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THE CHALLENGE OF ALIGNING PROGRAMS, PERSONNEL, AND RESOURCES TO ACHIEVE BORDER SECURITY

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BEFORE THE

COMMITTEE ON HOMELAND SECURITY
HOUSE OF REPRESENTATIVES

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THE CHALLENGE OF ALIGNING PROGRAMS, PERSONNEL, AND RESOURCES TO ACHIEVE BORDER SECURITY

Thursday, July 17, 2008

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

The committee met, pursuant to notice, at 10:05 a.m., in Room 311, Cannon House Office Building, Hon. Bennie G. Thompson [Chairman of the committee] presiding.

Present: Representatives Thompson, Sanchez, Dicks, Harman, Lowey, Norton, Lofgren, Jackson Lee, Christensen, Etheridge, Langevin, Cuellar, Carney, Clarke, Green, Pascrell, King, Souder, Rogers, Reichert, McCaul, Dent, Brown-Waite, and Bilirakis.

Chairman THOMPSON. The Committee on Homeland Security will come to order. The committee is meeting today to receive testimony from Secretary Michael Chertoff on the "Challenge of Aligning Programs, Personnel and Resources to Achieve Border Security". At the outset, Mr. Secretary, we want to welcome you. I am not sure whether or not you'll have an opportunity to come before us again as a committee. We appreciate, however, your service as secretary and your forthrightness in your service in your relations with this committee. It might be your last, but if it is not, I know we will look forward to the testimony, but I wanted to go on record to indicate that we appreciate what you have done in working with the committee.

As a Nation, we made significant strides toward securing America's borders since the 9/11 terrorist attack. Congress has provided unprecedented funding to DHS border security and immigration enforcement, including $14.8 billion in the last fiscal year alone. The Department has responded by moving forward on new programs, hiring additional personnel, and acquiring more equipment than ever before. Yet DHS has failed to develop a comprehensive strategy to guide its border security activities.

Earlier this Congress, I issued a document entitled "Border Security Principles" that outlined how border security can be done right. No. 1 on that list is the development and implementation of a comprehensive border security strategy. I have long said that without a comprehensive strategy to coordinate the Department's efforts across components, DHS will not be as effective as it should be. Money and manpower will only get you so far.

In the absence of a strategy, discord and competition for resources within DHS is all but guaranteed. For instance, at the

same time, DHS is investing tens of millions of dollars to try to secure the border between the ports of entry, the ports of entry themselves are being neglected. Their conditions are often so poor that they are outdated, ill-equipped to handle the challenges of the 21st century.

Similarly, while DHS has expanded the Border Patrol ranks at an unprecedented rate, our ports of entry are understaffed by several thousands of officers. I have been to ports of entry on both the northern and southern borders and have seen the problems firsthand. Ad hoc border policy must stop. We need a comprehensive border strategy that considers all aspects of our borders.

Mr. Secretary, we appreciate you are in a race against the clock. Many of the programs you propose and have been mandated by Congress simply cannot be completed on your watch. It will fall to your successor to finish the job.

As you know, transition and its implications for the management of border programs is a major concern of this committee. We have been reviewing the transition documents you provided and will continue to monitor this issue closely. The American people deserve a secure America. We look forward to hearing from you about how we will get there.

The Chair now recognizes the Ranking Member of the full committee, the gentleman from New York, Mr. King, for an opening statement.

Mr. KING. Thank you, Mr. Chairman. I want to join you in commending Secretary Chertoff for the work that he has done as Secretary. There are still a number of months left in his tenure, but I think we can safely say that he's done an outstanding job. I know it was a year or 2 ago we had testimony in here about how the Department of Homeland Security at that stage of its development was much further ahead than the Defense Department was after World War II.

In many ways, I would say the job today is much more complicated. Yet, DHS is going forward, it is going forward despite many obstacles and in many ways against an enemy which we were not fully aware of before, which again distinguishes it from what happened after World War II when we were talking about conventional military.

Now we are talking about an entirely new type of warfare both overseas and here and at home. I think Department of Homeland Security is making tremendous strides forward.

Also Mr. Chairman, I know that it is common when the Secretary comes in that we talk about what hasn't been done, about how there is no comprehensive strategy. I would just mention, for instance, on Border Patrol, there has been more than 40 immigration bills, border control bills have been forwarded to this committee, and we haven't passed one bill on border security. So I think it really raises questions how we can be so critical of the Department where we have not really passed any border security bills ourselves.

Also I would point out that the Department, we talk about whether or not the Department is fully coordinated and operational. Well, we in the Congress still have 86 committees and subcommittees that require the Department to come in and testify be-

fore and answer to. Often we send mixed messages and signals. So I think, again, we should be getting our house in order as well.

Also, I think, which is very significant, and this is on the whole issue that we have not adopted an authorization bill and also from when we hear there is not going to be a Homeland Security appropriations bill. This, to me, and this does not affect our committee, but I certainly believe that the leadership, if they do not go forward with an appropriations bill on homeland security, that this could be disastrous. This is something that has to be done. I don't see how we could expect a department to go forward, make its plans, do what has to be done when they are not going to know how much money will be available, when it is going to be available and in what programs.

This, in previous years, was usually one of the very first appropriations bills that was brought up we know would have broad bipartisan support. To me it is absolutely essential that that be done. Also that we make it clear for future administrations, and future Congresses how important Homeland Security is.

Quite rightly when the Democrats took over Congress, H.R. 1 was Homeland Security, because that was the most important issue facing the country. Yet we are not even going to, as of now, adopt a Homeland Security appropriations bill. I think that is really irresponsible. I know certainly on this side of the aisle we feel strongly about it. I would hope that both sides of the aisle could come together on this. Whatever the other issues we have, Homeland Security must be addressed. You made it H.R. 1, I believe it should be priority No. 1 when it comes to appropriations.

Similarly, I know we have said this before, and I know there can be various issues around it, but it is so important that if we are going to establish this committee as the lead Committee on Homeland Security, that we adopt an authorization bill. For us not to do it, again, I think is very remiss on our part. It, again, makes it more difficult for the Department in this administration and the next administration, because they are going to, again, be dealing with a multitude of committees and subcommittees, and by us not adopting an authorization bill, that just adds to that whole endless miasma of committees.

So with that, I look forward to the Secretary's testimony, and again, I thank him for service and there is still a long way between now and January 20, because we may be changing administrations, but the enemy doesn't change its tactics or its strategy or its goal. I commend you for the transitional work you are doing, and I yield back the balance of my time.

Chairman THOMPSON. Other Members of the committee are reminded that under the committee rules, the opening statements may be submitted at the time for the record.

Again, I welcome our witness today. When he was confirmed in 2005, Secretary Michael Chertoff became the second person to serve as the head of the Department of Homeland Security. Prior to his confirmation, Mr. Chertoff served as a United States circuit judge for the third Circuit Court of appeals. Prior to that he served as an assistant attorney general at the Department of Justice, where he was instrumental in helping trace the September 11 terrorist attacks to the al Qaeda networks. He served in a number of

other public service positions. Mr. Secretary, I thank you for your service and I appreciate you agreeing to testify here today.

As you know you were originally scheduled to come before us, but a situation out in the Midwest actually and rightly so deserved your immediate attention, and for that, we, again, thank you for your service. Please without objection, the witness's full statement will be inserted into the record. I now recognize you to summarize your statement for the committee for 5 minutes. If you can't do it, we will give you a little more time.

STATEMENT OF HON. MICHAEL CHERTOFF, SECRETARY, DEPARTMENT OF HOMELAND SECURITY

Secretary CHERTOFF. Thank you, Mr. Chairman. I also want to—I don't know whether this will be my last formal appearance, although I am sure we will continue to work together over the remaining period of the administration, but I do appreciate the opportunity to appear. We have had, I think, a terrific relationship back and forth in terms of working to improve the Homeland Security of this country.

I want to take the opportunity to endorse the importance of having this committee be the lead committee on the House side in terms of our oversight. It is important for us to have a single committee that is really a point of contact on the authorization side, both the House and Senate. Recently a number of the Governor's Homeland Security advisors write a letter to the same effect. I think we really want to concentrate the responsibility in this committee and obviously the appropriators will have their responsibility as well.

I also appreciate the committee's willingness to let me postpone my testimony last time because of the floods. I have to say for that reason, I did not ask to postpone the hearing so that I could attend Tony Snow's funeral, but I didn't want the opportunity to pass without remarking on how much we will miss him. He was a smart, engaging, advisor and advocate to the President who had a great sense of commitment, but also a very good sense of humor, and I think that balance is sometimes a scarce commodity in Washington. I know he will be missed.

Finally, as I go through an overview of what we are doing to protect the border, I want to just direct the committee's attention to the stack of papers I have on my left. This reflects only a part of what is, in my view, a comprehensive strategy for dealing with the border, it includes the National Border Patrol strategy, the National Air and Marine strategy, a Customs and Border Protection strategy, a securing the borders at the ports of entry strategy. We have, over the last few years, submitted a quarterly strategic report to the appropriators on exactly what we are doing at the border with respect to all of our deployment of assets that goes into exquisite detail.

I might point out that Senator Byrd, the Chairman of the Senate Appropriations Committee, wrote me a letter in the last month talking about how he felt we had submitted data to the appropriators that was more than sufficient to allow them to track and monitor the way we were spending the public's money. There are other things I could have brought in, my arms could only carry so

much, but I do believe we are integrating and taking a strategic approach.

No question there are budget issues. There is no question that we have to spend more money at the ports of entry, including obviously mostly the land ports of entry. We know where we have to spend the money. We have got a good sense of exactly what we want to do. The issue's going to be finding that money and spending that over the next period of years. In that respect, obviously, if we don't get appropriations bills, we can't spend the money.

So I want to join the plea. I know the committee appropriators have marked up a bill in the Senate and the House, and I very much hope we can get a bill so we can continue to make progress.

Let me give the committee an overview of where we are. We are about halfway through the process of building the 670 miles of pedestrians and vehicles fence in the southwest border that we are committed to finish by the end of this career. I think we are on track to finishing it, provided, of course, we get money to continue through the beginning of the first quarter of 2009.

We currently have almost 16,700 Border Patrol agents which keeps us on track to hiring more than 18,000 by the end of the year, again, as we committed. We are deploying virtual fencing along two other areas of Arizona later this year, the Ajo sector and the Tucson sector which is going to build on the progress we made in Project 28.

As a consequence of what we have already done, key indicators indicate substantial improvement in the condition at the border. There has been a substantial decline in apprehensions across the southern border, 20 percent for fiscal year 2007 as compared with the prior period of time. For the first half of this current fiscal year a further 17 percent fall along this border. Particularly in those areas where we have deployed operation streamline, which is a program to actually prosecute illegal crossers, not really to deport them. We have seen even further declines.

In the Yuma sector, we saw a 70 percent decline in fiscal 2007. This is reinforced by reporting that remittances to Mexico and other countries in Central America have been declining. All of this, I think, and most experts concede, reflect a turn in the tide in terms of illegal migration.

One not-so-attractive marker of our success is the steady increase in violence against our CBP officers and agents, that is unfortunately an expected consequence of what happens when you crack down on illegal criminal organizations and threaten their livelihood.

In terms of protecting our ports of entry, while we need to do some significant continued improvement to deal with increased capacity flow, let me just indicate some areas of real success. By the end of this year, we will have deployed our 10-fingerprint capability US–VISIT entry at all of our—virtually all of our airports. That is a tremendous stride from where we were when I started the job where we had no 10-print readers anywhere. That has been a major step up in terms of our security.

Our western hemisphere travel initiative is preceding the deadline for getting it in place is June of next year. In the mean time, we have significantly reduced the kinds of documents we will ac-

cept at the border that has increased our level of security at the land ports of entry. We currently have technology in place at every land port to read any travel document with a machine-readable zone. By the spring of next year, we will have deployed our RFID chip-reading technology at the top 39 ports of entry so that we will be fully in position to use the new WHTI-compliant documents by the deadline of June 2009. By the way, that will speed up the flow because it will make it easier and quicker to move through the process.

I might also indicate that we are planning to put into place later this year our electronic system of travel authorization, which will govern Visa Waiver Program countries including countries in western Europe where we have previously identified a potential vulnerability. That is also going to allow us consistent with Congress's legislation last year to admit a number of new nations into the Visa Waiver Program beginning later this year. That is going to be a good news story.

On the interior enforcement front, we have seen a steady rise in all of the metrics of our success. Deportations have risen steadily in each of the last fiscal years. To date, we are on track to exceed last year's record. Likewise, fugitive operations arrests doubled between 2006 and 2007, and we are already in 2008 on a path to meeting or exceeding last year's number of arrests of fugitives.

Work site criminal arrests—we have exceeded last year's record-breaking number, including cases against employers. In that regard, I might indicate that just yesterday, we had guilty pleas from two officials from a large McDonald's franchisee in the west, and a $1 million fine and plea by the franchise holder for violating the law with respect to deliberately harboring and hiring illegal migrants.

So for those who say we don't prosecute employers, the record is absolutely to the contrary. I think we are almost at 100 employers in this fiscal year and these are cases with real sentences where people are being sent to jail for years and are forfeiting money and paying very substantial fines.

With respect to E-Verify, which is a system we have in place that allows employers to check on-line to see whether the numbers they get are legitimate, this popular program is enlisting employers at a rate of about 1,000 a week. It is a very effective system and it gives employers who want to follow the law an opportunity to do the right thing.

I might say for those who continue to propagate the myth that the system doesn't work, we find that less considerably, less than 1 percent of the people who go through the system have a false-positive hit that ultimately has to be reconciled. Most of those get reconciled in a very short period of time.

We do identify a significant number of people that do turn up as positives that never contest the fact that they have a problem with their Social Security number, and that is because if they were to contest it, they would lose because they are not properly authorized to work.

So in sum, I would say, Mr. Chairman, although there is more work to do and I intend to leave my successor with a clear road map to finish the job that we have started, I think the Congress

and this Department can take pride in looking back over tremendous strides that have been made in securing our border and making our country safer. Thank you.

[The statement of Mr. Chertoff follows:]

PREPARED STATEMENT OF MICHAEL CHERTOFF

JULY 17, 2008

Chairman Thompson, Ranking Member King, and Members of the committee: Thank you for inviting me to testify today before this committee about the progress of our efforts to secure our homeland and protect the American people. I'd like to thank the committee for its past support of our Department and for your continued guidance as we take aggressive steps to advance our mission.

Today I would like to discuss the Department's efforts to secure the homeland through protecting our borders and ports of entry and enhancing interior enforcement.

In the course of this testimony, I will outline the substantial progress we have made over the past year, reflecting our determination to make the progress expected by the American people in our pursuit of a sustained border security strategy.

But I want to remind this committee at the outset that despite our solid gains over the past year, enforcement alone is not enough to address our immigration challenges. As long as the opportunity for higher wages and a better life draws people across the border illegally or encourages them to remain here illegally, we will continue to face a difficult battle. For this reason, I remain hopeful that Congress will resume its efforts to arrive at a solution that will address this long-standing problem.

I. STRENGTHENING BORDER SECURITY

I would like to begin by discussing our strategy to secure the border through installation of tactical infrastructure, including pedestrian and vehicle fencing; hiring and training new Border Patrol agents; and deploying a range of technology to the border, including cameras, sensors, unmanned aerial systems, and ground-based radar.

As part of this discussion, I will also talk about maritime security and the security measures we are implementing at our ports of entry.

Pedestrian and Vehicle Fencing

We made a commitment to have in place a total of 670 miles of pedestrian and vehicle fencing—including 370 miles of pedestrian fence and 300 miles of vehicle fence—on the southern border by the end of this calendar year to disrupt the entry of illegal immigrants, drugs, and vehicles. We are on track to meet that commitment. As of July 11, we have built over 335 miles of fence, including more than 182 miles of pedestrian fence and nearly 153 miles of vehicle fence.

In building this fence, we have sought the cooperation of land owners, State and local leaders, and members of border communities. We are willing to listen to any concerns communities have with respect to fence construction and we are willing to seek reasonable alternatives provided the solution meets the operational needs of the Border Patrol.

Though we will try to accommodate landowner concerns, we cannot indefinitely delay our efforts or engage in endless debate when national security requires that we build the fence. Moreover, in areas where we use our authority to waive certain environmental laws that threaten to impede our progress, we do so in conjunction with appropriate environmental studies so that we can take reasonable steps to mitigate the environmental impact of our construction. Of course, we will provide appropriate compensation for any property the Federal Government acquires through the process of eminent domain.

Boots on the Ground

Fencing is an important element of a secure border, but it does not provide a total solution. For this reason, we also have continued to expand the Border Patrol, which is part of the U.S. Customs and Border Protection (CBP). The Border Patrol defends our Nation's frontline between the ports of entry and responds to incursions with speed and agility.

Over the past year, we have accelerated recruitment, hiring, and training of Border Patrol agents. Approximately 16,690 Border Patrol agents are currently on board and we are on track to meet our commitment of having more than 18,000

agents by the end of this year—more than twice as many as when President Bush took office. This represents the largest expansion of the Border Patrol in its history, and we have grown the force without sacrificing the quality of training the Border Patrol Academy prides itself on delivering.

We have benefited substantially from the support of the National Guard under Operation Jump Start. We are grateful to the Department of Defense as well as Governors across the United States for allowing us temporarily to leverage the National Guard in support of our border security mission.

Technology and SBInet

A third critical element of border security is technology. While not a panacea, technology allows us to substantially expand our coverage of the border, more effectively detect and identify incursions, and improve Border Patrol response time.

Over the past year, as part of our Secure Border Initiative (SBI), we have deployed additional technology through our SBInet program which includes the development of the Project 28 (P–28) prototype in Arizona to test our ability to integrate several border technologies into a unified system. There has been some confusion about the purpose of the P–28 prototype and its role in the Department's larger efforts at the border. Allow me to put P–28 into its appropriate context.

P–28 was designed to be a real-world test of critical technologies and system integration under the broader SBInet program. Specifically, its purpose was to demonstrate the feasibility of the SBInet technical approach developed by the contractor, Boeing, and to show that this type of technology could be deployed in a demanding environment to help secure the southwest border. After successful field testing, we formally accepted P–28 from Boeing on February 21 of this year. We have a system that is operational and has already assisted in identifying and apprehending more than 3,500 illegal aliens trying to cross the border since September 2007.

It is important, however, to recognize that one of the key benefits of any prototype or demonstration concerns the lessons learned that can be applied to future concepts. These lessons learned are part of the true value of the technology demonstration and P–28 is no exception. Accordingly, we are building upon lessons learned to develop a new technology architecture, based on open standards for maximum interoperability that will incorporate upgraded software, mobile surveillance systems, unattended ground sensors, and an improved communication system to enable better connectivity and system performance. We will incorporate this new architecture in SBInet's first production system which will be deployed to two sites in Arizona this year.

As part of our broader efforts, we are continuing to deploy additional assets and technology along both our southern and northern borders. This includes a fourth unmanned aircraft system, with plans to bring two more on-line this fiscal year. One of these systems will be deployed on the northern border. We also anticipate expanding our ground-based mobile surveillance systems from 4 to 40. And we will acquire 2,500 additional unattended ground sensors this fiscal year, with 1,250 of those planned for deployment on the northern border and 1,250 on the southwest border. These will supplement the more than 7,500 ground sensors currently in operation. To continue to support our investment in border security, we have requested $775 million in funding as part of the President's fiscal year 2009 budget.

We are also mindful of the need to coordinate these strategies with our operational components in order to achieve effective situational awareness along the border. Intelligence and information integration is a priority for the President and Congress, and we have taken steps to achieve this goal. The Department's Office for Intelligence and Analysis, working with DHS operational components, is ensuring that intelligence supports the application of the strategic fencing, Border Patrol personnel, and technology that form the foundation strategies of our Secure Border Initiative. The Homeland Intelligence Support Team (HIST), an initiative co-located at the El Paso Intelligence Center (EPIC), will coordinate the delivery of national intelligence and information-sharing capabilities in support of operational objectives along the border. The HIST will work directly with our Border Patrol, law enforcement personnel, and intelligence analysts to identify how intelligence can strengthen our enforcement activities and ensure information is coordinated with key stakeholders quickly and accurately. We also created a Border Security Branch that merges intelligence community information with DHS component reporting to produce border products for our frontline operators.

Metrics of Success

Have our efforts achieved their desired impact? If we look at the decline in apprehension rates over the past year and third-party indicators such as a decrease in remittances to Mexico, the answer appears to be yes.

For fiscal year 2007, CBP reported a 20 percent decline in apprehensions across the southern border, suggesting fewer illegal immigrants are attempting to enter our country. This trend has continued into this fiscal year. During the first half of fiscal year 2008, southwest border apprehensions were down 17 percent, and were down Nation-wide by 16 percent over the same period the previous year.

In its June 4, 2008 issue, the Financial Times noted that following nearly a decade of double-digit increases, remittances reported to the Bank of Mexico fell to $7.3 billion in the first 4 months of this year, 2.4 percent less than in the equivalent period last year. The article went on to say that "it . . . appears that the laws to crack down on illegal workers are having an impact."

Through programs like Operation Streamline, we have achieved even greater decreases in apprehension rates in certain sectors. Under Operation Streamline, individuals caught illegally crossing the border in designated high-traffic zones are not immediately returned across the border. Instead, they are detained and prosecuted prior to removal. In the Yuma sector, for example, apprehension rates dropped nearly 70 percent in fiscal year 2007 after we initiated Operation Streamline. In the first quarter of this year, the Department of Justice prosecuted 1,200 cases in Yuma alone. And in Laredo, we experienced a reduction in apprehensions of 33 percent in the program's first 45 days.

In addition to the decline in apprehensions, our frontline personnel also prevented record amounts of illegal drugs from entering the United States last year. In fiscal year 2007, CBP officers and agents seized 3.2 million pounds of narcotics at and between our official ports of entry. Keeping these drugs out of our country not only protects the border, but our interior as well, including our cities and communities where these drugs may have ultimately been sold or distributed.

There is another sign that our efforts at the border are succeeding. It is, unfortunately, an increase in violence against CBP officers, and in particular, agents of the Border Patrol, up 31 percent in fiscal year 2007. Earlier this year, for example, the Border Patrol agents discovered a piece of wire that had been stretched across a road between double fencing so it could be pulled tightly to harm or kill an agent riding on an all-terrain vehicle. Criminals and other dangerous people are engaging in desperate attempts to derail our successful efforts, but we will not be deterred, nor will we tolerate violence against our agents. Our CBP officers and agents are authorized to use force as necessary and appropriate to protect them.

The Mérida Initiative

Much of this upsurge in violence is specifically the result of our disrupting the operations of narcotics and human traffickers through our security successes along our southern border.

At the same time, on the other side of this border, President Felipe Calderon of Mexico has continued to wage a vigorous battle against these criminal organizations. The Mérida Initiative proposal will enable the United States to form a real partnership with the Government of Mexico and bolster its efforts to confront criminal organizations whose activities significantly affect our country. The Mérida Initiative will provide hardware, training and technical assistance from our country to help this critical fight.

Congressional funding of Mérida sends a clear message to transnational criminal organizations that border security is a key element of a comprehensive national security strategy and that the actions of cross-border criminal organizations will be met with a coordinated, multinational response. We look forward to working with Congress to continue to provide full funding for this important initiative consistent with President Bush's request.

Maritime Security

The past year has seen a number of new threats and challenges within the maritime domain that have required not only innovative thinking, but also an approach to maritime security that requires true cooperation both within and outside the Department.

In the on-going campaign against narco-traffickers, it is no secret that our adversaries are resourceful and adaptive. While our Coast Guard continues to stop high-speed boats, fishing vessels and commercial vessels carrying narcotics, it now faces traffickers who are using self-propelled, semi-submersible (SPSS) vessels that are more difficult to detect. The Coast Guard is working very closely with the Colombian Navy and the Department of Defense through Joint Interagency Task Force

South developing new SPSS boarding protocols. The Coast Guard has also opened a dialog with the Mexican Navy which is very interested in partnering to address this emerging threat.

The administration strongly supports legislation to make the operation of or embarkation in a stateless self-propelled semi-submersible (SPSS) vessel on international voyages a felony. In June 2008, legislation was introduced in both the House and the Senate that would enable U.S. prosecutions of SPSS smugglers and crew members even if they successfully scuttle the vessel and all drug evidence is destroyed. Similar legislation was included in the Coast Guard Authorization Act of 2008. Each of these measures enjoyed strong bipartisan support. Along with Attorney General Mukasey and Director Walters, I recently signed a letter expressing our concerns about the SPSS threat, and urging Congress to enact anti-SPSS legislation immediately. We strongly support these provisions and applaud the committee's efforts to ensure that these measures are enacted this session.

In addition to this initiative, the Department is committed to securing our maritime domain through the implementation of an at-sea biometrics collection capability. Since November 2006, the Coast Guard and US–VISIT have implemented a program to collect biometrics on individuals intercepted in the Mona Passage near Puerto Rico, a high-threat area for illegal migration. Between November 2006 and July 2008, the Coast Guard collected biometrics from more than 1,800 foreign nationals interdicted at sea. This new capability resulted in the prosecution of over 150 felons, many with extensive criminal records.

Since this program was established, there has been a 40 percent decrease in illegal migration through the Mona Passage. In April 2008, the program was expanded to South Florida.

Ports of Entry

Of course, it makes little sense to secure our maritime domain and the long stretches of border between our official ports of entry if we continue to have possible gaps in border security at the ports of entry themselves.

Since the Department's creation, we have continued to make major advances to prevent dangerous people from entering our country through official ports of entry. We have fully implemented US–VISIT two-fingerprint capabilities at all U.S. ports of entry. The State Department has deployed ten-fingerprint capabilities to all U.S. consulates overseas. We also have begun deploying ten-fingerprint capability to select U.S. airports, with the goal of full deployment to airports by the end of this calendar year.

US–VISIT checks a visitor's fingerprints against records of immigration violators and FBI records of criminals and known or suspected terrorists. Checking biometrics against immigration and criminal databases and watch lists helps officers make visa determinations and admissibility decisions. Collecting ten fingerprints also improves fingerprint-matching accuracy and our ability to compare a visitor's fingerprints against latent fingerprints collected by the Department of Defense and the FBI from known terrorists all over the world.

In January of this year, we also ended the routine practice of accepting oral declarations alone to prove citizenship and identity at our land and sea ports of entry. People entering our country, including U.S. citizens, are now asked to present documentary evidence of their citizenship and identity from a specified list of acceptable documents. Not only will this help reduce the number of false claims of U.S. citizenship, but it has reduced the opportunity for document fraud by narrowing the list of more than 8,000 different documents that a traveler might present to our CBP officers. These changes are improving security and efficiency at the ports of entry.

I might add that we implemented these most recent changes in travel document requirements without causing discernible increases in wait times at the border. After only a few months since the new requirements were instituted, compliance rates of queried travelers exceed 90 percent. U.S. and Canadian citizens are presenting the requested documents when crossing the border. This is a great "non-news" story, demonstrating that we can improve security at the ports of entry without sacrificing convenience for legitimate travelers.

Furthermore, as we move toward implementation of the Western Hemisphere Travel Initiative, we will be utilizing radio frequency identification (RFID) technology, a proven technology that has successfully facilitated travel and trade across our land borders since 1995 through our trusted traveler programs. The vicinity RFID tags on travel documents contain no personal information, only a number that is meaningful to our secure DHS systems. The number acts as a pointer for DHS to access information while ensuring no outside parties have access. WHTI will incorporate state-of-the-art RFID technology, which should allow us to read up to

eight vicinity RFID-enabled documents in a vehicle at a range of 10 to 15 feet and keep traffic flow moving.

CBP has technology currently in place at all ports of entry to read any travel document with a machine-readable zone, including passports, Enhanced Drivers Licenses, and the new Passport Card being issued by the Department of State. All CBP officers at the ports of entry are currently trained in the use of this technology.

In preparation for WHTI implementation, CBP awarded a contract on January 10, 2008 to begin the process of deploying vicinity RFID facilitative technology and infrastructure to 354 vehicle primary lanes at 39 high-volume land ports of entry over the next 2 fiscal years. We have started the actual construction at our land border ports.

In February 2008, we deployed the new vehicle primary client software application to more than ten high-volume ports in anticipation of implementing the vicinity RFID primary lane solution. This critical software deployment, which will be completed at all 39 ports by fall, quickly and effectively provides officers with vital information on border crossers.

And finally, on June 6, 2008, the Department launched the Global Entry program at George Bush Intercontinental, JFK, and Dulles International Airports as well as an expanded Model Ports Initiative to improve security and convenience at our ports.

Global Entry is designed to expedite the screening and processing of pre-approved, low-risk American citizens or permanent legal residents entering the United States, while freeing more CBP officers to focus more on actual security and criminal risks. Applicants will provide their biographical and biometric information, undergo a background check, and complete an interview with a CBP officer.

Established in 2006 as part of the Rice-Chertoff Initiative, Model Ports is being expanded to 18 additional airports. It has enhanced border security through the use of new technology while streamlining security processes and facilitating travel for legitimate visitors.

In addition to these initiatives, the Department is also committed to establishing an exit system to help confirm through biometrics that an individual has left the United States. Currently, commercial carriers and vessel owners and operators already play a role in the collection of passenger information. Today, carriers collect and transmit biographical information electronically and submit paper I–94 forms to our Department for passengers departing the United States. Introducing biometrics into this process will require these carriers, owners, and operators to collect additional information.

In April 2008, the Department announced a proposed rule that would mandate the collection of biometric information from most non-U.S. citizens departing the United States by air or sea. A 60-day comment period ended on June 23 and the Department is currently reviewing the comments it received. In addition to enhancing security, the proposed exit rule will assist in our efforts to meet the requirements of the provisions of the Implementing Recommendations of the 9/11 Commission Act (9/11 Act) that authorize the expansion of the Visa Waiver Program (VWP).

Visa Waiver Program: Expansion Plus Security

Each year, our ports of entry welcome hundreds of millions of visitors to this country. For two decades, many of them have arrived under our VWP, which enables nationals of certain countries to travel to the United States for tourism or business for stays of 90 days or less without obtaining a visa.

Yet in our post-9/11 world, we are acutely aware of the inherent risk that visa-free travel poses to our national security. Simply stated, it is naive to assume that a traveler from a VWP country automatically constitutes a lesser threat than a traveler from a non-VWP country. Let us not forget that Richard Reid, the notorious "shoe bomber," was a British national from a VWP-member country, and that Zacharias Moussaoui, who is serving a life sentence for his role in the 9/11 attacks, was a citizen of France, who traveled to the United States under the VWP.

Consequently, in accordance with the 9/11 Act, the United States is now moving to strengthen the VWP's security elements. Specifically, DHS is working with the Department of State to transform the program into one that is capable of analyzing threats on a traveler-by-traveler basis, rather than on a country-by-country basis, while at the same time expanding the program to include further eligible countries.

A cornerstone of this effort is the creation of an Electronic System for Travel Authorization (ESTA). Beginning in January 2009, DHS intends to require all VWP travelers to apply for ESTA approval to travel to the United States under the VWP program by submitting biographical and eligibility information on-line prior to departure. The information will be similar to that required today on the I–94W paper form.

An electronic travel authorization system similar to ESTA was inaugurated by Australia and has been used there for a number of years. Our ESTA requires no information beyond what is already being collected on paper forms. But by asking VWP travelers to submit this information before boarding a carrier to come here, it will enable authorities to pinpoint potential security threats ahead of time, identify individuals ineligible for visa-free travel before they board (thus saving them a wasted trip to a U.S. airport and back), and process authorized travelers more efficiently.

The deployment of ESTA is not the only way we are strengthening VWP security. Over the past 6 months, the United States has signed memoranda of understanding with eight nations aspiring to join VWP—the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, the Republic of Korea, and Slovakia—putting each on a path to fulfilling the new security requirements that current VWP nations will also have to meet by October 2009. These new requirements will include providing information about serious crimes and known and suspected terrorists, timely reporting of lost and stolen passport data, and cooperation on airport and aviation security. The ultimate result will be an expanded number of increasingly secure nations sending legitimate visitors to our country. In fact, we are reaping the rewards of enhanced security cooperation even before VWP expansion is a reality.

II. ENHANCING INTERIOR ENFORCEMENT

From construction of fencing to reform of the Visa Waiver Program, the security measures I've outlined are designed to protect our borders, our ports of entry, and ultimately our entire country. Strong and effective interior enforcement can provide a further boost to security, while deterring illegal border crossings.

Interior enforcement includes targeted work site enforcement operations across the United States; increasing fines and penalties; seizing assets and when appropriate, seeking incarceration for those who break the law; providing better tools to help employers maintain a stable, legal work force; and identifying, arresting, and removing fugitives, criminals, and illegal alien gang members who pose a threat to the American people.

In fiscal year 2007, Immigration and Customs Enforcement (ICE) removed or returned more than 285,000 illegal aliens as part of a comprehensive interior enforcement strategy focused on more efficient processing of apprehended illegal aliens and reducing the criminal and fugitive alien populations.

This strategy has resulted in sustained advances across multiple areas of ICE's mission, including the continuation of our "catch and return" practice (instead of the former "catch-and-release" approach), a re-engineered and more effective detention and removal system, and new agreements with foreign countries to ensure prompt and efficient repatriation of their citizens.

Work Site Enforcement

ICE's work site enforcement efforts advanced significantly in fiscal year 2007. ICE made 4,077 administrative arrests and 863 criminal arrests in targeted work site enforcement operations across the country. Ninety-two of those arrested for criminal violations were in the employer's supervisory chain and 771 were other employees.

The majority of the employee criminal arrests were for identity theft. The employer criminal arrests included illegal hiring, harboring, conspiracy, and identity theft. Some cases also included money-laundering charges.

In May 2008, ICE conducted the largest work site enforcement operation in its history. As a result, 297 immigrants pleaded guilty to using fraudulent documents to obtain their jobs at an Iowa meat processing plant, and 270 of them have been convicted on criminal charges and will serve prison sentences. On July 3, 2008, two supervisors at the plant were arrested and charged with aiding and abetting the possession and use of fraudulent identity documents and encouraging aliens to reside illegally in the United States. One of them was also charged with aiding and abetting aggravated identity theft.

Increasing Fines Against Employers

As a further disincentive to hire illegal aliens, we have partnered with the Department of Justice to increase civil fines on employers by approximately 25 percent, which is the maximum we can do under existing law. This action was one of the 26 administrative reforms we announced in August and is intended to change behavior and hold unscrupulous employers accountable for their actions.

Expanding Workforce Tools

As we are holding employers accountable for breaking the law, we are also providing honest employers with an expanded set of tools to maintain a stable, legal work force.

We are moving ahead with supplemental rulemaking to our No-Match Rule published last year. As you may know, this rule provided a safe harbor for employers that followed a clear set of procedures in response to receiving a Social Security Administration Employer No-Match Letter that indicated a potential problem with an employee's records, or receiving a Department of Homeland Security letter regarding employment verifications. Although the Department was sued to stop the rule from taking effect, we have made progress in addressing the judge's concerns by releasing a supplemental proposed rule that provides a more detailed analysis of our no-match policy. It was published in the Federal Register on March 26, 2008 (73 FR 15944).

We are also continuing to promote the use of E-Verify, an on-line system that allows employers to check, in most cases within seconds, whether an employee is authorized to work in the United States. Over 94 percent of all E-Verify queries are automatically verified. Some States have begun to require employers to enroll in E-Verify, notably Arizona, where the system has been adding more than 500 new employers per week. Nationally, we are adding 1,000 new E-verify employers per week. More than 75,000 employers are currently enrolled, compared to 24,463 at the end of fiscal year 2007, and more than 4 million new hires have been queried this fiscal year. We are expanding outreach across the country in an effort to increase participation. To support this work, we have requested $100 million in the fiscal year 2009 budget.

We are establishing a robust monitoring and compliance unit to check employers' use of E-Verify and respond to situations where employers could use the system in a discriminatory or otherwise unlawful manner. We are also increasing our outreach to employers and the American public to ensure that employers and employees understand their respective rights and obligations.

Additionally, we have added a new photo-screening capability to E-Verify that will significantly reduce document fraud. With this new enhancement, employers are able to match the photo on DHS-issued permanent residence cards (green cards) and employment authorization documents (EAD) with the photo held in the DHS database.

The Federal Government is leading by example. Last month, the President issued an Executive Order directing me to designate an electronic employment eligibility verification system for Federal contractors to use. Subsequently, I designated E-Verify as that system. The FAR Council has published proposed changes to the Federal Acquisition Regulation to implement the requirement that contractors agree to use E-Verify when entering into Federal contracts.

As there are more than 200,000 companies doing business with the Federal Government, this will significantly expand the use of E-Verify and make it more difficult for people who are in this country illegally to obtain jobs through fraud.

E-Verify is clearly a vital program for our country. It is important that Congress take the appropriate action to reauthorize E-Verify this year to ensure that employers may continue to benefit from this valuable system.

Boosting State, Local, and International Cooperation

We also work with State and local law enforcement who want to participate in our enforcement efforts by receiving training and contributing to joint Federal, State, local, and international law enforcement initiatives.

Much of this work is organized through the ICE Agreements of Cooperation in Communities to Enhance Safety and Security (ICE ACCESS) program, which includes training under the 287(g) program, participation in Border Enforcement Security Task Forces (BEST) and Document and Benefit Fraud Task Forces (DBFTF).

Through the 287(g) program, ICE delegates enforcement powers to State and local agencies that serve as force multipliers in their communities and are trained and supervised by ICE officers. As of July 1, 2008, ICE has signed 55 memoranda of agreement (MOAs) with State and local law enforcement agencies to participate in the program. Last year, ICE trained 422 State and local officers. In the program's last 2 years, State and local law enforcement partners have identified more than 28,000 illegal aliens for potential deportation.

ICE also has continued to expand its BEST teams to work cooperatively with domestic and foreign law enforcement counterparts to dismantle criminal organizations operating near the border. There are ten BEST teams located along the U.S. borders. The BEST concept was first implemented in Laredo, Texas in January 2006. BEST teams were subsequently established in Tucson, Arizona (March 2006);

El Paso, Texas (October 2006); San Diego, California (November 2006); and Rio Grande Valley (Harlingen, Brownsville, McAllen), Texas (March 2007).

In February 2008, the first northern border BEST operation was initiated in Blaine, Washington. The second northern border BEST team was subsequently launched in Buffalo, New York in March 2008. In fiscal year 2008, BEST established teams in three other locations along the southwest border: Phoenix, Arizona and Yuma, Arizona (March 2008) and Imperial Valley, California (June 2008).

In fiscal year 2007, BEST was responsible for 519 criminal arrests and 1,145 administrative arrests of illegal aliens, the seizure of 52,518 pounds of marijuana and 2,066 pounds of cocaine, 178 vehicles, 12 improvised explosive devices, and more than $2.9 million in U.S. currency.

In fiscal year 2008, BEST will expand its operations in three other major U.S. cities with large maritime ports of entry. BEST will insert teams in the ports of New York/New Jersey, Los Angeles/Long Beach, and Miami.

ICE DBFTFs are a strong law enforcement presence that combats fraud utilizing existing manpower and authorities. Through comprehensive criminal investigations, successful prosecutions, aggressive asset forfeiture and positive media, the DBFTFs detect, deter and dismantle organizations that facilitate fraud. The task forces promote the sharing of information, ensure the integrity of our laws, and uphold public safety. In April 2007, ICE formed six new task forces, bringing the total number of DBFTFs to 17. These task forces have been responsible for 954 criminal arrests and 635 criminal convictions.

Targeting Fugitives, Criminals, and Gang Members

Finally, our interior enforcement efforts have focused on identifying, arresting, and removing fugitives, criminals, and illegal alien gang members in our country.

In fiscal year 2007, ICE Fugitive Operations Teams arrested 30,407 individuals, nearly double the number of arrests in fiscal year 2006. The teams, which quintupled in number from 17 to 75 between 2005 and 2007, identify, locate, arrest and remove aliens who have failed to depart the United States pursuant to a final order of removal, deportation, or exclusion; or who have failed to report to a Detention and Removal Officer after receiving notice to do so. In fiscal year 2008, Congress authorized an additional 29 teams. Fugitive Operations Teams have arrested 24,457 individuals this year.

ICE also expanded its Criminal Alien Program (CAP) in fiscal year 2007, initiating formal removal proceedings for 164,000 illegal aliens serving prison terms for crimes they committed in the United States. ICE has already initiated 55,547 formal removal proceedings against additional criminal aliens in the first quarter of fiscal year 2008 under this program. ICE is developing a comprehensive "Secure Communities" plan to identify and remove criminal aliens which will revolutionize immigration enforcement. By using technology to share information between law enforcement agencies and apply risk-based methodologies to focus resources, ICE will be able to assist all local communities in removing high-risk removable criminal aliens.

In addition, in fiscal year 2007 ICE arrested 3,302 gang members and their associates as part of Operation Community Shield. This total includes 1,442 criminal arrests. For fiscal year 2008 (through June 30), ICE has arrested 2,267 gang members and their associates. In total, ICE has arrested more than 9,600 gang members and associates as part of Operation Community Shield since 2005.

As an added layer of protection against the entry of known gang members, we have worked with the Department of State to expand the list of known organized street gangs whose members are barred from entry into the United States. This action will ensure that active members of specified criminal organizations or street gangs from El Salvador, Honduras, Guatemala, or Mexico, as well as certain other foreign locations, will be denied a visa.

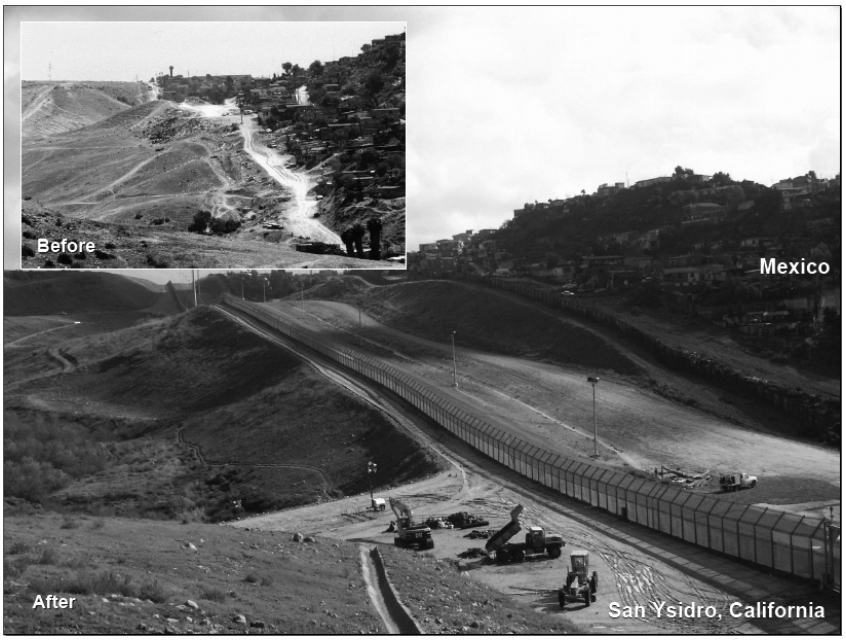
In all of these operations, we work cooperatively with State and local law enforcement to make sure we achieve our purpose with minimal disruption to surrounding communities. We also work with community organizations to ensure that children of illegal immigrants directly impacted by these operations are treated humanely and given appropriate care according to established protocols.

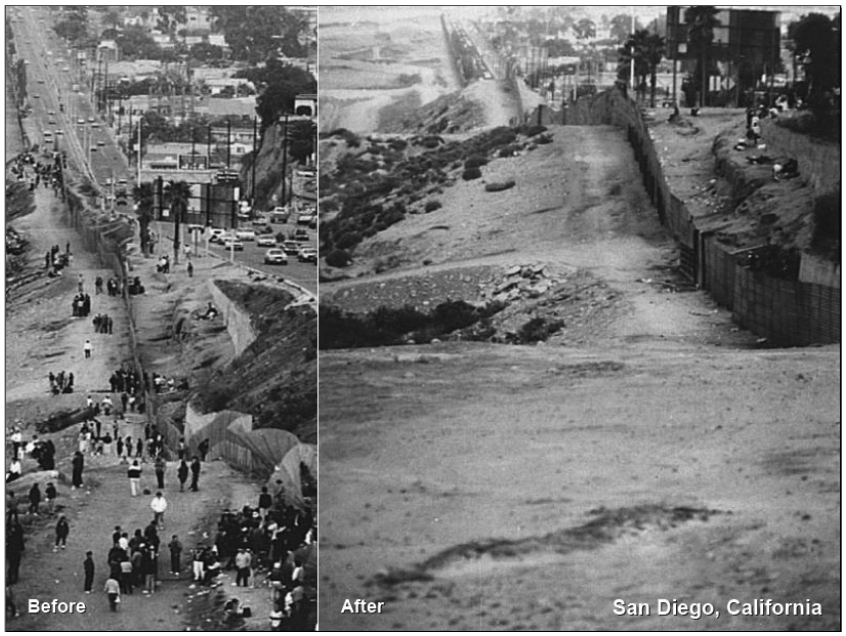
III. CONCLUSION

From protecting our physical borders to enhancing our interior enforcement, my Department continues to pursue a host of measures that are designed to increase the security of our homeland. There can be no homeland security without border security, and so for the duration of my tenure as Secretary of Homeland Security, I will continue to enforce our laws accordingly.

While an enforcement-only approach will not address the full breadth of the Nation's immigration challenges, the American people demanded last year that enforcement efforts be serious and sustained. It is my hope that as we continue to enforce existing law with increased effectiveness, this Congress will consider once more the kind of reform that will deal fully with these challenges.

I look forward to continued partnership with this committee on border security, and indeed, on every aspect of homeland security, for the benefit of this Nation and its people.


Before
Mexico
After
San Ysidro, California


Before
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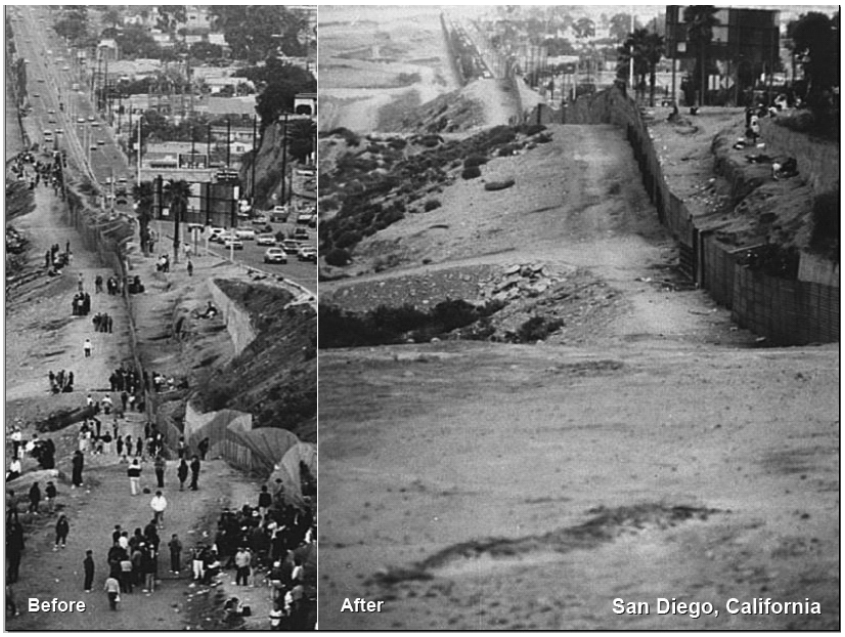
San Diego, California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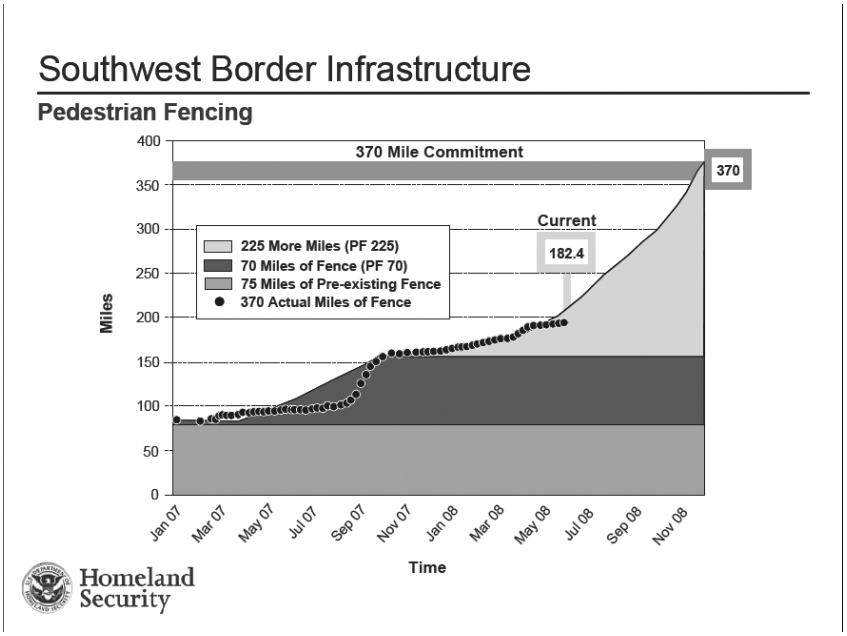
San Diego, California


Southwest Border Infrastructure
Pedestrian Fencing
370 Mile Commitment
370
Current
182.4
225 More Miles (PF 225)
70 Miles of Fence (PF 70)
75 Miles of Pre-existing Fence
370 Actual Miles of Fence
Miles
400
350
300
250
200
150
100
50
0
Jan 07
Mar 07
May 07
Jul 07
Sep 07
Nov 07
Jan 08
Mar 08
May 08
Jul 08
Sep 08
Nov 08
Time
Homeland Security

Securing the Border

Southwest Border Fencing

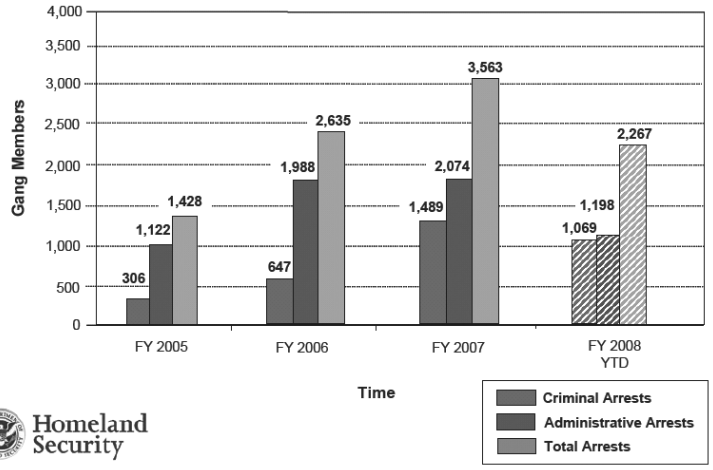
Completed as of July 11, 2008 …

- 182.4 of 370 Miles of Pedestrian Fencing
- 152.8 of 300 Miles of Vehicle Fencing
- 335.2 of 670 Total Miles of Fencing

Homeland Security

Operation Community Shield

Removing Gang Members from Our Streets

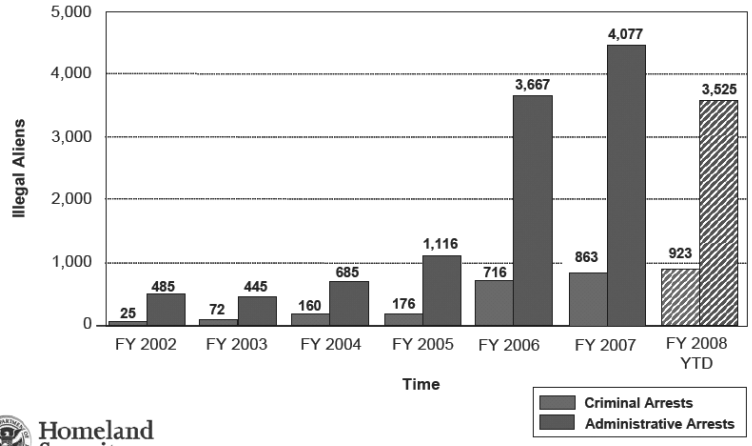


Homeland Security

3

Worksite Enforcement Arrests

Prosecuting Illegal Employment



Homeland Security

ICE Interior Enforcement

Prosecuting Violators

Fiscal Year	Owners/ Employers	Others/ Employees	Total
2004	13	152	165
2005	3	173	176
2006	110	606	716
2007	92	771	863
2008 YTD	91	832	**923**

Homeland Security

Chairman THOMPSON. I thank you for your testimony, Mr. Secretary.

I will remind each Member that he or she will have 5 minutes to question the Secretary. I now recognize myself for those questions.

At the outset, Mr. Secretary, I am always thrilled that the shift in concern with the Department, your testimony when Mr. King was Chair never went to jurisdiction and how many committees you had to testify, is when I became Chairman, and it became an issue, and we are operating on the same set of rules. I just want, for the record, to reflect that you said one thing when Mr. King was Chairman as to what the problems were, we allowed you to reorganize the Department. Now the Democrats get to be Chairman, you take what Mr. King said and it becomes part of your testimony in terms of jurisdiction and some other things.

Secretary CHERTOFF. I think, Mr. Chairman, I have said the same thing and I thought I was in agreement with the committee. This committee has——

Chairman THOMPSON. That was, Mr. Secretary, just my part, I didn't say it for you to defend yourself. It is just for the record.

The issue for me now, Mr. Secretary, is that I have a letter here from Congressman John Lewis, a Member of Congress. As you know we have been trying to get him off the no-fly list for years, and according to Mr. Lewis's letter, he's still having trouble. We have asked the Department to do what they could to help secure Mr. Lewis's ability to get on airplanes in this country and travel. According to this letter, it is still not happening. Even to the point that the Department gave him a letter attesting that he was John Lewis and that he should be allowed to get on planes, but it is not happening. So I am going to ask you in the remaining time that you have as Secretary to help Congressman John Lewis travel the country, just like any other law-abiding citizen should be able to. I have this letter, I would like to enter it into the record, but this is, I believe, the committee's request because we all know who he is.

[The information follows:]

JOHN LEWIS
5TH DISTRICT, GEORGIA

SENIOR CHIEF DEPUTY
DEMOCRATIC WHIP

COMMITTEE ON
WAYS AND MEANS

CHAIRMAN,
OVERSIGHT SUBCOMMITTEE

INCOME SECURITY
AND FAMILY SUPPORT

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July 14, 2008

The Honorable Bennie G. Thompson
Chair
House Committee on Homeland Security
2432 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Thompson:

Traveling through American airports has become very complicated and frustrating. More and more, I am becoming reluctant to use airlines that are not based in Atlanta, like Delta, but even with Delta, I have problems.

As I have discussed with you, my name, *John Lewis*, has been on the Transportation Security Administration's "No Fly" list for several years. I need your help to get me off. Now, my airline tickets must read, "John R. Lewis", but I am still subjected to multiple searches and required to provide multiple pieces of photo identification by both TSA and airline employees.

Let me share a few brief examples of what I have experienced over the years. Once I was flying into Washington, D.C., and after the flight took off, in mid-air, the flight attendant asked on the loudspeaker if there was anyone named "John Lewis" on this flight. I responded immediately. The flight attendants asked me questions, reviewed my driver's license, and then called someone to confirm that I was on the flight, and told them what seat I was in. I had already passed through multiple security check points in order to board the flight. To this day, I do not understand what the point of that exercise was.

Another time about a year and a half ago, I was flying from Washington National to St. Louis, Missouri. After passing through security, they stopped me at the gate for a secondary search because the airline forgot to indicate on my boarding pass that I needed to go through a second screening. They made me wait at the gate for a TSA official to arrive, and then they scanned me, searched my bags, and checked my identification again. The process took so long that the captain got off the plane. He said to me, "Congressman, my name is *John Lewis* too, and the same thing happens to me. When you get off the list, please help me get off too."

Chairman Thompson
July 14, 2008
Page 2

As you know, earlier this year, TSA revised the No Fly list procedures and announced the Department of Homeland Security's Travel Redress Inquiry Program (TRIP). Additionally, TSA Assistant Secretary Hawley provided me with a TRIP letter to present to airline and TSA authorities that should have simplified the process. Three weeks ago, when I presented the TSA letter to a Delta employee, the representative said that my name being on the No Fly List is not their problem; it is a TSA issue. My staff also calls TSA in advance so that they know when I am traveling outside of Atlanta, but they are only receptive with early notice, not last minute travel or modified itineraries, which are requisites of congressional scheduling.

Unfortunately, for the most part, the new TRIP program has further complicated, not simplified, my air travel experience. Delta Airlines, which is headquartered in my congressional district and operates the most frequent flights between Atlanta and Washington, D.C., was the only airline that was able to retain some sense of normalcy in managing my travel process over the years. Now as a result of the TRIP program, my staff has to notify Delta's legislative liaison every time I plan to board a flight, so that they can advise the airline staff at the airport that I am boarding a flight. Given the fluid nature of congressional travel, you can imagine how easy that process is. To further complicate matters, it will take Delta Airlines at least one year to modify their process to accommodate the TSA changes.

I am on this list; I have been trying to get off for years. And it seems as if there is not any way for me to get off. I have done nothing wrong and have complied with every request. If I encounter these problems traveling as a Member of Congress showing my congressional identification, drivers' license, and a clearance letter from TSA, you can only imagine what the average American suffers. The current system is restrictive, lacks transparency, and is seriously defective. It is wrong; it is unconstitutional, and it must be changed.

As always, I thank you for your attention to these issues. I look forward to continuing to work with you on transit security and improving federal services to American travelers.

Sincerely,

John Lewis

John Lewis
Member of Congress

Secretary CHERTOFF. I would be happy to do it.

Chairman THOMPSON. But also I would like for you to find out how many other John Lewises are out there who are having difficulty explaining to the Department who they are so they can get off this no-fly list. We see more and more of that happening, and I know Senator Kennedy had a problem with it and for whatever reason it was worked out. So I would encourage you to help us with our colleague in that respect.

With respect to E-Verify, have you had an analysis done of its impact on small businesses with respect to the paperwork that is required to manage it?

Secretary CHERTOFF. I don't know if we have done a specific analysis. I don't think there is a lot of paperwork involved because it is an on-line system. I have been in small businesses and I was at the one in the Washington area about a year ago, and I have actually watched it in action. It was really just an on-screen issue. It was minimal paperwork and burden. The company I dealt with, the name has slipped my mind, I am very happy with them.

Chairman THOMPSON. So it is your testimony to the committee that it has not been a burden to small business.

Secretary CHERTOFF. That is my understanding, correct.

Chairman THOMPSON. Thank you. With respect to the documents you referenced in your initial statement, in those documents, Mr. Secretary, do they speak to how those individual references relate to other aspects of border security or have you stovepiped the security aspect from maritime and all of that?

Secretary CHERTOFF. They are—the answer is they are not stovepiped. In fact, when they are produced, they are circulated around in interagency—in intra-agency process, with all the relevant components so that they are crossed-walked. Everybody has an opportunity to participate in the planning and process. That is part of what we have done in the Department in terms of our integrations is to set up an operational coordination section and also at a policy level, all the operating components work together. So they all have visibility to all of what everybody else does.

Chairman THOMPSON. I understand that. But in the documents that you have presented today, is the relationship between maritime border, the northern border, southern border, is there a coordination application?

Secretary CHERTOFF. Yes.

Chairman THOMPSON. Well, will you provide the committee with the information that you have before you that reflects the coordination and cooperation?

Secretary CHERTOFF. I am happy to. Most of what I have on this big pile were reports to the appropriations, our appropriations subcommittee so they are already before Congress. I only brought a fraction so we can produce more. We can certainly provide those.

Chairman THOMPSON. I know you can only carry so much, Mr. Secretary, so what you need to do is when you go back, just gather up what you think we need with respect to the border security plan and make it available to more than just the appropriators, but the authorizing committee also.

Secretary CHERTOFF. I am happy to do that.

Chairman THOMPSON. I yield to the gentleman from New York for 5 minutes, Mr. King.

Mr. KING. Thank you, Mr. Chairman. Secretary Chertoff, one thing that has probably not been said which should be and we know that things can change at any moment, but the fact is that this country has not been attacked in almost 7 years, and we know that anything can happen at any time, but that is just not luck. There have a number of attempted attacks that have been stopped. I think the Department of Homeland Security should take appropriate credit for that.

Also I would just say, Mr. Chairman, regarding the fact of committee jurisdiction, no matter who was in charge, I always said

that this committee shall be the prime committee. I can give you any number of instances in the past Congress, for instance, on the whole issue of FEMA restructuring we went to the mat with the Republican leadership to ensure that this committee would have primary jurisdiction.

At that time Transportation Infrastructure wanted to run that and he took it from them, not out of any turf battle, but because we felt that there should be much more a consolidated jurisdiction. Should more have been done? Absolutely. I was fighting for it the whole time and we were making constant, steady incremental progress toward that.

Mr. Secretary, you mentioned airport security, you mentioned the 10-finger identification, I would like to follow up on that and I don't know how much you can say in this unclassified setting, but we know that there was increased training in FATA, the federally Administered Tribal Areas. We know, I believe it is public record that all al Qaeda has tried to recruit Europeans to be trained terrorists.

How much confidence do you have that under the Visa Waiver Program we are able to identify those with European passports who can come in under the Visa Waiver who may or may not have been trained in the FATA?

Secretary CHERTOFF. I think particularly, when we get the electronic system of travel authorization in place, I have a high confidence, but not a perfect confidence. As I have said before, and I know you know this because we have talked about it, there is a vulnerability because the terrorists are deliberately focusing on people who have legitimate, western European passports, who don't appear to have records as terrorists. They don't necessarily appear on watch lists.

Obviously, we gather intelligence in a variety of ways to try to detect these people. There are three things we do to try to particularly look at these western Europeans. First of all, to the extent we get commercial data, passenger name, record information that shows us people's travel patterns, financing patterns, what their telephone number is, we can use that to uncover connections and we have used it to uncover connections between someone who we don't have by name on a watch list, but who, in fact, may have been trained in the FATA or may be connected to terrorists, so that is one thing we do.

Second, the fingerprints give us the ability, again, to run against latent prints that may have been picked up in safe houses or in training camps so that we can see whether someone has been in a training camp or a safe house based upon a fingerprint match. In at least one case, that turned up something that we had to take a close look that I am aware of.

Once we get the electronic travel authorization, we will start to get information about travelers at least 72 hours in advance in most cases, when they come from the Visa Waiver countries. That will give us more time to do the analysis I have talked about.

When you take all these things together, as well as the ordinary intelligence gathering that we do, and we can continue to do, thanks to the FISA reform legislation and other measures we take, I think I have a good degree of confidence we can catch people com-

ing in. But I have to tell you there is no guarantee. They are working very hard to slip by us.

We have to constantly challenge ourselves and raise the bar, so to speak, in a way that doesn't impede the flow of innocent travelers, but that does take account of the fact that they are deliberately trying to find people who do not match the obvious indicators of being a terrorist.

Mr. KING. What is the level of enthusiasm or level of cooperation from the Visa Waiver countries?

Secretary CHERTOFF. I would say we have a really outstanding relationship with the Visa Waiver countries in terms of information sharing and in terms of their willingness to participate, as you know from the August 2006 airline plot, which is now unfolding in a courtroom in Britain. We have had a very long-standing relationship with the British, but I would have to say we have comparably strong relationships with the Germans, the French, the Italians. I have spent a lot of time over there myself. I think, actually, they are now adopting some of the measures that we have that they originally complained about, like fingerprinting, like passenger name record collection. They have now said that not only do they agree that we should do it, they want to do it themselves. I think that is a real step forward for our mutual level of security.

Mr. KING. Thank you, Mr. Secretary.

Chairman THOMPSON. I now recognize the gentlelady from California, Ms. Sanchez, for 5 minutes.

Ms. SANCHEZ. Thank you, Mr. Chairman. Thank you Mr. Secretary for being before us today. As you probably know, I chair the subcommittee that handles quite a bit of the work that goes on through this committee. In particular, we oversee your Department's work and in a lot of different areas, including many of what I call the disasters of the projects that we have been working on. In particular, for example, Deepwater with the Coast Guard, which you know is a complete disaster. TWIC which we're trying to hold a hearing later this month and everybody is unhappy with and we haven't been able to get the people signed up for that. Of course, SBInet where we had a $22 million contract that costs something like $45 million to the contractor, it was pretty unacceptable. You finally accepted it and it doesn't work and we have to kind of redo it again.

Now we have another $40 million and a $45 million contract out for some of the same work that we are doing by the way with the same contractor. And of course, US–VISIT, which we just had a hearing on yesterday. So which, of course, has not gotten the exit part to that program.

Yesterday when we had that hearing, we talked about how the Department has decided to push off the exit piece of that VISIT program to the airlines. I suggested that is not a good idea.

Can you comment on that and do you still believe that that is where we should be putting the exit piece of that program?

Secretary CHERTOFF. I am happy to comment; first I wouldn't want my silence to be taken——

Chairman THOMPSON. If you would——

Secretary CHERTOFF. I wouldn't want my silence to be taken as in any way acquiescing or agreeing in what I think is an incorrect

characterization of how we have proceeded with Deepwater, TWIC or the virtual fence along the border.

Deepwater notwithstanding problems that go back years, I think Admiral Allen has significantly reconfigured it. I have personally been on the first national security cut, it works very well. TWIC, although we are somewhat delayed in implementation, we are implementing it and it is moving forward.

Finally, I disagree with the characterization that the virtual fence does not work. It works. We are deploying the next two stages of it working with the Border Patrol. Problems with fixed without the taxpayer paying any extra money. In fact, Boeing ate the cost of making those changes. So I just wanted to get that on the record.

As far as US–VISIT air exit is concerned, as you know we got a lot of comments. This is an overdue project. Congress has clamored for us to do this. We obviously are going to evaluate the airlines comments. To the extent the airlines want to have the Government pay for this, that is going to be a budget issue. Congress can either decide that the Government shouldn't pay for it, it should be a carrying cost to the airlines, or Congress can decide they want to budget money to pay for it, or Congress can decide they want to abandon the whole program. That is just a money issue. We will certainly consider the airlines objections and that will come out, our proposal will come out in rulemaking.

As far as the ultimate concept though, we are committed to it, we are ready to go with it. To the extent the airlines don't like the concept of making people have to check out, I point out that the airlines already have the obligation to check passports. I have seen the airlines write letters saying well, it will take an extra hour to give your fingerprint, and that is complete nonsense. I have seen it done myself. It takes about 10 seconds.

So budget issues are going to be dealt with obviously in a way budget issues normally are. In terms of the concept we are ready to go, we are committed to doing it and however we wind up allocating the cost responsibilities between the airlines and the Government, I think it is long overdue.

Ms. SANCHEZ. Mr. Secretary, we could certainly have a long discussion on all of those projects. I really differ with you with respect to how your department is getting those projects done. I was just down at Sasabe and Project 28, we are paying to have it redone, that is the reality of the situation on that project.

But I want to go back to this airport issue because I do believe that biometrics and checking people's identity in this type of issue is not an airline responsibility. It is a responsibility of the United States. It is a responsibility of our Government to do. I have been very vocal in saying it is very unfair to have the airlines pick up the cost on that. So I think, you know, I am going to fight very hard for my colleagues to understand the importance of that issue.

The last thing I wanted to ask you was there has been a spike in corruption on our agents along the border. Do you think that that is because of the increased number of younger and inexperienced agents and newer agents now that we have gone from the 9,000 Border Patrol agents to the 18,000 that we are trying to reach? What would you attribute to the problems that we are be-

ginning to see within our own rank-and-file of our law enforcement there?

Secretary CHERTOFF. I think, based on my general experience, I would say an increase in corruption is probably attributable to a number of things. One is the more agents, the greater the likelihood just on a percentage basis, you are going to have a few bad apples.

Second, as we crack down on criminal organizations, they become more desperate. The desperation, usually in my experience, is reflected in one or two ways. Either they try to shoot the agents or hurt the agents or they try to bribe the agents. It is like with a police force when you start to crack down on criminals. So I have spoken to the commissioner and to the head of the Border Patrol. I know they are very committed to making sure we have a robust internal affairs function. We take seriously any allegation of corruption and we come down very hard on those who are corrupt. But I have zero tolerance for it, but if you ask me to explain why it increases, I think it is a natural function of both more agents, and frankly more vigorous enforcement which causes the criminals to become more willing to try to evade the law.

Ms. SANCHEZ. Thank you, Mr. Chairman. I see my time is up, although I have millions of questions, as you know. Thank you.

Chairman THOMPSON. Thank you very much. I now recognize the gentleman from Indiana for 5 minutes, Mr. Souder.

Mr. SOUDER. Thank you, Mr. Chairman. Thank you Mr. Secretary for being here today. I want to put forth a number of questions; sometimes when we send them written we don't get as thorough an answer. There are a couple of issues in particular that I have worked on in my career in Congress even before this committee was created, one being narcotics, and I co-chair the Narcotics Committee here, and have been a long time supporter of the Border Patrol of ramping up. But I believe one of the questions in response to Congresswoman Sanchez's comment is that agents should be polygraphed and would prefer that would be done internally as opposed to us having to do it. We do it in other law enforcement agencies, and I believe it is something to be considered when we are going from 3,000 to 16,000.

I definitely agree with your point that the temptations that attempts to penetrate are greater, these people on the front lines getting shot at more than ever. I don't mean to be critical at all. It is just a logical law enforcement thing to do.

On a similar thing is that when you deal with narcotics, clearly most of the narcotics are coming across the border, whether it be cocaine, heroin, marijuana, meth or at least the precursors. One of the challenges we have in Homeland Security is that the focus has been so much on the line of defense of which I am a strong supporter of a virtual fence, a real fence, a pedestrian fence and as much as possible, as many Border Patrol agents as possible. Investigations are the key not only to the narcotics, but are the key to smuggling organizations. We have had so much focus on the Border Patrol that, in fact, we have seen an actual decline in the number of investigations personnel in the Department.

The proposal that was originally drafted that I saw was ICE asking for 1,700 agents and it was whittled down to 150, which doesn't

even cover replacement. That longer term, if we don't get this set right in this administration our investigation support is going to collapse. Similarly ICE, the title 21 right now requires DEA as a sole, and they have to give—I don't understand why ICE agents since the stuff is coming across the border to have to negotiate. I did the resolution this week praising DEA. I have been a DEA supporter my entire career. This competition between agencies just doesn't function. I need to know whether that can be done administratively or legislatively.

Now if I can jump one other category and then yield what remaining time and get printed answers back. We have an unusual window with the National Park Service, while much focus has been on Arizona and California. I have talked to Mr. Ahern, I have talked to Director Chief Aguilar and others, but the superintendent at Big Bend National Park was at Oregon Pipe when the park ranger was killed. When that park was basically captured by the—and people can't go the trails and so on. He's now over at Big Bend. Big Bend, there is one crossing between El Paso and Del Rio and hundreds of miles. It is standing there as a long-term vulnerability. The Park Service, because you have a superintendent there briefly, has actually said as well as the regional director out of the intermountain division that they would like to work out something, yet under this administration, where agents can actually be based in the park, which is a sensitive issue. While your department is working it through, we really need to not get jurisdictional arguments about who is going to build the housing or whatever and get it done while we have a window to do it. Similarly, at Lake Amistad, where we have 280 bass tournaments in 360 days, intermingled with a huge area where the perimeter of the land, the Border Patrol and the Homeland Security needed a place to put their people, the Park Service is looking because they are in like a former abandoned gas station or whatever. If our agencies could work together at this particular point in time, we can potentially close down two of what are likely to be our biggest difficult areas. I would like to hear any comments you have.

Secretary CHERTOFF. Let me say this, first of all to answer the last question first.

Mr. SOUDER. Could you turn your mic——

Secretary CHERTOFF. The Park Service is working with the Border Patrol and Customs and Border Protection. I think we have located a little over $3 million. We will go ahead and build the temporary housing in Big Bend so we can put some agents there. I will have to say we have a very good relationship with the park service and with the Department of the Interior. We are very mindful of the need to support and protect them and protect our national parks and wildlife so that people can visit it without getting shot.

As far as polygraphing, I believe we are going to be polygraphing or we may already be doing it. People who are being recruited in the academy up front, and part of the reason we are going to do that is it to decrease unhappy surprises that sometimes a rise after a person has been admitted. So CBP is working on that.

In terms of narcotics investigations, I think in general, we are very supportive of increasing the scope and capacity to investigate. We are working, not only of course with other agencies in the

United States, but with the Mexicans on narcotics trafficking and gun-running.

On the issue about Title 21 authority, there has been a little bit of, shall we say, administrative back and forth between DEA and ICE. I believe we can get this done as an administrative matter. I agree there is plenty of work to go around, so I don't think there is a reason to hoard it. I am more than happy to get a helping hand from another agency on our mission, and I think that another agency should do the same.

I believe and I am committed to getting this jurisdictional flap taken care of during the balance of the year.

Mr. SOUDER. One of the challenges as the Customs Agency is a historic financial leader in this and that narcotics requires this financial connection, and we are seeing a decline in our capability in and it is quiet because we are focusing on so much other things. But unless we address some of this we are going to lose the top flight financial tracking. Thank you for your tolerance, Mr. Chairman.

Chairman THOMPSON. Thank you. The Chair would like to remind everyone in attendance, we do have a rule for the committee that cell phones need to either be turned off or put on vibrate and that is a friendly reminder. The next one, Mr. Pascrell will be appointed sergeant at arms.

Ms. BROWN-WAITE. I apologize, I am the guilty party.

Chairman THOMPSON. Well, there are more guilty people than you.

Ms. BROWN-WAITE. I do apologize.

Chairman THOMPSON. The Chair now recognizes the gentlelady from California, Ms. Lofgren.

Ms. LOFGREN. Thank you, Mr. Chairman. I am mindful that the administration is on a slippery slope; you have less than half a year left. So I am just going to have some very specific questions that I hope we can make progress on.

I will just note before I do that we really drilled down into the statistics in the Judiciary Committee on what is going on in terms of prosecutions. It is very clear from our work with you as attorneys office in DOJ that we have had a massive increase in sort of garden-variety prosecutions of nannies and busboys, and that has come at a cost of a 38 percent decline in prosecution of organized crime at the southwest border. I personally question that that is a wise tradeoff for us to make.

But my question has to do with searches at the border. We received testimony in the Constitution Subcommittee of the Judiciary Committee about laptop searches. Recently, the USA Today pointed out that if you go into China they take your laptops and they take the information. Our colleague Congressman Wolf mentioned how intrusive this was. It turns out we do the same thing in the CBP.

So the question I have really is what kind of policies do we have in place that guide us on the seizure of laptops, BlackBerrys, and other items? The business executives who have testified have expressed considerable concern about our policies wondering if there are written policies, establishing a standard procedures of laptops. Further, what policies we have protecting the integrity of the data: Policies that we might have for the length of time that seized data

will be stored and where it will be stored. Whether downloaded information will be shared with other U.S. Government agencies. Policies for who within the Federal Government will have access to information. What rights do travelers have to ensure that their laptops or other electronic devices are returned? Further, whether our policies in this regard are accessible to the business traveling public.

There has been a sharp decline in visitors to the United States, as I am sure you are aware. This comes at a time when the dollar is weak and it is easier and more financially attractive to visit the United States. I think many in the business community feel it is the unfriendliness of our policies as people enter. So we need to have security, but we also need to have a welcoming presence to visitors, including business visitors who are overwhelmingly not here to harm us, but to do business with us. Can you address those issues?

Secretary CHERTOFF. I would be happy to. The issue, of course, of a friendly welcome at the border is a larger issue and we are doing a number of things with the State Department to try to make things more attractive. I actually believe our visiting levels are up to, are where they were prior to 9/11 at this point.

Let me deal specifically with electronic devices and make a few points. First of all, I don't believe we are like China, we don't take everybody's laptops. Second, everything we do is constitutional, it has been repeatedly upheld by courts, including most recently——

Ms. LOFGREN. That wasn't my question. My question was do we have policy?

Secretary CHERTOFF. But I just want to lay this out. It has been upheld by the courts, including most recently in the 9th circuit.

The answer is we do have written policies. The written policies—actually we restrain ourselves in a way that goes further than the Constitution requires. I will give you a brief summary of what the policies are and they are written down. We do have them in writing.

Ms. LOFGREN. Where are they? Are they on our Web site?

Secretary CHERTOFF. No, they have not been made public. I am willing to consider making them public. Generally we try not to tell things that will allow them to evade us. We have certainly found things on laptops like instructions for making IEDs, martyrdom videos and videotape session of child molesting, which I am sure we all agree we certainly don't want to let into the country. I have considered putting them on the Web site.

Let me describe, though, generally what the policy is. First, we don't keep travelers' electronic devices permanently; we don't seize the device until there is probable cause of unlawful activity. Sometimes in order to facilitate a lawful search we need to copy information in a traveler's possession in order to get the assistance of an expert in terms of understanding. For example, it may be encrypted or it may be concealed in some way or may need to be interpreted in order to understand its significance. If after we review the information we don't believe there is probable cause to seize it, then we destroy the information, we don't retain it.

Some information does get retained, even in the absence of a showing of criminality. For example if there is information that is

relevant to immigration matters, and this would apply to foreigners, not to Americans. For example something that would be relevant to a future admissibility determination, then we will retain that information.

If there is an intelligence value to something, connected with a national security intelligence value then we or another agency, intelligence agency may well retain that information. In any event the information is retained in a form that complies with our privacy rules as laid out in our statements of record notice under the various kinds of programs we are talking about. We also give special consideration to business and commercial information and attorney-client privilege information to make sure it is not disseminated outside of channels. So it is written. As a practical matter, we don't search anybody's laptop unless they have been put into secondary, which means there is at least an articulable suspicion, a reason to put them into secondary.

Ms. LOFGREN. If I may, the witness from the business community did a survey and found that 7 percent of the businesses they surveyed had lost a laptop at the border. For a small business, your laptop can be your business. I mean, if you have got all your data on the laptop. So certainly we want to have a prudent policy, but the concern that has been expressed has to do with protecting trade secrets.

Secretary CHERTOFF. Right.

Ms. LOFGREN. Patents, attorney-client privilege and the like. I just think that to have some transparency to the business community on what the rules are in terms of retention would be a useful thing to do.

Secretary CHERTOFF. Well, that is what I have tried to lay this out. I am certainly willing to seriously consider putting a copy of the policy up on the Web so it is visible.

Ms. LOFGREN. My time has expired, Mr. Chairman. I thank you.

Chairman THOMPSON. Thank you.

I now recognize the gentleman from Pennsylvania, Mr. Dent, for 5 minutes.

Mr. DENT. Thank you, Mr. Chairman. Mr. Secretary, since this may be the last appearance before this committee by you, I want to thank you for your extraordinary and honorable service to our country. It is so much appreciated.

I have a question and a comment regarding the fact that there are 139,000 individuals in this country who have valid removal orders against them. They are scheduled to be deported. They come from eight countries, China, India, Eritrea, Laos, Vietnam, Jamaica, and I am forgetting a couple. Their home countries will not take them back; they will not repatriate them.

I believe the administration has some abilities to try to put some leverage over those countries to take back those folks. The Supreme Court has ruled that we may not hold people indefinitely. Some of these people may be released, and many of them have criminal records.

Senator Specter and I and Mike Castle have introduced legislation basically asking that we withhold visas from those countries until they repatriate their citizens or withhold foreign aid in the event that they fail to repatriate their citizens. I would like to hear

your comments on that, and we have legislation. Would you be supportive of that to force this issue?

Secretary CHERTOFF. I publicly previously discussed the fact that, for example, the Chinese are not particularly efficient in accepting their citizens back from removal. Often the reason for that is because they insist upon checking the birth data at the place of birth. It is not computerized. It takes a long time to do. We, frankly, had a lot of back-and-forth on that issue. We have—in the case of some countries that have been particularly difficult, we have actually suspended or threatened to suspend visas of, for example, diplomat families, and that has a tendency to wake them up. The Chinese did accept a—I think last year or 2 years ago, we had an issue in that we had an increase in flow-back.

I don't know that we are where we need to be now. I think it is a serious priority issue to be raised with these foreign governments. Obviously when we deal with foreign governments, there is a lot of issues in play, no one issue dominates. But I would—certainly during my tenure, we have kept it as a priority agenda item, and I think the future administration ought to do the same thing.

Mr. DENT. Thank you. I also noticed there were some recent articles appearing in some publications that reported that CBP is seeking to significantly increase the size of its fleet of Predator B unmanned aerial vehicles in the next couple of years. According to these articles, DHS has maintained that an increase in the numbers of its UAVs is an important component of its border security mission. Given that we are getting involved with all these Predators, I have been very supportive and this committee has passed legislation dealing with utilization, the Civil Air Patrol to help provide some additional aviation assets along the border. I often see that as a low-cost way to help put some additional eyes on the border. I just wanted to get your comments.

I get the sense sometimes that the Department might be—you know, if they might not be able to control the Civil Air Patrol assets, that they might prefer to go other routes. I would like to hear your comments on this utilization of CAP in helping our border security mission.

Secretary CHERTOFF. Well, first, I mean, I think we would be open to working with the Civil Air Patrol. They would have to obviously confirm to our operational plan. I think they are funded out of the Air Force. So it is a funding issue. It is not, however, a substitute for the UAV, because the UAV operates at a higher level. It is not visible in the same way as Civil Air Patrol is. We are, I think, looking to acquire two more this year. But I am certainly open to the Civil Air Patrol, if it can get funded, and if we can get their agreement to operate within our CONOPS.

Mr. DENT. It really would require an agreement between the Air Force and the Homeland Security Department as long as both parties were willing to do so.

Also, it is my understanding, too, that the Department is currently utilizing the ATS system, the Automated Targeting System, for passengers, as well as the APIS, the Advance Passenger Information System, to help identify airline passengers entering the country on international flights. Are you going to try to do anything administratively to allow this type of ATS data or APIS data

to be used for all common carrier travel so buses and trains coming into this country—we passed legislation in the House several months ago as an amendment.

Secretary CHERTOFF. I assume you are talking about again for international——

Mr. DENT. Yes, international. Excuse me. Yes.

Secretary CHERTOFF. I think we would be very happy to do that. What has been challenging has been the way that we operate with the ATSP, is it is reservation-based. For a lot of the bus and train travel, there is not really a reservation in advance.

Now, the way we have dealt with that in general is we disembark bus travelers, and they go through the ordinary pedestrian foot process as if they were—the same process they would go through if they were in a passenger car. If we could get by the technical issue of the fact that the reservation system is imperfect for bus and train travel, I think we would be happy to use this technique as well.

Mr. DENT. Thank you.

I see my time has expired. I yield back.

Chairman THOMPSON. Thank you.

I now recognize the gentleman from North Carolina for 5 minutes, Mr. Etheridge.

Mr. ETHERIDGE. Thank you, Mr. Chairman.

Mr. Secretary, let me join the others in thanking you for being here and your service. Being the administrator of a large agency is never an easy job, especially in these difficult times and the challenge you have.

As you know, Congress has repeatedly authorized and appropriated funds to increase staffing of the Border Patrol. We have been talking about that this morning, and I have repeatedly supported that effort, as have many of my colleagues. In the President's 2009 budget request, he is asking for an additional 2,200 agents for the Border Patrol. If these are added—and you touched on this earlier in a response to Congresswoman Sanchez—that will bring you to about 20,000 agents patrolling our borders, more than twice as many as we had in 2001. The big difference, of course, is that it is obviously making a difference, or should make a difference, reducing the risk of anyone who—coming into this country illegally and improve our homeland security. I must say I am pleased that the Department is doing a better job of hiring and recording—recruiting CBP agents.

But my concern is in another area, and I hope you will touch on it. It really deals with training and retention. In 2007, a GAO report—they report—the GAO reports that the Border Patrol is having trouble training and supervising these new agents. You touched on it a little earlier. At the same time, there are reports that about 20 percent of the new employees leave the Patrol in the first few years, and almost half the agents have less than 2 years of experience. Now, some of that, of course, I understand, goes—because you have added a lot of new people.

So let me ask several questions, and let you answer them all at one time. What impact do you believe adding these 2,200 agents to the field will have on supervision and training? No. 2, what is being done to identify good candidates for a Border Patrol career,

which I think is critical to this whole process? What steps are being taken to improve retention, which is also critically important? On average, how many years of experience do typical supervisory Border Patrol agents have, and has this number changed over the last 10 years; and if so, how? Finally, how are you working to hire, train and promote agents to supervisory roles, which is the critical piece, and control the number of agents each supervisory has to supervise over those agents under their command?

Secretary CHERTOFF. Congressman, first let me say that some of the detail on this may be something I should have the Border Patrol get back to you on. But I think I can give you——

Mr. ETHERIDGE. Mr. Secretary, if you would just provide that in writing, that will help, too.

Secretary CHERTOFF. I will. But I can give you an overview. Let me break down training and supervision. I am comfortable, because we spent a lot of time on this, that the training that is being afforded the Border Patrol agents coming on now is equal to or superior to what they have received in the past. There was of group of former agents who were originally skeptical, and they went down and visited in Artesia, and they came back with very positive reviews.

In terms of identifying good candidates, one of the things we have done is we have looked seriously at the fact that people tend to want to work near where they live. One of the problems we traditionally had with recruiting and placing other than the Southwest is people from, let us say, the northern border areas didn't necessarily want to move. Now we are looking at a policy change where we would cycle people from the north—who come from the northern border through a period of time in the Southwest, but with the understanding that they would return ultimately and serve in the northern border near where their community is, which I think would broaden the pool of people we could attract into the Border Patrol.

Mr. ETHERIDGE. Similar to what we do in law enforcement and military?

Secretary CHERTOFF. Right.

We are also trying to get out more around the country to recruit. So that is our effort to get good candidates.

I think you have identified what is the hardest piece of this, the long pole in the tent, which is the ratio of experienced agents to inexperienced agents. That is one of the reasons that—although we have scaled up the Border Patrol, we have not scaled it up as rapidly as some people would like us to do. You get critics on one side of the page that says how come we don't double the Border Patrol again to 40,000 or 50,000?—and I think you are quite right, there is a limit to how many you can assimilate a year because you do want to have a certain ratio of experienced agents to new agents. That is part of how you learn on the job.

I am comfortable with the numbers we have proposed fit within a reasonable ratio as people get more experience. If you were to come to me and say, we want to double the number, I might say, you know, I think time out. Frankly, when we have talked about these numbers with the Border Patrol, we have been very attentive to that issue. When the Commissioner or the head of the Patrol

says, we can go this far, but we are concerned about going further, we take their advice.

Mr. ETHERIDGE. Thank you, Mr. Secretary.

I will submit this in writing so the border agents can review the number and the retention numbers and get back to us.

Thank you, Mr. Chairman. I yield back.

Chairman THOMPSON. Thank you.

The Chair now recognizes the gentleman from Washington for 5 minutes. Mr. Reichert.

Mr. REICHERT. Thank you, Mr. Chairman. Thank you for holding this hearing. I appreciate this opportunity to visit again with the Secretary.

Before I get started, though, I would like to associate my comments with the Ranking Member Mr. King in regard to your position on this committee being the committee of jurisdiction for homeland security. I have had the opportunity to personally ask you those questions not only in this committee, but in the Transportation and Infrastructure Committee, and you have been consistent in your message there, and we appreciate that, and we hear you loud and clear. Both sides have had difficulty in lowering the number of committees that you report to.

I would like to touch on, of course, the northern border, but first I would like to make a comment on—the last time we, this committee, passed legislation was in November 2005 that had to do with border security. It was combined with—we had H.R. 4312 and 4437 passed on the House floor back in 2005, and unfortunately this was the last time the House Committee on Homeland Security has considered legislation directly aimed at securing our Nation's borders. Put more simply, it has been 1,249 days since the committee charged with securing our Nation's borders has passed border security legislation.

So in my home State of Washington, we have a major international border crossing with Canada. As such, I am a member of the Border Maritime Subcommittee, and even this subcommittee has not—with its focus on border security cannot be credited with passing a single piece of legislation during the 110th Congress.

Protecting our border security is too important to not act, and I implore Mr. Chairman to please take some action on at least 1 of the over 40 border security bills that have been referred to this committee that I think would be a benefit in helping Mr. Chertoff and Homeland Security employees in securing our country's borders.

So, Mr. Secretary, when you last appeared before this committee, I had asked you a question about the current state of the operations center at the northern border. It is supposed to be established leading up to the 2010 Olympics in Vancouver. Could you give me a brief progress report?

Secretary CHERTOFF. All the agencies are—both in our country and in Canada—are working together. They have actually been working for some time on preparing for the Olympics that are coming up. We have money in the President's budget that would stand up the center and get it up ready in time for, I think, June 2009, which is the target. Of course, that depends on getting appropriation for 2009. Without the appropriation, we have to find some way

to fund it, which is going to be tougher. So it is another really good reason to get an appropriations bill.

Mr. REICHERT. Do you see any benefit in establishing a long-term operations center on the northern border of Washington State?

Secretary CHERTOFF. I think my experience is once we have it and it works, we are probably going to want to keep it.

Mr. REICHERT. That is good to hear. Thank you.

When you last appeared here, also you mentioned many of the solutions in the northern border are—much more technology indeed on the southern border and intelligence-based technology. In your testimony, you specifically mentioned you expected six unmanned aerial vehicle systems in the northern border in place by the end of the fiscal year. Can you give me a status on that?

Secretary CHERTOFF. Yeah. Actually—maybe there was a mistake. We should have six by the end—systems overall by the end of the year. We are going to send at least one system up to the northern border this year. I don't know whether we are going to send a second one up. We are also, however, piloting a version of SBInet in certain parts of the northern border this coming year. We are continuing to deploy sensors, and we will have our fifth air wing is going up in August.

Mr. REICHERT. The SBInet was my next question. You have answered that.

Mr. Chairman, I yield.

Chairman THOMPSON. Thank you.

I will now recognize the gentleman from Texas for 5 minutes. Mr. Cuellar.

Mr. CUELLAR. Thank you, Mr. Chairman. Thank you for holding this meeting.

Mr. Secretary, we want to thank you for your service. I know it is a difficult job, but we really appreciate what you have done, of course your visits down to the border. I know you have been down there several times, and we appreciate the work that you have done.

One of the suggestions I would ask you is on the culture in the agency, that I seem to feel and some of the Members feel that it is sometimes—there is a feeling of a "us versus them" type of feeling from the agency, for example, on the national emergency communication plan that—as you know, there have been deadlines that have been missed, and hopefully by the end of the month we will get this. We couldn't even get an executive summary from your agency, even though we said, hey, we are the oversight, and we would like to see this.

I would ask you to just work during your remaining time in your tenures to try to lower this culture mentality of us versus them because we are on the same team together. So I would ask you to do that.

I think you have been doing a good job in several areas. The BEST program that you have been expanding, that is a good success story. I want to thank you for that. The wind farm—I know Paul Schneider and yourself and other folks have been working with us in south Texas on the border area. I believe that will be a model because, as you know, there has been a little tension between setting up the wind farms on the border area for security

reasons. But I think we can accommodate the interests. I think if we are able to work this out in the south Texas area, this could be a model for wind farms because I think we are going to be talking about wind farms in the future. So I would ask you to just continue the good work and expedite that as much as possible.

The cane eradication, I know we are about to announce that in the border area. I want to thank Greg Giddens in your office for doing good work. I would ask you again to just work with the local folks. The soda and water folks have been working there because they think they can do it on a more cost-effective area. So I want to thank you for those successes.

You know, I have been talking to you about personal issues. The CBP, we have been doing a good job of adding more of the men and women in green Border Patrol, which I support. But the men and women in blue for our ports of entry—there is a famous letter—we have been waiting. I am not even going to ask you because I am sure the letter is not ready, and I can understand the politics it has not been ready. But I would ask you to do whatever you can to look at the border infrastructure and adding more men and women in blue for our ports of entry.

The Office of Air/Marine, I asked the Coast Guard, Admirals Justice and David Aguilar, to come up with a plan as to how they can put more speedboats on the border, on the Rio Grande. We are still waiting for that. I would ask you if they can have that plan ready for next week because that would provide us another layer of security to have those boats actually in the Rio Grande, the navigable parts. I would ask if you could get them to come and report to the committee and to myself on that. I would appreciate that.

One area that I would ask you to look into is—I know that Michael McCaul—we were actually with the Attorney General in Mexico when you placed that phone call on the agent that got killed, the Montes individual, the Mexican suspect, and we appreciate that. But one of the things that I would ask you to look into is the—Mexico faults the United States for not—for the release—as you know, the suspect was released—the Mexican Embassy is basically saying that the United States never asked for an extradition. I do understand they put another order to get this person arrested. But I want to ask you, do you have any information—did we ask for that extradition? Because I know you made the phone call. But what happened in this situation?

Secretary CHERTOFF. I am really limited for the following reason: A lot of the stuff that goes on in this area of what the Justice Department is doing to pursue the prosecution of the case is, first of all, not in my Department. Some of it is covered by grand jury privilege and stuff. So I really can't speak for them.

I can tell you that it was made very clear at the outset of the whole matter, the very beginning after the agent was killed, and I had personal conversations with senior Mexican officials on this, that it was very important for us to have this individual apprehended. I have to say the people I dealt with in Mexico were extremely responsive.

I can't explain why this individual was released. I don't know enough of Mexican law to understand why that happened or, you know, the details of that. But, of course, once we learned about

that, I spoke again to—as you pointed out, to the Attorney General. We talked about the urgency of finding this person again. I wish I could go beyond that. A lot of it is covered either by grand jury investigative privilege, and I can't speak for the Justice Department, but I can tell you this: As far as I am concerned, there is no higher priority for me personally than to see to it that the individual whom I believe—and everybody is presumed innocent—but the person who I believe was responsible for this is apprehended and brought to face justice. As far as I am concerned, that is the No. 1 priority.

Mr. CUELLAR. I appreciate that. I know you personally were there when you made that call.

Let me ask you, without going into any of the testimony, did we present the extradition order? Because the Mexicans are saying it was not done. Can you at least say was there an order——

Secretary CHERTOFF. I think—I am constrained, because—the last thing I want to do is say something and then have the Attorney General call me up and say: Why are you talking about stuff in my Department? You are messing something up. So although I would like to have a fuller conversation with you about this, experience and discretion suggest that I ought to let the Attorney General decide what he can tell you.

Mr. CUELLAR. I will respect that.

Alas, my time is up.

On Operation Stonegarden, that is another success story. I ask you to just continue working with the local law enforcement officials because we supported the Mérida Initiative, which is a—it was a smart thing for the United States to do. But some of the local law enforcement officials are saying, do more for us on this side. So whatever you can do to continue expanding the Operation Stonegarden, I would appreciate your work.

Again, I thank you. My time is up. But I want to thank you for the service that you have provided to our country. Thank you, Mr. Secretary.

Chairman THOMPSON. Thank you. In conjunction with that, we received a letter from the Department basically indicating just what the Secretary said, that is an ongoing investigation. But I think the question about whether or not the documentation was provided is essential because you don't want to compromise getting someone because someone dropped the ball.

Mr. CUELLAR. Right.

Mr. Secretary, if I can—I mean Mr. Chairman. You are right. We don't want to go into the details, but the Mexicans are basically saying there was no order, the evidence was not provided. As you know, they have a different code over there. The—more the Napoleonic Code. It is a different way, but it is just important if we get the paperwork.

I don't want to get into the details. I don't want to compromise the investigation. I understand that as an attorney. But it is just basically we have just got to make sure we don't drop the ball, especially in this very sensitive, because the media was bashing Mexico, especially this Mérida Initiative, and I just want to make sure that we keep working together.

Secretary CHERTOFF. No. I agree with you. I just think the Attorney General is the right person to decide what can be disclosed and what can't.

Chairman THOMPSON. I now recognize the gentleman from Texas, Mr. McCaul, for 5 minutes.

Mr. MCCAUL. Thank you, Mr. Chairman.

Mr. Secretary, thank you for your service to the country. You serve with distinction. I hope this is not your last appearance before this committee.

I want to follow up with Congressman Cuellar, though. We were down in Mexico City meeting with the Attorney General when this Border Patrol agent, Aguilar, was killed by a drug smuggler. I know you expressed great outrage over this, as did I. The news of his release by a Mexican judge, I think, created even more outrage. But it has been reported that—and you and I served in the Justice Department, and I know you are constrained in your remarks, but it was reported that the provisional arrest warrant was not—for extradition was not served until a week after this defendant was released. I would like to get to the bottom of this.

I don't know if you are in a position to answer when this was served. I sent a letter to the White House and the Attorney General on this issue, and I would like to at least know that much. Also if they had—I know these take time to put together, but certainly a criminal complaint could have been filed to at least stop the clock on this guy. So I just wanted your comments.

Secretary CHERTOFF. Yeah. You know, I—here is my problem. I can't speak for the Justice Department, and whether I think something can be disclosed or not is not determinative. I owe it to my colleague, the Attorney General, to allow him to decide what can be disclosed and what can't be.

The only thing I can tell you is that I have made it abundantly clear from the first day that Agent Aguilar was killed and I met with his family that as far as this Department was concerned, we wanted the Department of Justice to do everything possible to bring this individual to justice, and also we wanted the Mexicans to apprehend him.

So I have as keen an interest as you do, maybe even keener, in making sure that everybody did everything they could. Beyond that, though, I would be getting into talking about things which I don't think it is my right to talk about. I think it is really the Attorney General that can decide what can be disclosed what can't be. He knows what is under seal and what is not under seal. So if I start down that road, I am doing a disservice to him as well as the case.

Mr. MCCAUL. I can certainly appreciate that, but I do think we in the Congress are entitled to some answers, and I hope the ball is not dropped in this case. Certainly a marker could have been put down for extradition so that we wouldn't be in the situation we are in today.

Having said that, I do want to focus also on, being from Texas, the border issues. Streamline, Stonegarden I think have worked well. We are getting ready to meet with the border sheriffs actually on Monday, Congressman Cuellar and some other Members of Congress. Do you have a message for them first? Second, if you were

in our shoes, what can we provide more in terms of resources to help with that situation on the border?

Secretary CHERTOFF. Well, you know, again, I don't want to harp on the budget. We built in the President's budget, and I think it has survived in both markups, funding that will allow us to complete what we need to do next year in terms of the infrastructure, the Border Patrol hiring and training. All of this makes a big difference.

There are some other things that help as well, because, as you know, the interior enforcement is an important part of protecting the border. If people don't come in to work illegally, then they don't try to cross the border. There I think it is critical to get E-Verify reauthorized. It is a great program. It helps us work. We are going to be getting our no match regulation out. We are going to have to fight within the courts again, and some legislative help with that might be welcomed.

You know, we have turned the corner on this. We have really started to move the ball in the other direction, but that is only going to work if we keep the pressure up. Now, I have always said that I believe ultimately a solution requires a comprehensive approach and a temporary worker program to bring people in legally. But at a minimum, we need to continue to build on the progress we have made. So getting the money in place, reauthorizing E-Verify, these, I think, are at a minimum what we need to continue to do what we are doing.

Mr. MCCAUL. Would additional funding for operations like Stonegarden and Streamline be effective?

Secretary CHERTOFF. Again, getting the budget for Stonegarden that we allocated for Stonegarden in 2009 would be very helpful. With Streamline, that has turned out to be a phenomenally successful program. That is going to require not just, however—it is going to require funding for prosecutors, judges, or at least magistrates, as well as agents. So I would say that I am more in favor of supporting that with further funding. It has got to be done in a balanced way so that we don't break the pipe.

Mr. MCCAUL. Just one last question, if I can. We also just returned from Pakistan, Afghanistan, went right up to the border where the tribal areas are, the Fatah. This is an increasing concern from not only the threat to our troops in Afghanistan, but the homeland as well in terms of protecting. I think if there is another attack, it is going to come out of this area. I know you are focused on that.

There is also another issue of American children being trained in these madrassas with legal passports to get back into the United States. That is of tremendous concern as well. I know that you are aware of this issue and that you are monitoring the issue. But I just raise that as tremendous concern for me and a lot of Members.

Secretary CHERTOFF. I think that—I am not the only person who said it, I have said it before. What is going on in the frontier areas there is at the top of my list of concerns about where our next few years are with respect to international terrorism. The more time and space al Qaeda has, and its militant allies, you know, Baitullah Massoud and the others, the more time and space they have to train and plan and operate and experiment, the more prob-

lems we are going to have in the pipeline headed both toward Europe and toward us. From a foreign policy standpoint and homeland security standpoint, that has got to be—there is nothing more important than addressing that issue.

Mr. MCCAUL. I agree. Thank you so much.

Thank you, Mr. Chairman.

Chairman THOMPSON. Thank you. The gentleman's time has expired.

For the record, reference has been made a couple of times about budget and border security, and I would like to say that in the fiscal year 2008 budget, as you know, Mr. Secretary, border security and immigration enforcement received $1.4 billion more than the administration requested. So I think this Congress has been more than supportive of border enforcement. There are enough laws on the books. All we have to do is give you the money, which we are more than agreeable, based on past practices.

Secretary CHERTOFF. I agree with that. I am happy—I didn't want to be taken as ungrateful. I am very thankful. This Congress has been tremendously supportive, and we have made good use of this support and just want it to continue.

Chairman THOMPSON. Thank you. I just wanted to get the other side of the coin in.

Now I recognize the gentlelady from California for 5 minutes. Ms. Harman.

Ms. HARMAN. Thank you, Mr. Chairman.

Welcome, Mr. Secretary. You have one of the toughest jobs in Government. I want to thank you for your service and for your many courtesies to me and to my constituents and your frequent visits to southern California. We need your attention focused on the ports of Los Angeles and Long Beach; on LAX, the top airport terror target; and a lot of the other both problems and successes that are recurring there.

Let me just endorse the last conversation that you had with Mr. McCaul. From briefings I have had and from statements in the public press, I concur totally that the most dangerous place on Earth at the moment is the tribal areas of Pakistan and the fact that Westerners are training there. We know this. It has been in the public press. We know more than this, which I am not going to talk about. But I worry. I think this President and the next President must focus on a better strategy for Pakistan.

Anyway, moving along, let me associate myself with a couple of comments you made in your opening remarks. First about Tony Snow, I think on a bipartisan basis he impressed all of us, and his personal courage at the end of his life is a lesson for all of us.

I also endorse your statement about this committee's jurisdiction. We should be the entry point of contact for your Department. We should have, in my view, more jurisdiction than we do. But at any rate, when Congress finally simplifies jurisdiction over Homeland Security, it should move on over here. I appreciate the fact that you agree.

I want to just take my 3 minutes left and talk about what I think is the biggest threat—the really biggest threat to our homeland in terms of a terror attack, some of which could come over our borders, and that is an attack from or several attacks from dirty

bombs. I have worried about this a long time. Many of us have. I think there is a possibility that the dirty bombs are here, and I want to commend you for your focus, along with the focus of many on this committee, on radioisotopes that are in medical machines and elsewhere that, if they can be secured by bad guys, could become dirty bombs. Thank you for your efforts to do that and for your efforts to push the NRC to do more.

But let us talk about the possibility of radiological materials coming across our borders. I know from talking to you and from seeing some of your initiatives like the Small Vessel Strategy that you think that general aviation and small boats pose a special risk, and I want to give you an opportunity to talk about that. The Wilmington marina is in my district. It is adjacent to the Nation's largest container ports. Could you tell us what you are doing, and how crucial it is that you do what you are doing, both about marinas and about general aviation?

Secretary CHERTOFF. First of all, I appreciate your focus on this issue. I know we have talked about it a lot. I know that you regard this—you know, the possibility of a WMD or a dirty bomb is a really important thing to focus on, and I applaud that.

A couple of things. In terms of small boats, the Commandant of the Coast Guard, working with CBP, has put together a small boat strategy, and there are a couple of elements to that, and some of them, frankly, are not necessarily going to be happy for people in the industry. One element is we are running pilot programs currently now in northwest Washington, I think also it started in San Diego, to see whether we can use detection equipment to detect radiological material at certain critical choke points if it comes in through—in the hold of a vessel, a small vessel.

A second thing that would be critically important would be to have better visibility on traffic that is coming in overseas by sea. Right now I think 300 gross tons is the cutoff below which you don't need to have a transponder and notify us that you are coming in. We may need to drop that, frankly.

On the general aviation side, we have a rule—a notice of proposed rulemaking for general aviation, which I am expected to finalize this year, that will require advance notification of the manifest of general aviation coming in from overseas. But the second piece of this is actually requiring prescreening of general aviation for radiation. We are signing agreements now with a number—or negotiating agreements with a number of countries for potential prescreening. We are talking to the fixed-base operators overseas about possibly prescreening there. I don't know that we will be able to get a regulation out during the balance of this administration, but I am going to put near the top of my list of priorities for the next Secretary getting that regulation out.

I am going to tell you right now, you are going to get squawks from the general aviation people. But I will also tell you that I had the president of a leasing company come to me about a year ago and say, I am worried about this because I don't know who gets on my planes, and I think quietly a lot of these general aviation people would acknowledge that this is a vulnerability.

Ms. HARMAN. Thank you. My time is up.

I just want to say that I agree with you, and those folks who will be squawking should realize that if they are on a plane with a dirty bomb under it or right next to them, they are not so safe either.

Thank you, Mr. Chairman.

Chairman THOMPSON. Thank you.

The Chair now recognizes the gentlelady from Florida, Ms. Brown-Waite.

Ms. BROWN-WAITE. Thank you very much, Mr. Chairman.

Mr. Secretary, you have a very tough job because of all of the departments that were combined under Homeland Security. I have had many visits from some of the staff down at the Port of Tampa. I have written you, I still do not have a response, and I certainly gave the Chairman as well as the Ranking Member a copy of that letter, and it involves excessive numbers of EEO complaints, discrimination, policies that are certainly not uniformly applied. I recently was told that because I wrote these letters pointing out the problems with the—the problems at the Port of Tampa, that some of the people have been moved to other areas.

If you have problem supervisors, I don't think moving them solves the problem. I think that all you are doing is moving the problem elsewhere. While it might have been—the port, by the way, isn't even in my district. It just happened that some constituents worked there, but it would go from perhaps my district to Ms. Harman's district if all you are doing is transferring the people who are the problems around.

I still have not received a response to that letter. Is the fact that these people were transferred the response? If so, that doesn't solve the problem, sir, with all due respect.

Secretary CHERTOFF. Well, you should get a response to the letter. We are usually pretty good about turning responses around. I will find out why you didn't.

EEO complaints, there is a problem of adjudicating them, determining if they have merit or not, and then, depending on the outcome, appropriate action is taken. I can't—I can't give a general abstract answer to whether moving someone is a sensible response in some cases or not.

Ms. BROWN-WAITE. Well, there is also the issue of training in firearms, whether the supervisors are getting special treatment where they can get certification on the outside because they could not pass the internal tests. So there are many issues in that letter that I address, and I would really certainly in the next couple of weeks appreciate a response.

Please look at the claims of discrimination, claims of discrimination against Hispanic-speaking individuals. This has been an ongoing problem; indeed some of the people in the old article, in the Miami Herald article that I also enclosed, some of the people from before you were Secretary, before it was actually Homeland Security, they were the ones that were—who continued to cause the problem.

I know how hard you are trying to go out and recruit for positions, particularly for Border Patrol. I recently had a question come up of a person who has 20 years of law enforcement experience, almost 20 years, who took the test. Only after he took the test was

he told, well, sorry, you are 37 years old, you are beyond the age when we can hire you. Are there any exceptions made particularly because of the fact that you need to get these people up and on the job, are there any exceptions that are made for someone who does have that kind of a background?

Secretary CHERTOFF. I don't know if there is an exception to the age requirement. Obviously we want to recruit people with background. That is a positive thing. But I would have to ask the Border Patrol to get back to us on what the age limit is and what the exceptions are, if any.

Ms. BROWN-WAITE. Apparently he took the test when he was 36. When he got the results, he was 37, and he got a call and said, I am sorry, you are disqualified.

Secretary CHERTOFF. I just don't know what the cutoff is, but I will have somebody——

Ms. BROWN-WAITE. Okay. Particularly because there are so many vacancies, maybe you could look at that not just for my constituent, but anyone else's constituent that would be in exactly the same situation. I think it would be a good idea to fill the ranks with people who understand law enforcement, who have the kind of background, have the drive and want to be there.

Secretary CHERTOFF. Sure.

Ms. BROWN-WAITE. I appreciate that.

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

Chairman THOMPSON. I thank you very much.

The Chair would like to share that the Department actually raised the age limit to 40 to accommodate picking up people like you are talking about. So there is some latitude already to help your situation, Ms. Brown-Waite.

Ms. BROWN-WAITE. Mr. Chairman, thank you very much. He just called this past week, so apparently that information hasn't gotten down to the field, because he was called and said, sorry, you don't qualify.

Chairman THOMPSON. Well, I think if you will provide somebody who is with the Secretary with the name of that individual before the day is gone, I am sure you will—that person and you will be contacted.

Ms. BROWN-WAITE. I appreciate that very much. Thank you.

Chairman THOMPSON. Thank you.

The Chair now recognizes the gentleman from Pennsylvania for 5 minutes. Mr. Carney.

Mr. CARNEY. Thank you, Mr. Chairman.

Secretary Chertoff, thank you once again for your tremendous service. Kind of the silver lining in the cloud of your departure at some point is you can spend more time in Pike County, and we are very happy to see you there, sir.

Secretary CHERTOFF. Always good to be there.

Mr. CARNEY. I have a couple of questions dealing primarily with border issues. One is Operation Jump Start, it is ending this week, as I understand. What we have heard from the Border Patrol is that they like the help from the National Guard and the Reserves. Do you think we should continue this operation? Is there a necessity for it? What do you think?

Secretary CHERTOFF. Well, first thing is although Jump Start was a specifically focused effort on the National Guard, we have traditionally even before, and it will continue after, use National Guard at the border as part of their regular training mission. So we will continue to see them.

I think, you know, it was very clear up front it was meant to fill a gap while we did two things. We found clerical people to come and free up some of the Border Patrol that were sitting in the back office, and that has been done; and also raise the number of Border Patrol, and we have basically done that. So I think in fairness to the National Guard, which has also got to face firefighting missions in California and flood missions and all the other missions around the country, I think in fairness we are releasing them back to the normal level of their participation, which is still very considerable and is appropriate.

But I do want to emphasize we have always used the National Guard for counterdrug enforcement, for—under the training rubric, as well as for other activities, and we will continue to do so as customary.

Mr. CARNEY. Thank you.

Now, I want to shift a little bit over to SBInet. As you know, my subcommittee spent a lot of time looking at that. I have been to Sasabe twice, just most recently here in May, and I was encouraged by what I saw with Tucson–1. I think that next major deployment of SBInet is a good thing. But unfortunately, in the last few weeks, just recently I began to hear some troubling reports that suggest to me some of the mistakes that were made by Project 28 are being repeated. I think probably the single thing that concerns me the most is the timing seems to be driving the agenda more than actually being able to deploy it in a meaningful way. The drive to make it operational by the end of the year seems to me an issue that creates the problems that we saw with Project 28. We know that the Project 28 problems occurred largely because there was no integration testing done, and the requirements were not clearly defined, which we saw that. Unfortunately I am hearing the same kinds of things coming from the Tucson–1. The testing schedules are being compressed; component testing has been eliminated or scaled back tremendously. The test plans are inadequate, if existing at all, and the capabilities are being delayed for later deployments. Some of the requirements can't even be tracked or traced. And this is the Tucson–1 project. We are not talking about P–28 anymore.

We are talking about moving forward, and the common operating problems still exist. Those requirements haven't been fully defined yet either. So why are we moving ahead? I hope it is not driven by politics. I hope it is just not to have an end-of-the-administration success on the border at the expense of actually accomplishing what we want to accomplish.

Secretary CHERTOFF. I can tell you it is definitely not driven by politics. The basic requirements are that, of course, this time the Border Patrol is working side-by-side with the contractor. The integration has to be fully tested before it actually goes up on the towers, unlike last time, so we are not going to discover that it doesn't work after it has been installed. We do generally set deadlines be-

cause otherwise things tend to drift, but deadlines are meant to be, you know—if there is a good reason to delay something, then you delay it, but it—there has got to be a good reason.

So I think philosophically we are on the same page. We can't waste time. We have got to set milestones, but in the end, if there is a problem, you have to address the problem first. I think that is my mandate to the Border Patrol. That is consistent with what CBP and the Border Patrol want to do with this project.

Mr. CARNEY. Good. Then those problems I enumerated I hope can be addressed right away so we do the right testing and the right definition of requirements, et cetera. I mean, that is essential. That is what didn't happen in P–28, what has to happen now.

Thank you, Mr. Chairman. I yield back.

Chairman THOMPSON. Thank you very much.

I will now recognize the gentleman from Alabama for 5 minutes. Mr. Rogers.

Mr. ROGERS. Thank you, Mr. Chairman.

I, too, want to congratulate you on your service, and thank you for all you do for our country.

Talking a little bit about ICE. We have made, as you know, dramatic increases in staffing in CBP, and I think we need more, but I think we have come a long way. But ICE has been flat in their staffing in the last 5 years. Could you tell—I know the Chairman referenced this. We put a lot more money into ICE mainly for beds, but when do you see us addressing this staffing problem?

Secretary CHERTOFF. If I am not mistaken, I don't have the statistics in front of me, when we talk about detention and removal, and we put money in the budget for that, that also includes commensurate increases in staff. I know we have doubled the fugitive ops teams from where they were a couple of years ago. So we have increased the staffing levels at ICE, and there is more increase in the budget.

You know, my view is you have got to look at the whole thing as a system. It makes no sense to just increase one part of the system and not make sure that it is proportioned to the rest of the system. So, you know, we have apprehension, removal, catching people at the border, with the interior investigating all that stuff has to proceed in tandem. So I anticipate we will continue to do that.

Mr. ROGERS. If you could get me the information that shows that you have increased the manpower at ICE, because I met with the deputy in that department, and they told me they had zero increases, that they had just replaced people that had retired over the last 5 years. It has been completely stagnant. So If you could get me some——

Secretary CHERTOFF. I will be happy to do that.

Mr. ROGERS. I would appreciate that, because I have had some sheriffs talk to me about the fact that they don't even call ICE anymore when they detain somebody who is an illegal because ICE just doesn't have the manpower to come and get them. That is just really frustrating for me to hear, particularly when I get so much feedback from my constituencies about their concerns about illegals in the community.

Secretary CHERTOFF. I know we have put more money into removing illegals from jails. The problem we always have, of course, is we try to do it in a way that—we don't want to just make a series of one-off trips. We want to try to collect them and do a bunch of them, and that is also one of the reasons we do 287(g).

I will make sure we get you the numbers on the staffing levels.

Mr. ROGERS. But you would agree that if the local law enforcement agency, whether it was a sheriff's department or police department, detains an illegal, and they call ICE, that ICE should come and get that person?

Secretary CHERTOFF. Yes, but I guess I have to say that since there is—in any given area, if there are 19 sheriffs, and every day you get a call and you have to go out and pick somebody up, that is very time-intensive. So to the extent we can collect things together or do some prioritizing, you know, that is just kind of a feature of good management of a budget.

Mr. ROGERS. The Center For Domestic Preparedness, I was very pleased when a new superintendent was named this week. But I am also concerned about staffing there. You know, we have got 50 authorized Federal positions. As you know, there is over 800 contractors out there, but 50 authorized positions, and only 35 have been filled, and they are really struggling with oversight with the contracts out there and making sure things move smoothly. Do you know why the other 15 haven't been funded?

Secretary CHERTOFF. I think they are funded. I think they haven't been filled. I think somewhere up to 10 are going to be filled in the next very short period of time. We have been recruiting them, and they are through the process. So I am informed that we should be at 90 percent or better staffing in the very near future.

Mr. ROGERS. Excellent. Thank you.

The last thing I want to ask you about is the 10 plus 2 rule. I have got a letter from 40 major associations expressing their concern about its effect on their ability to do their business. They have asked for, I understand, in a letter to you, a pilot program that would take a small area and number of companies and run for maybe 6 months to a year to see how it works before it is mandated. Do you know if that is an option that you are considering?

Secretary CHERTOFF. Let me put it this way: Before we come up with a final rule, we will consider all options, but this is a congressional mandate. Congress has, I think, wisely mandated that we collect some more information about containers coming into the country. We have actually been dry-running this for some period of time. So I think we actually know that it works, and the CBP informs you. They are comfortable this is doable now. When a rule is issued, there will be an implementation period, so it is not going to be like the day the rule is issued, everybody has got to provide the additional information. We recognize it may take up to a year to reconfigure.

But I worry a lot that sometimes the request for a pilot program really is delay this until the next administration, and let us try to kill it. You know, since there has been a lot of emphasis on container port security over the last 4 years that I have been here, this is low-hanging fruit. This is a really important thing. Congress recognized that it was a part of the Safe Ports Act. So we are going

to give people time to implement, but I don't think we are going to be in the mind to kick the can down the road.

Mr. ROGERS. Okay. Thank you, Mr. Secretary.

Thank you, Mr. Chairman.

Chairman THOMPSON. Thank you.

The Chair now recognizes the gentleman from New Jersey, Mr. Pascrell, for 5 minutes.

Mr. PASCRELL. Thank you, Mr. Chairman.

Mr. Secretary, you have helped the Members considerably in providing geography lessons so that we do know that we have many borders, not just one border. But I think we have come to the conclusion, and I trust you agree, that we are not going to have a comprehensive immigration reform unless we have border security.

Okay. Having said that, how long is it going to be? How long is it going to take us to get to the point where you can say to us in defined terms the borders are—plural—the borders are secure; now it is time that we have, if the Congress so chooses, border immigration reform?

Secretary CHERTOFF. I am going to speak personally here. I think that properly done, immigration reform actually helps border security, because if you can find a legal way to bring in workers to satisfy the economic need, then those workers aren't going to cross illegally, and that takes a lot of the pressure off the borders so that—although if we just did enforcement alone, we can get there. We can actually get there more quickly if we combine it with a temporary worker program and other reform measures.

Mr. PASCRELL. So you wouldn't accept as what has become, I think, an excuse that we will come to a point when we say, we should be working in parallel forces that help one another, complement one another? Is that what you are saying? That is a strategy?

Secretary CHERTOFF. Right. My view is that we should continue to move forward on the enforcement side, but we need to—we can enable enforcement by looking at a temporary worker program that will lift some the economic pressure off the border. That will actually accelerate both. But I also believe we have to convince the public that we are serious about the enforcement side, and that there will be follow-through, it won't just be abandoned as if it was kind of the price to pay to get the other part. It has really got to be—we have to give credibility to the American public on the willpower issue.

Mr. PASCRELL. Let me get into the subject of profiling. I have seen what you have written, and I have heard what you have said over the last couple of years, and you are in a very sensitive position on this, not very different than the first set of questions. Let me say this: Would it be safe to say that this is how the Secretary feels about profiling, that you see merit in behavioral profiling, but none in racial and ethnic profile?

Secretary CHERTOFF. That is correct.

Mr. PASCRELL. Would you explain what you mean?

Secretary CHERTOFF. In other words, a person's travel—one exception I will come to in a minute, but a person's travel pattern, behavior, communications, all those, I think, are fair game to be considered when you are identifying who you are going to take a

closer look at. The fact that someone is of a particular religion or ethnic group is not in itself an appropriate factor to take into account.

The one exception is this: If I am—if I am told there is a bank robbery, and, you know, there is an identification of the robbers, and they are all, you know, white males, balding, of an age 50 or over, I think it is then appropriate, if you are looking at people coming out of the area, to take men of that description——

Mr. PASCRELL. Then that is not racial——

Secretary CHERTOFF. It is not racial profiling. It is based on a particular identification.

Mr. PASCRELL. Let me tell you why I asked the question, because Congresswoman Lofgren was asking questions about laptops and cell phones being taken. I find it very troubling that it has been alleged that these types of searches, which she identified, the congresswoman, have occurred more frequently with individuals who are Muslim, Arab or South Asian descent. Now, you stated very clearly just 2 minutes ago what you think about this. How do you account for the apparent disproportionate amount of suspicionless searches and seizures that occur with the groups I just defined?

Secretary CHERTOFF. The first thing is I would say they are not suspicionless, because the people only get pulled into secondary if there is some basis for suspicion.

Second, I can't validate—I mean, that is an allegation. I don't have any—I can't validate it one way or the other.

The third——

Mr. PASCRELL. What training did the CBP agents get in order to distinguish—in order to follow through on what you believe is your philosophy and strategy? You are the Secretary.

Secretary CHERTOFF. Right. So let me just finish.

But I do think, for example, travel pattern, where you come from, where you have been, that is an appropriate thing. I mean, the fact of the matter is we have just had discussion about the frontier area of Pakistan. We know that that is a place where a lot of people are getting trained. Therefore, travel either from Pakistan or travel from countries with a route that has previously demonstrated to be a route that the terrorists take, that is a fair thing to take into account.

So it is always hard to deal with general allegations, but I think it is made very clear you don't target people just based on their ethnic group. However, if we know people of a particular description have been identified as being trained, or if we know that people of a particular—with a travel pattern have been—there is a reason to be concerned, that is fair game.

You know, that is—the point is when we put down rules about how do you identify who gets called into secondary, it is based on specific behavior or specific identifiers. It is not just based on the generalization that people of a particular ethnic group are more likely by membership in the group to be terrorists.

Mr. PASCRELL. Mr. Secretary, before I conclude, I just would hope you would attend to what I just talked about, and if I have to cite chapter and verse, I will.

Mr. Chairman, I want to say through the Chair to the Secretary that he needs to weigh in on the question about the border guard

that was killed. This is not just an international incident, this is a situation which we cannot tolerate. I understand the jurisdiction, your jurisdiction. We have had that garbage for 4 years, get jurisdiction. You have got to weigh in on it, because it sends a clear message to the border guards that we think highly of their service as we think of your service.

Secretary CHERTOFF. I guarantee you I have weighed and will continue to weigh in on this.

Chairman THOMPSON. Thank you. The Chair now recognizes the gentlelady from the Virgin Islands for 5 minutes, Mrs. Christensen.

Mrs. CHRISTENSEN. Thank you, Mr. Chairman. Good morning, Mr. Secretary and thank you for the work that your Department has been doing in our border area around St. John and St. Thomas.

I wanted to ask a question about some of the concerns around detention. In May, The Washington Post published a series of articles documenting woefully inadequate medical care in immigration detention facilities. They found shortages of medical professionals, treatment delays, poor recordkeeping and even some cover up by employees aware of the poor care that was being provided and reported approximately 83 immigrants had died in ICE custody since 2004.

So what has the Department done to address these concerns and what new procedures have been put in place to correct them?

Secretary CHERTOFF. A number of things, and we have got some other things in trend. The first is that up until October 2007, the Department of Immigration Health Service was actually not part of DHS, it was part of HHS. Of course, a lot of these stories go back to part of that period. We felt that we didn't have a lot of control over the process. So in October, we were given supervisory authority over DIHS, so we have better control.

The current system creates a treatment regimen where if a doctor recommends treatment, it goes to a nurse practitioner who works with the doctor to figure out what is appropriate. Then there is an appeal to a doctor who is the supervisor at DIHS, if the outcome is not what the treating doctor thinks is appropriate or what that the detainee thinks is appropriate. We currently have our Office of Health Affairs, which actually has a lot of medical experience kind of taking a look at where there are additional practices we ought to put in effect.

The good news is the number of deaths has been decreasing in each successive year. We would like to get it down it zero, but at least we are moving in the right direction.

Mrs. CHRISTENSEN. Thank you, we are pleased with the work that the Office of Health Affairs has been doing pretty much. Visa Waiver: We tried for several years some years back to get some Caribbean countries included, mainly we are interested in them coming to the Virgin Islands to visit family, health care, shopping and whatever. But with the more flexible rules regarding the percent of denials, what is the possibility that some of those countries could be added on if they meet all of the other criteria?

Secretary CHERTOFF. I think any country that meets the relevant criteria can potentially be added on. I don't know that we have—I don't think we have been approached by any——

Mrs. CHRISTENSEN. This was before 9/11, so we haven't tried since.

Secretary CHERTOFF. I mean, certainly it is not restricted. Everybody thinks about it in terms of Europe, but actually it is open to anybody who can meet the criteria.

Mrs. CHRISTENSEN. Great. My last question is the deportation policy and it is a little different from Mr. Dent's line of questioning because it has been a cause of great concern to our Caribbean neighbors and also some of my constituents, so I applaud the Department for the work you have been doing to really send violent and dangerous criminals out of the country.

I have two questions. Don't you think that there should be some more discretion in cases, for example, where the crime was not a violent crime, happened 20, 30 years ago and that person has been a law-abiding, contributing resident in the United States? No. 2, is there any coordination with law enforcement with the countries that you are sending them to? Because some of the Caribbean countries seem to say that there is not any. What has been happening in the Caribbean is that the criminals who have gotten their on-the-job training here in the United States are going back, setting up these criminal networks and making life very dangerous for people in the region.

Secretary CHERTOFF. Well, on the second question, I can tell you that we do try to coordinate. There are probably times we don't do a good enough job. I know others in central American countries we work very closely to make sure that we can send in the fingerprints and information about who is coming back.

On the former issue obviously there are people who have committed a crime, they get deported right afterwards. If you are asking me about someone who has an old crime, 20 or 30 years ago——

Mrs. CHRISTENSEN. Yeah, I have a case like that, right now, 30 years.

Secretary CHERTOFF. Some of that is driven by the law. There are legal requirements of deportation in some instances. In some cases, there is some discretion, it depends on the nature of the crime and the length of time. I used to know more about this when I was a judge. I have forgotten a lot of the details of the law. But the bottom line is it is an area where if there is discretion it is exercised, particularly if you are a legal permanent resident.

Mrs. CHRISTENSEN. Legal permanent resident.

Secretary CHERTOFF. I can't give you a generalization about it.

Mrs. CHRISTENSEN. Okay, we will follow up. Thank you, Mr. Chairman.

Chairman THOMPSON. Thank you. We will now recognize the gentlelady from New York 5 minutes, Ms. Lowey.

Mrs. LOWEY. Thank you, Mr. Chairman. I, too, want to join my colleagues in wishing you the best of luck. Thank you for your service. I hope you leave this Department with a real strong transition plan.

Mr. Secretary, in your first public appearance, you spoke of the risk management paradigm that would guide the Department. That is why I am so puzzled that when it comes to interior enforce-

ment, ICE has not prioritized those who pose the greatest risk to our safety by identifying and deporting dangerous criminal aliens.

In my district alone, the Westchester County Department of Prisons identified over 250 undocumented felons in its system. While it works with ICE to expedite the issue and serve arrest warrants in sweeps, there simply aren't enough ICE agents to do the job.

Now the issues that we are discussing today clearly are controversial. But I think the one area where we could all agree is that we must do more to remove dangerous criminal aliens. Your testimony lists a variety of enforcement tools sadly targeting fugitives, criminals and gang members as listed at the end, almost as an afterthought.

So I would like to know: No. 1, what progress has the Department made to implement the criminal alien plan created last year? How many criminal aliens do you estimate there are? How many did you detain last year? Why do you devote so many resources to work site enforcement when you could be focusing on the dangerous criminals already incarcerated?

Secretary CHERTOFF. Well, I think the answer is we do both. Now there is a strategy in place, and again, I hate to keep harping on it. We have requested in the President's budget, and I think it has been marked up to have money to expand the program with respect to criminal alien enforcement so that we are dealing with it not only at the Federal prison and State prison level, but also working our way down through the county jails.

But even under the existing system, just to give you an example, from 2004 to 2006 we were averaging about 50,000 to 67,000 criminal alien removals a year. Last year, we almost tripled that to 164,000. This year to date, we are on track at about 150,000, which means if we keep it at the current level, we are going to exceed last year. That, by the way, is very close to the number of other deportations that we do Nation-wide. So we do put a lot of emphasize on criminal aliens.

Why do we do work site enforcement? Because when we find a company that has built a business model largely out of hiring illegals, we have to address that.

Mrs. LOWEY. Look, I am not saying—I want to make it clear—I am not saying that isn't part of your responsibility. But if I would make a judgment in your position, I would want to go after the dangerous criminal aliens first.

Secretary CHERTOFF. I want to do both.

Mrs. LOWEY. This just seems to be—but you don't have enough resources to do both. So when we read about these major sweeps of people who are illegal, and I am not justifying that, but they are working in the workplace. When you make the judgment to go after those and it gets big newspaper headlines, instead of going after more of the criminals that are really dangerous, I question that judgment. So I would like some information if you can just follow up.

Secretary CHERTOFF. Sure.

Mrs. LOWEY. In terms of you mentioned the numbers that you are deporting. I would like to know how many, approximately, are left that because of shortage of personnel you haven't been able to pursue? That would be helpful.

Then one other thing, Mr. Chairman, in the minute I have left, I know this is off topic, but I would be remiss if I didn't mention a hearing that this committee held on Tuesday on the overdue national emergency communications plan. The Department's refusal to even give the committee a preview of its contents, obviously upset all of us on both sides of the aisle. What infuriates me is that yesterday I obtained a draft copy, dated several months ago from someone outside of DHS. This behavior, frankly, withholding key documents from Congress while sharing them with others, is unacceptable. It is our understanding that the final draft is stuck in bureaucratic limbo, possibly with OMB, we tried to find out, we don't know.

I encourage you to do everything in your power to release the plan as soon as possible. Our first responders who were waiting for its release to be able to receive interoperability grants, needed to help ensure that in the next emergency, communication failures do not hamper their response.

So Mr. Chairman, for me to get this plan from someone in the private sector out there, and we can't get it as Member of Congress seems to me a little peculiar, something is wrong.

Secretary CHERTOFF. Let me respond to that by saying in the interim we have actually worked with, I think, 36 States on their own individual plans and baseline plans, so we have used a lot of this time to work directly with State responders using the original baseline survey. We have not simply wasted the time or sat on our hands.

Mrs. LOWEY. No, no, no, I am not saying you've wasted time. I just wondered why people out there got the plan and we haven't been able to.

Secretary CHERTOFF. I will explain it, and I will do the favor to the next Secretary of the Homeland Security by explaining why sometimes this problem occurs. Sometimes while we are working on something, and it is being debated inside, there may be an effort to go to people in the private sector and State and local government and get their views. But we may not have come to a final agreement on what we think the plan ought to be. In that circumstance, its a little bit like if you are sitting down in a room, to put together a bill. You may not necessarily want to make it public until you have resolved in your own mind what you want it to look like.

In the years I have been involved in the Executive branch, there is a constant struggle between the Executive branch trying to make its own mind up before it releases something, as opposed to Congress saying, well, we would like to get into the process of seeing what you are thinking and often maybe getting the view of someone whose view may not be adopted. I think you can understand from an orderly decisionmaking process we would like to have an opportunity to make our own mind up before we go to Congress and say, here is our proposal, what do you think? As opposed to having every individual who doesn't get his or her particular idea adopted going outside and trying to lobby from the outside.

So I venture to say there is institutional tension between the Executive's desire to get its own views together, versus Congress's desire to get in early. It is as old as the Republic, will probably con-

tinue into the next administration. But for what it is worth, that is, I think, why we find ourselves in this position.

Mrs. LOWEY. With all due respect to your expertise and your judgment, why wouldn't you share an executive summary without the details and mark it in big black letters, red letters whatever you want, draft, draft, draft? I would think you would welcome some input if you are going out to all kinds of private sector agencies, companies to get their input, why wouldn't you want the input of the Congress?

Secretary CHERTOFF. We do, but I think in general like any other group of people trying to make a key decision, we like to try to pursue the decisionmaking process in an orderly way based on the way we would like to go through the process. You know, again, I have been on all sides of this issue, I am just trying to give you the Executive branch perspective on this.

Mrs. LOWEY. I want to say again, Mr. Chairman, this says preliminary draft. It is not a final draft, it doesn't say this is it, take it or leave it. I just think it might have created a more positive atmosphere if this committee got the draft as well as others out there. But good luck to you, and I am sorry this is the last meeting. Perhaps we will have an opportunity to share ideas sometime in the future.

Secretary CHERTOFF. Great.

Mrs. LOWEY. Thank you.

Chairman THOMPSON. The gentlelady's time has expired. We recognize the gentlelady from Texas, Ms. Jackson Lee for 5 minutes.

Ms. JACKSON LEE. Mr. Chairman, thank you very much and to Secretary Chertoff. Let me thank you for your service and certainly we are grateful that we have had, I think, a continually improving relationship. There have been some challenges, and I think you recognize those challenges, Katrina. But I want to congratulate what I thought was an expedited and efficient compassionate response to those who have suffered devastatingly so.

So I want to raise some very serious questions, and let me tell you how I wish to do it. I want to follow my distinguished colleague, Mr. Souder, I'm going to give you a list, but only ask you to answer two specific questions if you would. As you well know, I chaired the Committee on Transportation Security, so I am troubled and would like an efficient assessment on the status of the U.S. Air Marshals, their training, some of the policies governing their travel, time of off, et cetera. Might I just do a P.S. and say relationship between Kapali and TSA and that subcommittee and this committee has certainly been a very positive one.

I would like an update on TWIC and whether you feel that we can have an opportunity to meet that deadline of February 2009. Whether you are asking for FEMA funding because of the tragedy, and I want to know whether the virtual fence can be used at Texas. I heard a very unseemly answer of no, without any further deliberation. I believe that the virtual fence can be used.

Let me move to the two questions that I would like you to verbally answer, I come from Houston, Texas and we have frankly suffered from the style and the rage, if you will, of ICE raids. When some of the individuals have questioned officers individually, they have said we are being pressured to do this. One raid saw an indi-

vidual fall 20 feet, another woman who was about 4 feet slammed against the wall, who is, by the way, a citizen, pregnant women corralled, a horrific and terrible situation. We need comprehensive immigration reform.

Why doesn't the Secretary of Homeland Security go to the President and say it is a crisis, let's help move the Congress now? In any event, I want to know what is the impetus besides your answer of it's enforcement, enforcement, enforcement. For this style, this style of ICE raids.

One company had a different racial configuration, another company was south Asia, you roll them out, chain cuff them, waist cuff them, made sure all the cameras saw these people, and I think it was frightening.

Secondarily, I join my Chairman on John Lewis' name. I think we all are committed to abiding by the law, and we are committed to ensuring that the watch list is a list that can be counted on and that you and the authorities of DHS have responsibility for. We do not want to violate the law. The last thing this Nation, the land of the free and the brave, want to have is targeting citizens and not being able to eliminate from the watch list law-abiding Americans who are now being hauled away, or, if you will—when I say hauled away, hauled away through time and waiting from airlines because of the watch list. Of course, the watch list is one that one blames the other one in terms of the airline.

We understand that a new member is on the watch list, Drew Griffin of CNN, and my question is, why would Drew Griffin's name come on the watch list, post his investigation of TSA? What a curious and interesting and troubling phenomenon. What is the basis of this sudden recognition that Drew Griffin is a terrorist? Are we targeting people because of their critique or criticism?

So Mr. Secretary, you have always been a straight-shooter and upheld the law, as I understand it, and that may be one of your answers on the ICE, but I believe both are troubling, unnecessary, and we can uphold the laws without this frightening approach to securing America. I would like those two questions answered.

Secretary CHERTOFF. Well, with respect to the issue of the ICE raids, first of all, I have to say the President worked very hard last year to try to get comprehensive immigration reform. I am sure if there were any opening or opportunity in the balance of this congressional session to get it done, he would be more than happy to continue to work on it. I can't say that I have see any indication that that is likely to happen between now and December.

Ms. JACKSON LEE. Encourage him to go to the bully pulpit.

Secretary CHERTOFF. I will. In terms of the style of the raids. In any significant raid, the agents work very closely with the lawyers, the social service agencies to try to design an approach that protects their security and protects the need to get the job done, but is mindful of humanitarian considerations, and most important mindful of legal considerations.

Now that often does mean particularly in a case where people are charged with criminal offenses like identity fraud, it is standard operating procedure whether you are a white collar criminal or not a white collar criminal that you are handcuffed. So there are

certain procedures that they undertake as a matter of protecting everybody involved. That, I think, is appropriate for them to do.

I also know there is a lot of attention paid by Assistant Secretary Myers to making sure there is a very careful con ops that is undertaken, operational plan that's undertaken before any significant raid, and that it includes lawyers, it includes social services people in case there are issues with children who are going to be left unattended. I think we have actually made a lot of progress in that respect.

Now I understand to someone who has been arrested it is going to be seem really unpleasant, but I do think we try to be responsible.

As far as the watch list is concerned, we do have circumstances where we have name mismatches. What happens is a person of a particular name is put on the list and other people with that name wind up being identified as selectees or no flies. The cure for that is to get a birth date for the person who is not—in order to go on the watch list, we don't just put a name on, we put a name and a birth date. So if you have the same name but a different birth date we can take you off of that and we often do it.

Part of the problem we have is that sometimes the airlines don't fully execute that plan. Some are better than others, that is why we are trying hard to get a Secure Flight where we take on board the responsibility for doing the sorting ourselves.

One thing which I did a couple minutes ago for selectees is we told the airlines you know what, if you want to let selectees get their boarding pass like everybody else, from a kiosk or from a computer, you can do it now. All you have to do is get from them the first time that they want to do it their birth date. Then if you can use that to extract them from the false positive, you are good to go.

Ms. JACKSON LEE. Mr. Secretary, the Chairman has been very kind. Let me just say to you that the individual in question, particularly I know that Mr. Lewis has, Mr. Griffin has sent materials to document the fact that he believes he is not a terrorist. He documents that he is not a terrorist.

Secretary CHERTOFF. I——

Ms. JACKSON LEE [continuing]. And I use him as an example because what I am concerned about is the precipitousness of him getting on the watch list May 2008, around the time that he was investigating one of our agencies in DHS. So I am going to ask officially for an investigation.

Secretary CHERTOFF. Yeah, I will ask.

Ms. JACKSON LEE. I don't know if the Chairman asked for John Lewis, but I am asking for an official investigation. I also want an investigation of Shipley's Do-Nuts in Houston, Texas, because what you said, I appreciate. But I believe the facts will show that there was some diminished participation or acting on the procedures you laid out in these ICE raids.

Shipley's Do-Nuts, Houston, Texas and Air Rags USA, Houston, Texas, because my fear is, and I have the greatest respect for ICE officers, they have to do their job, but when you whisper to them and they whisper back they say, we are being forced to do this because there are many other responsibilities. But what I am saying

to you is I am fearful of the danger that comes about that random precipitous raids. So I want an investigation on those as likewise, the watch list.

Secretary CHERTOFF. Let me say this, they are not random. Second, if anybody has a complaint about the way they are treated, the IG or the internal affairs element of ICE will investigate it. But someone has to come forward with a specific allegation, and they have to be willing to testify to it so there can be something to investigate.

Third, actually the database you are talking about is really maintained by the Department of Justice. It is not my understanding that the reporter was put on. He may share the name with someone who was put on. If he has a complaint about it, he ought to refer it over to the IG.

Ms. JACKSON LEE. Let me thank you, I will ask the Department of Justice for an investigation as well, Mr. Chairman. Thank you for very much Mr. Secretary, best wishes to you. Thank you for your service.

Chairman THOMPSON. I now recognize the gentleman from Rhode Island for 5 minutes, Mr. Langevin.

Mr. LANGEVIN. Thank you, Mr. Chairman. Mr. Secretary, welcome back before the committee. I join many of my colleagues in saying thank you for your service and I agree that I think you have got one of the toughest jobs in Government.

Let me turn our attention to a different aspect of border security, and that is the issue of securing the borders and our ports and protecting them from a nuclear device or weapons of nuclear material being smuggled into the country. Obviously, that is within the jurisdiction of subcommittee that I chair. I have been pleased with the progress that DNDO and CBP of deploying radiation portal monitors.

What I do, we have the concern that the first generation radiation detection portal monitors have a lot of in a sense false alarm rates with respect to the fact they can't distinguish between natural occurring things that give off a radioactive signature versus weapons of nuclear material. So we are obviously anxious to get the next generation detectors tested and fielded as quickly as possible.

These ASP detectors which are much more specific, can make that distinction between the naturally occurring things and weapons. So as you know, my committee has held several hearings to examine how to strengthen our nuclear detection capabilities, while at the same time, maintaining a cost-effective approach.

Mr. Secretary, the last time we spoke, I believe you said that a decision on certification will be made some time before the end of July on ASP. Do you still expect to certify the S1 program within this time frame? What determining factors are you considering leading up to certification?

Secretary CHERTOFF. I don't think it will get done by the end of July. Its determining factor is this, since I will have to certify to this and it was somewhat controversial, I am going to want to be sure that the testing and the testing protocols are sound and satisfactory. Before I sign off on it, I am going to have not only the people from DNDO, but the kind of an outside validation of the suffi-

ciency of the testing. At that point kind of along the lines of what Congressman Carney said earlier, I have got a deadline, but if I need more time to get it right, we are going to push it off a couple more months.

Mr. LANGEVIN. So in your mind, do you have a drop-dead date?

Secretary CHERTOFF. I don't have a drop-dead date. I anticipate in the fall we will be able to get this certified.

Mr. LANGEVIN. Okay, thank you.

I would also like to follow up with you on an issue that was of grave concern to all of us last year, last May we all heard how an individual diagnosed with extensively drug-resistant tuberculosis was able to bypass CBP agents and cross our northern border despite a flag on his passport. The CBP agent responsible for checking Mr. Speaker's passport merely cleared the message upon receiving it. Has DHS standardized the alert messages placed on passports so that there is not one for tuberculosis and another, for say, MRSA? Under which circumstances, if any, would an agent still have the authority to delete an alert message? Finally, what type of training activities have CBP personnel undergone to ensure a similar event won't happen again?

Secretary CHERTOFF. I don't know if I can answer a question about whether there is a change in the actual message. I think it was clarified or made clear when you are not supposed to let somebody pass. I think they have sent a very strong message to the field about not overriding a message like that, and certainly not doing it without a supervisor.

This is how the, maybe foreseeable consequence of our getting complaints about the fact that the agents aren't allowed to exercise discretion, they are rigid, they are bureaucratic, they are unfriendly. So I think we did the right thing here in reinforcing the message that you can't override something like a message like that without a supervisor. But I want to make note of the fact that that predictably led to complaining by people who say we are being unduly bureaucratic. So I think the answer is we have corrected that. I can get you a fuller answer in writing.

Mr. LANGEVIN. Last, a bit off topic, but before my time ends, this is something else that takes up a lot of my time and keeps me up at night, cybersecurity, I know it is a bit off topic, but I want to talk briefly about that. While I support, of course, the goals of the cyber initiative, and I hold numerous hearings on my subcommittee on cyber initiative, as well as my work on the House Intelligence Committee overseeing the cyber initiative as it is being developed. I believe that many of the issues will help improve the security of the Federal Government, though I have serious concerns about its scope and budgets and secrecy of the efforts.

Can you provide a brief update on the cyber initiative from your perspective, particularly on the operation of the various lines of authority? Because that still, in my mind, is a big problem. I am not convinced that the right people have the right lines of authority on the cyber initiative.

Secretary CHERTOFF. I think I would describe the lines of authority this way, we will have the responsibility and derivative also with working, to some extent, with MLBG authority to consolidate the number of entry points for the Government and to certify and

accredit the requirement for Government agencies in terms of their security and in terms of the architecture for making sure that we are capable of detecting, and ultimately protecting ourselves against cyber attacks in the Government domain.

There is a dimension which I know you know about these classified activities in the cyber arena, which will properly reside partially with the Department of Defense. Of course, DOD always protects its own assets, that's part of their responsibility.

Finally, in terms of investigating cyber crimes, that is obviously the Department of Justice is the lead prosecutorial agency, although we have a big piece of that as well. Although in that sense there is a certain distribution of authority. I think it is pretty clear where the basic lanes are, but it does require everybody to work together to coordinate.

The piece I have left out is the private sector piece, which has got to be dealt with on a cooperative and voluntary basis with private sector partners. I think we probably have the principal responsibility for interfacing with the private sector, if I can use that rather ugly word, but we will be drawing on the capabilities of the whole U.S. Government in terms of what we might make as a value add to those in the private sector who want to work with us.

Mr. LANGEVIN. I know my time has expired. I appreciate your answer on that. One thing in closing I would say is that, one flaw I see in the cybersecurity initiative is that it doesn't do enough up front right away to secure critical infrastructure. That is a weak point. It is focused first on securing Federal network security, which is obviously important. But the real damage, in my opinion, that can be done first is in critical infrastructure, electric grid and water supplies and such.

The Brits have done it just the opposite. They focused on securing critical infrastructure first and then going to securing the Federal network. So we need to double our efforts in securing critical infrastructure.

Secretary CHERTOFF. I agree with that, we have done some of what they have. I think that this is an area though, it is not—we are not—we are not compelling because this is in private hands. So we need to—what we are trying to do is engage with them so—that is when the Brits did, the Brits helped them. I actually talked to them and we are getting to the end of what I can say publicly, I talked to them about what they did. There is some interesting conversations to be had about how to proceed, which I would be happy to address with you, not in a public forum.

Mr. LANGEVIN. Very good. Thank you Mr. Secretary. We do appreciate your service. I hope it is not the last time you're here before the committee, but thank you for being here today. I yield.

Chairman THOMPSON. Thank you. I will now recognize the gentleman from Texas for 5 minutes, Mr. Green.

Mr. GREEN. Thank you, Mr. Chairman, and thank you Mr. Secretary. I agree with my colleagues, you have served well. Just as an aside, is there any truth to the rumor that you are on the short list for VP?

Secretary CHERTOFF. No.

Mr. GREEN. So you are on the long list?

Secretary CHERTOFF. I am not on any list. I have a list of my vacation coming up next year, that is my list.

Mr. GREEN. Well, let's talk for just a moment about the watch list, if I may. I was with Representative Lewis in Houston, Texas when he was detained for some period of time because another John Lewis is on the list and he happens to share the name of this person. The concern that we have to address is not that we can have multiple persons with the same names, but the question is how many times must a person be vetted before that person is extricated from the vetting process? That is the concern that we have to deal with.

The same thing applies to the CNN reporter. How many times will the reporter have to prove that he is not the terrorist or the person who is appropriately on the list before he is extricated from the list?

If I may, let me make this comment. It would seem to me, Mr. Secretary, that given the software that is out there, that we should be able to develop an identifier that we can afford people who are vetted such that somewhere along the way an identifier would indicate already vetted, not the John Lewis you are looking for, it is another CNN reporter, another Drew Griffin, not the one that you have here. That is what is vexing and that is what is perplexing. That is what is causing the consternation. People want to make sure we catch the right people. But what we don't want to do is waste our time continually vetting the same people.

Secretary CHERTOFF. I agree with you, and we spent a lot of time talking about this, and you are completely correct, and here is the answer. The answer is if we get a birth date and the birth date establishes you are not the John Lewis who is on the list, that is all the vetting we need. We found a way to take you out of that false positive.

Then the question becomes why is it that that doesn't automatically kick in the system?

Mr. GREEN. That would obviously be the question.

Secretary CHERTOFF. The answer is, it can automatically take in the system if the airline is willing to fix its software to take account of that fact. Some airlines do. That is why in some airlines—we have offered the airlines the following option: If you take a date of birth and you are willing to put it into your system, and you can actually use your frequent flyer system so that we know it is a John Lewis with this frequent flyer number is not the person we are worried about, that any time in future when that John Lewis goes to get a ticket and puts their frequent flyer number in, they will not appear on the watch list.

We have offered that to the airlines. That is exactly what you are suggesting. Some airlines do it, some airlines don't do it. That is why I am eager to get us to Secure Flight where we would take the system and we would take care of it.

Mr. GREEN. Because my time is running out, Mr. Secretary, let me ask this, if the airlines declined to do what is absolutely appropriate, and if you think you need more legislation from Congress, then it would seem to me, not you personally, but someone from your agency would say, we need this legislation so as to cause

those airlines that are not inclined to be put in a position where they will do the appropriate thing. Is that where we are?

Secretary CHERTOFF. That is exactly why we have gone to Congress and we have gotten the money for Secure Flight. In Secure Flight, what we will do is take it out of the hands of the airlines, we will do it, TSA will do it and then TSA will be responsible for extracting people from the list——

Mr. GREEN. But the problem we have with that is Secure Flight will, at some point, become secure, and we will have it implemented. But in the interim, if we have these two persons that we know of, imagine if you are not a Drew Griffin, how you are continually being put through this vetting process. It has to be something that can create havoc in your life.

Secretary CHERTOFF. Yeah.

Mr. GREEN. Not everybody gets to the airport an hour early. Not everybody is prepared to wait while someone comes forward and says a supervisor looks at the record and says this is the right guy, this is not the right guy. So I really would beg that we find a way in the interim to extricate people who have been vetted, just those who have been vetted.

Secretary CHERTOFF. Yeah.

Mr. GREEN. One more question before my time expires, the TWIC card we were supposed to deploy card and reader, we found that that was not being done. The cards were being deployed, which can be copied because if you don't have a reader for the card, a person can give us a false piece of identification. Where are we with the deployment of the actual reader for the card?

Secretary CHERTOFF. I know the card is supposed to be out in the spring. The reader, to be honest with you, I don't have it in the top of my head now. I am going to have to get back to you when the reader will be deployed. The reader has been challenging because of the environment, but we are working on it. I will get you an answer to that.

Mr. GREEN. Just one comment, a system that will allow us to not only acquire the services of the huge corporations with reference to this kind of technology, but also small businesses who have technology that they contend is what we need. Somehow we have got to get them into that loop, Mr. Secretary, because if the big guys can't do it or for whatever reasons won't, and the little guys have the ability to do it, then we ought not hold up a project waiting on the big guy to go to the little guy, and somehow co-opt him so that that technology can be used. We have to find a way to deploy the technology timely, to deploy the reader, the card and not deploy the reader really does not move us that much forward.

Somehow we have to link them together and I get plenty of small businesses, Mr. Secretary, we hear from them all the time who are telling us that I have the technology you are looking for. But I can't get it through the system unless the big guy consumes me. Then I can be a part of whatever he is a part of. Can you give me a——

Secretary CHERTOFF. Yeah, science and technology, we do solicit from as wide a variety of people as we can. If there is a technology that someone has and they are capable of scaling up and producing, so it is not just a concept, we are always willing to do that. We do a lot of different things to reach out and try to make our-

selves available for small businesses. So you know, we are interested in technology that works. It has to, however, work in real life, not just in the lab, of course. A lot in my observation has been that a lot of these projects, what they founder on is the movement out of the laboratory into the field. Because it works great in the lab, but it doesn't work in the field. We are always open, we pay special attention to try to put as broad a call out as possible for people who can give us a solution to a systems problem.

Mr. GREEN. One final comment. I happened to go to Singapore, now I didn't have an opportunity to have the type of investigative report that might benefit, you conducted. But they seemed to have the technology we are looking for and they seemed to have it in place, that is operable, people walk through and they go through rather hurriedly and they are being checked. Can we not look into the technology that exists elsewhere and replicate that?

Secretary CHERTOFF. We do, and I think some of our folks went over there and looked at other places. In many places, this technology works very well. A great example is US–VISIT, the fingerprints, that works great. I think the problem with TWIC turned out to be—with the reader turned out to be in a field in a saltwater environment with a lot of dirt and dust and grime, the readers were not durable. In the lab, it is all clean and everything works great. But that turned out to be a particularly depending environment. I think that is why they had trouble with that particular type of reader.

Mr. GREEN. Thank you, I yield back the balance of my time.

Chairman THOMPSON. Thank you, we now recognize the gentlelady from the District of Columbia for 5 minutes, Ms. Norton.

Ms. NORTON. Thank you very much, Mr. Chairman. I want to thank you, Mr. Secretary, for giving up a lifetime appointment to become Secretary of Homeland Security. I have a couple of questions, Congresswoman Christensen mentioned the series that was done in my hometown newspaper, one that official Washington read as well about really quite atrocious, shocking indeed inhumane medical care stories and you responded about improvements that you are seeking and I appreciate that.

Frankly, I was more disturbed by learning something else from a GAO report a year ago, and that is that the primary way that immigrants have to notify anyone that they are in trouble is through the Office of Inspector General. But the GAO looked at the availability of the hotline number and found that the hotline number was blocked in 16 of the 17 detention facilities, at least that they visited. It seems to me that that is far more—and that, of course, is under your jurisdiction. I would like to just ask, since this report came out a year ago, what the Department has done to address the problems, the particular problem, the complaint problem that were noted in the GAO report?

Secretary CHERTOFF. I know as a routine matter the component, in this case, ICE DRO, detention removal will look at these reports and they are supposed to take appropriate action. So I could find out just to let you know what they did in follow-up to that.

Ms. NORTON. Mr. Chairman, I think we are going to have to, would you, in 30 days, respond to the Chairman whether or not

there are any blocked sites for the hotline number for immigrants to complain to DHS?

Secretary CHERTOFF. Sure, we can do that.

Ms. NORTON. If they are blocked they can be unblocked.

Chairman THOMPSON. Well, I don't think it would take 30 minutes. How long do you think it would take, Mr. Secretary?

Secretary CHERTOFF. By the end of July.

Ms. NORTON. Appreciate it.

Chairman THOMPSON. Okay. For the sake of the Chair, why would we block a number to start with?

Secretary CHERTOFF. I don't know. That is actually mysterious to me. I don't have an answer to it so——

Ms. NORTON. It seems you can't expect to remain in this country if you come in illegally, but it is America and you know that this is a country that does hear complaints from anybody. I realized that frankly that there was pressure and I think appropriate pressure that you have responded to to increased enforcement that brought with it a whole series of problems that are understandable. The problem with children that you briefed us on that had to do something about because in many ways it was unprecedented, but this sounded very deliberate, blocked phones bothered me very much, particularly for people who are utterly powerless now, wanting to get back to their countries, these are people, some of whom may have medical emergencies.

I can't leave without asking you a question about these Iraqi refugees though. I was in Jordan with the congressional delegation, a country that has many Iraqi refugees waiting to come here, not to come back to their own country because they have been translators or otherwise cooperated with the United States. Frankly, I can only say when we talked to the U.N. agency, that does the screening for all countries and learned that the United States finds that 80 percent of those they screened are, in fact, eligible. Of course we have to go through our own processes. It was a matter of some shame to me to note the comparison of our figures for admission of Iraqi refugees and others, others who are not even involved in this war. They were huge differences. Here we are talking about translators, people who can't possibly go back and people who were frankly cooperators with us.

At that time, and I think we went in January, you all were not close to meeting the 12,000 number. You had stepped up the number. That number would only begin to put you in the league with your European and other countries who stepped up to take refugees.

I would like to ask first what is the hold-up with translators? They, I thought, could even bypass this process. Are you going to meet the modest 12,000 figure which would be the first time you have met a figure, a budget figure frankly set by the appropriators?

Secretary CHERTOFF. We have processed enough people through our piece of pipe to meet 12,000 this fiscal year.

Ms. NORTON. Who else has the rest of the pipe?

Secretary CHERTOFF. Now the State Department then has the responsibility for actually making the arrangements to bring them in, resettle them, prepare them to come in, find out where they are going to go and do all of the elements of what has to be done before

someone can actually be admitted. But in terms of our clearance process——

Ms. NORTON. So you are meeting the 12,000?

Secretary CHERTOFF. Yeah, we have done our piece to meet the 12,000.

Ms. NORTON. Do you all work together? Because its not acceptable to this committee to hear that a Government which is part of a same Government——

Secretary CHERTOFF. It is not that—we do work together. It is just that once we have cleared somebody there are some things that have to happen. They just don't just get a ticket, they have to be prepared, they have to get their own preparation, what to expect, where they are going to go, they may need to have some schooling about what is going to happen——

Ms. NORTON. Can't we do that in this country? I am really bothered by this, Mr. Secretary, because they remain in Jordan, I didn't even go to Syria, Jordan is an ally. There is growing resentment there, you can imagine it is a country a whole lot—in fact, it is a very poor country, we have resentment here, a very rich country of people coming over the border. These people are overstaying. Why can't you simply bring these people here, do that kind of preparation here rather than put the burden on Jordan?

Secretary CHERTOFF. Not being in charge of that part of process I am speculating, I think if you bring them here and just drop them——

Ms. NORTON. We are not asking for—do the preparatory work here, they have already passed the screening.

Secretary CHERTOFF. I am left to say to you that I don't—that is not a piece of the process that falls within my jurisdiction. I can't give you an answer as to why it isn't done over there. As far as our clearance, we have got 12,000, we are ready to go.

Ms. NORTON. Mr. Chairman, I am through, except to ask whether you would be willing to speak to the others involved in the process about the possibility of having a place here for people to be prepared to then enter other parts of the country?

Secretary CHERTOFF. I am happy to ask them, yes.

Ms. NORTON. Thank you.

Chairman THOMPSON. The gentleman from Washington, Mr. Dicks.

Mr. DICKS. Thank you, Mr. Chairman.

Chairman THOMPSON. For a few minutes.

Mr. DICKS. Thank you Mr. Chairman. I regret I wasn't here for the entire briefing. It is my understanding that DHS will be conducting significant public outreach for the implementation of the western hemisphere travel initiative which sets forth new document requirements for U.S. citizens and others who previously were not required to present a passport when entering the United States. What are you doing differently during implementation of the WHTI at land and seaports to prevent the widespread confusion and document delays that occurred during implementation of the Western Hemisphere Travel Initiative for air travel?

Secretary CHERTOFF. Well, I would say to you I don't think there were widespread delays for air travel. In fact, what happened with air travel was a very high compliance rate almost from the get-go.

Likewise, when we put in the requirement eliminating some of the documents that had previously been accepted in at the border like baptismal certificates and student cards, we got a very high compliance rate right away.

Our general process is the following: We begin early on to provide all travelers with notification documents. We pay for advertising public service announcements. There has already been a lot of this outreach that has been done. There was a piece in USA Today this morning that talked about an increasing number of States that are now issuing or about to issue driver's licenses, which we will deem to be compliant with WHTI. I think they have done 21,000 initiatives in the State of Washington; New York is about to issue them and Vermont. The PASS card, which will be probably the primary alternative to a passport—I have applied for mine, maybe you have applied for yours, and they will be issuing them in the next few weeks. So we have still got about a little less than a year to go. There is already, I think, a pretty aggressive outreach program.

As we get closer to the deadline we will do more and more advertising and things of that sort.

Mr. DICKS. I want to move on to another question, but I just mentioned that confusion about WHTI requirements had a been a big factor and depressed varied travel out of Port Angeles, Washington to Canada and from Seattle to Canada. There has been confusion here. The more we can do I think the better off we will be.

Without the necessary readers at the hundreds of ports of entry into the United States, most of the WHTI-compliant documents like passport cards and enhanced driver's license would essentially be flashed passes, which would undermine the intended security benefits. It is therefore essential that we have proper readers in place at our ports of entry. According to the GAO, you had planned on installing and testing new primary processing equipment and readers for WHTI at two land POEs in Nogales, Arizona and Blaine, Washington. What is the schedule for deploying these readers to our land ports of entry?

Secretary CHERTOFF. There are two features of the WHTI-compliant document that can be read. One is the machine-readable zone which are the letters and numbers at the bottom of your passport, at the bottom of the card. The other is a chip embedded in the card. Either one of those can be read and sufficiently be read.

Currently a document which has a machine-readable zone can be read at every single port of entry in the United States. The machines are there and they function and have done so for sometime.

The RFID chip, which has the advantage of actually being quicker because it actually brings up the data before the person has arrived at the actual booth, we will have deployed them to 39 busiest points of entry by the spring of next year, well in advance of the deadline of June.

Mr. DICKS. One thing, I want to mention because I have a little time left, I am a member of the Defense Appropriations Subcommittee, and we have a panel that follows intelligence. One of the issues that has come up is cybersecurity. I have been told that the Department of Homeland Security and the Director of the National Intelligence, we can't get into a lot of detail here.

Secretary CHERTOFF. Right.

Mr. DICKS. But can you tell us what role Homeland Security is playing in this new cybersecurity initiative? How well do you think you are doing?

Secretary CHERTOFF. I break it to three parts. First, we have the responsibility working with OMB to condense and coalesce the number of access points between the Government domain and the Internet, excluding the Defense Department, which has its own system, to condense it and then put into place intrusion detection capabilities, next generation of intrusion detection capabilities. We are building the next generation, and we are beginning the process of doing that condensation.

The second thing is we are going to be the principal focus of outreach between the Government and the private sector to work with them to see how we can assist them in upgrading their security. That is the hardest piece to talk about in a public domain so I won't, but that is the second piece.

Third, we will be executive agent for the National Cybersecurity Center, which is a center that will essentially be the contact point or the coordinator among the various watch standing cybersecurity centers, principally the DHS one, the NSA, the Department of Justice and there may be one other one. The idea there is we will coordinate to make sure that we are cooperating with a common picture and operating program in terms of cybersecurity across all these domains. That is a little general because of where we are.

Mr. DICKS. Right, I understand. Thank you, Mr. Chairman.

Chairman THOMPSON. Thank you we now recognize the gentlelady from New York for 5 minutes.

Ms. CLARKE. Thank you very much, Mr. Chairman. On behalf of the people of the city of New York, Mr. Chertoff, I would just like to thank you for your service, your commitment and your help in our recovery and setting up the protocols by which our city continues to protect itself under your leadership. Thank you very much. We appreciate it.

I just want to mention a couple of things with respect to the Western Hemisphere Travel Initiative. Oftentimes, we implement policies in the United States that have unintended consequences on a global scale. One of those unintended consequences was the severe dip in the economy of the Caribbean nations that were not part of the collaboration once we started and determined that we were going to go this route. I think that going forward in the 21st century, we are in a hemisphere not isolated but in collaboration with other partners. People rely on us for their economy as we rely on them for theirs. It would help if we would collaborate with leadership in other countries when we do something like this because their economies have taken a severe blow and have not recovered since.

Having said that I would like to speak to you in keeping with when I heard from some of my colleagues Ms. Christensen and Ms. Jackson-Lee and Lowey. Over the past several years nearly all the debate on our border and immigration policies have revolved around undocumented immigrants. However, within our borders, we have other types of immigrants as well, including millions of

legal residents who live here on a permanent basis and hold green cards.

They come here following U.S. law by obtaining visas and subject to paying taxes and are important contributors to their communities. In most cases, only noticeable differences between a legal permanent resident and their American neighbors are that they hold a different passport and they cannot vote.

My own parents once had green cards. Unfortunately, I believe in all the rush to attack the challenges of the estimated millions of undocumented immigrants; it seems that LPRs are now being caught in the anti-immigrant tide. Lately, I have heard more and more stories about permanent residents who have been detained for deportation, many years, sometimes decades after committing crimes that in most cases were very minor and nonviolent.

In many of these cases the Government could have deported them at the time but chose otherwise. Now only years, sometimes decades later, they have decided to resume the process without further provocation. These deportations of legal residents really occurred in the past, but seem to be happening with increasing frequency and arbitrariness.

Mr. Secretary, has there been a change in policy prioritization during this administration about aggressiveness with which deportation of LPRs are pursued? Also what is the standard for determining which cases to pursue? I would like to also ask whether you personally believe that it makes sense to deport a person who has a teenager, was once arrested for possession of a drug, but now currently lives a stable, law-abiding life and with a good job and a family?

Secretary CHERTOFF. Part of this, of course, is the law passed in 1986 sets some mandatory requirements for deportation with respect to so-called aggravated felonies, which include drug crimes. That is a congressional mandate. There is no choice in the matter. It is what it is.

There is no focused program to go out and check on people who have been legal permanent residents. What I think probably often happens is some person who is a legal permanent resident gets on the radar screen maybe because they have been arrested for something minor, or somehow they have come to the attention of the authorities, someone runs their record, and then they get referred to ICE because they have a criminal record, and it falls within the statute. It is not a priority program to deport people who have been here a long period of time and we have somehow missed. But I think that with a general increase in enforcement, including State and local enforcement, we get referrals. If you get a referral of someone who is required to be deported by law, we follow through on that.

Ms. CLARKE. There just seems to be quite a frequency of it now. I don't know whether you have a way of tracking that, because on May 20, my office contacted your Department looking for some basic statistics on a year-by-year breakdown of the total number of people with LPR status residing in the New York region who have been detained by ICE for deportation proceedings over the last 5 years, along with a general breakdown of the type of violations committed that led to the detainment. We were eventually told

that DRO does not have any way to know which of the people they have removed held LPR status. So the statistics could not be provided.

I just find that alarming that we are not even tracking what is going on here, and it is really presenting a problem. In many communities it is creating fear, and it may be unwarranted. I think it is important if we are going to pursue these policies as mandated by law that we at least keep statistics on it so that we can reunite families, so that we can do the things that are humane in our society that we need to be doing.

I just find it appalling that there is no statistics held. That is just unbelievable. How are people going find their family members, sometimes the sole provider for these families? How do we go about doing that if we don't build in at least some accountability around what we are doing right now?

So I hope that you would ask that your offices provide me with this information if it exists. If it doesn't exist, I hope that you will start the process for creating that for communities such as mine.

Secretary CHERTOFF. All right.

Ms. CLARKE. I yield back, Mr. Chairman.

Chairman THOMPSON. Thank you very much.

Now, do I understand that Ms. Clarke's request for the—if it is available——

Secretary CHERTOFF. If available, we will get it to you; and if not, I will see what our statistical—our capability is to design a system to capture information about the number of LPRs that departed.

Ms. CLARKE. Would the gentleman yield a moment?

Chairman THOMPSON. We have 1 minute and 20 seconds.

Ms. CLARKE. Just quickly. Do you think it is important at least to capture that information, Mr. Secretary? I mean, there is a difference between someone who came here legally and someone who has come in undocumented.

Secretary CHERTOFF. I am sure we capture the information in some way, I am just not sure it is compiled. It may not be compiled because no one has ever specifically been interested in tracking the number of LPRs who get deported. So what I don't know is whether it can be extracted from the system, or whether we ought to input something into the system in the future that captures it.

Chairman THOMPSON. Thank you very much. Mr. Secretary, we want to thank you for your valuable testimony today, 3 hours. You have been more than judicious with your time.

I do want to call your attention to some problems with the TOPOFF 5 exercise. Without going into it, I just want to say that we are going to get some information to you asking how the process is going. But it concerns us that there appears to be some manipulation of procurement in that arena that we want to work with you on.

The Members of the committee may have additional questions for you, and we would ask you to respond expeditiously in writing to those questions.

Hearing no further business, the committee stands adjourned.

[Whereupon, at 1:04 p.m., the committee was adjourned.]

APPENDIX

QUESTIONS FROM CHAIRMAN BENNIE G. THOMPSON OF MISSISSIPPI FOR MICHAEL CHERTOFF, SECRETARY, DEPARTMENT OF HOMELAND SECURITY

Question 1. As part of your testimony, you referred to a number of border security planning documents that you brought to the hearing. Please provide a copy of each of those documents to the committee. Also, please provide an explanation of how those documents constitute a comprehensive, coordinated strategy for border security.

Answer. Hard copies of the Border Patrol Strategy, Air and Marine Strategy, Securing America's Border at the Ports of Entry, and CBP Strategic Plan will be provided to the committee.

These documents provide direction to overall policy development and implementation, strategic and tactical planning organizational assessment and strategic goal alignment for DHS's border security operations.

Question 2. With respect to border fencing, many are concerned about how the locations for proposed fencing were determined, the adequacy of consultation with private landowners, and the waiver of Federal laws to expedite construction.

Regarding the waiver, please specify which of the 35 waived laws apply to which segments of planned fencing?

Please specify what, if any, actions were taken by the Department to comply with the Federal laws before opting to invoke a blanket waiver.

Will the Department meet its goal of having 670 miles of border fencing by December 31, 2008?

Answer. In planning for a project of this magnitude to be completed by a tight congressionally set time frame, the Department of Homeland Security (DHS) cannot anticipate every potential legal impediment that may arise during construction. Accordingly, every law listed in the waiver would have prevented DHS to achieve the goal of completing the border fence by the congressionally established deadline of December 2008. The laws fell into one of two categories: laws that were identified as an impediment to construction and laws that were determined to be potential sources of delay (including litigation).

Laws That Were Identified as an Impediment to Construction

Regarding those laws that were an impediment to construction, two laws, the Wilderness Act, 16 U.S.C. § 1131, et seq., and the National Wildlife Refuge System Administration Act, 16 U.S.C.§ 668dd et seq., would have barred construction of certain segments of proposed border infrastructure that were deemed operationally necessary.

The Wilderness Act prohibits the construction of permanent roads or installations and seriously restricts the use of motorized or mechanized equipment, vehicles, and aircraft within designated wilderness areas. The National Wildlife Refuge System Administration Act and its implementing regulations require, among other things, that any proposed use of or activity within a National Wildlife Refuge be compatible with the purposes for which the refuge was established.

DHS had extensive discussions with the Department of Interior (DOI) and DOI made every effort to accommodate DHS's construction of border infrastructure. Nevertheless, DOI ultimately determined that it could not authorize construction on DOI land that is subject to these two statutes. Thus, in a letter dated March 20, 2008, the Associate Deputy Secretary of Interior, James Cason, notified DHS of DOI's determination and explicitly recognized the need for DHS to utilize the waiver authority, as DOI's inability to provide DHS with the necessary approvals would have prevented construction of certain segments of infrastructure that were planned in areas such as the Otay Mountain Wilderness Area in San Diego, California, the Jacumba Wilderness Area in Imperial County, California, and the Cabeza Prieta National Wildlife Refuge in Pima and Yuma Counties, Arizona. It is notable that

in setting forth its determination, DOI stated that it had been forced to close certain DOI lands due to illegal cross-border activity and acknowledged that the proposed border infrastructure would likely improve the security of DOI lands, increase the safety of both visitors and DOI employees, and decrease adverse environmental impacts caused by illegal activities.

Laws Determined to Be Potential Sources of Delay (including Litigation)

As mentioned above, the other category of laws included in the waiver included those laws that were determined to be potential sources of delay, most importantly litigation. Indeed, the potential for protracted litigation was one of the biggest threats to expeditious construction of the border infrastructure called for under section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended ("IIRIRA"). Public Law 104–208, Div. C, 110 Stat. 3009–546, 3009–554 (Sept. 30, 1996) (8 U.S.C 1103 note), as amended by the REAL ID Act of 2005, Public Law 109–13, Div. B, 119 Stat. 231, 302, 306 (May 11, 2005) (8 U.S.C. 1103 note), as amended by the Secure Fence Act of 2006, Public Law 109–367, § 3, 120 Stat. 2638 (Oct. 26, 2006) (8 U.S.C. § 1103 note), as amended by Department of State, Foreign Operations, and Related Programs Appropriations for fiscal year 2008, Public Law 110–161, Div. E, Title V, § 564, 121 Stat. 2090 (Dec. 26, 2007) (8 U.S.C. § 1103 note). As we have previously seen, opponents of border infrastructure are willing to use the courts as a means of delay. Thus, while these laws may not have presented an impediment to construction, the inclusion of these additional laws was necessary to ensure that a perceived or alleged failure to achieve technical compliance with a particular statute did not halt progress toward completion of the border infrastructure by the end of 2008 called for by Congress.

Many of the laws that were waived, ESA for example, include "citizen suit" provisions which allow individuals to bring a private right of action against the Federal Government to ensure compliance with the law. Moreover, although some of the laws included in the waiver (i.e., NEPA) do not afford this right, as a practical matter, the Administrative Procedures Act (APA), 5 U.S.C. § 551 et seq., would still allow for judicial review. With the passage of the APA, Congress intended to provide for judicial review of all agency actions. See 1946 U.S. Code Cong. & Admin. News, 1205 (the APA "sets forth a simplified statement of judicial review designed to afford a remedy for every legal wrong"); House Judiciary Committee Report, H. Rpt. No. 1980, 79th Cong., 2d Sess. (1946). See also *NAACP* v. *Secretary of Housing and Urban Devel.,* 817 F.2d 149 (1st Cir. 1987) (explaining that the omnipresent availability of APA review over Government agency actions makes it unnecessary for Congress to create private rights of action against the Federal Government). Therefore, regardless of whether the statute provided for a private right of action, each law presented an identified risk for potential delay to construction of the infrastructure.

For every planned segment of pedestrian fence, DHS had either started or completed an Environmental Assessment (EA) or an Environmental Impact Statement (EIS) pursuant to NEPA. However, as DHS moved to complete the NEPA process, including extensive public engagement, for the planned fence segments, it became clear that DHS could not both complete the NEPA process and maintain a construction schedule that would allow for completion by the end of December 2008.

Other laws that were determined to be an impediment to construction included statutes such as the National Environmental Policy Act, 42 U.S.C. § 4321 et seq. (NEPA), the Endangered Species Act, 16 U.S.C. § 1531 et seq. (ESA), the Federal Land Policy and Management Act, 43 U.S.C. § 1701 et seq. (FLPMA), and the National Historic Preservation Act, 16 U.S.C. § 470 et seq. (NHPA). For laws such as NEPA, ESA, or FLPMA, the need to include them in the waiver was largely a matter of timing. That is, unlike the Wilderness Act or the National Wildlife Refuge Administration Act, these laws did not contain substantive provisions that would have barred construction. Rather, the need to waive these laws stemmed from the time that would be required to meet their procedural requirements, which jeopardized DHS's ability to meet the construction deadlines Congress set forth in Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended ("IIRIRA"). Public Law 104–208, Div. C, 110 Stat. 3009–546, 3009–554 (Sept. 30, 1996) (8 U.S.C 1103 note), as amended by the REAL ID Act of 2005, Public Law 109–13, Div. B, 119 Stat. 231, 302, 306 (May 11, 2005) (8 U.S.C. 1103 note), as amended by the Secure Fence Act of 2006, Public Law 109–367, § 3, 120 Stat. 2638 (Oct. 26, 2006) (8 U.S.C. § 1103 note), as amended by Department of State, Foreign Operations, and Related Programs Appropriations for fiscal year 2008, Public Law 110–161, Div. E, Title V, § 564, 121 Stat. 2090 (Dec. 26, 2007) (8 U.S.C. § 1103 note).

For example, in addition to NEPA and ESA which are discussed in response to question two below, FLPMA confers broad discretion on the Secretary of Interior and the Bureau of Land Management (BLM) to protect and manage BLM resources and lands. Accordingly, FLPMA and its implementing regulations set forth extensive permitting requirements that must be followed to access and construct on BLM land. As alluded to in Associate Deputy Secretary Cason's letter of March 20, 2008, for those areas of proposed construction that were subject to FLPMA, the issue was not whether DOI and BLM could ultimately issue the necessary permits to DHS. Rather, the issue was whether DOI and BLM could complete the permitting process in time to accommodate the aggressive construction schedule set forth by Congress in IIRIRA.

Of course, many of these same laws were also major sources of potential litigation, which made their inclusion in the waiver all the more necessary. For instance, it was a NEPA lawsuit that delayed construction of the 14-mile Border Infrastructure System (BIS) near San Diego and prompted the first waiver, which was issued in December 2005. At the time the BIS waiver was issued, the same groups that had brought the NEPA challenge were also threatening to bring an action under ESA. Similarly, a NEPA lawsuit temporarily delayed DHS's construction of infrastructure in and near the San Pedro Riparian National Conservation Area and prompted an October 2007 waiver. Moreover, the actual Environmental Assessment (EA) at issue in the San Pedro litigation was one that was prepared by BLM as a part of the permitting process under FLPMA.

With that said, DHS has not turned its back on the commitments to the resources that these laws that are being waived are designed conserve and protect. DHS is meeting both the spirit and intent of these laws through its post-waiver environmental stewardship efforts, including the use of Environmental Stewardship Plans (ESP) to guide construction efforts. These ESPs will serve many of the purposes of an environmental assessment or environmental impact statement by identifying areas of impact and mitigation measures, working to conserve natural and cultural resources, engaging stakeholders, planning for appropriate best management practices, and documenting all stewardship actions.

CBP Commissioner Basham stated at the September 10, 2008 hearing before the House Homeland Security Committee that CBP remains committed to having 670 miles of fencing in areas identified as priorities by the Border Patrol completed, under construction, or under contract by the end of calendar year 2008. DHS continues to face a number of challenges due in large part to factors outside of our control such as delays in acquiring land and construction cost escalations that required congressional approval of a request to reprogram funds. The total mileage completed, under construction, or under contract at the end of calendar year 2008 may be affected due to a number of factors including small changes in segment lengths, engineering and environmental assessments, or unforeseen issues that may arise on a project of this size and complexity.

Question 3. In November, the Government Accountability Office (GAO) released a report (GAO–08–219) stating that CBP managers acknowledged that staffing shortages negatively affect Customs and Border Protection's (CBP) ability to conduct anti-terrorism programs and traveler inspections. We know that CBP currently needs several thousand new CBP officers to reduce its officer staffing deficits at airports and land ports, yet the fiscal year 2009 budget request only includes funding to hire an additional 539 CBP officers.

Given that CBP's staffing model shows a deficit in the thousands for airports and land ports and CBP supervisors have expressed that they believe that additional officers are necessary to fulfill their security responsibilities, why has this administration failed to request the funding necessary to address staffing shortfalls?

Answer. In its Resource Allocation Model, Customs and Border Protection (CBP) has identified optimal CBP Officer (CBPO) levels necessary to support staffing at ports of entry. The fiscal year 2009 President's request included funding for an additional 539 CBPOs for airports and land ports. These positions were in addition to 1,195 CBPOs that were added in the fiscal year 2007 supplemental and the fiscal year 2008 Omnibus Appropriation Act. The President's budget request reflected the competing priorities among CBP's multiple mission areas: Border Patrol Agents; Automation Modernization; Border Security Fencing, Infrastructure and Technology; Air and Marine Operations; and Construction. DHS will continue to assess staffing levels at ports of entry and work toward achieving optimal staffing.

Question 4a. Some have expressed concern that limited funding and resources within Immigration and Customs Enforcement's (ICE) Office of Investigations have constrained their ability to execute the agency's broad jurisdiction. Specifically, there is concern that investigation of money laundering and other terrorist-related

activities is being shelved at the expense of politically driven work site enforcement investigations that result predominantly in administrative arrests.

How many work site enforcement investigations were conducted in fiscal year 2007? How many so far this fiscal year?

Answer. Fiscal year 2007 and fiscal year 2008 WSE cases initiated—see chart below.

Question 4b. How many criminal indictments and criminal convictions have been effected as a result of the work site enforcement investigations in fiscal year 2007? How many so far this fiscal year?

Answer. Fiscal year 2007 and fiscal year 2008 WSE indictments and convictions—see chart below.

Fiscal year 2007 Statistics—October 1, 2006 thru September 30, 2007.

Fiscal year 2008 Statistics—October 1, 2007 thru September 30, 2008.

	Cases Initiated	Indictments	Convictions
Fiscal year 2007	1,093	750	561
Fiscal year 2008	1,193	892	883

Question 5. In January 2006, the Rice-Chertoff Joint Vision for Secure Borders and Open Doors created a Model Ports-of-Entry pilot program to provide a more transparent and welcoming entry process for visitors to the United States. Last year, Congress authorized the Model Ports Program through the Implementing Recommendations of the 9/11 Commission Act of 2007 (Pub. L. 110–53) and appropriated $40 million to expand the program to the top 20 international inbound airports and to hire no less than 200 new CBP officers at these model airports.

How many of the 200 new CBP Officers for the model airports has CBP hired and trained in fiscal year 2008 as directed by Congress?

How much of the $40 million will CBP use to hire the 200 new CBP officers?

How will DHS distribute the 200 officers across the 20 model airports?

How will CBP utilize any remaining funds at the model airports and how will those moneys be distributed and when?

Answer. The following table depicts the distribution, hiring, and number of model ports CBP officers that have been trained and graduated from the Federal Law Enforcement Training Center (FLETC) as of September 24, 2008. CBP will use $25 million to hire 200 CBP officers and 35 support positions. Of this amount, CBP will use $20.4 million for the 200 CBP officers and $4.6 million will be used for 35 support positions to include CBP officers to help train at FLETC.

MODEL PORTS STAFFING

Model Ports Locations	Planned Deployment	Filled to Date	Graduated from FLETC to Date
Atlanta	25	11	5
Boston	5	5	.....
Chicago	10	10	10
Dallas/Ft. Worth	2	2	2
Detroit	5	5	5
Fort Lauderdale Airport	5	5	.....
Honolulu	2	2	2
Houston	8	8	8
JFK Airport	25	25	19
Las Vegas	.....	.....	.....
LAX, Los Angeles	27	26	26
Miami Airport	15	15	15
Newark	15	15	15
Orlando Airport	5	5	3
Philadelphia	2	2	.....
Sanford Airport	5	5	2
San Francisco	10	10	10
San Juan Airport	2	2	2
Seattle (SEATAC)	2	2	.....
Washington, DC Dulles	30	18	1

MODEL PORTS STAFFING—Continued

Model Ports Locations	Planned Deployment	Filled to Date	Graduated from FLETC to Date
TOTAL OFO CBP officers	200	173	125

CBP utilized the remaining funds for the development and production of an instructional video in English and other relevant languages including the purchase, design, and installation of video and audio technology in the primary processing arrivals area of the 20 model airports. CBP also implemented the Passenger Service Manager Program to assist arriving passengers at each of the model ports. CBP allocated targeted overtime at airports to ensure proper coverage during peak travel season. These funds were distributed and obligated before the end of fiscal year 2008.

Question 6. Many Members of this committee were dismayed by the problems that plagued Project 28, and want to be certain that the Department has learned from past mistakes as it moves forward with upcoming deployments, referred to as Tucson 1 and Ajo 1, in the Tucson, Arizona area.

What lessons has the Department learned from Project 28 and how will lessons learned be applied to the deployment of Tucson 1 and Ajo 1?

What is the total cost of these two new projects?

What is the current proposed schedule for deployment?

Who will be responsible for the maintenance for the new projects, and what is the projected cost?

Answer. DHS and CBP will now take the valuable lessons learned from P–28 and focus on the transformation of the future SBInet solution to improve accountability and implementation of technology. After reviewing and analyzing the lessons learned, we have categorized the challenges into the areas of program management, technology and acquisition. Specifically, areas that we are looking to improve and build on for future SBInet developments include improved standard hardware integration, acquisition strategies and additional system testing. Lessons learned from Project 28 have already been incorporated into the next iteration of the SBInet integrated system design including improved sensors, software and communications. These improvements will further CBP's ability to fully integrate detection, identification, and classification of border incursions within a common operating picture (COP) and will be implemented as part of the calendar year 2009 deployments in Arizona. In addition, several technical, acquisition, and operational lessons have already been incorporated into the planning for future SBInet deployments. For example:

- Commercial off-the-shelf components, even proven technologies, cannot be integrated "right out of the box" in the field without interface design, thorough testing, and integration in an operational environment. A new field lab, which is located at the Playas, New Mexico test facility, will be used to thoroughly test and qualify the system of towers, sensors, communication, common operating picture hardware and software prior to fielding.
- The interfaces between the sensors and the COP are as important as the technical characteristics of the sensors themselves. The follow-on sensors selected for SBInet will have common standard controls and interfaces. The P–28 COP software was based on a commercial civil system used for the dispatch of public safety assets. This proved to be inadequate for the command and control of a sensor net and the distribution of a near real-time situational picture.

The total value of the Boeing task order to deploy TUS–1 and AJO–1 is $81.9 million. DHS is working to develop a detailed revision of the SBInet testing and deployment plan. This re-planning process will include a consideration of the cost estimates to reflect any changes in the deployment schedule.

The combination of the additional time needed to complete necessary coordination with the Department of the Interior (DOI), concerns over the risks associated with our original SBInet deployment plan, and a need to fund escalating fence costs provided an opportunity for us to revisit our overall development and deployment approach and address the recommendations from the GAO and Congress to minimize concurrent SBInet testing and deployment activities and the associated program risk. We have extended our on-going system integration and verification testing to now be completed prior to the deployment of SBInet capabilities in TUS–1. Our replanning now utilizes the operational representative field test lab in Playas, New Mexico, for completion of system testing. Pending successful completion of system

testing, we currently project TUS–1 construction to start in the first quarter of calendar year 2009. AJO–1 construction is planned to start following successful construction of TUS–1. Based on the results of those two deployments, we will then field additional SBInet technology deployments within the Tucson Sector. CBP's projected timeline for these additional deployments is being developed as part of the re-planning process.

Boeing is currently on contract to provide initial maintenance for the SBInet system being deployed in TUS–1/AJO–1. The projected annual recurring cost for maintenance for TUS–1 and AJO–1 is $26 million.

Question 7a. The 9/11 Implementation Act requires the Department to implement a biometric exit system at airports by June 2009. If it is not implemented by the deadline, the Secretary's enhanced authority to expand the Visa Waiver Program, provided under the Act, will suspend. The airline industry has raised several significant concerns about DHS' plans to implement the biometric version of the exit system, as proposed in a recent rule.

How can DHS justify tasking the airlines with the collection of biometrics, particularly when it has never been piloted?

Answer. The proposed rule is based on the same statutory authorities under which the Department of Homeland Security (DHS) requires air and vessel carriers to provide passenger manifest information under Customs and Border Protection's Advance Passenger Information System, INA § 231, 8 U.S.C. § 1221. Under this provision, as well as DHS regulations (19 CFR Parts 4 and 122), air and vessel carriers are required to collect, verify, and transmit to the Federal Government identifying information on passengers entering and leaving the United States. DHS is assessing methods for conducting additional air exit pilot programs consistent with the fiscal year 2009 US–VISIT appropriation as it continues to consider the most appropriate method for collecting exit biometrics.

Question 7b. What progress has DHS made in addressing airlines' concerns about the proposed rule?

Answer. DHS has reviewed and will address the airlines' concerns and public comments in the final rule. DHS is considering methods for conducting additional air exit pilot programs (discussed below). Additional pilot programs and resulting information may also have the effect of addressing the airlines' concerns.

Question 7c. Will DHS have a biometric exit system in place by the June 2009 deadline?

Answer. The very recent DHS appropriations for fiscal year 2009 conditioned the use of funds for implementation of a final air exit solution under the air-sea biometric exit notice of proposed rulemaking on conducting additional air exit pilot programs and submitting a report to the Committees on Appropriations of the Senate and the House of Representatives, which shall be reviewed by the Government Accountability Office. DHS is considering methods for conducting additional air exit pilot programs and continues to consider the most appropriate method for collecting exit biometrics. In view of these developments, DHS's ability to deploy a biometric air exit capability by June 30, 2009, whether or not relying on carrier collection and transmission, is unknown.

QUESTIONS FROM HONORABLE BOB ETHERIDGE OF NORTH CAROLINA FOR MICHAEL CHERTOFF, SECRETARY, DEPARTMENT OF HOMELAND SECURITY

Question 8. Congress has repeatedly authorized and appropriated funds to increase staffing on the U.S. Border Patrol, and I have supported these efforts. The President's 2009 budget requests an additional 2,200 Border Patrol agents. If these agents are hired, that would mean 20,000 agents patrolling our borders, more than twice as many as in 2001. This would make a big difference to reducing the risk that anyone could illegally cross our border, and significantly improve homeland security.

Answer. Response is in answer to question 9.

Question 9. I am pleased that the Department is doing a better job of hiring and recruiting CBP agents, but I am concerned about training and retention. In March 2007, the GAO reported that the Border Patrol is having trouble training and supervising these new agents. At the same time, there are reports that about 20 percent of new employees leave the Border Patrol in the first few years, and that almost half of agents have less than 2 years experience.

What impact do you believe adding another 2,200 Border Patrol agents to the field will have on supervision and training?

What is being done to identify good candidates for a Border Patrol career and to improve retention once they are hired?

On average, how many years of experience do typical supervisory Border Patrol agents have? Has this number changed over the last 10 years? If so, how?

How are you working to hire, train, or promote agents to supervisory roles and control the number of agents each supervisory Border Patrol agent has under his or her command?

Answer. The rapid growth in the Border Patrol over the last few years has increased demands on our supervision and training CBP has met this challenge by adapting to this unprecedented expansion in many ways. For example, the Border Patrol Academy, which provides initial training—has demonstrated that it can effectively receive and train the large numbers of new agents without taxing current resources, or demanding more. Training continues after Academy graduation and requires oversight and mentoring by more experienced agents. As the relative percentage of new agents to experienced agents increases, the demands on CBP experienced agents will increase. At the CBP southwest border sectors, 30–40 percent of CBP agents will be relatively new (less than 2 years of experience) through the next year. This is a challenge but CBP has recognized it and is watching it closely.

Customs and Border Protection (CBP) has a very robust and extensive recruiting strategy for new Border Patrol Agents. In addition to fairly routine approaches (print advertisements, web-based recruiting information, etc), CBP's approach includes analysis potential markets for recruiting. The analysis allows CBP to target areas where we tend to attract large numbers of qualified applicants as well as markets where we see new potential for applicants. CBP deploys special teams of recruiters to conduct recruiting "blitzes" in targeted areas and to offer streamlined hiring processes for qualified applicants. CBP also created a recruiting team to expand awareness and opportunity to minority communities that are underrepresented within the Border Patrol. CBP results so far have been impressive—CBP established a target of 3,500 applicants per week for the past year but routinely exceeded that by far (up to 6,000 applicants in many weeks) as a result of CBP efforts.

With respect to CBP first-line supervisors, we have compared the average experience levels between fiscal year 2005 and fiscal year 2008. Average experience levels for newly hired supervisors have remained relatively constant over that time (8–9 years). However, we have noticed a shift in the distribution of experience levels. In the past, the experience level for newly promoted supervisors was pretty much evenly distributed between about 6 and 12 years. Now, the distribution of experience levels is more heavily weighted toward less experienced personnel, even though the average experience is about the same. In fiscal year 2008, the mode of the distribution (most frequent experience level for a new supervisor) was 6 years.

CBP has a very robust training program for our new supervisors and have recently instituted a structured mentoring program to augment the formal training. CBP tries to maintain a fairly constant ratio of supervisors to agents—on average, we have one first-line supervisor for every seven non-supervisory agents. As the number of non-supervisory agents has increased, CBP has increased the number of supervisory authorization accordingly.

Question 10a. The I–9 process, by which employers request documents to verify the eligibility of employees to work in the United States, is clearly flawed. Employers have no real way to, and no requirement to, verify the documents presented to them. As you know, Congress created the E-Verify initiative to provide employers with a tool that allows them to check names and Social Security numbers of new hires against Social Security's database, but it has been prone to problems, and created additional pressure on an already overburdened Social Security Administration (SSA). The administration is on record as supporting making E-Verify mandatory for all employers, and I would like your thoughts on several aspects of this idea.

False positives or negatives create uncertainty for both employees and employers. What can be done to reduce the risk of error, and to protect employers and employees from liability when the system is inaccurate?

Answer. USCIS has significantly enhanced E-Verify over the last few years, and improvements in system accuracy and ease of use continue to be made today. According to the independent research firm Westat, in the third quarter of fiscal year 2008 96.1 percent of all new hires queried through the program were verified automatically, i.e. without needing to take any type of corrective action. The remaining 3.9 percent of cases resulted in an initial mismatch between the new hire's records and those of either the Social Security Administration (SSA) or the Department of Homeland Security (DHS). Less than half of 1 percent (0.4 percent) of all individuals queried through E-Verify received an initial mismatch notice and successfully contested it. The remaining 3.5 percent that received a mismatch and either chose not to contest it or did not contest it successfully.

A common misperception is that receiving an initial mismatch means that the program has returned an error or that there is an error within the database. This

is not the case: an initial mismatch means there is a discrepancy between the information an employee has provided and the information contained in SSA or DHS records. The mismatch could result because an employee has failed to update his or her information with SSA or DHS due to a name or citizenship status change, or a non-work-authorized alien has provided false or fraudulent information. Since less than half of 1 percent of all individuals queried through the program end up being work authorized after an initial mismatch, most mismatches that occur are not something we want to prevent. Rather, these mismatches are the result of E-Verify doing what it is intended to do, that is, detect unauthorized workers and quickly verify the status of those who are work authorized.

USCIS continues to analyze, identify and implement improvements as part of ongoing strategic management of the E-Verify program, which includes adding additional sources of data to the E-Verify system to reduce mismatches. For example, most citizenship status mismatches that resolve as work authorized involve naturalized citizens who have failed to notify SSA of their change in citizenship status. To reduce these types of SSA mismatches, USCIS launched an automated check against the USCIS naturalization data in May 2008. Naturalized U.S. citizens who are not found in USCIS databases have the option of calling DHS directly to resolve a citizenship-related mismatch, in addition to the option of resolving the mismatch with an in-person visit to an SSA field office.

The E-Verify program does provide additional protections for employers in instances of "false positives," such as when a stolen identity is run through E-Verify and the employee is determined "employment authorized." An employer who verifies work authorization under E-Verify has established a rebuttable presumption that it has not knowingly hired an unauthorized alien. However, participation in the program does not guarantee that an employer will not face work site enforcement. USCIS is continuing to develop features that will detect instances of identity and document fraud to prevent false identities from being used in an attempt to defeat the system. In September 2007, the program launched a photo tool feature that allows employers to compare the photo on an identity or work authorization document to the photo in DHS databases to detect identity theft and alternation of documents.

Additionally, in order to help both employers and employees to better understand their responsibilities associated with correct use of the E-Verify program, USCIS conducts a variety of outreach across the Nation. Outreach events include presentations about the program and demonstrations of the systems at conferences and to many trade associations, government entities and employers across the Nation. The program conducted public awareness campaigns via radio, print, and billboard campaigns in Arizona, Georgia, the District of Columbia, Maryland, Virginia, and Mississippi, as well as through nationally available Internet advertisements. In addition, the program has produced materials detailing employee rights and employer responsibilities, which are available in both English and Spanish, and will be available in additional languages later this year. This information is now also included in referral letters given to employees during the tentative non-confirmation (TNC) process. The program is also working to refine E-Verify training materials and online resources to more clearly outline the methods for proper system use.

USCIS has also begun monitoring employers' use of the program in order to detect and deter potential misuse and abuse. Behaviors we seek to detect and monitor include fraudulent use of SSNs or alien numbers; improper treatment of workers who receive TNCs, including inadequate referrals of such workers to the process for contesting a TNC or adverse actions taken against such workers; and improper attempts to verify employees not eligible to be run through the system. USCIS works closely with the Department of Justice Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC) to help ensure that employment-authorized employees are not adversely impacted by the program.

Question 10b. E-Verify is meant to identify fraudulent documents, but if a person uses official documents that have been stolen from another person, E-Verify is likely to recognize them as what they are, official documents. Does the current E-Verify system address the problem of identity theft? Would biometric requirements be helpful?

Answer. Though E-Verify is the easiest and most accurate means of employment verification currently available to employers, we are aware that many aliens use forms of identity fraud to gain unlawful employment in this country. That is why the E-Verify program introduced a photo screening capability into the verification process in September 2007. The photo tool is a useful feature that has already identified several hundred cases of document and identity fraud and prevented aliens from gaining unlawful employment.

The E-Verify photo tool offers employers protection against certain forms of identity theft. Currently, as part of the E-Verify process, any employer presented with

an employment authorization card or permanent residence card by the employee as part of the Form I–9 documentation process can match the photo on the document presented to the photo that USCIS has on file for that card. This photo screening process identifies instances where employees have either used photo-substituted documents or have created entirely counterfeited documents.

We are also working to expand the types of documents for which the E-Verify system will allow photo confirmation. Currently, only DHS-issued identity documents are displayed in the photo tool. To this end, USCIS is working with the Department of State to add passport photos to the photo tool database. The strength of this tool is directly dependent on the range of documents for which it can be used, and our long-term goal is for the E-Verify photo screening process to be able to verify the photos on all identity documents that an employee may present as acceptable Form I–9 documentation.

While we do not have any way to identify, upon initial verification, identity fraud by an employee who has stolen a valid SSN and identity information or has been supplied the information by their employer, we are examining ways to do so. We also recently stood up our Monitoring and Compliance unit, which works to identify indications that SSN fraud has occurred and works with ICE, in cooperation with the SSA Inspector General, to deal with these cases. USCIS and ICE are finalizing a memorandum of understanding (MOU) to identify instances where data sharing would be appropriate and we are identifying ways to work collaboratively to accomplish respective missions.

Question 10c. The expansion of E-Verify would mean more name checks and visits to Social Security offices by employees who wish to correct erroneous non-confirmations. This would add to SSA's workload at a time when SSA is already facing significant challenges managing its core responsibilities. If E-Verify is expanded, how would DHS work to support SSA's contributions to E-Verify?

Answer. USCIS and SSA have worked hard to decrease E-Verify-related work undertaken by SSA field offices. USCIS and SSA recently developed EV–Star, which allows SSA to automatically return the response to a contested mismatch through the E-Verify system once it has been manually checked and resolved at an SSA field office. USCIS reimbursed SSA for both the development of and training for personnel using the system. We have also instituted an enhancement allowing employees to contact USCIS directly via phone to resolve their citizenship-related mismatch, thus decreasing the workload of SSA field offices. Furthermore, USCIS and SSA have begun work on a data-sharing initiative that will update SSA records with current USCIS citizenship status data.

Since SSA has not received appropriated funding for E-Verify, USCIS has reimbursed SSA for labor costs associated with resolving mismatches with SSA field offices. These costs include salaries and overhead for SSA field office employees who resolve mismatches and salaries and overhead for SSA employees who staff the SSA 1–800 number to answer calls from employees and employers; over 95 percent of all SSA mismatches are resolved in 48 hours or less. At present, USCIS and SSA have an agreement in place to reimburse SSA for the workload resulting from E-Verify cases for each fiscal year for the foreseeable future.

In fiscal year 2007, USCIS reimbursed SSA $3.5 million to cover the salary and overhead costs for resolution of mismatches, training, and the development of an electronic backend process between SSA and E-Verify system (EV–Star). In fiscal year 2008, USCIS reimbursed SSA $4.787 million for their resolution of mismatches. Although the number of queries increased in fiscal year 2008, the number of mismatches resolved by SSA has decreased due to a number of system enhancements. This reduces the amount of walk-in traffic to SSA field offices and thus reduces SSA's E-Verify related workload.

A large portion of the employees who successfully contest a SSA TNC are those who have recently naturalized. In May 2008, a number of enhancements were made to the E-Verify system, including the addition of USCIS naturalization data, which has reduced the number of citizenship status mismatches. Also as part of the May enhancements, naturalized citizens who receive a citizenship-related mismatch are now able to contact DHS by phone to address the discrepancy. USCIS and SSA are exploring further enhancements, including a direct data-sharing initiative that would update SSA's database with naturalized citizen information. Incorporation of U.S. passport information into the employment verification process is under way as well. This enhancement will reduce mismatches for those who may have previously received TNCs due to their derived citizenship as children when their parents naturalized or those who were born abroad to U.S. citizen parents.

These improvements all seek to ensure that the data relied upon by E-Verify are as up-to-date as possible. In some cases, however, the only way for an individual to ensure his or her record is kept accurate is for the individual to report name

changes and similar personally identifying information to SSA. Those who fail to ensure their records are accurate will receive a mismatch and will be allowed the opportunity to correct their information through the mismatch process. USCIS continues to work on the system to ensure that every error that can be prevented through Government data processes is avoided.

QUESTIONS FROM HONORABLE CHRISTOPHER P. CARNEY OF PENNSYLVANIA FOR MICHAEL CHERTOFF, SECRETARY, DEPARTMENT OF HOMELAND SECURITY

Question 11. How many miles of the southern border pedestrian fence and vehicle fence have been constructed?

What methods/systems were used to install this section of the border fence/barrier?

For each system, please provide data on the costs of the system and the average amount of time taken to complete each mile of security barriers and fencing. What standards are being used to determine the efficiency and efficacy of the systems?

Please provide data for these standards for each system as well.

Are these systems eligible to compete for future contracts? If no, why not?

Are they permitted to be bid as an original bid? If no, why not?

Are they being proposed by those companies bidding on future border projects in their original bid packages? If no, why not?

Answer. As of October 3, 2008, 205.3 miles of pedestrian fence have been constructed as well as 153.7 miles of vehicle fence on the Southwest Border.

As a function of the contract award, each Multiple Award Task Order Contractor (MATOC) is provided with a specific fence design they must complete. The methodology the contractor uses to complete that fence design is left to their discretion as long as the completed fence meets the design specifications. However, much of the decision as to how to construct fence is based on the fence design, location and terrain.

To illustrate how fence construction is actually completed, please find the following examples.

B–4, an 8.7 mile segment, is located in the El Centro Border Patrol Sector in a relatively flat desert area. This segment combines bollard-type pedestrian/vehicle fence. The steel bollards are secured below the ground surface with concrete, and then the hollow bollard is filled with concrete with a steel cap welded on top.

C–1, a 10.4 mile segment, is located in the Yuma Sector and is in a desert area with sand dunes. Similar to segment B–4, the fence design specified for this segment is a bollard design with a combination of pedestrian and vehicle fence. However, unlike the simple construction for B–4, the terrain for C–1 presents a unique challenge as the "ground surface" itself is subject to constant movement and changes in elevation. This segment also requires the construction of access roads. A trench is dug and fence sections are put in place with forklifts and then the sections are welded together. Due to the conditions of the area, additional bracing is attached to the upright bollards to prevent it from collapsing if the sand below is blown out.

The construction cost and contract duration for fence segments varies greatly based on many factors including, but not limited to, segment length, the need for access roads, terrain, remoteness and fence design. As of October 3, 2008, segment construction costs have ranged from as low as $2.1 million per mile to as much as $16 million per mile for pedestrian fence and as low as $700,000 per mile to as much as $4.2 million per mile for vehicle fence. Contract duration also varies and can take as few as 45 days to as many as 385 days to complete pedestrian fence segments and as few as 60 days to as many as 120 days to complete vehicle fence segments.

Fence contracts are awarded on a low-cost, technically acceptable basis and require the contract to complete a prescribed fence design for the segment(s) which they are constructing. The low-cost, technically acceptable basis for contract award, coupled with their adherence to the specifications for the required fence design are the standards to which the contractor is held.

In addition to cost for fence construction, CBP also accounts for fence maintenance costs. Currently, CBP has executed interim maintenance contracts in the El Centro, Yuma, Tucson and El Paso Border Patrol Sectors for a total of approximately $1.2 million dollars. As the amount of fence to be maintained will increase dramatically as fence construction goals are met, CBP anticipates maintenance costs to increase in proportion to the amount of added fence. CBP is currently in the process of completing long-term maintenance contracts and will have additional cost data available subsequent to the execution of those contracts.

The standards for each fence design are laid out in the fence toolbox. From experience and lessons learned throughout the Pedestrian Fence 70 project and Phase I of the Pedestrian Fence 225 project, DHS developed the fence toolbox to include 9 pedestrian fence and 3 vehicle fence designs. These include picket, bollard, mesh, jersey-barrier and "Normandy-style" designs. When awarded, each contract details which fence design the contractor is expected to complete. The fence design for each segment is determined by a combination of Border Patrol's operational requirements and constructability of the design as determined by the U.S. Army Corps of Engineers. The specifications for that fence design comprise the standards by which the contractor's methodology for fence construction and performance are judged.

There has also been keen interest in the efficiency and efficacy of the fence as it pertains to the pedestrian fence designed and constructed by Kiewit Western Co. in Lukeville, Arizona. This fence, which was the subject of the August 2008 report by the National Park Service, does not satisfactorily meet the hydraulic performance criteria for cross-border flows. The construction contractor's design team is currently evaluating design alternatives that can be implemented to bring the project into compliance with the performance standards outlined in the contract documents. Once the appropriate solution has been identified and coordinated with all project stakeholders, corrective action will commence as soon as is practicable, but certainly before the next monsoon season. It has yet to be determined whether there will be any cost implications associated with the corrective action.

Question 12. It is the committee's understanding that the Barry M. Goldwater Section Project known as BMGR P–37 was completed on time and on budget. Is this accurate?

What methods/systems were used to install this section of the border fence/barrier?

Answer. Yes.

The Barry M. Goldwater Range fence is a bollard-style fence which was installed using a proprietary machine.

Question 13. What systems will be used to build future sections of the southern border fence/barrier? Please provide the names of all eligible systems allowed in building future sections of security barriers and fencing along the southern border. For each system, please provide data on the estimated costs of the system and the average amount of time taken to complete each mile of security barriers and fencing.

What standards are being used to determine the efficiency and efficacy of the systems? Please provide data for these standards for each system as well.

Answer. As the same Multiple Award Task Order Contractors (MATOC) will be eligible to bid on future task orders, the same systems that have been used to construct current fencing may be used to construct future segments. Again, the contract will be awarded on a low-cost, technically acceptable basis and the contractor will be provided a fence design and the associated specifications to which they are expected to adhere. Much like the current fence construction projects, construction costs and contract durations will vary based on segment length, fence design, location, terrain, remoteness, and the need for access roads.

The standards for each fence design are laid out in the fence toolbox. From experience and lessons learned throughout the Pedestrian Fence 70 project and Phase I of the Pedestrian Fence 225 project, DHS developed the fence toolbox to include 9 pedestrian fence and 3 vehicle fence designs. When awarded, each contract details which fence design the contractor is expected to complete. The fence design for each segment is determined by a combination of Border Patrol's operational requirements and constructability of the design as determined by the U.S. Army Corps of Engineers. The specifications for that fence design comprise the standards by which the contractor's methodology for fence construction and performance are judged.

Question 14. Which office or agency within the Federal Government has primary responsibility for the procurement of products and services used for the installation of security barriers and fencing along the southern border?

Are other offices, agencies or consultants involved in the procurement of these products and services? If so, please list them and describe their role in this procurement process.

Answer. U.S. Customs and Border Protection's (CBP) Secure Border Initiative (SBI) Program Executive Office is responsible for the acquisition of security barriers and fencing along the Southwest Border. In executing this responsibility, with one notable exception discussed below, the SBI Acquisition Office currently provides the majority of acquisition and procurement support for the CBP SBI program.

In fiscal year 2007 and fiscal year 2008, the majority of procurements for fence construction—excluding the provisioning of structural steel which was completed by CBP—were awarded by the U.S. Army Corps of Engineers (USACE). For those pro-

curements awarded by the USACE on CBP's behalf, USACE conducted all aspects of the procurement process from solicitation to contract award and administration.

QUESTIONS FROM HONORABLE MIKE ROGERS OF ALABAMA FOR MICHAEL CHERTOFF, SECRETARY, DEPARTMENT OF HOMELAND SECURITY

Question 15. CBP indicated to the Inspector General that budget constraints prevent infrastructural improvements. Among the funds requested in your fiscal year 2009 budget, will moneys be allocated for necessary infrastructural improvements at our border checkpoints, to ensure the safety of both officer and canine, and to increase both performance and efficiency?

Answer. The fiscal year 2009 budget contains $10 million dedicated to land port of entry modernization which will enable much-needed improvements to the CBP-owned land port of entry portfolio. The $10 million will begin to address site and infrastructure deficiencies within the 43 CBP-owned ports, presently without a baseline budget for this purpose. Specifically, these funds will provide site acquisition and construction of secondary enclosures to support passenger and cargo operations; basic repair, alteration, operations, and maintenance; and security solution development and planning. These funds will be distributed to select CBP-owned ports based upon area of greatest need.

Through modernization efforts for the CBP-owned inventory, the resulting enhancements will provide an environment more conducive to CBP mission and operations; thereby better contributing to officer and canine safety as well as increasing performance and efficiency during the inspection process.

Question 16. According to information that the Department has provided, there are currently 50 FTE positions authorized for the Center for Domestic Preparedness (CDP), yet only 35 of those positions have been filled. Do you know why 15 out of the 50 authorized FTE positions have not yet been filled?

Answer. The 50 FTE positions authorized for the Center for Domestic Preparedness include 4 FTE positions assigned to the Office of Acquisition Management (OAM) and 1 position assigned to Office of Chief Counsel (OCC), which are all currently filled. Out of the remaining 45 positions assigned to the CDP for which the CDP controls recruitment action, 35 positions are filled. The remaining 10 vacant positions are in various stages of recruitment. They are as follows:

- 3 positions have selections made and are in Security for clearance. Once cleared, EOD dates will be set for those employees.
- 2 positions are currently announced and will close the week ending October 3, 2008.
- 4 positions have been submitted for announcement.
- 1 position is waiting on a PIN to be assigned in order to start the recruitment process.

Question 17. Do you have an update as to the anticipated costs of Tucson–1?

Question 18. What is the timeline for its implementation on the Southwest and Northern borders?

Question 19. When can we expect it to be fully rolled out on the Southwest border?

Answer. The total value of the Boeing task order to deploy TUS–1 and AJO–1 is $81.9 million. DHS and CBP's are working to develop a detailed revision of the SBInet testing and deployment plan. This re-planning process will include a consideration of the cost estimates to reflect any changes in the deployment schedule.

The combination of the additional time needed to complete necessary coordination with the Department of the Interior (DOI), concerns over the risks associated with our original SBInet deployment plan, and a need to fund escalating fence costs provided an opportunity for us to revisit our overall development and deployment approach and address the recommendations from the GAO and Congress to minimize concurrent SBInet testing and deployment activities and the associated program risk. We have extended our ongoing system integration and verification testing to now be completed prior to the deployment of SBInet capabilities in TUS–1. Our re-planning now utilizes the operational representative field test lab in Playas, New Mexico, for completion of system testing. Pending successful completion of system testing, we currently project TUS–1construction to start in the first quarter of calendar year 2009. AJO–1 construction is planned to start following successful construction of TUS–1. Based on the results of those two deployments, we will then field additional SBInet technology deployments within the Tucson Sector. CBP's projected timeline for these additional deployments is being developed as part of the re-planning process. Through the Northern Border Project, CBP is planning to begin the integration and testing of SBInet technology in air, land and marine environments in the Detroit Sector in 2009 as part of a technology demonstration project.

Technology will also be deployed in 2009 to the Buffalo and Swanton Border Patrol Sectors. Although successful completion of the testing and integration objectives may improve operational capabilities and provide technical insight for a future SBInet solution, this demonstration of capabilities may not be the final solution for the Detroit, Buffalo and Swanton Sectors or the entire Northern Border.

CBP's projected timeline for deploying to the entire Southwest Border is being developed as part of the re-planning process.