rather than government regulation, would then encourage best practices when there were affordable and reasonably effective.

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[46] Stephen E. Flynn and James M. Loy, A Port in the Storm Over Dubai, *New York Times,* February 28, 2006, p. A19.

As for some specific private sector initiatives: chemical and nuclear plants are potential targets for low-tech attacks with massive consequences. The U.S. chemical industry still has no legal framework guiding its security measures (which so far have been taken voluntarily). In this case, direct regulation is appropriate. Legislation to rectify this, including periodic safety assessments and common-sense solutions, should be a priority. There are also numerous cases where dangerous chemicals should be routed around large cities, and also where substitutes for them should be found when possible, as with chlorine for purifying water.

Nuclear power plants are now relatively well protected. However, areas where low-grade waste is stored are often not. This increases the likelihood of a radiological attack, and so the level of security must be improved.

Large buildings should have better security provisions too. Again, common sense, the use of the market, and a degree of patience can make such measures affordable. For example, when built or renovate, buildings should be fitted with air filtration and circulation systems that would minimize the permeation of chemical or biological agents. Other steps can be taken to protect buildings against bombs and infrastructure attacks, and should be reflected in new building codes. These could include elevators that descend to the nearest floor in the event of a power outage, building important buildings back from roadways, using shatterproof glass in their lower floors, and controlling access for entry and for parking.

There is an important homeland security agenda that the next president and future leaders in the Congress will need to pursue. Some key vulnerable sites such as chemical plants are unprotected. So are most skyscrapers. Police forces in most cities have scant capacity to conduct counterterror work and depend excessively on a small national FBI capacity. Container shipping remains very lightly monitored; much air travel remains unsafe; international collaboration on homeland security has not progressed very far beyond sharing of names on terror watch lists. The progress we have seen to date has been significant, and the country has become much more secure. Yet a great deal remains to be done.

Ms. SANCHEZ. Thank you.

And we will hear from Mr. Wermuth.

STATEMENT OF MICHAEL WERMUTH, DIRECTOR, RAND HOMELAND SECURITY PROGRAM

Mr. WERMUTH. Madam Chair, Ranking Member, distinguished members of the subcommittee, thank you for giving RAND the opportunity to address this hearing.

I am joined today by my colleague Dr. Jack Riley, who is the associate director for RAND's Infrastructure, Safety, and Environment Division.

And effective approach to border security must have risk as the common metric. And risk, in our view, is a function of three components: a credible threat of an attack on a vulnerable target that would result in unwanted consequences.

And while much of the maritime focus on border security from terrorist attacks is on containers, there are other parts of the maritime arena that are at risk—cruise ships and ferries, as examples—that should not be overlooked.

The main point I would like to make is that individual border programs have not been integrated into and measured against a comprehensive risk-reduction framework or evaluated against a clear set of metrics or viewed as part of a comprehensive, systematic approach to border security.

We do not yet have the comprehensive, risk-based, fully integrated, national border control strategy that we suggest is an imperative. As a result, it is hard to answer basic questions about investment overall or for individual aspects of border security.

So we suggest that Congress should ensure that the grand strategy on border security and the ability to measure progress against

it be put in place, with relatively less emphasis on mandating specific programs until the urgent issue of the overall architecture is addressed.

Congressional entities with jurisdiction over DHS and other relevant agencies should push toward a consensus with DHS and the other stakeholders on the development of this national border control strategy.

And Congress should seriously consider the establishment of a high-level policy position at DHS, a person with the responsibility for taking the long view in helping DHS develop strategic policies that integrate across the different operational elements of the department and with other federal agencies, international governments, the private sector, and state and local entities.

We suggest that an effective national border control strategy will include at least six key elements.

First, the establishment of quantified benchmarks and performance and effectiveness metrics. True measures of effectiveness cannot simply be an enumeration of outputs. In my written statement, I cite several RAND studies that emphasize that point, and I will be happy to provide more detail in the question-and-answer session.

Number two, the development of a comprehensive border technology roadmap. We should develop a technology roadmap that identifies pressing border security issues to allow both the public and private sectors to structure investments that will yield high payoffs. But we need robust systems of both technological and nontechnology needs.

Number three, the integration of planning and coordination among border security entities. Given the numerous entities both inside and outside DHS with border responsibilities, there needs to be better interoperable current planning and better long-range planning, programming and budgeting processes for major elements of DHS.

Our work for decades for entities in the Department of Defense suggest that attempts to improve similar processes for that department could have application in DHS, including something akin to a Quadrennial Defense Review.

These processes are essential to meeting dynamic and emerging threats. As we improve one aspect of border security, increased security concerns may shift to another sector. For example, if initiatives to stem illegal activity across our land borders become more successful, the threat could shift to the maritime domain.

Number four, the creation of plans for managing the border during crisis. An overlooked but important aspect of border security is how we will manage the consequences of the shutdown and reopening of the border, especially maritime ports of entry.

Number five, the coordination of border security with comprehensive immigration and border management policies to understand better the effects that these policies have on our economy and our society.

And six and last, upfront consideration in program development of critical privacy and other civil rights implications.

Thank you, again, for the opportunity. And I look forward to your questions.

[The statement of Mr. Wermuth follows:]

Michael A. Wermuth [1]

Accompanied by K. Jack Riley

The RAND Corporation

The Streategic Challenge of Border Security

Before the Committee on Homeland Security

Subcommittee on border, Maritime and Global Counterterrorism

United States House of Representatives

March 8, 2007

Introduction

Madam Chair, and Members of the subcommittee, thank you for giving RAND the opportunity to address the critical issue of securing our borders as part of the broader effort to secure the U.S. homeland. I have here with me today Jack Riley, Associate Director for RAND's Infrastructure, Safety, and Environment research unit.

We have been asked to focus our remarks today on the maritime aspect of border security. We should, however, note at the outset that no single piece of border security air, land, or sea; people or cargo; transportation modes; technology; intelligence; law enforcement; trade and other economic considerations; and more can truly be addressed separately.

And while issues of security from terrorist attacks is certainly a major concern that drives many border security considerations, there are other critical, "daily" issues involving criminal activities, including trafficking in drugs, the smuggling of weapons and other illegal contraband, and human trafficking. In addition, as we improve one aspect of border security, increased security concerns may shift to another aspect. For example, if initiatives to stem illegal activity across our land borders become more successful, we could see a decided shift in security threats to the maritime domain. Those issues must form an integral part of border security programs. Moreover, all must be considered in the context of a strategic security framework, of which border security is only one part.

The maritime challenges to border security are enormous. Every day, over 30,000 maritime cargo containers pass through U.S. ports. In addition, more than 4 million automobiles imported annually enter U.S. ports along with other bulk and break-bulk cargo not carried in containers, such as oil, natural gas, hundreds of cruise ships annually.

The people and cargo that cross our borders are the economic lifeblood of the nation. Decisions about security at the border have the potential to affect the livelihood of millions of Americans and a significant portion of the U.S. economy. More than $2 trillion of goods annually over $1.3 billion a day pass in and out of U.S. ports, representing almost 25 per cent of the U.S. Gross Domestic Product.

Some specific questions that arose in the most recent hearing of this subcommittee included the value of the proposed 700 mile fence along the US-Mexican border and whether 6000 new Border Patrol agents (for a total of 18,000) is sufficient for the task of guarding the nation's borders. In addition, there have been repeated attempts to require the screening of each container entering a U.S. port. These kinds of questions address important pieces of the overall picture of border security, but they do not address the comprehensive question with which we believe the Congress and the public is most concerned: do we have adequate border security? An honest answer to that question would be "we don't know."

Managing Border Security Risk

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

Our overarching objective should be to manage the risks associated with our borders effectively and efficiently. Risk has to be the common metric, otherwise we are comparing unlike concepts, and we therefore cannot choose rationally among options. What, then, do we mean by risk? Risk is function of three components: a credible *threat* of attack on a *vulnerable* target that would result in unwanted *consequences*. Risk only exists if terrorists want to launch an attack, if they have the means to do so successfully, and if the attack exploits a vulnerable target in ways that result in deaths, injuries, disruptions, or other outcomes that adversely affect U.S. society.[2] And while much of the focus on border security from terrorist attacks is on containers, there are other issues in the maritime arena cruise ships and ferries, as examples that should not be overlooked.[3]

Since 9/11, we have developed numerous innovative approaches to border security in securing the borders. Key innovations include: the Container Security Initiative (CSI), which increases container inspections at foreign ports; the Customs-Trade Partnership Against Terrorism program, the CBP voluntary government-business initiative to build collaborative relationships between border agencies and those private sector elements in the global supply chain; the 24-Hour Advance Cargo Manifest Rule, which requires carriers to submit a complete cargo manifest to CBP at least 24 hours prior to cargo loading if that vessel is calling directly on a U.S. port; the REAL ID Act and the emerging implementation of a Transportation Worker Identification Credential Program (a joint effort of the Transportation Security Administration and the U.S. Coast Guard), which should help to limit the ability of terrorists to procure and use false identification; and the development of fast lane programs that let certain shippers participate in special security activities, which allow them to move commerce rapidly over international borders.

As well intentioned as these and other programs are, however, individual programs have not been integrated into, and measured against, a comprehensive risk reduction framework. Many have not been evaluated against a clear set of metrics, and have not been viewed as part of a comprehensive, systematic approach even to border security much less to the broader security equation. Despite the passage of the Maritime Transportation Security Act of 2002,[4] the promulgation of a National Strategy for Maritime Security, and numerous Presidential directives with implications for border security (including Homeland Security Presidential Directives 3, 4, 6, 7, 11, 14 and Homeland Security Presidential Directive 13, specifically on maritime security), we do not yet have the comprehensive, risk-based, fully integrated national border control strategy. As a result, we cannot answer basic questions about where investment in border security overall or for specific aspects of border security is most urgently needed and how large those investments should be.

To illustrate more concretely the need for a national border control strategy, consider one proposed activity mandatory—inspection of all cargo containers entering the U.S.—that Congress has repeatedly made efforts to have implemented. RAND's research has shown that such a program could be expensive and add to congestion at the ports if not implemented with innovative application of technologies and processes that allow learning and improvement as the extent of container inspections increase.[5]

These findings do not mean that a program of 100 percent container inspection is totally without merit, only that before adoption it should be compared to the merits of other policies, such as adding an additional 6,000 Border Patrol agents, or putting up a 700 mile fence, or the use of unmanned aerial vehicles and other technologies. Unfortunately, we cannot draw conclusions about the relative worth of such programs for three reasons. First, most of the alternative investments to the policy of 100 percent container inspection have not been evaluated. Thus, there is very little evidentiary basis about which policies to pursue and at what levels of investment. Second, virtually no work has been done to understand the degree to which individual programmatic or policy options mutually reinforce—or undermine—other individual policy options. In other words, we need to know the degree

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[2] Our approach to terrorism risk management, especially as it applies to the allocation of resources, is contained in Henry Willis, et al., Estimating Terrorism Risk, MG–388, RAND, 2005, available at http://www.rand.org/pubs/monographs/2005/RAND_MG388.pdf.

[3] See Michael Greenberg, et al., Maritime Terrorism, Risk and Liability, MG–520, RAND, 2006, available at http://www.rand.org/pubs/monographs/MG520/.

[4] Public Law 107–292, November 25, 2002.

[5] See Susan Martonosi, et al., Evaluating the Viability of 100 Per Cent Container Inspection at America's Ports, reprinted with permission from The Economic Impacts of Terrorist Attacks, edited by Harry W. Richardson, Peter Gordon, James E. Moore II, pp. 218–241, Copyright © 2005 Edward Elgar Publishing, available at http://www.rand.org/pubs/reprints/RP1220/; and Henry Willis, et al., *Evaluating the Security of the Global Containerized Supply Chain, TR–214, RAND, 2004, available at http://www.rand.org/pubs/technical_*reports/TR214/.

to which our policies work together to provide robust, defense-in-depth at the border. Third, and most importantly, we have very little understanding of how individual policies and suites of policies combine to affect risk reduction. Thus, even though the individual policy of 100 percent screening may logically target the vulnerability of cargo containers, we still need to understand how—or if—it contributes to overall risk reduction (taking into consideration the *threat* and *consequence* components) before investing in it.

Toward a National Border Control Strategy

Thus, the task of establishing a national border control strategy is urgent. What would an effective national border control strategy look like? An effective strategy will include the following:

The establishment of quantified benchmarks, and performance and effectiveness metrics. Benchmarks and metrics will help us understand which programs are working, which ones merit additional investment, and which ones should be deemphasized. It is important that there be true measures of effectiveness and not simply an enumeration of outputs. As an example, RAND staff recently completed an analysis on security at shopping malls that identified specific steps that mall owners and operators could take to improve their security against terrorism.[6] These security measures were arrayed in order of their cost-effectiveness where the metric used was the number of lives saved by the security measure in a hypothetical attack scenario. That same methodology could be used to measure the costs and benefit of each component of a border security system, as well as the cumulative costs and benefits of the system as a whole.

RAND staff also studied the costs and effectiveness of arming civilian airliners with defensive mechanisms to counter the use of shoulder-fired missiles also known as MANPADS (Man-Portable Air Defense Systems). That comprehensive analysis determined that it was premature deploy a missile defense system without further, in-depth analysis, including an examination of alternative technologies and missile control strategies.[7] As it becomes more difficult to increase homeland security spending in real terms, it becomes increasingly important to invest in programs that fill critical security gaps in a cost-effective manner.

The development of a comprehensive border technology roadmap. There is no shortage of new and potentially useful technologies for use in border security. Technologies exist, for example, to combat the threat that surface-to-air missiles pose to civilian aircraft. RAND's 2005 evaluation found, however, that current technologies could be evaded easily, were relatively costly compared to the overall threat and consequences of such an attack, and offered little protection against future generations of such missiles that terrorists might acquire over the near term. One way to ensure that we are producing technologies that better meet our needs is to develop a technology roadmap that identifies the pressing border security challenges that need to be resolved. With this roadmap, the public and private sectors can structure their investment in technologies that will yield high payoffs, address mission-relevant functions, provide essential capabilities and over a policy-relevant time horizon. When building the technology roadmap, we should be careful not to prescribe technology as the most critical component of a national border control strategy.

The potential for failures in technological systems, including the possibility that terrorists or other criminal elements could find ways to defeat or avoid them, argues strongly for robust systems of technological and non-technology means. RAND has just completed a set of studies for the S&T Directorate of DHS that explored the ways terrorist groups have overcome defensive measures in the past highlighting the danger of relying on technology alone for protection.[8] And technologies that are used must be able to be integrated into a unified border security system so they do not result in technological stovepipes that complicate rather than improve overall security.

The integration of planning and coordination among border security entities. Numerous entities in DHS have border security responsibilities and capabilities, including TSA, Customs and Border Protection, Immigration and Customs En-

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[6] LaTourrette, et al., *Reducing Terrorism Risk at Shopping Centers: An Analysis of Potential Security Options,* TR–401, RAND, 2007, available at http://www.rand.org/pubs/technical_reports/TR401/.

[7] James Chow, et al., Protecting Commercial Aviation Against the Shoulder-Fired Missile Threat, OP–106–RC, RAND, 2005, available at http://www.rand.org/pubs/occasional_papers/OP106/.

[8] See, for example, Brian A. Jackson, et al., *Breaching the Fortress Wall: Understanding Terrorist Efforts to Overcome Defensive Technologies,* MG–481–DHS, RAND, 2007, available at http://www.rand.org/pubs/monographs/MG481/.

forcement, and the U.S. Coast Guard. Further evaluation is necessary in order to determine how effectively those organizations are operating and can operate collectively. In addition, other DHS entities have responsibilities that must be part of a comprehensive, department-wide approach to effective border security, including the Assistant Secretariat for Intelligence and Analysis, the Under Secretariat for Science and Technology; the Under Secretariat for Preparedness (as that entity may be reorganized or renamed); and the Under Secretary for Administration. DHS should develop comprehensive operational plans that clearly articulate the roles, missions, responsibilities, coordination and communications line among the various players. There is an analog to the process by which combating commands in the department of defense develop comprehensive operational plans. In addition, there are numerous entities outside DHS that have some stake in or cognizance over border security, including the maritime aspect: The FBI and other Department of Justice entities; the Departments of Agriculture, of State, and of Commerce; the Department of Defense; the Director of National Intelligence; and others. Moreover, there needs to be a better long-range planning, programming, and budgeting process for major elements of DHS. Our work for decades for entities in the Department of Defense suggests that attempts to improve similar processes for that department could have application in DHS, including something akin to the Quadrennial Defense Review.

The creation of plans for managing the border during crises. Numerous games and exercises, including our own simulation of a nuclear incident at the Port of Long Beach, have demonstrated that border security incidents have great potential to significantly disrupt border activity. When—and it is probably when, not if—border security fails, the borders will almost certainly be closed. An overlooked but important aspect of border security is how we will manage the consequences of the shutdown and, more importantly, how we will manage the reopening of the border. This is no academic exercise. The attacks of 9/11 resulted in lengthy closings of U.S. land, air and sea borders.

The coordination of border security with comprehensive immigration and border management policies. Effective border management requires more than capability to intercept illicit cargo and people. It also requires understanding how measures put in place for security affect how goods and people move across our borders. The effects that these policies have on our population have the potential to affect dramatically our economy and the fabric of our society.

Privacy and other civil rights implications. Nothing we are suggesting would necessarily impinge on the privacy or civil liberties of Americans. Programs for border security must always consider the effects of implementation on these critical issues.

Role for the Congress

The most critical role for Congress at this juncture is to focus on ensuring that the grand strategy on border security—and the ability to measure progress against it—is in place. Congress should place relatively less emphasis on mandating specific programs in the realm of border security until the urgent issue of the overall architecture is addressed. To that end, this subcommittee, the full committee and others with jurisdiction over DHS and other relevant agencies activities and funding should push toward a consensus with the Department and other stakeholders on the development of a national border security strategy.

There is no denying that in other aspects of major policy planning—especially in the establishment of a national transportation security policy—the Department has been relatively slow in responding. One reason that the Department struggles with developing these strategic frameworks is that it has no high-level leadership dedicated to policy development across the diverse and sprawling empire of DHS and with the other entities that have border security responsibilities and interests. In other cabinet agencies, such as the Department of Defense (DoD), there is an Under Secretary for Policy. At DoD the Under Secretary is charged to "consistently provide responsive, forward-thinking, and insightful policy advice and support to the Secretary of Defense, and the Department of Defense, in alignment with national security objectives."[9]

Congress should give serious consideration to supporting the establishment of a similar high-level position at the Department of Homeland Security, one that vests that person with the responsibility for taking the "long view" and helping DHS develop strategic policies that integrate across the different operational elements of the Department and with other agencies, including international governments and

[9] Office of the Under Secretary of Defense for Policy, http://www.dod.mil/policy/index.html, accessed March 3, 2007.

private sector interests. Not insignificantly, such an under secretary would also be a critical point of interaction with the academic, research and development communities. These communities—of which RAND is a part—often struggle to interact with the operational elements of DHS. The operational elements are focused on getting things done, while the academic and research communities are often focused on longer-term challenges such as evaluating, measuring, and assessing. That said, deeper integration of these communities into the DHS strategy-setting process is vital, and the establishment of a position with these responsibilities is perhaps the most effective way to make this happen.

Summary

We have significantly underinvested in developing, evaluating, and refining a comprehensive and integrated border security strategy. We have invested in numerous border security programs and initiatives but the impacts and cost effectiveness of virtually all of these initiatives is poorly understood. A truly comprehensive strategy—one that can guide the effective implementation of its key national goals—must include the essential elements that we have described: a robust system of metrics and evaluation; a forward-thinking technology roadmap; better planning and coordination, including border management during crises; and a comprehensive approach to border management and immigration issues. Only through such an approach are we likely to avoid "single points of failure" in our border security. We are, at this point, far from having such an overarching strategy.

Ms. SANCHEZ. Thank you so much.

And now Mr. Ramirez.

STATEMENT OF ANDREW RAMIREZ, CHAIRMAN, FRIENDS OF THE BORDER PATROL

Mr. RAMIREZ. Good afternoon, Madam Chairman, Ranking Member Souder and distinguished members of the committee.

For the past 3 years, I have been specifically working and investigating, going back to 2004, with the agents who implement what my distinguished colleagues on this panel have been talking about: infrastructure, technology, and the human side.

"Border Security: Infrastructure, Technology, and the Human Element," individually and as a whole, are but one aspect of issues that I am prepared to discuss today.

And I guarantee everyone that what is officially being prescripted by DHS and stated to members of Congress is not what the agents on the front lines report or those who plan and build that infrastructure.

Ultimately there is no escaping the fact that the current administration has compromised its citizens through treaties and agreements and has demonstrated itself to be more interest in commerce than national security.

Need proof? Chief George Carpenter issued an internal memo to CBP agents regarding documentation requirements at the El Paso port of entry on January 16, 2007. The critical point states as follows: "Anytime that an officer feels that a permit should not be granted for whatever reason, the supervisor should be advised. Again, we do not refuse a permit or send an applicant back for documentation or proof. They are not required to present proof of employment, residence or solvency in Mexico."

This type of memo, which I personally saw and read, is proof beyond any shadow of a doubt as to the lack of concern for public safety and that officials at DHS are more concerned with commerce than national security.

I was told that this type of written standing order is the recipe for a sleeper cell to get through our ports of entry and leaves us vulnerable to attack.

I will also discuss the war on law enforcement and how the government of the United States has prosecute maliciously a number of federal law enforcement officers.

Madam Chairman, these cases must be investigated and hearings must be held by the Congress, because it is clear that in some of these cases the prosecutions were pushed by foreign governments, including Mexico and the People's Republic of China.

Having brought up the case of U.S. v. Compean & Ramos to the attention of the nation, I have discovered that a pattern of prosecutorial and in-house abuse at DHS exists in each of these cases involving illegal aliens who are breaking a number of laws, all of which were ignored by the government, who all ignored a U.S. Supreme Court ruling, U.S. v. Verdugo–Urquidez, 1990, by the Rehnquist court.

I am certain there are many more cases out there, and I hope to discuss some of these cases today, as they do involve our Border Patrol agents, Customs agents and other agents.

I caution everyone to consider that the government ignored the fact that a doper violated a number of laws, and this was ignored by our government, who chose to prosecute two agents who committed mere administrative violations and may have violated policies that continue to prevent them from doing their jobs, some of which I call to the attention of this committee today.

One example of this is the pursuit policy, which prevents agents from pursuing anyone that the trained agent may believe to be in violation of our laws.

Let me point out why agents are often directed to break off: Because the leadership at DHS and the Border Patrol are more worried about lawsuits than they are about apprehension, which, by the way, are manipulated by the very agencies.

And this comes to me from sources that are managerial, that hold chief patrol agent and deputy chief patrol agent, assistant chief patrol agent, such titles, as well as other agents in all the services.

Another example is the federal firearms policy, as followed by the U.S. Border Patrol. In this policy, rank-and-file agents below supervisory level are not allowed to file a written report on shooting incidents. That responsibility is left to supervisors who can suddenly develop a case of amnesia or be internally ordered to develop a case of amnesia, and that leaves agents hung out to dry, as Agents Compean and Ramos were.

This brings me back to the smugglers and terrorists who know that, with cases such as these on record, that this government will protect them regardless of the crimes they commit. And, as a result, our law enforcement officers, many of whom you have direct oversight for, have had their safety compromised.

In the third section of my testimony, I have provided numerous statements as told directly to me by a law enforcement officer tasked with the dangerous responsibility of securing our nation's borders. Those that tell you that people with a badge and a gun in that sense are correct. But they are not telling you the entire

story, one of which is begging to be told, of high corruption in El Paso.

During a recent field investigation, a senior federal law enforcement agent stated the following to me that only reinforces what I just said: "Mexico does not know what corruption is. They have to come to El Paso to learn." And that should be a disturbing fact to every member here today.

We also have assistant U.S. attorneys who question Border Patrol agents as to why they have attempted to stop narcotic interdiction. In the Ramos & Compean case, Assistant U.S. Attorney Debra Kanof actually asked why Agent Ramos didn't join the DEA or ICE if he wanted to catch dopers, instead of joining the Border Patrol. I must remind everyone that narcotic interdiction and seizure is a specific goal of the U.S. Border Patrol, as stated in the National Border Patrol Strategy.

I have also provided updated reports on the Border Patrol RVS camera systems and other items involving infrastructure, technology, and the human element.

Thank you, Madam Chairman. I look forward to your questions.

[The statement of Mr. Ramirez follows:]

PREPARED STATEMENT OF ANDY RAMIREZ

Introduction

Good morning Madame Chairman, Ranking Member Souder, members of the committee, distinguished fellow panelists, and guests.

Thank you for calling me to testify today on behalf of Friends of the Border Patrol and for calling this important hearing as the growing threat of terrorism focuses national attention to the vulnerability of our borders. I must emphasize borders because this includes the Northern and Southern borders. While the southern border in the words of a Texas Sheriff goes western after dark, the northern border is just as vulnerable. The reason for this is not the Congress though this August body in talking about things such as Amnesty continues to provide the incentive that brings people here.

I must caution the Congress that the American people are not interested in hearing political partisanship and the blame game. The Congress while partially responsible also sought to assist the Department of Homeland Security by removing endless layers of red-tape and bureaucracy that prevented enforcement of our federal immigration laws. Officials at DHS and inside the Border Patrol used this gaping opening to carry out an agenda that did not continue the highest traditions such as "Honor First" that they were known for, and instead have contributed to the high level of instability, fear, mistrust, and corruption that exists today.

Ultimately, there is no escaping the fact that the current administration has compromised its citizens through treaties and agreements and has demonstrated itself to be more interested in commerce than national security.

Need proof? Chief George Carpenter issued an internal memo to CBP agents regarding documentation requirements at the El Paso Port of Entry on January 16, 2007. The critical point states as follows, "Anytime that an officer feels that a permit should not be granted for whatever reason, the supervisor should be advised. Again, we do not refuse a permit or send applicant back for more documentation or proof. They are not required to present proof of employment, residence, or solvency, in Mexico."

This type of memo is proof beyond any shadow of a doubt as to the lack of concern for public safety, and that officials at DHS are more concerned with commerce than national security. I have personally read the in-house memo that I am mentioning here and was told that "this" type of written, standing order "is the recipe for a Sleeper Cell."

For all the billions of dollars that have been appropriated by the Congress since 9-11-2001 Attack on America by terrorists, this administration has failed American's here at home by not employing the most simple of tactics and securing America's borders, seaports, and waterways.

Ironically, while most Americans are not aware of the details that I am prepared to provide you today, they are well known to the drug smugglers, human traffickers, and terrorists around the world. They all know our weaknesses.

"Border Security: Infrastructure, Technology, and the Human Element" individually and as a whole are but one aspect of issues that I am prepared to discuss today and I guarantee everyone that what is being officially pre-scripted by DHS and stated to Members is not what the agents on the front line report.

I am prepared to discuss examples of obstruction and misinformation by the Department of Homeland Security, and the truth from line agents and border residents. I have also provided our reports on the Border Patrol, RVSS camera systems, and other items involving infrastructure, technology, and the human element.

During my recent field investigation a federal law enforcement agent stated the following to me: "Mexico does not know what corruption is. They have to come to El Paso to learn."

This statement tells it as it is, and was from a senior federal agent, who shall remain anonymous as this administration has no qualms about ordering U.S. Attorneys to prosecute agents even when it means protecting narcotic and human traffickers who assault, brandish firearms, or use a vehicle as a weapon again law enforcement while attempting to evade and escape apprehension and capture.

The Managers of the Border Patrol continue to mislead the nation and the Congress as to Mexican Military Incursions that I have been informed directly by federal agents as well as state and local law enforcement officers as to having taken place, some of which resulted in casualties.

To substantiate what I just stated. In the Tucson Border Patrol Sector going back to Chief David Aguilar's tenure as Sector Chief, their Public Information Office provided to agents a "Military Incursion Card that states, "REMEMBER, Mexican Military are trained to *escape, evade,* and *counter-ambush* if it will effect their escape. You will find the full text of this card in Section 2D.

In the 3rd Section of my testimony, I have provided statements as told directly to me by our law enforcement officers tasked with the dangerous responsibility of security our nation along America's borders.

I am prepared to discuss "The War On Law Enforcement" and how the government of the United States has maliciously prosecuted a number of federal law enforcement officers including in this order:

Border Patrol Agent David Sipe
KSt. Georges County (MD) Police Officer Stephanie Mohr
Border Patrol Agent David Brugman
KBorder Patrol Agent Ignacio Ramos
KBorder Patrol Agent Jose Alonso Compean
CBP Customs Agent Robert Rhodes
Edwards County (TX) Deputy Sheriff Gilmer Hernandez

Madame Chairman, these cases must be investigated and hearings must be held by the Congress because it is clear that in some of these cases prosecutions were pushed by foreign governments including Mexico and the People's Republic of China.

Regarding the Compean and Ramos case, I want to make one thing clear today. There are many trying to prevent this case from being investigated by the Congress and prevent hearings being held due to it being the proverbial opening of "Pandora's Box" this case provides. Everything wrong about the practices and policies of this administration will be opened up for everyone to see. DHS will be exposed for it's incompetent leadership and the culture of corruption and power-mongers that have consumed it. There is no question in my mind, or in the minds of the agents who serve at DHS that we must overhaul and reform it today. It is clear too, that Agents Compean and Ramos were hung out to dry by their own agency.

Osbaldo Aldrete-Davila was protected in the professional estimation of a number of law enforcement officers, though not a confidential informant, or CI, as Aldrete-Davila leads to someone and our government has protected that individual, or group while ignoring the facts of the doper's actions in multiple incidents.

Having brought the case of U.S. v. Compean & Ramos to the attention of the nation, I have discovered that a pattern of prosecutorial abuse exists in each of these cases involving illegal aliens who were breaking a number of laws, all of which were ignored by the government, who all ignored a U.S. Supreme Court Ruling, U.S. *v.* Verdugo-Urquidez 1990. I am certain there are many more cases out there, and I hope to discuss some of these cases today.

I must also inform you that there have been other cases prosecuted by the Office of Johnny Sutton that I have personally investigated that also require greater scrutiny and review, these being the U.S. v. Hardrick Crawford, FBI Special Agent In-Charge of El Paso (Retired), and U.S. v. Noe Aleman, U.S. Border Patrol Agent,

both of whom were personally targeted and victimized by our own government. The players in these particular cases are the same that were involved in U.S. v. Ramos.

I caution everyone to consider that the government ignored the fact that a career narcotic smuggler violated a number of laws, and this was ignored by our government who chose to prosecute two respected agents who committed mere administrative violations. Some of the policies they may or may not have violated, are detrimental to the safety of the agents in enforcing their duties some of which I call this committee to overhaul.

One example of this is the pursuit policy, which prevents agents from pursuing anyone that the pursuing trained agent may believe to be in violation of our laws. Let me point out why agents are often directed to break off, because the leadership of DHS and the U.S. Border Patrol are more worried about civil lawsuits than they are about apprehensions, which by the way are manipulated by the very agencies and Mexico.

Another example is the federal firearms policy as followed by the U.S. Border Patrol. In this policy rank and file agents below supervisory level are not allowed to file a written report on shooting incidents. That responsibility is left to supervisors, who can suddenly develop a case of amnesia or be internally ordered to develop a case of amnesia, and that leaves agents hung out to dry as Compean and Ramos were.

Both of these policies must be overhauled today, so that our agents will not have their safety or ours compromised, which will greatly assist them in doing their job and enforce our laws, the same laws enforced globally by every other nation on this planet.

This brings me back to the smugglers and terrorists who know that with cases such as these on record, that this government will protect them regardless of the crimes they commit. As a result our law enforcement officers, many of whom you have direct oversight over, have had their safety compromised.

Before moving onto the human impact, I have to continue to address the impact of smugglers and terrorists. They know now that with the National Guard and Border Patrol backing off in the face of smugglers, bandits, and Mexican military personnel, the policy of the United States is one of non-confrontation and to cede the position instead. Can you imagine the impact on a soldier just back from fighting in Iraq or Afghanistan who may have watched their fellow soldiers blown up in front of their very eyes? We must question the national leadership who issues such orders, and it is imperative that you understand that the National Guard is under the operational control of the Border Patrol during Operation Jumpstart.

Rank and file Border Patrol agents report that USBP stations and sector offices are subject to regular visits by Mexican Government officials. However, this is nothing new with this administration as the Mexican Military has official liaison representation at the highly sensitive North-Comm facility according to sources that have actually seen and spoken with the officers.

I need to make another thing clear. To the law enforcement agent working along the border they do not see Mexico as a law enforcement partner unlike their managers. Before anyone jumps to an unfair conclusion, this is not about race, or discrimination against a foreign national here illegally. This is about national security and enforcing the laws we have. Some believe that real reform can only happen through so-called comprehensive immigration reform. There is absolutely nothing wrong with the laws on the books. No, instead the only real immigration reform begins with the federal agencies responsible for enforcing them as they are all following an administrative policy that is based on commerce, not enforcement and certainly not concerned with national security.

I'll tell you why this has happened, it's because this administration has grown out of control and the only way to address this is by the Congress putting partisanship and race aside in the interest of national security and supporting our federal agents.

I have discussed with current and former retired leaders of numerous law enforcement agencies such as the Texas Border Sheriffs and most recently, I met with and discussed this case with retired NY City Police Commissioner Bernie Kerik who has released a statement, which I have provided today"

"If this drug runner was, instead, trying to smuggle explosives or a dirty bomb, would the two agents then be hailed as heroes? Yes, and probably presented with a presidential medal, because border security is a vital element in our continuing effort to keep America safe from terrorist attacks. Remember that the 19 hijackers of September 11th passed through U.S. border security checkpoints a total of 68 times, leaving and entering this country as they planned their murderous plot. Consider also, in testimony before the U.S. Senate in 2005, James Loy, deputy secretary of the Department of Homeland Security, stated; "several al-Qa'ida leaders believe

operatives can pay their way into the country through Mexico and also believe illegal entry is more advantageous than legal entry for operational security reasons."

And one has to ask what kind of message this trial and conviction sends to the thousands of dedicated local and state police, and federal agents from the CIA, FBI and DHS who risk danger every day to ensure our safety."

As you will see in his commentary Commissioner Kerik has called for a presidential pardon for the agents.

There has been a big public propaganda campaign to mislead the public and Members of Congress as that doper who entered America on multiple occasions and was protected and his very crimes hidden from the jury has led to compromising the safety of both the public and law enforcement officers. Part of the propaganda campaign by the administration has led to the Department of Homeland Security's Office of Inspector General to mislead Congress in a meeting with four Members representing the Texas Delegation with one goal, to get Congress to back off this case by besmirching Agents Compean and Ramos with allegations that they confessed to knowingly shooting an unarmed man, and had set out that day wanting to shoot a Mexican. OIG provided no proof and admitted last month while under oath that they misled the Members. It was a preposterous allegation without any substantiation that is indicative of the type of case Sutton's office tried to build against the agents who were accused by the government of turning on one of their own. In my opinion, this is obstruction of justice, plain and simple and DHS and OIG should be held accountable.

But here, you might not be aware that OIG has not been effective or accountable since former Inspector General Clark Kent Irvin left his office after his recess appointment expired. He was holding agencies accountable and reporting such things as a financial award program, in which Border Patrol managers and sectors were rewarded for staying in budget, which in layman terms means for not doing their jobs and enforcing the law.

But there are other types of obvious corruption along our southern border. In the modern DHS agencies of today, individuals blatantly approach federal agents of all ranks who offer them sacks of money, in exchange for turning the other way. When that does not work, they threaten family members as many agents have ties across the southern border.

OIG/OIA is something all agents fear, but not because they are doing their jobs with complete integrity, but as the Compean & Ramos case has magnified, and numerous agents have reported to me these offices are used to enforce political objections.

This brings to mind the critical problem faced by agents and I cannot state it enough. Border Patrol managers undermine their own agents for trying to do their job. One day an agent such as one I know of in Texas performs what is known as a turn-back, where the illegal alien is returned to Mexico without apprehension and is placed on the "rubber gun squad." Yet, the next day, a "monkey boy" for the brass does the same thing, and receives no discipline and gets away with it. This statement is based on an actual incident in El Paso Sector. The agent faces termination for a turn-back, though after his suspension proposal was issued by sector, the sector chief actually issued a policy clarification.

Look at a statement by Agent Compean to his then Sector Chief Luis Barker, which says it best, "the way everything it's been at the station the last two, three years. . . I mean everything always comes down to the alien. The agents are as soon as anything comes up it is always the agents fault. The agents have always been cleared but with management, it's always been the agent's fault. We're the ones that get in trouble."

We also have Assistant U.S. Attorneys who question Border Patrol Agents at to why they have attempted to stop narcotic interdiction:

In the Compean & Ramos case, Assistant U.S. Attorney Debra Kanof did just that in asking Agent Ramos why he didn't join the DEA or ICE if he wanted to catch dopers instead of the Border Patrol. I must remind everyone that narcotic interdiction and seizure is a specific goal of the U.S. Border Patrol as stated in the National Border Patrol Strategy and in an Inter-Agency Memorandum of Understanding.

Here brings another problem, which I previously mentioned that being the "rubber gun squad," which is where agents are placed on administrative duties and lose their badges and guns for anything that a superior officer decides violates a policy. It is the most shameful and humiliating form of discipline in the Border Patrol and agents are treated as though they were a dirty agent. This form of discipline goes on for lengthy time periods and the impact on agents and their families alike is something no Member of Congress can imagine. If a person is placed on administrative duty, place them on paid leave, give them non-field duties for a stated time pe-

riod, but don't treat them like an un-indicted criminal. I implore you to take action and outlaw this policy today.

Those that tell you that people with a badge and a gun should be held to a higher standard in that sense are correct, but they are not telling you the entire story, one which is begging to be told of high corruption in El Paso. I have a number of agents who need whistleblower protection in order to do their duty and report to Congress as they have me do on their behalf for oversight as this involves our national security. This administration has placed a gag order on them and prevented them from doing their duty, and they have received no help when filing complaints with their local elected representatives.

Consider that at the Office of Border Patrol the impact of the mass retirements of Chief Patrol Agents including Paul Blocker of Miami, Darryl Griffen of San Diego, Carl McClafferty of El Centro, Mike Nicely of Tucson, Lynne Underdown of McAllen/Rio Grande Valley, and the National Deputy Chief of the Border Patrol Kevin Stevens. In Griffen's case, his is an early retirement well before his mandatory 57. This is not an accident that so many are choosing to retire right now. Operationally speaking, this means that the entire southern border will not have a sector chief with experience of two years in any sector. The chief of Yuma Sector will be the closest with nearly two years, while the El Paso Chief is being re-detailed to Tucson after 1° years. In the professional opinion of many of my friends and sources of active-duty and retired agents, this is not an accident or mere coincidence. Many other senior managers over the past two years also chose early retirement rather than hanging on until they reached mandatory 57.

In the Border Patrol, agents used to think of the names Newton & Azrak, which is an award given to agents and was named in honor of two agents murdered in cold blood in the line of duty.

Today all law enforcement officers along our borders think that no matter what they do, they (the agents) are wrong and the aliens will be protected regardless of the crime, and this has directly impacted not only our national security, but the morale of each agent in federal law enforcement along our borders. Even more alarming is that our own Border Patrol will hang agents out to dry as happened to Compean and Ramos. Agents fear becoming the next Compean & Ramos, the first agents to go to prison for doing their job.

Take the stream of reports from agents who report that younger, less experienced agents ask what they are supposed to do if someone pulls a firearm on them, "do we wait for them to draw and shoot first?" Many a senior agent has responded "if you wait, the next think you'll know if that a bullet will be removed from your body at the morgue."

I myself have not been able to escape this as I, too was contacted by an agent, my sources referred to as a managerial "monkey boy" though I cannot discuss it further in open session after consulting with sources and friends in law enforcement, who instructed me to treat it as a threat, and bribe attempt. I will provide this information in closed session due to continued security concerns.

Agents feel they are not backed by many here in Washington who like the administration appear to be more interested in race, and commerce, while paying lip service to the agents and their real needs.

What are their needs you ask? That is what I am here to say on their behalf, they want genuine support, and you to hold their managers and this administration accountable. They want Congress, Democrats and Republicans alike to put the partisanship aside and support them. Defend them from corruption, conduct open hearings, subpoena witnesses, and demand the truth. Appoint an independent counsel and give the counsel prosecutorial powers so we can finally get to the bottom of this whole mess. This is administration is up to their eyeballs in their involvement and cannot be trusted to conduct a proper, let alone independent review of any of the cases mentioned above. This is the job of Congress to provide and maintain oversight on this out of control administration.

Agents and officers from a wide array of agencies have informed me that they are more afraid of our own government, the crocodiles behind them, then they are of the dangerous criminals in front of them as they can easily see the regular bad guys, unlike the hidden one's that wear the disguise of a uniform similar to their own. It is only a matter of time before our government gets our own agents killed, and in order to prevent that, I'd just as soon see DHS disbanded. But you can overhaul this disaster today and prevent further heartache for agents and their families, such as what has been experienced by agents such as Compean and Ramos.

Madame Chairman, I thank you for the opportunity to appear as a witness today and look forward to not only answering the questions of you and your fellow committee members, but also working with the committee in the future.

TECHNOLOGY, INFRASTRUCTURE AND THE HUMAN ELEMENT

Technology and Infrastructure—The Facts Undermining It

One of the biggest topics when it comes to the subjects of technology, and infrastructure is the money pit known as SBI, the highly touted contact awarded to Boeing last year for virtual technology on the border. Now don't get me wrong, Boeing knows how to build an aircraft and all that, but agents tell us that Boeing is providing the technology to identify where the illegal alien traffic is. However, we already know where they are. We're not able to slow them down enough to apprehend them or get to them for lack of border fences and roads. A camera and PDA in an agent's hand is worth nothing if we can't get to them to apprehend them.

Over two billion dollars is being spent on a program that provides no benefit to the taxpayer. It does not deter or apprehend. It only identified where they are crossing. We already know where they cross and how to cut sign.

That same money that is being spent could be better used for a reasonable amount of appropriate border infrastructure of multiple types of fences, lights, cameras, roads, ground-radar, and the appropriate balance of agents. Through this method will come Chief Aguilar's long-established goal of bringing balance, which is how you can control our borders. You cannot have one individual component or part, without the others.

For months there have been rumors of competition and analysis for different types of border fencing and roads. As of yet, nothing has been looked at by DHS or Boeing. Contract awards have been given to vendors and the vendors that have been excluded could provide the same product for 30% less.

Also, the current vendor, one of the reasons they are providing their service so cheaply is that they are using materials purchased from the People's Republic of China, and Taiwan. Currently, one of the vendors is looking into a purchase of material manufactured in Mexico. The disturbing principle here is we are using foreign manufactured materials for infrastructure that is for national security. Both may be legally correct, but is this the intention of the Congress? What does this say to the sovereignty and national security of our nation by this administration? Is our security and sovereignty for sale to the lowest bidder?

The Border Patrol and DHS plan, re-plan, and continue to re-plan when it comes to infrastructure but the fact is, that's all they do is plan. Nothing is every implemented. In each sector are comprehensive enforcement plans that are responsible, effective, and within a reasonable budget to provide security along our borders. Oftentimes these plans are trumped by high level bureaucrats that have no idea what it takes to secure a border, but because of partisan politics nix everything. Some only seek to serve the temporary masters elected every four years to the Executive Branch. Their achieved goal is to stay employed and do not do anything that may jeopardize their standing with a future administration. These are the career bureaucrats who have long been in business to be in business and just want to collect a paycheck. How grand would it be if these employees could provide the truth and provide the security that this nation so sorely needs?

The greatest problem is that the federal government refuses to work with the local border communities, officers, and residents, and solely rely on corporate America to provide an unqualified answer at huge, exorbitant cost with minimal benefit to the public.

The Project that worked by Aguilar rejected—Project Athena

Madame Chairman I would also like to address an item known in the Border Patrol as Project Athena, developed by the Raytheon Corporation. In Project Athena, the Border Patrol has proven that they can monitor shipping traffic as it approached the U.S. coastline, and along our international waterways. The cost was minimal compared to other systems currently being utilized such as "remote video surveillance" (RVS) cameras and other items that have provided a virtual wall that has been proven to be a bottomless, and ineffective money-pit. I can use the name Project Athena, as it is in the public domain and can be looked up on the internet. The operational names I learned that Project Athena has been called in USBP testing are Operation Lake View and Gulf View. Chief Aguilar would be a better respondent, as I am certain that he has been properly debriefed.

Local Border Patrol Sector Chiefs requested to Chief Aguilar and Headquarters Office of Border Patrol that "Project Athena" or subsequent generations of similar capabilities be funded and provided to meet the goal of secure our coastlines, lakes and waterways.

This program, which can monitor maritime traffic up to 95–100% capability, including the unexpected result of low-flying aircraft will not be implemented. Clearly our having such technology available, but not implemented though the testing ran one and one half years ago is definitive proof that DHS and HQ–OBP under Chief

Aguilar lack the intent regardless of the requests by local Sectors for those very needed items that ensure their mission, and are leaving us vulnerable. Instead they continue to tell Congress that everything is fine, and improving when I am demonstrating in the words of the front line agents the facts in their own words and as we have investigated.

Facts about RVS Cameras and Tunnel Detection, what Congress and the public aren't being told

Friends of the Border Patrol has developed and offered technology that we call FREEDOM (Free Electronic Domestic Observation and Monitoring) border surveillance cameras. We have also developed tunnel detection equipment. We have provided a few facts for committee members to review. We would be happy to provide our paper on the FREEDOM Camera System to committee members upon request.

I personally have discussed our technology at all levels of SDC Sector and was informed that our technology was superior to anything that they had, including their own security cameras. To me this states the obvious, regardless of their dire need in an "attempt" to gain operational control of the border, OBP headquarters, and the Bush Administration will continue to talk about, not provide what's needed in the field to improve their chances, and will continue to pay lip-service by blatantly lying to the public about our improving border in-security, while the clock continues to tick on our lives. In addition, insiders who are retired managers within the Border Patrol, or people associated or related to them will continue to gain contracts, some of which are to provide technology already acknowledged in DHS testimony as ineffective. These facts that I have presented here are beyond any shred of doubt. Period.

When describing the fiscal, managerial and national security catastrophe—which is DHS—it is sometimes good to use local examples. It's good to be able to talk about things right outside this room's door rather than in abstruse, ethereal, and abstract concepts.

The Border Patrol has just installed its latest and most modern technological wonders right along San Diego's border with Mexico. These new Monuments to Border Security are to assist in illegal alien detection and apprehension

This technology consists of tall poles topped with video cameras. Most of these poles are mounted within the very narrow "no man's land" between the primary and secondary border fences separating our two "Great Nations."

Installed at immense cost (present real-dollar estimates are $800,000 per camera pole), these cameras offer the Border Patrol technology not seen since about 1986. Total cost since implementation are at $429 million since 1997, and the cameras take 20 months to install according to testimony by DHS Inspector General Richard Skinner presented to a Congressional Homeland Security Subcommittee last December 16, 2005.

Twenty year old technology might seem anachronistic in a world of Burt Rutan and actual space ports being built across our Midwest, but to the Border Patrol it is still better than what they had before which was nothing.

The problem is that these cameras look at the border just as you would if you were peering through a toilet paper tube. You can look to the east through that toilet paper tube and you can look west through that toilet paper tube but God help you if while you are looking one place as there's a stampede north just a few feet from where you are looking because you won't see it.

But it gets worse.

Half of their new cameras are touted as "night vision" cameras. The problem with them is that many nights you can't see anything. Further, it is child's play to blind them even permanently. It would be a breach of National Security to say what happens naturally or what can be done purposely to make these incredibly expensive cameras worthless, so I won't except in closed session. I know you'd be overwhelmed by how simple it is.

What these people really need are "staring eye" cameras taking in wide swaths of the border all at one time and then other cameras that can even get mug shots of the border perpetrators.

Further, the cameras should not be mounted right along the border but *north* of it so that a wide swath of border can be viewed all at one time and so border crossers aren't just flickering points of light flittering across the camera field but instead are to the cameras like the US Marine Corp Band marching in lock step in the Rose Parade.

If you mount the cameras on the border you see crossers usually for not more than 30 seconds and that is only if you happen to have your toilet paper tube looking at them at the very moment they decide to cross.

If you mount the cameras north of the border then you can watch them even for 30 minutes as they trudge north; with or without their musical instruments.

Lastly, we have a truly serious threat to our national security that is being purposely ignored. That threat is border tunnels. It would be the height of stupidity to believe that campesinos are digging tunnels even 80 feet below ground and 2,500 ft long just so that they can go pick strawberries in Fresno, make a right turn on I–40 (where San Diego based Border Patrol agents have been beached for running traffic operations) and go cut meat in Kansas City, or pick tomatoes in Florida.

The people and things crossing through those tunnels are the most dangerous and violent possible.

A 2,500 ft long tunnel is not fantasy. Such a tunnel was handed to the Border Patrol on a phoned in tip.

That tunnel took the removal of about 300 full sized dump trucks of earth or about 2,000 pickup truck loads. Technology of even 1972 would have detected the change in seismic activity south of the border as those trucks of dirt were hauled away.

That simple hardware exists to find such tunnels is—by now you should know it's all true already available. But instead of funding people who will do something, the organization tasked with a solution—JTF-6 (now known as JTF-North)—only have jobs so long as they seek an answer rather than actually solving the problem. So nothing is actually accomplished because if it was. . . then they would be out of a job.

Of course, the politicians launch themselves into the fray with inane legislation telling us that now all will be well. Gloriously, California Senators Diane Feinstein and Barbara Boxer have actually made it illegal to dig a tunnel into the USA. Now, we all are safe.

Please notice that they have no interest or intention to actually stop the tunnels, they just added another few years to the life sentence the perpetrators will already be facing for drug smuggling, WMD smuggling, and terrorist smuggling.

It took a local 12-year old child to demonstrate a working tunnel detection system. Yes, he did it in San Diego. While certainly the child is some kind of little genius, the fact is that anyone can do a Google search on tunnel detection and discover that 20 years ago the US Army proved a simple and effective technology to find tunnels. All that kid did was implement what the US Army already proved works a decade before he was even born. I have attached the Aberdeen Proving Ground research document for you and a video of the child and his tunnel detector.

The child's technology was covered by the major news outlets. The day after the news event that 2,500 ft tunnel was reported to the DEA. Somebody should understand that while DHS might not think what the kid has works.. there's a good chance that the drug cartels do:

http://www.kfmb.com/features/crimefighters/story.php?id=35277

The Human Element within the U.S. Border Patrol

The latest method used to maintain silence among former Border Patrol managers is the annuities plan, which brings back retired managers and supervisors with a ridiculously high paycheck to bring them back into the fold and be used as hush money to keep these former employees from telling the truth. This was the very reason these employees left the agency in the first place, so they could tell the truth and not have to lie anymore.

Last year David V. Aguilar, Chief of the Border Patrol claimed we did not have Mexican Military incursions, other than by accident or impersonators (testimony before then-Chairman McCall's Homeland Security Subcommittee on Investigations), and that the Southwestern border is secure. But that was a blatant falsehood and this is well known within the Border Patrol. Otherwise, how does one explain Mexican Military incursion cards when they continue to be provided to agents in Tucson Sector, the very sector that Mr. Aguilar was the Chief Patrol Agent of, prior to ascending to his current appointment as national chief? We must keep in mind, that if we cannot admit to the Mexican Military incursions, though we provide agents instructions in the event of an incursion, and we cannot prevent millions of illegal aliens consisting of Mexicans, and OTMs (or Other Than Mexican), I guarantee we cannot prevent Special Interest Aliens, which potentially include terrorists who have obtained IDs and are portraying themselves as Mexican or other aliens from Latin American nations.

Last year, I received a copy of an Officer Safety Report released to some Border Patrol agents by the Department of Homeland Security, based on FBI reports, dated December 21, 2005, warning "Unidentified Mexican Alien Smugglers Plan To Hire MS–13 (Gang) Members To Kill U.S. Border Patrol Agents. However, many Border Patrol agents and other law enforcement agencies were unaware of the existence of the document.

That Officer Safety Report follows a card issued for several years by the Tucson Sector that addressed Military Incursions. It states: Remember ***S.A.L.U.T.E.*** This is based on the long-used Army border policy of the same name and intention. On this double-sided card, the following is stated:

Immediately *communicate* the following:

Size of the unit (Number of personnel)
Activity
Location and direction of travel
Unit (Identify if possible)
Time (If reporting an earlier encounter)
Equipment of the personnel

The other side states:

REMEMBER:

Mexican Military are trained to *escape, evade,* and *counter-ambush* if it will effect their escape.

- Secure detainees and pat down immediately.
- Separate leaders from the group.
- Remove all personnel from proximity of the border.
- Once scene is secure, search for documents.

Additional Tips:

- Keep a low profile
- Use cover and concealment
- Don't move excessively or abruptly.
- Use shadows and camouflage to conceal yourself.
- Stay as quiet as possible but communicate!
- Hiding near landmarks is easier to locate.

Avoid it!

So clearly the Border Patrol has identified that the Mexican Military will counter-ambush our agents and citizens, and that violent MS–13 gang members, drug cartels, and zetas that have been recruited to move the drugs and engage Border Patrol agents.

I would be remiss if I did not bring to your attention the following information, which numerous sources have provided during the course of our investigation.

We cannot get a straight answer when it comes to how many Special Interest Aliens have been apprehended by CBP or ICE, other than a standard response of "Pending Investigation" Yet, the Border Patrol knows how many teddy bears it gives away, how many cheese crackers it has in reserve (I would bet down to the individual cracker), diapers, etc., so the fact that it keeps absolutely no statistics on the people caught from terrorist countries as a mere accident defies all credibility. Obviously, the BP does not keep these statistics as a matter of policy and the reason is pretty transparent. Let me also add that the media has attempted to gain those very figures as well as the dispositions of apprehensions of SIAs that they learn about through sources. However, those results are seldom, if ever released, so the public has no way to learn if there is any information beyond what has been reported by sources.

Madame Chairman, here are some facts about a few Border Patrol Sectors from well-placed sources who asked me to present this information to the committee today on their behalf. The reason that those sources are unable to do so themselves would be to place their careers at risk for retribution by Border Patrol and DHS managers at Headquarters in Washington, DC. The reason for their' fears is well established and acknowledged as the Compean—Ramos case has demonstrated beyond all reasonable doubt.

The Congress and the American public have been completely misled by Border Patrol's managers at Headquarters in DC. The northern border is nowhere near secure though Chief of the Border Patrol David Aguilar would inform you otherwise. Chief Aguilar was quoted in several newspapers, both Canadian and U.S. that "measures have been taken to bolster agent strength in the affected areas to include overtime payments." According to my sources, the statement by Mr. Aguilar was inaccurate and never happened. There was no high alert, no overtime and no additional bodies. It is nothing but business as usual, and the policy of misinformation regardless of national security.

As a matter of fact, several networks, both cable and broadcast, stated that there are 1,000 agents on the Northern Border. Wrong again. No detailers, nada. One Sector on the northern border has not received agent attrition replacements in about 2 years now. This same sector is currently authorized at 147 agents and, because of details (mandated), sick leave, maternity leave, rubber gun squad, etc. etc. This sector last I heard was at an actual strength of just over 100. Though, as I understand it, this sector has been traditionally ignored for agent and support personnel

staffing. If you want to put this in percentage terms, this sector's personnel, agent-wise is down 31%.

Let me add that at one particular station in this sector bordered by water, they are lucky to have two agents on during a 24-hour period. It takes two agents to run a boat. Previously, they have had a total of 5 agents, with 8 vacancies, obviously not enough to monitor boat traffic. Keep in mind that the Canadian City of Toronto was named last year as a possible terrorist target and is on the other side of that very station's area of responsibility.

According to sources, Chief Aguilar, and retired Deputy National Chiefs Barker and Stevens were personally and repeatedly warned about potential threats, and ignored such information. Of course that would not be the first time HQ–OBP has ignored intel requests, or that the chief's office remained silent on challenges to his inaccurate public statements. This type of action is not unprecedented when one recalls that one year ago, DHS Secretary Michael Chertoff stated that reports on Mexican Military incursions were being overblown. However, I know of other incidents including one that took place on Saturday, July 1, 2006 at 13:10 hours, according to a civilian source in Tucson Sector. This incursion included a drug load.

In 2004, I personally challenged a statement Chief Aguilar made to The Daily Sentinel on August 31, 2004, regarding border security, in which he declared the southwest border to be secure. His statement was countered by numerous sources including Michael Shelby, U.S. Attorney from the Southern District of Texas.

Additionally, in a Washington Times article published October 13, 2004, entitled *"Chechen terrorists probed"* The article stated,"U.S. security officials are investigating a recent intelligence report that a group of 25 Chechen terrorists illegally entered the United States from Mexico in July. . . . Members of the group, said to be wearing backpacks, secretly traveled to northern Mexico and crossed into a mountainous part of Arizona that is difficult for U.S. border security agents to monitor, said officials speaking on the condition of anonymity."

In fact, the Border Patrol Sector Chiefs have also been informed that they would receive additional agents to fill their numerous vacancies and technology holes. I understand that the agents and technology often mentioned is to be used to implement a "virtual wall" would be provided by Secure Border Initiative funding. It is our opinion that this is yet another empty promise, or if you will, "fool's gold" to those sector chiefs, and I look forward to elaborating on why RVS Camera Systems and Tunnel Detection are ineffective during this hearing, leaving our nation wide-open, and also why we will not get those boots on the ground promised by the administration and DHS.

They know as we do how the 30:1 ratio it takes to come up with one recruit for the Border Patrol, screening process, academy capacity, which is grossly inadequate, and difficulties of graduating due to the Spanish language requirement, and the ten-month exam that takes place after the academy. They also know the actual attrition rate. The reports of the high numbers of agents throughout the service seeking employment opportunities elsewhere are not just rumors but are fact. Even more so today due to the well-publicized Compean & Ramos case as well as the others.

In fact, I'd be remiss if I did not share that each time I speak with an agent, Border Patrol and otherwise, they inform me of their concern and outright fear as a result of these convictions. I know the Border Patrol, and over the past few years, the highest complement an agent gives is that they'd take a bullet for this agent or that agent. Today, that esprit de corps has been replaced with fear and mistrust and everyone looking out for them selves. The Border Patrol is filled with stories of tradition but that is the old and honored "Legacy INS Patrol" not the new patrol of today.

Many BP Agents deserve an opportunity to tell their facts, and expose the truth, which is how DHS has ordered agents to stand down, and not report all the facts in order to prevent Congress from learning the truth. Outside of an extremely limited few, Border Patrol Agents' voices have been silenced. All statements provided, and Congressional tours are pre-scripted and approved by Mr. Aguilar's office, as he is the ultimate micro-manager. Any Sector Chief you speak with, including my friend my friends in management know as I do that they have to answer to Mr. Aguilar, as he is the top agent in the chain of command. I am certain you would hear the reality if they were authorized to provide it, on their own without retribution from Mr. Aguilar. Yet, the fact is, under regulations implemented in 2004 by the Department of Homeland Security, you will never get anything that strays from the official approved script. That is why it is important you have witnesses who do not have to worry about being retired by DHS or detailed from what is considered a good managerial detail to an outpost such as Ramey.

If you do not believe the extent of the mistrust of many law enforcement agencies with the federal government and the Border Patrol, then you must not be paying

attention to what many border sheriffs have been stating for months. Like me, they're not doing it for publicity or electoral reasons, they are telling the truth and standing by it because they are concerned about our nation's being compromised and vulnerable to terrorists entering our borders. In March 2006, I witnessed an incident that took place in El Paso Texas during a break between meetings of the Border Sheriffs Coalition and Border Patrol. It defines the mistrust many have with the Border Patrol, and the administration.

Madame Chairman, if we are to discuss vulnerability along our borders, we must not forget the clearly forgotten Ramey Border Patrol Sector, located at Aquadilla, Puerto Rico. As badly undermanned as the northern border is, our greatest strategic weakness is Ramey due to its strategic proximity in the Caribbean Sea near Venezuela, Columbia, and Cuba. Here I must thank Congressman Ted Poe who immediately took action and took DHS to task when I first informed him about Ramey and what agents there confront. While Ramey agents face a better situation today, we have a long road to go.

DHS has begun planning to increase manpower levels, which I cannot identify here, due to national security, but there mission will continue to be compromised as long as the agency is more concerned about appearance than it's mission of protecting the homeland as stated in the National Border Patrol Strategy. For the level of staffing being planned, it is illogical to call this a Border Patrol Sector, so that it will have increases in managerial staffing, when the same command structure can be achieved by detailing a Patrol Agent In-Charge (PAIC), and would be better served by attaching Ramey as a Border Patrol Station to the Miami Sector. This action would save money for Ramey consists of one solitary station, not several unlike the other sectors. Furthermore, what a waste of taxpayer dollars to pay for these additional managers, while agents are still restricted from performing enforcement duty beyond Search and Rescue when agents are requested to literally "pick-up" illegal aliens attempting to incur by sea who land on Mona Island, and when their area of operation remains restricted to the northwest corner of Puerto Rico.

Last year the Inland Valley Daily Bulletin of Ontario, CA published a number of reports indicating the vulnerability of this strategic island, which has dealt with sea incursions using Yola boats for years. Their manpower level is so grossly understrength that it defies all logic. I understand that many of the agents want to leave the island for other duties or agencies, and regularly see their agents detailed to southwestern border sectors or the academy, without being replaced.

Yet, the irony is that they have nearly as many managers as agents. Their manpower is so under strength that they are limited to one corner of the island, and has to completely eliminate one shift for lack of available personnel. One thing agents have reported is that OTMs, or Other Than Mexican illegal aliens actually self-report with their flight tickets already in their possession for CONUS (Continental U.S.) destinations as the word is out in the region that after receiving their documents requesting a return for court appearance they will be free to leave the island for other destinations. For the record, the USBP agents do not have access to San Juan, where illegal aliens, which could include Special Interest Aliens, acquire phony identification documents. That is ICE-turf.

It's obvious that while countless agents have their complaints about "Legacy INS, the current state of the Border Patrol is in dire need of the Congress to engage in an immediate overhaul without delay.

On the northern border, numerous sources have reported that ICE regularly requests Border Patrol assistance, as they do not have the manpower or resources to apprehend or detain on their own. It is to the degree that the Border Patrol is often requested to provide transport for illegal aliens detained, and that the Border Patrol can provide agents depending on availability due to operations and on a priority level.

Madame Chairman, it is well documented as to the level of compliance by Border Patrol managers in Washington, DC with the policies and requests by the Mexican Government. Consider the parrot-like statements of our own government when it comes to Mexico. For anything and everything, Mexico provides a declaratory conclusion to a matter before even convening more than a surface investigation followed by concurrence by our own government. After that, come the so-called investigation and more discrediting info.

Consider that Tucson Sector agents represented by Local 2544 of the National Border Patrol Council has gone on record by posting on their website as to the level of access and control by the Mexican Government, which has placed agents along the southwestern border often in dangerous, compromised situations. Also, consider that Border Patrol Headquarters continues to deny that Mexican Military incursions regularly occur, and that Sector Chiefs provided information about civilian border observation locations to the Mexican Government though clearly lacking Congres-

sional authority, and clearly exceeding the Vienna Convention Treaty. While the Border Patrol denied the Inland Valley Daily Bulletin's published report, and attempted to discredit reporter Sara Carter after Agent Mario Martinez, their PIO who responded to her inquiry, after he initially admitted that such info was shared.

I met with a Border Patrol Sector Chief Patrol Agent one year ago who took responsibility, and apologized for the disclosure of a property our organization used as a base-camp for border observations last summer as he understood my outrage, that our "secret" location I had personally provided to law enforcement, was provided to the Mexican Government. My meetings with a number of Chief Patrol Agents have been the only ones between civilians and Border Patrol managers to my knowledge. However, the Mexican Government and DHS have both expended great energy in attempting to discredit the news coverage in their denials and by stating that such locations were self-provided on websites, which was not the case of our location, including lying in numerous written responses to Congress and news interviews before the nation.

It is interesting to note that Chief Patrol Agent Darryl Griffen of the San Diego Border Patrol Sector, a person that I consider to be a personal friend, was the sole chief patrol agent mentioned on their website though I understand several sectors provided similar information about activities and locations of lawful civilian border observations to Mexico. The Mexican Government endangered U.S. citizens by publishing such information on their website where drug cartels, their enforcers, military personnel, and violent gangs could have gathered such intel and plotted to harm, or even murder concerned citizens, including me. Yet, not one Congressional hearing has been conducted by any committee of either the House or Senate to look into that serious issue.

The Mexican Government also attempted to undermine the chief personally by solely publishing his name and no others, as he has been quite proactive in the fight to secure our portion of the border and quite creative. I am certain that by damaging his name and reputation, they felt Congress would have seen him removed or reassigned. To me, this action demonstrates the level of cooperation by the Border Patrol managers at HQ, which undermines their very mission to secure America's borders; especially considering that the Mexican Government is long identified by its corruption.

When did the Congress relinquish authorization or control of the Border Patrol to Mexico City? Is this why Grupo Beta, previously an effective Mexican agency, was reduced to less than security guards, as they have been replaced by our own taxpayer financed Border Patrol? These are questions that must be answered before we even think to consider reconciling bills. Consider that I've scarcely even mentioned the failure known as ICE, a completely ineffective agency that should be absorbed into the Border Patrol, or Customs whose managers believe the best way to secure the border is by securing the ports of entry, which has been the mentality of CBP while leaving the borders wide open to incursion by violent terrorists, smugglers, and Mexican Military personnel.

Madame Chairman, it is outrageous that there is such coordination and cooperation, lest any of us forget about the maps and comic books they provide to illegal aliens, which include terrorists. Perhaps the Members are unaware but the State Department provided the funding for our Border Patrol to train personnel of Grupo Beta and other Mexican Government entities along their southern border such as sign-tracking and other tactics used by the patrol. With Mexico's record, how can this government continue to see them as a partner, when they have done absolutely nothing to prevent terrorism?

Madame Chairman, I would be completely remiss if I did not mention to the committee today that such behavior by the Mexican Government would not be unprecedented as border residents for years have been terrorized for years by violent gangs, bandits, drug cartels, smugglers, local Mexican law enforcement officials and even personnel of the Mexican Military who assist with smuggling operations.

Allow me to share a couple of stories with you today about local border residents, who are our fellow U.S., citizens. Victoria Hope lived in San Diego's East County region. She did what many of us do for our neighbors. She was looking after her neighbor's property while her neighbors were away. When you live in the border region, it is imperative that you work with your neighbors as livestock gets out, or bandits and smugglers often trespass your property, which endangers one's family and neighbors. Mrs. Hope was viciously murdered by illegal aliens who, as if this heinous crime was not nearly enough, these same individuals stole her car.

Madame Chairman, my friends who live along the border and face this form of terrorism 24/7 have long concluded that due to the presence of the organized crime cartels and gangs who orchestrate the majority of the smuggling of drugs, people and contraband here in San Diego, that they do not believe that such individuals

would hesitate to smuggle items that would be used to cause harm to America and her citizens—especially if the price was right. A concern that many law enforcement agencies concur with, as do we.

However, this is not an isolated story. Over the past two years, I have met with and earned the trust, support, and friendship of many San Diego border area residents, which is not given, but earned. They have dealt with wrong-way drivers of load vehicles, which involve narcotic, or human smuggling loads, sometimes both. The load drivers when spotted, or they think they've been spotted by law enforcement officers including Border Patrol agents cross to the wrong side of the road. This practice utilized to evade and escape Border Patrol agents, CHP officers, and Deputy Sheriffs happens often along the border. This is yet another type of terrorism our fellow citizens face. Imagine the day that the load vehicle hits a busload of school children on the way to or from school. Deaths have occurred as a result of wrong-way drivers and it is completely avoidable if we secure our borders and protect our citizens.

That's a critical point we hope everyone here today considers. Terrorism is not limited to people that are members of violent terrorist organizations with bombs, sniper rifles, or detonators. Terrorism includes those very types of groups and individuals I mentioned above that have not been dealt with for far too long. We have no business calling groups gangs when they bring chaos, mayhem, violence, mayhem, and murder to our cities, neighborhoods, parks, and schools. It is pure and simple, they are terrorists, too, and must also be broken up and brought to justice for those are the most obvious people to recruit here within our own nation and entering our Swiss-cheese borders. Or does calling people that are terrorizing and murdering our fellow citizens terrorists not happen because of the propaganda that the War on Terror is in Iraq and Afghanistan and does not include our own borders?

That is something that this committee and the House of Representatives must recognize as fact, publicly acknowledge. The supporters of open borders in the House and Senate as well as the Bush Administration know this, which is why we are inundated with fancy slogans or politically correct terminology, the dog and pony press events, and the smoke and mirrors about willing workers doing jobs Americans won't, which continues to exclude Americans being displaced from the labor force. By campaigning in such a way, this is why our borders remain vulnerable and why we get such absurd proposals from Washington. It is why many people within the Border Patrol and other agencies felt it imperative that I appear as a witness, to discuss these items publicly that are being hidden from the Congress and public.

Far too many people today are in this nation, and we do not know who they are, or their backgrounds, and Mexico will never cooperate with U.S. law enforcement requests, though they'll make every demand on us to adhere to their demands though they continue to plan protests, monitor civilians and public figures alike, and undermine our sovereignty.

This happens because our government does not tell the Mexican Government to back off, and mind their' own store. Instead, our government parrots their lies, endangers law enforcement officers and civilians alike, and allows such behavior to continue, which I consider to be open espionage against the United States.

My active duty sources in the Border Patrol have risked their careers and futures in order to provide me the truth, which I, in turn, have forwarded to Congressional leaders, and shared with other law enforcement agencies or Members of Congress. Each of them deserves an opportunity to tell their facts, and expose the truth, which is how this administration through DHS has ordered agents to stand down, and even lie in order to prevent Congress from learning the truth. But their voices, outside of a handful others are being squelched as this administration and Chief Aguilar rules his fiefdom with an iron fist. All statements and tours Members take are pre-scripted and approved by his office. He is the ultimate micro-manager. Any Sector Chief you speak with, including my friend Chief Griffen knows as I do that he has to answer to Mr. Aguilar, as he is the top agent in the chain of command. I am certain you would hear the reality if they were authorized to provide it, on their own without retribution from Mr. Aguilar. Yet, the fact is, under the new rules and regulations implemented since 2004 by the Department of Homeland In-Security, you will never get anything that strays from the official approved script. That is why it is important you have witnesses who do not have to worry about being retired by DHS or detailed from what is considered a good managerial detail to an outpost such as Ramey.

Border Patrol agents want to provide info to Congress but cannot make themselves vulnerable to what our sources and many news outlets have reported as the "culture of corruption" at HQ–OBP that has led to such fear and retribution within the agency. As a result, the Mexican Government continues to undermine our nation, and people, while assisting terrorists. This is how the Chief of the Border Pa-

trol continues to put his agents at risk, because nobody under his command trusts our Congress to fight for them so they can step forward and tell the truth, beyond citizens such as myself who have earned their trust and the trust of key leaders here within the Congress knowing that we will present the truth on their behalf to Congress. I don't represent a corporation or think-tank. I represent real law enforcement agents and officers who cannot speak for themselves.

In 2005, agents were pleased that civilians took action and went to the borders to see what was happening themselves. It is a shame that we have to depend on civilians staging publicity stunts to take cameras out to the desert under horrible conditions in the hopes that something will happen in front of the news media so that the truth gets out.

As I was informed during meetings along the northern border, it is a shame that civilians have to provide technology that DHS can easily provide for themselves, but refuse to do. But someone has to do it, and this particular official as well as numerous others were pleased that someone was willing to step forward and do so. Instead we are reduced to watching the continuation of the sham being perpetrated by our own government who each day looks more like a two-bit dictatorship, as they constantly mislead and hide the truth from our citizens.

If you do not believe the extent of the mistrust that many law enforcement agencies with the federal government and the Border Patrol, then you must not be paying attention to what many border sheriffs have been stating for a couple of years now. Like me, they're not doing it for publicity or electoral reasons, they are telling the truth and standing by it because they are concerned about our nation's being compromised and vulnerable to terrorists entering our borders.

I encourage the Members to review an interview I did with the New American Magazine published in May 2006 in which I discussed an incident that took place in El Paso Texas during a break between meetings of the Border Sheriffs Coalition and Border Patrol. It underscores and exemplifies the mistrust many have with the Border Patrol. Sheriff Arvin West and others can tell volumes of stories about this problem.

Until Congress steps up to the plate and fixes by overhauling DHS, CBP, ICE, CIS and the Border Patrol, the invasion of our nation will continue without anyone to stop it. As a result the quality of life of our fellow Americans residing along the borders will continue to deteriorate as will the threat against our lives throughout the nation for if we ignore terrorists, how long will it take for the next 9-11, and as everyone knows, our nation's leaders were targets of that tragic days attack, including the Pentagon, World Trade Center, and even you, our nation's leaders in Washington, D.C. For the fact remains, the only effective agency remaining in the Department of Homeland Security is the very one responsible for the protection of the President and Vice President of the United States, while the rest of us depend on the agents and officers being outgunned and out-manned on our borders and in our cities.

THE IMPACT ON AMERICA'S AGENTS—IN THEIR OWN WORDS

Here is a statement taken from the National Border Patrol Council's Local 2544 website. This local represents agents in the Tucson Sector.

"After the recent shooting incident in Naco, managers and investigators ***failed to separate the witnesses,*** and allowed them to "get their stories straight" before speaking to the Mexican Consulate. "Investigation 10" mandates that you immediately separate ALL witnesses so that they can't conspire. You transport them separately. Then, if separated witnesses give wildly diverse stories about what happened you know that someone is not being truthful. In this case, ***the Mexican Consulate's star witnesses are all related to the alleged "victim".*** Further, while management claims they have completed a "thorough investigation" into the matter of the Mexican Consulate improperly gaining access to witnesses prior to anyone from law enforcement, ***they inexplicably failed to speak with either of the rank-and-file agents present that day.*** The only people they interviewed that we're aware of are managers. Again, "investigation 101" mandates that you speak with all available witnesses, not just those who are likely to support your preferred version of events. A short written statement from the agents is insufficient in this case. Other questions have arisen since the agents originally submitted their statements. Those questions require clarification. This isn't brain surgery. Isn't it ironic that if management is trying to pin something on an agent, they start with ordering the agent and any witnesses to write memoranda, then ask for more information, followed by exhaustive "interviews". If they're trying to exonerate a manager, they suddenly don't need anything other than the original short written statements to complete their "thorough" investigation. No follow-up necessary."

From a retired Border Patrol manager. . .

I still get sick thinking about what those idiots in DC have done to the outfit. The BP is just a bad dream to me. **(Name redacted)** is one of them, I had serious problems with a Chief, brought it to his attention and he ignored me, along with **(Name redacted).**

Seriously, I still get sick thinking about the outfit, can't believe how Aguilar mentally controls the field leaders..I have no respect for them either...they do not have b***s anymore.

Why doesn't anyone complain? Maybe I just have (had) a bad attitude because I couldn't see the big picture.

Also, from another anonymous Border Patrol agent:

> *Maybe the people out there do care? They may not care to hear about border security, but their response to the two jailed agents makes me feel good for once! The Border Patrol leaders didn't support the agents and wonder why they can't recruit enough agents? This coverage will not help recruit quality agents, it will help recruit the wrong people (ie racists and wackos).*

Yeah the agents didn't report the shooting, but shootings are so common and the reporting SOP is so overwhelming that if we reported every shooting, you would be in the office most of your career just typing. The guys in the field are learning from the best, the leaders in HQ, hell they hire their buddies without any shame. No more job competition within EEO guidelines anymore. They just do what they want. . .and the arrogance is spilling down to the field. From yet another anonymous Border Patrol agent. . .

Not only is everything we do wrong, right or wrong is determined by inconsistency. What's wrong for one manager or sup is right with the next one that comes along moments later. If I had it to do over, I'd have stayed a policeman for less money then go through the BS that I do here.

From an agent's spouse:

> *Screw up, move up. To get along, you have to go along.*

From an anonymous Customs agent:

> *My Senior manager at our Port of Entry tells me and my fellow agents, I'm proud to work for Mexico. How did this guy ever get to be a high-ranking agent if that's his belief? He does not allow us to perform secondary inspections at our port and tells us we are Customer Service, not Law Enforcement. The standing order is you will move everyone. You won't check everyone.*

Another agent points out the following:

They took away our ability to vet our own applications for the designated commuter lane, which now goes through Vermont, due to the level of corruption involved at our ports of entry. Dopers have been able to use the DCL, which is how we lost control of the vetting process in the first place.

From yet another agent:

Every doper tied to the Crawford witch-hunt case is a DCL applicant in El Paso. How does Crawford get convicted, yet these publicly identified dopers can get through the port while claim to be meeting my own boss for lunch?

From another agent:

As bad as the Ports of Entry in San Diego and Laredo are, the corruption is nowhere near as bad as it is here in El Paso. All a person has to do is say they're a Friend Of (Name redacted) and they get no inspection and are not stopped at all. We get yelled at for even talking to them and threatened with our job.

Yet, another agent:

We once had a student try to cross the bridge with explosives minus the detonator. Our managers told us to ignore it and let the person pass. We told El Paso PD as the City owns the bridge, and EPPD and the FBI showed up, took over the investigation and detonated the explosive on the bridge in place. Yah, real improvement in Homeland Security here.

From a final agent. . .

Incompetent and unqualified cronies of certain leaders run our Ports of Entry and the Border Patrol. They moved us to a different Department, got rid of everyone, and even got rid of the agency. The reality is we're still there, just wearing a different disguise.

Statement from Commissioner Bernie Kerik on U.S. v. Compean & Ramos Case

The criminal prosecution and harsh sentencing last year of two border patrol agents convicted of wounding an illegal immigrant trying to smuggle some 700 pounds of marijuana over the border has ignited a controversy that has people on both the right and left calling for an investigation. Well, let the investigation begin. And let's hope that it results in a presidential pardon for agents Ignacio Ramos and Jose Alonso Compean.

Yes, the actions of the agents after the shooting in failing to report the incident—the suspect ran over the Mexican border and kept running, and the agents' say they were unaware that he was hit—merit discipline. But the agents' initial actions of challenging the suspect and firing when then they thought they were about to come under fire themselves, does not warrant the 11 and 12 year sentences each received, respectively, at sentencing.

Why? Because they were doing their jobs protecting the security of this country. Consider the fact that since the attacks of 9/11 more than 6 million people have been stopped at the borders trying to enter the country illegally. Yes, most were likely entering to get work. But surely not all and certainly not the illegal immigrant involved in this case, who, by his own admission, was hired to run drugs over the border to a stash house.

If this drug runner was, instead, trying to smuggle explosives or a dirty bomb, would the two agents then be hailed as heroes? Yes, and probably presented with a presidential medal, because border security is a vital element in our continuing effort to keep America safe from terrorist attacks. Remember that the 19 hijackers of September 11th passed through U.S. border security checkpoints a total of 68 times, leaving and entering this country as they planned their murderous plot. Consider also, in testimony before the U.S. Senate in 2005, James Loy, deputy secretary of the Department of Homeland Security, stated; "several al-Qa'ida leaders believe operatives can pay their way into the country through Mexico and also believe illegal entry is more advantageous than legal entry for operational security reasons."

And one has to ask what kind of message this trial and conviction sends to the thousands of dedicated local and state police, and federal agents from the CIA, FBI and DHS who risk danger every day to ensure our safety. It's not as if the two agents prosecuted in this case have bad records. They are good agents with no disciplinary history. In fact, Agent Ramos was nominated for Border Patrol Agent of the year in 2005. Instead, he sits in jail while the illegal drug runner is suing the U.S. Government for millions.

Prior to their trial last March, the agents were each offered, and declined, a one-year plea deal. Had they accepted, they would be out of jail today with time served. But that is not the point, because although the plea carried less time, it was still recognition that their actions were criminal. And that is the real travesty here.

And now a new furor has erupted over the recent beating of Agent Ramos in prison at the hand of other inmates. Investigations are being requested, questions are being asked about the type of protection, or lack thereof, that was afforded this former federal agent in prison, and some are calling for the resignation of the warden of the federal facility in Mississippi .

Questions do need to be asked about the beating. But that should not cloud the real question that needs to be asked here. And that question is when will Agents Ramos and Compean be freed to return to their families and have their conviction wiped clean? Their only guilt is that of doing their job defending our country.

This injustice at the border needs to be righted.

BERNARD B. KERIK
40th Police Commissioner (Retired)
City of New York

FBP Calls for Independent Counsel to Investigate Pattern of Abuse by U.S. Attorney

Friends of the Border Patrol continues our call for the terminations of U.S. Attorney Johnny Sutton along with AUSAs Kanof, Gardes, Gonzales, and Gregory for their malicious prosecution of Border Patrol Agents Jose Compean and Ignacio Ramos. Also, for hiding key evidence from, and lying to, the American people, as well as harboring, aiding, and providing comfort to a known drug smuggler—Osbaldo Aldrete-Davila who illegally entered the U.S. from Mexico, assaulted Agent Compean, brandished a firearm towards two federal agents, resisted arrest, and transported narcotics across international boundaries on multiple occasions.

Additionally, we continue to call for the resignation of Judge Kathleen Cardone who did everything possible to aid the prosecution in this witch-hunt, including sealing evidence and testimony that clearly would have damaged the credibility of the government's case and their alleged "victim." Furthermore, when Aldrete-Davila withheld information though given immunity under the terms of his agreement the Court should have ordered him taken into custody immediately and charged for both narcotic incidents, while immediately ordering Agents Compean and Ramos released and terminating the trial.

It is clear that Judge Cardone abused her power to ensure the conviction of Agents Compean and Ramos. Her rulings before, during, and after the trial clearly identify this as demonstrated by not only the recently released transcripts, but also

continuing news coverage. This includes her Feb. 13, 2006 ruling that border violence, including military incursions, assaults, etc would be taken on a case by case basis further denying Agents Compean and Ramos of a fair and just trial, and instead chose to provide the type of justice found in the courtrooms of Mexico, and the former Soviet Union, while violating the civil rights of Agents Compean and Ramos who were not given a fair trial.

Furthermore, we continue our call for all sealed information, testimony, and documents including the October 2005 indictment against admitted narcotic trafficker Osbaldo Aldrete-Davila to be unsealed and publicly provided to the Congress and American people without redaction. This includes the testimony of BP Agent Nolan Blanchette as listed on Transcript 14 in the index.

We maintain our call for an independent counsel to be authorized with full prosecutorial powers to investigate this case and other similar cases in order to determine what other misconduct by the government has taken place and has led to innocent officers being imprisoned. This administration cannot be trusted to further manage, or review this case as they are tainted by the actions of their subordinates in multiple departments and agencies.

FBP's Recommendation to Congress

Madame Chairman, we have several recommendations to make to the Congress today, and these are but the beginning.

First, we call on the Congress to investigate and conduct full committee oversight hearings on the War On Law Enforcement perpetrated against our agents and officers by the administration starting with Compean and Ramos. The pattern of abuse is there and DOJ and DHS officials must be held accountable. Each case I mentioned in my testimony must be looked at as one case maybe, two well. . .but approaching 10 is more than a mere coincidence and demands oversight. When you cannot trust justice to get it right, and instead they repeatedly withhold evidence by sealing and preventing law enforcement from a fair and just trial, we become another two-bit 3rd world dictatorship in the worst traditions of the former Soviet Union, or what people originally left behind when they came to America.

Second, we call on this very committee to overhaul the Firearms and Pursuit Policies used by the Border Patrol so that the travesty that took place in the Compean & Ramos case will never happen again.

Third, that this committee bans the humiliation tactic known in the Border Patrol as the Rubber Gun Squad. It serves no purpose other than to get people in line and trains monkey boys and robots, as they are known in the patrol.

Fourth, don't just accept the pre-scripted guided tour approved by HQ–OBP, do what Congressman Steve King did and go out and see it for yourselves, or call me, and we'll give you a tour of Southern California so you can see it for yourself, just as Mr. Poe did.

There are many others, but I'll close on this critical point as this Congress plans on addressing so-called Comprehensive Immigration Reform.

Based on our information via numerous sources in law enforcement and from numerous citizens residing along our borders, the worst thing the Congress can do would be to compromise and assent to the Senate's amnesty bill. DHS would promptly certify that the border is under control. DHS is the fox guarding the henhouse considering agreements now in place, and the fact that Border Patrol Sector Chief Patrol Agents along the Mexican border overstepped Vienna Convention mandates for co-signers by providing the location of civilian border observations to the Mexican Government, though that's been justified in the name of a good neighbor policy, and by agreements not made public between the Department of Homeland Security and Mexico's Secretariat of Governance, which was signed on March 3, 2006.

Sources of ours report that DHS and CBP have been informing the public through the media that the Border Patrol has achieved "operational control" of the borders and that crossers had a "substantial probability of apprehension". If the House falls for this type of conditional provision, DHS will immediately certify that the border is secure, which ensures that amnesty can go ahead. DHS is, after all, run by the most incompetent group of handpicked bureaucrats our government has ever seen rise to such positions. We, at Friends of the Border Patrol, often refer to this as a FEMA syndrome. In one case, one such agency head is the most unqualified choice of them all whom could not even pronounce Nuevo Laredo at her first press conference. Of course she recommended herself to the president though numerous leaders were both qualified and available.

It is our position after investigating the insecurity of our nation and regular contact with our law enforcement sources that we are vulnerable to Mexican Military incursion, smugglers, drug cartels, and violent gangs. To be perfectly honest, the

only thing that DHS and the Border Patrol have excelled at is convincing America that the border is secured and they certainly wouldn't suddenly decide to tell the truth with so much at stake. Hopefully Congress recognizes what a con game this would be and declines any amnesty.

Ask Chief Patrol Agent Bill King (USBP retired), a mentor, friend and the sole living director who administered the previous amnesty of 1986. He and other friends including retired Agent Michael Cutler who worked the fraud squad for over 30 years will tell you it cannot work and would be an even greater failure than it was in 1986.

I respectfully will remind the committee that it is impossible to even talk about such things as amnesty/guest worker programs as no bill authored over the past few years addresses the greater problem.

I am declaring the Border Patrol to be a broken organization in dire need of an overhaul. This was an agency whose headquarters motto used to be "serving the field." Now you have over 200 personnel at HQ, when we need boots in the field. It is imperative that Congress overhauls the Border Patrol, remove the manager who rules by fear and you'll find countless witnesses who will appear before you and provide the facts, upon which you'll know the truth and begin to win the war on terror. Want to stop terrorists? Fix DHS and the USBP first and tell Mexico to fix their own house and stop exporting terrorists, criminals, and narcotics illegally across our borders while conducting espionage in our house.

The Bush Administration needs to cease and desist from providing an incentive for illegal aliens to come to America. They need to put the American worker first, not those whose nations of origin are responsible for providing for their own people. President Bush repeatedly speaks of "good hearted people doing jobs that Americans no longer do." Since when do Americans not work in construction, fast food, and other service industries? The fact remains that Americans do every last one of those jobs that are no longer being offered to Americans, and especially not at slave wages, which is also why so many employers have outsourced jobs to other parts of the planet. It's all about cheap labor, and profits, over American citizens, jobs, and public safety.

The American people are opposed to guest worker/amnesty and have made that point very clear though it's not needed as the Border Patrol are currently prohibited from interior enforcement operations under 2004's National Border Patrol Strategy and Memo of Understanding between Customs and Border Protection and ICE released to the agencies on November 16, 2004. It's time to put America and our security first, by restoring funding, cutting off the job magnet, and letting the agents enforce the laws. Elected officials from both parties primary job is to support and defend the Constitution, not undermine immigration laws as they have done, and continued to do.

This administration is noted for its slogans, so I've got one for them. How about calling this attempt to "reform immigration" by the Bush Administration what it really is, "No backroom deal with Mexico (or good hearted-doper reduced to trafficking drugs to help buy medicine for his poor sick mother)—left behind. . ."

Ms. SANCHEZ. Thank you, Mr. Ramirez.

And I thank all the witnesses for their testimony.

And I will remind each of the members that he or she will have 5 minutes to question the panel.

And I will now recognize myself for such questions.

First, the doctor from San Diego, thank you for traveling from California to appear at this hearing.

In this testimony, you made the case for enhanced collaboration with the federal government, Canada and Mexico and collaboration between local entities on border communities.

What type of leadership have you seen coming out of the federal agencies or the federal government to do this type of collaboration? And what do you think we could do to improve that collaboration so that we do catch more bad guys at the border, we do stop more drugs from being smuggled in, or people, et cetera?

What do you see that is good? Are we taking the lead? And what can we do to improve that?

Mr. MCILLWAIN. Thank you, ma'am.

I can speak authoritatively with regard to what is going on in San Diego. In San Diego, we have a very unique environment, in that we have what is called the San Diego Association of Governments, which works very well in terms of working across jurisdictions; not just local and county level governments, in Orange County and Imperial County and others, but also with tribal governments and also with representatives of the Mexican government as well.

These relationships are things that took a long time to put together and took a long time to build. A lot of it dealt with interpersonal and institutional collaborations on the individual level or the institutional level that have then now branched out into the larger regional task forces that deal with things like infrastructure development or environmental concerns or public safety.

Customs and Border Patrol have actually now joined that entity as of this last November, and so—

Ms. SANCHEZ. So those federal agencies are now part of SanDAG?

Mr. MCILLWAIN. They are now actually working with SanDAG, exactly. And so, they are now part of that structure. So they are attending the meetings. And it is actually a very positive—I just spoke with the coordinator of the borders committee there for the San Diego Association of Governments. My testimony will have links to their Web sites and other reports that they have put together.

But in all of these areas, homeland security, if it is infrastructure, if it is environmental or other issues, homeland security is actually mandated to be part of the proactive thinking that goes into the regional collaboration between the entities on both sides of the border.

Border Patrol and Customs has their role in that process as well. I cannot speak as to whether or not they have similar arrangements in other parts of the country, but I know at least in San Diego there is a very positive environment that has taken place.

Ms. SANCHEZ. Thank you.

Mr. Wermuth, you stressed the need for long-term planning at the Department of Homeland Security. What are the essential items we need to have in order to structure that at the Department of Homeland Security? Why do you believe it is not really in place, this long-term view?

Mr. WERMUTH. Well, the biggest problem for the department since its formation just a little over 4 years ago now, almost 4 years to the day, has been in what we would call dealing with the inbox, or dealing with the current crisis.

And not a lot of thought has yet been given, perhaps understandably, bringing so many entities together into this new department, not a lot of emphasis has been placed on long-term planning: planning for all of the operational entities within DHS, long-term planning with the other entities—and there are a number of other federal agencies, as I am sure all of you know: Department of Justice, Department of Defense, Department of Commerce, Department of Agriculture. So many different parts of our federal government have some piece of border responsibility.

So something akin to the long-term planning that the Department of Defense does in their combatant commands may be a good approach. I mentioned the Quadrennial Defense Review and taking into consideration long-term investment strategies, longer-term operational plans, longer-term plans for cooperation with our border friends in Canada and Mexico and, for that matter, other international partners, because this is not just something that is peculiar to the United States.

We also have competing interests, of course, between the security issue and economic considerations. Having the right amount of security but trying not to impede the flow of commerce that is so vital to our economy.

So all of these issues need to be addressed in a more strategic, more long-term mean than is currently being accomplished, as the department simply tries to deal with what a good friend and colleague of mine calls the crisis du jour.

So we have to move beyond that and at least have a component in the Department of Homeland Security that is looking over the horizon at all of these various issues that have some impact on border security.

I want to ask you gentlemen one last question. It really has to do with all this information management or databases, because one of you brought it up in particular.

I am just always astounded at how much information we really do collect. And somebody talked about having a database that you could punch in, Google in, and you could look at what the other police departments might have on a particular person.

I have a database of, I don't know, maybe 15,000 donors in my campaign, and it took me 4 years and 15 different vendors to be able to figure out how to finally be able to pull up a simple report of the way I wanted it whenever.

So it just seems like every database takes such an effort, to continue to update it, to continue to put into it, and to be able to pull off what you want.

I mean, why is it that we can't—aside from some of the privacy issues that might occur, why is it that we can't seem to have these types of systems work in a government where we are spending billions sometimes to make a new database and a new system?

Do any of you have thoughts on this?

Mr. O'HANLON. I will give a couple of quick thoughts.

I am not sure I understand, myself. But I do think that when you recognize the difficulty of building information systems that really are effective on the first try or anytime soon, you should be wary of trying to create the giant perfect database for all time.

And, in general, in homeland security and on intelligence, what you want to do is allow different databases to speak with each other and be cross-searched, rather than trying to create the one perfect new system that is going to solve all the problems. Because that hardly ever happens, and, of course, there is a several-year time lag involved in even trying.

So that is the one conclusion I would draw, not explaining the problem that you mentioned, Congresswoman, but agreeing with you and then saying, well, what do we do about it in a practical sense.

Ms. SANCHEZ. Anyone else? Yes?

Mr. MCILLWAIN. Actually, there are some areas where we can actually see examples of this occurring, once again occurring largely on the regional level. San Diego, for example, has a strong model for regional cooperation and for data fusion related to the Sector Command Center–Joint, otherwise known as JHOC, which is based in the San Diego Bay.

In that facility, you would have members of the United States Navy, U.S. Coast Guard, Border Patrol and other entities that are engaged in securing the borders and the port facilities. Some of them maintain their stovepipes in terms of intelligence and what is coming in there, as they rightfully should to make sure that certain information doesn't get out.

But by keeping people in this same facility and keeping them wired and having the physical infrastructure of being able to look at imagery and visualize certain problems, see what is going on in the port and the border in real-time using aerial-, land-and sea-based assets, that is a very positive step in the right direction.

Additionally, we have the federal law enforcement coordination centers that are popping up. In San Diego, San Diego State University has been heavily involved, the lab that I work with at my university, in helping wire these things so that the data that does come in from the fusion capacity is actually done more efficiency and handled more efficiently and also visualized in such a way that makes it easier for the decision-maker to sit back and actually make decisions that are making the best use out of that data.

So I think there are some examples going on out there. It is just a matter of basically trying to build upon those examples on a national level.

Ms. SANCHEZ. Did you have a comment on—

Mr. WERMUTH. I agree with both of my colleagues. The problem here is that we have so much data that people at the local level—the sheriff of Orange County—can't possibly determine on his own how to go and find particular pieces of data that might be useful in the law enforcement arena.

We have to find ways—and the technology is here; it is just something that somebody needs to take on as a program, as a project—to segment the data in ways that, regardless of who the particular official is—it could be public health, it could be fire, it could be law enforcement—can find information easily, find current information, hopefully real-time or near-real-time information, in a relatively user-friendly way.

I like Michael's idea of Google. Perhaps there are other ways to actually display—buttons that you can push that will take you to information that is particularly applicable to your discipline, regardless of what level you are, whether you are government or private sector or ordinary citizens, for that matter.

Ms. SANCHEZ. Great. Thank you.

Mr. RAMIREZ. On the general terms, I absolutely agree with my fellow panelists. But when it comes to the internal side—and we are talking the law enforcement side—you can't share a lot of those details.

For example, Border Patrol in El Paso hadn't, for the longest time, detailed agents to EPIC, the El Paso Intel Center. Border

sheriffs report that they basically had to come together as an organization in order to find the information, because it wasn't being shared by the Border Patrol.

And there were a number of issues I could cite but I wouldn't be able to do it publicly.

But that is a lot of the problem: They can't talk about everything with that. And some of it becomes so cumbersome that it doesn't work for agents in-house.

Ms. SANCHEZ. Okay, we have four votes on the floor. There is a 10-minute bill. I would love to have the ranking member ask his questions. I think then we will recess, go over and take the four votes, and come back and start with Ms. Harman I believe.

No, was Mr. Green here first? Okay, great.

Mr. SOUDER. First I would like to say to Dr. O'Hanlon, I agree with what you said basically. If you don't have a secure I.D., if you don't have an entry-exit program, then you get visa overstay questions. If you don't have a secure border, everything else is just chatter. And that we need to understand that that is fundamental, and if you can't get the border secure, it is pretty tough to do the rest of it.

I also want to say, with Mr. Wermuth, part of the reason that we are moving ahead without a comprehensive plan is we can't sit around and wait until there is a comprehensive plan. So we are putting fences up, we are hiring more agents, knowing that will be part of any comprehensive plan that is there.

But it is so frustrating, working with narcotics over the last few years, in the reauthorization of ONDCP last December when we finally got the bill through, we mandated that they have a southwest border strategy for narcotics. It is inconceivable that we have never had a southwest border policy, even for a sub-category of narcotics.

So, to some degree, we have to keep moving. And we micromanage because we can't sit here and diddle around forever, but it would be helpful and absolutely essential to have a full plan.

But I want to make sure I get a question in to Mr. Ramirez, because I have been increasingly concerned that as we achieve increasing, not full success, but marginal success along the border, it is only logical that violence is going to increase. I just talked to our National Guard commander. In Indiana we have soldiers along the border who aren't allowed to have guns. Well, they are not on the border, but they are working on the road right near the border.

As the narcotics groups come through, as we put any real tension—I mean, one way we can tell, quite frankly, whether we are being successful is whether violence increases. The cost of whether it is illegal contraband of any kind—chemical, biological, nuclear, narcotics, stolen goods, whether it is high-value people—that if you are successful, one way you measure, in Colombia and elsewhere, is whether violence increases.

The question to you is, we understand from our staff that the Border Patrol hasn't changed their force policy since they have become part of DHS—whether you agree, from what you have seen on the ground, that violence is increasing; what the Department of Homeland Security is doing in relation to the Border Patrol, other than, "If you see somebody armed, get out of their way."

Mr. RAMIREZ. I am glad you asked that because that is one of the biggest problems.

Again, we look at Ramos & Compean as the example. Since that case happened, violence against not only agents but the National Guard—and I don't know if members are aware, but the National Guard on the border is under the operational control of the U.S. Border Patrol and Chief Aguilar. That is not a recipe that is going to work.

Violence has increased. The bandits, the dopers, the cartels, even the Zetas, they will come across our border. They will tear after Border Patrol agents. They will have standoffs, if you will, with firearms raised. They will chase after our Guardsmen. There have been at least six to eight incidents that I am personally aware of involving Guardsmen just sitting there, on duty, being approached by bandits, and then engaging in a chase to get away, to escape with their lives, because they are not being allowed to engage.

Now, think of how frustrating that is for soldiers who have just been in Iraq and Afghanistan and know that they have to stand down and cede territory to armed bandits.

Violence has increased. When I travel anywhere through the southern border—in fact, I will recount a personal story. We took Congressman Ted Poe out to the San Diego area; Colonial Libertad was what we were overlooking. Within 20 minutes, 15 minutes, shot rang out. We had to get him out of the vicinity, because we weren't going to allow a member of Congress to be there in danger.

On our side of the border we have to fear taking members of Congress out there because it is too dangerous. And I would invite members, if they are interested, we will provide a border tour so you can see for yourselves what we find is happening. Violence has increased, and agents are absolutely terrified.

I have had a number of agents call me and tell me, as firearms instructors, "Andy, I have had trainees ask me a question, and the question is, 'Sir, what do I do if a bandit pulls out a gun or picks up a rock to throw it at me? Am I allowed to take out my gun and defend myself?'" This is the question that our Border Patrol agents and Customs agents are now asking.

Mr. SOUDER. And won't the violence increase if they know they are supposed to not engage or to back up? Doesn't that just increase the risk of people coming in armed? Because it is, in effect, saying the message, "If you come after us, we just back off. So whatever you have, whoever you are protecting, whatever you are smuggling, come on in."

Mr. RAMIREZ. That is absolutely the case. And Ramos & Compean only exemplified it. Because as soon as they heard about that south of the line—and we are talking the cartels, the smugglers, both human and narcotic, and other types of traffickers—they heard this, they got the word, and the violence increased.

Mr. SOUDER. Mr. Wermuth was going to say something earlier on the plan.

Mr. WERMUTH. Recognizing the frustration that Congress has with not having a strategy against which to measure progress, we still suggest that is it an appropriate time now for Congress to act and require such a plan.

An additional element of that process could be Congress considering establishing a national commission, and one, in this case, that would bring in some of our other partners in this process—representatives of state governors, representatives of the private sector, people who are operators or who have been operators in ports and along the border—and help to inform a process of establishing this comprehensive border control strategy. We should have it.

And I fully recognize what you were saying about not having a southwest border strategy for drug control. Back in the days when I did drugs in the Pentagon—

[Laughter.]

I always pause at this. I always laugh at that.

I was the first deputy assistant secretary of defense for drug enforcement policy back in the late 1980s and early 1990s, at a time when so many of these federal agencies were butting heads.

And you are exactly right, some of the same issues apply here. We need to get on with that kind of discussion.

Ms. SANCHEZ. Thank you.

And thank you to the ranking member.

I would just remind the committee members, I just asked staff, and in fact, if you are a law enforcement officer on the southern border and you believe your life is in immediate danger, of course you can draw your gun.

We have four votes on the floor. I am told that one of them is a recommittal, which means, gentlemen, that it will probably take at least 50 minutes before we come back and finish those four votes. So I will recess this committee.

The subcommittee stands in recess, and maybe you will go get something to eat or drink. And I hope you can all make it back in about 50 minutes or so, and we will try to make it back ourselves.

Thank you.

[Recess.]

Ms. SANCHEZ. The committee is back.

The chair will now recognize other members for questions that they may wish to ask of the witnesses. And in accordance with our committee rules and practice, I will recognize members who were present at the start of the hearing based on seniority on this subcommittee, alternating between majority and minority. And those members coming in later will be recognized in the order of their arrival.

And I believe, at this point, I will recognize Mr. Green for 5 minutes.

Mr. GREEN. Thank you, Madam Chair.

And I thank the witnesses for appearing today.

Mr. Wermuth, sir, you mentioned a comprehensive security plan, I believe. And I tend to believe that this is the correct approach, because, without a comprehensive security plan, the superficial security analyst will have the opportunity to make meaningful minor security issues of paramount importance.

A fence is important. So let me just ask a few questions, if I may, of the panel.

If you believe that we should fence the entire southern border, as opposed to 850 miles—that would be 2,000 miles—would you

kindly just raise your hand? This way, I won't have to go to each person.

If you think that we should fence the entire southern border. The entire southern border.

If you think that we should fence the 850 miles of the southern border that has been proposed, would you raise your hand if you think so? The 850 miles.

Mr. RAMIREZ. Where physically possible.

Mr. GREEN. Eight-hundred-and-fifty, okay.

Now, Mr. Ramirez, let me ask you this: Would you fence the northern border?

Mr. RAMIREZ. Well, that is something that—

Mr. GREEN. Excuse me, Mr. Ramirez, sometimes when people finish I don't know whether they have said yes or no.

[Laughter.]

And so, if you would be so kind just to cooperate with me and start with "yes," and perhaps we will go into some greater detail.

But would you fence the northern border?

Mr. RAMIREZ. I would review it, certainly.

Mr. GREEN. You have not drawn conclusions about the northern border?

Mr. RAMIREZ. I have met with Border Patrol sector chiefs along the northern border. For example, you can't put a fence along the waterways—

Mr. GREEN. Where you can fence the southern border, you would fence it. When you can fence the northern border, would you fence it?

Mr. RAMIREZ. If, after taking a look at it to see that it is going to prevent a type of traffic—

Mr. GREEN. Let me go to my next question, if I may.

Mr. RAMIREZ. Sure.

Mr. GREEN. With reference to persons who want to hurt us, that we have empirical evidence of their intent, the 9/11 hijackers, did they come in through the southern border?

Mr. RAMIREZ. No.

Mr. GREEN. The so-called millennium bomber, Ahmed Ressam, did he come in through the southern border?

Mr. RAMIREZ. No, sir.

Mr. GREEN. Do we, by focusing to the extent that we do on the southern border, cause persons to develop a false sense of security from terrorism to the extent that they believe that fencing the southern border is going to do what was not done to prevent the 9/11 hijackers, the millennium bomber, and others who are sophisticated enough to enter the country without crossing the Rio Grande?

Mr. Ramirez?

Mr. RAMIREZ. Well, sir, first, it has been my experience—and I have seen the intel reports—where they are coming through both the northern and the southern border—

Mr. GREEN. Excuse me, Mr. Ramirez, let me share this with you now. We would like, if we can, to have empirical data, not speculation. We know how the 9/11 folk got in. We know how the millennium bomber got in. I have heard the rumors of documents found

on the ground which can lead to speculation. I have heard the rumors of possible entry.

But what I am interested in is empirical evidence that has been substantiated by credible intelligence agencies. Do you have any empirical data of this type?

Mr. RAMIREZ. If you are referring to specific numbers—

Mr. GREEN. Specific incidents.

Mr. RAMIREZ. Yes. I don't have any of those documents with me.

Mr. GREEN. Okay.

Now, here is where we are, it seems to me. A comprehensive plan—Mr. Wermuth, I would like for you to comment, if I may—seems to provide the best opportunity to prioritize and utilize resources most efficaciously. Would you comment on this, please?

Mr. WERMUTH. You are absolutely right, Congressman.

As I said in the written testimony and hopefully reinforced in the oral remarks, no single security measure by itself is likely to be the silver bullet that we are looking for, if you will. And unless we consider a suite of security options as part of a comprehensive plan, our own personal opinion is that a border fence by itself may do nothing more than you suggest, give people a false sense of security.

As I said in the testimony, you can put up barriers at one point, and the likelihood is that people who want to come here, whether they are intent on doing us harm or whether it is just the masses of people that we have seen coming here for economic reasons, are just going to find a way to go around the fence.

The fence itself is not necessarily a bad thing. There are other examples you could give. But unless you can consider all of these options, fully analyzed for the cost benefit, looking at the entire suite of security options in a comprehensive way, I don't know how we could make the kinds of judgments that we are suggesting about the prioritization of resources.

Mr. GREEN. Madam Chair, I thank you, and I yield back the balance of my time.

And, Madam Chair, may I be excused? I have persons waiting on me in my office.

Ms. SANCHEZ. Certainly, of course—

Mr. GREEN. Thank you.

Ms. SANCHEZ. —Mr. Green.

The chair now recognizes Mr. Bilirakis for 5 minutes.

Mr. BILIRAKIS. Thank you, Madam Chair. I appreciate it very much.

Dr. O'Hanlon, you stated the United States should speed up efforts "to track exits of visa holders," a statement which I completely agree with.

In that regard, do you believe that implementing a functioning entry and exit system is a prerequisite to establishing a temporary guest worker program?

Mr. O'HANLON. Congressman, I think it is a prerequisite to doing a number of things. I think you are probably right in the guest worker program area. My focus is really on counterterrorism. And, in that sense, that was the context in which I endorsed the idea.

Mr. BILIRAKIS. Can we enforce time limitations on such guest workers or for other visa holders in the absence of such an exit program, in your opinion?

Mr. O'HANLON. There is a huge loophole. I don't know to what extent it is currently being exploited. I am not sure it is our most important current problem, but it could become an increasing problem over time, especially if we plug other loopholes. So for that reason, I would like to get ahead of the game and build a better system now.

Mr. BILIRAKIS. Thank you.

Mr. Ramirez, thank you for coming and testifying today.

According to your written testimony, you did not agree with the comments of the secretary, Secretary Chertoff, or Chief Aguilar, made before this committee several weeks ago, that Border Patrol agents have the necessary authority and resources to do their job safely and effectively. Is that correct?

Mr. RAMIREZ. Yes, that is absolutely correct.

Mr. BILIRAKIS. How do you believe the Border Patrol policies on pursuit and the use of force are hindering the ability of agents to do their jobs? I know you touched on it a little bit earlier. Elaborate, please.

Mr. RAMIREZ. Well, as an example, the firearms policy. One of the biggest problems they have—and, again, Ramos & Compean, the case, really shows this blaring problem. Agents are only allowed to submit an oral report to their supervisor, not a written report.

Now, let's say, for instance, you have a supervisor who suddenly develops a case of amnesia or is ordered to develop a case of amnesia. If that happens, that agent who may have reported is hung out to dry. And that is a big problem.

The only way we can fix this problem is by agents being able to submit that report. Yes, it adds more paperwork. Yes, agents may or may not like it. But it also could protect them from a problem that Ramos & Compean clearly identifies. By being able to submit that written report, now it is not on Supervisor Richards, as an example in this case, to corroborate an oral report. Now the onus is on the agent. And in doing that, we are able to better assist them.

Pursuit policy: You have agents who are trained for 19 weeks at FLETS. In every which variety, it is the most strenuous academy that is out there. Of course they are trained in many other facets.

Well, when you have an agent who has been out in the field 2 years, 5 years, 10 years, 20 years, I think that agent, between his training and his experience, is more than able to make a call about a pursuit in the field, rather than a supervisor who hasn't been in the field for maybe 2 years, 5 years, 10 years.

You know, you have a lot of sector chiefs, and I have a lot of respect for them, but they are sitting in sectors, they are meeting with other commanders of other agencies. When is the last time any of them have been able to go out there in a vehicle and just talk to the agents out in the line, let alone engage in a pursuit? They are not in a position to determine that public safety. Only the agent that is out in the field.

I think if we are able to give that back to the agents in the field—but, unfortunately, what agents report, retired and active

duty, is the agency seems to be more concerned with civil actions rather than that aspect of safety.

And I have had an agent, a retired assistant chief, who had told me a year ago that they have the training, as an a-chief, that their line agent in the field doesn't have, because it is the additional professional training.

I think the agent in the field can make a better assessment than somebody at headquarters.

Mr. BILIRAKIS. How long does it take to get authorization to pursue a fleeing vehicle—

Mr. RAMIREZ. You call—

Mr. BILIRAKIS. —the agent?

Mr. RAMIREZ. Well, you call it in, and it depends on the sup. Some sups will immediately tell you to break off. I have heard incidents where agents will call other agencies on their cell phones, such as sheriffs and what have you. In fact, I had a county sheriff in Texas report to me that he gets calls from Border Patrol because his sups aren't allowing him—but he is not engaged in a pursuit. The Border Patrol agent who is following closely behind, he calls the sheriff so that the sheriff can continue with the pursuit. And they are just there as backup.

They have been prevented from enforcing the laws. And this is coming directly from headquarters, from their command, from their supervisors. You can be out on the line, have one sup tell you one thing. He leaves the scene; 5 minutes later, the next sup is telling you the complete opposite that you were just ordered.

Mr. BILIRAKIS. In your opinion, could these policies be—oh, okay. All right, okay. I can talk to him privately. Thank you.

Ms. SANCHEZ. Thank you very much.

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

Mr. CUELLAR. Thank you, Madam Chairman.

What is the role of universities and researchers in helping Homeland Security come up with strategies and ideas on how we can protect our border?

Because, personally, I think it is an area that we need to work more with our universities. I mean, there is a certain sphere of influence that universities have, especially the ones that have experience with border dynamics.

Mr. MCILLWAIN. I guess that would be me.

Once again, I will go from a case study standpoint, and I will share with you, kind of, the approach we have taken at San Diego State.

Border universities in general have a very unique relationship, given the fact that many of their students and many of the community members that they serve of course live on both sides of the border and consider themselves citizens of a border region.

San Diego State University, its approach has always been to support our local stakeholders in terms of dealing with the actual ground-level problems that are coming along, with regard to homeland security.

One of the problems that we tend to find is that, because of the way the budget process works and because of the way technologies are slow to be implemented in the field, people who are actually

in the business of doing the deliverables of that service, of providing that security, do not have, in a sense, a chance to act in real-time against the various challenges that they are facing.

But those that are working on the criminal side or the terrorist side or other sides have that ability. They have more resources, they have more—their organizational capabilities are better, because they are more diffuse. They can take advantage of these things.

The university, then, can become, in a sense, an R&D function, to work on the ground, particularly on a regional level, because different problems occur in different regional areas. The questions about the Canadian border, the questions about the Mexican border—El Paso is different than, you know, San Diego; there are different concerns.

Local universities are in a position to capitalize upon the human capital at their own disposal. They have existing relationships with port officials, border authorities, et cetera. They have the relationships with Mexican authorities particularly, or Canadian authorities on the northern border. So I think they are strategically placed to deal with these things very well.

The problem deals with, in a sense, the way the existing structure goes toward research in the area of homeland security. The centers for excellence idea is a good start. However, as I say in my written testimony, it would be like trying to go on a war against HIV or a war against cancer and dedicating $3 million to one institution that subcontracts with other universities.

Mr. CUELLAR. What suggestions would you have to get the universities—because I am a big supporter of that and think we ought to use our universities, because every university has that little, what I call, sphere of influence and understands the dynamics.

So what would be your thoughts—

Mr. MCILLWAIN. There are many approaches one can take to this. The one I talk about in my written testimony is the idea, for example, of tying the research expenditures perhaps to the funds that are coming in through a certain port.

For example, Los Angeles–Long Beach, you know, how many billions of dollars come through, in terms of real revenue to the U.S. Treasury? In a sense, you have this major port with over 44 percent—is it 44 or 46 percent?—of the actual containers coming into this country. There are no guarantees, not a single university in that local area with local contacts has any revenue fund to help those local clients that they have as universities to actually achieve these objectives.

There needs to be a way of basically trying to find a structure in which that can be done. And if those monies do exist, to make sure they are getting to those organizations, universities and others, that are in the business of providing those deliverables on a local, regional basis.

Mr. CUELLAR. I don't want to go over my time, but could you provide the committee some sort of structure of how we can use the universities more effectively, how Homeland can use the universities—

Mr. MCILLWAIN. Absolutely, sir. I would be happy to follow up. Part of that is in my testimony, but what I can maybe do is talk

to you or a member of your staff afterwards to find specifically what you would like, and I would be happy to get that to you and to the committee.

Mr. CUELLAR. All right.

Mr. MCILLWAIN. Thank you, sir.

Mr. CUELLAR. Thank you.

Thank you, Madam Chair.

Ms. SANCHEZ. The chair now recognizes a fellow Californian, Ms. Jane Harman.

Ms. HARMAN. I thank the chair. And I think this is an excellent hearing. And I just want to make a couple of personal comments about two of the witnesses and then ask a question.

First of all, I have been channeling Michael O'Hanlon for years. He speaks out, I think, brilliantly on this subject but many others, and I would commend to everyone his recent book on "Hard Power," co-authored with Kurt Campbell, formerly of CSIS.

It is also the case, for me, that the RAND Corporation, which is about 100 feet outside my congressional district—I know Ms. Sanchez knows it well too—is an amazing place for work on security subjects. And homeland security is one of its best, at the moment, products. And I want to commend Michael Wermuth and Jack Riley, who is hiding behind a post, for the work that they have done a variety of homeland-related subjects.

Both of you said very important things today.

Michael number-one was talking about the role of prevention; it is much better than consequence management. He is right. And he talked about tightening terrorist watch lists, the Google-like capability, more C.T. cells, biometric I.D.s and so forth.

Michael number-two talked about the need for a risk-based strategy. We can't do this just on an individual basis. We really have to know what we are going to target and hopefully find the bad guys before they cross the border and also find the homegrown cells inside.

But here is my question, and it is for the whole panel, and it is: How do we do this effectively and protect our civil liberties?

Michael Wermuth mentioned in his top six things to do that there are critical privacy considerations. I think there are too. And I agree with Ben Franklin, who said basically, to paraphrase, we either get more security and liberty or we get less. It is not a zero-sum game. It is a positive-sum game or a negative-sum game.

So I think there is a broad, law-abiding community out there wanting us to catch bad guys but not wanting us to surrender our Constitution and our core values. And I would like to put this question to the panel, maybe starting with the two Michaels, but I would ask the other witnesses to comment: How do we get both?

Mr. WERMUTH. As I mentioned in the oral remarks and in written testimony, these issues really are critical. And what we should learn to do, and unfortunately we haven't in other programs, even some specific ones related to border security, particularly in the commercial airline industry, is that we don't start thinking about these issues until after the fact.

That is why we tried to make the point very clear that this needs to be an upfront part of the checklist when you are developing a program. What are the key privacy and other civil rights implica-

tions of a program like this? We are seen too many false starts on programs. We have got to build it in upfront.

We all know that we can handle people who are not U.S. persons, in that legal definition, who are coming into country, we can handle them differently than we do U.S. persons. But we ought to strive toward handling everybody the same to the extent that we can.

And most importantly, applying the prevention techniques, particularly intelligence, as far out as we can get it, to identify the bad guys and be able to segregate them from the good folks.

Mr. O'HANLON. Thank you, Congresswoman. Just a couple of quick thoughts. And here, of course, I am again borrowing from my friend Jim Steinberg, who was the lead person on intelligence and civil liberties in our work. And, again, this is familiar kind of thinking to you.

One principle is that there have to be ways to know who has accessed databases within the federal government, and you have to have rules on who gets access to what information, and electronic records, essentially, of who has accessed. In other words, you have to have a way to both limit access and then, where there are violations, to go back and punish people for infringements.

So this is beyond my expertise to map out in detail, but a lot of the new developments in data security and in recording access to various databases are the way you do this.

And, in fact, we could actually improve, Jim argues, we can improve protection of civil liberties, because right now we have done so little of this sort of thing that most organizations don't have data czars and don't have clear rules on how they limit access. So if something is in a database, you can go look at it. And if it is not, of course you can't. But it is sort of a free-for-all.

And if you increase the ability of one agency to look at another's database, you have to have rules on who gets to see what, and you have to have some way of knowing who has accessed. And that becomes, then, your basis for enforcing.

I think that is the main answer.

Another answer I would quickly offer, though, on the specific issue of driver's licenses, which I know is so important right now in the debate, with apologies to those who want to argue that civil liberties are the only real priority here, I would simply remind people of the obvious: that driving is a privilege, it is not a constitutional right. They didn't have cars back in the 18th century.

And if the state is going to grant you the right to operate a vehicle that can hurt people and yourself on the roads, there is potentially a bargain there being established between the citizen and the state. And if the state is asking you, for the good of national security, to allow us to verify your identity through a biometric, I don't think there is any constitutional issue with that whatsoever. The argument is squarely on the side of the state having the right to do that, in my judgment.

Ms. HARMAN. My time is up, Madam Chair, but I would welcome the opportunity to let the other two witnesses comment.

Ms. SANCHEZ. Of course. We will be asking a couple more questions here. You can certainly finish yours.

Ms. HARMAN. Thank you.

Do you two have something to add?

Mr. RAMIREZ. One of the problems—and then this is dealing with a lot of investigators in a multitude of agencies. For example, what may work in ICE is not compatible at the Border Patrol. None of that stuff is easily transferred over.

One of the things we learned through Ramos & Compean, as an example, where you have an agent from Arizona trying to access information, it just doesn't work. We need to find a way to be able to do that, but then that leads to the problem that has come up when it comes to some of the agencies, of the corruption issues. Like my colleague said, you have to have protocols.

And, of course, you also have to make sure that local law enforcement is able to access, because, at least at the sheriff level or the chief deputy or the under-sheriff, if they can access some of this intel, it will help all of them be able to share the same information.

Ms. HARMAN. Thank you.

Mr. MCILLWAIN. Couple thoughts.

In speaking about this issue with regard to practitioners, one of the things that becomes clear is in the priority in terms of training and education for people in this field, in terms of ethical training. This is something I know Chief Bratton in L.A. and other folks have constantly talked about.

But it is very important to show the intersection between one's professional responsibility and one's ability to take care of their community. And that, in a sense, has the positive aspect of bringing back information flows to the policing structures or the other structures that are dealing with this.

The idea of an ombudsman: This is being done on local levels in police departments. I used to do a lot of work on use-of-force cases and other things for police. The idea of an ombudsman that is basically set up by a jurisdiction—a city, a state, or somewhere else—that is responsible for investigating those complaints free of the normal procedures, that is something that has, from a research standpoint, been shown to meet the interests not only of the unions that are engaged in this but the citizens and the management.

And then finally, the idea of accountability for state actors if they do abuse this authority, that there is, in a sense, that accountability that can exist. The idea of having a data czar is an excellent idea, having people that are in charge of knowing where those flows are.

But your Achilles' heel in all these cases will always be the human element. And you have got a second Achilles' heel, which is the technological element. The same information that states will have pales in comparison, oftentimes, to what is available in the private sector.

So, in a sense, we have seen cases where, you know, bad guys have better intel on the eating habits of, you know, our officers, based upon their credit card records, than we do of any possible terrorists that might be out there ourselves.

Ms. HARMAN. I thank you for that answer.

I know I have gone over time. I won't ask any more questions. If I could just sum up by saying we have got to get this right on the front end; I agree with that comment. Because if we don't, there won't be protection left, should we have another attack.

Second point, we have got to have databases with all the material we need in them, but they can't be abused. And that is your point. We need training and protocols. And they exist. Something I hope we can do in this committee is to provide more funds for local law enforcement to train people on how to put together and use these databases.

And finally, there is a lot of learning on just the compilation of bases. The Markle Foundation, based in New York, has done enormous, ground-breaking work on this. And when we passed the Intelligence Reform Act of 2004, they were helpful to us in a lot of what that law says, which builds databases and keys to databases that have just the right information on them, and they converge at a point and then they disperse, so that we don't create a Big Brother with information on our eating habits rather than on whether or not we are terrorists.

So I thank you for letting me go over my time. I think this panel is really a very valuable panel.

Ms. SANCHEZ. It has been very instructive. And I thank my colleague from California.

I guess I have one question left that I would really like to ask of you all.

You know, it is not because my name is Sanchez or because my parents came from Mexico, but I think we concentrate a lot of our efforts on the southern border. And I think that there is a real outrage going on in our nation with respect to people coming without the right documents to our country. Unfortunately, it seems to really be slanted at people coming from Mexico. And I think that is one of the bigger reasons why we spend so much time, at least politically, worrying about the southern border.

But, you know, it is my feeling that we are a sovereign nation and we should have a say in who comes in and out of our country.

And it has been my experience over time, my lifetime, that when you plug one hole, the water goes to wherever it is not plugged up. And, you know, our country is a big country. It has a long border at the northern border that doesn't have much fencing or many agents up there to watch who is coming across. And we have coastal access, not only to our continent but Puerto Rico or some of our territories. We have a lot of coasts where people can come in through. Once you get to Puerto Rico, there you come.

So my question is—and I have all the statistics about how many border patrols we have at the northern border, et cetera. And we were up at the northern border this past August, taking a look and talking to the Border Patrol agents there.

But my real question is, you know, I am worried about this, because I believe we need to close the entire circle. I don't mean fence everything. I live on the California beach. I don't want a fence running there either. But close it, so we can have a pretty high level of confidence that we do have a say in who is coming in and going out.

And I think that is one of the things that America's people really want. They want to believe that we have control, that we have a say in who is coming in and going out.

So my question for you is, one, what do you think about the northern border? Are we really ignoring it? If we really put these

miles at the southern border in particular, will we see more people coming in from the north? Are a lot more coming in but since we are not there—you know, if the tree falls but no one is in the forest, did it really fall, or did someone hear it fall?

And lastly, do you believe that our Coast Guard and other agencies who work the coastline have enough resources for the future? Because if we clamp down someplace, they will come in another way.

And why don't we just go down the line and finish up here.

Mr. MCILLWAIN. Beginning with the topic of the northern border, there has been a lot of academic research looking at the history of the issue of smuggling as it deals with both the southern and the northern frontier—not just contemporary research, but historical research.

One of the big conclusions that comes out of that is something I am sure the committee, this subcommittee in particular, is familiar with, which is, the issue is Canada is not Mexico. So there is a consistent rule of law, there are different standards and other issues that are going on there that, in a sense, allow for a full partnership to be realized, where the cooperation has a tangible result. The challenge is much more severe in Mexico itself.

The problem that we have with our northern border deals with the one that we saw evident in the recent Toronto arrest that occurred with the possible bombings up in Canada, where you had people going back and forth across the border as part of that conspiracy. A couple of the members of that conspiracy were actually stopped on the Friendship Bridge going back up into Canada. Two other members were caught in the Georgia area, alleged members, that were part of this larger conspiracy.

We, in a sense, have that homegrown aspect, both in Canada and the United States, where individuals, in a sense, can already be within our borders, can go back and forth meeting with like-minded people. And that is a difficult thing, particularly when they are homegrown. They were either born in this country or they came here at an early age. They have their citizenship. There is nothing on their records.

Canada has another issue, as well, which is the fact that, as part of the former British empire, people from other countries, as part of that empire, have direct access into Canada. I have been to Canada many times, and my Canadian colleagues at the University of Montreal and other universities, this is something that their whole nation is struggling with, in terms of how to handle their own immigration procedures.

And I guess the best way of looking at this is in the same model I talk about in my written testimony. There are good people trying to work on these problems in these countries, both Mexico and in Canada. The idea of identifying who these people are, the processes that they are trying to get heard in their own country, as other people here are doing good jobs of trying to work really hard, how do they find ways to deal with these same issues? There is common ground here. Mexico is dealing with the same thing. I have many of my friends that have received death threats, they have lost members of their family because of the fight they had against the cartels. I mean, these are real-world things.

Being able to identify those people, capitalize upon that human capital, that human element that you are talking about, provides a tremendous amount of—I don't want to use the word "intelligence"; I don't think that is the right word—but provides us with a lot of intelligence in terms of how to use our limited resources in such a way that we don't have to have a mutually exclusive view of, you know, what comes, in terms of trade flows or people flows.

If we use it smarter, more effectively, by tapping into that human resource, we are doing a service to all our constituencies. The Mexican government is doing it for theirs, the Canadian for theirs, and we for ours.

And I think that that is a very strong structure. And there are models for doing this. And so, we just need to basically talk about what those models are. And I have some of them listed in my testimony. I would be happy to give a lot more to the committee as well.

Ms. SANCHEZ. Great.

Doctor?

Mr. O'HANLON. Very quickly, Congresswoman, I think what I try to think about is, what is the likelihood that a Mohamed Atta would come through Mexico or Canada? You know, bring it back to that kind of a scenario.

And I think, on balance, I wind up concluding that that kind of a person is not too likely to go through either place, thankfully, because of the risk of having to get into the country in the first place, go across hundreds of miles of open territory, great across the land border, and then re-establish himself in the United States before being able to carry out a terrorist attack.

As you know, I am in favor of a much tighter before because I worry about that scenario some. But I don't think it is super-likely, especially in Canada where you do have relatively good procedure for visas and so forth.

But they are not airtight. They are not as good as ours. The Canadians do have this commonwealth issue. There are a lot of would-be terrorists who live in Britain, not to mention Pakistan and south Asia. And so I do think we have to be at least a little nervous.

So if I am creating a spectrum of nervousness, in terms of the terrorism problem, the overall issue we are addressing today, the border, causes me some level of nervousness. And I think we should tighten things up quite a bit.

I am not losing sleep over it, but I think there is a chance that Al Qaida could try to use our borders in the future in a way they probably haven't attempted so far. So I am very happy the committee is focused on this. And so, I have a certain amount of worry about the Mexican border. A little less about the Canadian border, but not zero.

So that is a long way of saying that we should improve it even if it is not our top priority. And we should always keep an eye on what the Canadians are doing with their immigration controls and their visa policies. Because if they get sloppy or their civil liberties concerns get even more paramount in their own thinking, we may need to worry about tightening up that border even more.

Ms. SANCHEZ. Right.

Mr. Wermuth?

Mr. WERMUTH. The two borders are different, and fairly dramatically different in the dynamics that apply to the border, and particularly to border security.

Of course, a lot of focus on the southwest border has to do with sheer numbers, the vast number of people who come across the southern border, many of them illegally. The flow of drug traffic across that border for a long time now that has caused additional focus on that border for law enforcement purposes has probably brought the southern border more attention because of that.

But the northern border does have to be a concern. The simple fact that so much international trade with Canada is so important to both our economy and theirs, and if there were any incidents that were to disrupt that trade, it would have huge economic implications.

So we can't ignore the northern border. I don't think we are ignoring it. It is just a different set of dynamics.

And finally, on your last question, clearly the waterways, the international ports, all of those huge numbers of places between major commercial ports where bad guys could enter our country, on the Pacific coast, on the Atlanta coast, across the Great Lakes, in the Gulf of Mexico.

As we get better with security along land borders, I said in the testimony it is probably going to move out around the edges. And that is why we have got to be cognizant of the dynamics of changing threats, of emerging threats, and recognize, as we implement other security procedures, that the mission of the Coast Guard could, for example, get dramatically bigger if, in fact, some of the efforts on the land borders actually do start to show some real success.

Ms. SANCHEZ. Thank you.

Mr. Ramirez?

Mr. RAMIREZ. I recently had a chance to discuss this with Commissioner Bernie Kerik, the retired commissioner of the New York City Police Department, and of course we all know the impact that his department felt because of 9/11. One of the things in the correspondence he reminded me was that, in 2005, James Loy, then deputy secretary of DHS, stated, "Several al-Qa'ida leaders believe operatives can pay their way into the country through Mexico and also believe illegal entry is more advantageous than legal entry for operational security reasons. Knowing that, that is something we can't ignore."

When you look at the Canadian border, it is vulnerable. It is extremely vulnerable. You have between 200 and 240 agents on duty at any time. You have to look at rubber gun squad, people that are on leave, people that are on vacation, people that have been detailed elsewhere around the country, to cover 4,000 miles.

You have projects, such as Project Athena, which is a Raytheon-developed project which proved that you could monitor at least the Great Lakes and all water entries along the northern border. The chiefs of Detroit and Buffalo sectors begged Chief Aguilar to implement this type of operational program that worked. It was ignored by the headquarters office of Border Patrol.

You have senior managers who have told me that they have contacted Chief Aguilar repeatedly and other senior managers at head-

quarters, pointing out operational issues of concerns. Chief Stevens was notified, Chief Barker—numerous chiefs of headquarters have been notified; it was ignored.

In my testimony you will find some examples of this. We talk about the maritimes. Ramey Border Patrol Sector was the most ignored sector in the entire U.S. Border Patrol. You had X amount of agents, which was very small. You have a whole sector there, when you can have a PAIC agent running it, patrol agent in charge.

And instead, when you look at the drug trade that comes through that region, Border Patrol agents are operationally restricted to a small corner of the island. They are not allowed to do much. They are basically there for show.

So you look at some of the operational problems that are part of your question. You can look at Ramey as the glaring example of what is wrong. You could look at the northern border. We are ignoring the northern border.

Yes, we need to focus on the southern border because of a card that I would like to point out and share for the record. This was given to me by a Border Patrol agent who served in the Tucson Sector, and it goes back and it was given out to agents during Chief Aguilar's tenure as sector chief. And it states, "Remember, Mexican military are trained to escape, evade, and counter-ambush if it will effect their escape." And this card was given to agents along the Tucson Sector. Yet we hear reports from DHS that we don't have Mexican military incursions and that such reports by the media and public have been overblown.

Well, we don't have those issues along the Canadian border. The Canadian military doesn't engage in incursions and support the cartels as they are bringing narcotics into this country.

So when we look at the northern border, that is one of the glaring differences. But we have equal dangers on both borders that must be addressed, starting with this committee.

Thank you.

Ms. SANCHEZ. Thank you, Mr. Ramirez.

And I think my ranking member has a question to ask of you all before we finish this hearing.

Mr. SOUDER. I have a couple of questions that, if the answers can be relatively short, may be things we can pursue a little later.

But I want to make a couple of notes on the north border.

Clearly, south border is mass and quantity; north border is a little bit different challenge. On the other hand, British Columbia is starting to take on variations of the south border, with the B.C. bud. We have the first officials arrested who were corrupted by the amount of dollars, the sheer quantity of guns and cocaine going back across the other direction. That is now their number-one export is marijuana, not timber, not even tourism. And so, we have signs that this can happen even in Canada, and they need to be on top of it.

I think that there are—another challenge is the meth precursors and the Canadian pharmacies. We don't know whether they are really Canadian or not. But clearly this is—FedEx, UPS, DHL—a challenge in how this type of thing moves. If you can move drugs, you can move pieces of chem, bio, all sorts of things. It is the same

trafficking networks that can be used. And we have to watch the north border.

Yes, the cooperation is different, the pay levels are different, the legal system is different, but these are the challenges.

Now, first question for Dr. O'Hanlon. I am just curious, because I should know this answer. Maybe I have heard you say it before, but if you don't think it is the borders, what are you most afraid of? Latent cells, people who are being converted, or outside attack?

Mr. O'HANLON. Well, I will be quick. I do think the borders are an issue. But I think I am still most worried, for example, about the British citizen who wants to do something like they were trying to do last August, whether on the airliners as they are coming across the ocean or sneaking in with a legitimate British passport.

Mr. SOUDER. Then let me get to my next question. I am exasperated at the slow pace that we are moving to the I.D.s and the resistance that we are running into on the borders, which, to me—look, if this is a low-income problem, then let's address tax credits for the cost of it, some kind of an economic address. Because, clearly, entrance and exit and having a secure I.D. with fingerprints is essential.

My understanding is that we are looking at 2009 for airports, 2014—ports maybe it is, and 2014 for airports. And there is not even a plan to have this fully at the borders.

How can we be discussing all these other bills? What do you think the resistance here is, that why we aren't accelerating this? Because it is the linchpin of a secure border strategy, of you just described of visa overstays and manipulation of people who have E.U. passes or Canadian citizen immigration.

It is the linchpin, because if you don't know who the person is—not to mention, if anybody goes to an immigration desk at the Pakistani Embassy, there are like 15 names of people there, whether they are State Department or DHS, they are having a terrible time figuring out whether it is exactly the person.

Why isn't this the number-one focus?

Mr. O'HANLON. My quick answer, or an attempt at an answer, would be that we have been a little too confused in—"we," the broader community of security specialists and elected officials—on what the top priorities are.

And you do hear people out there writing books or making speeches about how either we have made no progress at all since 9/11—and that creates a sense of fatalism among the public—or how we have to spend many tens of billions of dollars in all these different areas, including preparing every first responder with a chemical protective suit and a new radio. And the number of things that are mentioned in the context of "unmet homeland security challenges" is so great the public gets swamped by this.

And even our fellow members of Congress and fellow members of think-tanks get overwhelmed by homeland security. It is a hard thing to get your arms around. I think that is why we want to really focus, in our Brookings work, on prevention as the key thing.

Mr. SOUDER. Because we talk about getting information to local cops, but even if they pick up somebody we don't know whether it is really the person. I mean, it is like step one is to know that who

you have is who you were trying to get. It just dumbfounds me, and I know that part of this is civil liberties.

Mr. Wermuth, you made an allusion in your testimony to the fact that you had some skepticism about screening every piece of cargo and suggested there were other innovative technologies. What would some of those be? Were you thinking of Singapore or what? I mean, Long Beach–Los Angeles, we are already screening for nuclear.

Mr. WERMUTH. We are focused, you know, right now on containers and trying to do screening on nothing but cargo containers. A lot of things come into this country every day that don't come in containers. We have got, of course, oil and natural gas imports that come in in tankers. You have still got huge amounts of break-bulk cargo that don't get stuffed in containers, depending on where they come from.

Beyond that, the idea that terrorists who might be able to develop some kind of radiological device—and I am not talking about necessarily a thermonuclear device, but just a dirty bomb device or a set of materials—aren't likely to put it in a container.

So shouldn't we be worried about something other than containers? And if we invest all of our security resources in 100 percent cargo-container inspections, are we missing perhaps other measures that should be taken to provide security against smaller vessels or different kinds of vessels or different means of bringing something into this country other than containers.

It is easy to think about containers as being the solution to security problems when you talk about nuclear or radiological material. But I would guess that the bad guys are not going to want to put something in a container and let it move through commerce without any control over it. They are going to want to keep their hands on it. And that means it is probably not going to come in in a container.

Mr. SOUDER. Dr. McIllwain, Mr. Ramirez, do you have any comments on my questions?

Mr. MCILLWAIN. I was trying to get my thoughts together.

You mentioned the issue with regard to identifications, which I think is a positive step, particularly as it is tied to biometrics and other issues, the civil liberties concerns which of course have to be ironed out.

The other issue, though, is the human intelligence side of that. Because, as you mentioned before, if you have somebody coming from Europe—I mean, when the bombings went off in London, I spent a heck of a lot of time on that subject. I was actually in one of the same tube stations, the Underground stations, right before that, and left a couple weeks before.

And so, right when it happened, I was like, "Okay, Finsbury Mosque, oh yeah," and then my mind goes through the list of folks who are attending those things. And then, how does one couple that information with that identification? These are things, obviously of major diplomatic import between the United States and its allies abroad.

And then you go to the European Union and look at what they are dealing with, in terms of privacy issues and how privacy com-

missions bureaucratically have now intervened in the security aspect, with no expertise in the security concerns.

So these are some serious issues that need to be dealt with, largely from a diplomatic issue, because without those intelligence in-flows, those identifications, with somebody with a clean record you know nothing about, they are still going to be able to pass through day or night.

So, in my mind, that is something that—I don't know what Congress's role would be in this, given that it is the role of the executive, in a sense, to be negotiating those treaties and those protocols—

Mr. SOUDER. Do you agree that if you don't know the persons—

Mr. MCILLWAIN. Oh, yes. Oh, I am not disagreeing with that.

Mr. SOUDER. —any intel questions become huge.

Mr. MCILLWAIN. Oh, yes.

Mr. SOUDER. What do you do? What do you have? Do you stop them? Do you watch them? Is it privacy? How do you match up, you know, they gave money to a cousin, they were at a mosque, but does that mean they were actually guilty of anything?

Mr. MCILLWAIN. And those information flows—and you are right—

Mr. SOUDER. You don't know who it is. All that is wasted.

Mr. MCILLWAIN. Those information flows go both ways.

I will give you a perfect example. A few weeks ago, we were in Tijuana, meeting with the police chief down there. And you would be amazed at how technologically advanced their capabilities are, in terms of things like public surveillance as well as biometric, facial recognition, et cetera.

They asked a question, they said, "We have been trying to get basic information on what the people on your terrorist watch list look like." Because if we have our resources here, if you know folks that have been at training camps in Sudan or somewhere else, if you have information like that, we can process that, because we don't want these guys here either.

And basically we can have these things at our airports and other facilities, not that, you know, like I said, al-Qa'ida gives—Atta or somebody else would not be going across the border, but the lower-level functionaries that are currently off the radar may. But yet, we don't have that information flow going the other way as well.

So, you know, we need to consider ways that we can probably do business better, getting information to allies who want to help us in this area, just as I think they need to be doing a better job of trying to help us be able to prevent these sort of threats from emerging on our own shores.

Ms. SANCHEZ. Mr. Ramirez, you will have a short response.

Mr. RAMIREZ. Okay, and I will be as brief as possible.

Ms. SANCHEZ. You are very long-winded sometimes, so—

Mr. RAMIREZ. I haven't heard that since—

Ms. SANCHEZ. —I will gavel you.

Mr. RAMIREZ. I haven't heard that since my grandmother was alive.

No, but to get to the three biggest things here, corruption is one, because you have corruption going on at the ports of entry, you

have a number of port directors who are now serving in prison because, of course, somebody got to them.

As bad as, you know, they say the San Diego port and the Laredo port is, look at El Paso, and go back to what I said at the beginning. You have planning and re-planning, but no implementation by the Department of Homeland Security. They plan everything—they have great things that are set and ready to go but will never be implemented.

And finally, Congress is being run around in circles. DHS tells them one thing. Then they come back and tell them something else. Often is it the truth? That is a question many people have to answer for themselves. You need to talk to the agents in the field. This is what I have done for 4 years. So basically nothing gets done, as a result.

Ms. SANCHEZ. Great. Thank you, Mr. Ramirez.

And I thank the witnesses for all of their valuable testimony and the members for their questions.

And the members of the subcommittee may have additional questions for you all, and we will ask you to respond, quickly I hope, in writing back to those questions.

And, hearing no further business, the subcommittee stands adjourned. Thank you, again.

[Whereupon, at 3:54 p.m., the subcommittee was adjourned.]