

**THE DEPARTMENT OF HOMELAND SECURITY'S  
SECURITY INITIATIVES TO SECURE AMERICA'S  
BORDERS**

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**HEARING**  
BEFORE THE  
**SELECT COMMITTEE ON  
HOMELAND SECURITY**  
**HOUSE OF REPRESENTATIVES**  
ONE HUNDRED EIGHTH CONGRESS  
FIRST SESSION

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JUNE 25, 2003  
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## HEARING ON THE DEPARTMENT OF HOMELAND SECURITY'S SECURITY INITIATIVES TO SECURE AMERICA'S BORDERS

Wednesday, June 25, 2003

HOUSE OF REPRESENTATIVES,  
SELECT COMMITTEE ON HOMELAND SECURITY,  
WASHINGTON, DC.

The committee met, pursuant to call, at 2:08 p.m., in room 2318, Rayburn House Office Building, Hon. Christopher Cox [chairman of the committee] presiding.

Present: Representatives Cox, Dunn, Smith, Shays, Camp, Diaz-Balart, Goodlatte, Souder, Thornberry, Gibbons, Sweeney, Turner, Sanchez, Markey, Dicks, Frank, Cardin, DeFazio, Andrews, Norton, Lofgren, McCarthy, Jackson-Lee, Christensen, Pascrell, Etheridge, Lucas and Meek.

Ms. DUNN. [Presiding.] Good afternoon, ladies and gentlemen.

The quorum being present, the Select Committee on Homeland Security will now come to order.

The committee is meeting today to hear testimony assessing the Department of Homeland Security's initiatives to secure America's borders.

Our chairman will be joining us shortly, but since he is on the floor making a statement right now, I think to take advantage, Mr. Hutchinson, of your time with us today, we will begin.

I am especially pleased to welcome Under Secretary Asa Hutchinson here this afternoon. Many on this committee know him as an esteemed former colleague and friend. We also know him as an extraordinarily capable leader who is well equipped to take on what we all know is the Department of Homeland Security's toughest job, the Under Secretary of Border and Transportation and Security.

Prior to the creation of the Department of Homeland Security, it was no secret that our national border strategy was fragmented, because the responsible agencies, the Customs service, the INS, the Border Patrol, the Animal and Plant Inspection Service, and the GSA all belonged under different Cabinet agencies.

That situation no longer exists today.

We now have a unified chain of command as our borders and we are working toward a unified structure. Together with our Mexican and Canadian neighbors, we are working through hard issues to secure our borders and at the same time to facilitate legitimate travel and commerce.

The Border and Transportation Security's responsibilities involve virtually all of the 22 diverse agencies incorporated into DHS, and

all of the department's old missions and its critical new one, to make America safer.

Considering the complexity of America's ports, the long stretch of its borders, and the vast expanse of our critical infrastructure, one might simply ask our witness, where do we begin?

The fact is, however, that the department has made significant progress on all these fronts, and we look forward to hearing about that progress this afternoon.

It is also true that we have a lot more progress to make in the months and years ahead, and we also want to hear today about the department's plans to further enhance America's security.

Internationally, we have been pushing our first line of defense overseas by placing customs agents in foreign ports to screen and inspect cargo before it arrives on our shores. Additionally, we are working with the private sector to ensure that all high-risk air cargo is screened before it is placed on the airplane bound for the United States.

Our ability to gather, analyze and share relevant intelligence is key to our efforts.

The Select Committee is committed to a strong Department of Homeland Security, with the capability to perform this intelligence and analysis function as is required by the Homeland Security Act. Barriers to information sharing need to come down.

We need to take steps to arm customs and immigration inspectors with the timely information they need to carry out their number-one priority: to stop terrorists before they can do harm to Americans.

Last weekend, the Select Committee on Homeland Security made a working visit to the Department of Defense Northern Command in Colorado Springs, and to the Los Angeles Long Beach ports in California. The trip included an air, land and waterway inspection of the port, and an informative public hearing on port security that we held in Los Angeles.

During this trip we were struck by the enormous challenges of securing this strategic port, but we also were deeply impressed by the initiatives of the local and the regional leaders in partnership with Federal Government, both to secure the port from terrorism and to preserve its major contribution to this country's economy.

Since the launch of the department's Container Security Initiative over a year ago, 19 megaports have now agreed to participate in CSI, 19 out of 20 megaports in the world have agreed to participate in CSI and are at various stages of implementation of the program. These megaports are points of passage for approximately two-thirds of all the containers that are shipped to the United States.

I look forward to hearing about the level of cooperation we are receiving overseas.

Legal sanctions take by the European Union against its member nations participating in the CSI program is a troubling development. And while questions remain regarding the operational status of the CSI program in various ports, the commitment to act by so many nations is in itself dramatic progress in the right direction.

Intelligence information is a key element to the success of the Container Security Initiative since it informs the agents on the

ground of likely high-risk containers and allows them to target their efforts.

With good intelligence, we can reduce our risk and promote the flow of commerce. In this and so many other areas of homeland security, we need better intelligence to understand the terrorist threats and we need to get this information to our customs and immigration inspectors, and to the first responders, who need it to enhance our security.

We must have better intelligence and we must find ways to share it more broadly if we are to reduce the terrorist threat, if we are to prioritize our vulnerabilities and if we are to develop cost-effective solutions.

Our nation shares 5,525 miles of border with Canada, and 1,989 miles with Mexico. More than 500 million people cross the borders into the United States each year. Facilitating the legitimate travel and business of these people is as critical to our way of life as in preventing would-be terrorists and terrorist materials from entering our country.

The Bureau of Immigration and Customs Enforcements and the Bureau of Customs and Border Protection have been formed to ensure that both of these dual missions are rigorously pursued. They are using new promising technologies to facilitate the entry of legal residents and to identify those who pose potential threats to our countries.

The Bureau of Customs and Border Protection, for example, has worked with Canadian officials to put in place the Free and Secure Trade Initiative, which enables the bureau to focus its security efforts on inspections, on high-risk commerce and facilitate the legitimate trades. On our southern border, too, through sound risk management principles, we are working to ensure safe, orderly and secure travels for legitimate border-crossers.

To encourage low-risk pedestrian and vehicle travel through already congested ports of entry, DHS plans to expand the secure electronic network for travelers rapid inspections, the sentry program. Already the United States has expanded the enrollment period for this program from one to 2 years. Already too, plans are underway to establish the first dedicated pedestrian lanes at the San Isidro port of entry.

Additionally, the United States is expanding programs and partnerships with the private sector, such as the Business Anti-smuggling Coalition and the Customs Trade Partnership Against Terrorism. And Mexico's Compliant Importer/Exporter Program by developing high-tech dedicated travel lanes which will be made available only to those large companies willing to dedicate extra resources to securing their shipments to the United States. These lanes will expedite and facilitate the border crossing process, thus reducing the cost of doing business. As I understand it, we will open the first dedicated lane in El Paso Jaurez later this year.

In conjunction with the Department of State, the Department of Homeland Security's visitor and Immigrant Status Indicator Technology Program at air and sea ports of entry is designed to collect information on the arrival and departure of most foreign nationals, to determine whether they should be allowed entry into the United States, whether they can change their immigration status or

whether they have violated their visa status. We are eager to hear about the department's progress with this program.

Incorporating advanced technologies into our security systems, training our security personnel and using intelligence to target our security efforts are central to the success of protecting our borders, our ports and our infrastructure, without compromising the values that make America a beacon of freedom, hope and opportunity in a troubled world. The expansion of current programs and the development of new processes will take time. And we must anticipate more bumps in the road.

Failure, however, is not an option. America demands we succeed. Our constituents demand we succeed. And we want to keep that commitment. The committee is prepared to help DHS succeed in any way we can.

I thank you, Mr. Hutchinson, for being with us, and look forward to your testimony.

The Chair now recognizes Mr. Turner, the ranking Democrat member, for any statement he might have.

Mr. TURNER. Thank you, Madam Chairman.

Welcome, Mr. Secretary. We are glad that you are with us today. I know that we all share a common purpose, and that is to do whatever it takes to secure our borders and to protect the American people from the threat of terrorism. Our joint mission is to make America stronger against those threats, and to do it in a faster way.

The urgency of the task came to my mind yesterday as I read of the reports about threats to the chemical industry in Texas. It is clearly our duty to move with speed and to strengthen our nation in the same way we mobilize for war. To accomplish our mission means strengthening our borders on the land, sea and in the air.

Two years ago, the PATRIOT Act called for tripling border officers on our northern border. Yet, today only one person on average watches every 16 miles of our northern border. That goal of the PATRIOT Act has yet to be met. That is why I think we must move faster and act now.

We have dozens of border security tracking systems, but so far those systems do not work together. This leaves a serious question as to whether they can keep America's borders safe.

On the sea, we have not yet completed the required port security assessments for the thousands of port facilities in America. These assessments are supposed to be submitted and reviewed by July of 2004, yet only a portion of the necessary funds has been provided to accomplish the mission. Ports need security upgrades at every level. At the current pace of construction it will be years before they are secure.

In the air, we have passenger planes flying with holds filled with unscreened cargo. There are screeners who have not passed criminal background checks. For example, the Los Angeles Airport officials recently discovered 12 more screeners with felony convictions, despite the administration's rescrubbing of the screener's backgrounds.

TSA's mission is much broader than just aviation. TSA must do more to assess and adequately protect other modes of transportation, such as rail, buses and ferries that millions of Americans

ride every day. Despite this, almost 88 percent of TSA's budget is allocated to aviation security, and only 2 percent is requested for both maritime and land security.

Mr. Secretary, there are some who might tell us that our mission is to vast and too challenging. There are some who might say that the Department of Homeland Security has only been operational for a few months and that it needs more time. But I know and you know that our terrorist enemies do not wait. And we cannot wait to be prepared, so we must move faster and we must be stronger.

Mr. Secretary, as a former member of this body, you know that Congress has always been willing, in a bipartisan manner, to do whatever is necessary to protect our national security. That means all you have to do is ask, and this Congress will respond.

If you need additional resources to accomplish the objectives that I have mentioned-or any others-I know this Congress would stand ready to fund those endeavors in a bipartisan manner..

We look forward to your testimony today. We look forward to receiving an update on the activities of your department. And most importantly, we appreciate your service to our country in your capacity as Under Secretary.

Thank you, Madam Chairman.

Ms. DUNN. Thank you very much, Mr. Turner.

Under Committee Rule III, members who are here in the first 5 minutes of the hearing can make opening statements of 3 minutes or reserve their time for questioning. Does any member of the committee wish to make an opening statement?

All right. Why don't we start on this side, and the 3 minutes will be ceded to Mr. Camp.

Mr. CAMP. I thank the chairman.

I would like to welcome Department of Homeland Security Under Secretary for Border and Transportation, Director Asa Hutchinson. Thank you for being here. We all know you pretty well and it is good to see you again. I realize this is your first appearance before the Select Committee on Homeland Security. I look forward to your testimony, and I know we have it in writing, and the update on the BTS Directorate.

I had the opportunity to hear from you a little earlier this morning as you addressed the Northern Border Caucus. And I appreciate the knowledge and commitment to meeting the security challenges facing our nation.

As chairman of the Subcommittee on Infrastructure and Border Security, I am particularly interested in your formal testimony, and I look forward to inviting you to appear before the subcommittee later this year.

Obviously, homeland security is not an 8:00 to 5:00 job; it is 24 hours a day, seven days a week. Every day travelers pass through ports of entry, trucks carrying valuable commerce enter the nation, and ships full of containers arrive at sea ports.

Obviously, you and other DHS officials have repeatedly said they are committed to moving security away from our borders to foreign ports and by screening cargo before they reach our ports of entry. I support this initiative, and I want the committee to be an asset to the department in moving this initiative forward. I hope you will provide an update on the programs and progress made toward this

end, especially the container security initiative and advanced cargo manifests.

Our nation thrives and grows based on the flow of goods and people. The United States is proudly the most open nation in the world. However, while ensuring these same transportation modes are accessible for legitimate uses, they also must be secure.

And the challenge before us is to provide a level of security that is appropriate for the risk, including cargo screening, monitoring who and what is coming in and out of the country, without hindering legitimate commerce and travel. Closing down borders or delaying the flow of commerce in the event of a terrorist attack or in the name of increased security would have serious and long-standing affects on the national and world economy.

The security and livelihood of the U.S. depends more than ever upon how efficiently Federal agencies charged with border management achieve their respected missions and coordinate their functions.

The limitless innovation of citizens in industry in America will be invaluable in ensuring that security enhances commerce and travel, rather than hinders.

As the department continues to organize and develop offices for assessing needs and proposals, I encourage you to develop strong partnerships and focus on finding these business solutions to our security needs.

Border security cannot be discussed without including the implementation and utilization of advanced technology for monitoring and detection of contraband and illegal travelers crossing our borders. Without a doubt, we have some of the most hard-working and dedicated Americans serving our nation at ports of entry and along our borders. We must provide them with the technology and the tools to assist them in their mission.

I thank the chairman for holding the hearing today and look forward to your testimony. Thank you.

Ms. DUNN. Thank you very much, Mr. Camp.

The Chair now yields 3 minutes to Ms. Sanchez.

Ms. LORETTA SANCHEZ of California. Thank you, thank you, Madam Chair.

And thank you, Mr. Hutchinson, or Under Secretary Hutchison for being here. It is great to see you again, as usual.

The security of our land borders, our sea ports and our ports are of course foremost in everybody's minds here, in particular, this committee, because we worked on it every day. But I think it is also important to every member who has a land border or a sea port. And so, we are very anxious to hear from you about the initiatives that you have for securing America's borders.

One of the things that happened just this past weekend was that this committee took a trip out to California to see the Long Beach and Los Angeles port, and we held the hearing. And during that hearing, we heard a testimony from a number of witnesses, management, front-line people, who said they are not receiving the Federal fund that they need, the resources that they need to do their job.

For instance, 35 percent of all U.S. international trade passes through the ports of Los Angeles and Long Beach. It is the third

largest port area in the world, and about two and a half times the size of New York, New Jersey. So it is the largest sea port that we have.

And yet, when we were there at our hearing, we were told that the port of Los Angeles has actually received—actually received—money they have received, a mere two and a half percent of the port grant money administered by the Department of Homeland Security. From a fiscal standpoint and from a security standpoint, it is just amazing to have heard that number. This gentleman went through the actual grant monies that he had in hand.

Furthermore, while Commissioner Bonner's testimony from last week, another hearing that we had, highlighted the department's progress in developing non-intrusive technology equipment. Our front line United States Customs inspectors have told us that their x-ray equipment is frequently broken, and that there is often not enough staff to adequately use them. And of course, then there is the IG report that talks about not enough staff, poor training or a lack of training at this particular point.

Meanwhile, the Department of Homeland Security talks about extending the borders outside of the United States or pushing off our actual borders and ports of entry, becoming our last line of defense. The department has publicized the Container Security Initiative as the bureau's primary port security program in operation today.

We heard from Bonner and we heard from—I can't remember her name at the Los Angeles hearing that we had—about having now signed up 19 of the 20 largest ports in the world. However, after asking all of the questions, on closer inspection, what we have is only agreements with 19 of the 20 ports, and that the program is so far only in 10 of those 19, and that it is just operational. And sometimes operational means just one person at that port.

And now we see Secretary Ridge has announced that this is going to be expanded up to 25 new ports of Middle Eastern and other Muslim countries.

So I just hope that you will focus not on the plan and what you want to do, but what you actually already have in place. We are interested to know, because it is important for the safety of our people and our commerce.

Thank you, Madam Chair.

Ms. DUNN. Thank you. The gentlelady's time has expired.

The Chair now recognizes for 3 minutes for an opening statement, Mr. Gibbons.

Mr. GIBBONS. Thank you, Madam Chairman.

And I also want to welcome my good friend and colleague back before the committee. I know it is a great honor to see you in the position you are in today, and I wish you all the very best of luck.

And I know that you have a very challenging task, to coordinate all those numerous Federal agencies while at the same time ensuring our border security and ensuring the free flow of goods and commerce to this country to keep our economy going. By no means is that an easy task.

I know there is much to be done, and I certainly applaud you for the work you have done so far and as I said, certainly not going to be easy for what you have ahead of you.

I ask only that perhaps in your opening statement you could address three basic areas that I have an interest in. And of course first would be how has our assessment of border breadth and border vulnerabilities improved since the inception of the Department of Homeland Security?

But second, Congress has already passed and is currently considering several measures to mandate the screening and inspection of 100 percent cargo in containers entering the United States.

So is this level of cargo inspection—and may I say that is going to be a task which certainly will hinder the flow and speed of our commerce—the only way to ensure materials posing a threat to our security do not enter the country, or is that the only way we can do this?

And finally, as a former commercial airline pilot, I have taken a great interest in the Federal flight deck officer program that has commenced in February of this year. If you could address the number of flight crews that have completed the federally mandated training program and how much do you anticipate there will be a reduction in the cost of security or incidents attributed to this program to our aviation industry?

And with that—I know that is a big challenge—want to welcome you once again. It is great to see you, and look forward to your testimony.

PREPARED STATEMENT OF THE HONORABLE JIM GIBBONS, A  
REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEVADA

First, I would like to welcome Under Secretary Hutchinson back to Capitol Hill this afternoon.

Undersecretary Hutchinson has the challenging task of coordinating the numerous federal entities responsible for the protection of America's thousands of miles of border, and transportation within and through those borders, all while ensuring a free flow of the people and commerce that gives our nation the tools it needs to thrive.

While I know that there is still much to be done, I applaud Undersecretary Hutchinson for his work thus far. His job certainly is not an easy one.

Questions:

How has our assessment of border threats and border vulnerabilities improved since the inception of the Department of Homeland Security?

Congress has already passed and is currently considering several measures to mandate the screening and inspection of 100 percent of cargo and containers entering the U.S. Is this level of cargo inspection, a task that will certainly hinder the flow and speed of commerce, the only way to ensure materials posing a threat to our security do not enter our country?

As a former commercial airline pilot, I have a keen interest in the progress of the program to arm airline pilots in the cockpit. Since the Federal Flight Deck Officer Program commenced in February of this year, how many airline pilots have completed the federally mandated training program?

How much of a reduction in security incidents do you anticipate will be attributed directly to the Federal Flight Deck Officer program?

Thanks for taking time out of your busy schedule to be here for us.

And I yield back the balance of my time, Madam Chairman.

Ms. DUNN. Thank you, Mr. Gibbons.

The Chair now recognizes for a 3-minute opening statement, Ms. Norton.

Ms. NORTON. Thank you, Madam Chairman.

And welcome, Secretary Hutchinson.

I would like to bring to your attention an unusual and, I think, dangerous infiltration of a border that perhaps was not anticipated: The border I am talking about is the District of Columbia.

And what I am talking about should concern all of us. Before the department was set up, you had a good working relationship with the Immigration Service on this issue. But what I am talking about is the sale of green cards and other documents within a mile of the Capitol of the United States in the Adams Morgan area of the District of Columbia.

After working with the immigration authorities, we were able to get the kind of response that you might expect. This is at worst a danger to our country, at best I should think an embarrassment at this point. This began before 9/11 in 1998 with the arrest of seven key suspects in the Adams Morgan area. In March 2000, three more.

But let me tell you what they are selling within a mile or so of the Capitol. Right off 16th Street, straight out from the White House, this is what was confiscated in March 2000: 1,500 counterfeit documents including green cards, employment authorization cards, Social Security cards, state identification cards, and related printing equipment. They also, by the way, seized a half a pound of marijuana at the same time, showing you what the links are here.

Fourteen undocumented aliens were, in September 2000, seized, again with the same kind of loot.

My office has a meeting on Friday with a man who was most helpful and skillful on this, Mr. Warren Lewis, and the man who I think heads this division of Homeland Security now, or section, Mr. Kevin Delcolie.

Apparently, when this went over to Homeland Security, a lot of it, perhaps understandably, got derailed. It is very important that this get back on track right away.

I also want to bring to your attention what the Transportation Committee did this morning. A unanimous amendment, lots of outcry from members at the 2-year shutdown of all general aviation at National Airport.

This is the one place where the terrorists have won. We have opened up everything else: LaGuardia, you can put a charter plane in there, even though that is where the Twin Towers were taken down. You can get a charter plane out of Dulles or BWI.

We have had briefings, but briefings are quite outrageous. They are Star Trek briefings, worse case scenario briefings. And they instruct you to, in fact, issue regulation. Issuing regulations doesn't mean it happens. What it does mean is we get an opportunity to see what should happen.

Thank you very much, Madam Chairman.

And thank you, Mr. Secretary.

Ms. DUNN. Thank you. The gentlelady's time has expired.

The Chair now recognizes Mr. Sweeney of New York for a 3-minute opening statement.

Mr. SWEENEY. I thank the Chair for recognizing me.

I hadn't intended on giving an opening and going to questions, but Secretary Hutchinson, I am in the middle of a markup on approps, and it is always good to see my old friend.

It has been quite some time since your last testimony before a committee I sat on, which was the Subcommittee on Appropriations. And an awful lot has changed in the eight weeks since then, including the fact that yesterday, I think rather historically, we passed what is the House's blueprint for homeland security, making what subjectively I would say are pretty substantial changes to the original proposal. And I think they are reflective, as you noted to me yesterday in a conversation, to some things that have changed and occurrences.

In the course of your testimony today or in questioning, because I am going to be in and out, there are a couple of things that I have of particular interest, and some of them relate to more of the process issues that have to happen, and others relate to I think the clear direction we are going to go in.

I know you said and you said in that prior testimony to appropriations and you said, and Secretary Ridge has said a number of times, that formulation changes need to occur, especially in places like ODP and things of that nature. So I would be interested in hearing what the department's proposal would be, because I really think it is important that the department weigh-in on that issue, as well as the issue of high-risk, high-density dollars and what the department's position is now. I don't think I have to restate the history on that. We did that all too painfully yesterday on the floor. But I would like to hear where the department is definitively on that.

And finally, of note today in one of the New York newspapers was a story that I think may point out in part a success, but certainly raises the worry that we all have of our homeland security, and that is that department investigators have been tracking and have uncovered a plot by the Iraqi government to infiltrate the homeland and carry out terrorist activities as part of a guerrilla war in the homeland. So I would be of great interest, given the public forum that we are in, of what information you could share with this committee on that.

And I welcome you, Secretary Hutchinson, and look forward to hearing your words.

Thank you.

Ms. DUNN. I thank the gentleman.

The Chair now yields 3 minutes for an opening statement to the gentlelady from Missouri, Ms. McCarthy.

Ms. MCCARTHY of Missouri. Thank you, Madam Chairman.

And welcome back, former colleague. I am glad to see you in your new role. And I thank you for coming before us today to brief us on this important matter.

As ranking member of the Subcommittee on Intelligence and Counterterrorism, I am particularly interested in your thoughts and assessment of the intelligence data that you receive from the Intelligence Analysis and Infrastructure Protection directorate, IAIP. It is not mentioned in your testimony, but if there is time I would love for you to share your thoughts with us, so that this subcommittee can assist you in that important endeavor.

And as we look to our port security, I must remind you that out in the heart of America in Mark Twain and Harry Truman country, the confluence of the Mississippi and Missouri River in St. Louis

is a critical inland port area for all of the agricultural products that are being shipped from the Northwest on to New Orleans and back with supplies and things that we need.

And in addition, our interior interstate, the NAFTA highway, I-35, runs through my district and much of southwest Missouri, hazardous material transportation is carried, and 80 percent of it on our highways I-70 and I-44 as it makes its way through the heart of America.

And the Kansas City area is second in rail traffic in the country, and there is a great deal of inland port activities that go on in my greater Kansas City and this district community. So I would also love for you to share your thoughts on how we are doing with our inland port security, both rail and highway, as well as riverways.

And lastly, I am concerned because the House, in a very bipartisan way, adopted an amendment during your appropriations discussion to make sure that inspections were given to cargo on airplanes as it is for passengers. But an amendment that was proposed to increase your funding was withdrawn because it was ruled out of order.

I would like your thoughts on how, as the bill progresses in this passage, you would recommend that we, who are all well intended in a bipartisan way, want this agency, this new department, and your efforts to succeed, can work together to make sure you have the resources needed to carry out the wishes of the Congress and your desire, as well as for the people of this country?

Madam Chairman, I am going to yield back the balance of my time and hope that this helps move us along to the important discussions we will be having with our Secretary today.

Thank you very much.

Ms. JACKSON-LEE. I thank the chairwoman very much for her kindness. And I, again, add my appreciation for the Secretary's presence, having formerly served with him on the Judiciary Committee.

I said earlier today that, in times past, that we hope that Rome is not burning as we proceed with hearings and reorganization and organizing. And I know that there are many goodwill people, people of good intentions, working to make sure that the Department of Homeland Security works. And that is the challenge of this committee.

Having had the opportunity to visit recently the northern border and the southern border, I know that you have a large task before you, not because they are not good people working. But I believe they need good resources and added people.

And so I hope that in your testimony and in our discussion later, we will be able to talk more about using technology at the borders, particularly in the areas that I will speak about very briefly in the 3 minutes that I have.

I also hope, and I had an amendment on the floor yesterday and engaged Mr. Rogers in a colloquy to talk about expediting the funds to the individuals that are on the home front, in the neighborhood. Now, there is some language in the appropriations bill that the money should be gotten to the state within 60 days and to local communities within 30 days.

Now, Mr. Secretary, are you aware that, in that process, application requirements are being put in place? And local entities that are the recipients of the funds to distribute to the actual performers of security are being asked to draft regulations again so that we can again apply and go through hoops and loops as it relates to getting money to the port security in Los Angeles, in Long Beach, in Houston, Texas, to the airport security in Chicago, and I mean the local enforcement that has this responsibility. This is a crisis.

Then, I would like to bring to your attention the tragedy that occurred in Texas just about the beginning of May, May 11, when now 21 victims died, individuals who came to this country, most of us believe, to seek an opportunity. Yes, they were entering in an illegal manner, but I believe that we have got to grapple with that, because that is security.

The oldest was 91, the youngest 5. And I will be putting forward to this body and to my colleagues, in a bipartisan legislation that will create a new class of non-immigrant alien status for those who would help us fight this terrorism and smash the smuggling rings, as well to adjust the status of anyone who happens to be a victim and smuggled in. That will provide the resources or the information regarding prosecution of those individuals.

And finally, what we found to be very effective, providing extra resources, incentives, financial resources, for those who will provide us with that information.

I would just like to close by simply saying this is a matter to the Chair. And I see that Chairman Cox is not here, but I will be pursuing this in the line of questioning. And that is a letter that we are asking for Chairman Cox to bring before this committee, Secretary Ridge, on the matter dealing with the Department of Homeland Security in Texas. And I will discuss that later.

PREPARED STATEMENT OF THE HONORABLE SHEILA JACKSON-LEE, A  
REPRESENTATIVE IN CONGRESS, FROM THE STATE OF TEXAS

Mr. Chairman, thank you for convening the Full Committee to allow us to further examine the status of our border security. We are here today, in part, to query the Department of Homeland the Full Committee Security as to its plans to provide a balance of the establishment and maintenance of security at our ports of entry coupled with the thwarting of any impediments to the stream of commerce, which is our lifeline. The new DHS programs designed to facilitate the border inspection process such as the Container Security Initiative (CSI) which will utilize the "24-hour rule" and those programs designed to expand our borders such as Free and Secure Trade (FAST), NEXUS, and the Customs-Trade Partnership Against Terrorism (C-TPAT) are quite encouraging when one looks at the overall picture. However, as we narrow our scope to the "front line" and the actual facilities that would be first in contact with a terrorist attack, these programs generate significant concerns.

For example, I am very disturbed by the many deaths that have occurred recently during alien smuggling operations. Several weeks ago, an 18-wheeler passing through rural Texas was carrying undocumented immigrants from Mexico, Honduras, Guatemala, and El Salvador. The oldest was a man of 91, the youngest, a three-year-old child. At some point during this journey, the heat inside the truck became unbearable. They pounded on the walls and shouted for help. Someone used a cell phone to call the police, but no one at the nearby police station spoke Spanish. It was too late when the police finally found a translator. By the time the sheriff's deputies arrived, the door to the truck compartment had been forced open. Four lifeless bodies were lying on the ground, dead from heatstroke and asphyxiation. Inside the truck, they found 13 other corpses, including that of a seven-year-old boy. I want to know what is needed to reduce the occurrence of such deaths. Our emergency pre-

paredness initiative must work in conjunction with careful and conscientious employment policies.

The Immigration and Nationality Act gives the Department of Homeland Security authority to offer nonimmigrant visas to aliens who can assist the United States government with the investigation or prosecution of a terrorist organization, enterprise, or operation. It also gives your Department the authority to adjust the status of aliens providing such assistance to that of lawful permanent residents. This authority must be used to maintain an orderly system of detection and enforcement.

Relative to our discussion of DHS' border protection and enforcement programs, I have also been concerned about the issue of commercial alien smuggling. It is not clear, in the current regulatory scheme, how DHS will approach the situations that involve operations across international borders. We should examine our current inter-agency dynamics, such as DHS collaboration with the Department of State and the Department of Justice. It would be helpful if we knew how successful DHS has been in working with other government agencies on investigating, apprehending, and prosecuting people involved in commercial alien smuggling. I am particularly interested in the methods that the Department has devised to share information provided by informants from other countries.

Shifting gears to the actual borders, specifically the US Mexican line, I would suggest that we need more improvement measures for the critical infrastructure and other related facilities. Since the North American Free Trade Agreement (NAFTA) entered into force in 1994, the number of commercial vehicles crossing the U.S.–Mexico border has increased by 41 percent, while two-way trade between the United States and Mexico has almost tripled. Cross-border trade now averages more than \$650 million a day, two-thirds of it through ports of entry in Texas, and nearly 70 percent of truck traffic coming from Mexico into the United States enters through Texas. The U.S.–Mexico border in Texas covers some 1,951 miles and is the busiest in the world. Each year, the United States' southern border allows in more than 300 million people, approximately 90 million cars, and 4.3 million trucks, and upon entering NAFTA, the number of vehicular crossing of this border increased by 41 percent. Mexico, as our second largest trading partner, shares the border as well as a wealth of unique history with the United States. The need for border infrastructure and border management systems that facilitate the continued integration of the North American economic region is vital. These systems should protect the citizens of both nations from terrorism, illegal drugs, and other dangers; facilitate and expedite legitimate cross-border travel and commerce; and allow our governments to better determine who crosses the borders.

The new entry-exit systems to track the arrival and departure of non-U.S. citizens must operate efficiently and with an objective eye. The proponents of the CSI, C-PTAT, and FAST contend that they will dramatically improve our ability to deny access to those individuals who should not be allowed to enter the United States, while speeding the entry of routine, legitimate traffic. I fear, however, the potential for these programs to become a thinly disguised form of racial and political profiling. With respect to the NEXUS program with Canada, I ascribe to the belief that we need to draft and promulgate a set of bi-national regulations to govern the NEXUS system. This proposal would allow for a focus of the applicant's enrollment decision on whether this fast lane admission process poses a potential threat to national security. Furthermore, we need to include with this trade scheme a set of regulations that establish a due process appeals procedure for cases in which NEXUS applications are denied. Related to this matter, we need to ascertain the basis for the acceptance of NEXUS applications that have been denied, under the "zero tolerance" standard on the basis of old, very minor infractions. Moreover, despite the fact that Canada and the United States are both signatories to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol and adhere to the definitions provided for in this body of international treaty law, the jurisprudence of our respective countries has developed independently. In light of our joint recognition of this document, the respective Refugee Status Determination systems are subject to patent differences of interpretation. The spirit NAFTA reflects the preferential trading relationship between Canada, Mexico, and the United States. Our task of effectively securing our borders with a respect for individual liberties must include a fair standard of determining and granting Treaty-NAFTA ("TN") classification and hence allowing participation.

The overall balance of thorough emergency preparedness, sound border patrol facilities and programs, and fair trade restrictions will keep our nation functioning at a comfortable, albeit efficient level.

Mr. Chairman, again, I thank you for your time and effort in this matter.

I yield back. Thank you very much, Madam Chairperson.

Ms. DUNN. Thank you very much. The gentlelady's time has expired.

The Chair now yields 3 minutes for an opening statement to Mr. Meek of Florida.

Mr. MEEK. Thank you, Madam Chair, Secretary. Thank you for being here.

Prior to the committee meeting, we talked a little bit about border security and what happens every day and every weekend in South Florida.

In South Florida, we are part of that 95,000 miles of coastline. And we have a Caribbean with a lot of issues, some as it relates to a dictatorship in Cuba, and others as it relates to the level of poverty and unsafe conditions for the people of Haiti.

Any given weekend, we have well over 200 or 300 individuals coming to our coast. Some are released immediately because of the Cuban Readjustment Act, which is a good piece of legislation. If it is on the floor tomorrow. I will vote for it because it is the right thing to do. Others are incarcerated. We say detained.

I think it is important that as we look at border security, especially those that are seeking political asylum due to a very dangerous situation, we are going to protect our borders. Our Coast Guard there in South Florida, we have one of the biggest stations in the country. They have a border patrol that has a very strong presence there.

But I think it is important for areas such as South Florida, because I can't think of any other place in the country where you are going to have that kind of influx of individuals that will not land, that we must have a better strategy there.

Why I am raising this question, as we look at border security and transportation, the fact that you have Castro that sided with, as it relates to the U.N. and as it relates to the actions of this nation in Iraq, it was one of the three countries that stood against us. We have individuals that are trying to escape the situation that is an unbearable situation for them.

But at the same time security of our ports and security of our borders are important, but also the freedom of those individuals are important also. So I think it is important, as we look at diplomats, we look at business individuals who have to travel to this country to be able to do business, to be able to bring about the kind of trade that helps this country survive, we also have to think of those individuals that work on those ports, those individuals that may not be flying in first class.

So, maybe if somewhere in your testimony, and I am going through your written testimony, you can address some of that, it would be much appreciated. Or look forward to similar questions on transfer.

Thank you, Madam Chair.

Chairman COX. [Presiding.] Is there any other member who wishes to be recognized?

If not, we welcome the Hon. Asa Hutchinson.

And the chairman apologizes for coming late to this hearing. I had a bill on the floor, and no one will better appreciate what that is all about than, our former colleague, who is.

We want to thank you for being here. We want to thank you for the work and dedication and energy and leadership that you have put into this position, which is so vital to our country. And thank you, especially, for your testimony submitted today. We have your written testimony and invite you to summarize. You are recognized for 5 minutes.

**STATEMENT OF THE HONORABLE ASA HUTCHINSON, UNDER-SECRETARY FOR BORDER AND TRANSPORTATION SECURITY, DEPARTMENT OF HOMELAND SECURITY**

Mr. HUTCHINSON. Thank you, Mr. Chairman and Congressman Dunn. Thank you for your presiding. Congressman Turner, thank you for your comments today.

Former colleagues and members of this committee, I want you to know, first of all, I am encouraged by homeland security just by being here and seeing in this room such extraordinary talent and experience and dedication to the prospect of homeland security. And sometimes it is good to come over on the Hill for a lot of reasons, but today for a pump-up and a bit of encouragement that we are all, in a bipartisan way, engaged in this important endeavor for our country.

And so, I want to thank you for the work of this committee, the partnership that we experience with you, and what we will be able to accomplish together.

This is my first appearance before this committee, and I am pleased to be here as Under Secretary for the Border and Transportation Security Directorate.

It was pointed out in the comments that securing our nation's air, land and sea borders is a very difficult and critical task. And Border and Transportation Security Directorate is one of five directorates within the department, and we are in partnership with the Coast Guard. And we have responsibility for watching over those borders and transportation systems.

This directorate is comprised of former U.S. Customs Service, part of the Immigration and Naturalization Service, the Transportation Security Administration, the Office for Domestic Preparedness, the Inspections Division of the Animal and Plant, Health Inspection Service, the Federal Protective Service, and the Federal Law Enforcement Training Center.

It is comprised of about 110,000 very dedicated employees from those various agencies brought under BTS directorate because of a common focus that each of them have on ensuring the security of our borders, our ports of entry and transportation systems, and, at the same time, making sure commerce flows in an unimpeded fashion.

In the 5 months since the creation of the department, and less than three since we truly became an operational entity, this directorate has taken a number of strides to integrate its historic agency and streamline their operations. We have achieved a number of operational and coordinating successes and challenges since January 24.

And I wanted to share just a few of those accomplishments. I hope the conclusion is that we are, indeed, out of the gate, running fast and hard toward our objective. Since January 24, the BTS di-

rectorate has initiated a comprehensive reorganization of its agencies creating two new bureaus, the Bureau of Immigration and Customs Enforcement, and the Bureau of Customs and Border Protection.

I will just add Congresswoman Jackson-Lee mentioned Victoria, Texas, and one of the successes that was noted in the apprehension of the alien smugglers that devastated human lives. The investigation was aided by the fact that we had both Customs's expertise and Immigration expertise working together to accomplish that mission. We have deployed new technologies and tools at our borders.

We have expedited the distribution of billions of dollars in grant monies to states and cities, with more to come. I will remark, Congresswoman Sanchez, yes, there is some difficulty in getting it out not from an ODP standpoint, Department of Homeland Security, but in moving it through the pipeline quickly. I congratulate Congress for putting a 45-day restriction requirement to get the money from the state to the localities. That has been a helpful initiative.

We have certainly tried to add technical expertise within the Department of Homeland Security to help the states, local governments and their processing of this money. And we are trying to work with the states to move it out very quickly, and to put pressure on them to accomplish that goal.

We have created a 24-hour radiation weapons of mass destruction hot line to assist our officers on the front line with scientific and technical needs regarding chemical, biological, radiological and nuclear alerts along the border. We have held bilateral meetings with Home Secretary of the U.K. David Blunkett, Canada's Deputy Prime Minister John Manley, and Mexico's Secretary of Interior Santiago Creel to continue progress on security initiatives of mutual interest.

The directorate has pushed the first phase to develop the U.S. Visit System. And we will have an initial deployment at air and seaports of entry by December 31 of this year. The system will be capable of tracking the entry and exit of foreign visitors who require a visit to the U.S., and will make entry easier for legitimate travelers and more difficult for illegal entrants through the use of biometrically authenticated documents when this system is fully implemented.

And so the BTS objective is to increase security through risk investment, through increased intelligence sharing and through improved organizational coordination.

In regards to the intelligence programs, our directorate has set up an operational intelligence working group to begin a comprehensive review of our agency's operational intelligence programs and how we share information among us. Obviously, we are working with the directorate of information analysis as we do this. We are looking at it from an operational standpoint.

And one of the successes that came out of this is that the chief of naval intelligence came to see me just to thank me because prior to the creation of the Department of Homeland Security, they could not gain information that U.S. Customs had in their databases that would be helpful in the naval intelligence system in protecting America. They actually had to go out and try to buy it on the com-

mercial market. We changed that. We made that available. It is now available, because of increased intelligence sharing.

When it comes to air cargo security, my directorate has hosted working groups between CBP, Customs and Border Protection, and Transportation Security Administration to talk about how we can increase the working relationship between the agencies, taking inventory of the different initiatives that are out there, formulate a stronger strategy and move these issues forward.

When it comes to combating drug trafficking, having been in the DEA, I understand it from both perspectives. And there has been insufficient cooperation among some of the drug enforcement components. And so we entered into discussions between Immigrations and Customs Enforcement with the DEA. We have entered into a joint partnership in which we have initiated some pilot programs to increase cooperation, intelligence-sharing and actually co-locate some of our task forces.

In fact, when you look at Immigrations and Customs Enforcement almost half of their cases are drug cases. If we cannot have a high level of cooperation and sharing with the DEA and other drug enforcement agencies, then we are missing the boat and not doing a good job for the American people. We are heading up that initiative.

When it comes to immigration delegation of authority, the Immigration Nationality Act, Section 287(g) provides capability for us to give immigration enforcement authority to state and local law enforcement. This has only been used in Florida. It is being looked at in Alabama. But we have engaged additional discussions with the Los Angeles County Sheriff's Office, looking at pilot projects, different ways that we can partner together, cross-train, so that we can utilize local law enforcement when proper training is in place. And so we are investigating that possibility.

Whenever you look at incident management, we have had plans from Customs, we have had plans from Coast Guard, we have had different plans as the 22 agencies have come on board DHS. Our responsibility is to review those plans to see and make sure that they are coordinated. We are proceeding with that.

Reviewing policies and training in regard to racial profiling policy. As the President has announced, new policies to the attorney general, we are looking to make sure they are implemented in the agencies of Border and Transportation Security directorate.

These are a few of the examples of what BTS is doing to coordinate the functions of the agency.

I look forward to the questions and discussions that we will have in this committee as time goes on. I have used up my time. But again, I want to thank you for your partnership, your joint leadership with us, and look forward to continued success.

[The statement of Mr. Hutchinson follows:]

PREPARED STATEMENT OF THE HON. ASA HUTCHINSON

Good morning Chairman Cox, Congressman Turner, distinguished members of the Committee. I am delighted to appear before you today to discuss the progress, status and plans for the Department of Homeland Security's Directorate of Border and Transportation Security.

On this my first appearance before this committee, I wish to commend you on its creation and for your willingness to serve our nation in this fashion. I came to know

many of you during my time in the House of Representatives and have the utmost respect for your focus on advancing what is best for the nation and for its citizens. Your dedication to ensuring the security of our homeland will be a critical element in the Department's success. Today's hearing marks a significant milestone in our combined effort to ensure the Department of Homeland Security, and in particular, the Border and Transportation Security (BTS) Directorate, fulfills its promise and potential.

Securing our nation's air, land, and sea borders is a difficult yet critical task. The United States has 5,525 miles of border with Canada and 1,989 miles with Mexico. Our maritime border includes 95,000 miles of shoreline, and a 3.4 million square mile exclusive economic zone. Each year, more than 500 million people cross the borders into the United States, some 330 million of whom are non citizens, through our 350 ports of entry.

The Border and Transportation Security Directorate is one of five Directorates within DHS, and in partnership with the Coast Guard, watches over our nation's borders and transportation systems. The BTS Directorate is comprised of the former U.S. Customs Service, the Immigration and Naturalization Service, the Transportation Security Administration, the Office of Domestic Preparedness (ODP), the Inspections Division of the Agriculture Plant Health Inspections Service (APHIS), the Federal Protective Service (FPS), and the Federal Law Enforcement Training Center (FLETC). Its extraordinarily dedicated employees—over 100,000 of them—were brought together under the BTS roof because of their common focus of ensuring the security of our nation's borders, ports of entry and transportation systems, on facilitating the flow of legitimate commerce and on enforcing our nation's immigration laws.

In the five months since the creation of the Department, and less than three since we truly became an operational entity, the BTS Directorate has taken a number of strides to integrate its component agencies and streamline their operations. We have achieved a number of operational and programmatic successes and challenges since the 24th of January, and I'd like to share some of those accomplishments with you in the hope that you will share my assessment that we are indeed, off to good start.

Since its inception on January 24, 2003, the Border and Transportation Security Directorate has:

- Initiated a comprehensive reorganization of its component agencies, creating two new bureaus: the Bureau of Immigration and Customs Enforcement, and the Bureau of Customs and Border Protection.
- Deployed new technologies and tools at land, air and sea borders;
- Expedited distribution of billions of dollars in grant monies to states and cities, with more to come.
- Created a 24 hour Radiation/WMD Hotline to assist BCBP and BICE officers with scientific and technical needs regarding Chemical, Biological, Radiological and Nuclear (CBRN) alerts along the border.
- We have held bilateral meetings with UK Home Secretary David Blunkett, Canada's Deputy Prime Minister, John Manley, and Mexico's Secretary of Interior, Santiago Creel, to continue progress on security initiatives of mutual interest.
- BTS is in the first phase of developing the US-VISIT system and we will have an initial deployment at air and sea ports of entry by December 31, 2003. The system will be capable of tracking the entry and exit of foreign visitors who require a visa to the U.S. US-VISIT will make entry easier for legitimate travelers and more difficult for illegal entrants through the use of biometrically authenticated documents.
- Conducted a series of listening sessions at strategic ports throughout the U.S.
- Participated in Operation Liberty Shield, the first comprehensive, national plan to increase protections of America's citizens and infrastructure;
- Completed TOPOFF II, the largest terrorist response exercise in history.

Accomplishments to strengthen and improve security by BTS component agencies include:

#### **Transportation Security Administration**

TSA's approach to transportation security is one designed to provide layered protection. To date,

TSA has achieved significant accomplishments in both its overall approach and within the specific transportation modes:

- TSA is screening passengers and checked baggage at our nation's airports, including electronic explosives detection for checked baggage at nearly all commercial aviation airports—all within the Congressionally mandated deadlines and all with the congressionally approved methods of screening set forth in the Aviation and Transportation Security Act that was passed by Congress and signed by President

Bush on Nov. 19, 2001. As a side note, I would like to mention that nationally, about 92 percent of all bags are screened electronically. Prior to 9–11 only about 5 percent of all bags were being screened by any means.

- TSA is working with airports on the installation of equipment needed to screen all bags electronically and is preparing Letters of Intent for several major airports that will commit federal funds to projects for the installation of electronic screening equipment.

- TSA dramatically expanded the Federal Air Marshals program to cover a significant percentage of both international and domestic flights.

- TSA worked with the FAA in administering a program for air carriers to install hardened cockpit doors for commercial passenger aircraft.

- TSA is developing a new and improved successor to the current Computer Assisted Passenger Prescreening System (CAPPS). CAPPS II will assist the agency in identifying terrorist threats to the aviation system while also dramatically reducing the number of travelers subjected to additional screening procedures at the nation's airports. This system is being carefully designed to improve security while respecting the civil liberties of American travelers.

- Enhanced security in general aviation through the private charter and the "12–5" rules

- TSA screeners at Denver International Airport developed a pilot program, "Tots Friendly," designed to put children at ease as they go through security. The program is being evaluated for possible nationwide expansion.

- TSA implemented a full scale training program for screening persons with disabilities and those with special situations.

- TSA launched Federal Flight Deck Officer training program to enable qualified flight crews to be armed while on duty. The first class concluded on April 19 with 44 pilots certified to carry firearms in the cockpit as Federal Flight Deck Officers

- TSA developed a strengthened "Known Shipper" program for air cargo including strengthened requirements to achieve Known Shipper status, and is developing additional layers of security to "pre-screen" cargo for targeted inspections.

- TSA has worked with airlines, airports and other airport employers to ensure that background checks have been done on all of their employees. This includes criminal background checks done by the airports. More than 1 million background checks have been completed.

- TSA has launched a development program for the Transportation Worker Identification Credential (TWIC).

- TSA has promulgated a new background check rule for hazmat transportation under the Patriot Act.

- TSA has undertaken planning to run a consequence management drill with Amtrak and New York City's Penn Station.

- TSA has developed an initiative with the Chlorine Institute to address their bulk hazardous materials shipments.

- TSA has begun coordinating with the Federal Railroad Administration to develop a rail system inspection guide for use by rail law enforcement and security personnel to inspect trains for explosives and other threats.

- TSA is partnering with BCBP and DOT on Operation Safe Commerce (OSC), a program to enhance the security of the international and domestic supply chain while ensuring efficient cross-border transportation, and recently announcing the award of \$58 million in OSC grants.

- TSA recently announced the award of \$170 million in Port Security Grants, with additional surface transportation grants (e.g., intercity bus grants) in process.

#### **Bureau of Customs and Border Protection**

- The Bureau of Customs and Border Protection (BCBP) has consolidated incoming inspectional resources into a single face of government at ports of entry by establishing Interim Port Directors to integrate all of the incoming border agencies into one chain of command. A single field manager can implement a change in threat level in what used to be three disparate workforces.

- BCBP continues to deploy multiple technologies to support our layered inspection process, using various technologies in different combinations to detect the adversary who might defeat a single sensor or device.

- To date, more than 180 devices that are non-intrusive inspection systems and/or portal radiation detection devices have been deployed to detect and deter the entry of radiological material into the country.

- BCBP has provided all of its front-line (BCBP) inspectors across the country with personal radiation detectors that alert them to the presence of radioactive material.

As a result of the Shared Border Accords between the U.S. and Canada, a number of activities are underway to meet the Accord's 30 action items for increasing security, enhancing joint law enforcement, improving technology and facilitating trade.

- Mexican and U.S. border control personnel are operating on a 22 point agreement to protect and secure infrastructure, and ensure the smooth flow of legitimate persons and goods.

- The Border Patrol conducted a bi-national training event for elements of the Mexican government responsible for border control activities. The training included elements of search and rescue, first aid, and aquatic safety.

- The Border Patrol is working with local tribal law enforcement in historic new agreements to protect tribal lands from unlawful entry along the over 250 miles of borders adjacent to tribal lands. For example, the Border Patrol is providing basic interoperability between Federal and State law enforcement agencies and the Tohono O Indian nation.

- BCBP continues to harden the entire Northern Border ports-of-entry through the installation of technology and infrastructure, such as barriers, gates, bollards, lighting and video security systems.

- The Border Patrol will deploy an additional 387 agents along the U.S. and Canadian border by January 2004, bringing the total number of agents deployed to over 1,000.

- BCBP's Border Patrol has deployed additional helicopters and fixed wing aircraft at 8 Northern border Sectors and at 7 of the 9 Southern border Sectors.

- Integrated Border Enforcement Teams have been created in each Northern border Sector to promote better coordination and inter-operability among law enforcement agencies and the Royal Canadian Mounted Police.

- In fiscal year 2003, the Border Patrol has removed 100,886 illegal aliens so far. This is in addition to the 149,067 removed in fiscal year 2002.

- BCBP is implementing the Free and Secure Trade Initiative (FAST). The FAST program enables the Bureau of Customs and Border Protection to focus its security efforts and inspections on high-risk commerce while making sure legitimate, low-risk commerce faces no unnecessary and costly delays. NEXUS and SENTRI are also being implemented to facilitate the travel of legitimate visitors on the Northern and Southern Borders.

- BCBP continues implementation of the Customs–Trade Partnership Against Terrorism (C–TPAT), a public-private partnership aimed at securing the global supply chain against terrorism, while also facilitating legitimate trade.

- The Container Security Initiative has established tough new procedures targeting high- risk cargo containers before they embark en-route to U.S. ports. 19 ports (including 3 Canadian)—through which approximately two-thirds of cargo containers coming to the U.S. will pass—have agreed to participate in the program. 10 initial ports are operational.

- Along with CSI, BCBP began enforcing the new 24-hour rule in February, requiring submission of electronic advance cargo manifests by sea carriers 24 hours before U.S. bound cargo is loaded aboard the vessel at a foreign port. The information obtained is used as a factor in determining which containers are high-risk. This foreign based activity can preclude a risk from ever arriving in the USA.

- BCBP continues to coordinate with the Coast Guard to have expanded Passenger Analysis Units at seaports around the country to target and identify high risk travelers and immediately react to threats. BCBP cross checks advance notice of arrival information provided to the USCG 96-hours prior to arrival at U.S. ports, rather than the previous 24-hour notice, for potentially dangerous crew, passengers and cargo, thus allowing USCG to act appropriately prior to arrival in the U.S. port.

- BCBP requires all airlines to provide information on U.S.-bound passengers prior to their arrival; information is then checked against the FBI's and other relevant databases.

- BCBP's National Targeting Center and enhanced Automated Targeting System continue to identify those containers and travelers that pose a high risk of terrorism.

#### **Bureau of Immigration and Customs Enforcement (BICE)**

- BICE combined all the investigative functions of Customs, Immigration and the Federal Protective Service into one bureau. BICE has taken steps to provide a single point of contact within DHS for U.S. Attorneys and other law enforcement agencies.

- In conjunction with the Foreign Terrorist Tracking Task Force, BICE agents have apprehended more than 1,000 immigrants for a variety of offenses of which over 500 were deported.

- Operation Joint Venture, a special operation initiated by BICE to identify and remove persons with unknown or questionable identities with access to restricted

areas of military installations, has, resulted in 37 arrests, of which 28 were removed from the United States.

- BICE's Operation No Mercy, initiated after the tragic deaths of 19 persons believed to be undocumented aliens in Texas, has resulted in the indictment of 14 individuals.
- BICE acquired and deployed additional "A-STAR" and "HUEY" helicopters to bolster enforcement efforts along the U.S. Southern border.
- BICE continues in its efforts to ensure the integrity and lawful operation of U.S. Financial systems.
- Project Shield America, a BICE initiative, continues to prevent sensitive U.S. technology and munitions from falling into the hands of terrorists and other U.S. adversaries. Under this initiative, BICE agents partner with U.S. manufacturers and exporters to guard against illegal arms exports.
- The BICE Office of Air and Marine Interdiction (OAMI) provided 24-7 airspace security coverage over Washington, D.C. During Operation Liberty Shield, OAMI expanded this mission to include airspace security coverage over New York City as well.

**Office of Domestic Preparedness**

- The Office of Domestic Preparedness (ODP) has made available more than \$4.4 billion dollars in funding for grants since March 1, 2003.
- ODP recently announced the award of \$100 million in urban area security initiative grants to high threat areas; and made available an additional \$700 million in urban area security initiative grants for 30 cities and their contiguous counties and mutual aid partners; of this \$700 million, \$65 million was in grants to 20 transit agencies for security enhancements and \$75 million was to enhance port security.

Funds are clearly flowing. While these awards have been announced, large amounts of this funding are still making its way down to our first responders, as states, localities and vendors do what they need to do as part of these programs. Federal Law Enforcement Training Center (FLETC)

- FLETC, in partnership with the TSA, is providing training for Federal Flight Deck Officers and Federal Air Marshals.
- FLETC is upgrading its counter/antiterrorism, weapons of mass destruction, and first responder training to accommodate the training needs of all 75 of its partner organizations.
- FLETC is developing a new training for CBP Inspectors, scheduled to commence Oct. 1.

**Conclusion**

This list is far from complete, but I believe it shows that the BTS Directorate is hard at work on the task before us. We are shaping a new department, improving the security of our country and still sustaining the centuries old traditions of operational excellence that our individual components have brought to the BTS Directorate.

Because of the efforts of the dedicated employees of the Border and Transportation Security Directorate, undertaken in partnership with the American people, our federal, state, local, private and international counterparts, and our other colleagues within the Department of Homeland Security, America is becoming safer and more secure every day. A number of challenges lie ahead, but we are taking the necessary steps to improve the security of our borders, ports of entry, transportation systems; facilitate the movements of people and goods. As we fulfill these missions, we are redoubling our efforts to protect the freedoms and liberties that have made this country so great, as exemplified by the President's guidance to law enforcement agencies to minimize the likelihood of racial profiling. We are keenly aware of the importance of the contributions of our partners in this effort, including you, the Congress, and we look forward to working with you to continue the successes we have achieved in the last 5 months and ensure that our Homeland is indeed safer and more secure in the months and years ahead.

Thank you again for inviting me to appear before you today. I look forward to your partnership and I would be happy to answer any questions you may have at this time.

Chairman COX. Secretary Hutchinson, I thank you for your testimony.

Let me begin by asking you about the implementation of legislation written in 1996 that enables the Secretary and volunteering political jurisdictions to work out deputization agreements for the

enforcement of Federal law through the offices of state and local law enforcement.

Since 1997, only two states have been involved with the Federal Government in exercising this authority. And truly until the Bush administration commenced, there wasn't much work at the Federal level on this at all. But with the intervention of 9/11 and the reorganization of our government to put these responsibilities into a Department of Homeland Security, we now have not only a new opportunity to work with state and local governments on this, but also a new reason to do so.

The Department of Homeland Security provides us with a great opportunity to rationalize our contacts with state and local government. The law, the way it is written, permits the Federal Government to work not only with states, but also directly with local governments. Is it your intention to pursue opportunities with willing local governments, as well as willing states to implement this law?

Mr. HUTCHINSON. Absolutely. And you are correct, Mr. Chairman, that Florida, as a state, initiated a program. I believe they trained about 40 officers. We went through a 5-week training program to understand immigration law and the difficulties of it. That program's in place. Alabama is looking at it. But as you pointed out, local jurisdictions have this opportunity as well.

Prior to recent organizational changes, there was a reluctance to use this authority: concerns on local jurisdictions part, concerns among many immigration groups. Our strategy is to address those concerns.

What is critical is that we have adequate training when we enter into these partnerships. But my experience has been that there are many local departments that are willing to put their officers through this training.

So we are engaging in a working group with the County of Los Angeles to initiate how we can work together and we can have training, immigration authority utilized by local law enforcement there. And we are looking at ways that we can partner together. So that is in place, ongoing and we are looking at other opportunities to implement that same strategy.

Chairman COX.—Under the law, as it is written, it—is the state or local government and not the Federal Government that bears the expense of the training? In the Florida example, how has that worked or how has it not worked?

Mr. HUTCHINSON. Well, they were trained at our Federal Law Enforcement Center in Glynco, Georgia, which is the right way to do it. As to who actually paid for that, I would have to look at it. I do not know.

Chairman COX. The law was written, and I say this as its author, in 1997 under very different circumstances. And one of the reasons for that provision that localities or states pay and not the Federal Government was that we saw much more interest on the part of states and localities at the time and much less interest at the Federal level, and we didn't want lack of resources to be an excuse for not proceeding with this.

My interest and potential concern is that while making sure that this remains an option, that it not necessarily be the only way to go, because everyone on this committee on both sides of the aisle

is very aware with their own constituencies, their own states that they represent, that the real problem now is the Federal mandates that are associated with homeland security—whether it is raising the threat level and imposing costs in that or in so many other ways requiring our first responders and our state and local law enforcement to pick up costs that they weren't just a few years ago thinking about, let alone doing.

So I would like to be sure that something that is so obviously a Federal responsibility not be hamstrung when it comes to funding.

And I would appreciate, if you are not prepared to go into greater detail in the Florida example, the opportunity to learn how that is going and whether or not it is a barrier with respect to any other jurisdictions that might wish to become involved. But to your knowledge, that has not been a problem in the Florida circumstance?

Mr. HUTCHINSON. No, I don't think that has been necessarily a barrier. I think the barrier is that from a state and local standpoint, that we require 5 weeks of training. That is a great deal of time to devote a significant number of officers to take out of the work force. I think that has been a drawback.

Chairman COX. And in that sense, the Federal Government clearly is not paying. That is an expense that is borne by the participating jurisdiction.

Mr. HUTCHINSON. They would. And I am making an assumption that we would bear the training costs, because it is our personnel that are physically there. They have the immigration experience. And I think it is a reasonable commitment that we would make. So from our standpoint, that is a commitment that we are delighted to make, because of the benefits that it would bring.

Chairman COX. We will have legislation on the floor in just a short while, the intelligence authorization bill, that is going to initiate a formal training program between the Federal Government and the state and local law enforcement concerning the use of intelligence and promoting intelligence sharing. One of the opportunities that we have because of the creation of the Department of Homeland Security is to take all of these different programs, making DHS the interface with state and local government, and make sure that there isn't duplication.

If you are taking people off the job to train them on Intelligence, it would be a shame 2 months later to take the same people off the job and train them over again about Immigration. It would nice if we could make these programs work together.

So we will appreciate learning from your early experience with this even as we are writing the intelligence authorization bill.

And you may know that, in fact, the language concerning the DHS role in the training programs is very much in flux. So we can use your advice in real time.

Mr. HUTCHINSON. Thank you for that opportunity.

Chairman COX. Well, my time has expired. And I recognize the gentleman from Texas, the ranking member, for his question.

Mr. TURNER. Thank you, Mr. Chairman.

Mr. Secretary, you, I am sure, are aware that this committee had a hearing a week or so ago with Mr. Redman present of the Office of Information Analysis. And the committee was somewhat dis-

mayed with the lack of progress in establishing that critical function within the department, which is the place where, under law, the threats are supposed to be assessed, the threat information is supposed to be matched up against the vulnerabilities that that office is also charged with assessing.

And from that matching of threat information and vulnerability information, information is to flow throughout the department and flow from the department down to the states and local governments.

It would be of interest to me to know where your directorate and where you currently receive your intelligence information from if it is not flowing from the entity within the department that was created to provide that function.

Mr. HUTCHINSON. Well, first of all, I want to assure this committee that I have accessed the highest level of intelligence daily, and that there is nothing that is kept from me as someone being responsible for borders and transportation.

In reference to the IAIP directorate, I was pleased that the Senate confirmed General Frank Lubutti to head that directorate as Under Secretary last week. So he is on board, and I know that this committee will be looking forward to hearing from him.

But he has hit the ground running. They have over 20 analysts, 20 coming. Their plans are to have 85 by the end of October, so they are aggressively increasing their capability in reference to what I receive. And not only do I receive intelligence reports from them, but also they provide risk assessments to those in the field.

In fact, it has moved with lightening speed in a couple of instances in which intelligence has come from overseas that has moved quickly to the aviation industry on particular areas of concern.

And so there are products that are coming out, analysis going on, and I think that will only increase with time.

I receive my intelligence from them as well as CIA briefings.

Mr. TURNER. What kind of information flows to TSA screener or a Border Patrol agent, maybe a customs inspector, on a daily and routine basis?

Mr. HUTCHINSON. First of all, they would receive from TSA intelligence operations, the screeners for TSA, reports on aviation security. And so it flows both from IAIP, and it flows coordinated with TSA to distribute it to the field. When it comes to customs inspectors, as national intelligence is gained, international, it is passed on to the field.

But, in addition, what I think is very significant, when I am down in the border at San Ysidro and I see on-ground intelligence operators there, they have for the inspectors in the field the photographs of the most recent suspects or the most recent means of hiding contraband.

And so intelligence is moved quickly, and it is a number of different ways to get the information and have the training for those inspectors in the field.

Mr. TURNER. A GAO report addressed the failure of the State Department and what was then the INS and the FBI to share information on visas that have been revoked on terrorism grounds. That was a disturbing report because what it told us is that there are

folks out there who have had their visas revoked, and yet we don't seem to be able to find them or locate them.

Do you have any information about what the department is doing to locate the individuals that the GAO has identified as possibly still being in our country?

Mr. HUTCHINSON. This is something that we are better at, but we must get much improved on in the future.

First of all, there is a different standard for revocation of a visa, versus expelling someone from the country. And so you can administrative action through the State Department to revoke a visa and it might be for some information that they receive or for some other diplomatic reasons. But that does not mean that we can automatically take them and remove them from the country. It is a separate administrative proceeding, and it might be with different standards. And that might be something that needs to be made uniform.

In addition, we are looking at ways to increase our cooperation of State Department and the information flow. Tremendous progress has been made since September 11, but we can even enhance that more and we hope to do that.

Mr. TURNER. On the front end, The Washington Post reported Saturday that the administration is considering a plan that will require face-to-face interviews with the 8 million people who seek visas to enter the United States every year.

Could you tell us what those plans are, whether that can be accomplished, what resources would be required for you to carry out that task?

Mr. HUTCHINSON. Of course, we are building our partnership with State Department, have a great relationship with the consular affairs. They actually ran that cable by us. And so we helped in the distribution of that cable or the discussions on that cable.

And it did increase the number of interviews for visa applicants. It wasn't 100 percent. There is still some discretion there, but it narrowed the discretion. And it is obviously a security measure so that we can have more information.

And the face-to-face interview is a very important part of making an assessment as to whether someone is at risk or no risk to the United States. There is a concern that this will slow down the process. I certainly would support the State Department in any review of their resources to review visa applicants overseas as time goes on.

And ultimately, we are having discussions as to whether fingerprints will have to be taken on certain applicants overseas. This takes equipment. This takes additional personnel and it takes additional personnel for the interviews, as well. But it is something that is important to do for our security.

Mr. TURNER. You have a deadline, a statutory deadline, that is, I believe, just under six months away, November 25 of this year to eliminate the backlog of applications. Will you be able to meet that deadline?

Mr. HUTCHINSON. The State Department still issues the visas through their consular offices. So I don't know that I am in a position to answer that.

We have a role to play under the Homeland Security Act of overseeing and establishing visa policy. So we have some of the respon-

sibility that will lead to that result, but that is a State Department commitment.

And I think the question probably goes to the backlog in the review by the Justice Department for checks that the State Department refers on visa applicants, and there is a backlog there. And that is something that we need to do in a more rapid fashion. I know the Department of Justice is working on that, but that is a hurdle that we have to overcome.

Mr. TURNER. So you are telling me that there is no plan to require a face-to-face interview with all visa applicants that you know of. There is increased review, but no plan to have every visa applicant come in for face-to-face or have a face-to-face interview to get a visa.

Mr. HUTCHINSON. It is my understanding that there was a substantial increase in the number, but it is not 100 percent, and that there is still some discretion that is given to the consular office for people that have close ties diplomatically or are known, other types of exceptions. There certainly is an increase, but it is not 100 percent.

Mr. TURNER. Thank you.

Thank you, Mr. Chair.

Chairman COX. The gentleman from Florida, Mr. Diaz-Balart, is recognized for his questions.

Mr. DIAZ-BALART. Thank you, Mr. Chairman.

Mr. Secretary, welcome back.

Mr. HUTCHINSON. Thank you.

Mr. DIAZ-BALART. It is good to see you.

In the context of service on this committee, I have been learning so much. I can only imagine in your service, how you must be bombarded with information. And with regard to some of the agencies under the authority of your directorate, I have just a few questions.

I was extremely encouraged by the existence and the ongoing implementation of the Container Security Initiative by Customs.

And we learned—Bonner was here a couple of days back—about its implementation. And that the, I believe, 19 ports that there are already agreements with are the largest ports with regard to trade with the United States and the world. It was of some concern to me, representing South Florida, where the majority of our trade is with Latin America, that there are agreements with none of the ports of Latin America.

And so the argument was none of the 20 ports, the top 20 ports in the world, are in Latin America. But when you are from a community where the majority of the trade is with Latin America, that is little solace.

If you could give us, more than anything else, because Mr. Bonner gave us the information that I just relayed to you, but if you could look into that, because we are concerned that none of the ports as of now that have entered into CSI are Latin American ports. If you could, not today, get back to us with regard to the implementation of what apparently will be the next phase, that hopefully will include the ports where the majority of trade and commerce in South Florida is with. We would certainly be very interested to learn about that.

Obviously, do you have any other comments or updating with regard to that issue today? We would appreciate it. That is with regard to Customs.

And then with regard to the TSA, the number of entities, most recently and specifically the airport in Fort Lauderdale, has come to my attention.

It has brought to my attention that there is a very large problem with regard to use of the services of TSA at the airport from and by the passengers of cruise ships, who arrive massively, all of a sudden. There may have been a situation where TSA workers have been a little bit under utilized for some hours; all of a sudden, the lines are extraordinary.

What I would ask you is what steps may be taken to, I guess, bolster staffing at those specific times, perhaps with part-time TSA people?

And then one final point, Mr. Secretary. We in South Florida face a very evident dual threat, it was referred to by Mr. Meek previously, of terrorism and, obviously, narcotics trafficking. Mr. Sweeney mentioned to me before an article that he read today. I haven't had a chance to read it. You may have some questions on it, in the New York Daily News, about precisely terrorists, a report that terrorists, Iraqi agents with instructions to commit acts of terrorism in the United States, have been trying to enter the United States from the Caribbean.

So we have a serious threat in South Florida, perhaps more than in other areas, of that dual nature, narcotics trafficking and terrorism. How has the directorate's resources, or how will the directorates resources, be balanced to address those challenges?

I won't bring up any more issues. Obviously, I want to commend you beforehand for the extraordinary work you are engaged in and have performed already, and would appreciate any comments that you have on these items.

Mr. HUTCHINSON. Thank you.

And first, in reference to the CSI initiative, I am pleased with the progress of it. Obviously, the staffing overseas, we need to move expeditiously on. But we are getting those clearances, and that is being expedited.

In reference to phase two, you are absolutely correct, that there were not any Latin American ports in phase one. In phase two, expansions are being looked at in Balboa and Colon, Panama, as well as Buenos Aires, Argentina. There has been some discussions going on. So we recognize the need that is there. In Santos, Brazil, there has been some meetings to discuss it. A lot of it depends upon their political will and their commitment and technical capabilities.

But we are initiating those discussions. We hope in phase two to add some Latin American ports to the list.

In reference to TSA and Fort Lauderdale and the problem of passengers coming in such a volume from the cruise lines. We have looked at certain ports of moving TSA temporarily to where the cruise lines disembark so that we can, and Customs also, check in the bags, doing the screening there so that it will eliminate some of the lines when they get to the airport.

The cruise lines like it because it moves the passengers through very quickly. It allows some of the work to be done off of the air-

port site. So this might be something we can look at in Fort Lauderdale as well. It was a pilot program that has worked very, very well and it might be worth looking at expanding that.

And then the third point you made on terrorism and narcotics. Whenever you are looking at any individuals, any terrorists, they will move to the weakest point of entry. They will move to those people in the criminal world that will facilitate illegal shipments, whether they are weapons or whether they are people, and whether it is narcotics or terrorist related.

And so we have to look at any vulnerabilities through Latin America as well as through other means coming into our country. We are aware of the concern, and we are certainly gaining intelligence and trying to ascertain and trying to close any loopholes.

Mr. DIAZ-BALART. Thank you.

Chairman COX. The gentlelady from California, Ms. Sanchez, is recognized for her questions.

Ms. Loretta Sanchez of California. Thank you, Mr. Chairman.

Thank you once again, Secretary Hutchinson for being before us today.

I go back to the couple of things that I highlighted in my opening statement. And I don't know if you have the numbers with you today, if you can answer the questions directly right now. But there are really two sets of questions that I have.

The first one is back to this whole issue of the port of Los Angeles. In reviewing the information that Chief Cunningham had given us with respect to the Port of Los Angeles, he said that there was just \$1.5 million that was given in round one of port money to be split between the Port of Los Angeles and the Port of Long Beach. So in fact, the Port of Los Angeles received \$750,000 out of round one.

In round two, he received \$1.25 million for the Port of L.A. Again, double that amount to be split between Long Beach and L.A., because they are sister ports there.

They also received \$800,000 to purchase patrol boats. And that is the only individual award that he says that the Port of Los Angeles has been given.

In sum, he said the totals of the grant process that they have is \$2.8 million. Published reports indicate that a total of \$197 million in grant funds were awarded during round one and round two for the country's sea ports. That would put the Port of Los Angeles at 2.5 percent.

So my first and foremost question is why in the first two rounds do we only receive 2.5 percent for the Port of Los Angeles out of the monies given in those rounds when that is the largest port area, carries, by anybody's estimate, between 40 and 45 percent of all containers coming to this nation come through those ports. What is happening there? Why aren't we seeing monies come to our ports in Los Angeles and Long Beach? That would be the first one.

And is there anything to remedy that in the following grant processes or individual grants?

I am trying to understand what is the logic? What is the picture that you all have with respect to protecting our biggest port facility? So that is the first series.

And let me get to the second set. You might want to start writing some of this down.

We also heard from U.S. Customs when we were out at Los Angeles–Long Beach. And one of the things that we found out from the committee hearing is that the 2000 Customs internal review of staffing estimated—that is the 2000 Customs internal review—estimated that U.S. Customs would need 14,000 new employee hires just to fulfill its basic mission at that time.

We have also heard that since September 11 very little increase in staffing has happened there. Does CBP have a comprehensive plan as described by the GAO report? How many new U.S. Customs employee hires have been made since September 11? Do you have a list of ports and border points where Customs staffing has been increased, and by how much? And how do you—how are you going to affect the Customs with respect to the 2004 budget?

In other words, what we have heard from the GAO report and from others through these hearings is that we are understaffed. We are understaffed just to do our basic requirements, let alone all of this new layer stuff that is happening. And we are not getting people. We are not being trained. And we don't have the resources.

So my question to you is what are you going to do about that? What is your plan? What do you have? Can you give it to me in writing?

Thank you.

Chairman COX. I am sorry, before the witness answers, the gentlelady has 50 seconds remaining. I remind the members that they have 5 minutes for questions and answers, and they should try and allocate their question time so that the witness has the opportunity to answer within that 5 minutes.

The 50 seconds remaining, Secretary Hutchinson.

Ms. Loretta Sanchez of California. He can talk fast.

Mr. HUTCHINSON. In reference to the Port of Los Angeles, TSA administered port grants in the first round, nationally \$93 million, second round \$170 million. In addition, there was \$58 million in safe commerce grants.

I went through how they allocate money from those nationwide grants. They look at the quality of the grant applications. They talk to the Captain of the Port, which would be the Coast Guard Captain of the Port, as to whether this would enhance security, whether it fits in. And so there is an evaluation done in that fashion.

In addition, there were the urban area security grants in which some of it was allocated to the ports. So that is a separate pot of money that the Port of Los Angeles may have received some. I would be happy to look at that more specifically. But that is the nationwide amounts that were allocated.

In reference to Customs, I don't have all the figures nationwide. But in reference to the northern border, for example, the Customs agents being deployed has almost doubled since September 11. There has been a serious, significant investment of new personnel at Customs, both in terms of the inspectors, but also in terms of the new initiatives, such as the CSI, which has been funded. That has had increased positions. And other initiatives that has been security related.

Ms. Loretta Sanchez of California. Thank you, Mr. Secretary. I will submit them in writing and hopefully you can get me back the specifics.

Mr. HUTCHINSON. Happy to.

Ms. Loretta Sanchez of California. Thank you, Mr. Chairman.

Chairman COX. The gentleman from Virginia, Mr. Goodlatte, is recognized for his questions.

The gentleman from Indiana, Mr. Souder, is recognized for questions.

Mr. SOUDER. Thank you.

Good to see you, Mr. Secretary.

I am going to do something similar to what Congresswoman Sanchez did. And I have a series of questions that I want to put on the record and then additional ones for written.

And as you know, I chair the Narcotics Subcommittee. And rather than hold a separate hearing, this will give me a chance to get some of those questions on the record because as you know, Customs, Border Patrol, Coast Guard are three of the main narcotics enforcement agencies. We have seen FBI backing up from narcotics enforcement, which has come out in several hearings here in Washington. DEA is not getting a significant boost up.

Both you and Commissioner Bonner have served as head of DEA. I am excited that you are there. But we are having increasing concerns around the United States about how this is going to ripple through anti-narcotics.

Chairman COX. Would the gentleman yield?

Mr. SOUDER. Yes.

Chairman COX. I heard the gentleman say he was going to attempt the same thing that Congresswoman Sanchez just did. I tried to admonish the members that the 5 minutes that they are allocated is time for questions and answers by the witness. So if you were intending that the witness answer your questions in writing after the hearing, that is acceptable.

But I think it does a disservice to members when we are under the 5 minute rule to use up the entire 5 minutes to put a whole series of questions and then require the witness to answer at length. We will not be able to allow all members the opportunity to question witnesses if we do that.

And the time that I just took will be added back to the time of the member from Indiana.

Mr. SOUDER. I am not asking him to answer the question here. I understand the 5-minute rule.

Chairman COX. I appreciate the gentleman's comment.

Mr. SOUDER. But sometimes the written answers don't come back quite as thorough unless we put them on the record.

I know he is my friend, but some of these are tough questions.

Mr. Mackin's position was added in this agency at my request, at the speaker's request, to try to make sure that narcotics was coordinated. We would like to know how often you have met with Mr. Mackin and what you see his role in the department?

As you know, he has a statutory mission. His position is to coordinate policy and operations in the department and between the department and other Federal departments and agencies with respect to interdicting the entry of illegal drugs in the United States

and tracking and severing connections between illegal drug trafficking and terrorism.

And we would like to know what specific role he has played so far in deciding how to allocate resources and in improving coordination.

And we would also like to know any specific recommendations that can be released to the committee, or we can have a separate discussion about this, and if those recommendations have been accepted or rejected.

And I have another series of questions along that line, because we are very concerned about how that role is going to play through the department in our oversight responsibility.

Second, in the Air and Marines Interdiction Division, which has historically been under Customs, it is now under BICE. From what I have seen in Riverside and elsewhere on the border, particularly the Southwest border as well as in the Caribbean, that has traditionally been used in drug interdiction, in breaking up smuggling, not in the follow-up investigation. I have some concerns about its allocation inside the agency and would like to have further discussions and answers about that, whether it should be separate, whether it is in the right place.

third, that we have recently been down on the Southwest border, and I am going to combine two things here, and we will have more specific breakouts. We met with Commissioner Bonner about the Shadow Wolves, and he assured us he is working with that, looking at even putting similar units in other places.

We would like to stay updated. Congressman Shadegg, other members across the board from this committee and other committees have been interested in this.

And then in a broader question, we have had multiple concerns coming up to our committee, both Homeland Security and the Narcotics Committee, that there is a feeling that some of the drug cases are not being passed through because of a concern about inside the border patrol in particular, about it looking like either the cases haven't been followed up or areas might be more vulnerable than they have been. And I have a series of questions related to that.

And lastly, in the division of the two agencies, that part of my concern is is that by separating the enforcement with the investigation, I would like—and I have a series of questions related to this—to be assured that the Southwest border personnel, such as the Border Patrol, the Customs, Coast Guard in the Caribbean are going to be fairly stationary. But the investigators could be fairly mobile.

And this could lead to a disconnect between the arrest cases and an eventual discouragement at the grassroots level from developing these cases unless there is an administrative structure set up to make sure that either the investigators stay in region and additional investigators are there.

And we will continue to ask the questions to make sure that those investigations are indeed followed-up, because we have roughly 30,000 deaths on the streets of the United States a year from narcotics. If we can't control the meth precursors and others, then marijuana, cocaine and heroin, we are in deep trouble.

I would be happy to—a brief comment here, and then?

Mr. HUTCHINSON. I will be happy to follow up. I would like to respond quickly. Roger Mackin has done an outstanding job as our drug coordinator. I meet with him weekly, at a minimum of once a week. We discuss all of the issues. We have a close working relationship.

His role, of course, representing us interagency, in many occasions, on drug policy. But we have to be engaged as well at the operational level, because many of the interagency meetings deal with interdiction programs, other things that are the operational level. So there is a close working relationship.

AMID, Air Marine Interdiction Division of Immigration Customs Enforcement, they do an outstanding job there, absolutely placed in the right location with the enforcement side. That is their background. It does not diminish their capability for surveillance and backing up our border efforts, but they have a broad nation, and they do lead to investigations, which is critical.

And you are worried about the leading to a disconnect. That could always be a concern in terms of reorganization. It is my job to make sure that disconnect does not take place.

And I am fully committed to make sure AMID backs up our border officers and that there is a linkage between our inspections on the border with our investigators. And I have made that commitment in making sure that is happening.

Chairman COX. The gentleman's time has expired.

Mr. HUTCHINSON. And I talked fast.

Chairman COX. You both did well.

The gentleman from Massachusetts, Mr. Markey, is recognized for questions.

Mr. MARKEY. Thank you.

Welcome back, Asa.

Mr. HUTCHINSON. Thank you.

Mr. MARKEY. I have been informed, from TSA, that all U.S. mail and cargo which is 16 ounces or less is not screened as they are put on passenger planes. And I was told by TSA that that weight limit has been decided based upon careful evaluation of security risks.

I think it is a big mistake. I will tell you why. This is 16 ounces. Richard Reid, when he landed at Logan Airport, had 10 ounces of Class B in his shoes. He just couldn't figure out how to detonate it. Security people say that that was enough to blow a hole in the fuselage of that plane.

I think it is unacceptable to have 16 ounces of that or other materials that could be detonated remotely to be allowed to be put unscreened, without question, on any passenger plane in the United States.

Would you recommend closing this loophole so that all of these potential threats are screened as they are put on the passenger planes under the feet of passenger's shoes that have been screened and passenger bags that have been screened?

Mr. HUTCHINSON. I would be happy to look into the specific questions on the mail and what is permitted. I have reviewed that briefly, but I don't want to give you a detailed response. I would be happy to do that more in formal or in writing.

Mr. MARKEY. But do you think it makes any sense that this goes on unscreened in the cargo bay? Never screened at all, under any circumstances.

Mr. HUTCHINSON. What is important is that we know what goes on and who puts it on in the cargo bay of a passenger aircraft.

Mr. MARKEY. No, this is never screened under any circumstances.

Mr. HUTCHINSON. May I proceed with my?

Mr. MARKEY. It is an exception to the Known Shipper Program. Just so you know that, this does not come under the Known Shipper Program. This is not looked at at all. This is a waiver.

Mr. HUTCHINSON. I would be happy to talk to you outside of an open session on these issues that pertain to some of the security aspects that we are undertaking on these initiatives. But I will be glad to talk to you in general principle?

Mr. MARKEY. Honestly, Asa, I think this is a subject that every American has the right to have an answer to. I don't need a secret briefing on why this is totally exempt from any program, even the Known Shipper Program, in terms of an inspection.

Mr. HUTCHINSON. I would like to be able to address the approach to cargo security, if I might have that opportunity.

Mr. MARKEY. In your testimony, you state to us today that you are working with the Chlorine Institute to address their bulk hazardous material shipment program. Can a known shipper send explosive or toxic material such as chlorine into the cargo hold of a passenger plane?

Mr. HUTCHINSON. I would have to get back to you on that answer.

Mr. MARKEY. If there isn't a program, then obviously, if there is no prohibition, then obviously, there is a very serious problem.

Now, Mr. Under Secretary, Mr. Bonner, who heads up Customs, testified before us on June 16. And we know that, from him, Customs provides advance notice to the companies that participate in the Customs version of the Known Shipper Program.

In other words, before Customs conducts an audit of any particular company's operations, to ensure the company is complying with security requirements, they get notice, 30 days notice, that there is an inspection coming. Now, I am very concerned that advance notice, rather than unannounced visits, could allow criminal or terrorist activities that have set up front shipping companies to hide their illegal activities.

We know from the article in The Washington Post on Saturday that companies like Kashmir Transport Service are already setting up cargo companies to exploit this weakness in our security net. And we already learned, unfortunately, through our sad experience, that the International Atomic Energy Agency never did inspect the physical facilities. They mostly looked at paperwork. And when they did, and still do, do an on site announcement inspection, they give 30 or 60 days notice.

Haven't we learned that the unannounced visit to these 3,000 sites in America that are allowed to have this Known Shipper Program. Wouldn't we be better off with unannounced visits, rather than 30 days notice?

Mr. HUTCHINSON. Absolutely, absolutely. And TSA has an inspection regime for the Known Shipper Program. The carrier is responsible, but TSA has an inspection responsibility. They certainly should be unannounced inspection.

I think when you look at the protection of the cargo bays, the aircraft, it is critical that Congress fund the \$30 million requested in the 2004 budget to continue research, but also the development of the Known Shipper Program. But \$5 million is being used for research and whether technology for screening bags can be used for cargo.

So we are investigating that. But you have to keep in mind that prior to September 11, there was a report prepared for FAA that said if we were going to inspect all cargo going into the aircraft it would take?

Mr. MARKEY. No, I am not talking about—I am not talking?

Mr. HUTCHINSON. —7,800 employees would be required.

Mr. MARKEY. I am talking here—

Mr. HUTCHINSON. And so I think the strategy of the Known Shipper Program is the correct approach.

Mr. MARKEY. And I am saying, in the Known Shipper Program, you give 30 days notice to the known shipper at their warehouse before you go and inspect their warehouse.

Mr. HUTCHINSON. No, you cited Customs. And the TSA runs the Known Shipper Program for the aircraft.

Mr. MARKEY. Customs. So you don't have—

Mr. HUTCHINSON. You are citing Customs.

Mr. MARKEY. So do you have jurisdiction over Customs?

Mr. HUTCHINSON. I have jurisdiction over Customs. But you are talking apples and oranges. If you are looking at TSA, they are the ones that do the inspection. You can't cite Customs protocols for what TSA does.

Mr. MARKEY. So how about with Customs, do you want to give 30 days notice in the Customs that you are going to inspect?

Mr. HUTCHINSON. No, absolutely not. There should not be the advance?

Mr. MARKEY. Well, will you change that program so there is no longer 30 days notice?

Mr. HUTCHINSON. I will look into that matter, absolutely.

Mr. MARKEY. OK, well, that is very helpful to me.

Thank you, Mr. Chairman.

Chairman COX. The gentleman has 45 seconds remaining.

Mr. MARKEY. I give it as a gift to the committee.

Chairman COX. Well, the gentleman has a tab that he is running, so this will even it out.

Mr. GOODLATTE. Thank you, Mr. Chairman.

Chairman COX. The gentleman from Virginia, Mr. Goodlatte.

Mr. GOODLATTE. Under Secretary Hutchinson, welcome back. We are delighted to have you here.

I do think the issue raised by the gentleman raised by the gentleman from Massachusetts is worth looking into in terms of what might fit or not fit into that category. I would note, though, that the gentleman held up a bottle of water. A bottle is measured by volume, not by weight. And I think the standard that we are talking about here is a weight standard. So there is a very different

criteria. And the concern I have, in screening smaller items that could be a hazard, I wouldn't want to get into the situation where we were examining every letter that went on board an airplane.

Because I can tell you if we examine every letter that comes to my office and arrives two or three weeks later than the people who send it expect it will arrive here. And I wouldn't want that to be true of every thing in the country.

Plus, I assume that some of the mail that we receive from our constituents goes on an airplane and goes to be screened in Ohio. And that would make it excruciatingly long to mail anything. So I think there needs to be some common sense applied in examining whether the current standard is an appropriate one or not.

And there does need to be a waiver for lighter envelopes that are less likely to cause a major problem on an airplane. And certainly the standard ought to be based on weight, and not on volume.

The area I would like to ask you about is things that weigh a whole lot more. And that is people that get into the United States lawfully and then overstay their visas. What is the department's expectations with regard to that? Are you going to be more aggressive than this administration or the previous administration has been with regards to people who enter the country legally and either overstay their visas or are engaged in activities while the visa still has not expired.

It is actually an entry permit, but not with the visa. The visa just gets you through the border. Then, you are authorized to stay here for a period of time.

But if you engage in something other than what you are authorized to engage in, we really don't seem to know that that is occurring right now. We don't have a very good communication system between the colleges and universities and the immigration service in terms of has that person actually shown up and enrolled?

And we don't seem to have a very good system of determining whether the person left the country when they were supposed to leave. And I know we have a very poor system in terms of going and doing something about it when we do find out that they are here beyond their authorized stay.

Mr. HUTCHINSON. It is a challenge, but it is also a mandate that has been given to us by Congress that we implement a system in which we can track our foreign visitors that are here under a visa, and also note when they leave. Therefore, we know who overstays.

Mr. GOODLATTE. What are you going to do about it when you know they have overstayed?

Mr. HUTCHINSON. And a second part of the challenge is dealing with that information. And I realize that there was a gap there so under my direction, we set up an office of compliance within Bureau of Immigration and Customs Enforcement to monitor that information, to screen the information, determine what the valid reason that they have overstayed. Or they have actually gone back. The information was incorrect. And that which we need to refer to the field for investigation.

I will give you a good example of it. We have the SEVIS initiative, which is the Student Exchange and Visitor Information System, in which the universities and academic institutions have to report to us on those foreign students who come here under a visa

to study at their institution. They have to report to us when they show up, if they do not show up, for class.

Since last December, over 2,000 calls have come in, reports have come in, from universities and academic institutions that over 2,000 foreign students have not showed up for class who actually had permission to come in for that purpose.

We are having to develop the capability to handle that information. Obviously, some of those may have returned without going to class, got homesick, got ill. Some of them left out of a different means we are not aware of. Some might have got a job, still violates the terms of their visa. Others might be here to do us harm.

So we are having to develop the information systems, but also the capability to handle that information, and not just in reference to the students. But as we garner more information on the millions of people that come every year, we have to know who overstays the visas and have to handle that information.

Mr. GOODLATTE. Right now, if an individual were to contact my office, and I know because they have, and I were to forward on to the Immigration Service that somebody was known to have overstayed their student visa or not attending college as was intended, we have no idea that they might be engaged in the activities that those who entered the country include the jets into the World Center and into the Pentagon. But we do know that there is a greater risk, because our prisons are full of people who are arrested in this country, are illegally here.

About 4 percent of the people in the country, it is estimated, are illegally in the country. But 23 percent of the population that are in Federal prisons are illegal aliens. Are you going to go and act on that information and go look for that individual and see that they are required to leave the country, or taken out of the country if they have indeed overstayed their visa?

Mr. HUTCHINSON. Yes. But right now, we do not have the total capability to know when someone overstays a visa. If someone comes in from a particular country under a visa through a land port of entry and then they leave 60 days later, we have no record of whether they have left or not. And therefore, somebody who comes in under a visa and they stay here, we do not have that information unless they transact our criminal justice system. And then, we have information that they have overstayed their visa.

Or if they have left, they had a 60-day visa and they left after six months and they try to reenter the country, we get a hit that they overstayed their previous visa and they cannot be allowed to come in. Those are the checks we have right now.

Our strategy is two-fold. One, to develop a full entry-exit system where we can know when they enter and they leave. Humongous investment. It is going to be difficult. It is going to take a number of years.

The second part of it is to target everyone who intersects with our criminal justice system, or our justice system in any way. So that information comes to us. It triggers that they are an overstay. And we are capable of handling that information.

Mr. GOODLATTE. But do you act on it now? The information I have is that the Immigration Service and the Justice Department only act if they know the individual has a criminal record or is sus-

pected of being engaged in a crime and not if they are simply unlawfully in the country.

Mr. HUTCHINSON. We don't have 100 percent coverage there, and we are trying to get to that 100 percent coverage. Obviously, we are targeting with our resources those that are in the institutions that are under an immigration violation so that whenever?

Mr. GOODLATTE. They don't get released back into the general public when you know they have got a criminal record.

Mr. HUTCHINSON. Exactly. Right. Before?

Mr. GOODLATTE. Well, that is certainly a good step. But I think there is a lot more that needs to be done for people who come into the country, as did most of the terrorists. They had no record of any previous criminal activity, but were obviously a very severe risk to the country.

Mr. HUTCHINSON. You are absolutely correct. And we understand the issue. We are trying to increase our capability.

Mr. GOODLATTE. Thank you very much.

Thank you, Mr. Chairman.

Chairman COX. Thank the gentleman.

The gentleman from Washington State, Mr. Dicks, is recognized for his questions.

Mr. DICKS. Mr. Secretary, thank you very much and I appreciate your courtesy in meeting with me a few weeks ago, and I want to go back to that subject just for a moment.

The 2001 PATRIOT Act and the 2002 Border Security Act directed the Secretary of State and the Attorney General jointly, through NIST, to develop a technological standard, including appropriate biometric identifier standards for use in developing a successful visa system. Since U.S. VISIT will be relying on utilizing the FBI's IAFIS system for criminal background checking as part of the initial registration process for visa applicants, it becomes even more important for a single standard to be established to ensure the overall success of the program.

These standards were issued by NIST in a report to Congress in January of 2003. The findings state, "To perform background identifications, 10 plain image impressions should be used for enrollment and retention." NIST also points out in their report, "Based on the experience with the FBI's IAFIS system, increasing the number of fingers used increases the system accuracy, and that using more fingers also reduces both the size and cost of hardware, as well as the number of and operational costs associated with false readings."

Can you explain why DHS has chosen to go with two fingerprint standard, rather than with a 10-print standard as recommended by the Secretary of State, the attorney general and NIST?

Mr. HUTCHINSON. Well, the Secretary of State, the attorney general and the Secretary of Homeland Security agreed that the initial step would be two fingerprints.

Now, we are working closely with NIST. NIST has indicated that, as you said, that if we are going to totally interrelate to the IAFIS system that multiple fingerprints would be important as we increase our databases of fingerprints that are stored. But they also said that the initial steps of two fingerprints is a logical first

step that would add to security. And it is a system that could be built upon.

And so we are continuing to work with NIST and with Congress as we develop the specific criteria on the biometrics that will be used. Our goal this year would be the two fingerprints. And then we would want to move to?

Mr. DICKS. But if 10 is better, why not go to it right now? Why not just get it started? It is going to be a better way to identify. It is going to mean less checking and rechecking.

I mean, the people who are experts in this industry tell me that this isn't even a close call technically.

Mr. HUTCHINSON. Two reasons, I mean, one, we cannot do that this year. We could implement a system without a biometric component, but we are missing a security link if we do that. And so we can add a security capability by having some biometric, two fingerprints, this year and we do not miss any opportunity by going to a greater biometric capability next year. And so it is just a matter of giving us increased security this year.

Mr. DICKS. I want to continue to work with you on this subject.

Mr. HUTCHINSON. Absolutely. Your comments have been very helpful.

Mr. DICKS. In the fiscal year 2003 omnibus appropriations bill, Congress explicitly instructed the department to use full and open competition with regard to development of what has become the U.S. VISIT system. I and many colleagues were surprised to learn that the department has chosen to expand upon existing contracts for the IDENT system, expressly disregarding congressional intent.

I understand the department plans to issue an RFP for phase two of the U.S. VISIT. But since the basic infrastructure of the system will already be established in phase one, this can hardly be described as open competition. I have been informed by the people in the industry that the administration's December 31 deadline can still be met if the system is open to competition.

Why did DHS choose to ignore congressional direction when it decided not to open phase one for competition?

Mr. HUTCHINSON. We are very committed to an open process. And Jim Williams, who is our program director for U.S. VISIT and Bob Mocny, who has worked on it long and hard, has met with, I believe it is Sagem Morpho, and indicated to them that they would be able to bid on the next RFP, request for proposal, that will be put out.

So we are very committed to an open process. And I think that as we develop this system, there will be plenty of opportunity for private industry to participate in it.

Mr. DICKS. Well, we want to work with you on that as well.

One final thing, Mr. Chairman, SeaTac Airport problems. In May, TSA announced that it was reducing the number of passenger and baggage screeners by 6,000. It is my understanding that the first 3,000 job cuts were completed late last month. At SeaTac, in Washington state, it has been reported that these cuts led to a reduction in the work force from 1,250 personnel to 1,050, a reduction of more than 15 percent.

At the same time, however, the airport has experienced its usual summer rush of travelers, its busiest time of the year. This has led

to waits of as much as 2.5 to 3 hours to get through security checkpoints, delaying several flights and causing many to miss their flights altogether. What is TSA planning to do to address this issue? Can you help us with this at all?

Mr. HUTCHINSON. Be glad to look into that. Obviously, that kind of wait time is unacceptable.

Mr. DICKS. And frankly, we were just doing beautifully. Out there it was going great and then all of a sudden they took these 200 people out. And on Sundays and Mondays, we have had a crash. And it is all over the papers. People are upset, and it is hurting us out there.

Mr. HUTCHINSON. As you know, we are reducing 6,000 on the work force, and we have been very successful in terms of reducing without increasing those wait times. But we will look more carefully at your airport.

Mr. DICKS. Who should I talk to you in your staff on this? Anybody? Admiral Loy?

Mr. HUTCHINSON. We will get back—Admiral Loy, obviously, is the responsible leader on this. But our leg staff will get back with you as well.

Mr. DICKS. Thank you. Good to see you.

Mr. HUTCHINSON. Thank you.

Chairman COX. The gentleman from Connecticut, Mr. Shays, is recognized for 8 minutes.

Mr. SHAYS. Thank you, Mr. Chairman. And welcome, Secretary Hutchinson.

On a scale of one to 10, in terms of competence and experience and background, you are a 10 in my book. And I am very pleased you are there, and believe that you have the hardest task of all within DHS.

I guess I am saying that because now I want to speak a little more, I want to be equally frank and honest, but I want to tell you that sometimes given your department's largeness and newness, it is hard to kind of get their attention. I feel you kind of have to do it in a public forum.

I think you have to tell the American people the truth, and they will tell you to do the right thing. And I believe that the Department of Homeland Security wants to make people feel good and comfortable and we get on with life. But in the process, it is in danger of kind of misleading people.

For instance, we don't check all baggage on airplanes, even though we say we do. I guess you could say it if we said we check it but checking means the following: machines, dogs, swabs, people. But even then some luggage, I believe, is not checked.

And we clearly know that all cargo is not. And we do know that cargo is placed on the belly of aircraft.

So what I am wrestling with is why don't we don't we just say it to people and say, We are not there yet, but we will be, rather than giving the impression that we are already there?

And I guess that is my first question that I would like you to respond to.

Mr. HUTCHINSON. You are absolutely correct, we should be honest with the American public. They can deal with the truth. And

we should not overstate our accomplishments or the level of security. They can deal with it.

Whenever you look at our baggage screening, I think one point is important, that prior to September 11, we screened electronically 5 percent of the bags. Now we screen 92 percent electronically.

Congress did give this year an opportunity to use different means of screening the bags, and that has allowed the compliance with the congressional mandate. And we are moving toward 100 percent electronic screening.

Mr. SHAYS. You know, this is what I am troubled with. I just don't believe, and I don't mean any disrespect, that all of the passenger luggage goes through a machine, 92 percent of it?

Mr. HUTCHINSON. Congressional legislation allowed other means of baggage screening during?

Mr. SHAYS. I understand.

Mr. HUTCHINSON. —the interim.

Mr. SHAYS. And so what the response of the department is we are conforming to all of the requirements of the legislation. But is it your testimony before this committee that 92 percent of all luggage goes through machinery?

Mr. HUTCHINSON. That is the information I have.

Mr. SHAYS. OK. I just totally dispute it. And the reason I totally dispute it, and I mean no disrespect, is we don't have enough machines to do it.

I mean, that is why I—I just don't know why we are saying it.

Mr. HUTCHINSON. Well, of course, you look at the volume of bags that are going through the airports, the major airports, that handle the vast, highest percent of the bags, have the equipment for electronic screening. And so I would be happy to go over that.

And in reference, though, to the cargo, you are absolutely correct. And we would never mislead the American public that we do not do 100 percent electronic screening of the cargo that goes in the belly of the aircraft. We do have protective measures and a strategy that they should be aware of that should give a level of confidence of what is going in there coming from known shippers.

So honesty, but at the same time we should tell them the strategy that we have.

Mr. SHAYS. Known shippers means that if it is a known shipper, we are comfortable, and we don't check it. And if it is not a known shipper, then we are going to check it.

But I think it is pretty clear that it is very easy for someone to get a known shipper to ship something that may in fact be an explosive device. And an explosive device can simply be a mat that looks like it is a rug. But it can be a highly explosive device.

I guess I am deeply concerned that we are continuing to try to give people the impression that somehow we are able to do this. It relates to the whole issue as well. We tell people that when products come into the United States that are men and women wearing belts that will get radioactive material and disclose that, uncover it, whatever. Isn't it a fact that those belts can not, in any way, detect plutonium or enriched uranium?

Mr. HUTCHINSON. The electronic detection equipment?

Mr. SHAYS. No, I am now on another level. I am at the level when the department is saying that our men and women at our ports are wearing detection gear for radioactive material.

And the implication is that we should feel comfortable that they are going to be able to detect some untoward event, an instrument like plutonium enriched uranium. And I want to establish on the record what I believe the truth to be, that those simply have no use in uncovering whether it is enriched uranium or plutonium.

Mr. HUTCHINSON. The personal radiation detectors for each inspector has its limitations. It is just simply one of the systems to guard against radiological material. We also have the portal monitors. But there are limitations on the systems.

Mr. SHAYS. See, the reason why I get into this is that when I vote for something like the PATRIOT Act, I have my constituents say, I don't like it. And in my view, we have done such a good job of making them feel comfortable about the threat, that we are there to respond to it, that they don't need it. And that is the basis for why feel so strongly that we need to have a little more honesty.

I don't want to scare people, but I want people to understand that enriched uranium or plutonium—enriched uranium is the size of a grapefruit. Plutonium is the size of a large orange. And you can hold it, you can touch it, and it is not detectable.

And so being able to say to people that we are checking just makes me feel like they feel comfortable when they shouldn't.

Mr. HUTCHINSON. Just so I understand your point, Congressman Shays, when it comes to the cargo in the belly of the aircraft, I would be very open to your strategies for protecting America.

Are you advocating that we should have 100 percent inspections?

Mr. SHAYS. No, no, absolutely no.

Mr. HUTCHINSON. —of the equipment? I mean, what?

Mr. SHAYS. We can't. I guess what I want is just honesty. I want people to know when they fly in an airplane, the plane can be blown up. Just like when you ride—no, you can smile at that, but it is the truth. Just like when I ride on a road, I know that 40,000 people get killed every year from drunk drivers. Guess what, I still ride on the roads. But I know the truth. And I want them to know the truth.

Mr. HUTCHINSON. You are absolutely right, but the truth also is that we have many inspectors. We have initiatives that are trying to protect against that. I think we ought to tell them that as well, that we are working very hard—

Mr. SHAYS. I agree with that.

Mr. HUTCHINSON. —with limitations that are appropriate to get the job done, and that there is a security component to what we are doing.

Mr. SHAYS. Thank you.

Chairman COX. The gentleman from New Jersey, Mr. Andrews, is recognized for his questions.

Mr. ANDREWS. Thank you, Mr. Chairman.

Thanks, Mr. DIRECTOR. Welcome back.

Mr. HUTCHINSON. Thank you.

Mr. ANDREWS. I guess your job here seemed easy compared to what you are doing now. We are glad that you are doing it. I know that you have responsibility for a very high number of people. I

know you have a very difficult job. I know that your directorate is very new at it. I want to tell you that everyone I have had the chance to interact with at your department has been courteous and responsive and went out of their way to try to answer my questions, and I appreciate that very much.

Now, you know that when someone says something like that in these hearings that the next part of it is critical.

Mr. HUTCHINSON. I knew that the last time I was complimented.

Mr. ANDREWS. I wanted to tell you a story that I think is local in origin but global in impact in the agency. And it is my observation that there is not the proper sense of urgency in the agency in all cases. And there is also the sort of reflective bureaucratic sense to say if the paperwork looks good, the problem is being solved.

About 10 weeks ago, I became aware at the Philadelphia Airport that there was a problem where there was a gate through which trucks were going without being inspected in any way and through which individuals who had not had a background check and who were not being screened in any way were also going.

I spoke to Admiral Loy about it twice. He was quite responsive. I met with the individuals who were responsible for TSA in Philadelphia. They were quite responsive.

I am in no way dissatisfied with their effort, but I am troubled by the underlying type of responses, because I sat in the meeting with the Philadelphia people and said the following, Why should anybody who might get access to an airplane not walk through some kind of detector or screening device before they walk into the airport? since they told me in the meeting that 95 percent of the people who work in the airport, who work in the McDonald's, who work in the baggage area, who work for the airlines, get screened or detected when they walk into the airport?

Why not 100 percent? Why shouldn't the people who are walking through this gate not have to walk through a metal detector, even though it would be less convenient for them, even though it might mean they have to go out of their way somewhat? Why not 100 percent?

The second question that I asked was about these trucks going through this gate, with direct access to the tarmac, so they could drive up to a plane if it was a truck bomb. The answer was there is another part of the airport where every vehicle is inspected in some way, either by guards, by humans or by some kind of technology screening device. Why not every truck through that gate?

Now, Mr. Secretary, there may be a good answer to that, but the answer that I got was that it is up to the operator of the Philadelphia Airport to submit a plan to TSA that answers those kind of questions and that TSA will decide after reviewing that plan whether or not the plan is sufficient to meet the safety needs of the public. Under the statute and the regulations, that is the right answer.

But you know, to a layperson who sat there at that meeting and said why not everybody who works in the airport and has access to a plane go through a metal detector. You do, I do, we all should. And the answer that I got was a process answer, not a substantive answer. The same question with respect to the trucks. I am not being—

Mr. HUTCHINSON. What was the process answer?

Mr. ANDREWS. The process answer was, well, look at the airport's plan, and we will see how they determine to deal with something like this.

I have got to tell you I think what they should have done was gotten on the phone that afternoon with the operator of the airport and said there appears to us to be no good reason why anybody is going through this gate and why any truck isn't going to the gate that is screened to start doing it this afternoon.

Now, if the answer was no, Congressman, there really is a reason for this, because it is inspected somewhere else, I could understand there might be a substantive reason.

But you have dealt with this, Mr. Secretary, for your constituents before. There is nothing more dissatisfying than calling a government agency and you say they really should fix this traffic light at the intersection of Main Street and Smith Avenue. And you hear the Highway Department say, Well, we have a regulation that says we review every traffic light every six months, and when we review this traffic light, we will see if it is broken. And if it is broken, we will fix it. You would want them out there that afternoon fixing the traffic light.

There may well be a reason they can't fix the traffic light this afternoon. There may be a reason the Philadelphia Airport that some of these employees do not go through a metal detector and that some of these vehicles do not wait in line with the other vehicles. But boy, if there isn't. It ought to be fixed right away.

And I mean nothing critical of the individuals, but here is the point that I am making, we have been blessed in this country since the 11th of September. We have not had a majorly successful attack in the aviation industry. And I think that has lulled us into a sense it is back to business as usual.

That is not what your department policy says. That is not the way you feel. And that is not the way Admiral Loy feels.

But I think that is the culture of the agency.

And you know, the one suggestion I could make to you, and I know that you are the guy who can get this done, is that imagine that the person asking that question is one of the constituents at your town meetings back in Arkansas, who would want to know how come the truck doesn't wait in line with the other trucks? And how come all of these people don't walk through that metal detector? And if you can't give them an answer that would satisfy them as being a common-sense answer, change it.

That is what I think you need to do in Philadelphia. I know Mr. DeFazio has pointed out other situations at other airports across the country.

We need someone like yourself who is restless with bureaucracy—I know you were around here—to be restless with this one.

Mr. HUTCHINSON. Thank you, and I will look into that. But let me just say in general response there needs to be a sense of urgency about what we do. We ought to be grateful with success or with the fact that we have not had an incident that has cost lives since September 11. But we shouldn't take that for granted. There should be that sense of urgency.

And let me assure you there is among the people that I work with day in and day out.

Now, obviously, whenever you are looking at operators in the private sector, everybody has different levels of motivations. But we need to instill that. And I pledge to you that I will work to do that.

Mr. ANDREWS. I know, I have confidence in you that you will. And I know the people working with you will. It just strikes me that this is not a form that gets filed 60 days late, or this is not some grant that doesn't get to a city for 6 months later than it should. Those are serious matters too.

But there is no accident here that the MO of the terrorists go back to the places that they have gone before. You know that.

And it would just be such a tragedy if because we weren't urgent in our attention to simple common sense things like this, we weren't doing what we should.

You have a huge job, screening all of this baggage and doing thousands and tens of thousands of background checks. If something fell through the cracks there, it would be tragic, but understandable.

But something that is right in front of our eyes, we ought to fix. And I hope that you would help us in this respect.

Mr. HUTCHINSON. Thank you.

Chairman COX. The gentleman from New York, Mr. Sweeney, is recognized for his questions.

Mr. SWEENEY. Thank you, Mr. Chairman.

If I had known, Mr. Secretary, that I would only have had one vote in the markup, I would have—I would have reserved my time.

I want to associate myself with the gentleman from New Jersey's comments, and most specifically his frustrations with perception of the culture of the agency. You and I have had this conversation privately, and this is not a reflection of you or Ed Maloy or some of the folks in those positions, but more of a reflection of what may be the development of an agency that has a lot of folks in it who come from different varying backgrounds—security, intelligence, et cetera, law enforcement—who haven't really had the responsibility of dealing with the public on a level that your agency does at this point and who may not quite understand the need for candor and a get-it-done sort of sensibility on some issues.

I alluded to earlier the New York Daily News Story. I know that in some instances you are going to be able to respond. In some instances, you aren't, but I guess let me ask you this question, it is a credible report?

Mr. HUTCHINSON. In reference to the Secretary's comments in New York?

Mr. SWEENEY. No, we will get to that later.

In reference to the report today that the department was involved with the FBI and the CIA in tracking a possible terrorist threat from Iraqi intelligence involving cruise ships and the like?

Mr. HUTCHINSON. I wouldn't comment on the specifics of any particular operation in this forum. I will tell you that we do have our ICE agents that are in critical places. And they have a good relationship with those agencies, but I couldn't comment on the specifics of that.

Mr. SWEENEY. The report is credible or not then?

Mr. HUTCHINSON. I don't—

Mr. SWEENEY. Let me ask you this. Is it instructive at all to us who have been concerned about your capacities and your ability to interact with the intelligence community, that this is apparently a very substantial operation reflective of the involvement of DHS, and maybe, indeed, shows growth by the agency and its ability to take the information and get it out in real time and do real things with it.

Mr. HUTCHINSON. Oh, absolutely. First of all, since September 11, because of the President's direction, there is not any equivocation about sharing of intelligence information very quickly across agency lines. The desire is to get it there as quickly as possible.

We are doing an effective job of getting that to the people in the field and acting upon that intelligence. And we do that daily. That is our job, and I think we are being effective of getting information out.

Mr. SWEENEY. As a member of the Intelligence Subcommittee, I really want to look at that as instructive in terms of your capacity.

Let me get quickly to other questions about the Secretary's statements in New York about high-risk type high threat funds. Where are you guys? You sent a budget that had zero. We put \$500 million in. And on Monday, I believe the Secretary endorsed a different number.

Mr. HUTCHINSON. Well, first of all, we are very grateful to the Congress for the \$500 million for the High-Threat Urban Initiative that the House places in. You all have been tremendous partners in this.

The Secretary and the administration has submitted a budget that first of all we do advocate a base for all of the states. There is a security need at a certain level for everywhere in the country, were that it Idaho or whether that it New York.

But we also recognize that there has to be a distribution formula that considers factors like population density, critical infrastructure and threat to the area. And that is what we have worked with Congress and want to continue to develop that criteria in a reasonable fashion.

The 2004 budget has \$3.5 billion for first responder grant money; \$2.5 billion of that was requested to be allocated on a threat-based distribution mechanism with flexibility. And so that is our view.

Flexibility more—I don't mean to interrupt, but I am running out of time—flexibility or money? Which is most important? Or both?

Mr. HUTCHINSON. Well, obviously, we want the money that is allocated and requested in the President's budget and then the maximum amount of flexibility with that so we can target the money based upon threats, population density and other factors.

Mr. SWEENEY. Final question. I mentioned earlier about does DHS have any work in the establishment or revised formulae? You alluded to it a little bit here on the suggestion, in our comments just now. I think it is critically important that the agency come forward with as many concrete ideas as they can on the formulation. I know the chairman has legislation coming forward. I have a bill in that relates to the formulation. And I think you folks need to really weigh in on this so that we get it right.

And with that, I yield back my time and thank the chairman.

Mr. HUTCHINSON. Thank you, and we look forward to working with you on that.

Chairman COX. The gentleman from Massachusetts is recognized for his questions.

Mr. FRANK. Thank you, Mr. Secretary.

I am particularly concerned about the CIVS program that you alluded to. And I know that there is some concern on the part of many of my colleagues that we are not catching enough bad buys, and that is very important. But I think it is also important to remember that the overwhelming majority of foreign students are not bad guys. They are good guys and girls. And they are also very important to America.

One of the important sources for American higher education is, of course, foreign students. Foreign students very often pay not only full tuition, but in some cases, even a little additional. And they also add significantly to the intellectual and cultural atmosphere.

And I know you get a lot of pressure and people are concerned that you might be letting people slip in wearing their enriched uranium belt, although it strikes me that you would get an awful rash from that, but I am not an expert.

But I want to also express, and as I know you understand, the importance of not overreacting, and particularly with regard to there was some initial response after September 11 that would have banned all foreign students, or made it harder for foreign students should come.

People should understand that would be an enormous loss, not just to the intellectual riches of our universities, but it would cost American students money. If you removed all foreign students from the mix, you would have to find a significant source of replacement income for many of our universities and colleges.

And it is also, of course, the case that we have a multiple battle here for our safety. And obviously, in the immediate situation, we want to be physically secure. That is a very hard job that you have, and it is never going to be done perfectly. And I think people should always be aware in a free society it is always going to be difficult to give people even 98 percent assurance, certainly not 100. And I think most people want to maintain the element of risk, since it is the inevitable price of an essentially free society.

But we also are trying to deal with the rest of the world in positive ways. And having people come to America to study, on the whole, seems to me to be a good thing. I think given what appears to me to be the misinformation about America, the unduly negative views of America that so many people have, that we have a lot to gain by letting people come here.

I think this is a situation where our reality is far better than hostile propaganda and honest misinformation perform.

So I am urging that in addition to trying to put up that screen, we be cognizant of the need to do the right thing. And with the great majority of students in the majority of schools are all trying to do well. And I do think we gave you an unrealistic mandate with regard to SEVIS, too quick a deadline. And it wasn't fully met, and that caused some problems.

It was kind of both under inclusive and over inclusive, in lawyer's terms. We didn't catch some of the people we should have caught. But we kept out some of the people we shouldn't have excluded.

Several of the schools came to me, and they were looking for some postponement of some deadlines on a one-time basis. I mean, we had some obvious significant start-up difficulties. And they were looking, particularly with regard to the need for students to say when they would be coming back for some time. Some of that has already slipped.

But I just wonder, where are we now with SEVIS? And particularly from the standpoint of not unduly interfering with the overwhelming legitimate mission of most students at most schools.

Mr. HUTCHINSON. And I do share your concern on that. One of the things I am trying to do is to communicate a message that we welcome foreign students in our country. We do not want to shut that off.

I share your concern to a certain extent about the money for the academic institutions. But even to another extent, the opportunity we have to explain to the world what America is about. And so we want to have that welcome mat and send that message out.

One of the difficulties is processing time. And we are trying to reduce that processing time. We do need the cooperation of the universities that if they receive an applicant in August, they are not going to be able to get him enrolled for September class. It is just going to take a little bit longer than that. And so for foreign students, they need to start earlier. But there should not be any impediment, other than that processing time.

We had a private contractor that handled the information systems of this so that the universities can be on line, that we can handle it in that automated fashion. There have been some difficulties. We are trying to remedy that. We have a number at which the universities can call us, the help desk, and that is been working effectively.

So I think we are getting the difficulties out of the system, speeding up the processing time. And I have met with the universities, and they have given me some very specific illustrations of problems, and we are working on those as well.

Mr. FRANK. Let me just say—and I appreciate the time, Mr. Chairman.

I thank you for that, and I am glad that you are working with them. And I hope that you will not feel that if in the interest of trying to make this function, we don't get 101 percent screen that there is then going to be an overreaction here. I mean, I hope that my colleagues will be realistic here and recognize that we are always talking about trade-offs. And that a focus exclusively on making sure that you prevent anything bad from ever happening anywhere with regard to a student slipping in doesn't justify a significant interference with the function of universities.

I don't suggest that you are doing this. I have no criticisms to make in this regard, which is why I didn't praise you in the first place. I figured I could just break even in terms of time.

But I do hope—I appreciate the attitude you have expressed.

Mr. HUTCHINSON. Thank you.

Chairman COX. The gentlelady from California, Ms. Lofgren.

Ms. LOFGREN. Thank you, Mr. Chairman.

You know, sitting here today I was remembering before 9/11, when you were a member of the Judiciary Committee, and we were all invited, a bipartisan group, to go meet with the attorney general. And I believe you, Mr. Frank and I and the chairman and a small group went and met with the attorney general. And I think he expected us to talk about civil rights, or I don't know what he expected. But every single one of us, including the chairman of the committee, just let loose about the Immigration Service and what a disaster it was.

And unfortunately, I think that that agency, which has not been a model of efficiency through the decades, is still a problem.

And I remember thinking that it might have been a mistake to move some of the functions into DHS, because I could imagine Secretary Ridge, or now you, trying to explain why the infant adoptions are late, and because we have just put things that have nothing to do, really, with security into the agency.

So I remain concerned. And as you know, you have heard this when we served together on Judiciary, I think a major part of the problem is the lack of adequate technology in the agency. It is in the Dark Ages.

And I want to go back to the SEVIS system that Mr. Frank talked about. I hear from the universities that that program is still no working. The inspector general delivered a report to the Immigration Subcommittee outlining the flaws. It is not scalable. It doesn't work.

And so I am concerned that if we are using the SEVIS system as the basis for expansion of exit-entry systems, the entire thing is doomed to failure. And I am wondering if you could, either now or later, give me your insights on that issue.

Mr. HUTCHINSON. First of all, we are very closely engaged in that system, its development and its improvement. We have a SEVIS working group, in which my director of operation meets regularly with the folks that are running that program, troubleshooting it, trying to improve the system.

My understanding is that—and this comes from both our side, but also meeting with the universities—it is a fairly well-designed system, that they have great hope that it is going to work well. There were some bugs, and we have got those being addressed. So I am much more hopeful about the system, even though I know we have miles to go.

And I think it is the right design. It is an automated information system that allows us to track the students and foreign visitors that come in. That is the type of thing we need to expand.

Ms. LOFGREN. I am not opposed to what we are trying to achieve. My question really is about the technology that just flubbed.

Mr. HUTCHINSON. You know, it is an example here of where we hired a private outside contractor to do this. But even under that scenario, there are difficulties because usually private industry is not used to dealing with the mass of information that we have to deal with in the government. So there is challenges every step of the way.

Ms. LOFGREN. Well, yes and no. I mean, Albertsons deals with a lot of information, but I will pass on that.

I am concerned that at this late date that we have still not merged our watch lists from the various sources and that immigration inspectors, who should have access to that information, may not. And I have actually seen the immigration officers, and I mean, they are busy. They are not going to check 113 different databases at a point of entry.

What is the status of that merger? When is that going to be done?

Mr. HUTCHINSON. First of all, enormous improvement has been made since September 1. And both the State Department list, their visa information, is made available to our inspectors at secondary inspection. And so we can improve that, but there has been an enormous step forward.

At the Department of Homeland Security, we have our chief information officer, Steve Cooper, who is tackling that project of bringing our information systems together. You have got 22 different agencies, all different systems. I think there is like 2,500 mission applications and programs.

Ms. LOFGREN. It is a mess.

Mr. HUTCHINSON. And I am pleased with his strategy, the progress that is being made. We are anxious for the day when it is all together and we can communicate with each other well.

Ms. LOFGREN. Perhaps it would be helpful if I just solicited a briefing from that individual and became more informed on that.

Mr. HUTCHINSON. We welcome that.

Ms. LOFGREN. I wanted to also go back to the issue of the six month processing requirement that is going to go into play. And I am interested in whether the department will meet that requirement, and if so, how?

And although it is true that the State Department has a large role to play in the issuance of visas, I mean, their primary role, certainly the former Immigration Service, the Immigration Benefits Division, has a huge role to play in a whole variety of immigration benefits, including the issuance of permanent residencies and the role they play in concert with the State Department on the H1B program and the like.

I know that you have just recently experimented with Web-based applications in just a few matters. Is that the direction you plan to take? And if so, when will we have an entire Web-based application system in play?

Mr. HUTCHINSON. I believe that pertains to the services side, under Eduardo Aguirre—

Ms. LOFGREN. Right.

Mr. HUTCHINSON. —who is the director of the Immigration Services. And that is the goal, to reduce the backlog. And they have made progress in terms of moving online. They introduced that. So gradually, I think, they made the first step, that there can be applications and activity done online, on the services side. We hope to increase that.

That is probably about as far as I should go into the depths of that question. That is his responsibility.

Ms. LOFGREN. If you could get back to me later. I am very interested because it is always bothered me that if you order something from Amazon.com, you can find out where it is. You know, it just landed at the airport. It just got put on the truck. But if you are applying for a visa for your husband or wife, you are in the dark for years.

No one answers the phone. You can't find anything out. We ought to be able to track them just as you would a package.

And finally, I would like to raise the issue of background checks for foreign students. I went and met with Iranian Ph.D. candidates at Stanford last fall. I mean, these are the brightest kids in the country. They are all candidates for Ph.D.'s in engineering. They are being sought by universities all over the world. I mean these are hot jobs.

And they explained to me and the engineering department explained to me that they are going to lose these kids, because if they go to an international conference in Europe or if they have a parent who becomes sick, they can't get back into the country. They are going to miss their classes.

And it relates in part to the FBI. It is not your department, but really it is of the piece, because these kids were so wonderful. They said we are here too. We want to be safe. And so investigate us, you know, that is fine. They had no problem with that. They said, Can we go into the FBI here in the United States and answer any questions that they have? And in fact, many of them had been undergraduates here. There really was nothing to find out about them in Iran. But there never was any action.

I know that Chairman Sensenbrenner met with the Secretary of State on this issue. Can you help resolve this problem in any way?

Mr. HUTCHINSON. Happy to work on it. We want to be able to have a group within my arena that works specifically on problem cases, and so if there are specific ones, please let us look into it to address those. Well over the 90 percent of them move through quickly. There is a few that get stuck because they can't complete the background quick enough, and there is some questions that have to be resolved. We want to be able to reduce that number.

Ms. LOFGREN. If you could identify—and I thank the Chair—

Chairman COX. The gentlelady's time has expired.

Ms. LOFGREN. If you could just give me a name, I would love to set up a meeting to follow up on that.

Chairman COX. The gentlelady from Texas, Ms. Jackson-Lee?

Ms. JACKSON-LEE. Thank you very much, Mr. Chairman, and again to the witness. I appreciate your presence here and the time frame that you have spent with us.

As I indicated before I start questioning the witness, Mr. Chairman, if I might yield to you for just a moment. I want to refer you to a letter that was sent by about 13 members of the Texas delegation dated June 19, 2003, that asks for a hearing and the subpoenaing of Secretary Tommy Ridge on this question dealing with the democratic legislators on May 11, 2003. I would like to submit this letter into the record. I ask unanimous consent to submit it into the record, but also to—

Chairman COX. Without objection.

Ms. JACKSON-LEE.—to ask of the chairman that we have a speedy response.

Let me just quickly say that partly the language in the letter says both the Department of Homeland Security and DPS have admitted and acknowledged that the DPS contacted the Federal Air and Marine Intradiction Coordination Center, an agency within the Department of Homeland Security, seeking information concerning the whereabouts of an airplane owned by one of the absent legislators.

In addition, the Department of Homeland Security acknowledged that it use Federal resources to respond to the request. The department confirmed and admitted that the Air and Marine Intradiction Coordination Center, located in Riverside, California, contacted the Federal Aviation Administration and local officials at three Texas airports to attempt to locate this private plane. Again, this was done, although this situation was a purely political matter and there was no allegation of wrongdoing on the part of the absent legislator.

Chairman we have worked in a very bipartisan manner on this committee. I hope that the letter that has been signed by a good number of members of the Texas congressional delegation, at least 13, will be accepted in the manner of getting to the truth. And I guess my inquiry to you is when we might have such a hearing with respect to Secretary Ridge on this matter?

FOR THE RECORD

HOUSE OF REPRESENTATIVES  
WASHINGTON, DC 20515, JUNE 19, 2003

Hon. CHRISTOPHER COX  
*Chairman, House Select Committee on Homeland Security, The Capitol, Washington, D.C.*

DEAR MR. CHAIRMAN: As you know, on May 11, 2003, a number of Democratic members of the Texas House of Representatives absented themselves from the floor of the state house in Austin, Texas, in a proper procedural move to defeat a quorum in that body.

Subsequently, on that same date, the Speaker of the Texas House of Representatives, Tom Craddick, ordered the Texas Department of Public Safety ("DPS") to locate the absent legislators and return them to the capitol.

The DPS thereupon took steps to locate the lawmakers and, among other things, contacted the U.S. Department of Homeland Security ("DHS") for federal assistance—in spite of the fact that this was a state political matter and there was absolutely no allegation of any sort whatsoever that the legislators had violated any state or federal law. In fact, DPS based its subsequent decision to destroy records of its activities in connection with this matter on the absence of any evidence or allegation of unlawful conduct by the absent legislators.

Both the Department of Homeland Security and DPS have admitted and acknowledged that the DPS contacted the federal Air and Marine Interdiction Coordination Center, an agency within DHS, seeking information concerning the whereabouts of an airplane owned by one of the absent legislators. In addition, DHS acknowledged that it used federal resources to respond to the request. The Department confirmed and admitted that the Air and Marine Interdiction Coordination Center, located in Riverside, California, contacted the Federal Aviation Administration ("FAA") and local officials at three Texas airports to attempt to locate this private airplane. Again, this was done although this situation was a purely political matter, and there was no allegation of wrongdoing on the part of the absent legislators.

It has also been learned that other federal agencies became involved in this political dispute. U.S. Representative Tom DeLay, the House Majority Leader, said that bringing in U.S. Marshals or agents of the Federal Bureau of Investigation to aid in the search would be justified, and he admitted that his office called the FAA and the Justice Department to inquire about help in locating the Texas legislators.

The Department of Homeland Security has now admitted that the Department has in its possession certain audio tapes, transcripts, and other documents concerning its contacts with Texas DPS officials. In spite of this admission, the Department has failed and refused, and still fails and refuses, to release this information fully and completely either to the public or to the Select Committee on Homeland Security—despite repeated demands.

To wit, on May 14, 2003, members of the Texas congressional delegation tendered a written request to Attorney General Ashcroft, Secretary Ridge, and FBI Director Mueller for information regarding any actual or attempted diversion of federal law enforcement or homeland security resources in connection with this state political matter. While William B. Moschella, Assistant Attorney General for Legislative Affairs, responded by letter to our request on behalf of Messrs. Ashcroft and Mueller, his response provided no relevant details in response to our stated inquiry.

As a consequence of his failure to respond to our letter of May 14, 2003, members of the Texas congressional delegation addressed a second written request to Secretary Ridge on May 19, 2003 again requesting information regarding any actual or attempted diversion of federal law enforcement or homeland security resources in connection with this matter. In addition, that letter specifically requested the recusal of Mr. Clark Kent Ervin, Acting Inspector General of the Department of Homeland Security, from any involvement in the investigation of the matter based on his evident conflict of interest. To date, our request has not been answered, although Mr. Ervin did recuse himself.

Met again with silence, on May 21, 2003, we addressed a third letter to Ms. Lisa Redman, Assistant Inspector General for Investigations of the Department of Homeland Security requesting information regarding any actual or attempted diversion of federal law enforcement or homeland security resources in connection with this matter. In addition, in anticipation of any reluctance to release such information, we specifically sought a legal justification for any refusal to respond to our repeated requests. In response, Richard Skinner, the Deputy Inspector General, acknowledged that no federal statute prohibited the Department from releasing the records. He asserted, however, that the Department could withhold records under exemption 7 of the Freedom of Information Act (FOIA), which protects law enforcement records under certain circumstances.<sup>1</sup>

As a consequence of the Department's continuing refusal to provide a full and meaningful accounting of its admitted and alleged involvement in locating the absent legislators and otherwise in connection with this matter, on June 4, 2003, the House Committee on Government Reform invoked the seldom-used "Seven Member Rule"<sup>2</sup> in a further attempt to compel the cooperation of the Department with the legitimate exercise of oversight and investigation of the alleged diversion of federal law enforcement or homeland security resources in connection with this internal state political matter. As of this writing, the Department has not yet responded to these Members' request.

Moreover, and of further concern, it was reported late last week that additional evidence has been discovered as to involvement of the Federal Bureau of Investigation in attempts to locate the absent state legislators. Accordingly, members of the Texas congressional delegation directed an inquiry and request to FBI Director Mueller, dated June 5, 2003, renewing our prior requests for records and related information and seeking further explanation in respect of various media reports detailing FBI involvement in this matter. No written reply to this request has yet been received. While FBI spokesmen have dismissed the agency's involvement as "routine" and "really pretty benign," without a full, complete and open examination and consideration of the facts and evidence, the truth may never be known.

<sup>1</sup>Specifically, exemption 7 provides that FOIA's mandatory disclosure requirement does not apply to matters that are:

records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or (F) could reasonably be expected to endanger the life or physical safety of any individual.

<sup>2</sup>5 U.S.C. §2954.

Finally, on June 13, 2003, the Office of Inspector General of the Department of Homeland Security completed its internal investigation into the alleged diversion of federal resources to assist in the resolution of an intrastate political dispute. In the Inspector General's report, the Department confirms its prior admission that its resources were used to assist the "Texas DPS in locating a purported "missing aircraft." In closing the case, the Inspector General's report concludes that its actions "had no reducible effect on its mission or resources" and were "appropriate under [Air and Marine Interdiction Coordination Center]'s guidelines." Characterizing the Department's involvement in this purely intrastate political dispute as "nominal," the Inspector General describes at least eight phone calls, "which consumed no more than 40 minutes of one dispatcher's time."

The Inspector General's conclusions, however, are cold comfort when considered in the context of its report. The report is substantially redacted allegedly to protect the parties involved against "unwarranted invasion of personal privacy." Moreover, it is our contention that the exemptions claimed by the Inspector General as the basis for its substantial redactions are inapplicable in this case.<sup>3</sup> Nevertheless, the net effect of these significant redactions is to preclude any further inquiry or investigation of the conclusions stated in the report. In sum, we—as well as the interested public—apparently are expected simply to take the Department's word for it. This is simply not acceptable.

The concerns we have repeatedly expressed and the inquiries we have repeatedly put to the Department are not quantitative in nature, i.e. not how much of the Department's resources were deployed in locating the "purported 'missing aircraft,'" but rather are qualitative, i.e. whether the Department's resources were deployed, wittingly or unwittingly, in what was a strictly intrastate political dispute. The Inspector General's report does not assuage our concerns or respond to our inquiries. As a matter of fact, the substantially redacted nature of the report results in more (rather than less) concerns and questions. The Department's failure to provide a full and meaningful accounting of its participation in these matters and its interaction with Texas state officials is extremely troubling, and it is our firm belief that the Department must be compelled to produce the evidence in its possession in its original form without redaction or other filtration in order to find the truth with respect to the events in question.

Additionally, at the state level, on May 14, 2003, the Texas DPS ordered the destruction of all notes, photos, correspondence, and other records related to its efforts to find the legislators. The order specifically said to retain no copies.

In brief, it is our position that any effort to use federal law enforcement or homeland security resources to participate in a state political matter is clearly improper. Further, the destruction of records by the Texas DPS, which further limits the ability to determine the extent of federal involvement, coupled with the refusal by the Department of Homeland Security to produce its records are matters of grave concern.

The Department's own internal investigative arm has been permitted to complete its investigation without congressional involvement, and the Inspector General has produced a report that is far from complete or meaningful. Accordingly, the Department should be required to release all of its records in connection with these matters—which is the Department's lawful obligation—in order to conclude a full and fair investigation of these matters. It is our contention that any conclusions from internal administrative investigations—to say nothing of the cursory and incomplete report produced by the Department last week—are no substitute for the facts themselves. The public does not need an administrative filter to determine the truth. Let the records speak for themselves. The truth will emerge from the records in their entirety.

Therefore, please accept this letter as a formal, written request that the Secretary of the Department of Homeland Security, Tom Ridge, be immediately subpoenaed and compelled thereby to appear personally before the Select Committee on Homeland Security, and there remain day to day, both to testify and to produce and provide formally and completely the following testimony, audio tapes, video tapes, recordings in any and all media, photographs, transcripts, notes, letters, faxes, documents, and evidence and information of every sort in the Department's possession

<sup>3</sup>U.S.C. § 552(b)(2) (applicable to matters that are "related solely to the internal personnel rules and practices of an agency"); 5 U.S.C. § 552(b)(6) (applicable to matters that are "personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy"); 5 U.S.C. § 552(b)(7)(C) (applicable to matters that are "records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records of information... could reasonably be expected to constitute an unwarranted invasion of personal privacy").

and/or control concerning the above-referenced matter, including but not limited to the following:

- (1) Full and complete audio tapes of any and all conversations and transmissions pertaining to any aspect of the attempts or alleged attempts to use any federal resources of any type with regard to any member of the Texas House of Representatives and/or otherwise related to the subject matter of this correspondence.
- (2) Full and complete copies of any and all other communications, including audio tapes, video tapes, recordings in any and all media, letters, notes, documents, schedules, summaries, indices and/or other written or electronic records of every sort, between or among Texas officials and any person or persons at the Department of Homeland Security (including but not limited to the federal Air and Marine Interdiction Coordination Center) concerning the absent Texas legislators.
- (3) Full and complete copies of any and all communications, including audio tapes, video tapes, recordings in any and all media, letters, notes, documents, schedules, summaries, indices and/or other written or electronic records of every sort, between or among any person or persons outside the Department of Homeland Security and any person or persons at the Department of Homeland Security (including but not limited to the federal Air and Marine Interdiction Coordination Center) concerning the absent Texas legislators.
- (4) Full and complete original files, written, electronic, or in any and all media of whatever sort, produced, developed, and/or maintained by the Department of Homeland Security (including but not limited to the federal Air and Marine Interdiction Coordination Center) concerning the absent Texas legislators.
- (5) A full and complete record of any and all telephone calls and/or other contacts between the Department of Homeland Security (including but not limited to the federal Air and Marine Interdiction Coordination Center) and any and all other persons, agencies and/or entities of every sort, regardless of which party initiated or responded to the call or contact, concerning the absent Texas legislators.
- (6) A full and complete record of any and all persons, federal officials, state officials, law enforcement personnel, agencies, and/or entities of every sort that have contacted or have been contacted by the Department of Homeland Security (including but not limited to the federal Air and Marine Interdiction Coordination Center) concerning the absent Texas legislators.

Further, Secretary Ridge should be advised that the Select Committee on Homeland Security may request the production of additional information as a result of his testimony, and we will expect him to acknowledge and affirm under oath that no records have been altered, deleted, destroyed, redacted or otherwise withheld in whole or in part.

We respectfully request that a subpoena and subpoena duces tecum be issued forthwith and that this matter be set for a formal hearing within seven (7) days.

Thank you for your prompt attention.

Max A. Sandlin  
 Martin Frost  
 Solomon Ortiz  
 Gene Green  
 Shiela Jackson-Lee  
 Nicholas V. Lamson  
 Ciro D. Rodriguez  
 Charles A. Gonzalez  
 Lloyd Doggett  
 Charles W. Stenholm  
 Chet Edwards  
 Eddie Bernice Johnson  
 Ruben E. Hinojosa  
 Silvestre Reyes  
 Chris Bell

Chairman COX. Well, the gentlelady's request is entirely reasonable. You have asked that you receive a prompt response, and you shall. I would just state for the record, and I will not use your time to do this, if you would yield to me further.

Ms. JACKSON-LEE. I would be happy to yield to the chairman.

Chairman COX. That the inspector general's report that has now been completed on this subject and has cleared the department of

any wrongdoing, as you pointed out. And I just want to make sure that we understand that there are many unanswered questions I am sure.

But this Associated Press article, for example, that reported on the investigation stated that investigators found no wrongdoing by a Department of Homeland Security agency that helped Texas police track down a private plane, and et cetera. So I just want the record to be clear on that point. And the gentlelady's request is entirely reasonable, and she will have a very prompt response from the chairman.

Ms. JACKSON-LEE. If you would indulge me just for a moment and if the witness would indulge me. I thank you very much, Mr. Chairman, if you would review the Office of Inspector General's report, you will see that the report submitted to Congress was filled with redactions.

We have called it spots by many of my colleagues, but the main point that I think you would be interested in, in finding out the truth is that the final summary paragraph indicates that the OIG did not receive from the Department of Public Safety in Texas the names of those individuals who approached the Homeland Security Department and air marine who have made the request to intervene in a totally safe issue, and I believe a political issue.

I believe our work is yet undone, because I want Mr. Hutchinson to have all of the resources he can to ensure the safety of this nation.

And so, I appreciate it, Mr. Chairman, the interpretation of Associated Press, but I would take issue that there is work to do because the document that we received was really replete with redactions.

And you really cannot make heads or tails out of what the report is trying to say. And particularly, they did not use their subpoena powers to be able to find the truth about who actually contacted the Department of Homeland Security on a purely personal political matter, which I think we should not engage in.

I thank the chairman for indulging me on that. And I look forward to having my colleagues be as interested as we are in the truth, and having Secretary Ridge, who, by the way, just earlier today, I commented, he has the greatest of integrity and I have the greatest respect for him, to come before this committee to answer these questions.

And I submit this into the record.

Chairman COX. If the gentlelady would yield. Whoever is controlling the time, if you would add 2 minutes to the gentlelady's time because of our colloquy.

Ms. JACKSON-LEE. I thank the distinguished gentleman.

Mr. Hutchinson, if I might? You have a large challenge. The borders are very big, and the transportation issues are very large, which include port security. And I am going to try to go through a number of them. And you might take some notes, because some of them may indicate I am not doing it; I am doing it.

I think one of my colleagues did raise the question on the Transportation Security Administration. We work very hard to secure the right kind of staff. We know there have been some problems. I want to say that I believe we have made an effort to get the best

people. But I would like to know what are their plans to do massive firing that have nothing to do with correcting some of those problems? Meaning, we found some individuals with some records that may not be as savory as we would like.

The other thing is I would encourage you to enhance their training. We tried to make better what was poor, and that was consistency in the airports. And I would say that there is some lacking in protocol and in the ability to understand making choices. I know there must be some instructions from your agency on how to be selective.

I want to make this from the point of constructive criticism, because overall I want you to know my experience has been very positive. The team in Houston is fabulous, that is my bias. But I am interested whether you will be looking to hire and fire.

Let me move on to the SEVIS. I just want to make these brief points and associate myself with the remarks with Mr. Frank.

But I want to go on to where I would like an answer is on the non-immigrant visas. I know that when we designed the Homeland Security Department, we designed it to allow the visa determination in the State Department. But I know with the expertise that you bring to this, as well as Eduardo Aguirre, we have problems.

In travelling to the Mideast, in particular to the Arab region, rather, and more particularly, Qatar, and other Arab nations that I have been engaged in over the last couple of months, there is an absolute panic and fear to even attempt to come to the United States.

But more than panic and fear is the devastating impact on hospitals and research institutions, particularly, for example, the Texas Medical Center. When the number of patients coming from that region who really need care, some who, I understand, may have been put in jeopardy and lost their lives, cannot get in because of this very pronounced and rigid and seemingly unbalanced non-immigrant visa problem. We have problem that we should be intellectually capable of fixing. And also capable of fixing as it relates to our security.

As relates to the border security, I encourage the agency to look closely at technology. I have a memo from the Justice Department that says they tested the ABIAN technology, which can screen 18-wheelers to find those who have been smuggling, or find the heartbeat. I would like your comment on using technology.

Lastly, let me say that in the field hearings that I joined Chairman Cox with, very good field hearings this last weekend, there were law enforcement agencies who informed us and said, You know, I can't get—and this is an intelligence community issue and your issue—the right intelligence. We don't have security clearance.

One particular gentleman said, I didn't want to let my other colleagues know I have a security clearance because I don't want them to, I don't know if I am supposed to say it or not, that I have a security clearance.

I have legislation that would help to expedite the securing of individuals who are already in law enforcement, as needed, to help us in homeland security. And I would appreciate your comment on that.

And I thank the distinguished chairman for his indulgence.

And I would like to speak to the Secretary about a smuggling issue, and I will do that as we are allowed to do so.

Chairman COX. The gentlelady's time has expired.

Ms. JACKSON-LEE. If he could respond to—I think I gave him three questions, and the others were comments.

Chairman COX. And the Secretary may respond.

Mr. HUTCHINSON. Thank you.

And in reference to TSA, everybody who works at the TSA as a screener goes through a background check. Because we moved forward so rapidly in the hiring process, there was a preliminary background check done. As more complete information came in through OPM, some were dismissed. But those background checks are being completed very rapidly.

You are absolutely correct in terms of training. I have heard that loud and clear today on the Hill, that Admiral Loy very well will send out a directive through his staff to the inspectors and it might be interpreted in different ways. We need to have more training and more consistency in what our passengers go through in reference to the screeners.

On the non-immigrant visas—

Ms. JACKSON-LEE. But you are not intending on doing massive firing?

Mr. HUTCHINSON. No, absolutely not.

You know, we are doing a right-sizing, as Admiral Loy refers to it. We are reducing the work force. But it is primarily done through attritions. There have been some layoffs, but I think it is minimal in terms of the whole work force.

In reference to the non-immigrant visas, we have to balance this. We cannot allow people to come in, particularly in countries of concern, without adequate background checks. We have to develop the systems to move that through quickly, so that they are not totally discouraged from coming. But we do have to maintain that security check.

And you are absolute correct on the border technology. We are grateful for Congress's investment in technology. We are looking for new ways, both in sensors, surveillance, but also in systems moving people and cargo through the borders more rapidly.

Ms. JACKSON-LEE. I am sorry, the intelligence to law enforcement officers, expediting their security clearances?

Mr. HUTCHINSON. That is a must. And that is through the FBI primarily, but it has to be a priority. We have to be able to get the intelligence to them, and that backlog is a handicap.

Ms. JACKSON-LEE. Will you work with me on that? I would like to work with you on that issue, please. Thank you.

Chairman COX. The gentlelady from the Virgin Islands, Dr. Christensen, is recognized for her questions.

Mrs. CHRISTENSEN. Thank you, Mr. Chairman. Is that 8 minutes?

Chairman COX. Yes, the gentlelady is recognized for 8 minutes.

Mrs. CHRISTENSEN. Thank you.

I want to welcome my class of 1997 classmate.

Mr. Under Secretary, your directorate, as many people have pointed out, has a monumental task to bring what looks like seven

separate agencies, or parts of agencies, and more than half of all of the Department of Homeland Security employees into coordinated operations, while still on the other hand, not compromising the other important tasks that some of them also have to do, and to do it right away.

I must say that looking at your testimony, I commend you for what you have done, while some of the other directorates that have come before us have told us that they are still looking for space, and have not been able to hire some of their staff. And also, for acknowledging the special needs of children and the people with disabilities. I commend you for that.

And before I ask my question and run out of time, I don't want to miss the opportunity to say that in the Virgin Islands, with 175 miles of open unprotected borders, the largest oil refinery in the Western hemisphere, and the busiest cruise ship port in the Caribbean, we are very much in need and want to have one of your listening sessions.

I want to just follow up on the question about TSA, which has really been a thorn in my side from the very beginning, and especially as the layoffs started. I lost more than half of my screeners at one airport. So it was protected there would be another 3,000 layoffs. Are we still doing that, or had that all been rethought?

And let me just follow up with a follow-up question. Are there any plans, or is there anything happening that might provide lateral transfers into other parts of the directorate for those people that are being laid off and qualify?

Mr. HUTCHINSON. Yes. There was a goal to reduce the work force by 6,000. I believe that they have.

Mrs. CHRISTENSEN. Some 3,000, I think—

Mr. HUTCHINSON. And so we are half way there. But the goal is that first of all that there would be through attrition a substantial number would be reduced, and then there will be minimal in terms of out-right layoffs.

There is an opportunity for lateral transfers if there is an area in which there is any increased screener force that will be applied. And that is in a number of locations that—

Mrs. CHRISTENSEN. And that is being encouraged where it can happen?

Mr. HUTCHINSON. Absolutely.

Mrs. CHRISTENSEN. OK.

Mr. HUTCHINSON. And we hope that they will take advantage of that.

Mrs. CHRISTENSEN. Thank you. And in your testimony, you also referred to meetings you had with countries like Mexico and Canada, with whom we share our borders. The Caribbean wasn't mentioned. Have you also meet with these very close neighbors, who not only have always supported us in many efforts, but are also are in need of help to do so as much as they would like to?

Mr. HUTCHINSON. I actually have met with them frequently from my old job at the DEA, and they are—

Mrs. CHRISTENSEN. Right, I know that.

Mr. HUTCHINSON. —tremendous partners with us. I have not had occasion to renew those friendships at Homeland Security. I will

look forward to that opportunity, because they are a very important part of our effort as well.

Mrs. CHRISTENSEN. And they brought it to my attention, that they really do want to work more closely, but they will need some assistance to do that.

Also in the testimony that you submitted, you talked about expanding the number of agents at borders, and you made reference to the U.S. and Canadian border.

I hope that doesn't preclude us from having new border patrols instituted like the ones that we are hopefully going to get in the Virgin Islands. We don't have a border patrol. And we have made some requests and inquiries about doing that.

Mr. HUTCHINSON. Would be happy to look into it. And whenever I talk about new resources for the border, obviously that is more than just simply our border with Mexico or Canada. We have many more miles to look at. And you are in a very critical role there that we have to look at as well.

Mrs. CHRISTENSEN. And I know that you are familiar with it because in our very first year we took a trip to Puerto Rico to look at HIDA and we looked at HIDA in the Virgin Islands and Puerto Rico.

We had a press conference—the Small Business Committee—on the scorecard. And most of the agencies that have been incorporated, where portions of those agencies have been incorporated into the your directorate, those agencies got D and F for small business procurement and procurement with minority and women-owned businesses.

What kinds of instructions and what kinds of initiatives are you undertaking to contract with small business and reach out to minority and women-owned businesses?

Mr. HUTCHINSON. Well, we hope to improve upon the record that you just recited. And it is important that whenever we do competitive outsourcing, that it is available for disadvantaged minority businesses as well.

That will be handled primarily by our Under Secretary of management, but it is something I will certainly encourage and visit with her about to review our protocols on that.

Hopefully, we can increase our capability there.

Mrs. CHRISTENSEN. We want to see you at least have a B next year when we do this.

Mr. HUTCHINSON. That is a good goal.

Mrs. CHRISTENSEN. OK.

I had an amendment offered, when we were doing technical amendments—we may still to it—about how the department relates to the tribes. You mentioned in our statement that the Border Patrol is working with local tribal law enforcement to protect the tribal lands from unlawful entry. And I was wondering whether if they are treated as sovereigns. And are they afforded the same courtesies and respect with regard to consultations as the states are?

Our amendment would have put them on the level with the states, whereas in the original legislation they are with smaller localities. But as sovereign tribes, we wanted to assure that they were being treated with the courtesy and respect due at that level.

Mr. HUTCHINSON. They are treated with that respect and independence. And so the tribal authorities are treated independently, negotiated independently. The money that flows to them from Homeland Security grants would go through the states through to those tribal authorities.

Give you an example of success. The Tohono O'odham Indian Reservation on the Arizona border, I went there. Their chief of police could not communicate with the Border Patrol. We were able to make sure that the communication systems were interoperable. So we are working with them and treat them as an independent sovereign.

Mrs. CHRISTENSEN. OK, but the funding does go through the states. We will look at that and see how that works. We will probably follow up with your department on that.

I think I have exhausted my questions, because most of them have been asked and answered by the time they get here, Mr. Chairman.

Thank you.

Mr. HUTCHINSON. Thank you.

Chairman COX. The gentleman from Florida, Mr. Meek, is recognized for his questions.

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

Mr. Secretary, I have been going back to the opening statements as it relates to how we are going to deal with border security and control. Let me just take about 2 minutes and just say what the reality is in South Florida, and eventually what the reality may be in this country, in other parts of this country.

We have individuals that—just yesterday, we had a boat load of Haitians and Cubans come to our South Florida borders. And the reason why we have the program and the cooperation with the Federal Government there is because of that influx and threat that we have.

Earlier this year, General Ashcroft put forth a directive saying that as it relates to Haitian immigrants that are trying to obtain political asylum, even though it is illegal for them to come into the country without paperwork or visa, many of them are intercepted in the airport and are sent to Krome for almost indefinite detention, like General Ashcroft has put forth. His justification was that Haiti could possibly be a location for terrorism, or a staging place for terrorism, even though in non-secure reports CIA and any other agency that may be over there says that they find no evidence of any terrorism over there.

I say that because in South Florida, and even in this country—and back in October, if you remember, we had a big boat load of Haitians that came. Every day Cubans that are seeking freedom come to our shores. And if they make it, they are out, they are processed in two days. And then we have Haitians that are detained for several months.

And 9 times out of 10, these Haitians are interdicted by the Coast Guard. It is doing an outstanding job. That are interviewed by an asylum officer, by INS, may have a credible claim of fear, but they are still indefinitely detained, with criminals, I must add, at the Krome Detention Center.

I am saying all of that because the credibility of this department and even the mission that you have to carry out to be able to secure our borders. And I am going to tell you, I volunteered to be on this committee and Armed Services. I feel very, very strong about security of the homeland.

But at the same time, as we are in good times, and we have been very fortunate, as mentioned earlier, and blessed by the fact we haven't had an event here on the homeland since 9/11, that it is important for those groups, or groups outside of what we are doing here, that they don't misunderstand our mission. It is almost like—I don't even want to go here—we couldn't drink out of the same water fountain, and we have two different sets of policy. And that is where it comes from.

The threat comes from communism in Cuba, when it comes down to Castro, not the Cuban people. But if something was to happen as it relates to Cubans going across the 90-mile stretch and we end up having a terrorist event in Key West or in Miami or somewhere in the country—I must add, the majority of the 9/11 terrorists came from South Florida. So that is going to interrupt the Cuban Readjustment Act.

Saying all of that, I don't want to be on a cable show saying I told the Secretary and I told the department and I told the Congress so, but I mean we are looking at Mexico, Texas or New Mexico or what have you, we are looking at that and saying, Oh, wow, Canada, U.S. We have it right there, an international community. Pilots are trained in South Florida. So this is a very serious matter. And I don't think that you take it lightly, nor anyone in this room.

Saying that, we have to, under our new policies, we have to use South Florida as a unique situation. How are we going to detain these individuals? What is going to be the litmus test for us detaining? Who is going to be detained? Who is not going to be detained? Krome is overcrowded. Right now we are renting hotels in south Florida. Very expensive to process these individuals.

So Mr. Secretary, like I started out earlier and we talked privately, I want to know what your agency, what is their thinking towards south Florida? If there is another place in this country that has the same set of issues that I am describing, the name it, because it is not there.

We need special attention there. And I don't mean special attention as it relates to something has happened again in south Florida. We need special attention as it relates to working out a very unique problem.

The reason why I may speak with a level of frustration, not towards you, but towards our situation, is that I have constituents that don't quite understand what we understand as it relates to policy, as it relates to law, as it relates to fair play.

So you could address that the best way possible, sir.

Mr. HUTCHINSON. Well, and I think your last comment is probably appropriate. It is hard for some to follow all the distinctions that Congress has made on immigration policy and how the policy is implemented there. Perhaps we could do a better job of talking to them.

But in reference to South Florida, one, we understand the uniqueness of that area and the importance of it and the potentials that are there for problems that we would have to face in our country. And so we are working with Coast Guard, Border Patrol, Immigration, Customs Enforcement to coordinate plans and to be ready in the event that we have to coordinate and respond to any particular incident.

In reference to the Attorney General's report on the Haitian refugees that have claimed asylum, the ruling that the Attorney General gave was that there was a basis to consider the impact on national security from the standpoint of mass migration, not in terms of necessarily a specific terrorist, but that would be a potential there as well. And so that consideration was made in the decision to detain.

Obviously, we have to discourage, because of the danger of it as much as anything else, that type of migration coming across those choppy and dangerous waters. We have lost a lot of lives there.

Mr. MEEK. Mr. Secretary, just quickly, because I don't want the red light to hit me, and you and I have been here for a very long time today.

Let me just say this: We don't have to get into that, because we know what the situation is. What I know—well I won't say we, but what I do know—is the fact that anyone would know the threat to the United States via Cuba is much higher than via Haiti.

And as it relates to, and I hear what you are saying, but the general did verbalize that perception on the national media. But as it relates to mass migration, we are about to have that in a few minutes. We had it in 1994 when Castro started getting tough on the dissidents and what have you. He is doing it again now. And we may very well have a mass migration of individuals that may come to this country.

As it relates to Haiti, we are working out, we just met with the Secretary of the Treasury on working out some of these loans that have been held up as it relates to Haiti, that is breeding some of this violence that is going on over there. And that is over and above our head.

I think, Mr. Secretary, what is going to happen here is that we have to have, not only a meeting, but a working group as it relates to South Florida. Hotels and having people jammed at Krome is not the answer. It is not a temporary problem.

If we are going to protect this homeland, we have to act like we are going to protect it and prepare our local community for it. And that is what we have to do, and that is the reason I asked you who should I work with in your office? And this is a carryover that my mother who served before me, some of the same issues. And so, but—

Mr. HUTCHINSON. We would be happy to give you, you know, a briefing, some information on some of the plans and some of our interaction among the agencies there and discuss these things more specifically with you.

Mr. MEEK. OK.

Mr. Chairman, it is just along the lines—thank you for indulging me. Along the lines of us not really understanding what the issues are. We understand it because we live the situation. We have

Americans that are families of this individuals that are seeking asylum. But the functions of moving out of hotels, looking at how we are going to deal with women detainees, looking at how we are going to deal with families, how we are going to deal with children, how we are going to deal with all of these issues that are compounded.

And it must be a South Florida working group, Mr. Secretary, because these issues are continuing to compound even more, and it is affecting our economy.

Thank you, sir.

Chairman COX. Mr. Secretary, I understand that you to make a plane. We have one last questioner and the gentleman from North Carolina has waited a long time to ask his questions. If you can indulge us, we would certainly appreciate it.

Mr. HUTCHINSON. Absolutely, I will yield to the gentleman from North Carolina.

Chairman COX. The gentleman from North Carolina, Mr. Etheridge, is recognized for his questions.

Mr. ETHERIDGE. Thank you, Mr. Chairman.

And I thank you for waiting. I am the person you have been looking at all afternoon after three hours. A number of the questions have been asked, but I want to ask one very specific to my district, as many do.

We haven't talked a lot about service this afternoon, but the truth is we are about protection. But at the end of the day, if we don't provide service, the taxpayers aren't very happy with the spending of the resources.

Let me talk, Mr. Secretary, about a very specific situation. I hope it is not general, but my guess is there are a lot of situations like that, and recognizing that the area we are dealing with will be the INS, so you can understand where I am coming from.

My district includes, in North Carolina, Fort Bragg and Pope Air Force Base. So I have got a lot of people who are on the front line defending this country, but also a large number of them are waiting to get their naturalization, to become naturalized citizens of this country and they are military personnel.

And I got this from one of our caseworkers who is just absolutely frustrated because this has happened on a number of occasions. The department's advertisement that they will expedite naturalization procedures for military personnel. We have called the immigration service on one specific case, and there are a number of others, but I am going just use one. And they were unresponsive. They were inflexible in terms of the rescheduling of a hearing for soldiers who were about to be deployed.

We have one individual who is an intelligence officer in the military wanted to get it. He has Top Secret security clearance. He had asked to have it rescheduled three times because he was deployed. Every time he got ready to be deployed, had to reschedule his hearing. Most recently, the Immigration Service Center refused to move up his hearing two days because he was getting ready to be deployed again.

I know that is not something you deal with every day. But I know with the people in your agency, they need to know that if it is going to be advertised from the department level and through

the White House, people in the agency have got to respond, because you are a member as well.

I mean, you pick up the phone and call, they expect help. Pretty soon, they figure you are ineffective anyway. But more importantly, these are the men and women who are on the front line serving in Iraq, in Afghanistan. And you understand from Fort Bragg, they can be anywhere in the world within hours.

And these men and women have come to this country and are serving. And everyone deserves service, but these people absolutely deserve our best effort.

Mr. HUTCHINSON. I agree 100 percent with you, and it is a commitment that we make to recognize their contribution and make sure that their paperwork is processed. So I will be happy to talk to Director Aguirre and be more responsive in the future on those. And we will follow up.

Mr. ETHERIDGE. Would you be kind enough to have someone be in touch with our office, because we just need to know how we can help expedite this. You know, when one comes, in this case especially with deployments, it really does become a problem. I am sure this is proved in a number of other installations around the country. They are not asking any special attention, except for the fact if you have got a deployment and you are coming up, all you need to do is move a day or two, and if people could understand that, I think that would be most helpful.

Mr. HUTCHINSON. That is right. And I have actually had some conversation with Director Aguirre that traditionally they have had to wait for a particular ceremony and time frame. And he says there is not any reason for that, that we can actually, you know, naturalize them at the time that their paperwork is completed. And so hopefully, we can work through that difficulty.

Mr. ETHERIDGE. I appreciate that and I will, given the lateness of the hour.

Ms. JACKSON-LEE. Will the gentleman yield for just a moment?

Mr. ETHERIDGE. I would be happy to yield.

Ms. JACKSON-LEE. May I just ask a quick question to the gentleman that I said I was going to do privately. But you have to catch a plane.

On the incident that happened in Texas, the 21 that lost their lives and the whole smuggling issue.

Mr. HUTCHINSON. Yes.

Ms. JACKSON-LEE. I am studying legislation that deals with a program that tracks the State Department's reward system, that will give rewards to the victims who will help in the prosecution, arrest, et cetera. Would that be?

Mr. ETHERIDGE. Excuse me, when you finish, would you yield back? I do have another—

Ms. JACKSON-LEE. Yes, would be happy to.

Would that be something as well as enhanced penalties? And it also has the possibility of a new class of status if that individual helps in the conviction. I like the term "conviction." And I would be interested in your thoughts on working to provide greater resources to get those smuggling rings smashed, or bashed, if you will.

Mr. HUTCHINSON. Without looking at the details of it, it certainly sounds like that would be helpful. Any time we can encourage information, encourage cooperation, going after these smuggling organizations, give incentives for that and then enhanced penalties, I think that would be helpful to us.

Ms. JACKSON-LEE. I thank you. I yield back to the gentleman.

Mr. ETHERIDGE. Thank you. Mr. Secretary, if you will just put someone in touch, or give us the name of some person that we can be in touch with, I would appreciate that.

Mr. HUTCHINSON. Pam Turner is our legislative affairs person. And we have got some here, and they are taking notes. And we are going to follow up.

Mr. ETHERIDGE. Good. Thank you, sir.

One final point, just as a question, and you can put it in writing if you like. Last week we talked with Under Secretary Brown about the Fire Grants and other things as it relates going directly to the departments and not getting called up, because that now is a direct flow. And I hope we can have your assurance, as we had it last week, that that will continue to happen.

Mr. HUTCHINSON. You are speaking of the money on Fire Grants?

Mr. ETHERIDGE. Yes, sir.

Mr. HUTCHINSON. Mike Brown, I will certainly support him in getting that out.

Mr. ETHERIDGE. Thank you, and I yield back.

Chairman COX. Mr. Under Secretary, your time and attention to the concerns of this committee are very appreciated. You are always welcome here. We stand ready to work with you to make our country safe from terrorism.

We know you have a plane to catch. And so you are excused, and this hearing stands adjourned.

Mr. HUTCHINSON. Thank you, Mr. Chairman.

[Whereupon, at 5:15 p.m., the subcommittee was adjourned.]

QUESTIONS FOR THE RECORD SUBMITTED BY REP. MARK E. SOUDER.

1. I have several questions relating to the role of the counternarcotics officer of the Department of Homeland Security, which is a position whose creation I originally sponsored. And I should point out that had I known that someone with your commitment to the drug issue would be in your position, it may not have been necessary to create the position.

a. How often have you met with Mr. Mackin and what do you see as his role within the Department?

[No response from the Committee was received.]

b. As you may know the statutory mission of that position is to—coordinate policy and operations within the Department and between the Department and other Federal departments and agencies with respect to interdicting the entry of illegal drugs into the United States, and tracking and severing connections between illegal drug trafficking and terrorism.” What specific role has he played in deciding how to allocate resources within BTS, and in improving coordination between BTS? various divisions?

[No response from the Committee was received.]

c. Are there any improvements that can be made with respect to the structure of this position and its interaction within the Department?

[No response from the Committee was received.]

d. As you may know, the counternarcotics officer position already wears two hats—counternarcotics officer at the Department and the responsibilities of the U.S. Interdiction Coordinator. Do you believe that anyone could effectively do both of these jobs and also remain a full-time employee of another federal agency in a third job?

[No response from the Committee was received.]

e. Traditionally, the role of United States Interdiction Coordinator has been to work to ensure that existing assets are effectively deployed to fulfill the interdiction strategy established by our National Drug Control Strategy—an operations, not a policy position. If you believe it is important that there be someone with the responsibility to insure there is an efficient use of existing resources Department-wide to fulfill our drug interdiction strategy? Does this person need to play a lead policy development role?

[No response from the Committee was received.]

f. Similarly, the role of a counternarcotics coordinator at the Department of Homeland Security was seen as someone who would work with agencies on behalf of the Secretary to insure that the drug threat was not ignored and that Department resources were used in a coordinated and effective manner to respond to this threat. Again, much more of an operational, rather than policy, role. Should this be a separate individual, without other responsibilities or authorities within Homeland, or is this a role best filled by someone with other authorities within DHS? If this should be a separate and unique individual, should the Counternarcotics Coordinator within Homeland also be responsible for establishing departmental policies on how to respond to the narcotics threat?

[No response from the Committee was received.]

2. What is the organizational status of the Air and Marine Interdiction Division (AMID)? As you know, it has been assigned to the Bureau of Immigration and Customs Enforcement (BICE). It looks to me like there is a significant likelihood that that organization would make AMID responsible to investigators when it has historically been an asset dedicated to drug interdiction and breaking up smuggling. It is a tremendously important national capability that really needs our strong support. Would it make more sense for AMID to be organized as a separate entity directly under your authority?

[No response from the Committee was received.]

3. My staff on the Drug Policy Subcommittee just returned from a visit to the Southwest Border where some law enforcement agencies expressed concern about what they perceived as a lack of commitment of some western U.S. Border Patrol Sectors to drug enforcement. While we know that the Border Patrol makes significant numerical seizures of drugs, the thrust of the concern was that it had focused its enforcement actions on illegal immigration to the detriment of drug enforcement. The unsubstantiated allegations were that some agents had been instructed not to make too many seizures and that the Border Patrol has deliberately sabotaged undercover operations of other agencies along the border because they would undercut that a given section of the border has been “controlled”. Apparently, some agencies no longer inform the Border Patrol about their undercover operations because of this perception, raising officer safety concerns.

a. Are you aware of these concerns or any basis for them? If so, have you taken any steps to remedy this conduct?

[No response from the Committee was received.]

b. Have you taken any other steps to improve the performance of the Border Patrol with respect to drug interdiction?

[No response from the Committee was received.]

c. Do you believe that the Border Patrol is doing all it can to prevent illegal drug trafficking across the U.S.–Mexico border?

[No response from the Committee was received.]

4. I have some additional concerns about how well your two main law enforcement divisions—the Bureau of Immigration and Customs Enforcement (BICE), and the Bureau of Customs and Border Protection (BCBP)—are working together. For example, it appears that the U.S. Border Patrol has not had a good record of responding to requests for assistance from the Air and Marine division of Custom on potential smugglers; that record has not improved since the “merger” of the agencies on March 1, 2003. What steps have you taken to improve the working relationships between these agencies? Are you fully satisfied with the cooperation between BICE and BCBP?

[No response from the Committee was received.]

5. Congressman Shadegg and I recently met with BCBP Commissioner Bonner concerning the status of the unit of Native Americans known as the “Shadow Wolves,” who detect smuggling along the section of border within the Tohono O’odham reservation in southern Arizona. The Shadow Wolves are being transferred from BICE to BCBP, and some have alleged that the U.S. Border Patrol was trying to take advantage of the transfer to take control of the unit. Commissioner Bonner told us that the Shadow Wolves would continue in their current mission and would

not be made a part of the Border Patrol. But it appears that there is a disconnect somewhere, because as recently as this month officials of the Tucson Sector of the Border Patrol have told the Shadow Wolves that they are to be brought under the direct authority of the Border Patrol.

a. What is the current status of the Shadow Wolves? Is there any truth to the allegations that have been raised with respect to the Border Patrol?

[No response from the Committee was received.]

b. What steps will you take to ensure that the Shadow Wolves preserve their unique identity and their vital mission of tracking and stopping drug smuggling?

[No response from the Committee was received.]

c. Are there any plans to expand the Shadow Wolves concept to other reservations with a border nexus?

[No response from the Committee was received.]

6. I have visited the Air and Marine Interdiction Coordination Center in Riverside, California. That facility receives radar inputs and correlates intelligence and information on air traffic from virtually every conceivable source (including a number of its own) and is one of the most impressive places I have visited in the government. AMICC is a key center since no other facility in the Federal Government has these capabilities under one roof.

a. Why aren't other BTS activities deconflicted through the AMICC? I understand, for example that BCBP aircraft frequently fly "low and slow" along the border, without notifying the AMICC. As a result, the AMICC scrambles BICE aircraft to intercept the suspicious aircraft, needlessly expending taxpayer money.

[No response from the Committee was received.]

b. I understand the AMICC sends its radar picture of the National Capital Region to a new interagency airspace security office called the National Capital Region Coordination Center. I understand the AMICC is the only source for this and there isn't a backup—are you reviewing this?

[No response from the Committee was received.]

c. Where is the best position within the DHS organizational structure for the AMICC to maximize its contribution to Department-wide detection, sorting, monitoring, interdiction, and response needs?

[No response from the Committee was received.]

d. Are you considering any technology and personnel upgrades for the facility to enhance its capabilities to counter smuggling and illegal immigration and secure airspace?

[No response from the Committee was received.]

7. It has come to my attention that both BCBP and BICE operate independent fleets of vessels and aircraft. These assets have not been combined in the Department's organizational structure, sacrificing operational synergy and savings that could be accomplished by centralization. In some places, there are both BCBP and BICE assets, yet they remain separated. So we are funding two separate hangars, two separate maintenance and fuel contracts and so forth.

a. Are you looking at combining these operations or increasing their efficiency?

[No response from the Committee was received.]

b. Who are the customers of the services rendered by the vessels and aircraft within BCBP? And who are the customers of the services rendered by the vessels and aircraft of BICE? Which side of the house works more with other agencies, such as the Secret Service, and on other missions? Does the relatively limited scope of activities for the BCBP aircraft further support combining the two functions?

[No response from the Committee was received.]

8. Within the new Department, Mr. Hutchinson, you have more armed law enforcement employees under your command than anyone else. With that distinction come pretty significant management and oversight responsibilities to promote accountability, weapon proficiency, and to prevent excessive force incidents. At the same time, terrorists and drug cartels have demonstrated their lethality and agents and officers should be adequately equipped and empowered to address the threat. It will not suffice to be "out-gunned" during an encounter with terrorist and drug traffickers as the Los Angeles Police Department discovered during the North Hollywood bank robbery.

a. What are your plans to centralize the weapons inventory procedures for the Border Patrol, Customs, FPS, Immigration, and TSA to prevent the kind of accountability difficulties experienced by the FBI recently? How will your system

of accountability work with the remaining armed employees of the Department, such as the Coast Guard and Secret Service?

[No response from the Committee was received.]

b. What are your plans for a new use of force policy? As weapons training, proficiency and qualification are usually addressed by policy, when will your new policy be published?

[No response from the Committee was received.]

c. I understand your assets frequently pursue vehicles and vessels loaded with contraband that refuse to stop, and perform airspace security missions for the small and slow aircraft threat. These high-risk enforcement activities can easily escalate to a lethal level. What legislative assistance do you need to indemnify your officers for their encounters against the new threats and to empower them to meet post attack expectations?

[No response from the Committee was received.]

9. I am concerned that the investigation division (BICE) is separate from that of border protection (BCBP). One division arrests but another division, reporting to a different Commissioner, investigates. You are the only Department official with authority over both.

a. The presumption is that the personnel on the border—particularly the US/Mexico border—will not be radically altered. However, ICE investigative personnel will soon be more vulnerable to sudden shifting to terrorism projects in other regions. This has certainly happened within the FBI. How do we assure that drug cases are maintained as a priority within the investigation division?

[No response from the Committee was received.]

b. How can we assure that adequate resources will be made available by BICE in every region to follow-up on narcotics cases identified by BCBP?

[No response from the Committee was received.]

c. How can we be assured that agency pressure won't come to border agents to slow down arrests so follow-up doesn't look bad, as is already being alleged?

[No response from the Committee was received.]

#### QUESTIONS SUBMITTED FOR THE RECORD BY REP. JAMES R. LANGEVIN.

Since the creation of this Select Committee, one of my primary concerns has been the intelligence collection, analysis and distribution capabilities of the Department of Homeland Security. I share the strong belief of our Ranking Member Mr. Turner, and many other members, that this function is the lifeblood of the new agency, and until it is fully operational, all other agency functions will be compromised.

1. Therefore, I am interested in a detailed description of what relationship the Border and Transportation Security Directorate has with the IA/IP Directorate.

a. How often do you receive intelligence reports from IA/IP?

[No response from the Committee was received.]

b. Does BTS have secure communications networks to receive this intelligence and to share the information with your component parts?

[No response from the Committee was received.]

c. Does the IA/IP Directorate provide any tailored products specifically for Customs and Border Patrol?

[No response from the Committee was received.]

d. Is there a comprehensive threat assessment on which you're basing your decisions? If not, when do you expect to have one—and do you feel that your work is being compromised without one?

[No response from the Committee was received.]

2. I firmly believe our first responders, border agents, immigration officials and others need significantly more resources in order to effectively perform the responsibilities with which we have entrusted them. However, it is equally important that they know what to do with these resources once they get them.

a. Is the necessary intelligence making its way to your employees on the ground, as well as our state and local responders, so that they, too, can properly prioritize their efforts and be prepared for the most threatening risks?

[No response from the Committee was received.]

b. If so, how is this information shared? If not, what is your timeline for implementing such a procedure?

[No response from the Committee was received.]

#### QUESTIONS SUBMITTED FOR THE RECORD BY THE MINORITY COMMITTEE.

### **Northern Border Staffing and Personnel Issues**

1. Does your fiscal year 2004 budget achieve the goals of both the PATRIOT Act and the Border Security Act? If not, what additional resources would be required to meet the staffing goals in both Acts?

[No response from the Committee was received.]

2. How many more border enforcement personnel for each of the three agencies—Border Patrol, INS (inspections), Customs (inspections)—will you have in 2004, relative to fiscal year 2001, 2002 and 2003 levels?

[No response from the Committee was received.]

3. What figure are you using as the baseline—2001 levels—for each of the three agencies: Border Patrol, INS (inspections), Customs (inspections)?

[No response from the Committee was received.]

4. Can you break out by agency how many new staff, whether inspectors or support staff, you have hired since 9/11?

[No response from the Committee was received.]

5. What is your border staffing model?

[No response from the Committee was received.]

6. What role does intelligence play in that and does intelligence come from one source or does it come from agencies outside DHS, such as the CIA, NSA?

[No response from the Committee was received.]

7. Have the training deficiencies been addressed? If not, when will they be?

[No response from the Committee was received.]

8. What additional resources are required?

[No response from the Committee was received.]

9. What remedial actions are underway to correct this deficiency?

[No response from the Committee was received.]

Southern Border Staffing and Personnel Issues

10. How many new customs, Border Patrol and INS inspection personnel and support staff are requested in the President's fiscal year 2004 budget, relative to fiscal year 2001, 2002, and 2003 levels?

[No response from the Committee was received.]

11. What is the Department's current estimate of how many agents are required for the southwest border?

[No response from the Committee was received.]

12. How long will it take to reach that goal?

[No response from the Committee was received.]

13. How much closer does the fiscal year 2004 budget get you to that goal?

[No response from the Committee was received.]

#### **General Staffing Issues**

14. Since C&BP agents will eventually be working as one unit, what training programs are in place to ensure that border inspectors are "cross-trained"?

[No response from the Committee was received.]

15. Will an Agricultural inspector be able to handle immigration inspections and vice versa?

[No response from the Committee was received.]

16. Will these inspectors continue to work in the areas of their expertise, or will they be expected to learn all of these jobs?

[No response from the Committee was received.]

17. How does CBP plan to make sure expertise is not lost?

[No response from the Committee was received.]

Intelligence

18. How often does your Directorate receive intelligence reports from the Intelligence Analysis and Infrastructure Protection Directorate (IAIP)?

[No response from the Committee was received.]

19. Does BTS have secure communications networks to receive this intelligence or share the information with its component parts?

[No response from the Committee was received.]

20. The CBP's SENTRI program allows "low-risk" travelers to be processed in an expedited manner through a dedicated lane at any of three southwest border crossings.

[No response from the Committee was received.]

21. What role does intelligence information play in categorizing a traveler as "low risk"? Ignore the number since this question goes with the lead in description on Q00396.

[No response from the Committee was received.]

22. Does CBP receive information directly from intelligence and law enforcement agencies?

23. If so, what agencies?

- [No response from the Committee was received.]  
 24. What types of information?  
 [No response from the Committee was received.]  
 23. Does this information go to the inspectors on the front lines at the borders and ports of entry?  
 [No response from the Committee was received.]  
 24. What role does CBP personnel have on the Joint Terrorism Task Forces? Are there CBP on every JTTF?  
 [No response from the Committee was received.]  
 27. Does the IAIP Directorate provide any tailored products specifically for CBP?  
 [No response from the Committee was received.]  
 28. Who is the primary contact for your Directorate at IAIP?  
 [No response from the Committee was received.]  
 29. What are the roles of these offices?  
 [No response from the Committee was received.]  
 30. Does CBP have its own analysts?  
 [No response from the Committee was received.]  
 31. What relationship, if any, is there between these offices and the IAIP Directorate?  
 [No response from the Committee was received.]

#### T2Border Technology

32. Is it in the best interest of homeland security to increase the use of video entry technology that, according to a January 2002 Treasury Department Inspector General report, often fails because of severe weather and software problems?

[No response from the Committee was received.]

32A. If not, what steps are you taking to fix the equipment?

[No response from the Committee was received.]

33. Are there plans under way to deploy a combination of unmanned aerial vehicles (UAV's) and aerostat balloons to ensure that our borders are under 24/7 surveillance?

[No response from the Committee was received.]

34. If so, when can this be achieved?

[No response from the Committee was received.]

35. What is CBP doing to cure the fundamental weaknesses found by the GAO?

[No response from the Committee was received.]

Transportation Security Administration

36. In fiscal year 2002, fiscal year 2003 and the Administration's fiscal year 2004 request, maritime and land security has received only 4.5 percent of TSA's budget. Does this mean that rail, bus, and ferries are all secure at this point and therefore require fewer resources?

[No response from the Committee was received.]

**Answer:** TSA's non-aviation transportation security budget only reflects a portion of the resources the Department is investing in these critical areas. For fiscal year 2004, DHS has requested substantial resources across the Department for maritime and land transportation security, including resources in the Coast Guard for ports and maritime security; in BCBP for cargo security; in IAIP for vulnerability assessment, intelligence, and infrastructure protection for all sectors including transportation; and in EP&R/FEMA for emergency response. TSA is continuing key standards-setting efforts, and will work closely with modal administrations of the Department of Transportation to help leverage resources of that agency, where appropriate, to accomplish security goals.

37. What has TSA done to coordinate the security of these other modes of transportation with state and local governments?

**Answer:** TSA has worked closely with state and local governments, as well as numerous transportation associations to develop standards and guidelines for enhanced security. TSA has shared concept papers with various mass transit agencies, and participated in community forums to foster coordination between emergency services and transit systems. TSA has participated in response exercises, including an Emergency Response Plan Exercise at Union Station in Washington, DC with over 20 Federal, regional, and local agencies participating. TSA worked very closely with state Departments of Motor Vehicles and the American Association of Motor Vehicle Administrators in developing the "HAZMAT Drivers Rule." TSA also leveraged longstanding existing stakeholder relationships maintained by modal administrations of the Department of Transportation such as the Federal Transit Administration, the Federal Railroad Administration, the Federal Highway Administration, and the Federal Motor Carrier Safety Administration. TSA will continue to work

closely with DOT's modal administrations, and state and local governments in coordinating security measures.

38. TSA's "Known Shipper" program is similar in many respects to other "frequent shipper" programs like C-TPAT or "frequent border crossing programs" like SENTRI, in that they all rely on advance clearance. What is being done to ensure that these similar programs have similar elements and requirements to make it easier to move legitimate cargo, whether on a plane or by ship?

**Answer:** The Border and Transportation Security Directorate and its agencies (TSA and Customs and Border Protection (CBP)) have initiated broad coordination efforts to identify opportunities to leverage resources and technology, and to develop policy that supports a comprehensive and coordinated approach to cargo security across modes for example, the operational feasibility of linking TSA's Known Shipper program to CBP's C-TPAT initiative in the air cargo environment is being explored. Information on shipper legitimacy gained through Known Shipper may help to strengthen C-TPAT verification procedures; conversely, C-TPAT status may ensure a greater degree of enroute security as cargo is transported through the supply chain. TSA has deployed personnel to CBP's National Targeting Center in order to leverage existing cargo "pre-screening" technology in the development of TSA targeting systems to identify high-risk cargo. Both agencies have on-going R&D efforts to support the introduction of new technology to screen air cargo. TSA and CBP are sharing R&D programs and plans to ensure maximum applicability of technology investments. Finally, BTS, in its oversight role, is working to ensure that its agencies establish consistent security policies and regulations where practical to avoid application of efforts, present one face to the industry, and make the most efficient use of available resources.

39. Isn't it true that even while there are positions that immediately need to be filled, such as the explosive screeners at Dulles, you are firing over 5,000 screeners nationwide?

**Answer:** Following the events of September 11, 2001, TSA ramped up to meet deadlines for federalizing passenger and baggage screening. After analyzing TSA's staffing model, it was clear that there were airports with an imbalance in staffing; some airports with too many screeners, and some, particularly in large metropolitan areas, with too few. Based on these screening imbalances, complying with congressional direction on workforce size and consistent with ongoing efforts to maximize efficiencies of an appropriate full-time/part-time mix, which can more efficiently meet the passenger surges inherent in airline scheduling, TSA initiated an effort to reduce its workforce by a total of 6,000. Beginning on April 1, 2003, TSA reduced the screener workforce by 3,000 personnel effective by May 31 and by an additional 3,000 personnel effective by September 30, 2003. As part of the rightsizing effort, TSA recognized that some airports require additional screener staffing, either as a result of increased passenger load or as a result of attrition of screeners. Where necessary, TSA is hiring screeners at those airports. Additionally, approximately 200 screeners were offered the opportunity to transfer to airports that have been hard to fill through the normal recruiting and hiring process. Those who were selected for transfer to such airports were provided a one-time stipend as an incentive to relocate to those airports.

40. What was your role in making the decision to fire over 5,000 airport screeners?

**Answer:** Based on screening imbalances in airports around the country, complying with congressional direction on workforce size, and consistent with ongoing efforts to maximize efficiencies inherent in an appropriate full-time/part-time mix which can more efficiently meet the passenger surges inherent in airline scheduling, TSA reduced its screener workforce by a total of 6,000 screeners in two segments: the first reduction of 3,000 screeners by May 31, 2003, and reduction of remaining screeners by September 30, 2003. The majority (more than 85 percent) of the screener workforce reductions will be achieved through resignations, retirements, medical disqualifications, failure to successfully complete a random drug and alcohol test, releases for inappropriate conduct, and terminations for suitability (failure to meet hiring standards). TSA's role was to ensure security was not compromised, that customer service was maintained, and that each employee was treated with dignity and respect during the reduction process. BTS has been continually informed of progress by TSA throughout its screener rightsizing efforts.

41. Did TSA conduct an analysis of the effect on airline security of the reduction in these positions?

**Answer:** Effective screening with respect to security is a function of not only the number of screening staff, but other factors such as individual screener performance, training, and management oversight. TSA must pay attention to a variety of factors, and the effect on staffing levels is just one of many issues that can affect

security performance outcomes. That said, it was clear prior to this downsizing effort that many screeners were underachieving even after substantial effort to effectively train, equip, and manage these individuals. In addition, excessive downtime of screeners caused by overstaffing has the potential of undermining individual alertness. Clearly, some airports can use more staff than are currently employed, and we are actively working to address areas of shortfall through a more effective screener modeling effort currently underway. Security is our highest mission goal, and whatever actions are taken during the course of this young agency to normalize screener staffing, DHS will not place security at risk.

42. How do you know what the right number of airport screeners is?

**Answer:** The best way to determine the appropriate staffing level for each airport is to undertake a comprehensive modeling effort taking into account passenger traffic, flight schedules, and the unique design of each airport. We are doing this right now, and expect to finish this effort in early 2004. Of course, after this time TSA will continue to refine and adjust its screener staffing levels to meet the changing passenger traffic and airline schedules at individual airports.

43. Are you investigating newer, more accurate methods that the airlines could use to compare passenger names to the No Fly List?

**Answer:** To assist airlines in readily identifying passengers who present a threat to civil aviation or national security, TSA continues to work closely with the intelligence and law enforcement communities and the IAIP Directorate to provide the most accurate available information on the No Fly List. TSA provides the No Fly List to the airlines as attachments to Security Directives, as well as established guidelines for action in instances where there is a passenger name match. TSA realizes that commercial civil aviation carriers range from small air carriers to large, major air carriers. Keeping the complexity and the diversity of the individual carriers' systems in mind, TSA provides carriers discretion in implementing measures for comparing their passenger names with the No Fly List, rather than directing specific methods for comparing passenger names to the No Fly List. TSA coordinates with carriers to ensure the No Fly List format and transmission methods are compatible with their internal systems and processes, by regular interaction to address opportunities for improvement.

44. Given the problems with the No Fly List, how effective is the system now?

**Answer:** TSA continues to refine the process for identifying passengers who present a potential terrorist threat while at the same time attempting to minimize the impact posed by the process on the traveling public. The No Fly List has been effective in prohibiting travel of those individuals identified by the U.S. Government as potential threats to civil aviation and national security. The effectiveness of the No Fly List should improve further once the transition of the process for nominating and adjudicating individuals selected for placement on the list to the Terrorist Screening Center is completed.

#### **Rail Security Issues**

45. Since relatively little funding has been requested for this activity, how many of the railcars are currently inspected?

**Answer:** Customs and Border Protection (CBP) screens 22.6% of all rail cars entering the United States.

46. What efforts are under way to formulate a plan for rail security?

**Answer:** TSA is working under the guidance of the IAIP directorate and with the Department of Transportation to develop a risk-based national rail plan highlighted in the GAO report on rail security (GAO-03-435). This plan will make maximum use of the railroad industry's Terrorism Risk Analysis and Security Management Plan, which is being reviewed consistent with national interests and security goals.

47. Why is there not even a timetable for accomplishing this?

**Answer:** TSA is collaborating with the Department of Transportation, the Bureau of Customs and Border Protection, the Information Analysis and Infrastructure Protection Directorate and the Emergency Response and Preparedness Directorate at the Department of Homeland Security, in the development of several initiatives, including those involving hazardous materials, food and agriculture, and intermodal containers, in support of development of a National Rail Security Plan. At an appropriate point of maturity in these collaborations, the implementation of such a plan will move forward.

48. How was it decided that we would expend great resources on aviation, but not on rail or other surface transportation?

49. Was it based on assessments of relative threat and vulnerability between these modes of transportation?

50. Who made that assessment?

**Answer to 48-50:** The Aviation and Transportation Security Act, P.L.107-71, established very specific requirements and milestones related to aviation security. The need to meet the Congressional requirements and milestones for aviation security has driven the level of resources devoted to this mode of transportation.

51. Can 83 employees cover security issues for all non-aviation transportation in the United States?

**Answer:** While the task of securing the highway, rail, mass transit, pipeline and maritime modes of the national transportation system is daunting, TSA's non-aviation transportation security budget for inspections personnel and personnel in the Office of Maritime and Land (which exceeds 83), only reflects a portion of the resources the Department is investing in these critical areas. For fiscal year 2004, DHS has requested substantial resources across the Department for maritime and land transportation security, including resources in the Coast Guard for ports and maritime security; in BCBP for cargo security; in IAIP for vulnerability assessment, intelligence, and infrastructure protection for all sectors including transportation; and in EP&R for emergency response. TSA is continuing key standards-setting efforts, and will work closely with modal administrations of the Department of Transportation to help leverage staff and funding resources of that agency, where appropriate, to accomplish security goals.

52. Can 200?

**Answer:** TSA will continue to evaluate the appropriate staffing/resource levels needed to meet our security mission. In all of its operations relating to non-aviation modes of transportation, TSA will work closely with DHS agencies and directorates such as IAIP, the U.S. Coast Guard, and Customs and Border Protection, as well as with the Department of Transportation. TSA is committed to leveraging core competencies, capabilities, resources and authorities of the modal administrations, other federal, state, and local agencies and non-government stakeholders.

53. Will your fiscal year 2004 budget request permit the Office of Maritime and Land Security to hire even the 200 TSA plans for?

**Answer:** The President's fiscal year 2004 budget request was based on an assessment of staffing needs at the time. With the enactment of the fiscal year 2004 appropriations bill, TSA will evaluate its staffing requirements and address resource allocations as appropriate.

54. Was the decision made based on intelligence and a relative threat assessment between different modes of transportation?

**Answer:** As discussed above, the President's fiscal year 2004 budget request was based on an assessment of staffing needs at the time. However, it is again important to note that the TSA's non-aviation transportation security budget only reflects a portion of the resources the Department is investing in these critical areas. The Coast Guard, BCBP, and IAIP all have operational expertise in securing the land and maritime modes. TSA is continuing key standards-setting efforts, and will work closely with both the modal administrations at the Department of Transportation and its sister DHS agencies to leverage resources and accomplish security goals.

#### **Port Security**

55. Given the importance of port security, what is the rationale for providing \$475 million dollars less than what the Coast Guard estimates facility owners/operators will have to spend to comply with the MTSA? In other words, why are we setting up port facilities for failure?

[No response from the Committee was received.]

56. Currently 13 Phase I CSI teams are operational. When will Phase I be completed?

[No response from the Committee was received.]

57. With millions of containers coming into the United States are five-man teams large enough to review the manifests to target and inspect the high volume of containers that move through large foreign ports?

[No response from the Committee was received.]

58. Does BCBP assist nations in the acquisition of NII technology?

[No response from the Committee was received.]

59. If not, what is the plan to screen containers from these nations?

[No response from the Committee was received.]

60. What steps are being taken to further scrutinize container manifests?

[No response from the Committee was received.]

61. Who provides Customs & Border Protection officers with the intelligence data that informs their decisions to inspect an individual cargo container?

[No response from the Committee was received.]

62. Are BICE agents part of the CSI teams?

[No response from the Committee was received.]

63. Are BCP agents receiving finished intelligence from IAIP?  
[No response from the Committee was received.]
64. If not IAIP, who is responsible to ensure CSI agents have the intelligence support they need?
65. Who verifies the risk management tools used by foreign governments are acceptable to the U.S.?  
[No response from the Committee was received.]
66. What does your budget for VACIS technology at every port?  
[No response from the Committee was received.]
67. What type of non-intrusive inspection (NII) equipment do foreign CSI ports possess?  
[No response from the Committee was received.]
68. What are the standards to determine if the equipment is effective?  
[No response from the Committee was received.]
69. How many CSI ports do not have adequate NII technology?  
[No response from the Committee was received.]

#### **Immigration Issues**

70. What training programs have you developed for consular officers for the visa review process?  
[No response from the Committee was received.]
71. Who has the final "say" in approving or denying a visa application- DHS officials or consular officers?  
[No response from the Committee was received.]
72. What is the Department doing to alleviate problems with the SEVIS system identified in the Department of Justice's Inspector General report last month?  
[No response from the Committee was received.]
73. When can we expect these problems to be solved?  
[No response from the Committee was received.]
74. Given the history identified in the IG's report, and the recent problems with SEVIS, what assurances can DHS give that the new entry/exit system and other systems will not suffer from similar technical problems?  
[No response from the Committee was received.]
75. What has the Department done to locate the individuals that GAO has identified as possibly being in the country?  
[No response from the Committee was received.]
76. What are you doing to immediately fix the specific problems identified by GAO, for example, that INS (now the Department), in many cases did not receive any notice of the revocation of visas based on terrorism concerns, and that in other cases it took an average of 12 days for the information to reach the INS Lookout Unit?  
[No response from the Committee was received.]
77. If it is a problem with the policies and procedures of the State Department, have you met with the State Department to resolve this issue?  
[No response from the Committee was received.]
78. Will the Department impose penalties if schools are not able to meet the August 1st deadline due to system failures in SEVIS?  
[No response from the Committee was received.]

#### **Watch List Issues**

79. How many different watch lists do the inspectors at ports of entry have to consult?  
[No response from the Committee was received.]
80. Are you confident that they are aware of all the different lists that exist?  
[No response from the Committee was received.]
81. What is the basis behind the policy for not checking the watch lists at land borders?  
[No response from the Committee was received.]
82. If a person on the terrorist watch list is unable to enter at an air or sea port, can that person simply enter through a land border instead?  
[No response from the Committee was received.]
83. Since there is no single watch list, which watch list does CBP use?  
[No response from the Committee was received.]
84. How did CBP determine to use that particular list or lists?  
[No response from the Committee was received.]
85. Is CBP involved in any effort to consolidate these lists?  
[No response from the Committee was received.]
86. What intel information are the workers at the borders relying on now?  
[No response from the Committee was received.]

87. The Intelligence Authorization Act of 2003 requires the Director of Central Intelligence to establish a Terrorist Identification Classification System (TICS), and then make the system available to all the government agencies that have a need for the information. Has CBP been provided access to such a system?

[No response from the Committee was received.]

88. Can you explain why, nearly two years after September 11, there is not a single watch list?

[No response from the Committee was received.]

#### **US VISIT**

89. The US—VISIT system is supposed to be implemented by the end of the year. The SEVIS system is supposed to be operational by August. CBP inspectors will use both of these systems. Have these inspectors been training on these systems?

[No response from the Committee was received.]

90. Given the well publicized technical problems with SEVIS, what assurances can CBP give that US VISIT will not suffer from the same?

[No response from the Committee was received.]

#### **Border Crossing Programs**

91. Though CBP programs such as FAST and NEXUS provide dedicated lanes and booths for pre-approved, low-risk shipments and travelers, the efficacy of these programs is hampered by poor infrastructure at some borders. For example, there might be a dedicated lane for low-risk crossings, but there is no time savings because both pre-approved and other travelers are stuck in traffic in a two-lane road leading to the dedicated lanes. How effective are programs such as FAST and NEXUS in light of these infrastructure shortfalls?

[No response from the Committee was received.]

92. What plans are there to invest in infrastructure improvements?

[No response from the Committee was received.]

#### **Organization & Management (of BTS Directorate)**

93. Who is the Chief of Policy and Strategy for Border Security?

[No response from the Committee was received.]

94. Was the Chief Strategist directly involved in the decision to remove 5,000 airport screeners?

[No response from the Committee was received.]

95. The Emergency Preparedness & Response Under Secretary testified last week that he intends to maintain FEMA's regional offices.

[No response from the Committee was received.]

96. Are there any regional offices that you intend to incorporate into your Directorate?

[No response from the Committee was received.]

97. With the splitting of functions between DHS and the legacy Departments, and the splits in authority, how can the employees, or Congress, be sure of "who's in charge" of a particular issue?

[No response from the Committee was received.]

98. What assurances can BTS give that this will not lead to confusion and bureaucratic delay?

[No response from the Committee was received.]

#### **Budget Issues**

99. Has BTS submitted anything beyond the Administration's 2004 budget request?

[No response from the Committee was received.]

100. Are any justification materials available regarding the fiscal year 2004 budget beyond the basic justification book?

[No response from the Committee was received.]

101. Did you have a role in putting together the fiscal year 2004 request for your Directorate?

[No response from the Committee was received.]

102. If you did not, who did?

[No response from the Committee was received.]

103. Please provide fiscal year 2004 budget information for all DHS components within BTS at the project, program, and/or activity level.

[No response from the Committee was received.]

104. Does BTS monitor the execution of funds (i.e., the status of obligations and expended funds) for all entities within the Directorate?

[No response from the Committee was received.]

a. If so, how often are such execution reviews conducted?

[No response from the Committee was received.]

b. If the execution of funds is monitored, please provide a copy of the most current execution report.  
[No response from the Committee was received.]

