

DHS: THE PATH FORWARD

HEARING
BEFORE THE
COMMITTEE ON HOMELAND SECURITY
HOUSE OF REPRESENTATIVES
ONE HUNDRED ELEVENTH CONGRESS
FIRST SESSION

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CONTENTS

	Page
STATEMENTS	
The Honorable Bennie G. Thompson, a Representative in Congress From the State of Mississippi, and Chairman, Committee on Homeland Security ..	1
The Honorable Peter T. King, a Representative in Congress From the State of New York, and Ranking Member, Committee on Homeland Security	2
The Honorable Emanuel Cleaver, a Representative in Congress From the State of Missouri: Prepared Statement	4
WITNESSES	
The Honorable Janet Napolitano, Secretary, Department of Homeland Security: Oral Statement	5
Prepared Statement	6
FOR THE RECORD	
The Honorable Charles W. Dent, a Representative in Congress From the State of Pennsylvania: Photo	22
The Honorable Henry Cuellar, a Representative in Congress From the State of Texas: Photos	29
APPENDIX	
Questions From Chairman Bennie G. Thompson	51
Questions From Honorable Peter A. DeFazio	52
Questions From Honorable Henry Cuellar	53
Questions From Honorable Bill Pascrell, Jr.	56
Questions From Honorable James A. Himes	62
Questions From Honorable Lamar Smith	62
Questions From Honorable Gus M. Bilirakis	78
Questions From Honorable Steve Austria	78

DHS: THE PATH FORWARD

Wednesday, February 25, 2009

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

The committee met, pursuant to call, 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, Harman, DeFazio, Lofgren, Jackson Lee, Cuellar, Carney, Clarke, Richardson, Kirkpatrick, Luján, Pascrell, Cleaver, Green, Himes, Titus, King, Souder, Lungren, Rogers, McCaul, Dent, Bilirakis, Broun, Miller, Olson and Cao.

Chairman THOMPSON. The Committee on Homeland Security will come to order. The committee is meeting today to receive testimony from Secretary Janet Napolitano on “DHS: The Path Forward”.

I would like to, first of all, welcome Madam Secretary to the Homeland Security Committee. We coordinated with your office, as you know, this opportunity for our first hearing to get an idea on where you see the Department going from this point forward. So we appreciate you accommodating the committee and we look forward to your testimony also.

Although you have been here in office for about a month, you made yourself available to me and other Members of this committee to discuss critical issues affecting the Department and we thank you. Given the demands on your time, the interest you have demonstrated in hearing congressional concerns is commendable. I hope this dialog continues throughout your tenure and that you tackle the challenges of moving DHS forward.

However, I would be remiss, Madam Secretary, if I did not point out that in the last 2 years, this committee’s oversight work has played a major role in developing the public record on the shortcomings of the Department. Those shortcomings were not exposed to play a Washington game of gotcha. On the contrary, we raised questions about real problems and endeavored to work with DHS to develop real solutions. Rest assured, we will continue to have questions and look to your leadership for answers.

We called this hearing this morning “DHS: The Path Forward” because this Department cannot afford to remain stuck in the same place doing things the same way and somehow expecting a different outcome. But before moving forward, one must first assess the condition of the road in one location on the road. You now oversee a Department that has an annual budget of over \$40 billion and a work force of over 200,000 people. DHS is on the GAO high-

risk list because of challenges it faces in implementing and transforming 22 separate agencies into 1 fully functional Department.

The Department's mission can be summed up as the duty to keep dangerous people and dangerous things out of this country. To fulfill this mission, it shoulders the responsibility for a wide range of activities, including securing the borders; responding to natural disasters and catastrophic events; ensuring the capacity of passengers and cargo that rely on air, surface and maritime transportation; safeguarding critical infrastructure; and administering grants. Unlike many Departments, at each step along the way this Department must work closely with State and local and tribal governments to accomplish its critical mission.

Your actions in the last month have indicated that you understand the wide-ranging nature of the Department's activities and the need to map a course to take this Department forward. In your short tenure, Madam Secretary, you have ordered an agency-wide efficiency review to eliminate wasteful spending and required policy and program reviews in nine key areas, including State and local intelligence sharing, cybersecurity, risk analysis, national planning scenarios, and Gulf Coast rebuilding efforts. After you complete your assessment of DHS's performance in these three areas, I look forward to hearing from you again about the Department's response plan.

In closing, while you are in the process of charting a path forward, be mindful that every path has some rough spots and potholes. I hope you keep in mind the only way to achieve progress is to keep moving forward despite obstacles. If you forget, this committee will be here to remind you.

Again, thank you for the hearing here today, and I look forward to your testimony.

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. Thank you for your courtesy. Thank you for your work with the Secretary to have her here this morning.

Secretary Napolitano, we want to congratulate you on your appointment. We look forward to your service in office. I know when I was Chairman of the committee, we had you testifying here on border security. You did an outstanding job on that, and I want to thank you for the meeting that you and I had. Not that I want to get any of the other States or communities jealous, but I want to thank you for being in New York last weekend with Mayor Bloomberg and Commissioner Kelly. It was a very worthwhile meeting for them, and I want to thank you for that.

As the Chairman said, the Department faces many problems. This is a Department which is comprised of 22 former departments, agencies, and 200,000 employees. I think much has been achieved, but obviously more has to be done. I want to assure you that on this side of the aisle we will work with you in addressing the issues that you confront as you move the Department forward.

Certainly we have the whole issue of FEMA, how that will be run. Most of us on this side would support it staying within the De-

partment. You will be evaluating all of that, and again, we look forward to working with you.

The issue of border security you have a particular interest in and expertise in. That is a major issue which also has to be dealt with. It is on-going and will go many years in the future. We also look forward to working with you on that.

On the whole issue regarding terrorism, there is the issue of visa waivers which really grows with each year as the list of countries expands, also the threat expands. I know Secretary Chertoff had concerns about that. Some of us on the committee had maybe more concerns—maybe more than Secretary Chertoff did. So we again want to work with you on the whole issue of visa waivers.

The UASI funding and other homeland security funding. I believe the Department has over the last 2 years reached a level which I think is consistent with our national needs. Obviously that will be reviewed by you, and I just ask that you work with us on that.

We had several bad years with a lot of conflicts between the committee and the Department. I think again over the last 2 years significant progress has been made, but again, I would just ask that you work with us on that. In particular, probably the worst problem the Department had on that was when they dramatically changed the formula without advising anyone in the Congress, without discussing it with us at all. It really created some heated hearings, and I thank Chairman Thompson, who at that time was the Ranking Member. We worked together on that, and I think we were able to bring about considerable progress.

The issue of Guantanamo, there is obviously different views on that. The President has made his decision. I know, speaking for myself and most on this side of aisle, we disagree with the decision to close Guantanamo, but if it is going to be closed, that is what is going to be happening. I know you will be on the review committee, deciding on what is going to be happening, what is going to happen with the detainees, how it will be processed. I think it is a very significant homeland security issue. We would again ask to be able to work with you on that so we can be apprised, have our input as it goes along. Especially with you being on that committee, it gives us direct access to a key player in that final decision.

One final thing. I am not trying to get into semantics, but I do notice in your prepared testimony the word “terrorism” is not even used. I know your absolute commitment to fighting terrorism, and I know the President’s commitment to that, the Chairman’s as well.

One concern I have had, and maybe Congressman Pascrell and Congresswoman Clarke, coming from areas which have been hit so hard, each day we go past September 11, it resets it into people’s memories. The terrible impact of that day, if not forgotten, it is pushing it back.

I think it is important for us in positions of leadership to constantly remind people how real that threat is and how it is an on-going threat, and if we don’t do it, it is going to be harder to get legislative support for the measures that we think have to be taken.

So I would just urge that on you and again assure you, as I assured the President, we will not use this issue for partisan purposes. It is too important. I think the Chairman and I have worked very well together. As a committee we want to work together. There will be specific differences we will have, but this is one issue overall that we agree on, and that is to protect our Nation from terrorism, to do all we can to avert another situation like Katrina that becomes a natural disaster, and also to secure our borders.

With that, Madam Secretary, I thank you for your career in public service, and the best is yet to come.

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

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

[The statement of Hon. Cleaver follows:]

PREPARED STATEMENT OF THE HONORABLE EMANUEL CLEAVER

FEBRUARY 25, 2009

Chairman Thompson, Ranking Member King, subcommittee Chairs, and Ranking Members; I would like to begin by expressing my great excitement in joining the Committee on Homeland Security. I look forward to working with my colleagues on both sides of the aisle as we come together to pursue the admirable goal of protecting our Nation. Today, I am looking forward to hearing the testimony from Secretary Napolitano. Secretary Napolitano has extensive background in the field of homeland security, and I believe that her testimony today will give this committee the much-needed overview on the direction that the Department of Homeland Security will be taking in this new administration.

The Department of Homeland Security was formed in 2003 by combining resources from 22 agencies within the Federal Government. Organizational shortcomings have clearly dampened the effectiveness of this Department, and we can no longer allow this to occur. I am hopeful that today this committee will have the opportunity for a frank discussion with Secretary Napolitano where we can discuss the challenges faced by DHS, as well as the steps that the Department is taking to fix mistakes of the past. I am eager to hear how her newly issued directives will pave the way for the Department's future, and as a new Member of this committee, I am eager to work with the Secretary to carry out our core mission of keeping Americans safe from harm.

Chairman THOMPSON. Again I welcome our witness today. Janet Napolitano was sworn in on January 21, 2009, as the third Secretary of Department of Homeland Security. Prior to joining the Obama administration, Secretary Napolitano was midway through her second term as Governor of Arizona. As Governor she implemented one of the first State homeland security strategies in the Nation, opened the first State counterterrorism center, and spearheaded efforts to transform immigration enforcement.

Secretary Napolitano previously served as attorney general of Arizona and U.S. Attorney for the District of Arizona.

Madam Secretary, I thank you for your service, for appearing before the committee today. Without objection, the witness's full statement will be inserted into the record.

Secretary Napolitano, I now recognize you to summarize your statement for 5 minutes, thereabout, but since this is your first time, we will allow you to come in your own way.

**STATEMENT OF THE HONORABLE JANET NAPOLITANO,
SECRETARY, DEPARTMENT OF HOMELAND SECURITY**

Secretary NAPOLITANO. Thank you, Mr. Chairman, Ranking Member King, Members of the committee. I appreciate the invitation to be with you today to share with you my initial thoughts on how we take a relatively new Department that you have been an integral part of building and supporting and move it forward to confront and prepare for threats that face this Nation, be they man-caused—and terrorism, Representative King, I believe, falls in that category and is central to that category—or be they caused by nature. Then if a threat is to develop, how do we respond and recover with efficiency and resiliency?

Those issues really cover the broad continuum of this Department. It is the protection of our borders. It is the protection of our coasts. It is the protection of our infrastructure, with all that entails, from pipelines and electric power grids to the cyber infrastructure of this country. It is the protection of our people, and it is the ability to, as I said earlier, respond, recover with the efficiency and resiliency the American people have demonstrated time and time again.

Now, to do that requires lots of subsets and lots of different areas of expertise within the Department of Homeland Security. One of the things I have overall been pleased with is the quality of the men and women who have been serving there. Many of them came to the Department because of the events of 9/11, and that is really the central motivating factor of the Department every day. What I have encouraged our people to do is to say to themselves when they wake up in the morning, what are they going to do that day to improve the safety and security of Americans, and, when they leave work that evening, what did they accomplish that day to improve the safety and security of Americans?

For my part, what we are doing is kicking the tires, looking at some issues fresh, with a fresh set of eyes, and thinking about, as you said, Mr. Chairman, as I title my testimony, how we move forward. What should our immigration enforcement policy be, and how will we carry it out? How will FEMA interact with first responders, cities and States in the event of a natural disaster?

By the way, let me just pause there and say one of the things we need to do is to remind people that FEMA is not a first responder. I think that is one of the myths perhaps that grew out of Katrina-Rita. But emergency response starts with cities, localities that have the police and the fire. They bring in States when the circumstances require, and then FEMA is there to back up and provide overall support. So lots of issues there.

Third, intelligence and analysis: A very, very important part of the overall work of this Department; how that occurs, and, more importantly, how do we make sure that we have an integrated intel ability that integrates with State and local officials and that we are sharing information adequately and on a real-time basis and getting information back adequately and on a real-time basis. I believe that is one area that will be a major focus of my tenure as the Secretary of the Department.

I could go on. I won't because I want to invite the time for questions. But those are a few of the things that we are doing.

Now, let me, if I might, pause with the committee and our relations. My hope is that we have a very strong relationship. I view this committee as a committee to help us accomplish these myriad goals and the myriad tasks for the protection of our people that the Department of Homeland Security is assigned. We will be open. We will do everything in human power to be timely, but I hope that we can have a relationship that allows us to exchange information, ideas, and, as you said, Mr. Chairman, move the Department forward. So that is my goal with respect to congressional relations, as it were. So protection of our people; protection of our lands; protection of our property; and the ability to respond with efficiency, resiliency; that is the umbrella goal with many subsets, but that is what we in the Department are going to be focused on every day.

Thank you.

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

[The statement of Secretary Napolitano follows:]

PREPARED STATEMENT OF JANET NAPOLITANO

FEBRUARY 25, 2009

Chairman Thompson, Ranking Member King, and Members of the committee: I am pleased to appear before the committee for the first time as Secretary of the Department of Homeland Security, and I thank you for this opportunity to discuss how DHS will work in the future to keep Americans safe.

At its core, I believe DHS has a straightforward mission: to protect the American people from threats both foreign and domestic, both natural and manmade—to do all that we can to prevent threats from materializing, respond to them if they do, and recover with resiliency. Government does nothing more fundamental than protecting its citizens. But the execution of this mission can be very complex.

In a little more than a month as Secretary, I have found a Department facing a number of challenges, many of which have been documented by the committee. But I have also found a Department filled with committed public servants. DHS faces the challenges of a young Department, but this youth is also an advantage in undertaking the changes needed to best achieve the DHS mission. My message to you today is that I am confident that DHS—with the support and participation of Congress—can make those changes, meet those challenges, and move down “the path forward” to build a more secure Nation.

ACTION DIRECTIVES

Improving a Department as large and new as DHS requires a broad look at the current state of its programs. As you know, the DHS portfolio is extremely diverse. During my short term as Secretary, DHS has helped respond to ice storms in the Midwest, rescued ice fishermen on Lake Erie, helped secure the Super Bowl, and even assisted in capturing pirates off the coast of Somalia—all since January 21.

In undertaking the leadership of the Department, I am setting priorities that will be important to me as Secretary. We need to hold people accountable, uphold professionalism across DHS, and act wisely with taxpayer money. We have to dedicate ourselves to doing what works, and frequently reassess the Department to make sure that we are responding to threats as best as possible and making the kind of progress that Americans expect and deserve. I promise to lead the Department in a way that focuses intently on achieving results that make Americans safer. To me, the process of producing results begins with a prompt assessment of the state of DHS's programs.

We are performing that kind of review right now. In the several weeks after I took office as Secretary, I issued a series of action directives to assess the current functions of the Department and help target areas for improvement. As part of this process, the different components of DHS are reporting on their current operations and detailing ways that we could improve programs in the future.

The committee and I have similar views of the Nation's homeland security needs. I have reviewed the committee's eight platform points,¹ and the action directives I issued address all of those areas. I agree with the need to prioritize each of the areas the committee listed, and I see the action directives as the start of a process by which the work of DHS and the committee will improve them.

The action directives required DHS components to report back to me in a short time frame, and I want to update the committee on the status of the directives:

- *Efficiency Review.*—Last week, I issued an action directive calling for an Efficiency Review across DHS. In a young Department that combines many processes previously scattered across the Federal Government, this review will be critical to improving the governance, functionality, and accountability of DHS. Components will provide information on actions they are taking to reduce costs, increase transparency, streamline processes, eliminate duplication, and improve customer service.
- *State and Local Intelligence Sharing and Integration.*—I issued two action directives concerned with the Department's partnerships and intelligence-sharing activities with State, local, tribal, and territorial partners. As a result of the directives, the Department is considering a possible future assessment of all intelligence-sharing efforts within DHS with an eye toward reducing duplication. DHS is also considering ways to improve intelligence sharing by involving State and local partners during the formulation of intelligence-sharing policies and programs. The Department is looking to improve the coordination of activities involving State and local partners across DHS. I issued a separate action directive on FEMA integration with State and local governments; FEMA presented feedback based on 75 recommendations emerging from the candid assessments of State and local homeland security and emergency management officials.
- *Hurricanes Katrina and Rita.*—I issued an action directive regarding the Department's continued efforts in recovery from Hurricane Katrina and Hurricane Rita. As a result, FEMA will establish and field a senior-level team to identify issues related to—and review, assess, and identify—efficiencies that will improve Hurricane Katrina and Rita recovery efforts. FEMA will work to clarify and enhance the Government's role as a more active and engaged facilitator of long-term community recovery working across agencies, and will move quickly to provide arbitration as an additional dispute resolution mechanism, as per the direction of Congress.
- *Border Security, Immigration, Employment Verification, and Enforcement.*—I issued a number of directives related to border security and immigration. Among the directives, I requested an assessment of past border security assistance by National Guard and Department of Defense assets. I issued a directive to measure employer compliance and participation with the Department's E-Verify program and ways that DHS has worked both to reduce false negatives in order to protect the rights of Americans and to strengthen the system against identity fraud. I issued directives to assess the status of the Department's work site enforcement programs, fugitive alien operations, immigration detention facilities, removal programs, and the 287(g) program. I asked for an assessment of the situation of widows and widowers of U.S. citizens who had petitioned for the alien spouse's immigration, but whose petitions were not adjudicated before the citizen spouse's death. I issued a directive to assess Department programs to combat border violence and drug smuggling, and as a result, DHS is considering ways to better engage partners and increase the effectiveness of these programs. I also issued a directive that assessed our northern border strategy. Through that directive, DHS is considering cases where, because of climate and geography, some specialized technology may need to be developed or modified in order to protect the northern border while mitigating unnecessary impacts on our extensive trade with Canada.
- *Transportation Security.*—In an effort to assess security across all forms of transportation, I directed the review of transportation security in the surface, maritime and aviation sectors. The review identified a number of areas where risks to transportation security could be reduced. Resources such as explosives detection systems and transit, rail, and port security personnel contained in the

¹The Committee's platform items: (1) Improving the governance, functionality, and accountability of the Department of Homeland Security; (2) enhancing security for all modes of transportation; (3) strengthening our Nation: response, resilience, and recovery; (4) shielding the Nation's critical infrastructure from attacks; (5) securing the homeland and preserving privacy, civil rights, and civil liberties; (6) connecting the dots: intelligence, information sharing, and interoperability; (7) implementing common-sense border and port security; and (8) inspiring minds and developing technology—the future of homeland security.

recently passed American Recovery and Reinvestment Act of 2009 will enable the Department to accelerate the mitigation of risk in these areas.

- *Critical Infrastructure Protection.*—I issued an action directive to assess the status of the Department’s efforts to shield the Nation’s critical infrastructure from attacks. The response contained several steps DHS would take to inspect the security of chemical plants and efforts DHS would participate in to limit the availability of dangerous materials. I issued a separate directive for an assessment of DHS’s critical role in cybersecurity.
- *Healthcare Surge Capacity.*—I issued an action directive that evaluated DHS’s role in building capacity for a “health care surge”—the increase in people who might need medical attention after an incident—including DHS’s supporting role in coordinating response to such an incident, and how the Department’s preparedness and public communications efforts could better facilitate existing health care surge capacities. This directive will help us move forward on a critical element of our Nation’s response capability.
- *Planning and Risk Management.*—I issued an action directive asking for a report on DHS’s lead role in the interagency effort to develop Federal operational plans for prevention, protection, response, and recovery activities for the National Planning Scenarios. The report will also discuss how DHS will work with law enforcement partners inside and outside the Federal Government in an integrated planning effort. I issued a separate directive to assess DHS’s uses of risk analysis. As a result, several steps were identified that will assure DHS provides risk-analysis information to a full range of decisionmakers, and assure that the Department’s strategies are risk-based.

In addition to the action directives, I have also begun the process of reaching out to new Cabinet officers. I have already met with several of my fellow Cabinet officials about areas where our Departments will cooperate and coordinate. We in the Cabinet work in one administration, and we address problems together. In particular, I am conducting this kind of outreach vis-à-vis the Department’s important role in the intelligence community. We are one of several agencies that work together to identify security threats, and the ability to cooperate and coordinate across departmental lines is paramount.

PRIORITIES

The action directives process will help determine many of DHS’s particular priorities as we look to move forward. But there are a few broad areas I can easily identify where DHS should focus in order to better protect Americans.

State and Local Partnerships

First among these areas is the Department’s relationship with State and local governments. State and local law enforcement agencies are the forces on the ground that represent, inhabit, and patrol America’s communities—the communities that DHS protects. We need strong relationships with our State and local partners, and I am committed to building them.

Partnerships with State, local, tribal, and territorial agencies affect DHS’s ability to identify threats and bolster preparedness before an incident; they also affect our ability to work with first responders and assist a community’s recovery after an incident. The information we gather, the funding we grant, and the training and assistance we provide are all more valuable in securing our Nation if DHS’s relationships with the involved State and local agencies are strong.

Information sharing between DHS and State and local governments is particularly critical to our security. Over time, this topic has proven easy to talk about and difficult to act upon—but we must move forward on it if we are to strengthen our State and local partnerships. The fusion of information between the Federal, State and local levels is what makes the intelligence-gathering process critically valuable to preventing threats from materializing. Information sharing is also what makes response efforts effective. The creation of a seamless network we can use to share this information among these levels of government is a critical part of improving our partnerships.

Already in my time as Secretary, I have traveled to four different States and met with State, local, and community leaders in each of them about how DHS will continue to work with them. The range of topics we met about—disaster response, community assistance, the development of new technological capabilities for DHS, and preparedness—speaks to the extent to which DHS must partner with State and local governments to work effectively on any front.

When considering the action directives and the committee’s eight-point platform, it is also clear that many critical priorities—from transit security to border security to infrastructure protection—can only be achieved with strong State and local part-

nerships. Building these partnerships will be an on-going priority throughout my time as Secretary.

Science and Technology

Second, DHS should build on its science and technology portfolio. Better science helps us understand emerging threats and how to identify, counter and mitigate them. Better technology can expand our capabilities and free our agents to spend their time where it is most valuable, while at the same time protecting the interests of private citizens by minimizing law enforcement's impact on lawful activities. Technology can also aid us in consequence management, so that we are better prepared to respond to any type of disaster.

It is difficult to think of an area of DHS operation where a greater use of cutting-edge technology would not improve capabilities. Our border security efforts, port screening, transportation security, customs processes, immigration programs, and preparedness and interoperability efforts could all benefit from a strong push to develop new technologies and implement them in the field.

A good example of better technology leading to greater capability is going live this week in San Diego. The port of entry at San Ysidro, the largest land port in the Nation, is now equipped with radio frequency identification (RFID) infrastructure—including software, hardware, and vicinity technology—that allows Customs and Border Protection Officers to identify travelers faster than ever. The technology expedites the travel of law-abiding border crossers and allows agents to focus on where they are most needed. The high-tech RFID system works in tandem with RFID-enabled documents such as passport cards, Customs and Border Protection's trusted traveler programs, and enhanced driver's licenses. An RFID tag embedded in these documents transmits a unique number to a secure CBP database as the traveler approaches the border, allowing agents to identify the crosser quickly. The high-tech system expands law enforcement capabilities while improving the process for Americans.

Of course, amid the implementation of new technology, we will continue to be diligent in honoring the rights of Americans and addressing concerns raised about privacy. To this end, last week I appointed an experienced new Chief Privacy Officer for the Department, who will bolster a Privacy Office already recognized as a leader in the Federal Government. Homeland security and privacy need not be exclusive, and the Department will look to include privacy in everything we do.

Technologies such as the RFID system at San Ysidro are examples of the potential of science and technology to make a great impact across DHS. Especially as DHS works to stay ahead of developing threats, the forward-thinking application of new technologies will be critical to enhancing the protection of our country. That is a broad-reaching priority I plan to pursue, and I look forward to working with the committee on this effort.

Unifying DHS

To achieve its mission more effectively, DHS must not just operate better as one Department—it must identify as one Department, where many different people contribute in diverse ways to one paramount goal: Securing our Nation. I am committed to building a unified DHS that is better able to achieve its mission.

The unification of the Department is an issue deeply related to DHS's operational capacity. It is important that we develop an identity for DHS that is centered on the Department's mission and that we build a "one-DHS" culture among the different components of the Department. We also must uphold the morale of DHS workers, an effort that a unified Department identity would support. Employees across the many DHS components perform difficult work that, day in and day out, upholds the security of our Nation. DHS employees should be proud of the public service they perform, and we should help them in their work by building a strong Department to support them. Low morale can lessen the ability of an organization to achieve its goals—something that we cannot let happen in homeland security.

The Department headquarters building will support our unification efforts, and I am grateful for the funds for the St. Elizabeths headquarters included in the American Recovery and Reinvestment Act. But ultimately, our Department is not a building; it is the people in the Department who will determine its success.

Achieving the goal of a unified Department will take time, but I am dedicated to making progress on this goal, and I look forward to working with the committee on furthering it.

CONCLUSION

Chairman Thompson, Ranking Member King, and Members of the committee—thank you again for inviting me to testify. I am honored to serve in my new role

as Secretary. I am eager to become even further immersed in the work of protecting our country. And I look forward to a long, productive relationship with the committee as we work together to improve homeland security in our Nation. I am happy now to answer any questions you have.

Chairman THOMPSON. I will remind each Member that he or she will have 5 minutes to question the Secretary. I will now recognize myself to begin questioning.

Again, thank you, Madam Secretary, for your testimony. I am glad to learn that you requested a review of the continuing hurricane recovery efforts on the Gulf Coast. As you know, many people in my home State of Mississippi, Louisiana, Alabama, and Texas are still displaced. Recently FEMA reported to this committee that only one-half of the \$2.8 billion in Federal disaster funds provided to Mississippi had been spent 3½ years after Katrina.

I would like for you to have your people report back to the committee on why it is taking so long to spend the money for those Katrina-affected areas. Some of us think it is a long time. After you provide that information, if you can provide to us how you think we can do a better job in helping citizens who are impacted with any natural disaster, I would appreciate it.

Secretary NAPOLITANO. Mr. Chairman, thank you. We would be happy to provide that information. But I think as important is how we are going to unclog these recovery efforts so that we can begin to move those issues forward and close some of the chapters out of Katrina/Rita and the Gulf Coast.

The Secretary of HUD and I are going there next week to do not only site visits, but to look at what we need to do to unclog some of the issues about housing. I have also directed my staff to give me a process by which we can begin to resolve the claims, the public assistance claims, that have been at issue between the Federal Government and State and local governments in the Gulf Coast for these many years. So that is well under way, and I look forward to reporting back to you. Actually I look forward to reporting back to you and saying that we have a process to begin closing some of these claims out.

Chairman THOMPSON. Thank you.

In light of that also, Madam Secretary, there is some concern of no-bid contracts and other things that the Department has been criticized for. If you can expand that to see how we can limit the number of no-bid contracts, that also would be appreciated for the committee.

Secretary NAPOLITANO. Yes, Mr. Chairman, absolutely. In fact, earlier this week President Obama held a fiscal summit. Some of you were present. I actually was in the breakout group on procurement, and I don't know how I got that assignment, but it turns out that that is the nuts and bolts of how you make Government more competitive, more efficient, how you make sure that every vendor has a chance to compete for Federal tax dollars. So that is an area of keen interest, and we are looking at that and look forward to working with the committee on that.

Chairman THOMPSON. Thank you.

Border violence. As you know, having been the Governor of a border State, you have firsthand knowledge of so many of the things that occur. One of the things we have as a committee and as a Con-

gress been very supportive of is providing resources. Secretary Chertoff talked about a surge potential if violence started moving in the wrong direction. Can you share with the committee what efforts are under way or you think should be under way to address this escalating border violence?

Secretary NAPOLITANO. Yes, Mr. Chairman. I only have 37 seconds left, but it may take me a little longer.

I have actually found a situation in Mexico, one of the top priority items on my desk. It was on my desk when I was Governor of Arizona, but as the Secretary of Homeland Security I see it in a much broader way.

I believe our country has a vital relationship with Mexico, and I believe that Mexico right now has issues of violence that are of a different degree and level than we have ever seen before. That is primarily the product of the President of Mexico and his government going after these large drug cartels so that we never run the risk, never run the risk, of Mexico descending into, say, where Colombia was 15 years ago. As those efforts have been on-going, it has increased the level of violence within Mexico. Last year there were 6,000 drug-related homicides in Mexico; since January, there have already been 1,000. They have been targeting in some of those homicides public officials, law enforcement officers as a process of intimidation.

We are working to support President Calderón in his efforts. I believe this is going to require more than the Department of Homeland Security, so that we are reaching out to the National Security Adviser, to the Attorney General and others about how we within the United States are making sure we are doing all we can in a coordinated way to support the President of Mexico. I have met with the Attorney General of Mexico and the Ambassador already.

One of the things that I particularly am focused on is south-bound traffic and guns, specifically assault weapons and cash. They are being used to funnel and fund these very, very violent cartels. So working with Customs, working with ATF, we are looking at ways we can help suppress that traffic. In my view, from a Homeland Security standpoint, this is going to be an issue working with Mexico that is going to be of real priority interest over these coming months.

Chairman THOMPSON. Thank you. I want to just put a footnote there that the committee has real concern about this issue, and to the extent that we can be helpful in addressing it, I want you as Secretary to feel free to work with us.

I now recognize the Ranking Member of the full committee, the gentleman from New York, Mr. King for questions.

Mr. KING. Mr. Chairman, Madam Secretary, you said you looked forward to working with Congress. I don't know if you will change your opinion over the next few years on that. We do enjoy this level of cooperation. I think it is important, though, and this is probably more our problem than yours that you could end up testifying before 80, 90, 95 House and Senate committees. So we want to do whatever we can to consolidate that. We believe that the Committee on Homeland Security should be the central committee not for any position of gaining turf, but because I think it should be coordinated similar to the Armed Forces relationship with the De-

fense Department. That will be an on-going issue on Capitol Hill; any moral support you can give us in that we would appreciate.

On the issue of UASI funding, Homeland Security funding, one of the main recommendations of the 9/11 Commission is that funding be risk-based. As I mentioned in my opening statement, that has been an issue of some controversy over the last several years. You have been in office less than 5 weeks. Do you have any thoughts as to what can be done to ensure that we do at least as good a job, if not a better job, in determining how risk-based funding should be implemented?

Secretary NAPOLITANO. Yes. To your first point I asked the question how many hearings the Department had with the House in the last session, and the answer, within the last session there were 269 hearings involving the Department of Homeland Security, 126 involving this committee or its subcommittees, 111 involving other authorizing committees, 32 involving Appropriations Committee or its subcommittees. So while it would be presumptuous of me to recommend to Congress how it be organized, I think that it is a fact that is relevant, and indeed one of the recommendations of the 9/11 Commission, the only one that hasn't been acted on, is the need to now streamline and focus on the Department of Homeland Security from a congressional oversight perspective.

With respect to UASI and risk base, we have now consolidated 99 percent of the grants and grant funding. That 99 percent all comes under FEMA. What I have said is the way we are approaching it is everywhere in the country has some sort of risk. It can be interruption of the food chain supply by an event happening in Kansas, it can be interruption of the gasoline supply to the country because of the refineries located in the Gulf Coast. It can be, as we tragically saw on 9/11, interruption of our markets and stock exchanges by a terrorist act in New York City. So we have all kinds of risk. So some base level of funding needs to accommodate that.

But above and beyond, there are areas of particular risk and would have particular broader impacts on the country, and that is where I think we need to focus our analysis and sharpen what are those risks and what are the impacts to the country if something untoward were to happen. So as we move forward, I would be happy to work with and inform the committee about this, but that is where I believe the analysis of the risk-based work needs to be done. It is beyond kind of a base level of risk that every area shares, although they are different. There is a base level there. But beyond that, we know there are certain areas where if risks were to materialize, there would be an undue impact on the rest of the country.

Mr. KING. Thank you, Madam Secretary.

Another issue raised by the 9/11 Commission was the sharing of intelligence at the Federal level, and, of course, part of your response was to share that down to the local level. At the Federal level itself, though, it was my impression the first several years at the Department that DHS was sort of excluded, or the other power players tried to keep DHS out of the intelligence gathering and didn't share as much as they should have with them. I think when Mr. Charlie Allen came on board, that improved somewhat.

I ask that you do what you can to make sure that DHS does get the intelligence it should be getting. You are in a better position then to get that to the local governments. If you need assistance, we would agree that the Department would have a role to play as far as receiving the intelligence gathered from the other intelligence agencies.

Secretary NAPOLITANO. Thank you.

I think one of the perhaps advantages I have is that this is the first time there has actually been a transition of administrations where you have a Department of Homeland Security from Day 1 and indeed a Secretary from Day 1. I think that helps with some of those issues that Secretary Ridge and perhaps Secretary Chertoff experienced.

I believe that the Department right now is fully a partner in intelligence sharing, and if it is not, I will be fighting for that. I think at this point the key challenge we have, as I said in my opening statement, is how do we better share with State and locals and also get their information back, because they have, quite frankly, more eyes and ears than the Federal Government will ever have.

Mr. KING. Thank you, Madam Secretary.

Chairman THOMPSON. The Chair will now recognize other Members for questions they may wish to ask the Secretary. Again I urge Members to be mindful of the 5-minute rule and the Secretary's limited time with the committee. In accordance with our committee rules, I recognize Members who were present at the start of the hearing based on seniority on the committee, alternating between Majority and Minority. Those Members coming in later will be recognized in the order of their arrival.

The Chair now recognizes the gentlewoman from California for 5 minutes, Ms. Sanchez.

Ms. SANCHEZ. Thank you, Mr. Chairman, and thank you, Madam Secretary, for being before us.

I actually really look forward to this change in administration and having you head our Department. Why? Because, first of all, I am the Vice Chair of this committee, and second, I chair the subcommittee that has much of what has been happening in Homeland, which means that I have had to oversee the TWIC program, Project 28, SBInet, Deepwater, US-VISIT, Western Hemisphere, all of which have had major, major problems. I look forward to talking to you about that and figuring out how to get things under way at the Department.

In addition to that, I have the global counterterrorism or the international aspect of all the intelligence gathering and information, and I look forward to talking in a separate meeting with you with respect to how we might incorporate that better into the Department of Homeland Security.

Of course, the border violence, the drug trafficking, I am not going to talk much about that, because I have a feeling that my Ranking Member Mr. Souder, who has worked on these issues for a long time, will probably ask you many questions with respect to that.

Cybersecurity is—as a Californian, I think that will be one of the biggest areas that we will have to look at. I also sit on that subcommittee.

My first question is that in the last Congress I introduced House Resolution 6869, which is the Border Security Search Accountability Act. This has to do with being stopped entry into the country and taking people's laptops and BlackBerrys or what have you and not have a good policy with respect to why we take them, how long they are gone, will we return them to whomever, et cetera. It poses a lot of issues. You can imagine if you had your work on your laptop, and you went to a country and they took it away from you and might never return it.

Madam Secretary, during your Department's review of the Bush-era policies, are you open to updating the border search electronic seizure policies and working with me to adding accountability to that process?

Secretary NAPOLITANO. Yes. Let me share with you on the issue of laptops and laptop searches. The law here is very straightforward and, quite frankly, very broad that at the border the Federal Government possesses the ability to search. But that doesn't answer the question should it search, and what are the elements that should be incorporated into a decision to search, and then what do you do after a search is complete with respect to return of material?

We have now appointed a Chief Privacy Officer for the Department, and there are a number of issues that we handle, including the laptop issue, that have really key privacy concerns, such as the ones you raised, inherent in them. So I look forward—she reports to work in a week or 2—to putting her to work and helping us develop further refinement of what we are doing, and, of course, working with the committee about what we are doing.

Ms. SANCHEZ. We intend to reintroduce some type of legislation with respect to that, so I would like to work with you to ensure that we know what we are doing and getting it through the Congress.

The second issue I have is this April I plan to hold my fourth hearing on the Transportation Worker Identification Credential, or the TWIC card. What plans do you have in place to help workers obtain TWIC cards during these last 7 weeks before the April 15 deadline? I just have a feeling a lot of people haven't pulled them; there is going to be a mad rush to try to get them. How will you ensure that people aren't out of work after April 15 if they don't have this card to get on the port system, et cetera? Would you consider temporary measures like allowing unescorted access for 30 days for vehicles who maybe did not get them or maybe had part of a background check done? This is a train wreck waiting to happen, I believe.

Secretary NAPOLITANO. Well, here is the status of TWIC right now. It has been implemented in all but about seven or eight ports. There are about 1.1 million workers who need a TWIC card. Around 920,000 already have their cards, or their cards are just about ready to be issued. So that process is well under way. The ports that are left are some of our larger ports, New York, Houston, Los Angeles, Long Beach, and so we want to make very sure that the process goes smoothly at all our ports, but particularly those that haven't yet fully implemented TWIC.

All I can say is that it is not only on our radar, but the subject of daily questions from me about how we are doing, who has the cards, what problems we are experiencing, how we are resolving those problems. But the point of fact is that TWIC card and having identify about those who are getting into secure areas at our ports I believe is a very important part of homeland security and securing our country. So we want to move this process along and move it and enforce it.

If there need to be exceptions, that is something I prefer not to talk about in the committee because I don't want people thinking that the deadline is going to move or something is going to change. TWIC is where we are going; it is well under way. The problems we have encountered so far have been dealt with, and we are moving forward.

Ms. SANCHEZ. Thank you, Madam Chair, and thank you, Mr. Chairman.

Chairman THOMPSON. Thank you very much.

The Chair now recognizes the gentleman from California for 5 minutes, Mr. Lungren.

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

Congratulations on your appointment, and it is nice to see another former attorney general making good.

First of all, let me just say that I was not here serving when Secretary Ridge was heading the Department. I have been here for 4 years while Secretary Chertoff was here. I happen to think he did a very good job in trying to amalgamate all of those agencies and departments. I think there was much progress made, but we all know a lot more needs to be done, and I appreciate your dedication to doing that.

If I could just follow up on what Mr. King said about us talking at least about the issue of terrorism. One of the things that has struck me over the last 4-plus years is that it is awfully easy to lose our sense of urgency in terms of the public and this Congress. As a fellow westerner, since we were so far away from 9/11, sometimes it is difficult to keep that image in the minds of our people so that they understand that it could happen anywhere. You and I know the potential for an uncontrolled border for soft spots for terrorists to come across, so I appreciate your dedication, and I particularly appreciate what you said about Mexico.

I think there is misunderstanding about Mexico sometimes in this body, and that is I think the current administration there is doing precisely what we want them to do to fight narcoterrorism. The increase in violence is not an indication that they are not doing something, it is an indication that the bad guys are pushing back, and that could very well spill over into our sovereign territory, and that is why we need to work so closely with that country. So I appreciate what you have said, and I think your experience as Governor at one of the border States will help us bring that issue to the fore even more. So I thank you for that.

Let me just bring up a couple of things. One is now we are doing a number of full-body imaging scans at a number of different airports. I see that some in the privacy community have raised issues. So let me throw out a very simple thing, and I happen to be someone who has an artificial hip. It is less an invasion of my privacy

to go through full-body imaging than it is to have people placing their hands on my body all over the place.

I would say that if you run into a problem with respect to privacy questions, think about creating an “I don’t care” line. I happen to think—no, I am very serious about this—I think if you had an “I don’t care” line, many of us would rather go through that. I think you would find some of the privacy issues that might otherwise bubble up might be alleviated by making it very clear that you can go through that line, you are going to go through a full-body scanner, fully knowing what is happening. I would just hope that you would consider that, because I don’t think we should lose that technology. I see some articles coming up about some concerns about that.

Second, cybersecurity. If I were to review all of the areas that we have worked on, that is both the Congress and the Department, over the last 4 years, the one area I think we have done the least in is cybersecurity. I think that is a reflection of our society at large. I know that you have indicated that it is one of your concerns or top 12 or 20 or whatever that list was. Could you talk a little bit about that and what you think we need to do both as a governmental entity and also to work with the private sector in that regard?

Secretary NAPOLITANO. Certainly. With respect to the full-body scans, we are piloting them. We began in Tulsa, I believe, last week. There are four or five other airports, Albuquerque, Salt Lake City, and so forth. We will be using them as a pilot as well. We don’t have an “I don’t care” line. We actually have an “I care deeply” line. There is always an option to use a regular magnetometer for a passenger who doesn’t want a full-body scanner. I believe, as you do, it is less intrusive to use the full-body scanner. I think the key question for us is going to be can we make it more rapid so we don’t develop lines at the airports. So that is moving forward, and that technology seems to be very, very good, very promising at the least.

In terms of cybersecurity, the National Director of Intelligence has begun a 60-day review of what we are doing Federal Government-wide on cyber, and in particular what we are doing to reduce portals of entry into the system, what we are doing to respond to intrusions, but, more importantly, what we are doing to implement technologies that would prevent intrusions.

I believe, as you do, that the private sector has to be not only our partner in that, but they are actually in a way key consumers of what we are doing. So while I can’t tell you right now what the actual operative structure is going to be to make sure the private sector is included, I have instructed our cyber folks to make sure that we are reaching out to the various private-sector groups.

Mr. LUNGREN. I think you will find that the Members of this committee want to work very closely with you on that as a priority. Thank you.

Chairman THOMPSON. The Chair recognizes the gentlelady from California. It must be a California day today, Ms. Harman.

Ms. HARMAN. Mr. Chairman, every day is a California day.

Mr. Chairman, I am pleased that President Obama has selected a good personal friend and an able woman to head the Department,

and I would just point out to the Secretary that this committee wants to be your partner. I know the Chairman said that. We want to be your partner, and we have a strong history of bipartisanship in this committee. We may be jurisdictionally challenged, but we try to punch above our weight. This issue couldn't be more critical.

Let me just put out a few things because time is very short and invite your comment to all of them. First of all, I applaud the new tone of the Department. As I have told you personally, I think your role is to prepare, not scare the American public. Yes, terrorism is a challenge; yes, we have more to do and much to fear since 9/11. But if people are personally prepared for what might come their way, first they will know what to look for, but second of all, they will have that resilience that you just talked about and not be terrorized. So appreciate what you are doing.

No. 2, on the intelligence function, which is of keen interest to me, I applaud your comment that your challenge is: How do we share with the State and locals and get their information back? I think that the INA function at Homeland unfortunately, at least up to this point, is more of a stovepipe than an information-sharing vehicle, and that is why I have urged you and will continue to urge you to appoint a cop to be the head of INA, because I think that that expertise is critical.

I don't think the problem is getting information from the Federal Government. I think the problem is forcing that information down to the person who will actually uncover and prevent, hopefully, or disrupt the next terror attack on our soil.

Third, the National Application Office, which was stood up by your predecessor and, I gather, still operating at some weak level inside the Homeland Department, I think it is a mistake to have an office at Homeland Security that could task military satellites to conduct homeland security functions over the United States. I think there is a posse comitatus problem. I think existing law is adequate, and that is why Congressman Norm Dicks, a former Member of this committee, and I sent you a letter recently urging you to shut it down. I really think that would be in our national interest.

Finally, I mentioned we are jurisdictionally challenged here. I would just welcome any comments you have and invite them for the record about how hard it is for Homeland Security officials, especially the Secretary, to appear at 88 committees and subcommittees in the U.S. Congress, and why it might make more sense to put most of the jurisdiction in this committee.

Secretary NAPOLITANO. Well, thank you.

A few points, on the State and local information sharing. Obviously as a former Governor and State attorney general, I really appreciate that need. I will be giving an address in 2 weeks at the National Conference for Fusion Centers. We really need to pump up that effort and make them a vital part of our national security network in terms of information sharing. So look for those comments.

With respect to the National Applications Office, that is one of the issues that I am reviewing. They do have an appropriation actually from the Congress, and so what I have said is, look, I want to know what we are doing, what are the issues impacting privacy

and expectations of privacy that should be taken into account, and I will be happy to report back to you, to the committee and Congressman Dicks as we go forward. So we have lots of issues to work on jointly, but I look forward to that partnership.

Ms. HARMAN. Mr. Chairman, I have 51 seconds remaining, so I would invite the Secretary to put on the record how many appearances her predecessor had to make before the Congress, because I think it is useful for the audience tuning in to hear about this.

Secretary NAPOLITANO. Thank you. I should have done that in response to your question. Last session it was 269 hearings in the House, 126 before this committee or its subcommittees, 111 from other authorizing committees, 32 from the appropriations side.

I would say Secretary Chertoff was a great partner to work on on the transition from one administration to the next on homeland security. It is a nonpartisan issue, it is a very functional operational issue, it is nuts and bolts. But I think one of his comments and strong feelings was work of the Department was sometimes interrupted, unduly delayed, and lots of hours spent on preparing for hearings and so forth, when, in fact, better answers could have been prepared if more work could have actually been done prior to a hearing.

Ms. HARMAN. Mr. Chairman.

Chairman THOMPSON. Thank you.

The Chair recognizes for 5 minutes the gentleman from Alabama, Mr. Rogers.

Mr. ROGERS. Mr. Chairman.

Thank you, Madam Secretary, for being here.

First there is talk in the last couple of years about pulling FEMA out of the Department. What are your thoughts? I will be up front; I am very opposed to that. This has become a well-organized Department. It has taken several years to get that way. We had some real rough spots when initially putting the 22 agencies together, and things are starting to work better now. I think it would be very disruptive. I am of the opinion of given how well FEMA has performed over the last couple of years, it is evidence that it is working. But what are your thoughts on the effort to remove FEMA from the Department?

Secretary NAPOLITANO. Thank you. Several things. One is I have not yet had the opportunity to speak about this with President Obama, and should he wish to seek that statutory change, he needs the space with which to do that. There are, though, as you know, many efficiencies to be encountered where FEMA is now. The issue, to me, is one of leadership and operations. If FEMA is working well, responding well, backing up State and locals—and again, the expectation that it is a first responder, that is a public perception that is inaccurate, and historically inaccurate. We need some help changing that expectation. But if it is doing its job working with State and locals in preparing and responding, if there is good leadership and management, where it fits in the Federal organizational chart becomes less of an acute issue.

So right now it is within the Department of Homeland Security, it is part of my charter. I look forward to when the President nominates an Administrator, but in the mean time we keep working with the men and women in that Department, and again, kind of

a parallel of the State and local intel sharing I talked about earlier, working with our first responders and our State and locals. I will be speaking to the national NIMA conference in the future, also an important part of FEMA's work.

Mr. ROGERS. Thank you. We put quite an effort into raising the number of Border Patrol agents from roughly 12,000 to now a little over 18,000, which was the goal. I still think it is too few. I think we should be over 20,000, but we hit that goal. But I am concerned that we haven't done anything on the ICE side; the number of agents has been flat for years. Do you have any opinion as to when that is going to change, or have you looked at that? Are you aware of any efforts to try to grow the number of ICE agents to be more compatible with the growth that we put on Customs?

Secretary NAPOLITANO. Thank you. We are looking at staffing levels across the Department, but also between Departments. Immigration is a system. It begins with the apprehension of someone illegal in our country and works not only through DHS, but also through the Department of Justice; you have to have marshals to transport detainees, because you have to have facilities, you have to have courtrooms. So the Attorney General and I have begun if I could say almost a joint review of the immigration system and what the Federal Government needs to do to support it.

Mr. ROGERS. Okay. Last I have the Center for Domestic Preparedness in my district. It is a wonderful facility, only one like it in the world to train first responders from all over the world. It is a facility where they offered the training free, they have to come. A fireman or -woman or police officer or rescue department, they come and spend 2 weeks of training. It is free.

The problem is my district is very rural, and most of the first responders are volunteers, and they work during the day, and they can't take 2 weeks and go to the center. So I have been an advocate for the center to try to package more of that training and take it out in increments, 3- and 4-hour training for regional departments to come together. I would like to see you push that some more, because most of us, if you look at our districts, most of the first responders are, in fact, volunteers, and their neighborhood will be able to take advantage of the state-of-the-art training that we have at CDP.

Secretary NAPOLITANO. Thank you. It is a wonderful facility. I look forward to actually doing a site visit at some time. That is an interesting idea. Let me pursue it, and we will get back to you.

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

Chairman THOMPSON. Thank you very much.

We have some votes.

Mr. DEFAZIO. Ten minutes; could I do any of my set of questions?

Chairman THOMPSON. Just as soon as I finish, I would be happy to. The plan is to recess the hearing, take the three votes and come back.

The Chair now recognizes the gentleman from Oregon, Mr. DeFazio for 5 minutes.

Mr. DEFAZIO. Thank you, Mr. Chairman. Madam Secretary, welcome.

When we created the Transportation Security Administration at the insistence of the then Republican majority, there was a provi-

sion that at the discretion of the then Secretary, which would have been Secretary Mineta, that the employees could be precluded from collective bargaining rights and unionization if it was in the national interest. Unfortunately, Secretary Mineta made that decision.

As you know from the surveys of the employees in Homeland Security, there are morale problems. A lot of it goes to the management of the Bush administration, the misdirection, but some of it goes to the fact that they are denied these rights which are made commonly available.

Do you have the authority to reverse that decision by then Secretary Mineta, since it is now under your jurisdiction? I was asked by a TSA employee on my way through 2 weeks ago reminding me that we may have an administration now that might be receptive to restoring their rights. If you don't have that authority will you ask for it from this committee and Congress?

Secretary NAPOLITANO. The answer to your question is that I have asked our General Counsel's Office exactly that question, and I don't have a response yet. But obviously, I appreciate the valuable men and women who work and some of these jobs are very difficult jobs in difficult settings and I appreciate what they are doing.

So we are looking at this right now from both a legal and a policy standpoint.

Mr. DEFAZIO. Right. They have to deal with grumpy Members of Congress and others traveling through their checkpoints.

The second point would be on the equipment that they are utilizing. I believe that the so-called stimulus package had some equipment acquisition in there, and I believe some of it was going to be dedicated to replacing the equipment at the checkpoint. Because even though you would not have had to go through it, everyone else in here went through superior equipment that guards our buildings and all the other Federal buildings in terms of having multidimensional capabilities so they don't have to say can I take your bag and turn it and run it through again, slowing down the line and trying to get a look at something suspicious. Is that going to happen? Are we going to get them the same equipment that is readily available that we have here, or better?

Secretary NAPOLITANO. I can't speak to precisely the equipment that is going to be purchased, but the stimulus package did include a generous share for TSA. So we will be looking I am sure at a variety of different types of scanning equipment.

The goal is obviously to be able to identify something that requires a second look and to do it with a lot of speed and accuracy. That is what we are asking the scanning—that is what we are looking for in our scanning process. So that is what the equipment needs to be purchased in order to accomplish.

Mr. DEFAZIO. I am glad that you recognize that. We had trouble with the last administration on that issue.

Switching from aviation over to ports, I think that the greatest single threat of a nuclear weapon is not someone launching something at us; it is someone secreting it in a container with a GPS or trigger device attached. We put through, over the objections of the last administration, shippers, and everybody else, a requirement that by 2012 that everything be screened overseas. The last

administration made clear to us that they did not think this was doable and they weren't going to really push for it.

What is the attitude of this administration regarding this threat and the possibility of meeting the deadline in 2012 of scanning all the containers before they depart foreign ports? The last administration—they assured us they would scan all the containers before they left our ports to go to the interior in case they contained threats. I guess that made our ports sacrifice zones. I never understood that position. Are we going to do it overseas?

Secretary NAPOLITANO. That is something that we have been looking at. I must share with the committee my initial view is that the 2012 deadline is not going to work and we are going to have to work on what we do beyond that.

To do 100 percent scanning requires, for example, agreements with many, many countries. There are lots of issues with that. There is a difference between screening and scanning in the lexicon of the cargo world.

Mr. DEFAZIO. I know.

Secretary NAPOLITANO. I believe that we are close to 100 percent screening.

Mr. DEFAZIO. Which sometimes can be meaningless with the C-TPAT program deficiencies and others.

Secretary NAPOLITANO. That is right. That is something that I am looking at right now more deeply. But my initial review is that 2012 is a deadline that may not be reached under the current state of the program.

Mr. DEFAZIO. We would love—and I think the Chairman shares—we would love to discuss this issue further and see if we could help move that along. Thank you.

Secretary NAPOLITANO. Thank you.

Chairman THOMPSON. I now recognize the gentleman from Pennsylvania, Mr. Dent, for 5 minutes and that will be our last questioner for this series, Madam Secretary. We plan to come back around 20 minutes.

Mr. DENT. Thank you, Mr. Chairman. Madam Secretary, thank you for coming before this committee today. I would like to start by first saying how appreciative I am of your efforts and your staff's efforts and your prompt response to two recent constituent inquiries from my office. Thank you for that.

The first one involved a constituent named George Boujadi, a lawful permanent resident of Lebanese descent currently living in my district and currently working in Iraq in support of the U.S. Government. George is a bilingual security adviser who has worked for the United States Department of State for 20 years, most of which has been overseas. Specifically he oversaw the protective detail of Ambassador Ryan Crocker in both Lebanon and now in Iraq. However, because his Government job requires him to reside overseas it may take him another 5 years to become a U.S. citizen. In fact, George has been working 4-month deployments in Iraq with 20 days respite at home in Bethlehem, Pennsylvania since 2004 as a legal permanent resident. I suspect that George's case may or may not be unique but he is certainly deserving of citizenship.

What processes or procedures does the Department have in place to assist or expedite citizenship applications from these patriotic in-

dividuals serving U.S. security interests abroad and in this case in a combat zone?

Secretary NAPOLITANO. Well, thank you, and that is something that goes to a department called Citizenship and Immigration Services. One of the things we need to have the flexibility to do is to deal with special cases, perhaps ones such as the gentleman you reference.

So I don't know that a statutory or procedural change is necessary. I think it needs to be a sensitivity change, if a particular case comes forward that we could expedite it.

Mr. DENT. That would be appreciated. Would you oppose making targeted amendments to the Immigration and Nationality Act? You mentioned statutory changes may or may not be necessary, but I would like to at least give you some discretion with respect to citizenship requirements under circumstances like this. In fact, I have a letter from Ambassador Crocker urging that this man be made a citizen, even stating that on more than a few occasions this individual probably saved his life as well as others. So I would like to give you that type of authority. How would you feel about that type of discretion?

Secretary NAPOLITANO. I am always glad to have discretion, I think any Secretary would say the same on any matter but I would be glad to work with you on that.

Mr. DENT. The second case, I recently brought to your Department's attention, this involved a transportation worker's identification credential, the TWIC card, and as the new Ranking Member on the Transportation Security and Infrastructure Protection Subcommittee, this is an issue that I look forward to exploring further in this Congress. There is going to be a photo on the screen. I don't see it. There it is. Okay.

[The information follows:]



Mr. DENT. I wanted you to see that. It is a boat called the Josiah White II, being pulled by Hank and George along a canal. To be very clear, Hank and George are the mules. This is part of an exhibit at the National Canal Museum in my district in eastern Pennsylvania. Now, Hank and George, while sometimes are ornery, they are not terrorists. This much we are certain. However, the current TWIC statute requires that the individuals in colonial garb have TWIC cards.

While the photo is funny, the unintended consequences of this particular statute are not. I have two questions: First, Madam Secretary, do you believe that the mule tenders in this photograph should be required to have terrorist watch list background checks and TWIC cards? I know it is sort of facetious but the at same time it is serious. They are required.

Secretary NAPOLITANO. Well, let me just say this. Obviously this is a picture designed to say, hey, isn't this absurd that they be required to have TWIC cards. Let's work with you on this particular case if we might.

Mr. DENT. I would like to work with you on a more common-sense approach to this, a risk-based approach to requiring TWIC cards under circumstances like this. It is costly and obviously it is common sense. It just does not involve this situation, but it could involve a fishing boat and others who are taking a few people off the coast for a few hours.

Finally, one other issue on which I have been working. There are 139,000 people in this country awaiting removal, they have removal orders against them. They come from about eight countries, China, India, Vietnam, Laos, Jamaica and a few others. Those countries will not repatriate their citizens. We are trying to send them back but they will not accept them.

I have introduced legislation, and Senator Specter, Mike Castle and others, to hold up visas from these countries until those countries repatriate their citizens. Many of these citizens are criminals—a large number of them are criminals but they have removal orders against them and we would like to have them sent back.

Thank you.

Chairman THOMPSON. Madam Secretary, you can hold that. We have to vote. The committee stands in recess for about 20 minutes.

[Recess.]

Chairman THOMPSON. We would like to reconvene the recessed meeting.

The next person to be recognized, the gentlewoman from Texas, Ms. Jackson Lee, for 5 minutes.

Ms. JACKSON LEE. Again, Madam Secretary, let me welcome you and thank you so very much for the breath of fresh air in our committee. I would like to echo some of the comments about jurisdiction. I think it is enormously important. I know it falls a lot to our resolution, this Congress. But I think it is enormously important for this very important department to have a focused jurisdiction.

I might offer as well a consideration on FEMA. No, I don't believe it should be moved. I know the administration is considering it. But an option may be if you look at the schematic map of the Department, and I am sure you have, you will find FEMA way down on the stair steps, maybe two steps from the basement in

terms of how it is framed. Possibly the opportunity for it to be put where it is a direct report to the Secretary at a level somewhat similar to the way USAID is in the State Department. I only refer that to you for reference.

But I do believe that although FEMA is not a first responder, as you well know, it is a lifeline for communities. It is the direct contact that we have.

I am just going to put a number of things quickly on the record and try and move as quickly as possible. I have been a strong advocate for the rehabilitation of areas because of Hurricane Katrina and Rita. We now have Hurricane Ike and we were doubly collapsed because of the economic markets, the attention to that area just did not continue. So we have a charity hospital that is now closed, University of Texas MB wondering where the money is. We have an issue of ineligibility that is one of the highest when our applicants have not been able to get FEMA recovery. Our contractors have not been paid. Our housing director has just had a press conference yesterday. He can't get any housing on the ground because of environmental impact statements.

I would like to invite you to the region. I welcome what you are doing in the Gulf region with the Secretary of HUD. I would like to welcome you to the region to come with the same package or team, because we are desperately in need of a fix. I just want to know, can I welcome you to work with me on these issues?

Secretary NAPOLITANO. Yes, and with respect to the schematic of the Department, you know the Department has seven big operational components, FEMA, TSA, CIS, CBP, ICE, the Secret Service, and the Coast Guard. The schematic, if you actually trace it back, they do come right up into the Secretary's office. I meet with the head of those components at least once a week. We are closely involved there.

With respect to your invitation, I look forward to meeting with you. I look forward to seeing what FEMA funds have already gone into the Ike recovery and what we need to do to move that process along.

Ms. JACKSON LEE. I appreciate that it may require waivers from your office. The housing issue is really at a crisis. We have got the manufactured housing on the ground all ready to go and can't move and people don't have housing.

Let me quickly put two other questions out. I am excited about the Transportation Security Committee that I chair. The importance of critical infrastructure I think is going to be one of our greatest challenges, but I do want to just ask the question dealing with the chemical facility security program which has been a success. Can we—do you believe the program could include wastewater, water, and I think maritime facilities? I am just going to give you these questions.

Other one is we had a commitment from the administration to train our employees, 9/11 included specific training mandates. They never made them. So my question is whether we will see security training mandates for our rail and bus workers and transit workers, our port workers. Very important issue. I really join in the professional development needs of our TSA employees.

Last, I visited Guantanamo Bay. I said I was going to keep an open mind. I am very glad that you on are the team to review it. I believe it can be closed at the same time that we can protect our national security.

If you could answer the questions dealing with training and the chemical security issue.

Secretary NAPOLITANO. Yes, we are obviously in the process now of beginning to issue the categorization of chemical facilities under the CFAS rules and that process will continue through this spring. We will keep the committee apprised of our progress there. We are now looking at the whole issue of waste and wastewater treatment facilities with respect to their coverage under the law and what needs to be done.

With respect to training, obviously training is a passion with me. I believe for emergency preparedness and response and for people just to know what they need to do under any different type of circumstance, training is so very key. So, yes, we are going to be reinvigorating our efforts in that area.

Ms. JACKSON LEE. Key issues. My subcommittee and this committee looks forward to really working closely with you on these issues. Thank you very much, Madam Secretary. I think my time has expired.

Chairman THOMPSON. Thank you very much. We now recognize Mrs. Miller for 5 minutes.

Mrs. MILLER. Thank you very much, Mr. Chairman. Madam Secretary, we certainly welcome you to the committee as all of my colleagues have said as well. We appreciate your service to your State and looking forward to your service now of our entire Nation. We certainly need it. It is a very challenging time of course for our Nation and as you are being introduced, your introductory meeting to the committee, I am going to take most of my time to tell you a little bit about my region of the world and how we look forward to working with you if I could.

I come from Michigan, which is a northern border State. I am not minimizing all of the dynamics and the challenges that we face on our southern border in our country, but on the northern border we have some similar issues and dynamics as well as some unique things as well. In my region in southeast Michigan, just as an example, we have the Ambassador Bridge, which is the biggest border crossing on the northern tier. The tunnel from Windsor runs under the Detroit River there. Incredibly busy artery as well.

The Blue Water Bridge in my district, 30 minutes to the north of the Ambassador Bridge, is the second busiest border commercial crossing on the northern tier, and of the two it is the only one you can transit HAZMAT. We have some of those issues. The CN rail runs under the St. Clair River.

I keep holding this up because in Michigan you have the map of our State at the end of your arm. Here we have—

Secretary NAPOLITANO. Which finger is it?

Mrs. MILLER. The CN rail tunnel is the busiest rail entry into the entire Nation. It runs under the St. Clair River there. On the other side of the long liquid border that we share with our wonderful neighbors of Canada in the immediate area is something we call Chemical Valley, which I believe is if not the largest, the second-

largest concentration of petrochemical plants in our hemisphere. Of course we have the Great Lakes there, one-fifth of the fresh water drinking supply of the entire Nation.

So there has been quite a bit more attention from the previous administration and I certainly have followed closely your comments about northern border security as we try to sort of beef up. As we speak we are standing up with Customs and Border Patrol a northern border wing at our Air National Guard base there. They have got additional personnel, air assets, both fixed and some Blackhawks—fixed-wing and Blackhawks. They have some water assets that are coming there, too. We are looking forward in 2010 to a UAV mission. I have some questions and maybe we can follow up later about that on how that might all work along the northern border. We obviously are not going to put a fence around our entire Nation, but being able to utilize essentially taxpayer funded off-the-shelf hardware that has worked so well in theater for homeland security is a very critical component.

My area is going to be a pilot program on the northern tier for the CDINet. I think in the spring. Hopefully they are right now doing—this is sort of what they told us but we are waiting for a briefing as well, which would be 24/7 surveillance all the way along the St. Clair River from the Blue Water Bridge to Lake St. Clair. A number of different towers that they are talking about building or utilizing existing towers. Our area just recently got one of the Stone Garden grants. Really we look at it as a force multiplier for CBP for our local law enforcement, and we are blessed with—as everybody in the Nation is, but we are always parochial about our own emergency management teams and how fantastic and professional they are and how they are looking forward to partnering with your agency in every way that they possibly can.

As you might imagine because of our proximity, we have regular meetings. On Friday I will be meeting with the three Canadian MPs to talk about the border thickening issues, et cetera. So I want to lay that out to you. We are obviously just so delighted to have you at the helm here and looking forward to working with you on all of these issues.

But since I have 51 seconds left, let me ask you if you could, Secretary, to flesh out a bit some of your initial comments about northern border issues and security.

Secretary NAPOLITANO. Yes, and thank you. Your district does include some very busy areas for trade and commerce between our important neighbors to the north. It is interesting, when I issued a request for information about what we were doing on the northern border, that was immediately interpreted as thickening the border.

Mrs. MILLER. It is all they talk about.

Secretary NAPOLITANO. My view is we need to have a security strategy—we need have issues or protections at the northern border that make sense for that area, for that topography and the like, but fully take into account the balance that always must be struck between security and trade and relationships that are on-going.

But part of what I am doing now is trying to get an analysis. What is up there? What is on the drawing board? So what are the pilots that are contemplated for the next 6 months to a year? Then

I do plan myself to go to the border maybe when it is a little warmer.

Mrs. MILLER. Spring is on the way.

Secretary NAPOLITANO. Exactly. Because I think there is nothing better than seeing it with your eyes and then talking with local mayors, sheriffs, police chiefs, to get their sense, also our CBP and other employees who are stationed there, to what is going on there and what really works. For both of our borders our goal is a safe and secure border that allows us to protect our sovereignty interests as a Nation but also recognizes that we have key trade alliances and family relationships to the north and indeed to the south.

Mrs. MILLER. Thank you so much. We are delighted to have you here and look forward to working with you.

Secretary NAPOLITANO. Thank you.

Chairman THOMPSON. We now recognize the gentleman from Texas for 5 minutes, Mr. Cuellar.

Mr. CUELLAR. Thank you, Mr. Chairman. Madam Secretary, it is a pleasure to be with you. First of all, I congratulate you and second of all, I would ask if you could have your staff whenever you all develop your strategic, your performance plans, your mission, your goals, your performance measures, I know I asked that when I first got on the committee some years ago, I never got it. I would appreciate if you could get us your performance and your strategic plans for the Department.

No. 2, and I have a series of questions, one is ports of entry. We have done a good job in putting men and women in green, but we need men and women in blue. Not only ICE but the ports of entry, because the wait lines are pretty long, as you know.

We added the \$720 million in the stimulus package, a part going to you all, a part going to GSA. I would ask you all to streamline the process to get that done. Because 88 percent of all the goods coming to the United States come through land ports. We have done a good job putting money into the airports and the seaports, which we need to continue doing, but the land ports, 88 percent of all the goods are coming in. In my hometown of Laredo, which I am hoping that you will visit us soon, 40 percent of all the trade between United States and Mexico comes through the Port of Laredo. We get about 13,500 trucks going north- and southbound, 1,200 railcars every day. This is just on a daily basis.

I would ask you to move on those ports' funding as soon as possible to streamline the process on that. I would appreciate your help.

The other thing I would ask you is—I asked the former Secretary and I never got the response, and I think even the Chairman asked him also. Could you give us, best case scenario, how many personnel you would need for customs officials to man all the ports north and south and what sort of infrastructure needs you need. Because we have been estimated about \$4.9 billion. We added \$720 million, but if we could get those two responses, because we never got it from the other Secretary. I would ask you to provide that to us as soon as possible.

Secretary NAPOLITANO. Thank you. Yes, and if I might speak to the issue of the land ports of entry. Those ports are absolutely key.

I was delighted that the Congress did include \$720 million which will allow us to accelerate pre-identified projects to enlarge and modernize those land ports. Many of them have not been improved since the '70s and the amount of trade that goes back and forth, as you know, has exploded in the mean time.

So what we are doing to streamline actually is we are putting together a joint GSA-Customs planning office for the improvements in those ports. So that instead of going sequentially, first Customs looks at it and says this is what this port needs and then it goes to GSA which puts its imprint on it and this goes back and forth. We actually have people in one place—the people that operate the port, with the people who have to do the contracting and the construction of the port improvements. I am hoping that we will see some streamlining by doing that.

Then with respect to what our analysis is of manpower and building out for the outyears on those ports, we will be happy to get information to you. I will say this, however. Part of the manpower needs depends in part about how fast we improve the ports. Because as we—theoretically as we add technology to the ports, it may help us adjust downward our manpower needs. So there is going to be some flexibility there as well.

Mr. CUELLAR. A couple of quick questions. No. 1, whatever you can do to streamline the grants, those grants that go out, if we can streamline the paperwork and the time to get them down to our firefighters, I would ask you to do that. If you have any proposals to streamline the process, I would ask you to do that. One quick question and one border question.

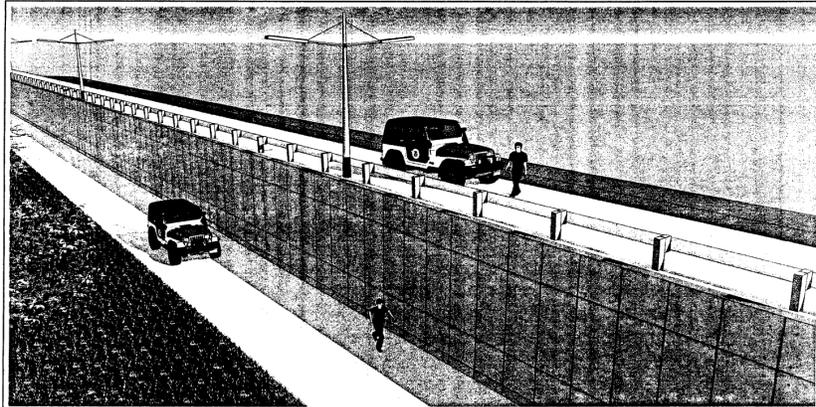
FEMA. Have you talked to—I know the question was asked about FEMA, but I believe Chairman Oberstar has filed or will be filing the legislation today. Could you give us what the administration's position is on this? Because maybe if we got some direction on this, this will prevent some of the legislation from being filed.

Secretary NAPOLITANO. The answer is no, I have not yet had the opportunity to speak with the President about this. So it would be premature for me to say what position they will take on that legislation.

Mr. CUELLAR. Last, I have 22 seconds. We, as you know, the fence in Texas has been—Mr. Chairman, I ask unanimous consent to enter into the record the document that I am distributing. I think Members should have gotten some photographs that reference the border fence project. I believe that has been given out to the Members. Staff has talked to both sides.

Chairman THOMPSON. Without objection. I am not certain they have it but we will get it to them.

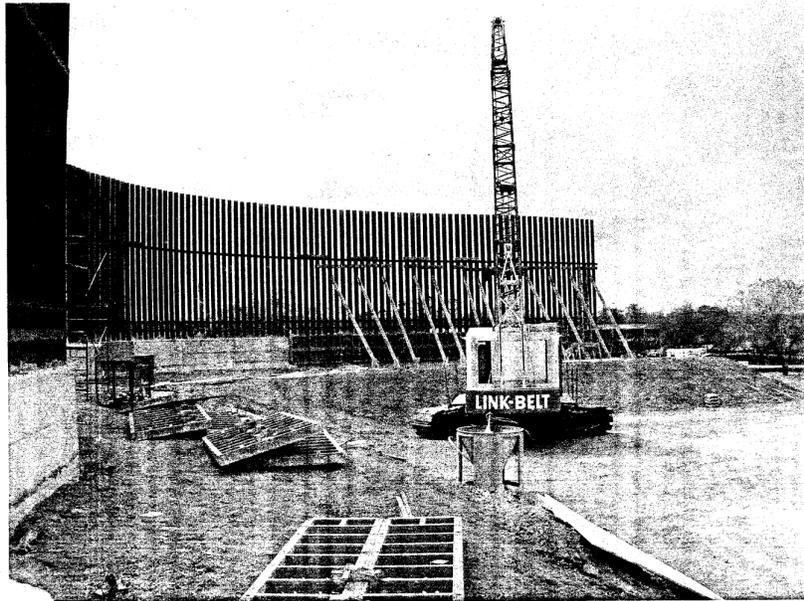
[The information follows:]



Typical Concrete Flood Protection Structure
Close-Up

DANNENBAUM	
CONSULTING ENGINEERS ARCHITECTS INC.	
4227-01	
HOUSTON, TEXAS	
Levee Improvement Project	
Sheet 4 of 4	
Vertical Wall Levels	
NTS	January 30, 2008





Mr. CUELLAR. Madam Secretary, down there in Texas we were told—and this is the picture that was used for a fence in the south Rio Grande Valley. They said if we put a fence more like a levee, as a levee control, it would provide levee protection and this was the picture that was given to us, that Secretary Chertoff went down there and said this is what we are going to have.

What we see now is actually this. There is a little difference between what was given to us. I believe in “truth in fencing,” if you want to use that. This is the southern part. In other words, we still have the levee part of it but instead of having this they put the fence on top of that. I sold it to folks down there, our Governor, our mayors down there, and I would ask you to look into it. I know we don’t have much time. But if somebody is going to say this is what you are going to do, and then they provide you that and on top of that, there is a little difference on that.

So I would ask you—I know that I am out of time but please look at that, sit down with your staff, and if they said it was in the fine print they should have told that to the people when they had the public hearings.

Secretary NAPOLITANO. Yes, I will do that. Just a question, is the airport landing map part of the fence? Is it actually on top of the structure or behind it?

Mr. CUELLAR. It is on top of this. I actually went to go see it myself. Pictures that we took when I was there. This is the top part. So we are looking from here that way. So the levee part is there, and then they added this. I can understand the response that Border Patrol is going to give, tactical reasons. I know all the buzz words. But I wish they would have told us. Because in other words there would have been a different type of opposition and they

agreed—as you know, we agreed to this levee fence but they did not tell us that on top of this levee fence, the cement is on the other side, they added this huge, huge fence. It is 18 feet tall or so.

Secretary NAPOLITANO. Yes, I will look into that.

Chairman THOMPSON. Thank you. The gentleman from Georgia, Mr. Broun.

Mr. BROUN. Thank you, Mr. Chairman. Madam Secretary, congratulations, and we are thankful for your coming here today. In your testimony you state that Government does nothing more fundamental than protecting its citizens, and I couldn't agree with you more on that. We have some very serious problems that we have either inadequately or failed to address and I am looking forward to working with you and the Department on a number of these issues, including counterintelligence, radicalization, cybersecurity, securing our borders, oversight of MBAT, reevaluating TSA's large aircraft security program, and a whole host of other issues.

But first I would like you to know how disappointed I am with the DHS's lack of transparency and accountability in the MBAT site selection process. We are going to find out whether a truly objective merit-based decision was reached. Today, however, I would like to talk with you about counterintelligence and radicalization.

DHS is not going to be a respected member of the intelligence community unless it takes counterintelligence seriously, and I know you have been very much involved in that in Arizona. DHS is too large of a target for foreign intelligence services and terrorist organizations to neglect a vigorous counterintelligence program. I would like your assurance that counterintelligence will be a priority for you and the Department. I would like to see a fully implemented and vigorous DHS counterintelligence program.

Are you working with FBI and counterintelligence to improve your partnerships and coordinate your programs on a large scale? What can this committee do to help you expand these programs and protect your Department from foreign penetration and collection activities?

Second, we have done a lot to prevent terrorist attacks and protect our homeland, but we are still vulnerable to home grown radicalization and violent Islamic extremism. Although not at the levels in Europe, we have seen radicalization in prisons, mosques, community centers, and even some schools.

As a leader in protecting the homeland, what do you see as the Department's grand strategy in going forward and how will you coordinate with other agencies? What tactics will you use? Do you have any recommendations for our committee on ways that we can help prevent or address radicalization on U.S. soil?

In asking those questions I just want to tell you that in my own district there is a community that I have calls about all the time, whether these people are becoming radicalized and trying to create a problem in Georgia where I live. I see this as a huge problem that we face as a Nation. I know there are many other areas like this of communes or centers where radicalization may or may not be occurring. So I am eager to work with you and the Department on that issue as well as the counterintelligence issue.

Secretary NAPOLITANO. Yes, thank you. Yes, counterintelligence is a priority. We will be doing some things moving forward I think in that area. I have already had very substantive meetings with, for example, Director Mueller of the FBI, Admiral Blair from the NDI and Mike Leiter from the Counterintelligence Center about how we mold our efforts together and make sure that not only are we coordinated, which is a word that is thrown around a lot, but that the coordination means that we are targeted and not overlapping but yet sharing amongst ourselves, and again with State and locals, what is going on.

With respect to radicalization, I agree with you that this is an area where indeed we have some work to do. Again working with the Counterterrorism Center, the FBI we actually have a unit within the Department that I have tasked with looking at the process of radicalization and then how it could be interrupted and in what areas of the country would we best be focusing some of those efforts. While I would rather not share some of that in a public setting, it clearly is on my radar screen.

Mr. BROUN. Thank you so much. I encourage you to be very aggressive in this endeavor. I get a lot of calls in my district about concerns out there. I am sure other Members do also.

Back to the intelligence and counterintelligence, I think my perspective is that we need to have a very strong not only intelligence community within the Department but a very aggressive counterintelligence community within the Department, and I for one want to work with you and for you and I am sure many Members of this Congress—of this committee do to make sure that those counterintelligence efforts are very aggressively sought out and promoted within the Department.

So thank you so much. I appreciate it.

Chairman THOMPSON. For the benefit of those present, it is the Chair's intention to continue the hearing. We have a Member who has already gone to vote and will come back. So we will try not to interrupt.

We now have Mr. Carney scheduled for 5 minutes. Other individuals can go and come back if they wish. Mr. Carney for 5 minutes.

Mr. CARNEY. Thank you, Mr. Chairman. Madam Secretary, as you know I chair the Oversight Subcommittee, so all of this is of interest to me, soup to nuts. That is my purview.

I have a question on the discussions you are having with the National Security Adviser on merger or somehow working in parallel in terms of the Homeland Security Committee as opposed to the National Security Committee. How are those talks coming? Are you coming to any conclusions? Any new ideas or arrangements?

Secretary NAPOLITANO. Yes, I spoke actually before the Inauguration about this analysis of the National Security Council, the Homeland Security Council, and what needs to be done. So what we are looking at is what functions are performed and really taking a fresh set of eyes at all with the goal of making sure that the President has the best advice for security, both internationally and domestically, and also in terms of response and recovery.

That process is under way. We told the President that it would not be one of these 2-year study jobs, that we were moving with

all deliberate speed to get some recommendations to him. We will be happy to let you and your staff know where we are headed.

Mr. CARNEY. Please. It is our concern that the Homeland Security Committee and National Security don't trip over each other in doing these things. We want to make sure that there are efficiencies and streamlining, too.

I am sure you are very aware of Project 28 down on the border. I visited there a couple of times last year and I was disappointed to see how progress wasn't made despite promises from the prior team.

We want to kind of understand what you take as lessons learned from Project 28 and how you are going to change the result. You know, we are backed up in terms of what we are able to do in the SBInet because of this. Various sections, the Niajo section, for example, that is not up to speed and not running the way it was supposed to. It has been years now and millions of dollars. I would love to get your views on that, please.

Secretary NAPOLITANO. Yes, I am familiar with Project 28 given that it was in Arizona. Also given that in my view, a border protection system requires boots on the ground and technology. That is key. If we are going to require technology, the technology has to work. It has to do what the vendors told us it would do.

So I think an initial takeaway is what were the initial contract representations made as to what this system would do. I think a second takeaway is to make sure that in our bidding process and our competitive bidding process, we really from the get-go take into account the operational needs of the agents who actually have to do the apprehension and interdiction. I think that perhaps that was late to the table in terms of actually looking at what that technology needed to empower.

Mr. CARNEY. You are exactly right. In fact, the very people whose lives depended on that technology working were not part of the process when it was being developed by contract, which is utterly ridiculous. So we will see you or your staff a number of times over the coming term. I look forward to being a partner with you and making sure things work well as are advertised and making sure this Nation stays safe and, I thank you for your time today.

Secretary NAPOLITANO. I look forward to working with you.

Chairman THOMPSON. Thank you, Mr. Carney. What I would like to do is expand that a little bit given your local experience. To what extent did your office as Governor, to your knowledge, communicate with the Department during Project 28? Was this a stovepiped DHS project, to your knowledge, with little or no State and local participation?

Secretary NAPOLITANO. Mr. Chairman, I would have to go back. I know there was some correspondence back and forth. But I think it would be fair to say in terms of overall project design, contract requirements, time, you know kind of the length of the contract and so forth, that was a Federal job. So the State was not really part of the process.

Chairman THOMPSON. I say that for a couple of reasons. In talking to some of the local law enforcement along the border, we were talking about towers being constructed where there was some towers in the area already built that could have been utilized and so

we felt that the collaboration was essential for State and locals on anything along the border if we are to be successful. I think that is for going forward as well.

But I do have a question that I want to get on the record, Madam Secretary. I understand that the DNI testified this morning that al Qaeda remains determined to conduct a spectacular attack in the homeland. Given the understanding of that statement, have you been fully briefed on the current threat picture? How is DHS coordinating with other agencies to meet and mitigate the challenge from al Qaeda?

Secretary NAPOLITANO. Yes, and, Mr. Chairman, if I might, let me just—we talked earlier with the committee about intelligence sharing among Federal agencies, but you know I start early each morning with a briefing that includes not just the Department of Homeland Security Intel Section but also the FBI and the CIA. So I get that full daily briefing and then I also receive the President's daily briefing. So from the get-go every morning we have that level of exchange at the Federal—at the very, very, very highest level.

We know, and I know, that there are risks out there. There are people out there who quite frankly seek to harm the United States. The issue for us always is who are they prepared to do it, in what fashion, what are we doing to prevent, to interdict, and the like. It is not just al Qaeda, but it can be other groups as well.

So it is incumbent upon us as the Department of Homeland Security to make sure that we are fully informed and doing what we can in a universe where it is impossible to put the entire United States under a bubble.

Chairman THOMPSON. So you are comfortable with the information you are receiving and that entities responsible are in fact sharing and coordinating to your satisfaction?

Secretary NAPOLITANO. Yes.

Chairman THOMPSON. Thank you very much. Ms. Harman will be here shortly so we can continue. I don't want to impose on you, I know you have an awful lot to do to keep us safe. So if I can say we will recess no more than 5 minutes, and we will have you complete by 12:45.

Secretary NAPOLITANO. Thank you, Mr. Chairman.

Chairman THOMPSON. Thank you. The committee stands in recess.

[Recess.]

Ms. HARMAN [presiding.] The hearing will come to order, again. Our apologies to the witness for the interruption of votes, but we are doing the best we can.

The Chair will now recognize Ms. Clarke from New York for 5 minutes.

Ms. CLARKE. Thank you very much, Madam Chair.

Madam Secretary, we find ourselves in a unique moment in American history. There are many difficult security challenges before us, but we have strong new leadership at the White House, here in Congress, and in you at the helm of the Department of Homeland Security.

As the new Chair of the Subcommittee on Emerging Threats, Cybersecurity, Science, and Technology in the 111th Congress, I am encouraged that one of your first acts in office you issued an action

directive on cybersecurity instructing specific offices to gather information, review existing strategies and programs, and to provide oral and written reports back to you by mid-February. I look forward to reviewing those reports about the authorities and responsibilities of DHS for the protection of the Government and private sector domains, the relationships with other Government agencies, especially the Departments of Defense, Treasury, and Energy and NSA, and the programs and time frames to achieve the Department's responsibilities and objectives. I believe that you are asking the right questions about DHS's role in the cybersecurity mission.

I have a few questions about several issues that are near and dear to my heart which are critical in DHS's mission. I am from New York City, Brooklyn, New York, and so much of the quality of lives of the people of my town and my district relies on our success in meeting the challenges of your agency head on. Recently, the House unanimously passed H.R. 559, a bill I sponsored which requires the Secretary of Homeland Security to furnish the comprehensive cleared list to all DHS components and to other Federal and State and local and tribal authorities and others that use the terrorist watch list to resolve misidentifications.

This we call the redress act, the fast redress act. Once the bill becomes law, what steps will you take to ensure that adequate and thorough passenger redress procedures are integrated Department-wide?

Secretary NAPOLITANO. Thank you. Obviously, people who are erroneously mistaken for someone on a watch list and the ability to get that corrected quickly is part of the on-going evolution or evolution of the lists.

But we will work with you on implementation. We have already began looking at some things that we can do in the interim. But I share your concern, and we want to make sure that that is implemented when it passes.

Ms. CLARKE. Wonderful. I think at this stage it has become an issue of civil liberties for Americans and certainly visitors who come to our Nation. It is important that we sort of evolve into a more proactive approach, because at a certain point the saturation of that list becomes really something that we can't use as an accurate tool to be able to address our main concern, which is ID'ing those terrorists as they move about. So thank you very much.

The other issue is with regard to immigration. There is a squeeze play that is taking place in many communities and communities like mine, and this has to do with the backlog that takes place in terms of USCIS and the processing of individuals seeking to receive their citizenship. They fall into the nebulous area of being undocumented because they are in the process of moving from a permanent—legal permanent resident status to becoming citizens, and at the same time they are also vulnerable because, for whatever reason, there are all kinds of raids going on. Many of them are not in the workplace, as some of my colleagues may have experienced, but in the households in which individuals live.

It is my hope that as you talk about the immigration system infrastructure and bureaucracy that we will get rid of this antiquated system that is not really serving the American people in our civil society in a way that it should. I was so happy to hear that you

are looking at that system, because there are hard-working rank-and-file employees working for USCIS, but they don't have the tools available to them to do the processing in an expedient manner. It is costing a lot of individuals who are seeking to adjust their status hundreds, if not thousands, of dollars every time there is a problem there. So I am going to wrap up and ask if you would just address that issue.

Thank you, Madam Chair.

Secretary NAPOLITANO. If someone is here, and they are a lawful permanent resident, I don't consider them undocumented. They are not naturalized citizens, but they are not undocumented.

Second, CIS, you are right there are wonderful men and women who work there, and they are there because they want to help those who have come into our country legally and who seek to become and get the benefits of citizenship to get there.

We have been involved and they have been involved on a very aggressive backlog reduction process. By June the average processing time will be below 5 months, which is 50 percent of what it has been. We are looking for other things as well that we can do administratively to facilitate the process and make it easier, more consumer friendly as it were, to help people who seek to become citizens and enjoy the benefits of citizenship to get there.

Ms. HARMAN. Mr. Olson of Texas is now recognized for 5 minutes.

Mr. OLSON. I thank the Chair.

Madam Secretary, welcome. Thank you for coming today. I greatly appreciate your service to the home State of Arizona and our Nation.

I have a particular question about the recovery from Hurricane Ike. In your written testimony you mentioned that you wished there was specific action directives in regards to recovery efforts of Hurricane Katrina and Rita, and yet made no reference to Hurricane Ike. Ike was the third most destructive hurricane ever to make landfall in the United States. Damages of Ike in the U.S. coastal and inland areas are estimated to be about \$24 billion. Ninety-five percent of the constituents in my district lost their power for a significant amount of time, and about 112 Americans and counting lost their lives in this storm.

As the recovery costs continue to rise, could you please discuss what the Department is doing to help those people who are affected by Hurricane Ike? Most importantly, can you ensure that those populations affected by Hurricane Ike receive the same attention in terms of recovery, funding and assistance that the victims of Hurricane Katrina and Rita received?

Secretary NAPOLITANO. Well, thank you, and I hope you don't take from the fact that I did an action directive on Katrina/Rita to mean I was ignoring Ike. Katrina/Rita is over 3 years old. I was focusing on what needs to be done to complete or move through some of the pending recovery issues. But I have also spent some significant time looking at where we stand on Ike. Literally hundreds of millions of dollars actually have been sent from FEMA to the State of Texas. I need to understand where those stand in the State process in terms of distribution to the actual people in your district that need the help for their recovery from Ike.

With regard to equivalent treatment between Katrina, Rita, and Ike and the communities there, I would be happy to meet with and have someone to meet with you and your staff about where that stands in terms of the measurement of damage and the flow of money, but my key concern, I think, is the one implicit in your question, which is how to we make sure that the flow of money is facilitated, and that claims that are issued are resolved expeditiously for the communities and the individuals who were involved in Ike.

Mr. OLSON. Yes, ma'am. Anything we can do to streamline the bureaucracy that is in the Department and get the assistance back to the people as quickly as possible. I appreciate your comments. We would be greatly appreciative down there. They are still working very, very hard to recover their lives.

Changing course a little bit. I would just like to briefly talk about immigration and the situation on the border down there, particularly what is happening in Mexico. As some of my colleagues alluded to earlier, we have a serious problem happening in that country right now. The drug cartels are at war, for lack of a better term, with the Federal Government. As you mentioned earlier, there is a significant arms flow south out of our country in very advanced, very capable arms, including hand grenades, rocket-propelled grenades. You being a border Governor understand the great concerns that we have in the State of Texas.

What is the Department doing? Is there a contingency plan if things continue to deteriorate in Mexico and we see a massive influx of immigrants running away from a situation down there? Do we have a plan to address that and make sure our country is just not overrun in a very short time period?

Secretary NAPOLITANO. Yes, Congressman. A few things. Secretary Chertoff had developed a contingency plan, and I am looking at that and evaluating that, making sure that we can provide resources to State and local law enforcement in those border areas should we see that kind of flow-over of the drug war in Mexico at that level into the United States.

One of the things I am doing right now is making sure that we are actually physically talking with the sheriffs in those border counties. My experience is that the best intel sometimes in a border county is that local sheriff, and I am going to stay in regular touch with them to see what is happening on the ground in the border communities that may be related to the drug war in Mexico.

Then, as I said earlier, I think we need to all recognize that within the country of Mexico, the President, the Federal Government are really engaged in a serious, serious effort against these drug cartels. It is having a big impact on a level of violence within Mexico, and it is something that deserves our immediate attention right now.

Mr. OLSON. I thank you. Mr. Cuellar is not here, my colleague; his brother is a sheriff. I assume he would share your opinion of the border sheriffs. I just want to extend my invitation as well with Congress, my fellow Texans here, we would love to have you come down, tour the Ike area and go down to the borders.

Ms. HARMAN. Thank you, Mr. Olson.

Madam Secretary, I understand you have to leave in 15 minutes; is that correct?

Secretary NAPOLITANO. Well, you are the committee, but it would be helpful.

Ms. HARMAN. Well, if we could extend that just a bit. There are seven people who have not asked questions, and we will confine the questions and the answers to a strict 5 minutes so that everyone gets a turn. Would that work for you?

Secretary NAPOLITANO. That would be fine.

Ms. HARMAN. I appreciate that very much.

Ms. Richardson, another California woman on the committee, is recognized for a strict 5 minutes.

Ms. RICHARDSON. Thank you, Madam Chairwoman.

Madam Secretary, I was very encouraged when I read your hearing confirmation, your action directives. One of the things you talked about is the risk analysis, and the report says that you view determining the national priorities and taking judicious distribution of resources are a major element of the Department's mission. In fact, you said today, although we have many risks, we have to focus the broader impact, focus the analysis on risk that would result in an undue impact on this country.

My concern is, and part of why we have independent bodies and legislative separate, is we are going to hear a lot of people. I heard discussions today of land ports and all that, and that is fine, but there is only one port complex in this country that is No. 1, and that is the port complex in Long Beach and Los Angeles. There is only one port complex that is No. 3 in the world, and that is the San Pedro complex. If we are going to regain the trust and integrity that our President talked about, we have got to see—in your, as you call it, judicious distribution of resources, there has got to be a bigger difference between 1 and 2 percent of a cargo of a port that represents 45 percent of this Nation's cargo.

So my question to you is I like what I hear so far, but we really need that commitment that the view is not going to be that everything on the Christmas tree is of national significance. It might be important, it might be a risk, but it is not necessarily the No. 1.

Secretary NAPOLITANO. Well, as I said, there is risk everywhere, risks to life, mass casualties, always something to be taken into account; risk to trade, risk to basic infrastructure; risk to things like our gasoline supply system, our food supply chain and all the rest. But beyond that we have to be very—I will use the word “judicious” because that is what I wrote, but we really have to be very acute about risks that if they materialized would cause undue damages to lives, casualties, commerce and the like, and the ports. The port that you describe is a key critical port for our Nation. I look forward to perhaps coming out to tour the port, the port area with you so I can get a better scope of things, but clearly there are some things that require more attention than others.

Ms. RICHARDSON. We appreciate that.

Very briefly, the background in that port complex alone, if you have a dirty bomb that comes in, you talk about losing 3,000 people in 9/11, talk about half a million people in minutes? So when we talk about the things of the cargo, folks coming in, we have people who are coming in who are being smuggled in, and these are being

identified weekly, monthly. So we appreciate your interest, and we look forward to you coming.

The last part of my question has to do with interoperability. In your directives we as a Congress talked about the Office of Emergency Communications, which Congress felt was a focal point to be included in your Department. I can tell you right now we don't have local, State, and Federal Government that has a clear interoperable channel so that if a disaster happens, we can effectively communicate and effectively work together.

You do talk about radio technology in your material, but talk about your commitment of the Office of Emergency and Communications with interoperability.

Secretary NAPOLITANO. Well, OEC obviously requires a real focus, and it is also a key issue with our relationships with State and locals. I think we need a fresh look, and that is interoperability among whom; is it the police officer and the fire department who are responding, is it their commanders, is it higher up? Because I think one of the problems has been this paradigm that if everybody isn't interoperable all the time, you don't have interoperability. Who needs to be talking with whom and radio, but we also need to be looking at computer interoperability or intersection, so other areas as well.

So I intend to focus on this. This was a key frustration that I had as Governor. One of the things that I found was for emergency response situations, we had—for example, we used Homeland Security money to purchase vans that could be driven anywhere, and they were mobile communication vans, and they were a patch between different responders. I just saw one. I was in Kansas last week and saw some of those vans that were moved there, and I was in Kentucky and was moved there because Kentucky in its ice storms, they lost their telecommunication system. The vans were brought up and in hours were set up to provide that sort of coverage.

So I think we need to really look at some of these other methodologies that are available and say, okay, let's define what we mean by interoperability, and what technologies we can use, and whether we can do and get functional interoperability more quickly than what we have been given so far.

Ms. RICHARDSON. Thank you, Madam Secretary. You are a welcome sight.

Ms. HARMAN. Mr. McCaul of Texas, Ranking Member on the intelligence subcommittee, is recognized for 5 minutes.

Mr. MCCAUL. Thank you, Madam Chairman.

Madam Secretary, congratulations to you in your new position. I think you bring a wealth of experience to this job. I look forward to working with you.

Being a former U.S. attorney, State attorney general, Governor of a border State, I feel like I have something in common with you. I was a Federal prosecutor and worked in the AG's office and worked in Texas in a border State, so I think you have an appreciation for a lot of the same issues that we have.

I appreciate your comments about the intelligence eyes and ears on the ground being important, and that information coming back to the Federal Government is an important piece.

Second, last year I was Ranking Member on the cybersecurity subcommittee. We issued a report, a recommendation to the 44th President Mr. Obama. Let me say the appointment of Melissa Hathaway as the Cyber Director was a great choice. We look forward to working with you and her on that issue as well. I hope you will give that report that CSIS produced at least a read.

Two quick issues. Mexico. The Governor of my State just called today for 1,000 troops to be dispatched to the border. The violence has increased; over 5,000 deaths last year, more than Iraq and Afghanistan combined. It is a state of war. I congratulate, commend President Calderón for his efforts to bring the cartels to justice.

I hope you will consider, along with the merit initiative, also a funding on our side of the border for increased Border Patrol, ICE and the sheriffs that you alluded to, who I think provide a vital role. If you would like to comment on that in your response, I would love to hear that.

Last I would just like to mention Guantanamo. We had the first delegation down in Guantanamo since the Executive Order was signed to close the base. I know you were on the review committee. I want to give you my observations, and I hope you will take those to heart as you make this very difficult decision.

We did go down there. What we saw was, I think, similar to what the Pentagon's report issued pursuant to the President's order, and that was no evidence of torture. They were in compliance with the Geneva Convention, and the facility itself is probably better than most Federal prisons I have seen in the United States.

So having said that, we know in that facility there are some very dangerous people. In fact, the top al Qaeda leadership we know are down there, including Khalid Sheikh Mohammed. That gives me grave concern as we decide how to go forward with Guantanamo. I hope this administration will give careful consideration and exercise caution on the decision as to where to move these individuals. I am very concerned as a former prosecutor that some of these individuals could, in fact, get into—if they are moved into the United States, and they go through the Federal court system, the Federal Rules of Evidence would allow them to get released because of perhaps relying on intelligence information to prosecute or relying on confessions may not come into evidence, and then we would be stuck with a situation where some of the very dangerous actors would be released on to the streets into the United States. That is a result I would like to avoid. I know you share that concern, and I hope you take that into consideration as you weigh how to deal with that challenge.

Secretary NAPOLITANO. Well, yes, thank you, and pursuant to an Executive Order by the President, I am part of a review committee that is going case by case. As you recognized, there are some difficult decisions that need to be made with respect to the detainees in Guantanamo, and with respect to Governor Perry's call for troops, I look forward to speaking with him directly. I read about it as well in the clips.

In terms of what he is anticipating, is he asking for a renewal of Operation Jump Start, for example? Are there specific places he would like to see those troops placed as a backup to civilian law enforcement? We always, with the balance we are striking, and we

do not want to militarize the border, but what help does he think they can provide? So I look forward to talking to Governor Perry about that.

Mr. MCCAUL. Thank you.

Ms. HARMAN. Thank you very much.

The Chair now recognizes Mrs. Kirkpatrick, a new Member from Arizona, for 5 minutes.

Mrs. KIRKPATRICK. Thank you, Madam Chairman, and welcome, Secretary.

I know as Governor you made securing our border one of our top priorities, providing additional funding and even the help of the National Guard to address this issue. However, it seems like that has not been enough at the Federal level, and the situation at the border is actually getting worse. A recent report says that Arizona and other borders are seeing a record number of abductions, including Americans taken right out of their homes. Just last week several publications have reported battles using machine guns and grenades are being waged near the border, and that this may push north as well. We must do whatever we can to prevent this and minimize the threat as best we can. Now that you have the tools of the Federal Government at your disposal, how do you see your Department addressing this growing concern?

Secretary NAPOLITANO. Well, thank you, and again, it is a grave concern. It is at several levels. One is interaction with Mexican law enforcement, particularly the Federal Government of Mexico, and dealing—really addressing the fact that he has got a drug war on his hands, and it is a big one; second, looking Government-wide at what we can do to stop the southbound export of weaponry, particularly assault-type weapons and grenades being used in that drug war. The third is to stay in constant touch with local law enforcement, sheriffs and the like along that border, and should they identify gaps that they have or they see, to identify what we can do to help fill those gaps. Fourth is to have a contingency plan to deal with worst-case scenarios.

Mrs. KIRKPATRICK. Thank you, Secretary. I look forward to working with you on this committee.

Ms. HARMAN. I thank the Members for taking less time than is allotted. That is appreciated.

Mrs. KIRKPATRICK. We are brief and concise.

Ms. HARMAN. I appreciate that.

The very patient Mr. Souder of Indiana is recognized for 5 minutes.

Mr. SOUDER. I thank you for your patience today and for dealing with all the committees in Congress. One of the biggest challenges that you have is the day-to-day operation of your agency and that doesn't necessarily square with the reason why your agency was created. The Coast Guard is trying to get tipped-over sailboats and protect fisheries. The immigration is a huge thing to the border control and to ICE. FEMA is running around dealing with tornadoes, sometimes floods in my district. Yet the reason FEMA is in your agency isn't because of tornadoes and floods; it is there in case we have a catastrophe, because only Homeland could coordinate something like.

Coast Guard is there to interdict terrorists and narcotics and things related to terrorism. Border Patrol, and ICE, the same way. It is important that in what is perceived as a little bit of a back-pedaling on focus on terrorism, that doesn't turn into wholesale retreat and you are the only person. Even though my district is the No. 1 manufacturing district in the United States, each Silverado or Sierra pickup has 100 border crossings in Canada. That is the No. 1 responsibility of the Department of Commerce. You need to work with them, but at the table, if something happens like a 9/11 incident or something else, they will turn to you and say, what happened?

In our committee we need to make sure we back you up. That is the No. 1 reason the Homeland Security Department is to focus on terrorism in particular and not lose focus, even if everybody else in the whole country starts to lose focus, because it is our responsibility.

A couple of related issues that I raised some concerns here, and, as you heard, I am Ranking Member on Border with Congresswoman Sanchez. I am concerned that counternarcotics is not as much in the administration plans or some of the committee plans. We had 20,000 to 30,000 a year die because of illegal narcotics in the United States, or 160,000 since 9/11. You have the bulk of the agents who deal with this, Border Patrol, Coast Guard, and ICE; that these things, and meeting with President Calderón last week, and talking with him and the Attorney General about the guns and the narcotics and the kidnappings and the problems in Phoenix as well, Mexicali and over in Texas, these things are very interrelated, and counternarcotics is heavily focused in your agency.

Now, if you don't get enough time here to address my three questions, I would appreciate a written response of what your philosophy is toward: Are you committed to being even more aggressive in counternarcotics, especially since it is the No. 1 border violence issue, No. 1 domestic violence issue, and is largely the same groups as are doing other financing, terrorism, kidnapping and any kind of smuggling, because these different groups of cartels are controlling the different sections of the border?

Second question. You were supportive of the National Guard as Governor. You mentioned Operation Jump Start. We heard about Governor Perry's request. Do you support—because rumor is there is a hole here or there along the border, do you support using the National Guard along that border?

Third, the REAL ID Act has been one of the most critical parts of the ability to do intel tracking. If you don't know who the person is, if you can't sort that basic thing out, it is impossible to get good identification of who they are hooking up with, who needs to be monitored for what risk level. You expressed some concerns about the REAL ID Act in the past, and I would be interested in how you see that moving forward. Thank you.

Secretary NAPOLITANO. Thank you. In terms of counternarcotics, dealing with these drug cartels as they are organized in Mexico is really the organized crime fight of the Southwestern United States. That is how I dealt with it as a prosecutor in the U.S. Attorney's Office, and as an attorney general and Governor. You have to go after the money. Have to interrupt that chain of money that goes

in the millions of dollars back and forth with these cartels. You have got to go after the traffickers. You have to have the tools to work from the low level to the high level and try to interrupt and interdict their operations.

We have a demand-side issue on the United States side. The drugs are coming in because of demand for illegal drugs. I look forward to working with ONDCP, among others, to see what we can do about that particular problem. It is a supply issue and is also a demand issue.

With respect to the issue of terrorism, there is no one more conscious than I am about the reason for this Department, why it was stood up and what our fundamental responsibilities are. It is something that guides our decisions and actions every day.

With respect to REAL ID, the problems with REAL ID were several-fold. One is it was stood up without adequate consultation with Governors who actually deal with the nuts and bolts of how you handle driver's licenses. So there were a lot of just implementation issues. Second, there was no money put behind it, and it was budgeted, and it is very expensive to do. So what I am doing is working now with a group of the National Governors Association to say what can we do and should we do now, with the cooperation and consultation of Governors, of both parties I might add, to convert REAL ID into something that actually can happen on the ground and can happen on a real-time basis.

Ms. HARMAN. Thank you very much.

I hate to rush you or our questioners, but I am trying to accommodate.

Secretary NAPOLITANO. I will try to answer.

Ms. HARMAN. Three more people, starting with the very mild-mannered Mr. Pascrell of New Jersey for 5 minutes.

Mr. PASCRELL. Good luck to you. You had two good people before you, two competent people. The problem is that they very seldom presented things within the urgency of the time, and I suspect that that was driven by an administration that was not committed to the things that this committee was committed to on both sides of the aisle.

I am glad that you are supportive of a bottom-up intelligence, and I really support the U.K. model, which I think is important and critical, and rather than a top-down situation which we have experienced.

We have a very serious problem on the southern border, and I believe, having been to Mexico with the Chairman and dealing with these matters, there is no oversight, there is no enforcement, there is no urgency, and there are very little resources. It is very interesting that we did have the beginning of resources 2 years ago, and they were cutoff when they started to intercept weapons going from the States down to Mexico.

I want you to please think about that. I know we are not supposed to touch that issue on both sides of the aisle now, apparently we declared a recess, but people are getting killed, and it is affecting America. If we don't do something about that situation, then—I can picture someday that situation being equal to the murderers who are preparing themselves in Pakistan at the epicenter of terror.

So I want to talk to you about first responders, very close to my heart, obviously very close to your heart. Every year the previous administration would submit a budget to the Department—for the Department of Homeland Security that would literally gut or try to zero-out critical programs that deliver Homeland Security grants to local and State governments, to our brave first responders. Year after year this committee on a bipartisan basis would reject those cuts and have indeed increased the budget allocations for these grants. I am talking about the State Homeland Security Grant program; the Community-Oriented Police Services, COPS, program; the Staffing for Adequate Fire and Emergency Response, SAFER, Act; the grant program; the assistance to the firefighters grant program. I am very familiar with those, and I know you are, too. Every year the same situation, every year, without exception.

So, Madam Secretary, with President's Obama's overview budget plan coming out tomorrow, the overview of the budget anyway, can you commit to this committee right now that this administration will not try to gut or eliminate these vital and successful, successful grant programs that go directly to our local communities and first responders, circumvent the bureaucracies and anybody trying to take off from the top? Can you commit to this committee about that today?

Secretary NAPOLITANO. You will find no one more supportive of those grants than I am, and I can commit to you that we are operating under that assumption. One of the things I want to do and I will be happy to work with you on, I think now, particularly on some of the first responder grants that were used, for example, to purchase equipment, we need to be looking at what we are doing to fund sustainability, replacement, repairs, proper training of people to operate equipment. In other words, all of these efforts need to be part and parcel of the web and weave what we do for our homeland security not just this year, but moving on forward. Sometimes I fear that grant programs are not written or designed with long-term sustainability in mind. So as now the 4-week Secretary of Homeland Security, I will share with you that one of the things I am looking at is what are we doing to make sure that we are not just providing for the beginning of something, but really for its long-term success.

Mr. PASCRELL. In completion, Madam Chair, I wanted to say this: Before we spend any money, increase personnel anyplace, that we do what I think is suggested before, and that is have concepts in place and policy in place so it makes sense. I think this is what has gotten us in problems in the past.

Thank you so much, and good luck to you.

Secretary NAPOLITANO. Thank you.

Ms. HARMAN. Thank you, Mr. Pascrell.

Mr. Cao of Louisiana.

Mr. CAO. First of all, I would like to thank you, Secretary Napolitano, for being here. I am from the Second District of Louisiana, which comprises mainly of New Orleans and part of the west bank, and as you know, the district was very much devastated by Hurricane Katrina, and the district remains pretty much devastated 3½ years after Katrina. So one of my main concerns, obviously, is the rebuilding of the district. We have delved into the issues of effi-

ciency of FEMA and accountability at FEMA, so I am very much encouraged by your statement today about looking at the leadership and the transparency with respect to how FEMA operates.

We have done some investigations lately with respect to the TRO offices down in New Orleans, and we found some very serious problems there, allegations of cronyism, allegations of nepotism, of ethics violations, of significant equal employment opportunity abuses, of sexual harassment. I believe all of these issues interfere with the rebuilding of the district. I would like to know whether or not you are going to implement a system to oversee some of these offices and to hold, if these allocations are true, people accountable for these allegations.

Secretary NAPOLITANO. Well, I can't speak to those specific allegations, because that is the first I have heard of some of those, but we will obviously follow up. But, yes, my goal is to have a process in place by which the Gulf Coast can continue its rebuilding efforts by which we facilitate the resolution of disputed claims and by which we take and use the opportunity to have a fresh set of eyes to look at some of the disputes that have clogged up the system, as it were, to see what we can do to expedite people being housed, small businesses being restarted, and people's lives being restored to the extent possible. I will be traveling there, as you know, next week with the Secretary of HUD in part so that we can not only exchange information, but see with our own eyes what needs further to be done.

Mr. CAO. I would love to accompany you on your trip.

I have one more question with respect to the Stafford Act. Post-Katrina we have learned that the Stafford Act does not adequately address the issue of devastations with respect to—at the level of Katrina. Obviously maybe the Stafford Act might be adequate for smaller disasters, but at the level of Katrina, there are certain inadequacies and limitations to the Stafford Act. Do you have plans to review the Stafford Act and look at possible ways to amend the act in order to address disasters as large as Katrina?

Secretary NAPOLITANO. Once there is a new Administrator of FEMA, I think one of the things we would seek to do is not look at the Stafford Act, or not just look at the Stafford Act, but regulations, policies and procedures that have been layered up over time to carry out the Stafford Act. The goal obviously is to see what needs to happen so that—not just for the immediate emergency response, but really where the most complaints are now is in the long-term recovery area, and what needs to be done in terms of improving the process, the facilitation of long-term recovery for areas—it can be Texas, it can be Galveston, it can be the Gulf Coast—other areas that have been devastated by disaster.

Mr. CAO. Thank you very much.

Ms. HARMAN. Thank you very much.

Mr. Himes of Connecticut for 5 minutes.

Mr. HIMES. Thank you very much for being with us today. A couple of quick questions for you. I am very interested—I come from a State that doesn't have a county government, and so I am very interested to hear you expand on your comments about intraoperability and communications. It is a very serious issue for my first responders, fire, police, et cetera. I appreciated what you

said about being very precise about who is talking to whom and what we really mean when we are talking intraoperability.

I wonder if you could provide a bit more detail on how you were thinking or how the Department is thinking about intraoperability as it affects first responders, particularly in the areas of the country that don't have county or other regional structures.

Secretary NAPOLITANO. That is an interesting point. I didn't recognize that Connecticut didn't have counties.

Mr. HIMES. We do have counties, but there is no county government.

Secretary NAPOLITANO. You know, we live in a wonderful country, lots of variations here. Rather than give a premature answer, let me just say that as we put forward or really begin looking at, relooking at intraoperability, I would be happy to keep you and the committee apprised of our efforts.

Mr. HIMES. Thank you. I appreciate that. It really is sort of particularly sharp when we don't have regional governmental structures as we don't in Connecticut. I promise I am coming in under 5 minutes.

So my second question, it is my understanding you are reviewing the Department's efforts to implement the 100 percent maritime screening recommendations mandated by the implementing resolutions around the 9/11 Commission Act. Can you give us a sense of what you have learned so far and what you expect with respect to completing your review?

Secretary NAPOLITANO. Yes. As I already shared with the committee, I think the 2012 deadline for 100 percent screening is difficult, if not possible to attain given where we are in screening right now. There are many issues. For example, there are literally hundreds of agreements that would have to be reached with foreign countries to get to a 100 percent screening regimen.

That being the case, what I am doing is really looking at what needs to happen, how fast can it happen, and what it is going to cost to happen, and what is the value added to our security if it happens. How do we protect the lives and the people of the United States? I cannot give you a timeline of when that review will be complete. What I can tell you, I know it is a key concern of this committee, so I have asked a number of people to get involved in that so we can move it right along.

Mr. HIMES. Thank you, I appreciate that. I thank you on behalf of the other people in my district for taking this job. It is an enormous challenge, and hats off.

I yield the balance of my time.

Ms. HARMAN. Thank you very much, Mr. Himes.

Madam Secretary, let me point out on intraoperability the reason we are going through the DTV transition right now—some folks listening in may wonder why this is happening—is to free up analog spectrum, the 700 megahertz band, for a national intraoperable communications capability. As one from a State that has a lot of wildfires, I am not sure that that bridging technology you mentioned, which is the flatbed trucks with the ACU-1000 integrators, can get to the scene surrounding these fires in time given all the blockages. So we really do need, I believe, some additional bandwidth and some strategies beyond just the switching technology.

We can pursue it later. I have abused the time of two final Members. So let me first recognize Mr. Luján of New Mexico for 5 minutes.

Mr. LUJÁN. Thank you very much, Madam Chair.

Madam Secretary, it is great to see you again here. I can tell you as a Governor who has a certain appreciation for my great State of New Mexico, it is great to have you serving in your capacity and appreciate your commitment to public service.

Madam Secretary, I share the concerns of many of my colleagues with what is happening down in Mexico with the battles we are having with the drug cartels. I would ask you all to do not forget some of problems that we are also encountering in some of the boundaries of our sovereign nations around the country where they are seeing how they can exploit some of the laws to be able to traffic in those areas; and that we remember that when we are looking and we are bringing this, the support that we need, to the border, that we also include some of the leaders within our sovereign nations around the country as well.

The passion that my friend and colleague Mr. Pascrell shares for our first responders as well, to remember the work that they truly do when we make the distinction between FEMA and what our first responders do, that we do have the commitment that they get the resources they need. They not only keep us safe, but they get home safely to their families after they put their lives on the line on a daily basis.

I would like to shift to an area where I know that we have to pay some special attention as well with the multiple interdependent infrastructures that we depend on daily. A disruption of our transportation, energy, communication, health, or economic networks would threaten the stability of other networks around the country; of particularly notice, a vulnerability of the smart grid system transmission systems of the country communications and the cyber attacks that are seen on a daily basis.

Los Alamos National Laboratories, Sandia National Laboratories in my home State have leveraged existing research and development activities to establish the National Infrastructure Simulation and Analysis Center. The NISAC utilizes simulation previously known, but unknown in some areas, but in a secure, scientific computing environment to discover previously unknown relationships to develop insights about possible infrastructure vulnerability. The center will also help policy makers like us to prepare for disasters or terrorist attacks, but would also help first responders gauge the extent of the damage as the incident was on-going.

We heard today concerns about—concerns that we have with areas that are prone to natural disaster and where we can make sure that we have some technology that exists today to be able to fully deploy it. I was curious, Madam Secretary, if you could comment on your plan about protecting our electric grid from cyber attacks, what we will be doing in a specific area, and if your Department has considered how it plans to implement the NISAC program?

Secretary NAPOLITANO. Yes, thank you. New Mexico, of course, is the State I grew up in, so I have a lot of fondness for your State and your district.

In terms of the protection of the grid, this goes to the larger question of protection of infrastructure, and we saw it in dramatic fashion 3 weeks ago in Kentucky where the ice storm took out the electric power for almost 50 percent of the population and the total communications network because and the towers all buckled under the ice. We did use the mobile trucks there, by the way. I wasn't suggesting they be an exclusive solution, but they are part and parcel of what we really need with the broadband.

One of the things we are working on—and this is where we need greater connectivity with the private sector. They own these utilities. We need to work together on a protection plan. Where some of this computer modeling is helpful is not just in terms of protection, but in terms of consequence identification and management so that we can better prepare our first responders and so forth, because sometimes the consequences themselves are inordinately complicated and involved, many layers of the private sector and the public sector and the like. That is an area we will very much be pursuing. We will pursue it through the National Planning Office that you all have helped build in the Department.

Mr. LUJÁN. Thank you. Madam Secretary, our time is short, and I look forward to hearing you later on this week on some other issues that we will have a chance to discuss. I know we have so much phenomenal research that is taking place in laboratories across the country, some of which is being tested in airports. You mentioned Albuquerque, where we have some technology which is currently on a trial run which is a scanning machine that adapts magnetic resonance imaging techniques to identify concealed liquids and substances. I want to encourage you that we take advantage of this research technology as we work to protect our Nation. Thank you.

Ms. HARMAN. Thank you, Mr. Luján. Just so Members are alerted, votes are coming up in 10 minutes, and we have one more questioner, Ms. Lofgren from California, one of four California women on this committee.

Secretary NAPOLITANO. Wow.

Ms. LOFGREN. Welcome, Madam Secretary. I come from Santa Clara County. You, I am sure, already know people in Santa Clara County are quite thrilled with your appointment. The University of Santa Clara is especially proud that you are where you are. I look forward to working with you on the many, many issues that the Department faces.

I want to raise one issue today, and I don't expect that you will necessarily know the answer, because I just found out about it, and you may not know about it either. Although immigration policy and nonborder enforcement are primarily the jurisdiction of the Judiciary Committee, I want to raise it here today to avoid having another appearance by you or someone else.

The Constitution and the Immigration Nationality Act, as you know, requires that the Government have a reasonable ground to suspect that a person is not in the United States legally before that person is detained, and there has been concern that that requirement has not always been adhered to in the past number of years. Yesterday—and I think this is the first time this has happened since the Obama administration—I am advised by reports as well

as the Seattle Times that ICE agents did raid a small company in Bellingham, Washington. Seventy-five ICE agents in riot gear at 9 a.m. raided the plant and detained 126 workers, most of them United States citizens, and held them for a number of hours.

I am concerned about obviously we need to enforce our laws, no one disagrees with that, but there is concern that Americans have repeatedly in the past years been held in some cases for 10 and 11 hours against their will, and it does not seem to comport with the requirements of the law or the Constitution. So if you have something to say on that now, I would welcome it. If you want to research it, I would certainly understand, but I would hope to get some information about that specific instance and what our efforts are going to be to make sure that as we enforce the law, we also live within the law.

Secretary NAPOLITANO. Yes. I was briefed about that action early this morning, and I did not know about it beforehand, so I have asked a number of questions about what was the predicate for this. Now, there are a lot of different allegations going around: Was it 70, 40 or 30; what they wearing? There were earlier allegations that helicopters were used. They were not. But I want to get to the bottom of this as well, so I have already issued those directives to ICE to get me some answers.

Let me just close with this: In my view, we have to do workplace enforcement. It needs to be focused on employers who intentionally and knowingly exploit the illegal labor market. That has impacts on American workers, it has impacts on wage levels. It often has undue impacts on the illegal workers themselves. Our ICE efforts should be focused on those sorts of things. We should really have thought through the prosecutions that are going to result and the deportations that will result after any sort of work force action. That is the direction we seek to move.

Ms. LOFGREN. Let me mention quickly two other items—I know you have other obligations, and we have a vote coming up—and they really have to do with three things; No. 1, the national infrastructure protection. I will tell you now, you don't have to agree, the list is inadequate, and in order to adequately protect our infrastructure, we really need to have a map of what it is and also what vulnerabilities there are for cascading failures across that infrastructure. We don't have it and never had it.

I am just hoping that as you move forward in this very important job, there are tremendous resources mentioned by Mr. Luján in the national laboratories to assist, and Lawrence is one of them, as well as the lab in New Mexico which has them. I have talked with them and worked with them, and they are way ahead of what our Department is on some of this and are a wonderful resource. I wanted to mention that to you, as well as in the cybersecurity area where we have tremendous vulnerabilities, and we, in my judgment, are not nearly where we need to be.

A final note, I am so concerned, and you mentioned it, about the arms flowing south into Mexico. We have met with members of the Mexican Congress, with the Attorney General of Mexico. I mean, they are at a point where the very existence of civil society and government at Mexico is at risk. I think as a priority for our Department—I mean, ICE has jurisdiction also over that. I can't

imagine the refugee crisis that will be at our door if we don't do a more effective job of cutting off the flow of arms. So I look forward to working with you on that.

Ms. HARMAN. Thank you very much, Ms. Lofgren.

I would like to thank Secretary Napolitano for staying an extra half-hour to accommodate Member questions and Ms. Titus of Nevada for foregoing her questions in the interests of promptly wrapping up and anticipating the next vote.

Let me observe, as one Member here said, "She's a well-trained lawyer, but she can speak to the general public." Those are usually inconsistent activities. As a lawyer myself, I would observe that. We appreciate the fact that you came ready to answer a range of questions and that you have a lot of other issues under review. This will be an on-going process.

Sorry, Mr. Green, we are closing down the hearing.

But if the committee has additional questions for you, we would ask you to respond expeditiously in writing to those questions. I assume that would be fine.

Having no further business, the committee stands adjourned.

[Whereupon, at 1:18 p.m., the committee was adjourned.]

APPENDIX

QUESTIONS FROM CHAIRMAN BENNIE G. THOMPSON OF MISSISSIPPI FOR THE
HONORABLE JANET NAPOLITANO, SECRETARY, DEPARTMENT OF HOMELAND SECURITY

Question 1. This committee has had many discussions with GAO about obstacles it faces when it attempts to meet with DHS employees and obtain files and records necessary to carry out its oversight mission. Will you examine the policies put in place by your predecessor and assure that GAO will be able to have the kind of access it needs?

Answer. The Department of Homeland Security (DHS) is committed to creating openness in Government to ensure the public trust, and establish a system of transparency, public participation, and collaboration. In DHS' first quarter report to Congress, the Department provided a document to GAO within 20 days on average 79 percent of the time. For scheduling interviews within 7 days, DHS was 95 percent. The Department values its work with GAO and is committed to improving our timeliness and to operate in a transparent manner. The Department will continue to work toward improving our performance.

Question 2. This committee has closely watched the procurement and contracting practices at the Department. Can you explain what you will do to increase transparency and accountability in the contractor selection process?

Answer. The Department of Homeland Security (DHS) follows the requirements set forth in the Federal Acquisition Regulations (FAR) which ensures transparency and accountability in the contractor selection process to the maximum extent practicable without jeopardizing proprietary information. DHS uses Federal Business Opportunities extensively to disseminate Requests for Information and Draft Requests for Proposals (RFP). The Department solicits industry feedback holding Industry Day seminars and Pre-Proposal Conferences to ensure requirements are communicated early in the process and the criteria for evaluation are articulated clearly to all offerors. During the selection process, the Contracting Office ensures the evaluation and selection is conducted in accordance with the established procedures and follows the same evaluation criteria presented to the offerors in the RFP. As required by the FAR, both successful and unsuccessful offerors are afforded the opportunity for a debriefing on the strengths and weaknesses of their proposal against the evaluation criteria. Finally, in the event a protest is filed, DHS follows the applicable procedures outlined in the FAR to ensure a fair review of the procurement and selection process.

Question 3. While the Department has met its small and disadvantaged business goals, reviews by this committee and others have found circumstances that call these numbers into question, such as large companies posing as small businesses and double-counting small disadvantaged businesses. While this is a Government-wide problem, have you considered actions at the Department that will not only create more opportunities for small, minority-, and women-owned businesses, but will provide more accurate numbers on the actual utilization of these companies?

Answer. The Department of Homeland Security (DHS) is aware of the issue, and follows the Government-wide guidelines for small business contract reporting as outlined by the Small Business Administration (SBA) which is reflected in the Federal Procurement Data System (FPDS) small business goaling report. DHS will continue to work with SBA on accurate procurement data for all small business categories. The Office of the Chief Procurement Officer (OCPO) will conduct a special oversight review of FPDS data this fiscal year, including an examination of the small business data fields. Additionally, the Office of Small and Disadvantaged Business Utilization performs spot checks on FPDS data during the year. The OCPO will continue collaboration with the component contracting activities to identify opportunities for small, minority-, and women-owned businesses through acquisition planning, small business market research, and cooperation with the SBA.

Question 4. In January OPM released the results for its 2008 Federal Human Capital Survey. The survey showed that the Department is ranked among the “most improved” in Leadership and Knowledge Management, Results-Oriented Performance Culture, Talent Management, and Job Satisfaction. While these trends are generally heading in a positive direction, there is still much room for improvement. For example, a review of the Department’s Equal Employment Opportunity data reveals a lack of minority representation in various civil service categories, especially the Senior Executive Service. What measures will you take to improve these numbers to achieve a work force that is more reflective of the American public?

Answer. Last year, the Department of Homeland Security (DHS) established a high-level Diversity Council and issued a Department-wide Diversity Strategy. The Council is supported by a multi-component subcouncil, co-chaired by executives from the Department’s Office for Civil Rights and Civil Liberties and the Office of the Chief Human Capital Officer.

The Human Capital Strategic Plan for Fiscal Year 2009–2013 includes diversity as one of four human capital strategic goals. This goal identifies specific actions DHS plans to take to enhance the diversity of its work force, as well as accountability for diversity. To that end, all DHS executives’ performance evaluations include a rating as “Diversity Advocates”. This is the third rating cycle for this competency, and last year DHS issued illustrative guidance on how to effectively rate performance in this area. DHS is currently in the process of identifying diversity initiatives, best practices, and challenges across the Department. Later this year, we plan to establish a DHS Diversity Advisory Forum composed of external stakeholders to advise the Department on our Diversity plans, initiatives, and efforts.

As an example, the Office of the Chief Human Capital Officer, in collaboration with the established Councils, is working to identify ways to create career paths for DHS employees across Components. Through this effort, DHS can provide opportunities for employees to transition from one DHS Component to another, e.g., Transportation Security Officer (TSO) to Customs and Border Patrol Officer (CBPO).

In the Senior Executive Service (SES), DHS’ strategy is two-fold; recruiting a more diverse candidate pool of high performing individuals, and enhancing current leadership development programs. In the area of recruitment, DHS is pursuing partnerships with organizations such as the African American Executive Association, the National Association of Hispanic Federal Executives, and the Asian American Executive Network to augment recruitment efforts. In the area of leadership development, the Department is expanding executive “feeder” programs such as the SES Candidate Development Program and the DHS Fellows Program.

QUESTION FROM THE HONORABLE PETER A. DEFazio OF OREGON FOR THE HONORABLE JANET NAPOLITANO, SECRETARY, DEPARTMENT OF HOMELAND SECURITY

Question. I am interested in your views on the TSA prohibited items list, the methodology used to determine what is prohibited, and whether you will initiate an inquiry into whether the prohibition on pocket utility tools from the passenger areas of commercial aircraft remains appropriate.

Answer. With regard to methodology, the Transportation Security Administration (TSA) periodically reviews the Prohibited Items list based on the evolving aviation security environment. Improvements made regarding airline cockpit security and other countermeasures enacted since the 9/11 tragedy have provided opportunities to adjust the list of threat objects relevant to the current environment. TSA will continue to consider the Prohibited Items list when analyzing changes in the security risk and implementing improvements in the layers of security.

Currently, TSA allows tools 7 inches or smaller on-board aircraft but has continued to prohibit knives of any length, including small knives contained in pocket utility tools. If a passenger has checked baggage, an always-available option is to place the pocket utility tool inside the checked baggage, where it is not prohibited. TSA continually works with our international partners to ensure that security rules and procedures are as consistent as possible. In that light, the International Civil Aviation Organization approved a revision to its guidelines for prohibited items that recommends allowing the carriage of small knives (blades shorter than 6 cm or 2.36 in.). While the United States is interested in a standardized approach to prohibited items with our partners around the world, any changes must be made with the full input of our security partners.

TSA will continue to work with Congress, other Federal agencies, and airline flight crew organizations on this issue. TSA will keep Members of Congress and the traveling public informed of any changes to the Prohibited Items list.

QUESTIONS FROM THE HONORABLE HENRY CUELLAR OF TEXAS FOR THE HONORABLE
JANET NAPOLITANO, SECRETARY, DEPARTMENT OF HOMELAND SECURITY

Question 1a. Madame Secretary, it is noted that none of the action directives include the Office of Emergency Communication which Congress created to be the focal office responsible for emergency communications in the Post-Katrina Emergency Management Reform Act of 2006.

Can we expect an action directive to address this vital issue?

Answer. While not its primary focus, my action directive on State, local, Tribal, and territorial integration included interoperable emergency communications outreach efforts. Although I have not at this time issued an action directive focused specifically on comprehensive emergency communications efforts, as I stated during my testimony, I am taking a close look at interoperability, the role of the Office of Emergency Communications within the Department, and other key aspects of this critical issue.

Question 1b. Do you have any plans to elevate or move the Office of Emergency Communication within the Department to reflect the Department's commitment to improving the emergency communications for the Nation's first responders?

Answer. The Office of Emergency Communication is committed to fulfilling its statutory mandate to support and promote the ability of emergency response providers and relevant government officials to continue to communicate in the event of natural disasters, acts of terrorism, and other man-made disasters.

Question 2a. Madame Secretary, nearly 8 years have passed since the tragic attacks of 9/11 and 3 years since the devastating storms of Hurricane Katrina. Despite efforts made by Congress, I remain very concerned by the various components at the Department that have indirect and direct influences on interoperability issues.

Can you explain to the committee how you intend to streamline interoperable emergency communications issues at the Department and within the Federal Government?

Answer. This question exemplifies why I initiated my Department-wide Efficiency Review Initiative. As part of this review, the Department is examining the common mission space on emergency communications across a number of Department of Homeland Security (DHS) components. This review will include an assessment of how DHS can better implement Congress' intent for the Office of Emergency Communications (OEC) to coordinate improved interoperable emergency communications capabilities Nation-wide.

OEC is committed to fulfilling its statutory mandate to support and promote the ability of emergency response providers and relevant Government officials to continue to communicate in the event of natural disasters, acts of terrorism, and other man-made disasters. The Office works closely with its DHS partners, including the National Communications System, the Federal Emergency Management Agency (FEMA), the Science and Technology Directorate, and the Office of Policy, as well as with partners across the Federal Government, to present a unified interoperable emergency communications policy. Through the National Emergency Communications Plan (NECP), released in July 2008, the Department has identified a clear strategic plan to improve emergency communications Nation-wide. The NECP lays out 92 specific milestones designed to achieve three overarching goals:

- *Goal 1.*—By 2010, 90 percent of all high-risk urban areas designated within the Urban Areas Security Initiative (UASI) are able to demonstrate response-level emergency communications within 1 hour for routine events involving multiple jurisdictions and agencies.
- *Goal 2.*—By 2011, 75 percent of non-UASI jurisdictions are able to demonstrate response-level emergency communications within 1 hour for routine events involving multiple jurisdictions and agencies.
- *Goal 3.*—By 2013, 75 percent of all jurisdictions are able to demonstrate response-level emergency communications within 3 hours, in the event of a significant incident as outlined in national planning scenarios.

Additionally, I would like to highlight the Emergency Communications Preparedness Center (ECPC). Congressionally mandated by Title XVIII of the Homeland Security Act of 2002, as amended, this interagency group will be critical to increasing coordination and reducing duplication of effort by the 11 Federal departments and agencies that are members of the ECPC. The ECPC Charter is currently undergoing final leadership review prior to the Center's stand up.

Question 2b. Can you detail for the committee your understanding of day-to-day and operational interoperable emergency communications means?

Answer. Interoperability is defined in the National Emergency Communications Plan (NECP) as the ability of emergency responders to communicate as needed, on demand, and as authorized at all levels of government and across all disciplines. Re-

sponders need this capability for all levels of incidents, from day-to-day/routine incidents (e.g., Customs and Border Protection coordination with local law enforcement on an arrest at the border, and local police and emergency medical services personnel responding to a traffic accident) to significant natural or man-made incidents (e.g., Federal/State/local response to a major natural disaster or a terrorist incident). Although much work remains, through the NECP the Nation has made significant progress toward this capability.

Question 2c. Can you explain your understanding of which component at the Department is in charge of interoperability when the first responder community needs technical assistance and guidance from the Federal Government?

Answer. The Office of Emergency Communications (OEC) provides Nation-wide strategic planning and policy, coordination, and technical assistance across all levels of government. Additional Departmental components have responsibility for addressing specific aspects of the interoperability challenge, including:

- *Science and Technology Directorate, Office for Interoperability and Compatibility.*—Supports emergency communications research, development, testing, evaluation and standards.
- *National Communications System.*—Ensures resilient, continuous, and secure telecommunications for National Security/Emergency Preparedness leadership.
- *Federal Emergency Management Agency.*—Provides tactical and operational support to temporarily restore communications when commercial and private communications systems are impaired during disasters.

Question 2d. Can you reassure this committee that the Department will honor Congress' intent to elevate the importance of operability and interoperability both at DHS and throughout the Federal Government?

Answer. Yes. I look forward to working with Congress on these key interoperable emergency communications policy issues, including the most effective means of meeting these challenges within the Department and with our Federal partners.

STATE, LOCAL, AND TRIBAL COORDINATION

Question 3a. Secretary Napolitano, as former Governor of Arizona you understand that all disasters are local. In fact, you stated during your Senate confirmation hearing that, "the Federal Government can not do homeland security alone."

Can you explain your philosophy on how the Department intends to better integrate State, local, and tribal governments in preparing for, planning, and response to a catastrophic disaster along the Northern and Southern borders?

Answer. As a former Governor of a Border State, I understand the vital role that State, local, Tribal, and territorial (SLTT) entities play in preparing for, responding to, and recovering from catastrophic disasters—both natural and manmade.

Successfully integrating SLTT input into the policy process will be imperative for improving the cooperative and collaborative partnership between the Department and SLTTs. If the Federal Government needs to address a catastrophic incident, these partnerships will be essential.

I issued multiple Action Directives to a number of Department entities specifically to gauge how Department programs and components gather SLTT input and determine the status of this effort. I am in the final stages of reviewing the information gathered in response to these Action Directives. Once I complete my review, I will determine the direction of the Department's efforts to ensure better integration of our State, local, Tribal and territorial partners.

The Department is currently working on both a Southern and Northern Border Strategy. The DHS Office of Intelligence and Analysis (I&A) is assessing and analyzing the threat Mexican Drug Trafficking Organizations pose to the border. I&A is working closely with its sister agencies within the Intelligence Community (IC) and other Federal, State, local, and tribal partners to share the most current information and analysis. Customs and Border Protection Headquarters and field offices are coordinating with the IC and other Federal, State, local, and tribal partners, to maintain situational awareness along the U.S. Southwest Border.

To that end, I have directed the Office of Operations and Planning (OPS) along with the Customs and Border Protection, Immigration and Customs Enforcement (ICE) and other components to revise the current Contingency Plan for the Southwest Border, which will result in key changes to its critical considerations, assumptions, mission statement, and essential tasks. OPS and the Components will work with the Office of Intergovernmental Programs and the Office of State and Local Law Enforcement (SLLE) to conduct outreach with the Department's critical State, local, and tribal stakeholders along the Southwest Border. In addition, I've sent the Assistant Secretary for SLLE, Ted Sexton, down to the border, to go through that

plan and make sure we have their input. Our outreach will ensure that our State and local partners are fully engaged in Southwest Border plans.

Question 3b. How do you intend for the Office of Emergency Communications to implement the Border Interoperability Demonstrations Projects, as authorized in Pub. L. 109-295?

Answer. The Office of Emergency Communications (OEC) is working with Customs and Border Protection, the Department of Commerce, and the Federal Communications Commission to implement the Border Interoperability Demonstration Projects. OEC will conduct a competitive application process to select and enter into cooperative agreements with a minimum of six border communities to improve interoperable communications along the border.

As a result of the Border Interoperability Demonstration Projects, selected communities will benefit from improved interoperability, and the approaches used will serve as repeatable models for other border communities to achieve greater interoperability with domestic and international agencies. OEC will document and share lessons learned, best practices, and guidance tools for establishing cross-border interoperability.

Question 3c. What metrics do you plan to implement to assess the effectiveness of the homeland security grant dollars are funneled to States, local, and tribal governments?

Answer. The metrics for building and assessing capabilities—including a communications capability—are set forth by the National Preparedness Guidelines and accompanying Target Capabilities List (TCL). The 37 existing capabilities under the TCL cover prevention, protection, response, and recovery mission areas for all hazards. Each capability includes a definition and target outcome, a listing of the major capability activities, and a series of tasks and performance measures for each activity.

Efforts are currently under way to update the TCL to be more measurable, risk-based, and user-friendly. The Federal Emergency Management Agency (FEMA) is working closely with the FEMA Disaster Operations Directorate, the Department of Homeland Security (DHS) Office of Emergency Communications, and the DHS Science and Technology Directorate to update the communications capability and measures in accordance with the metrics set forth in the National Emergency Communications Plan.

The TCL is used to help synchronize the goals and management of the preparedness programs, including grant programs. For example, applicants under the Homeland Security Grant Program are required to indicate in their investment justifications how their requested projects will help achieve one or more of the capabilities. Applicants are also required to indicate how requested projects further one or more of the eight national priorities set forth in the National Preparedness Guidelines.

The Cost-to-Capability Analysis Program is currently under development to gain a better understanding of how grant dollars are being spent by capability and to ascertain the return on investment of grant dollars toward capability goals. The Comprehensive Assessment System is also under development to provide a more holistic picture on the state of national preparedness by capability, to include the grant investment data supplied by the Cost-to-Capability Analysis program.

FEMA: IN OR OUT

Question 4a. On February 11, 2009, you received a memo from the Department of Homeland Security's Inspector General that concluded that FEMA should remain at DHS. Specifically, Inspector General Skinner noted that "removing FEMA from DHS at this point would cause considerable upheaval, to both FEMA and the department." At your confirmation hearing before the Senate Homeland Security and Governmental Affairs Committee and then again at the February 25 hearing before the House Committee on Homeland Security you testified that you have not yet spoken to the President concerning whether FEMA will remain at the Department.

When do you plan to meet with the President to specifically discuss FEMA's future within the Department? (Please provide a date.)

Question 4b. What is your position on Chairman Obestar's bill (H.R. 1174) to remove FEMA from the Department? Please detail in your response the impact of removing FEMA from the Department.

Question 4c. Will the memo from the Inspector General provide some guidance on your recommendation to the President?

Question 4d. What is your assessment of the action directives that you have received to date as it relates to FEMA's critical role within the Department?

Question 4e. There are those who continue to argue that FEMA cannot respond to both acts of terrorism and natural disasters. Can you explain why FEMA, situ-

ated within the Department, strengthens DHS' capability to respond to any type of catastrophic incident?

Answer. DHS officially began its operations in March 2003, when 22 Federal agencies, including FEMA, were merged. Since this time, FEMA has been positioned as a vital component of our homeland security and emergency management infrastructure. The DHS mission is to prevent and deter terrorist attacks, and protect against and respond to threats and hazards to the Nation. Our Nation faces threats from both natural and man-made sources; therefore DHS takes an all-hazards approach to emergency management that allows us to respond effectively to all emergencies. FEMA is an integral part of the Department's all hazards response.

I am currently in the process of reviewing the Inspector General's memorandum on FEMA and the FEMA-related action directive responses I have received to date. These sources will inform the discussion I have with the President on the status of FEMA.

QUESTIONS FROM THE HONORABLE BILL PASCRELL, JR. OF NEW JERSEY FOR THE HONORABLE JANET NAPOLITANO, SECRETARY, DEPARTMENT OF HOMELAND SECURITY

Question 1. As a member of both the Ways & Means Committee that handles trade and this committee which handles port security I have made it one of my top priorities to ensure that not only are our ports secure but that we do not do so at the price of strangling commerce—I firmly believe that is a balance we can achieve. To that end, I am concerned about the misclassification of goods coming into the United States. The need for importers to correctly classify their goods according to the Harmonized Commodity Description and Coding System is essential for revenue, regulatory and security compliance, yet the quality of commodity data submitted to Customs and Border Patrol (CBP) remains poor.

According to the CBP, commodity code classification errors result in \$1 billion a year in lost revenue due to duty underpayments. This is a significant amount—especially in light of our current economic and budgetary situation—but I fear that aside from the loss of revenue, the security implications of this are enormous. After all, we need to know precisely what is coming into the country—if we do not, we are simply putting ourselves at greater risk.

Unfortunately, we have seen that CBP's resources devoted to monitoring compliance have declined. In 2007, CBP officers conducted approximately 68,000 post-entry compliance examinations, representing just 0.06 percent of the estimated 100 million import entry lines submitted per year.

It seems to me that an issue of this magnitude cannot be resolved by simply increasing the numbers of CBP officers.

Has the CBP looked into specialized technology designed to flag substandard reporting and Commodity Coding errors? My understanding is that such technology exists and is being used by other governments to great success. Why not us? The misclassification of goods coming into the United States is a serious problem, and I would like to know what CBP is doing to remedy this situation.

Answer. Customs and Border Protection's (CBP) estimate of undercollections is about \$400 million annually, with a trade compliance rate of about 98 percent, as estimated by our Entry Summary Compliance Measurement Program. This estimated undercollection represents about 1.09 percent of all duty and tax payments made to CBP. Many of these errors are due to misclassification, but this estimate also includes many errors related to anti-dumping and countervailing duties, as well as false claims for trade preference programs.

CBP would like to clarify that it conducts hundreds of thousands of compliance reviews each year, in addition to employing many other tools and programs to address this estimated underpayment such as enforcement analysis and targeting, operations and responses to allegations, hundreds of audits on larger companies, partnerships with trusted importers, and mechanisms such as prior disclosure. These functions are performed by many "revenue" positions within CBP including International Trade Specialists, Regulatory Auditors, Account Managers, Import Specialists, and Entry Specialists. CBP applies risk principals to prioritize this work to direct limited resources to the highest risk areas. One of those principles includes the identification of trade issues that cause significant revenue loss. Currently, CBP concentrates on seven priority trade issues; one of which being revenue. The goal of the revenue priority trade issue (PTI) is to maximize collection efforts by ensuring strong controls over the revenue process and by focusing on material revenue risks. CBP's strategic approach to trade recognizes the sheer volume of millions of entries and the 100 million entry lines transmitted each year, but takes into account an annual estimated compliance rate of 98 percent for all import transactions. The balance between facilitating legitimate cargo and focusing enforcement on the areas of

highest risk through a multilayered approach is the cornerstone of CBP's trade strategy.

Question 2. Under the new "10+2" initiative, importers are required to submit an HS Code to Customs prior to export so that CBP's automated targeting systems can assess risk. The HS code may be a very good targeting element, but only if you can rely on its accuracy. What is Customs doing to insure that the HS codes that are being reported under 10+2 are accurate?

Answer. The "Importer Security Filing and Additional Carrier Requirements" Interim Final Rule became effective on January 26, 2009. CBP is currently in a 1-year delayed enforcement mode in order to provide the trade sufficient time to adjust to the new requirements and in consideration of the business process changes that may be necessary to achieve full compliance. However, since the effective date, CBP has already received in excess of 200,000 Importer Security Filings (ISFs) containing more than 600,000 harmonized tariff schedule (HTS) codes.

CBP chose to require the 6-digit HTS code as one of the security filing elements because it more accurately reflects the nature of the items that are being imported into the United States versus the data received under the customs manifest requirements. Additionally, the importing community is already legally required to provide the HTS code as part of the entry requirements.

CBP has taken great care to ensure that the HTS codes provided as part of the ISF are accurate. When an ISF is submitted, CBP's automated system checks to see if an HTS code has been provided as part of the filing. If an HTS code has not been provided, the system will reject the filing. Additionally, CBP's system also checks to see if a provided HTS code is actually valid. If a provided HTS code is invalid, the system will reject the filing.

- To date, less than 1 percent of the total ISF filings have been rejected due to a missing or invalid HTS code.

Also, the ISF Importers are required to update their ISF filings if more accurate information becomes available or there are changes to the information prior to vessel arrival in the United States.

- To date, the HTS codes have been changed less than 1 percent of the time.

As CBP enters the full compliance mode after January 26, 2010, the trade community will have a very strong motivation to provide the correct HTS data as part of the ISF. The trade community is aware that CBP will be comparing the ISF data with the corresponding manifest and entry data for validation purposes. Data that clearly does not match will be flagged for further review, and any number of corrective actions can be taken to ensure future compliance.

Question 3. Next year, the 2010 Olympics and Paralympics will be held in Vancouver, British Columbia. Given the Games' proximity to the United States, can you tell us what the Department of Homeland Security is doing to ensure safe travel and border transit for international visitors and the residents of the Pacific Northwest? Specifically, is the Department investing in coordination, training, and exercise efforts for emergency officials and first responders? Do communities and their first responders—both Federal and local—have sufficient interoperable communications equipment to effectively work with one another? How can we help prepare the Department, Washington State, and local community officials for the security requirements of this historic event?

Answer. The Department of Homeland Security, U.S. Customs and Border Protection (CBP) has identified several land border ports of entry in the State of Washington which CBP believes will have the most direct impact related to the 2010 Winter Olympic/Paralympics Games. CBP expects to see an impact and increase in vehicular traffic at the ports of Blaine, Lynden, and Sumas. Additional workload increases are also anticipated at the CBP's Preclearance Ports of Vancouver and Victoria, British Columbia, Canada.

CBP projects a 25 percent increase in cross-border traffic over typical summer volumes. Temporary duty (TDY) officers/agents will be deployed along the land border ports of entry and between the ports of entry identified above and at the Preclearance ports of Vancouver and Victoria. These resources will: Supplement existing resources; ensure that anticipated workload challenges and mission critical objectives are met; and, assist in mitigating excessive wait times.

Specifically, CBP plans to temporarily assign staff and personnel to be deployed to support primary and secondary processing of vehicles entering the United States through specific ports of entry along the border in the State of Washington. CBP staff assigned to ports of entry will focus on increasing inbound Privately Owned Vehicle (POV) processing capacity and enhancing port of entry security.

Additionally, CBP is planning to enhance its posture between ports of entry by utilizing Border Patrol Tactical (BORTAC) and Border Patrol Search Trauma and Rescue (BORSTAR) support for incident response capability and medical support.

CBP will focus resources on enhanced border enforcement, intelligence and the Interagency Border Enforcement/Intelligence Team (IBET/IBIT).

CBP plans to provide a flexible/responsive aviation law enforcement force during the games by the interdiction of low and slow flights of interest perceived as suspect. Additionally, it will provide aviation support to Federal, State, and local partners in tactical airlift, video downlink and maritime patrols. CBP will also provide a flexible/responsive marine law enforcement force during the games with the interdiction of maritime suspects and/or non-compliant vessels if encountered. CBP will support other Federal, State, local and tribal partners in officer/prisoner transport, covert vessel support, surveillance and overt maritime patrols.

As a key stakeholder, CBP continues to work closely with the Planning and Operations Workgroups within the Olympic Task Force Security Committee to help in the development of Standard Operating Procedures for a 2010 Olympic Coordination Center (OCC). Located at the CBP facility in Bellingham, Washington, the OCC will facilitate the coordination and synchronization of Federal, tribal, State, local, private sector and Canadian security partners and resources in an effort to provide a safe, secure Washington State and northern border region in conjunction with the 2009 World Police and Fire Games and the 2010 Winter Olympics/Paralympics Games. DHS will be integrated into the overall USG intelligence and security construct on both sides of the border.

CBP will use the National Incident Management System's (NIMS) Incident Command System (ICS) to enable effective incident management. The OCC will have a communications center that will be the gateway for phone and radio communication. A Communications Officer will route calls appropriately, monitor radio communication, and significant events.

The OCC will be staffed and operational immediately prior to the opening ceremonies, through the closing ceremonies of the 2010 Winter Olympic/Paralympics Games in Vancouver. The OCC will coordinate the information-sharing, situational awareness, and activities of Federal agencies to support State and local agencies that may be impacted by the 2010 Winter Olympic/Paralympics Games. The opportunity to test interoperable communications and provide training on various protocols and procedures will be during the 2009 World Police and Fire Games schedule in Vancouver, Canada between July 31 and August 9, 2009.

Due to the proximity of the 2009 World Police and Fire Games venues to the U.S. border, serious public safety and security issues may have an impact on the Pacific Northwest. It is anticipated that calls for service and emergency notifications will continue to be handled by established methods through established protocols unless the incident or event expands beyond regional geographic or political boundaries. When an Olympic-related event expands beyond CBP boundaries, the OCC will facilitate communications and resource acquisition in order to assist CBP in getting what is needed to manage the event or incident.

CBP has participated in several operations-based exercises to date. Specifically, these exercises have given CBP an opportunity to evaluate proposed and current concepts, plans, and capabilities for responding to incidents near the Canadian border in Whatcom County, Washington during the 2010 Winter Olympic/Paralympics Games.

Exercise Silver, a functional exercise to rehearse/practice plans and procedures was held at Camp Murray, Washington in February 2009. Exercise Silver tested and identified gaps in current capabilities and focused efforts on identifying and developing priority capabilities and tasks for the participating entities. The exercise provided an opportunity to measure and validate performance of capabilities and associated critical tasks in:

- (1) Planning;
- (2) Communications;
- (3) Intelligence and Information Sharing and Dissemination;
- (4) Information Gathering;
- (5) Incident Management;
- (6) Emergency Operations Center Management;
- (7) Weapons of Mass Destruction (WMD) and Hazardous Materials Response; and,
- (8) Citizen Evacuation/Emergency Public Information and Warning.

Additionally, CBP participated in a Canadian 2010 Olympic Preparation Exercise Series. The Canadian Government, through Public Safety Canada, requested the U.S. Government's assistance to ensure that exercises are realistic and have appropriate meaningful interaction with U.S. counterparts. The FEMA/National Exercise Division (NED) briefed the NEP Executive Steering Committee (ESC) on the Canadian request. The NEP ESC approved the establishment of an Interagency Working Group (IWG) to plan and organize U.S. exercise support for exercises.

CBP's participation as a member of the Interagency Working Group (IWG) to support Canada's exercise was accomplished through a pool of Subject Matter Experts (SMEs). The SMEs were prepared to advise Canadian exercise participants through the Department of State on CBP capabilities and procedures for garnering assistance, and policies for employing resources. The primary mission of the SME pool provided exercise participants with timely and accurate information on, and awareness of, CBP support/coordination mechanisms, policies and procedures for garnering assistance, and reasonable expectations of CBP response timelines and logistical considerations. The secondary mission of the SME pool will be to discuss, coordinate, and document U.S. response mechanisms and capabilities for a variety of scenarios, some of which the Canadian exercise may not address. The IWG helped gain mutual understanding of capabilities and procedures that could be brought to bear in the event of a real-world incident.

CBP has taken measures to assure communication connectivity with Federal, State, and local government agencies. CBP continues to develop an Integrated Federal Support Plan for the 2010 Winter Olympic/Paralympics Games designed to ensure a detailed security and public safety concept of operations (CONOPS) is communicated with all stakeholders.

A CBP Public Affairs Officer (PAO) will maintain contact with OCC staff. The PAO will coordinate with agency staff to ensure a coordinated flow of information.

CBP will take steps to ensure passengers and cargo will be able to cross the U.S./Canadian border with minimal impact due to the 2009 Police and Fire Games as well as the 2010 Winter Olympic/Paralympics Games. CBP will continue to assess and evaluate plans which clearly define roles and responsibilities to assure interoperability and address the inherent challenges while preparing for the Games.

In addition, the DHS Science and Technology Directorate's Command, Control, and Interoperability (CCI) Division is preparing to loan prototype Multi-Band Radios (MBR) to the State of Washington and the Province of British Columbia in May/June 2009 for an initial testing and evaluation of the radios. The MBR enables emergency responders to communicate with partner agencies—regardless of the radio band. Also, CCI has initiated coordination with the Washington State Interoperability Executive Committee, the Pacific Northwest National Laboratory, northwest emergency responders and Canadian government agencies for potential technology pilots in support of security during the games.

Question 4a. The Department's procurement and acquisition offices have long been understaffed—something not unique to DHS, but a fact of life across the Federal Government. What steps are you taking, or do you envision taking over the next 6 months, to improve the procurement processes at both the Department and its components?

Answer. The Department of Homeland Security (DHS) continues improvements to the acquisition work force, improvements in managing its programs, and strengthening specific contracting functions. DHS will on-board approximately 50 additional interns to the Acquisition Professional Career Program (APCP) during fiscal year 2009 to bring the enrollment to 100 participants. Improvements in managing our programs focus on the implementation of Directive 102-01 (Acquisition Management). This Directive replaces Management Directive 1400, and provides an enterprise framework for consistent and efficient Departmental management, support, review and approval of DHS acquisitions as they progress through the development and deployment life cycle. By the end of fiscal year 2009, DHS will conduct more than fifteen Acquisition Review Boards for major programs in accordance with the new Directive. To administer this Directive, the Office of the Chief Procurement Officer (OCPO) has staffed the Acquisition Program Management Division (APMD) and the Cost Analysis Division (CAD) with experienced and highly regarded acquisition professionals from across the Government. During fiscal year 2009, there will be an increased emphasis on better planning of acquisitions to ensure DHS defines its needs and enters into sound business deals. In addition, the Department will continue emphasis on contract pricing, which includes providing training and expert consultation in analyzing contractor proposed costs and prices. In addition, the procurement oversight program will be expanded to include special reviews of key areas such as Time and Material (T&M) contracts and performance-based contracting. The findings of these reviews are anticipated to lead to recommendations that will yield savings through better and more efficient contracting processes.

Question 4b. Are there any specific targeted efforts to bolster the professional program management ranks within DHS and its components?

Answer. DHS is taking multiple steps to bolster the program management ranks within the Department and across components. At the entry level, the Acquisition Professional Career Program (APCP) is being expanded beyond a contracting focus in the fourth quarter of fiscal year 2009 to include technical disciplines. Approxi-

mately 25 percent of the APCP billets allotted to the program will focus on the other acquisition career fields including program management, systems engineering, test and evaluation and logistics.

In order to ensure that the acquisition career fields that comprise the program offices have the requisite knowledge, skills, and abilities to successfully execute the DHS mission, the Department is aggressively pursuing the expansion of the definition of the DHS acquisition work force and the development of professional certification programs for each additional career field. From the inception of the Department through fiscal year 2008, the DHS acquisition work force was defined as: contracting specialists, program managers, and contracting officers technical representatives. Beginning in fiscal year 2009, three additional career fields have been established, and efforts are underway to develop professional certification programs for the following fields: Test and Evaluation, Logistics, and Business Cost Estimating and Financial Management. DHS anticipates the launch of the Systems Engineering career field and certification program beginning in fiscal year 2010.

A third area of focus is the enhancement of the centralized acquisition work force training program to target training to those specific competencies associated with the technical career fields. DHS is partnering with the Defense Acquisition University to customize currently validated certification training by incorporating DHS policies and processes. The centralized acquisition work force training program ensures consistency of training across all of DHS and ensures transferability of professional certifications with Defense counterparts as well as Civilian Agencies.

The Department has also taken steps to increase the number of experienced Program Management staff in APMD. Once on-board, these additional experts will expand APMD's ability to provide assistance to DHS programs, in parallel with strongly supporting the Department's governance processes for major acquisitions.

An additional effort that has been launched is the Coding of Acquisition Billets and Certification levels of individuals filling those positions. Knowing how many positions are in the acquisition work force and analyzing the skill sets of personnel occupying those billets is the first step in being able to effectively manage the acquisition work force. In partnership with the Office of the Chief Human Capital Officer, OCPO is testing the use of the existing National Finance Center database to code and track the acquisition work force and requisite training requirements.

Question 5. Last summer the Department announced the opening of a new high-tech National Intellectual Property Rights Coordination Center, which includes ICE and CBP resources to counter the global threat of intellectual property rights violations. Unfortunately, we have not seen much attention generated by the center's activities. In addition, while thousands of new agents and officers have been added and allocated to ICE and CBP, none have been given IP-specific portfolios? Can we get a commitment that intellectual property protection—both physical counterfeiting and on-line piracy—will be a priority for the Department, ICE, and CBP? Will you consider designating agents and officers to specifically deal with intellectual property issues? What type of outreach can we expect to the private sector, especially those in industries most impacted by intellectual property violations?

Answer. The Department of Homeland Security (DHS) is committed to protecting intellectual property rights (IPR) through both criminal and administrative enforcement actions. The National Intellectual Property Rights Coordination Center (IPR Center), led by U.S. Immigration and Customs Enforcement (ICE), focuses on criminal cases, while U.S. Customs and Border Protection (CBP), as the agency primarily responsible for U.S. border enforcement, maintains a robust administrative IPR enforcement program.

CBP has a dual mission of improving security and facilitating legitimate trade and travel—which includes protecting America's businesses, consumers and national security from the harms of counterfeiting and piracy. IPR enforcement is a top trade enforcement priority for CBP. Both the number and value of DHS IPR seizures doubled in the last 5 years. In fiscal year 2008, DHS again achieved record-breaking results with 14,992 IPR seizures totaling \$272.7 million in domestic value, an increase of 38 percent by value from the previous year. CBP addressed more than 90 percent of these IPR violations through seizure and destruction of the infringing goods and issuance of penalties. CBP refers potential criminal cases to ICE and the IPR Center, and CBP staff at the IPR Center provides targeting (selection of shipments for inspection) support for criminal cases.

Personnel throughout CBP work together in an integrated IPR enforcement process to protect American industries impacted by IPR violations. Within its Office of International Trade, CBP has dedicated international trade specialists in the IPR Policy and Programs Division and the IPR National Targeting and Analysis Group, as well as attorneys in the IPR and Restricted Merchandise Branch. This dedicated staff of IPR experts provides expertise and guidance on IPR enforcement to officers

in ports of entry. Dedicating IPR expert personnel at each port of entry would limit CBP's flexibility to deploy resources and staff to respond to changing threats and priorities, and may also result in less IPR enforcement generally as individuals ports may focus only dedicated expert personnel to the task of IPR enforcement rather than utilizing all CBP officers trained to assist with enforcement efforts.

Last year, CBP established an IPR subcommittee under the Commercial Operations Advisory Committee (COAC), which provides industries affected by IPR violations a forum for discussing IPR issues and providing advice and recommendations on IPR enforcement. CBP is in daily contact with rights owners regarding sharing of information to improve interdiction of counterfeit goods and training of officers to identify IPR infringing goods. CBP has created web-based tools, e-Recordation and e-Allegations, to make it easier for the private sector to provide information on protected trademarks and copyrights and to report suspected violations to CBP. Since the launch of e-Allegations in June 2008, more than 150 allegations of suspected IPR violations have been reported to CBP. In addition, CBP recently placed a link on its web site to assist the private sector in requesting IPR speakers from CBP.

The IPR Center, which was dedicated in July 2008, is a multi-agency partnership that brings together core investigatory components to combat intellectual property crime. Participating agencies include U.S. Immigration and Customs Enforcement (ICE) and U.S. Customs and Border Protection, with the Department of Commerce, Health and Human Services' Food and Drug Administration, the FBI and the U.S. Postal Inspection Service. The IPR Center has three units: Operations, Programs, and Outreach & Training (OUT). Current staffing consists of 37 ICE special agents, criminal research specialists, and related support staff augmented by six special agents and officers from ICE's partner agencies. In addition, although not a formal partner, the Department of Justice, through the Computer Crime and Intellectual Property Section, has provided substantial support to the IPR Center's development and currently is working with the IPR Center on a number of on-going investigations. ICE plans to increase staffing at the IPR Center by an additional 19 special agents and criminal research specialists. These added personnel will bring staffing to 56 designated special agents. The dedication of the IPR Center and the increase in staff is an acknowledgement by ICE that IPR crime is one of the major threats facing the United States and that it has been recognized as a priority for ICE.

The IPR Center's OUT is extremely active with both the public and private sectors. Since July 2008, the OUT has, under the auspices of Operation Joint Venture (Joint Venture), engaged in partnerships with public and private sectors to combat the illegal importation and distribution of hazardous, substandard and counterfeit goods, as well as prevent the evasion of lawful duties. Through these partnerships, the IPR Center provides information and identifies leads and contacts to foster IPR Center enforcement initiatives, IPR and other commercial fraud investigations. Through Joint Venture, the OUT has achieved the following milestones related to outreach to the private sector:

- OUT has conducted 172 outreach and training events.
- In September 2008, OUT trained 24 domestic ICE agents to serve as local Joint Venture points of contact and presenters. These agents will serve as a force multiplier to augment the OUT's staff in conducting the various events.
- The OUT is publishing a quarterly newsletter, the *IPR Report*, to highlight cases, trends, and events being conducted by the IPR Center and its partner agencies, and will also include articles submitted by industry and foreign law enforcement counterparts.
- The OUT has developed a new video being used at outreach and training events to highlight the IPR Center, its initiatives, and interactions with public and private sectors both domestic and international.
- The OUT is planning another session to train additional Joint Venture points of contact in both domestic and international ICE offices. This training event will include a day of interaction with private industry to update industry on the status of the IPR Center and enable the industry representatives to interact with the points of contact.
- The OUT has initiated an advertising campaign, initially targeting three industry sectors, to provide information and contact information for the IPR Center to enable information sharing and reporting of alleged infringements.

IPR CENTER STATISTICS

	Fiscal Year 2007	Fiscal Year 2008
IPR/Commercial Fraud Cases Initiated	1,395	1,385
IPR/Commercial Fraud Arrests (TOTAL)	416	446
IPR/Commercial Fraud Indictments	241	189
IPR/Commercial Fraud Convictions	232	214
IPR/Commercial Fraud Seizures (by count)	1,128	1,290
Industry Presentations	95	130
Law Enforcement Training	204	254

In its field offices, ICE does not assign agents to specific investigative program areas. Each Special Agent in Charge (SAC) allocates resources based on the threat within their area of responsibility. ICE agents target criminal violators in all ICE programmatic areas and strive to levy criminal charges whenever possible in order to send a strong message of deterrence.

We note that within DHS, CBP is specifically responsible for enforcing IPR laws on tangible goods crossing U.S. borders while ICE enforces laws related to on-line piracy in addition to investigating criminal counterfeiting and piracy of tangible goods.

QUESTION FROM THE HONORABLE JAMES A. HIMES OF CONNECTICUT FOR THE HONORABLE JANET NAPOLITANO, SECRETARY, DEPARTMENT OF HOMELAND SECURITY

Question. Madam Secretary, I am interested in your views on the TSA-prohibited items list and the methodology used to determine what is prohibited. Currently, TSA allows 7-inch tools, scissors with pointed metal blades up to 4 inches in length and knitting needles of all sizes but prohibits small pocket utility tools. Would you support ending the ban on small tools?

Answer. With regard to methodology, the Transportation Security Administration (TSA) periodically reviews the Prohibited Items list based on the evolving aviation security environment. Improvements made regarding airline cockpit security and other countermeasures enacted since the 9/11 tragedy have provided opportunities to adjust the list of threat objects relevant to the current environment. TSA will continue to consider the Prohibited Items list when analyzing changes in the security risk and implementing improvements in the layers of security.

Currently, TSA allows tools 7 inches or smaller on-board aircraft but has continued to prohibit knives of any length, including small knives contained in pocket utility tools. If a passenger has checked baggage, an always available option is to place the pocket utility tool inside the checked baggage, where it is not prohibited. TSA continually works with our international partners to ensure that security rules and procedures are as consistent as possible. In that light, the International Civil Aviation Organization approved a revision to its guidelines for prohibited items that recommends allowing the carriage of small knives (blades shorter than 6 cm or 2.36 in.). While the United States is interested in a standardized approach to prohibited items with our partners around the world, any changes must be made with the full input of our security partners.

TSA will continue to work with Congress, other Federal agencies, and airline flight crew organizations on this issue. TSA will keep Members of Congress and the traveling public informed of any changes to the Prohibited Items list.

QUESTIONS FROM THE HONORABLE LAMAR SMITH OF TEXAS FOR THE HONORABLE JANET NAPOLITANO, SECRETARY, DEPARTMENT OF HOMELAND SECURITY

WORKSITE ENFORCEMENT

Question 1a. I am extremely concerned about the perceptions that have been created in the aftermath of DHS's worksite enforcement operation in Washington State. The Hill quoted you as telling the Hispanic Caucus that you had "grave concerns" about the manner in which the action was carried out. The pro-amnesty advocacy group FIRM stated that "the day after the raid, after thousands of calls into the White House and meetings on the Hill, Janet Napolitano called for an investigation into the raid . . . We yelled and the administration answered."

What sort of message does this send to ICE officers simply trying to do their job and enforce the immigration law?

Question 1b. That their bosses in Washington will not support them for doing their jobs effectively?

Answer. Since the formation of the agency in 2003, U.S. Immigration and Customs Enforcement (ICE) has developed a comprehensive work site enforcement strategy utilizing all the tools available to disrupt and deter those employers who make it their business practice to knowingly hire undocumented workers. This strategy has raised employer awareness to the importance of complying with the Nation's immigration laws and serves as an overall deterrence to illegal immigration.

ICE continues to advance the multifaceted approach that prioritizes those employers connected to the Nation's critical infrastructure. In these cases, ICE seeks to immediately remove unauthorized workers from having access to sensitive facilities and then address how the alien gained access to the facility through the investigation of the employer. The ICE strategy also focuses on egregious employers who knowingly hire undocumented workers as a business practice. Investigations of egregious employers may take weeks, months or years to complete and are complex in nature. Also, ICE has issued guidance to all field offices which revised the development of an administrative fine investigation and further emphasized its importance as a tool against egregious employers of unauthorized workers.

Question 2a. Since the Washington State enforcement action, how many requests for authorization for other worksite enforcement actions have you received from the field?

Question 2b. How many have you approved?

Question 2c. Why should headquarters have to sign off on every operation?

Question 2d. Isn't this micromanagement?

Question 2e. Doesn't this send the message that headquarters is discouraging worksite enforcement?

Question 2f. Don't you run the risk of creating the perception that political factors may be influencing law enforcement decisions?

Answer. Worksite operations, like other law enforcement operations conducted by DHS components, are reported to my office. Additionally, ICE policy requires that each SAC office report any planned Worksite Enforcement (WSE) operation to ICE Headquarters (HQ) prior to the planned activity using an ICE reporting module. This report is a notification and not a request for approval. SAC offices are required to assess all planned WSE operations to determine if the operation's scale requires coordination at the ICE HQ level through the HQ WSE Unit. Some factors requiring HQ coordination include: WSE operations involving suspect employers who have multiple worksite locations through the United States; WSE operations involving employers involved in critical infrastructure, or who may produce items that affect national security or military readiness; and/or WSE operations involving worksites with significant economic impact to a geographical area.

Question 3a. I applaud you for wanting to focus on employers who hire illegal immigrants. Keep in mind, however, that critics of worksite-enforcement operations often complain that complicit management officials are too often not arrested. These critics fail to understand that illegal workers have to be arrested first and interrogated for the Government to build up sufficient evidence against management officials to sustain their arrests and indictments. Usually, those who knowingly hire illegal workers are not charged until after the media frenzy over a worksite raid has faded. Many management officials have been criminally charged following up on enforcement operations.

How do you plan on targeting employers if you first don't build evidence by arresting illegal workers?

Question 3b. Are you proposing that ICE agents simply ignore the presence of illegal workers and allow them to continue to break the law?

Answer. Investigations of egregious employers may take weeks, months, or years to complete, are complex in nature and often involve undercover activity, surveillance, witness/informant development, enforcement actions, record checks, and subpoena material to establish probable cause and consultation with the U.S. Attorney's Office (USAO) for plea negotiations and/or trial.

In some cases, arrested unauthorized/illegal workers provide critical information after a worksite enforcement action that is later used to pursue criminal as well as civil charges against the employers. Investigative steps and techniques are coordinated with the Department of Justice to ensure sufficient evidence is developed to ensure the Government's burden of proof is met.

Additionally, ICE agents make arrests and exercise prosecutorial discretion on custody conditions, on a case-by-case basis, when they encounter unauthorized workers to ensure that evidence from witnesses is obtained and preserved for trial.

Question 4a. A prime example of the lack of priority given to enforcing the law against employing illegal immigrants is that the total hours worked by investigators

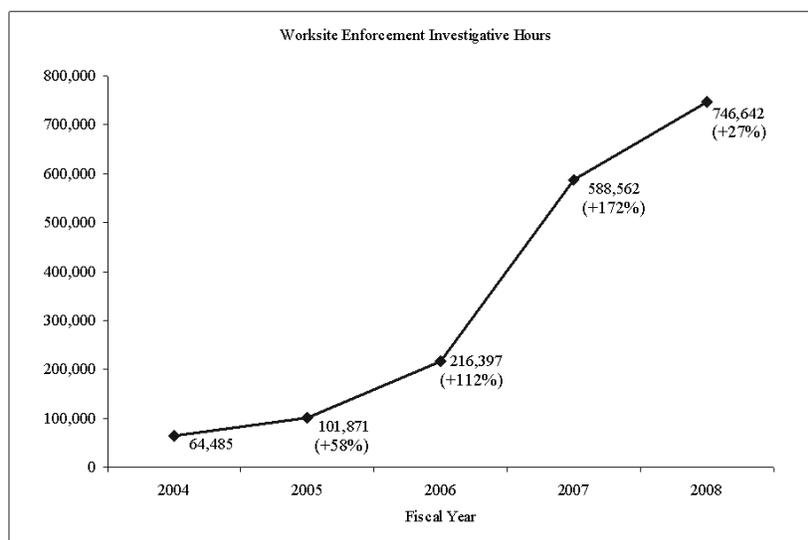
on employer sanctions cases fell from almost 714,000 in 1997 to 135,000 in 2004, a drop of 81 percent.

Has the time DHS puts into these cases since recovered to anywhere near the earlier levels?

Question 4b. Will the administration's 2010 budget contain any increase in the number of ICE agents dedicated to worksite enforcement?

Answer. Since 2004, the amount of investigative hours that ICE Office of Investigations has dedicated to enforcing the law against employing illegal immigrants has risen each year, with the hours totaling 746,642 in fiscal year 2008. The chart below shows the amount of hours performed and the percent increase for each fiscal year.

Since the President's budget has not been released, it would be premature to comment on the 2010 budget proposal.



BORDER FENCE

Question 5a. The "Secure Fence Act" required DHS to gain "operational control" of the southwest U.S. border. As a means of gaining "operation control," the bill required over 800 miles of fencing. The rise in border violence makes this fencing more important than ever to prevent unauthorized access to the United States. Completion of the border fence will help reduce illegal immigration, thus saving American jobs for U.S. citizens and legal workers, and will help prevent violent Mexican drug cartels from transporting drugs and violence across the border.

How much pedestrian fencing is currently in place along the southwest U.S. border? What are the locations of that pedestrian fencing?

Question 5b. How much vehicle fencing is in place along the southwest U.S. border? What are the locations of that vehicle fencing?

Question 5c. What are your plans to complete the more than 800 miles of southwest border fencing required by the "Secure Fence Act?"

Answer. As of March 6, 2009, DHS has completed 611 miles of fence along the southwest border (301 miles of vehicle fence and 310 miles of primary pedestrian fence). The border fencing is located in strategic locations along the southwest border from Imperial Beach, California through Brownsville, Texas. The pedestrian fence is located within Border Patrol Sectors San Diego, El Centro, Yuma, Tucson, El Paso, Marfa, Del Rio and Laredo and Rio Grande Valley. The vehicle fence is located within five Border Patrol Sectors (San Diego, El Centro, Yuma, Tucson and El Paso).

Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended by the Secure Fence Act of 2006 and the Consolidated Appropriations Act of 2008 requires DHS to construct—in the most expeditious manner possible—the infrastructure necessary to deter and prevent illegal entry on our

southwest border, including pedestrian and vehicle fencing, roads, and technology. As amended, the Act mandates the completion of 700 total miles of fence. It also mandates that the Secretary identify priority areas “where fencing would be the most practical and effective in deterring smugglers and aliens attempting to gain illegal entry into the United States.” As of March 6, 2009, DHS has completed approximately 611 of the 661 miles of fence identified by the Border Patrol as priority areas. While fencing remains an important tool in achieving effective control, it is only one element of our overall border security strategy that incorporates the proper mix of technology personnel, and tactical infrastructure. Currently, there are no immediate funded plans to construct additional fencing.

Question 6. Some persons and organizations along the border are philosophically opposed to a border fence. Should we give veto power over the placement and construction of a border fence serving the national interest to such local persons and organizations?

Answer. The Department of Homeland Security’s decisionmaking process pertaining to the placement and construction of border fence is directly linked to a comprehensive National Border Patrol Strategy that protects against and prevents terrorist attacks and other transnational crimes between the ports of entry. Border fence and related tactical infrastructure is one critical piece of this strategy that also requires the right complement of technology and personnel to achieve effective control of our Nation’s borders.

There are four main factors that DHS uses to determine fence location: (1) Initial Border Patrol operational assessments; (2) engineering assessments, which include the cost to construct; (3) environmental assessments; and (4) input from stakeholders. Initial operational assessments by Border Patrol identify locations where fence would provide the “persistent impedance”—the continuous and constant ability to deter or delay illicit cross-border incursions—necessary to achieve effective control of the border. However, input from local communities and organizations are always considered during the planning process and accommodated when possible without jeopardizing operational integrity. These consultations with communities and stakeholders and the partnerships with State and local governments work toward minimizing the adverse impacts on the local communities. This type of input is critical in the fence placement decision process.

To ensure threats and vulnerabilities are addressed, Border Patrol Sector Chiefs are best qualified to make informed decisions on fence deployment. Local persons and organizations do not have awareness of ever-changing law enforcement sensitive threat and vulnerability assessments necessary in resource deployment decisions. Based on the aforementioned, DHS cannot support giving veto power to external entities over the tactical deployment of border fence.

Question 7. At a Homeland Security Committee hearing last year, Border Patrol Chief David Aguilar stated that he was “absolutely not” satisfied with the progress of virtual fence construction at the Project 28 site. The “Secure Fence Act” requires physical fencing, not virtual fencing. Given the enormous setbacks with the virtual fencing at the Project 28 site, isn’t it a waste of American taxpayer dollars to continue to push for virtual fencing?

Answer. Technology is an important component of border security, and is most certainly not a waste of American taxpayer dollars. Although some refer to technology as a “virtual fence,” technology does not have the persistent impedance capability of a real fence. It does, however, provide timely and accurate information that allows for more efficient determination for response requirements. Technology includes sensors, command and control systems, and communication resources, and is a powerful force multiplier with the capability to provide the situational awareness that is a precursor to effective control. Sensors can “watch” the border continuously, guided by appropriate command and control systems. These systems can also help sort the data coming from sensors in order to provide adequate time for responders to quickly access the most critical information. With accurate information to identify and classify illicit incursions, agents have many more options regarding how and when they will respond to the incursion. Improved communications capability also supports U.S. Customs and Border Protection’s (CBP) response forces by ensuring agents can be properly directed and coordinated.

Pursuant to Section 2(a) of the Secure Fence Act, Public Law 109–367, 120 Stat. 2638 (October 26, 2006), the Department of Homeland Security (DHS) has worked to meet the requirement of providing “systematic surveillance of the international land and maritime borders of the United States through more effective use of personnel and technology, such as unmanned aerial vehicles, ground-based sensors, satellites, radar coverage, and cameras and physical infrastructure enhancements to prevent unlawful entry by aliens into the United States” In accordance with this requirement, DHS has adopted a border security strategy that incorporates the

effective mix of personnel, technology and tactical infrastructure to secure the Nation's borders. This approach recognizes that the most important border security assets are CBP's frontline personnel. To assist frontline CBP personnel with their border security mission, force multiplier tools, i.e. technology and infrastructure, are essential to improving the effectiveness and safety of these agents and officers.

Question 8. So far, only 32 miles of double fencing have been built along the entire southern border. How many miles of double-layer fencing will DHS build along the border? Hasn't double-layer fencing been extremely effective at slowing down illegal border crossings in San Diego?

Answer. Currently, DHS has no plans to erect additional double layer (secondary fence) along the border. Border Patrol continues to assess all threats and vulnerabilities at both the local and national levels. Secondary fence will continue to be an enforcement tool option in certain situations and operational environments; however, it is not operationally necessary—or effective—in other environments. San Diego Sector has experienced operational gains as a result of the deployment of tactical infrastructure, technology, and personnel. These are all components of an enforcement model that provides the U.S. Border Patrol with the capacity to detect, identify, classify, respond, and bring events to an acceptable law enforcement resolution.

E-VERIFY

Question 9a. On June 6, 2008, President Bush signed Executive Order 12989, which directed Federal agencies to require that Federal contractors use E-Verify to ensure the employment eligibility of their employees. The final rule for implementation was published on November 14, 2008 and was scheduled to take effect on January 15, 2009. Final implementation of Executive Order 12989 has subsequently been postponed until May 21, 2009.

On and after May 21, 2009, will Federal contractors be required to use E-Verify to ensure the employment eligibility of their employees?

Question 9b. Why did President Obama postpone the final implementation of the rule implementing Executive Order 12989?

Question 9c. What, if any, changes are planned to the rule implementing Executive Order 12989?

Answer. The regulations remain under review within the administration, but currently provide that they will become applicable to Federal contractors on May 21, 2009. The E-Verify program has invested significant resources in efforts to prepare for compliance with the rule.

The administration wanted an adequate opportunity to review the rule before it became applicable to Federal contractors to ensure that the rule provisions are appropriate within the context of the new administration's procurement and immigration enforcement policies.

The administration is currently reviewing the rule and will announce any changes to the rule once that review is completed.

Question 10a. I am glad to see that the President's budget for 2010 calls for dedicating \$100 million for E-Verify.

Does this signal that the new administration's commitment to the E-Verify program?

Question 10b. Will you ask the Senate Democrats to allow for a multi-year or permanent extension?

Question 10c. How can employers engage in long-term planning if they do not know if E-Verify will exist a month from now?

Answer. When I was Governor of Arizona, I signed into law a mandatory requirement for all employers to use E-Verify. Reducing unauthorized employment is crucial for controlling the problem of illicit migration. E-Verify holds real promise as a central element in effective immigration enforcement that combines border efforts with interior measures.

On January 30, 2009 I issued an Action Directive on Immigration and Border Security that includes a request for an assessment of the E-Verify program. I am currently reviewing that assessment.

DHS supports reauthorization of the E-Verify program in its current state.

With sufficient system improvements to guard against false negatives and false positives, to ensure an effective monitoring and compliance unit, to ensure effective outreach to the U.S. work force, and to address workplace rights and remedies for U.S. citizens and work authorized aliens, and to ensure that the Social Security Administration is funded and staffed to adequately process walk-ins who seek to correct tentative non-confirmations and to make necessary system upgrades, I would be open to proposals to require the use of E-Verify by employers throughout the

United States. I will work with agency leaders to ensure it meets those expectations as we work to build a reliable system ensuring that employers hire legal workers. Originally set to expire in 2001, E-Verify has been extended four times. Given its history, the fact that it is a free and easy-to-use system, and that an average of over 1,000 new employers sign up to use the system every week, it is probable that E-Verify will continue to exist and grow as demand for system use and capabilities increases.

Question 11. What is the status of DHS's lawsuit against the State of Illinois for its statute prohibiting Illinois employers from using the basic pilot program?

Answer. On March 12, 2009, the U.S. District Court for the Central District of Illinois granted the Federal Government's motion for summary judgment, declaring the Illinois statute invalid on the grounds that it violates the Supremacy Clause of the U.S. Constitution. The Court further issued a permanent injunction prohibiting the State of Illinois from enforcing its statute. The State of Illinois has 60 days to file an appeal.

DATA SHARING

Question 12. Does it frustrate you that the Social Security Administration and the Internal Revenue Service have information at their fingertips that could greatly assist DHS in enforcing our immigration laws and they don't, or claim that they can't, share it with you?

Will you urge the administration to rewrite regulations as necessary to allow for the sharing of information?

Answer.

- The Social Security Administration has been sharing information with DHS to support its immigration initiatives through the Basic Pilot (E-Verify) program since the program's inception, as mandated by the statute. DHS is currently working with the Social Security Administration to improve this data sharing initiative. We recognize that collaboration in data sharing efforts could assist the Department in certain immigration programs and other people screening purposes. However, we must ensure that data sharing contains appropriate privacy protections and redress procedures.
- With respect to Internal Revenue Service (IRS) information, USCIS would benefit from having access to certain IRS taxpayer information when making immigration eligibility decisions, e.g., determining whether a U.S. business sponsoring an employment-based immigrant meets the requirements for financial feasibility (ability to pay wages) or legitimacy (proof of existence), or whether an employer registering for E-Verify is, in fact, a legitimate entity. However, under Section 6103 of the Internal Revenue Code, the IRS is not authorized to disclose taxpayer information to USCIS absent consent from the taxpayer to the IRS directly.

SOCIAL SECURITY NO-MATCH LETTERS

Question 13a. On August 14, 2007, DHS published the final rule regarding a new process relating to Social Security no-match letters. The rule proposed, as a "safe harbor" for employers, steps to be taken when they receive a no-match letter from the Social Security Administration. The rule was to take effect on September 14, 2007, but litigation by the AFL-CIO and the ACLU stalled the rule's final implementation. In March 2008, DHS issued a supplemental rule addressing concerns raised by the Federal court.

Is DHS still seeking to have the Federal court injunction against the regulations lifted, as was the prior administration?

Question 13b. Does the administration plan to issue no-match letters to all employers with mismatches in order to alert them that they have submitted Social Security tax withholdings based on Social Security account numbers that do not match SSA records as to issued numbers and corresponding names? If so, when does this administration plan to start issuing such letters?

Answer. Because the no-match rule is the subject of on-going litigation, I believe it is inappropriate to comment on it at this time.

DOCUMENTARY REQUIREMENTS TO BOARD AIRPLANES

Question 14. The 9/11 Commission taught us that "At many entry points to vulnerable facilities, including gates for boarding aircraft, sources of identification are the last opportunity to ensure that people are who they say they are and to check whether they are terrorists." Yet, DHS has not issued regulations setting forth documents acceptable for boarding airplanes, even though the Intelligence Reform and

Terrorism Prevention Act required DHS to do by July 2005. When will DHS finally be issuing the regulations?

Answer. Effective June 1, 2008, TSA began using a standardized list of acceptable identification for airline travel. At the checkpoint, adult passengers (18 and over) are required to show a U.S. Federal or State-issued photo ID (or certain forms of foreign government, tribal or Registered Traveler identification documents) that contains the following: name, date of birth, gender, expiration date and a tamper-resistant feature. TSA established a Standard Operating Procedure for Transportation Security Officers (TSO) detailing the specific documents acceptable at TSA checkpoints for travelers seeking to enter the secure areas of the airport. TSA maintains a public list of acceptable documents on its web site (http://www.tsa.gov/travelers/airtravel/acceptable_documents.shtm).

The standardization of acceptable documents complements the layer of aviation security created when TSA assumed travel document checking responsibilities from airline contractors beginning in 2007. Specially trained TSOs are positioned in front of the checkpoint to check passengers' boarding passes and identification. They use black lights and magnifying loupes to examine security features and receive on-line, classroom and on-the-job training that teaches them how to recognize unique, fraud-prevention features embedded in Government-issued identification documents. The training also includes discerning behavioral cues and interview techniques that have proven successful in identifying passengers whose behavior warrants additional screening.

Further, as of June 2008, TSA began denying entry into secure areas of airports to passengers who willfully refuse to provide identification. The change applies exclusively to individuals who simply refuse to provide any identification or assist TSOs in ascertaining their identity. It does not apply to passengers that may have misplaced, lost or otherwise do not have ID but are cooperative with officers. Cooperative passengers who cannot present an acceptable ID will have to provide information to the TSO in order to verify their identity. Passengers who are cleared through this process may also be subject to additional screening. TSA can deny entry in cases where it cannot verify the identity of a traveler.

287(G) AGREEMENTS AND COOPERATION WITH STATE AND LOCAL LAW ENFORCEMENT

Question 15. You only have at your disposal a few thousand ICE officers to enforce the immigration laws throughout our Nation. Doesn't the voluntary cooperation of State and local law enforcement officers in immigration enforcement serve as a valuable force multiplier for DHS?

Answer. Yes, the voluntary cooperation and partnerships with State and local law enforcement agencies in 287(g) agreements allows for ICE to successfully use State and local officers as force multipliers in both detention facilities and task force settings.

There is a growing interest of individual State and local entities in participating in the 287(g) program as well as congressional interest in assisting State and local communities in addressing border security and immigration enforcement issues.

The first 287(g) agreement was signed in 2002, and as of October 2008, participation in the 287(g) program had increased to 67 States and local agencies.

Question 16. The 287(g) program was created by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. If you look at the legislation, it provides that local law enforcement can enter into 287(g) agreements to assist in the "investigation, apprehension, or detention of aliens in the United States." There is no statutory requirement that illegal immigrants be "serious criminals" before they can be picked up by local law enforcement, is there? Will you agree not to impose such an extra-legal requirement on local law enforcement and take this valuable and voluntary tool out of their hands?

Answer. It is correct that there is no statutory requirement that illegal immigrants be "serious criminals" before they can be picked up by local law enforcement.

Immigration and Customs Enforcement (ICE) values the assistance from 287(g) State and local partners regarding immigration enforcement; however ICE retains the discretion to set priorities in order to manage its limited resources and meet the agency's mission requirements. To ensure resources are managed effectively, ICE also requires its partnering Law Enforcement Agencies (LEAs) to also manage its resources dedicated to 287(g) authority under a Memorandum of Agreement (MOA) entered into between ICE and the State or local agency. To that end, the following list reflects the categories of aliens that are a priority for arrest and detention with the highest priority being Level 1 criminal aliens. Resources should be prioritized to the following levels:

- Level 1—Individuals who have been convicted of major drug offenses and/or violent offenses such as murder, manslaughter, rape, robbery, and kidnapping;
- Level 2—Individuals who have been convicted of minor drug offenses and/or mainly property offenses such as burglary, larceny, fraud, and money laundering; and
- Level 3—Individuals who have been convicted of other offenses.

Aliens who do not fall within these levels and are arrested by 287(g) officers in the regular course of enforcing State or local law may be issued a Notice to Appear (NTA) before an immigration judge and released on their own recognizance or on bond if they are not determined to be a threat to safety and security of the community.

Question 17. I received a letter from DHS stating that since the beginning of 2007, ICE had received 69 new applications from localities to enter into 287(g) agreements. Yet ICE only intended to sign 33 memoranda of understanding because of limited funds. Does the administration's budget for 2010 include enough funding to allow DHS to enter into 287(g) agreements with all interested localities?

Answer. Since the President's budget for 2010 has not been released, ICE is not in a position to comment on any 2010 budget request under consideration.

The 287(g) program has received adequate funding to support the program to date. However, funding is not the only factor when considering a law enforcement agency's (LEA's) request for participation in the 287(g) program. ICE also must consider a number of other factors. First, a needs assessment must be completed. This assessment helps to identify which ICE program would be best suited to address the particular needs of an LEA.

In December 2007, ICE created an Office of State and Local Coordination (OSLC), specifically to promote coordination and cooperation between ICE and our many State and local partners. With this new office, ICE hopes to develop stronger partnerships with State and local agencies through strategic discussions and efforts in order to maximize its mission of interior enforcement. As a result of the widespread interest in ICE's programs, particularly the 287(g) program, ICE has launched the Agreement of Cooperation in Communities to Enhance Safety and Security (ACCESS) program. ICE ACCESS provides the vehicle for both ICE and LEA to assess which ICE programs will provide the greatest overall benefit to both parties.

The 287(g) program is not always the program best suited to meet the LEA's needs. In addition to the needs assessment, ICE must consider operational factors such as the proximity to an ICE office for oversight, supervision, and support, existing ICE infrastructure, available detention bed space, the type of criminal activity occurring in the LEA's area of responsibility, and the number of anticipated encounters with illegal immigrants. After evaluating the totality of those factors, a final determination is made.

DEPORTATION OF FUGITIVE ALIENS

Question 18a. I am pleased to see that because of ICE's fugitive enforcement teams, the overall number of fugitive aliens has finally begun to decrease. However, it is still unacceptable that there are more than half a million alien fugitives who have been ordered deported by immigration judges.

What is the purpose of even having immigration courts if so many deportation orders of the courts are flouted?

Answer. U.S. Immigration and Customs Enforcement (ICE), Office of Detention and Removal Operations (DRO), established the first Fugitive Operations Team (FOT) in 2003 in an effort to reduce a fugitive alien backlog that had been growing by 10 percent annually. As the number of FOTs increased to 79 FOTs Nation-wide in fiscal year 2007, the agency was able to expand its efforts to locate, arrest, and remove ICE fugitive aliens from the United States. Consequently, the first overall reduction in the fugitive alien backlog occurred in fiscal year 2007. The backlog has continued to decrease each year. This decline reflects not only an elimination of old cases, but also includes efforts to remove individuals with newly issued deportation orders. ICE continues to explore strategies to reduce the fugitive population.

Question 18b. The last administration's goal was to eliminate the backlog of fugitive aliens by 2012. Can you meet this goal?

Answer. With the establishment of FOTs Nation-wide, the Nation's fugitive alien population declined for the first time in fiscal year 2007 and has continued to decrease as reflected below:

- At the end of fiscal year 2006, the fugitive alien backlog was 632,726;
- At the end of fiscal year 2007, the fugitive alien backlog was 594,756;
- At the end of fiscal year 2008, the fugitive alien backlog was 557,762;
- As of March 17, 2009, the fugitive backlog was 551,915.

Whether the 2012 goal will be met depends on many factors such as the number of new fugitives added to the backlog in the coming years, any difficulties in locating such fugitives as well as the length of time it takes for a country to agree to accept the alien.

Question 18c. Will you continue to seek the removal of all fugitive aliens with orders of deportation, not just those who have committed additional criminal offenses?

Answer. Yes. It is ICE/DRO Policy that Fugitive Operation Teams prioritize cases according to the following standards: (I) Fugitives that pose a threat to national security; (II) Fugitives that pose a threat to the community; (III) Fugitives convicted of violent crimes; (IV) Fugitives with criminal records; and (V) Fugitives that are non-criminals.

The fugitive operation teams enforcement operations are planned according to these criteria.

Question 18d. Will you continue to have ICE arrest, and not simply ignore, illegal immigrants with whom they come into contact while searching for fugitive aliens?

Answer. During the course of targeted operations, FOTs often encounter other people in the presence of the ICE fugitive FOTs are attempting to arrest. When appropriate, ICE agents and officers engage these aliens in consensual encounters to determine alienage. If ICE takes an enforcement action against a non-fugitive alien, ICE officers exercise prosecutorial discretion on a case-by-case basis.

TEMPORARY PROTECTED STATUS

Question 19. It has become all too apparent that past administrations have used temporary protected status as a de facto amnesty for illegal immigrants from certain Central American countries. TPS status was granted to Honduran and Nicaraguan nationals at the end of 1998, following Hurricane Mitch. The last administration extended TPS numerous times, long after any temporary dislocations caused by the hurricane have long since ended. Will DHS under your leadership continue to abuse temporary protected status in this way?

Answer. Temporary Protected Status (TPS) is a form of immigration relief that I have the discretion to apply only insofar as conditions in a country meet the statutory requirements delineated in the Immigration and Nationality Act under §244. I take very seriously Congress's intent, which is supported by the clear language of the statute, for TPS to serve as a temporary immigration status to protect nationals of designated foreign states in the United States who are unable to return to their home country in safety. In order to preserve the integrity of TPS as a viable form of temporary relief, the designation must only be granted or extended where appropriate.

SANCTUARY CITIES

Question 20. On December 19, 2002, a 42-year-old mother of two was abducted and forced by her assailants into a hideout near some railroad tracks in Queens, New York. She was brutally raped before being rescued by a New York Police Department canine unit. The NYPD arrested five aliens in connection with that assault. Four of those aliens entered the United States illegally. Three of those four had extensive arrest histories in New York City. Despite the criminal histories of the aliens, however, the NYPD did not inform the INS about these aliens until after the December 19 attack. The only reason that the three illegal immigrants were in the United States, despite their extensive arrest histories, was because New York police officers had been barred by New York's "sanctuary city" policy from contacting the INS. Do you believe that sanctuary city policies have enhanced or reduced the safety of American citizens?

Answer. It is important for Federal, State, and local governments to work together to facilitate effective immigration enforcement and to reinforce the rule of law. These are legitimate concerns for both jurisdictions. I look forward to working with the White House, other departments and agencies, the Department's senior leaders, Congress, local and State elected officials, and law enforcement officials to develop and implement an appropriate division of labor toward these ends, while promoting the exchange of information required to ensure that criminal aliens are prosecuted and removed from this country, and recognizing that immigration enforcement is a Federal responsibility.

Question 21. The Illegal Immigration Reform and Immigration Enforcement Act of 1996 bars State and local officials from prohibiting any of their employees from sending to DHS information regarding the citizenship or immigration status of any individuals. Despite this ban, many "sanctuary cities" in fact prohibit their law enforcement agencies from providing the names of suspected illegal immigrants to

DHS. Do you believe that these sanctuary cities should be allowed to violate Federal law?

Would you consider denying funding to communities that violate the clear, unambiguous provisions of Federal law?

Answer. Section 642(a) of the Illegal Immigration Reform and Immigration Enforcement Act of 1996, which is codified at 8 U.S.C. § 1373(a), prohibits a local Government from restricting any entity or official of that local government from communicating with DHS regarding the immigration status of any individual. I am advised by the DHS Office of the General Counsel that the Department does not have the legal authority to cut off all DHS funds to a city if the city violates Section 642(a) or if the Department otherwise disagrees with the city's policy on immigration.

ISSUANCE OF VISAS TO NATIONALS OF COUNTRIES THAT DO NOT ACCEPT THE RETURN OF THEIR NATIONALS

Question 22. DHS cannot deport more than 100,000 deportable aliens, many of them criminals, because their countries refuse to take them back. Your own Inspector General acknowledges that this problem has created "a mini-amnesty program" and reports that "thousands of criminal aliens with final orders are released because of the unwillingness of some countries to [accept back their nationals]". The Immigration and Nationality Act requires the Secretary of State to stop issuing visas to all nationals of countries that you determine have refused or delayed the return of their deported nationals. Yet, previous Secretaries of Homeland Security have never carried out the responsibility under this provision. Do you plan to exercise your authority to enhance Americans' safety?

Answer. Discontinuing the issuance of visas to any foreign country is a powerful tool with major foreign policy implications. Before considering discontinuance, I would consult extensively with the Secretary of State to determine whether there are other tools that could overcome repatriation problems more effectively.

BORDER PATROL

Question 23. It has been alleged that Border Patrol agents are told by their superiors to cease making apprehensions after they have reached a daily quota. Is there any truth to these allegations?

Answer. The United States Border Patrol does not operate under a quota, and there are no plans to do so in the future. No set number of apprehensions is mandated.

DETENTION OF DANGEROUS ALIENS

Question 24. The Supreme Court has ruled that under current law, aliens ordered removed cannot be detained for more than 6 months if for some reason they cannot be removed. Based on this decision, DHS has had no choice but to release back onto the streets many hundreds of criminal aliens. Jonathan Cohn, former Deputy Assistant Attorney General, has testified that "the government is [now] required to release numerous rapists, child molesters, murderers, and other dangerous illegal aliens into our streets . . . [V]icious criminal aliens are now being set free within the United States." The House of Representatives twice passed legislation in the 109th Congress allowing for the continued detention of dangerous aliens and to keep them off the streets of our communities. Will you call for Congress to pass such legislation?

Answer. On January 30, 2009, I issued an Action Directive on immigration and border security that requested a review of the Department's immigration detention policies. (Additionally, on February 4, 2009, I announced the appointment of Dora Schriro as Special Advisor on Detention and Removal Operations at ICE.) DHS will be taking a comprehensive look at all aspects of detention policy, including the issue of detention of aliens with final orders of removal, to assess current conditions and devise and implement strategies that will bring about substantive improvements to the system.

AFFIDAVITS OF SUPPORT

Question 25. The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 requires that U.S. citizens or permanent residents sponsoring family members for immigrant visas sign legally binding affidavits of support enforceable against the sponsor for the cost of any means-tested public benefits provided to an alien. The Act mandates that "the appropriate entity of the Federal Government . . . shall request reimbursement by the sponsor." Unfortunately, DHS has never set up a mechanism to ensure that American taxpayers are reim-

bursed. American taxpayers continue to be abused by sponsored aliens receiving unreimbursed public benefits. Will you set up the required mechanisms to ensure that sponsors are held to their commitments?

Answer.

- The Affidavit of Support, Form I-864, submitted by a sponsoring U.S. citizen or lawful permanent resident, is a requirement, in most cases, to establish eligibility for a family-based immigrant visa. The sponsor must be able to demonstrate that he or she has income of at least 125 percent of the applicable Federal poverty guidelines. In the event that the sponsor cannot meet such an income requirement, a joint sponsor, who is a U.S. citizen or lawful permanent resident, may also submit an affidavit of support. Section 213A of the Immigration & Nationality Act requires that the affidavit of support be a legally enforceable contract between the sponsor and the foreign national. Also, the Act requires that the affidavit of support be a legally enforceable contract between the sponsor and any Federal or State agency that may provide means-tested public benefits to the sponsored immigrant.
- The affidavit of support is a legally binding contract, and the sponsored immigrant and any public agencies dispensing means-tested benefits to the immigrant may sue the sponsor for failure to meet the obligations assumed under it. Forms I-864A signed by household members are also legally enforceable contracts, and sponsors can sue to enforce those contracts. Upon notification that a sponsored alien has received designated means-tested benefits, the Federal, State, or local entity that has provided the public benefit shall request reimbursement from the sponsor for an amount equal to the cost of the benefit. If the sponsor does not respond to the request in 45 days, the agency may sue the sponsor in a Federal or State court. There is a 10-year limit on actions to obtain reimbursement.
- Since the statute already authorizes public agencies to sue the alien's sponsor for reimbursement of means-tested benefits, DHS does not see a need at this time to create additional mechanisms for public agencies to obtain reimbursement.

IMMIGRATION DETENTION BEDS

Question 26. It is well known that illegal immigrants who are not detained rarely show up for their deportation proceedings. The Department of Justice's Inspector General found that the INS was only able to remove 13 percent of nondetained aliens with final orders of removal, and only 6 percent of nondetained aliens from State sponsors of terrorism who had final removal orders. Your own agency admits that it will need over 33,000 detention beds just to detain and remove all criminal aliens incarcerated in State and local jails. Congress in the Intelligence Reform and Terrorism Prevention Act of 2004 authorized an increase in the number of immigration detention beds of 8,000 a year. The past administration never budgeted for anywhere near this number of additional detention beds.

What increase in immigration detention beds will be in the President's 2010 budget?

Answer. Since the President's budget has not been released, it would be premature to comment on a 2010 budget request.

Question 27. The DHS Inspector General has reported that the lack of adequate detention space limits the effectiveness of the fugitive operations teams. In fact, "a field office director reported ceasing fugitive operations for 6 weeks because of insufficient bed space and another manager reported slowing team operations for the same reason Another supervisor indicated that a lack of adequate detention space is the team's biggest limitation." Isn't this another reason why all the detention beds authorized in the Intelligence Reform and Terrorism Prevention Act should be funded?

Answer. Neither the Office of Detention and Removal Operations' (DRO) field offices nor the National Fugitive Operations Program (NFOP) have imposed a moratorium on fugitive enforcement activity. The individuals that are targeted for arrest by the Fugitive Operations Teams (FOTs) have been ordered removed and most are detained in ICE custody until their removal from the United States can be affected.

Question 28. So-called "alternatives to detention" simply do not work. Do you know that even under the highly touted Intensive Supervision Appearance Program, one-third of the "supervised" aliens who are ordered deported flout their deportation orders?

Answer. Immigration and Customs Enforcement (ICE), Office of Detention and Removal Operations (DRO) created the Alternatives to Detention (ATD) Program in fiscal year 2002. The goal of the ATD program is to develop and implement pro-

grams to improve aliens' compliance with conditions of release, including their attendance at immigration hearings and compliance with final court orders. These programs have already shown tremendous promise in improving accountability for aliens in removal proceedings, while helping the agency to use detention space more efficiently for aliens who require detention.

Currently, within the Intensive Supervision Appearance Program (ISAP) there is a maximum participant limit of 6,000. More than 5,700 aliens are actively participating in this program as a condition of release from custody. Since inception, ISAP has served over 12,300 participants.

EXPEDITED REMOVAL

Question 29. The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 created the mechanism of "expedited removal." Because of the success of expedited removal, our international airports are no longer being deluged with aliens without documents. The 1996 act provided the administration with the authority to utilize expedited removal in the case of any alien who had entered the United States illegally and had not been present here for 2 years. Until recently, the INS and DHS had never made use of this power. In the last 2 years, however, DHS has taken a tentative step toward using expedited removal along the southern border. Will you use the full authority given to you by Congress to use expedited removal against all aliens who have entered illegally and have been here less than 2 years?

Answer. Expedited Removal (ER) is currently applied to aliens at ports of entry and aliens encountered within 100 miles of the border and within 14 days of their unlawful entry. Although Immigration and Nationality Act §235(b)(1)(A)(iii), 8 U.S.C. § 1225(b)(1)(A)(iii) (1996) provides statutory authority for Nation-wide implementation of ER to all aliens encountered within 2 years of unlawful entry, the initial regulation applying ER in practice limited its scope to arriving aliens only, reserving the right to expand this application through the issuance of further regulations. 62 F.R. § 10312 (March 6, 1997). Two subsequent regulations were issued that expand the scope of ER; however, the full scope of statutory authority has not yet been implemented. DHS continues to examine the expansion of ER.

WESTERN HEMISPHERE TRAVEL INITIATIVE

Question 30. In 2003, the Immigration Subcommittee held a hearing that examined D.C. sniper John Muhammad's smuggling activities between the Caribbean and the United States. Muhammad was able to make his living by providing bogus American identification documents such as driver's licenses and birth certificates to aliens seeking to impersonate U.S. citizens and get through U.S. ports-of-entry. It is no wonder that the 9/11 Commission found that "Americans should not be exempt from carrying biometric passports or otherwise enabling their identities to be securely verified when they enter the United States." Do you believe it is important that DHS implement the Western Hemisphere Travel Initiative by the June 2009 deadline so that these abuses can no longer take place?

Answer. The Western Hemisphere Travel Initiative (WHTI) Land and Sea requirements will go into effect on June 1, 2009, the earliest day allowed by law. WHTI requires U.S. and Canadian citizens to present a single, secure document that denotes identity and citizenship.

WHTI will strengthen border security by improving the ability to confirm identity and citizenship while facilitating border crossing for legitimate travelers. The 9/11 Commission noted that for terrorists, travel documents are as important as weapons. By requiring secure documents to enter the United States, the Department of Homeland Security will make it harder for people to use fraudulent credentials to cross our borders, and we will make it easier for our border officers to separate real documents from fake, enhancing our security and ultimately speeding up processing.

WHTI increases traveler facilitation by requiring certain documents designed for land border include vicinity radio frequency identification (RFID) technology. RFID technology allows traveler information to be pre-positioned for the border officer and queried via law enforcement databases as a vehicle approaches primary inspection at land ports of entry. It also facilitates our ability to verify automatically many of the documents presented with their issuing agency. Border officers will be able to determine if the individual in front of them is the person depicted on the document, and if that that is the identity to whom the original document was issued.

Vicinity RFID technology conforms with DHS's future vision of the border in a way that meets our national security needs, our economic imperatives, and the public's trust.

2010 CENSUS

Question 31. It has been reported that the Census Bureau will ask DHS to suspend enforcement of the immigration laws in 2010 during the taking of the census. Does DHS have any plans to stop enforcing the immigration laws in 2010?

Answer. DHS is aware of the enormous challenges faced by the Census Bureau, particularly in counting non-citizens, both documented and undocumented, residing in the United States. DHS plans to consult with the Census Bureau regarding the most appropriate ways in which the Department and the Bureau can cooperate to make the taking of the 2010 census as efficient and accurate as possible.

CITIZENSHIP USA

Question 32. Citizenship USA was the Clinton Administration's politically motivated project to rush through the naturalization of hundreds of thousands of aliens in time to vote in the 1996 elections. This program led to a debacle in which about 180,000 aliens were naturalized without having undergone FBI criminal history records checks, resulting in the naturalization of an unknown number of people who had potentially disqualifying criminal records. Do you agree that DHS shouldn't respond to the current naturalization caseload backlog by repeating the sorry history of Citizenship USA?

Answer.

- In the summer of fiscal year 2007, there was a sudden surge of naturalization applications. The fee increase that went into effect in July 2007 was one cause of the surge, as some applicants chose to file their applications and petitions before the fee increase took effect. Filings of naturalization applications more than doubled in June, and in July naturalization filings were about eight times normal monthly receipts.
- USCIS developed a plan to deal with the surge of applications within 2 years, by the middle of fiscal year 2010. As a result, during fiscal year 2008 USCIS increased the Adjudications Officer work force by 1,199; completed more than 1.17 million naturalization applications (up more than 50 percent from fiscal year 2007); and reduced naturalization application processing times to 9–10 months, down from the 16–18 months projected after the surge of applications in late fiscal year 2007. During fiscal year 2009, USCIS plans to achieve a 5-month processing time for naturalization applications (N–400's).
- Throughout this process of reduction of processing times all appropriate security checks have been and continue to be performed on benefits applicants. Security checks will not be compromised for the sake of expediency. Indeed, all required security checks noted below must be completed before a naturalization applicant is scheduled for an interview.
 - The Interagency Border Inspection System (IBIS) Name Check—IBIS combines information from multiple agencies, databases and system interfaces to compile data relating to national security risks, public safety issues and other law enforcement concerns.
 - FBI Fingerprint Check—The FBI fingerprint check provides information relating to criminal background within the United States. Generally, the FBI forwards responses to USCIS within 24–48 hours. If there is a record match, the FBI forwards an electronic copy of the criminal history to USCIS. In cases involving arrests or charges without disposition, USCIS requires the applicant to provide court-certified evidence of the disposition. Even expunged or vacated convictions must be reported for immigration purposes.
 - FBI Name Check—The records consulted in the FBI name check process consist of administrative, criminal, personnel and other files compiled by law enforcement. Even after FBI has provided an initial response to USCIS concerning a match, the name check is not complete until full information is obtained and eligibility issues arising from it are resolved.

REAL ID

Question 33a. The “REAL ID Act” requires that in order for a State's drivers' licenses and identification cards to be used for any Federal Government “official purpose,” the cards must comply with the standards set forth in REAL ID. Those standards are designed to prevent fraudulent use of the card including its use for identity theft and to establish false identities.

Final compliance regulations were issued on January 11, 2008. The final rule allows a State to be considered REAL ID compliant if, by May 11, 2008, the State has: (1) Requested and obtained an extension of the compliance date from DHS; or

(2) have been determined by DHS to be in compliance with the REAL ID Act and the final rule.

How many States are currently in compliance with REAL ID? Please list those States.

Question 33b. How many, and which, States have indicated their intention to comply with REAL ID?

Question 33c. How many, and which, States have indicated their intention not to comply with REAL ID? What steps is the administration taking to ensure that the States that have not yet indicated plans to comply with REAL ID will comply?

Answer. All U.S. States and Territories have been granted an extension until December 31, 2009, to meet the material compliance requirements of the REAL ID Regulation. Forty-eight jurisdictions sought and received grant funding to assist their efforts to improve their driver's licenses consistent with REAL ID requirements in fiscal year 2008.

The REAL ID ACT is not a mandatory program; it is a voluntary program. As we have not yet reached the material or full compliance deadlines and every State has been granted an extension, it is difficult to quantify the number of States that will be compliant with the REAL ID ACT by the required compliance deadlines.

Department of Homeland Security staff are in regular contact with numerous States that have publicly stated they are near materially compliant or are working to become materially compliant by December 31, 2009. A number of States have passed laws prohibiting compliance with the REAL ID Act. Some States have enacted laws authorizing compliance.

The goal, however, is improvement of the security of driver licenses and identifications. To the end, DHS has provided \$140 million in grant funding to assist State efforts to improve the integrity and security of their processes consistent with REAL ID requirements. Also, DHS allows States to use up to 20 percent of its State Homeland Security Grant Program funds for REAL ID. Further, Congress provided \$50 million in fiscal year 2009 funding to build an information sharing hub that will be operated by the States and assist them in meeting the verification requirements of the Act. Specifically, this "hub" will allow a State to share data with other States as well as verify information against Federal databases.

Question 34. I know that as Governor of Arizona, you were concerned about the cost to States of implementing REAL ID. Will DHS's 2010 budget include funds to help States with the costs of compliance?

Answer. For fiscal year 2008 and 2009 the Department of Homeland Security (DHS) is providing \$140 million in grant funding to assist States' effort to improve the integrity and security of their driver's license and identification card processes to become consistent with REAL ID requirements. An additional \$50 million in fiscal year 2009 funding will go toward the development of an information sharing hub that will be operated by the States and help them meet the verification requirements of the Act. Specifically, this "hub" will allow a State to share data with other States as well as verify information against Federal databases.

In fiscal year 2008, DHS informed States they could use up to 20 percent of State Homeland Security Grant Program funds to implement REAL ID requirements. The fiscal year 2010 budget is being refined within the administration.

Question 35. What statutory changes, if any, do you plan to seek for REAL ID? Do you have any intentions of modifying REAL ID to allow States to issue regular drivers' licenses to illegal immigrants?

Answer. The National Governors Association (NGA) established a working group in which the Department of Homeland Security is participating to make legislative recommendations for a workable path forward.

There is nothing in the REAL ID Act that prohibits a State from issuing non-REAL ID compliant driver's licenses to illegal immigrants. The lawful presence provision only applies to driver's licenses issued in compliance with the REAL ID Act and does not infringe on a States' right to issue driver's licenses to individuals they determine to be qualified.

"CATCH AND RELEASE"

Question 36. One of the most important achievements of DHS over the past few years has been the elimination of the practice of catch and release of non-Mexicans picked up at the southern border. Can you assure me that catch and release will not resume?

Answer. DHS has implemented a number of programs to reduce the flow of undocumented aliens into the United States.

Since the implementation of the Secure Border Initiative (SBI) in November 2005, U.S. Immigration and Customs Enforcement (ICE) has effectively ended "catch and

release” for all nationalities along the southern (U.S./Mexico) and northern (U.S./Canada) borders. This was accomplished by increasing efficiencies within the immigration removal process by:

- Rapidly expanding detention facility capacity;
- Modifying a U.S. District Court injunction from the 1980’s so that Expedited Removal could be fully implemented at the border;
- Reducing the time required to remove aliens; and,
- Increasing use of DRO air transportation provided via ICE leases, charters, and the Justice Prisoner and Alien Transportation System (JPATS).

Efforts to maximize detention capacity have included working closely with the Department of State and foreign governments to streamline ICE repatriation efforts. ICE has made technological advances, such as Video Conferencing (VTC) and the Electronic Travel Document (eTD) program, available to foreign governments to facilitate their issuance of travel document used in the removal process, further increasing the efficiency of this process while minimizing the length of stay in detention.

Additionally, ICE has created the Detention Operations Coordination Center (DOCC). The DOCC transfers detainees from field office jurisdictions with detention capacity shortages to jurisdictions with surplus capacity, thus ensuring that aliens subject to removal proceedings are not released solely due to lack of bed space.

ICE has added significant resources in support of the Criminal Alien Program (CAP) and the National Fugitive Operations Program (NFOP). The CAP, a cooperative effort with the Executive Office for Immigration Review (EOIR), within the Department of Justice, and participating Federal and State correctional agencies, ensures that all aliens serving criminal sentences are processed for removal prior to their release from Federal, State and local custody. This greatly decreases the detention time criminal aliens are in ICE custody. Important to the success of the CAP is EOIR’s ability to complete immigration proceedings for criminal aliens while they are still serving their sentences in prison for criminal convictions. The NFOP implements interior enforcement initiatives that apply an organized and methodical approach to the identification, location and arrest of ICE fugitive aliens.

In addition to these efforts Border Patrol has reported that increased enforcement resources have resulted in a decrease in apprehensions of almost 20 percent. This administration has resources to continue these programs that are in place today and does not foresee the return of “catch and release”.

US-VISIT

Question 37. How can we possibly solve the illegal immigration problem when there is no system in place to track whether or not people who enter the country on visas ever leave the country when those visas expire?

Answer. The Department of Homeland Security (DHS) respectfully disagrees that there is no system in place to track people who enter the United States on visas but whose visas have expired before they leave the country (referred to as overstays). DHS has invested significantly in the recording and matching of biographic exit information (which covers all aliens departing by air and sea), as well as the analysis and determination based on those records of individuals who have overstayed the terms of their admission.

Biographic Exit

DHS’ US-VISIT program electronically receives biographic information on individuals who have departed the United States from air and sea carrier manifests. This information is matched to entry records and changes to immigration status in the Arrival Departure Information System (ADIS). After analysis, US-VISIT shares information on alien overstays with the Department of State (DOS), U.S. Customs and Border Protection (CBP), U.S. Citizenship and Immigration Services, and U.S. Immigration and Customs Enforcement (ICE) for further action concerning visa renewals, future admissibility into the United States, and interior enforcement.

In fiscal year 2008, US-VISIT provided overstay information to DHS components and DOS that assisted:

- ICE agents in the apprehension of 715 immigration violators (individuals who overstayed the terms of their admission);
- CBP officers in the interception of 891 immigration violators attempting to re-enter the country at ports of entry; and,
- DOS officials in denying visas to 550 visa applicants at U.S. consulates.

ADIS data are also used to support national security and Federal law enforcement agencies for criminal investigations, as well as DOS visa-validation studies and visa revocations.

DHS is also making strides toward implementation of biometric exit. DHS published a notice of proposed rulemaking on April 24, 2008, for the implementation of air/sea biometric exit. Pursuant to the direction provided in the fiscal year 2009 Appropriations Act, DHS will be conducting additional air pilots later this year. In addition, DHS also published regulations last year describing an upcoming land border biometric exit pilot for H2 visa holders. The information from these pilots will be used to inform the administration's decisions for how best to proceed toward implementation. We look forward to working with the committee on this important issue.

Question 38. Will your 2010 budget include funds for the implementation of exit procedures at land ports of entry?

Answer. The fiscal year 2010 budget is still being finalized by the administration. As soon as the President's fiscal year 2010 budget is released and provided to Congress, we will be happy to brief you and your staff on the DHS request.

BOMB PREVENTION OFFICE

Question 39. In February 2009, the House passed H.R. 549, the National Bombing Prevention Act of 2009. The Act establishes an Office for Bombing Prevention (OBP) at DHS and gives it responsibility to combat and respond to terrorist explosive attacks in the United States. The Department of Justice had expressed concerns about a previous version of this bill because the responsibilities and efforts of OBP would appear to overlap with and duplicate the work of the Bureau of Alcohol, Tobacco, Firearms, and Explosives and the Federal Bureau of Investigation in this area. If this bill passes the Senate and becomes law, what steps will DHS take to ensure there is no duplication of Federal efforts to combat and prevent the terrorist explosive attacks and to minimize inter-agency jurisdictional disputes?

Answer. Homeland Security Presidential Directive 19 (HSPD-19) establishes that it is the policy of the U.S. Government to "counter the threat of terrorist explosive attacks aggressively by coordinating Federal, State, local, territorial, and Tribal government efforts and collaborating with the owners and operators of critical infrastructure and key resources to deter, prevent, detect, protect against, and respond to explosive attacks . . .". HSPD-19 directs that Federal efforts to combat terrorist use of explosives are the responsibility of multiple agencies, while the Directive and its subsequent Implementation Plan lay out the individual responsibilities of those agencies to prevent duplication and inter-agency jurisdictional disputes.

The Office for Bombing Prevention (OBP) is part of the Department of Homeland Security's Office of Infrastructure Protection within the National Protection and Programs Directorate, and its primary focus area is the protection of the Nation's critical infrastructure and key resources from terrorist explosive attacks. This critical infrastructure protection mission is unique to DHS. OBP has three avenues of effort: coordination of DHS and certain national efforts; gap analysis of counter-explosives capabilities; and information sharing with State and local responders, and the private sector. OBP works as the national coordinator at DHS to help ensure that there is no duplication or inter-agency disputes. OBP staff includes senior detailees from both the Federal Bureau of Investigation (FBI) and the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) to assist in daily coordination of DHS and DOJ activities.

AMMONIUM NITRATE REGULATIONS

Question 40. In December 2008, the Department of Homeland Security announced new plans to regulate the selling and purchasing of Ammonium Nitrate (AN), which can be used as an explosive. Under current Federal law, the Department of Justice is authorized to regulate commerce and investigate unlawful activities involving explosives—a duty the Attorney General has delegated to the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF). Pursuant to that authority, ATF regulates and inspects approximately 12,000 explosives licensees and permittees, including those entities that use AN as explosives. Considering the role that ATF already plays in regulating AN, what step will DHS take to ensure that its new AN regulations will not result in redundant Federal inspection activities, unnecessary expense to the taxpayer, and additional burdens to the explosives industry? What steps will DHS take to ensure that its new authority is actually useful in preventing AN from falling into the wrong hands through theft, diversion, or lawful means at every stage of the supply chain?

Answer. Section 563 of the 2008 Consolidated Appropriations Act ("Section 563"), Congress requires the Department of Homeland Security to "regulate the sale and transfer of ammonium nitrate (AN) by an AN facility . . . to prevent the misappropriation or use of AN in an act of terrorism." To design regulations that effectively

accomplish Section 563's mission, the Department has established an AN Task Force to evaluate the various potential approaches to accomplishing the activities required by Section 563, such as registration and screening of buyers and sellers of AN, and seller verification of identity and authorization to purchase of prospective buyers of AN.

To help gather information necessary to properly evaluate the pros and cons of the various potential approaches, the AN Task Force will continue to work with Federal and private-sector security partners and will engage State and local groups as well. To date, the AN Task Force has conferred with members of the Department's Office of Bombing Prevention and the Department's Screening Coordination Office; an explosives expert from the Federal Bureau of Investigation; the U.S. Department of Agriculture; and the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). In the near future the AN Task Force also plans to engage representatives from numerous State and local agriculture and homeland security offices, and representatives from industry associations representing the agricultural and explosives communities.

The AN Task Force is making a particularly concerted effort to coordinate with ATF in light of ATF's regulatory authority to ensure that the Department's regulations are complementary to, and not redundant with, ATF regulations. Specifically, the Department is working to learn more about specific aspects of ATF's explosives regulatory program (such as inspection protocols, reporting requirements, mixture rules, and recordkeeping requirements). This consultation and analysis will inform the Department's decisionmaking process as the regulations are developed, and will prevent redundant activities and minimize the burden of any new regulations on the explosives industry.

QUESTION FROM THE HONORABLE GUS M. BILIRAKIS OF FLORIDA FOR THE HONORABLE JANET NAPOLITANO, SECRETARY, DEPARTMENT OF HOMELAND SECURITY

Question 1a. In your Senate testimony prior to your confirmation, you noted that there is a balance that needs to be struck between the security implications of the Visa Waiver Program and its potential public diplomacy benefits.

Would you please elaborate on that statement and share with us your view of whether, on balance, you believe VWP helps or hinders our Nation's security efforts?

Question 1b. Do you plan to pursue efforts by the previous administration to expand the number of participating countries?

Answer. The modernized VWP supports U.S. security and law enforcement interests, deepens bilateral cooperation, strengthens the U.S. economy, and contributes to a safer international travel environment for our citizens and those of our VWP allies. The security and law enforcement implications of permitting foreign nationals from selected countries to travel to the United States visa-free remain paramount, but DHS properly takes into account both public diplomacy efforts and the overall bilateral relationship with a member or aspirant country when making VWP decisions.

The information-sharing agreements required by the 9/11 Act, in particular, provide U.S. Government personnel with new tools to secure our borders and help prevent terrorist and criminal activities in the United States and in VWP partner nations. Additionally, the Electronic System for Travel Authorization, required of all VWP travelers as of January 12, 2009, allows for screening of passengers on an individual basis prior to travel to the United States. DHS is committed to ensuring that VWP members meet these enhanced security standards.

DHS and the Department of State (DOS) work closely together to communicate and explain VWP initiatives and requirements to ensure that our foreign partners are well informed. DHS, in consultation with DOS, will continue to work with valued allies not currently in the program to determine whether VWP admission is possible in the future. Any decision to expand the program further would be taken after a careful and comprehensive analysis of U.S. interests and that country's ability to meet the statutory requirements for membership. There are issues specific to each country interested in being included in the Visa Waiver Program, including security and policy considerations, that must be addressed on a case-by-case, bilateral basis.

QUESTIONS FROM THE HONORABLE STEVE AUSTRIA OF OHIO FOR THE HONORABLE JANET NAPOLITANO, SECRETARY, DEPARTMENT OF HOMELAND SECURITY

Question 1. In your testimony, you mentioned your directive for an assessment of DHS's critical role in cybersecurity. The interests of DOD and DHS are closely tied when it comes to cybersecurity and each are conducting their own measures in fighting this threat. In some instances, their jurisdictions in dealing with cyber threats overlap; what are your thoughts on how we ensure that we have effective

coordination and don't allow this overlap to cause a very serious threat to fall between the cracks?

Answer. The Department of Homeland Security (DHS) agrees that its interests are closely tied to those of the Department of Defense (DOD) when it comes to cybersecurity. DHS's National Cyber Security Division (NCSA) focuses on cybersecurity with respect to non-national security system sectors of the Federal Government, as well as critical infrastructure and key resources (CIKR) sector networks. In pursuit of its mission, NCSA works with Federal departments and agencies, State and local governments, the private sector, academia, and international partners. DOD is responsible for securing its own networks and the Federal Government's classified and national security networks. As the Defense Industrial Base's (DIB) Sector-Specific Agency under the National Infrastructure Protection Plan (NIPP) partnership framework, DOD is also responsible for working with DIB private-sector partners on cybersecurity and physical security matters.

In executing their cybersecurity missions, DHS and DOD encounter common threats and vulnerabilities to public- and private-sector critical information infrastructure. In addition, both Departments are cognizant of the interdependencies among the CIKR sectors upon which government and private-sector operations are dependent. DHS and DOD continue to enhance their relationships and continue efforts to maintain sufficient coordination mechanisms designed not only to preclude missing cyber threats and vulnerabilities but also to mutually support and enhance the cybersecurity of Federal departments and agencies, State and local governments, the private sector, and international partners.

Several cybersecurity policy planning and coordination mechanisms are used by DHS and DOD to improve the protection and preparedness of Federal Government and CIKR sector networks. DHS and DOD also coordinate on operational matters, such as threat and vulnerability information sharing, cyber incident response, and the dissemination of mitigation strategies.

From an operations perspective, NCSA's United States Computer Emergency Readiness Team (US-CERT) has programs and processes in place to facilitate communications with departments and agencies, including DOD (e.g., Government Forum for Incident Responders and Security Teams, weekly Federal coordination calls, and the National Cyber Alert System). US-CERT leverages information and lessons learned to assist agencies in better understanding the current impact of the threat against the Federal Government networks on a classified level. The Joint Agency Cyber Knowledge Exchange (JACKE) Program promotes sharing and dissemination of knowledge across the entire Federal cybersecurity community. The JACKE Program provides a biweekly interactive forum for US-CERT to share classified threat analysis updates and serves as a venue for participating agencies to share cyber activity detected within their internal networks.

Additionally, US-CERT continues to work closely with other DHS and Federal Operations Centers. DOD maintains a network of computer emergency response centers, which operate at all times and are coordinated by the Joint Task Force-Global Network Operations (JTF-GNO) to identify, mitigate, and respond as necessary to cyber attacks. DOD's U.S. Strategic Command, the National Security Agency/Central Security Service Threat Operations Center (NTOC), and JTF-GNO also provide continuous intelligence analysis of cyber threats. In addition, the Law Enforcement/Counter Intelligence Center, located at JTF-GNO, consolidates DOD's law enforcement and counterintelligence organizations with respect to cyber incidents. US-CERT works closely with the Defense Cyber Crime Center, NSA, and JTF-GNO through routine interaction and a liaison exchange program. Moreover, US-CERT participates weekly in a telecommunications check with JTF-GNO to ensure that secure communication mechanisms are operational.

Question 2. In December 2008, the Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism released its report, *World at Risk*. The Commission determined that unless decisive and urgent action is taken by the world community, terrorists will perpetrate an attack with a weapon of mass destruction somewhere in the world by 2013, and the Commission believes this attack will most likely be with a biological weapon. The Commission said that addressing bioterrorism must become a higher priority for the Department and that prevention must also be coupled with a robust system for public health preparedness and response. Do you agree with the Commission's assessment and how would you recommend the Department move forward in addressing bioterrorism?

Answer. DHS agrees with many of the WMD Commission's recommendations to address the threat of bioterrorism, and the Department intends to move forward on three main priorities: (1) Biosecurity: reviewing and updating existing Biosecurity and Bioterrorism prevention measures; (2) Biodefense Readiness: preparing the Nation to respond effectively to a potential attack or incident, especially through engi-

neering advances in early warning capability; and (3) Biothreat Understanding: pursuing the best understanding of the threat as it stands today as new science, intelligence, or technology emerge.

1. *Biosecurity*.—The WMD Commission’s charge was limited to “prevention”. DHS is an active participant in the Working Groups established by the Executive Order 13486 on Strengthening Laboratory Biosecurity in the United States.

- DHS entered into a Memorandum of Understanding with the Centers for Disease Control and Prevention, in HHS, and the Animal and Plant Health Inspection Service, in USDA, to share select agent information that has enabled DHS to begin site vulnerability assessments at select agent registered entities across the country, and DHS will make recommendations for improving security at these facilities.
2. *Biodefense Readiness*.—DHS will move forward in addressing bioterrorism by focusing on the most effective efforts to save lives by improving early detection, providing accurate warning and rapid response.

- DHS Office of Health Affairs (OHA) operates biodetection technology in over 30 cities with zero false positives to date through its BioWatch program. In addition, the DHS Science and Technology Directorate (S&T) has been funding research to engineer faster, better, and cheaper next-generation biodetection systems that are fully automated. DHS biodetection systems must be rigorously tested and have the full support and confidence of our partners in the public health community. This is being addressed by OHA and S&T in collaboration with our Federal partners.
- DHS and the Department of Health and Human Services (HHS) have an effective working relationship to build a robust public health preparedness and response system. DHS also has a robust relationship with the Department of Agriculture (USDA) to coordinate against food and plant and agriculture terrorist threats. DHS Federal Emergency Management Agency (FEMA) will continue to work closely with the State and local responder community to understand their needs and capabilities. DHS also solicits input from Homeland Security Advisors and the private sector. The Department needs to pursue a resilient multi-sectoral response to bioterrorism, as an entire city or region may be impacted in the event of an attack. Law enforcement, transportation, utilities, emergency management, and many other sectors of society are essential partners in addition to the public health community.
- The public also must be a full partner in our efforts. While there have been lessons learned for what to do in case of hurricanes, floods, or earthquakes, most Americans have no experience or education on how to protect themselves and their families against a bioterrorist attack. DHS will continue to increase resiliency within the civilian population. Working with HHS, DHS will ensure the general public is educated, informed, and empowered with clear and understandable guidance.

3. *Biothreat Understanding*.—DHS will advance the field of biodefense understanding.

- DHS is establishing a risk-based tiering of bioterror threats, and fills the scientific knowledge gaps about specific vulnerabilities we face today.
- DHS is exploring options to address new biothreats, such as a synthetic DNA that could be ordered on-line but misused to build a controlled pathogen.
- DHS is advancing the field of microbial forensics to assist in criminal investigations for possible attribution.

Question 3. In your testimony, you mention the need for DHS to evaluate its role in building capacity for a “health care surge,” including DHS’s supporting role in coordinating response to such an incident, and how the Department’s preparedness and public communications efforts could better facilitate existing health care surge capacities.

In my district, Wright State University, in close cooperation with Wright Patterson Air Force Base, is developing a self-sustaining, all-hazard, actual conditions training environment for civilian and military first responders and first providers (nurses, doctors, other medical personnel). Its focus is to develop a Disaster Resilient Healthcare Community based on the four themes of planning, preparation, response, and recovery.

What are your thoughts on such a project and what are your plans at DHS to ensure our communities are capable of dealing with a health care surge caused by an attack that involves chemical, biological, radiological, and/or nuclear (CBRN) weapons?

Answer. I appreciate the efforts of Wright State University and our Nation’s many other educational and training facilities that provide our first responders and health care providers with the skills they need to prepare for, respond to, mitigate the ef-

fects of, and recover from all hazards. Wright State University should be commended on its proactive approach to fostering an environment of resilience in the health care sector. The availability of such training opportunities is a critical element in the ability of our communities to deal with the health and medical consequences of a CBRN event.

As you know, HHS is the Federal lead for public health emergencies, including medical surge capacity after an emergency working with our Federal partners. DHS has a number of activities underway to help build medical surge capacity at the regional, State, and local levels. DHS is one of the six Federal department signatories to the Federal Education and Training Interagency Group (FETIG). This group, formed under the direction from HSPD-21, is directed to provide guidance to the National Center for Disaster Medicine and Public Health which will be housed at the Uniformed Services University of Health Sciences. The group is chartered to provide guidance for standardization of training and education for first responders. Ultimately, it will engage the public sector, private sector and academia to develop suggested guidance by which curricula can be developed and training centers accredited.

The DHS Office of Health Affairs (OHA) is working with the Community and Regional Resilience Initiative (CARRI) Program to promote the concept of community resiliency to meet the challenges of any health and medical stressor. The CARRI project is a regional program that has national implications to promote resilience in both human and physical resources to meet the challenges of health care surge.

OHA is also leading an interagency effort to develop a Clearinghouse of Medical and Public Health Preparedness Allocation, Skill Development, and Standards (CoMPASS). CoMPASS is a database that will make it easier to find Federal health and medical training and exercise opportunities, grant funding, and standards through an easy-to-use web-based portal. The data will be aligned by national priorities, target capabilities, and agency-specific preparedness missions. This will allow medical and public health communities the ability to locate training and funding opportunities, then connect instantly to the host site.

OHA has been working to convene a meeting with a number of health care entities, including Wright State University, that have demonstrated similar successes as Wright State in order to assemble a consortium of health care systems focused on providing hands-on training and education to foster health care resiliency. This effort will lead the way for a regional health and medical training approach that builds upon successes like Wright State University by promoting such activities through various grants and training opportunities for all levels of government.

Finally, DHS has a number of facilities and resources that focus full-time on providing training opportunities to our communities' first responders. These include the U.S. Fire Academy, Emergency Management Institute, the Center for Domestic Preparedness, and the Noble Training Center, which all have programs aimed at promoting resiliency of the health care community.

Question 4. There are approximately 70 miles of planned fencing along the southern border yet to be completed. What are your intentions on finishing this span of fencing? Additionally, constructing the fence is important, but it is equally critical that DHS have plans in place to address maintenance just like with any infrastructure or technology project. How will this be taken care of to ensure that the significant investment made to deploy this physical infrastructure will not be lost in the coming years due to lack of a maintenance strategy?

Answer. As of March 6, 2009, there are approximately 50 miles remaining of the 661 miles of priority areas identified by the Border Patrol to be constructed along the southwest border. Of the 50 miles, 34 are currently under construction, 13 miles in Rio Grande Valley are under contract and awaiting real estate clearance and 3 miles in the Tucson Sector are awaiting formal NEPA documentation required by the Tohono O'Odham Nation. Current plans are to complete these fence projects by October 2009.

U.S. Customs and Border Protection (CBP) currently has interim maintenance contracts in place to provide tactical infrastructure (TI) operations and maintenance (O&M) coverage until a long-term Comprehensive TI Maintenance and Repair (CTIMR) contract is awarded. The interim contracts are managed by the U.S. Army Corps of Engineers utilizing their multiple award task order contracts. The long-term CTIMR contract is scheduled to be awarded in the first quarter of calendar year 2010. These contracts will cover maintenance and repair for fence and gates, roads and bridges, drainage structures and grates, lighting and electrical systems, and vegetation and debris removal within the seven Border Patrol sectors.