

**BOOTS ON THE GROUND OR EYES IN THE
SKY: HOW BEST TO UTILIZE THE NATIONAL
GUARD TO ACHIEVE OPERATIONAL CONTROL**

HEARING

BEFORE THE

**SUBCOMMITTEE ON BORDER AND
MARITIME SECURITY**

OF THE

**COMMITTEE ON HOMELAND SECURITY
HOUSE OF REPRESENTATIVES**

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**BOOTS ON THE GROUND OR EYES IN THE
SKY: HOW BEST TO UTILIZE THE NATIONAL
GUARD TO ACHIEVE OPERATIONAL CON-
TROL**

Tuesday, April 17, 2012

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

[Due to technical issues, portions of the hearing were inaudible. Every effort has been made to ensure the accuracy of this transcript.]

The subcommittee met, pursuant to call, at 10:04 a.m., in Room 311, Cannon House Office Building, Hon. Candice S. Miller [Chairwoman of the subcommittee] presiding.

Present: Representatives Miller, Quayle, Duncan, Cuellar, and Jackson Lee.

Also present: Representative Gosar.

Mrs. MILLER. Good morning. The Committee on Homeland Security, our Subcommittee on Border and Maritime Security will come to order. The subcommittee is meeting today to hear testimony on the topic of “Boots on the Ground or Eyes in the Sky: How Best To Utilize the National Guard To Achieve Operational Control.” I would recognize myself for an opening statement.

For almost 25 years, the Department of Defense has been a key partner in supporting the Border Patrol’s efforts to secure the Nation’s southwest and maritime borders, and has worked tirelessly to prevent illicit drugs and illegal immigrants from crossing our borders, so I would like to first thank the men and women from the Department of Defense, as well as within the Department of Homeland Security who have contributed to the security of our homeland.

The reality is that our physical border, the actual line in the sand, should not be the first line of defense—it should be part of a layered approach to border security that begins overseas.

We should use every tool of National power to detect, deter, and prevent drug and human smugglers, as well as others who would do us harm, from ever getting to the border. The Department of Defense has, and I suspect, will continue to play an important role to help us secure the border into the future.

Over the last few years, National Guardsmen and women have been used to help build fencing, identify border crossers, and provide additional manpower, allowing the Border Patrol sufficient

time to recruit, hire, and train additional agents, and are now patrolling the skies over Arizona and Texas in search of illegal activity.

DOD's support has been a tremendous force multiplier in our efforts to help secure the border.

Earlier this year we witnessed a transition in the role and scope of the Department of Defense's support from National Guard soldiers on the ground, assisting the Border Patrol primarily as entry identification teams—providing additional sets of eyes and ears on the border—to an aviation-centered approach that provides aerial surveillance to the Border Patrol agents on the ground.

I am happy to report that National Guard units from across the Nation have answered the call and have sent helicopters and personnel to support the Southwest Border mission. These operations are not just the responsibility of the four Southwest Border States—this is a National mission and it is appropriate that everyone pitch in to share the burden.

The purpose of this hearing is to examine the transition from ground troops to aviation support and explore the impact on our border security operations.

The taxpayers spent \$158 million dollars to have 1,200 National Guard Troops on the border from July 2010 to December 2011—not an insignificant sum. Now, DOD plans to spend an additional \$60 million dollars during 2012 for the current aviation support activities. This begs the question: Is the expenditure of this kind of money bringing the security results the American people rightly demand?

To that point, I have been requesting the Border Patrol update a comprehensive, long-term, whole-of-Government, strategy to secure the border. However, without such a comprehensive plan, the American people may be on the hook for more spending that is a result of short-term thinking that doesn't move the ball forward and make the border more secure in the long run.

For example, DOD's aviation support to the Border Patrol is currently slated to end at the end of this calendar year, but it's clear that CBP Air and Marine will need to fill the void that will be left when the National Guard aviation support winds down in order to support the Border Patrol on a more permanent basis.

We cannot merely surge National Guard assets, our citizen soldiers and their helicopters and planes, to the border for a year and simply expect that whatever gains are made during that year won't disappear the moment that these assets return home unless we have a post-surge plan to sustain operations and maintain operational control of the border.

National Guard troops on the ground were always designed to be a bridge to more Border Patrol agents, but in this case, the CBP Air and Marine budget doesn't seem to suggest that we are making similar enhancements to recapitalize CBP's Aviation asset to make sure DHS has the assets it needs once the Guard mission ends. I am concerned that once the National Guard aviation support winds down, a capability gap will grow even larger.

Ad hoc planning and short-term band-aids should be replaced by a well-thought-out plan that takes into account CBP Air and Marine and the Border Patrol's capability needs.

It is beyond comprehension why we haven't thought about a long-term plan to provide this aviation support which is obviously making a large impact helping the Border Patrol secure the Southwest Border.

I look forward to hearing from the witnesses about their long-term plan for aviation support along our borders.

I have said on many occasions that the Department of Homeland Security needs to be honest and forthright with this Congress and tell us what your needs are—Congress' job is to prioritize to those needs.

We have more than 21,000 Border Patrol agents Nation-wide—double what we had in 2004—and spent a great deal of money on fencing and infrastructure, but we cannot help if we're in the dark about your needs.

The goal of the Border Patrol is, and should always be, to use our limited resources to gain and maintain operational control of the border using personnel, air assets, and intelligence to ensure the security of the Nation's borders—the National Guard's role should be supporting our ability to do just that when needed.

Here in this committee we have debated the use and meaning of operational control, and I'm fully cognizant that the Department views it as an archaic term of art, but it is a statutorily-defined term that we will continue to use until the Department releases a new, verifiable, and comprehensive measurement that accurately gauges our progress on the border—my hope is that CBP will release their new measurement system soon.

I applaud the use of the National Guard to support existing CBP Air and Marine capabilities which I believe is a great example of DOD and DHS working together to achieve a National goal—a more secure border. However, ad hoc, short-term operational planning and thinking must be replaced by a comprehensive strategy to secure the border—the American people will not accept anything less.

[The statement of Chairwoman Miller follows:]

STATEMENT OF CHAIRWOMAN CANDICE S. MILLER

APRIL 17, 2012

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Mrs. MILLER. At this time, Chairwoman now recognizes the Ranking Member of the subcommittee, the gentleman from Texas, Mr. Cuellar, for his opening statement.

Mr. CUELLAR. Thank you, Madam Chairwoman. I am pleased that the subcommittee is meeting today to examine the issue of using the National Guard to help secure America's Southern Border.

In recent years the Department of Homeland Security, with support from Congress, has taken critical steps to deter and interdict undocumented individuals and narcotics from entering our country.

More remains to be done, however.

To that point, I support the partnership between the Department of Homeland Security and Department of Defense aimed at providing aerial surveillance support for U.S. Customs and Border Protection along the Southern Border.

Since 2006, I have supported the National Guard's presence along the U.S.-Mexico border because I believe it has been a critical component for CBP's mission to protect and secure our borders.

Now, with record-high Border Patrol agent staffing levels and low unauthorized immigrant apprehension rates, I believe we need to start looking at more cost-effective and efficient ways to spend our homeland security dollars.

I am particularly pleased that one of the focus areas of the new partnership is the Rio Grand Valley Sectors; specifically, the placement of aviation assets in Laredo since February.

I want it to be noted that National Guard's presence on the border does not constitute militarizing the border, nor would I support such a measure, because I do not believe it is in the best interest of the United States.

However, I do believe our local, State, and Federal law enforcement agents will benefit greatly by the decision to shift the National Guard's mission to a multi-layered aerial surveillance approach.

Also, an increase in DHS's use of multi-purpose aerial assets equipped with the latest surveillance and reconnaissance capabilities will ensure that the proper assets are available and accessible to help carry out our border strategy.

The National Guard's new aerial support will provide "eyes in the sky" that will increase Border Patrol's response capabilities, allowing them to quickly move from one location to another to address emerging threats of illegal activity.

This hearing will also allow us to address concerns about the impact of budget cuts to basic mission support activities within CBP's Office of Air and Marine. As we all know the Office of Air Marine ensures that CBP has air surveillance and interdiction capabilities.

Unfortunately, the fiscal year 2013 budget requests a 52% reduction in the Office of Air and Marine's air and marine procurement accounts.

This type of reduction is particularly troubling as it comes at a time when DHS is looking to maximize its available resources.

I believe that the more we can tap into cutting-edge technologies to support our agents, the better prepared they will be to protect our border communities.

I thank Chairman Miller for holding this hearing and the witnesses for joining us today.

[The statement of Ranking Member Cuellar follows:]

STATEMENT OF RANKING MEMBER HENRY CUELLAR

APRIL 17, 2012

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I thank Chairman Miller for holding this hearing and the witnesses for joining us today.

Mrs. MILLER. Members of the committee are reminded that additional statements may be submitted for the record. I now recognize our first witness, Mr. Paul Stockton.

STATEMENT OF PAUL N. STOCKTON, ASSISTANT SECRETARY OF DEFENSE FOR HOMELAND DEFENSE AND AMERICAS' SECURITY AFFAIRS, OFFICE OF UNDER SECRETARY OF DEFENSE FOR POLICY, U.S. DEPARTMENT OF DEFENSE

Mr. STOCKTON. Thank you, Chairwoman Miller, Ranking Member Cuellar, and distinguished Members of the committee. I appreciate the opportunity today to discuss the Department's support to National efforts to secure the Southwest Border of the United States.

Rather than read my prepared statement to you, I would like to offer some very specific thoughts on the topic of today's hearing. That is the degree to which to shift in focus, the shift in the way in which we provide support to CBP, provides for a more cost-effec-

tive means of supporting DHS, CBP, and the Nation on the Southwest Border.

The transition to air support—the strategic move that adds mobile, advance, surveillance, and reconnaissance capabilities to the Border Patrol’s own organic capabilities—shifting to aerial surveillance assets versus relying on fixed-entry identification teams, which was the primary focus of our previous support mission, offers a number of advantages that I will briefly summarize.

First of all, Chairwoman Miller, the adversary is smart and adaptive. One of the challenges of relying on fixed-entry identification teams is that they are indeed fixed. By shifting to aerial reconnaissance and surveillance, by enabling our assets to move along the border, we are able to adapt to changes in the routes that traffickers will use in order to seek illegal entry into the United States.

Second, by making this shift we have a better ability to deal with terrain features—hills, other terrain features—where if you are in a fixed entry identification team you have inherent limitations in your field of vision. If you are flying airborne surveillance and reconnaissance, that offers some very important advantages as well.

I think that adds to another factor I would like to emphasize and that is the deterrence factor. Rather than knowing, as our adversary will, where fixed entry identification teams are located, the fact that we are now relying more and supporting our CB partners—with aerial assets that move around, that they can’t know in advance where they are going to be conducting operations—that provides for a deterrent factor that I believe is very important to the continued success of CBP in driving down the number of illegal crossers.

Then finally, I point out that we have, from a perspective of supporting CBP, much faster response times. When you are in integrated efforts to share information, we understand that our adversary is moving to a new track for entryway we will devote assets to that in a way that not only get our assets there. But when our aerial surveillance and monitoring enables us to transmit the data on attempted illegal crossers to our CBP partners, we are then able very quickly to ensure that agents go to those areas in question.

I would add also that from a Department of Defense perspective, looking at our primary responsibilities, including our Title 10 responsibilities to defend our Nation’s interests abroad, conducting these kinds of aerial surveillance and monitoring activities, ensuring that we have the kind of information-sharing and integration that we need with the CBP and amongst our own capabilities with the National Guard, this helps prepare us for our warfighting and other missions abroad.

So, there is direct training value to the United States Department of Defense from these kinds of activities, which is very important to us as well.

Let me just add that I had a trip, Congressman Cuellar, as you know, to your district, where I had a chance to meet with the adjutant general and his staff. I have to say, General, I was so impressed with the way that your team, your leadership team, was stepping up to the plate and effectively implementing the transition from the previous support mission to the current calendar year 2012 one. I learned a great deal, and I came away impressed with

the professionalism and dedication, and extraordinary competence of your team.

Let me add also that in my prepared testimony I note that there are a range of ways in which the Department of Defense supports our efforts along the border—our National efforts along the border. One of the important ones is our domestic preparedness support initiative that enables the Department of Defense to transfer critical technology and capabilities from the Department of Defense to State and local law enforcement.

Chairwoman Miller, Ranking Member Cuellar, you know that it is a personal interest of me—it is a personal interest of mine—to support your State. Last year, the Department of Defense provided equipment worth more than \$6 million to Michigan, and more than \$9 million to Texas. That is just last year alone.

This equipment included night vision goggles, binoculars, fingerprint scanners, vehicles—a broad range of capabilities that directly support the ability of local and State law enforcement to meet the challenges that your States and all others along both the Northern and Southern borders of the United States confront.

I will be pleased to offer any additional thoughts in response to your questions, and thanks again for the honor to testify.

[The prepared statement of Mr. Stockton follows:]

PREPARED STATEMENT OF PAUL N. STOCKTON

APRIL 17, 2012

INTRODUCTION

Chairman Miller, Ranking Member Cuellar, distinguished Members of the subcommittee: Thank you for the opportunity to address you today on the Department of Defense's (DoD's) support to the National effort to secure the Southwest Border of the United States.

Drug trafficking and related transnational organized crime presents a significant threat to our Nation. The movement of large amounts of drugs across our borders is the most immediate concern, but the potential for these drug smuggling networks to be used for infiltrating terrorists and weapons of mass destruction cannot be discounted. As such, countering drug trafficking across our borders and around the world is a National priority.

As noted in the most recent National Southwest Border Counternarcotics Strategy:

“Illicit trafficking across the Southwest border continues to be a chronic threat to our Nation and one of the top homeland security priorities for the United States. Transnational criminal organizations in Mexico dominate the illegal drug supply chain, taking ownership of drug shipments after they depart South America and overseeing their transportation to market and distribution throughout the United States. It is estimated that approximately 90 percent of the cocaine that is destined for U.S. markets transits the Mexico/Central America corridor. Mexico is the primary foreign source of marijuana and methamphetamine destined for U.S. markets and is also a source and transit country for heroin. Transnational criminal organizations based in Mexico dominate the U.S. drug trade—not just in border areas, but throughout much of the Nation. These organizations also control the south-bound flow of drug-related bulk currency and illegal weapons.”¹

Over the past 2½ years, this administration has dedicated unprecedented resources to securing the Southwest Border. In March 2009, President Obama launched the Southwest Border Initiative to bring focus and intensity to Southwest Border security, coupled with a reinvigorated, smart, and effective approach to enforcing immigration laws in the interior of our country. We are now more than 2 years into this strategy, and based on previous benchmarks set by Congress, it is

¹ Office of National Drug Control Policy, *2011 National Southwest Border Counternarcotics Strategy*, page 1.

clear that this approach is working. In fiscal year 2011, the Department of Homeland Security's Customs and Border Protection (CBP) seized more than \$126 million in illegal currency and nearly 5 million pounds of narcotics Nation-wide. According to 2010 FBI crime reports, violent crimes in Southwest Border States have dropped by an average of 40 percent in the last 2 decades, and some of the safest communities in the United States are at the border.

Within the Department of Defense, I work closely with the Assistant Secretary for Special Operations and Low Intensity Conflict (SO/LIC), who is responsible for the Department's world-wide counternarcotics and global threats efforts. SO/LIC oversees DoD's use of the powerful tools entrusted to it by Congresses and Presidents over several decades, in the form of laws authorizing DoD to provide counterdrug support to Federal, State, local, and foreign law enforcement partners, conduct counterdrug detection and monitoring, support Colombia's unified campaign against narco-terrorism and provide limited, but often essential, counternarcotics support for counterterrorism task forces. When combined with the flexibility and responsiveness embodied in the specialized appropriations through the Drug Interdiction and Counterdrug Activities—Defense appropriation, DoD is able to help U.S. and foreign partners face the ruthless and highly adaptive transnational criminal organizations which threaten our country's security interests and the fundamental National security of some other countries.

Today, my statement will focus on DoD support within the United States, but it is important to note that these efforts are tightly integrated with DoD and other U.S. security-related cooperation with Mexico, Canada, Central American countries and partner nations world-wide as well as DoD support to U.S. law enforcement agencies' global activities.

DEFENSE SUPPORT FOR U.S. BORDER SECURITY

The Department of Homeland Security (DHS) is responsible for securing the borders, territorial waters, ports, terminals, waterways, and air, land, and sea transportation systems of the United States and preventing the entry of terrorists and the instruments of terrorism into the United States.² The Department of Justice and other Federal departments and agencies, as well as State and local authorities, also play critical roles in their areas of jurisdiction, often cooperating through task forces or similar arrangements such as the High Intensity Drug Trafficking Areas (HIDTAs). DoD's role is to provide support, when requested, appropriate, lawful, and approved by the President or the Secretary of Defense or their designees. This support does not include law enforcement activities such as search and seizure or apprehension, arrest, or detention of individuals, which are generally prohibited by section 1385 of Title 18, U.S. Code (commonly referred to as the Posse Comitatus Act) and section 375 of Title 10, U.S. Code. When DoD support is carried out by Active Duty (Title 10) military forces under the laws specifically authorizing or funding DoD counterdrug activities, the Department concentrates its support on those militarily unique skills and capabilities that domestic law enforcement agencies lack, or cannot practically replicate. DoD Title 10 counterdrug support must also provide a training opportunity that contributes to combat readiness and cannot be used for continuing, on-going, long-term operational support commitments at the same location. These and other controls help ensure that U.S. military forces are always in a supporting role and never replace law enforcement personnel in roles that should be carried out by law enforcement and ensure that conducting these missions does not detract from the warfighting readiness of the United States.

DoD has conducted a wide variety of counterdrug support missions along the Southwest Border since 1989. U.S. Northern Command's (USNORTHCOM's) Joint Task Force—North (JTF—North) and the National Guard are the primary military organizations through which DoD supports law enforcement counterdrug efforts within U.S. territory. That support to civilian law enforcement has included activities such as surface and aerial reconnaissance; minor construction; establishing tactical observation posts, training, engineering, intelligence analysis, communications support, planning, coordination, linguist support, and transportation. JTF—North can provide support to counterdrug law enforcement anywhere in the United States, but prioritizes the Southwest Border region. Military forces conduct these missions in order to enhance their own warfighting skills but do so in a way which also provides substantial benefit to counterdrug law enforcement.

²Section 202 of the Homeland Security Act of 2002 (Pub. L. No. 107-296; section 202 of Title 6, U.S. Code).

The National Guard supports the State Counterdrug Programs³ in all 54 States and territories. This support, under the direction of the State Governors, provides a force multiplier to State, local, and Tribal civilian law enforcement agencies in efforts against drugs and other transnational threats. Missions conducted under this program include: Criminal analyst support, technical support, and air/ground reconnaissance activities, as well as drug demand reduction support, and program management.

Since September 11, 2001, policy and operational changes in DoD have improved the alignment of resources and efforts where there is a potential relationship between terrorism and narcotics trafficking. Congress recognized the relationship between drug trafficking and terrorism and included in the National Defense Authorization Act for Fiscal Year 2004 a provision that authorized DoD to expend funds appropriated for counter-drug activities also to support counterterrorism task forces under certain conditions.

Since the terrorist attacks of September 11, 2001, DoD has significantly increased its support to law enforcement to counter drug trafficking or otherwise improve the security of U.S. borders, under a variety of legal authorities. Examples include:

- *March–August 2002.*—DoD mobilized some 1,600 National Guard personnel along the Northern and Southern Borders to support the U.S. Customs Service, the Immigration and Naturalization Service, and the Border Patrol, in their heightened post-9/11 security posture. Of these 1,600 personnel, 895 were detailed to the Southwest Border States to provide port of entry presence and cargo inspection, vehicle inspection, traffic management, and pedestrian control support.
- *October 17, 2003–November 13, 2003.*—DoD provided Unmanned Aircraft System (UAS) support to DHS Immigration and Customs Enforcement’s (ICE’s) Operation Safeguard, a humanitarian/law enforcement effort along the Southwest Border. Operation Safeguard provided an opportunity for DoD to demonstrate UAS capabilities, as well as illustrate associated policy, legal, and infrastructure issues, to border authorities.
- *June 18, 2004–September 30, 2004.*—DoD provided UAS support to the Arizona Border Control Initiative (ABCI), which sought to detect illegal entry and smuggling/drug activity along the Arizona-Mexico border, and to aid in the rescue of lost or injured persons.
- *November 3, 2004–January 24, 2005.*—DoD UAS supported the ABCI.
- *September 2005.*—DoD provided flight operations support at Fort Huachuca, Arizona, for CBP UAS border enforcement operations.
- *October–November 2005.*—JTF–N supported CBP interdiction of transnational threats in the El Paso Sector. This support included multi-sensor operations (ground-based forward-looking infrared, tactical unmanned aerial vehicles, ground sensors, ground surveillance radars) in the Hidalgo, Grant, Luna, and Dona Ana counties of New Mexico.
- *November 2005.*—DoD provided 400 soldiers in a U.S. Army Stryker-equipped cavalry squadron along the Mexico-New Mexico border in support of the U.S. Border Patrol’s Operation Western Vigilance. The purpose of the mission was to enhance detection and monitoring of drug smuggling and illegal immigration.
- *February 12, 2006–March 26, 2006.*—JTF–N supported Operation Gulf View, an interagency operation, jointly led by the U.S. Border Patrol and U.S. Coast Guard, to disrupt infiltration of transnational threats into the United States by increasing maritime domain surveillance operations in the U.S. Border Patrol’s Rio Grande Valley Sector in southeast Texas. JTF–N employed new DoD prototype maritime radar and software assets that provided better detection and tracking of small vessels and ships.
- *May 8–19, 2006.*—JTF–N supported the U.S. Border Patrol in the San Diego Sector with unattended ground sensors and forward-looking infrared radar-equipped aviation to detect smuggling traffic.
- *June 2006–July 2008.*—DoD supported DHS in gaining effective control of the Southwest Border in Operation Jump Start. From June 2006 to July 2007, DoD, in coordination with the Governors of the affected States, provided 6,000 National Guard personnel, under the direction of the Southwest Border State Governors, who supplied aviation, engineering, medical, entry identification, communications, vehicle maintenance, and administrative support to the CBP. From July 2007 to July 2008, DoD, in coordination with the Governors of the affected States, provided 3,000 National Guard personnel to support CBP. During this 2-year period, CBP hired 3,000 new agents, detained 158,000 suspected illegal aliens, rescued 99 persons, and seized more than 298,000 pounds of

³Section 112 of Title 32, U.S. Code.

drugs. In addition, National Guard units built more than 38 miles of fence, 96 miles of vehicle barrier, and more than 19 miles of new all-weather roads, and also repaired more than 700 miles of roads. This operation cost DoD \$1.2 billion.

- *October 15, 2011–September 30, 2012.*—CBP requested two 14-day missions by the E-8C Joint Surveillance Target Attack Radar System, or Joint STARS, in support of CBP Operation Nimbus II and Operation Green Flash III. This support, which involves 74 active-duty military personnel from the 116th Air Control Wing, provides aerial reconnaissance with detection and monitoring authority in support along the entire Southwest Border.
- *February 15, 2012–April 15, 2012.*—In support of CBP Operation Nimbus II, DoD is providing detection and monitoring by two C206 Cessna Caravan aircraft along Southwest Arizona; ground surveillance vehicles and radar (476 active-duty military personnel, 59 Stryker vehicles, 59 Long Range Acquisition Systems (LRAS), and 14 Improved Target Acquisition Systems (ITAS)) in the Tucson CBP Sector; four Shadow UAS (127 active duty military personnel and one RQ-7B system (four Shadow aircraft)) in the Tucson CBP Sector; ground-based air surveillance sensors (228 active duty military personnel, six Sentinel radars, 20 Forward-Looking Infrared Radar systems, and associated support) in the Tucson CBP Sector; and ground-based air surveillance radars (five Lightweight Surveillance Target Acquisition Radar (LSTAR) Systems) in the El Paso and Tucson CBP Sectors.

Collaboration also extends beyond our borders. For example, combined air and surface operations along the maritime drug lanes from South America to southern Mexico and the coastal approaches to the United States by the CBP, the U.S. Coast Guard, and the U.S. Navy had been instrumental in preventing bulk drugs from reaching Mexico and the Southwest Border.

DoD operates the Tethered Aerostat Radar System (TARS) along the Southwest Border and in the Caribbean. These platforms provide counterdrug detection and monitoring capability along the U.S.-Mexico border, and the Florida Straits.

The primary agencies using the TARS detection and monitoring data include U.S. Northern Command, the CBP (Air and Marine Operations Center and Caribbean Air and Marine Operations Center) and U.S. Southern Command, including Joint Interagency Task Force—South. In addition to its counterdrug mission, TARS data also supports North American Aerospace Defense Command’s air sovereignty mission for the continental United States.

DoD has supported U.S. Government efforts to enhance intelligence and information-sharing capabilities and processes associated with the Southwest Border. For instance, DoD provides analytical, training, and related support to the Border Intelligence Fusion Section (BIFS) at the El Paso Intelligence Center (EPIC) as an all-source, all-threats intelligence section to support tactical and operational efforts with fused intelligence and analysis and provide a common operational picture of the Southwest Border and Northern Mexico.

Finally, DoD, consistent with the Department’s Strategy for Homeland Defense and Civil Support, promotes the integration and sharing of applicable DoD capabilities, equipment, technologies, and technical expertise with Federal, State, local, Tribal, and private-sector partners. This sharing arrangement strengthens the Nation’s ability to respond to threats and domestic emergencies. DoD continues to work closely with its interagency partners, in particular DHS, to build capacity vertically from the Federal level down to the local level, and horizontally across the Federal Government. I want to thank Congress for providing DoD with the tools that are absolutely essential to making this possible.

In accordance with Section 1401 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314), I serve as the senior DoD official responsible for coordinating “all Department of Defense efforts to identify, evaluate, deploy, and transfer to Federal, State, and local first responders technology items and equipment in support of homeland security.” To this end, I established what I call the “DoD Domestic Preparedness Support Initiative.” Through this program, I work closely with DHS, DOJ, and our other Federal, State, and local partners on five approaches: Acquisition programs; excess property programs; equipment loan-lease programs; expertise sharing; and the leveraging of dual-use technologies developed by DoD.

In September 1996, Congress authorized DoD to donate to Federal and State law enforcement agencies excess property suitable for use in counter-drug and counter-

terrorism activities.⁴ All 50 States and more than 17,000 Federal, State, and local agencies have received more than \$2.6 billion⁵ worth of donated excess DoD equipment for use in counter-drug and counterterrorism activities—more than \$710 million worth of equipment in fiscal years 2010 and 2011 alone. For fiscal year 2012, DoD has already donated more than \$221 million worth of equipment so far, including aircraft, weapons, vehicles, and body armor.

DoD is also working closely with the National Association of State Agencies for Surplus Property (NASASP) to allow in-theater screening of potential excess property that could be of use to State and local agencies in Iraq and Afghanistan, as U.S. operations in those countries wind down.

Chairman Miller, Ranking Member Cuellar, I want to thank you for inviting us to visit your wonderful States this last February. It was an excellent opportunity to extol the virtues of DoD's Domestic Preparedness Support Initiative to your State and local law enforcement officials. I am proud of the good work the initiative has accomplished in your States. In fiscal year 2011, the initiative provided equipment worth more than \$6 million to Michigan and more than \$9 million to Texas, including night-vision goggles, binoculars, fingerprint scanners, vehicles (e.g., cars, trucks, tractors, and loaders), tents and shelters, medical supplies, laptops, and weapons (e.g., pistols and rifles). I look forward to continuing the good works of the initiative in your States and all of the other States.

DoD research and development have led to the production of many items that are now routinely used by our Federal, State, and local partners. DoD works closely with its partners to leverage potential “dual-use technologies” originally developed for military application for civilian applications. As an example, DoD assisted the U.S. Coast Guard in evaluating sensors and platforms that could enhance its ability to conduct wide-area surveillance to detect, identify, and track vessels of interest. Likewise, in 2003, a Predator B UAS, scheduled for future delivery to DoD, operated in support of DHS/ICE Operation SAFEGUARD, a joint humanitarian/law enforcement effort along the Southwest Border. Operation SAFEGUARD provided an opportunity for DoD to demonstrate UAS capabilities to border authorities and also served to highlight the policy, legal, and infrastructure issues that must be examined in tandem with technology development. These include challenges associated with the use of UASs in controlled domestic airspace as well as the extensive infrastructure (e.g., communications, exploitation tools, and imagery analysts) required to process and exploit information collected by UASs. In addition, in 2008, DoD developed and installed a fiber optic-based seismic acoustic sensor prototype system in the San Diego area. In 2009, DHS purchased this system and continues to support its operational evaluation by the San Diego Tunnel Task Force. Also in 2009, DoD supported DHS's proof-of-concept demonstration for an advanced ground penetrating radar technology for use in cross-border tunnel detection. The results of this demonstration warranted continued development and testing efforts in 2010 and 2011. Furthermore, DoD and DHS are cosponsoring a “Tunnel Detection” Joint Capability Technology Demonstration (JCTD). U.S. Northern Command is the DoD proponent for this demonstration, and as the technologies mature, they are expected to be fielded for use by DoD and DHS organizations at home and abroad.

DoD's Counterterrorism Technical Support Office (CTTSO), which oversees the interagency Technical Support Working Group (TSWG) (85 Federal departments and agencies, including DHS, DOJ, DOE, and the Department of Health and Human Services, work together to research and develop, test and evaluate, and deliver combating terrorism capabilities to the National interagency community rapidly⁶), is currently developing capabilities to detect, locate, monitor, and disrupt subterranean operations in semi-permissive and non-permissive environments to allow tactical forces to conduct operations and counter hostile and/or criminal networks. Current, CTTSO counter-tunnel projects of interest include:

- *Portable Ground Penetrating Radar.*—Battery-powered, man-portable, ruggedized system to detect subterranean structures (tunnels, bunkers, and caches) to a minimum depth of 15 feet, with antenna configuration to allow for operation by one person and be employable in any terrain.
- *Improved Underground Communications.*—A planned proof-of-concept involving multiple technology demonstrations, to determine if further funding is warranted.

⁴ 10 U.S.C. § 2576a, which was enacted as part of section 1033 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201).

⁵ Original Acquisition Value.

⁶ The bulk of TSWG core funding is provided by DoD. Additional funding is supplied by the Department of State, while other Federal departments and agencies share the costs of selected projects.

- *Remote Imaging and Detection of Underground Anomalies.*—A proven prototype that implements laser technology to identify buried objects (e.g., caches and improvised explosive devices). In fiscal year 2011, development of this prototype was expanded to determine if the technology is capable of detecting voids.
- *Seismic-Acoustic Sensor Kit.*—A mobile seismic acoustic sensor system designed to detect underground activity with the intent of easy temporary deployment and operation (although permanent installation is also an option).

The DoD Counternarcotics and Global Threats program also conducts research and development, as well as operational testing and evaluation, to adapt and apply military technology in ways that can help U.S. and foreign law enforcement partners, as well as to use technology and techniques developed by law enforcement agencies for military applications. Examples include tagging, tracking and locating devices, “blue force” (friendly force) tracking devices, communications system integration, and unattended sensors.

CURRENT NATIONAL GUARD SUPPORT

The National Guard Counterdrug Program and proceeding programs have supported the States’ and territories’ counterdrug law enforcement efforts for over 30 years. The program includes State Plans efforts under the authority of the 54 State and territorial governors, as well as training centers, Federal operations, counter-threat finance and analytical support programs managed by the National Guard Bureau. Mission categories include: Program management, linguist/translator support, criminal analysts case support, illicit narcotics detection, communications, engineering, diver support, cannabis suppression, transportation, training, ground reconnaissance, aerial reconnaissance, and civil operations. Soldiers and airmen drawn from the National Guard also deploy world-wide under Active-Duty status to support DoD counterdrug training, analytical, command and control, aerial patrol, international cooperation and related missions.

Separately from the long-standing National Guard Counterdrug Program, the Department of Defense significantly increased National Guard support to Southwest Border region security efforts on May 25, 2010, when President Obama authorized the temporary deployment of up to 1,200 National Guard personnel to the Southwest Border. These soldiers and airmen contribute additional capabilities and capacity to assist law enforcement agencies as a bridge to longer-term enhancements in the efforts to target illicit networks’ trafficking in people, drugs, illegal weapons, money, and the violence associated with these illegal activities.

This National Guard deployment began with a steep ramp-up in early July 2010, peaking at 1,200 personnel by October 2010, and was originally planned to be sustained for approximately 120 days through January 2011, followed by a gradual ramp-down to mission completion on June 30, 2011.

These additional National Guard personnel provided criminal investigative analysts to Immigration and Customs Enforcement (ICE); ground surveillance (EITs) to support Border Patrol; and command and control of National Guard personnel. National Guard personnel assigned to support DHS did not—and do not—conduct direct law enforcement activities.

DHS and DoD agreed to fund the National Guard support equally—\$67.5 million each—for a total of \$135.0 million; however, Congress did not approve DHS’s reprogramming requests. Consequently, DoD has assumed the burden for funding the full cost of this National Guard support.

In June 2011, at the President’s direction, Secretary Gates extended the National Guard for an additional 3 months through the end of fiscal year 2011, again at DoD’s full cost. In August 2011, again at the President’s direction, Secretary Panetta extended the mission through the end of calendar year 2011, also at DoD’s full cost. The total cost to DoD for this National Guard support from July 1, 2010, through December 31, 2011, was approximately \$158.1 million.

On October 21, 2011, Secretary Napolitano submitted a new request for National Guard support for calendar year 2012 that changed the nature of the support from static observation sites to mobile, flexible, and adaptive aerial surveillance. On November 22, 2011, Secretary Panetta approved the continued use of the National Guard to support DHS’ efforts to secure the Southwest Border. In accordance with this guidance, DoD reduced the number of National Guard personnel from 1,200 to approximately 300, who would conduct aerial surveillance support missions (i.e., 15–20 specially configured OH–58M Kiowa and UH–72M/S Lakota helicopters supported by a fixed-wing RC–26 platform) in the Tucson, Laredo, and Rio Grande Valley CBP sectors and would provide intelligence analysis in support of law enforcement (i.e., approximately 35 analysts). As also requested by Secretary Napolitano,

Secretary Panetta waived reimbursement for the full cost of this support, which is currently projected to cost DoD approximately \$55.6 million in calendar year 2012.

There is a frequent tendency to focus on the number of personnel (i.e., “boots on the ground”) to gauge the quantity and, thereby, the quality of DoD support. However, using the number of personnel as a metric does not get to the actual capability that is needed. Moreover, static observation posts do not provide a capability sufficiently flexible to anticipate or react to transnational organized crime, which has demonstrated itself to be an adaptive threat. This transition from 1,200 National Guard personnel providing support from fixed positions with limited surveillance capabilities is more effective and less costly.

This support has allowed DHS to bridge an operational gap as it hired additional agents, including 1,000 new Border Patrol Agents by the end of fiscal year 2011, as well as fielded additional technology and communications capabilities that Congress authorized. The new approach in 2012 for DoD support accounts for this significant growth in CBP capabilities. DHS is now employing 1,000 new agents on the Southwest Border, along with supporting technology, to help those agents interdict illegal crossings. The new DoD support approach is tailored to support those expanded CBP forces more effectively by providing specialized surveillance capabilities to support law enforcement.

CONCLUSION

In conclusion, every day since my confirmation as Assistant Secretary of Defense for Homeland Defense and Americas’ Security Affairs I grow more impressed at the professionalism and dedication of the wonderful men and women, military personnel—Active, Reserve, and National Guard—and civilians, at DoD, DHS, and other departments and agencies who serve in the cause of security for the United States with passion, professionalism, and a resolute sense of purpose.

Chairman Miller, Representative Cuellar, distinguished Members of the subcommittee: I commend you for your leadership, continued interest, efforts, and support of DoD’s defense of the United States and support to civil authorities here at home. I look forward to working with you in the future.

Mrs. MILLER. Thank you very much. At this time the Chairman recognizes Chief Vitiello.

STATEMENT OF RONALD D. VITIELLO, DEPUTY CHIEF OF BORDER PATROL, U.S. CUSTOMS & BORDER PROTECTION, U.S. DEPARTMENT OF HOMELAND SECURITY

Chief VITIELLO. Chairwoman Miller, Ranking Member Cuellar, distinguished Members of the subcommittee, it is a privilege and honor to appear before you today to discuss the work of U.S. Customs and Border Protection as it secures America’s borders. I am Ronald Vitiello, deputy chief of the U.S. Border Patrol. With me, from CBP, is Mr. Martin Vaughn, executive director, Office of Air and Marine, Southwest Region.

I began my career in law enforcement in 1985 as a border patrol agent in Laredo, Texas. Director Vaughan started his career as a pilot in the Miami Air and Marine branch in 1987. Throughout our careers, we have held numerous positions within the organization and worked in multiple locations across the country.

The border is a very different environment today than when I began my career. I personally witnessed the evolution of the border over the past 27 years, both in terms of additional resources applied against the threat as well as the change in the adversary’s threat.

With the assistance of Congress, we have unprecedented influx of resources in support of our border security efforts, to include over \$1 billion between fiscal year 2006 and 2012 to replace, upgrade and modernize CBP’s aging aircrafts and vessels with advanced technology, expanded mission functionality, and improved detection capability.

CBP's Office of Air and Marine continues to identify improved aircraft and central technologies to more effectively detect and respond to emerging threats. For example, through the acquisition of the unmanned aircraft system, OAM is able to provide critical area surveillance and transmit detailed information to border patrol agents on the ground, who are able to intercept these illicit flows.

Furthermore, CBP is working to migrate DOD technology from a wartime mission to a homeland security application, including the current evaluation of radar systems used for tracking multiple persons on foot, which provides CBP with a detection capability never before seen in our arsenal and will drive changes in the strategy of tactics employed in the border security mission.

In addition to the enhanced capabilities provided by OAM, our continued partnership with the Department of Defense and the National Guard has been one of our greatest assets. Building upon years of cooperation and support, DOD and DHS are continuing their partnership to further strengthen the already unprecedented levels of personnel, technology, and infrastructure along the Southwest Border.

Since June 2010, the National Guard has provided critical support to CBP in the form of detection and monitoring to law enforcement on the ground. Through a continued continuation of Operation Phalanx, the National Guard and the CBP have started a transition from ground support to air support. This partnership adds increased mobility, detection, and monitoring capabilities to CBP's border security operations.

The National Guard's aerial assets support CBP by shifting from fixed to mobile sites that can quickly match the dynamic environment of the border. As CBP has sought to gain efficiencies on our operations, our border security efforts have been supported with our continued partnership with DOD.

While our work is not done, key indicators showed that these collaborative border security efforts are producing results. In fact, statistics have shown that some of the safest cities and communities in America are along our Southwest Border. Nonetheless, we must build on the progress made to ensure that those citizens living along the border are secure in their community.

CBP does not hold the corner market on our Nation's security efforts. We have learned that it will take a whole-of-Government approach in law enforcement, each with our own duty to responsibilities and authorities, and developed levels of Government.

We have gained a greater appreciation for the differentiation between mere coordination and moved toward operational integration with Federal, State, local, Tribal, and international partners, driving forward in realizing the strength of joint planning and implementation in a targeted and focused manner with a unity of effort.

The resource base assembled, and the operations conducted, over the past 2 decades have enabled CBP to focus on developing and implementing a strategy based on risk, identifying risk areas and flows, and targeting our response to meet those threats. This risk-based approach is reflected in the core pillars of information, integration, and rapid response.

These pillars are essential to the 21st Century agency that we continue to build. Information and intelligence will empower us to

get ahead of the threat and be predictive and proactive. Integration of effort with our partners will ensure we will bring all of our available capabilities and tools to bear in addressing threats to rapidly respond and to deploy resources timely and effectively to meet and mitigate the threats we confront.

Again, thank you for the opportunity to testify today. I look forward to your questions.

[The joint prepared statement of Chief Vitiello and Mr. Vaughan follows:]

PREPARED STATEMENT OF RONALD D. VITIELLO AND MARTIN E. VAUGHAN

APRIL 17, 2012

Chairman Miller, Ranking Member Cuellar, and distinguished Members of the subcommittee, it is an honor to appear before you today to discuss the work that U.S. Customs and Border Protection (CBP) does in securing America's borders.

CBP, with more than 60,000 employees, is the largest uniformed, Federal law enforcement agency in the country. As America's front-line border agency, CBP's priority mission is to protect the American public, while facilitating lawful travel and trade. To do this, CBP has deployed a multi-layered, risk-based approach to enhance the security of our borders while facilitating the flow of lawful people and goods entering the United States. This layered approach to security reduces our reliance on any single point or program that could be compromised. It also extends our zone of security outward, ensuring that our physical border is not the first or last line of defense, but one of many.

COMMITMENT TO BORDER SECURITY

CBP protects approximately 4,000 miles of border with Canada, 2,000 miles of border with Mexico, and 2,600 miles of shoreline; processes approximately 340 million travelers a year at our ports of entry (POEs); and processes more than 29 million trade entries annually. CBP's Border Patrol and Air and Marine agents patrol our Nation's land and maritime borders, and associated airspace, to prevent illegal entry of people and goods into the United States.

Over the past 3 years, the Department of Homeland Security (DHS) has dedicated historic levels of personnel, technology, and resources in support of our border security efforts. We have more than doubled the size of the Border Patrol since the inception of CBP in March 2003 to more than 21,000 agents today; tripled deployments of Border Liaison Officers working with their Mexican counterparts; and initiated screening of southbound rail and vehicle traffic to look for illegal weapons and cash that, when smuggled across the border, help to fuel the cartel violence in Mexico. Over the last year, we have brought greater unity to our enforcement efforts, expanded collaboration with other agencies, and improved response times. Last February, we announced the Arizona Joint Field Command (JFC)—an organizational realignment that brings together Border Patrol, Air and Marine, and Field Operations under a unified command structure to integrate CBP's border security, commercial enforcement, and trade and travel facilitation missions to more effectively meet the unique challenges faced in the Arizona area of operations.

During fiscal years 2009 through 2011, DHS seized 74 percent more currency, 41 percent more drugs, and 159 percent more weapons along the Southwest Border as compared to fiscal year 2006–2008—these results demonstrate the effectiveness of our layered approach to security. CBP has also deployed additional technology assets—including mobile surveillance units, thermal imaging systems, and large- and small-scale non-intrusive inspection equipment—along our Nation's borders, and currently has over 270 aircraft and nine Unmanned Aircraft Systems (UAS) that provide critical aerial surveillance assistance to personnel on the ground. Over the next 2 years, CBP will continue the deployment of technology to Arizona to enhance our border security efforts and maintain our commitment to ensuring a safe and secure border.

The National airspace, coastal borders, Southern and Northern Border regions are critical to National security and are integral to CBP's current goals, successes, and future vision. CBP works closely with our Federal, State, local, Tribal, and international partners to secure these regions, participating in collaborative efforts such as the Joint Interagency Task Force (JIATF) South, which coordinates information sharing from U.S. Government agencies and directs law enforcement action to inter-

cept potential smuggling attempts in the air and maritime approaches to the United States.

We have also expanded our strong partnerships with Federal, State, local, and Tribal agencies, as well as the Canadian government, in protecting our communities, borders, and critical infrastructure from terrorism and transnational crime. In conjunction with the Royal Canadian Mounted Police (RCMP) and the Canada Border Services Agency (CBSA), the Department developed a joint border threat assessment, which provides U.S. and Canadian policymakers, resource planners, and law enforcement officials with a strategic overview of significant threats—including drug trafficking (coordinated with the Drug Enforcement Agency), illegal immigration, illicit movement of prohibited or controlled goods, agricultural hazards, and the spread of infectious disease—along our shared border. This assessment has been augmented with the priority initiatives of the Beyond the Border declaration to enhance cross-border security and increase the legitimate flow of people, goods, and services between the United States and Canada.

The President's fiscal year 2013 budget request continues these efforts, supporting the largest deployment of law enforcement officers to the front line in our agency's history: 21,370 Border Patrol agents and 21,186 CBP officers at our ports of entry who work 24/7 with State, local, and Federal law enforcement in targeting illicit networks trafficking in people, drugs, weapons, and money.

While there is still work to be done, every key measure shows we are making significant progress. Along the Southwest Border, Border Patrol apprehensions—a key indicator of illegal immigration—have decreased 53 percent since fiscal year 2008, and are less than one-fifth of what they were at their peak in 2000. We have matched these decreases in apprehensions with increases in seizures of cash, drugs, and weapons. In fiscal year 2011, CBP seized more than \$126 million in illegal currency and nearly 5 million pounds of narcotics Nation-wide. According to 2010 FBI crime reports, violent crimes in Southwest Border States have dropped by an average of 40 percent in the last 2 decades, and some of the safest cities in America are border communities.

DEPARTMENT OF DEFENSE SUPPORT

Since July 2010, the Department of Defense (DOD), primarily through the National Guard, has provided support to CBP as part of the administration's Southwest Border Initiative. National Guard troops have acted as a critical support bridge while the administration brought on new assets provided by the fiscal year 2010 supplemental appropriation dedicated to effective border management and security. The National Guard support mission, known as Operation Phalanx, initially included up to 1,200 personnel providing detection, monitoring, and criminal analysis support to law enforcement on the ground. DOD and DHS are continuing their partnership to further strengthen the already unprecedented levels of personnel, technology, and infrastructure along the Southwest Border.

The current DOD mission will continue through the end of calendar year 2012. Now that the CBP civilian law enforcement assets and operational personnel allocated from the Southwest Border Supplemental from August 2010 are in place, including a record number of U.S. Border Patrol agents, the National Guard began a transition from ground support in static positions to rotary and fixed-wing assets conducting aerial detection and monitoring—essentially moving from boots on the ground to boots in the air. The strategic transition to aerial support adds mobile, advanced detection and monitoring capability to the Border Patrol's internal air and ground border security operations, helping to mitigate differences in operational landscapes along the border; providing an additional deterrence factor; providing a faster response time; and providing flexible and adaptive capabilities in lieu of fixed sites.

Operating environments differ from sector to sector and even within sectors. An aerial platform provides a much greater field of vision for places like south Texas where a winding river and thick brush make it difficult to see from a static location on the ground. The additional aerial assets provided by DOD coupled with the CBP Office of Air and Marine air fleet and Border Patrol agents on the ground provide even greater border deterrence capabilities. Further, the air assets reduce enforcement response time where CBP aerial assets are unavailable, providing Border Patrol agents on the ground with greater visibility.

The transition to aviation and intelligence analyst support also includes approximately 200 National Guard troops providing mobile aerial detection and monitoring and analyst support across all four Southwest Border States. These individuals are supporting law enforcement interdiction operations against illicit trafficking in people, drugs, weapons, and money. The addition of National Guard aerial assets allows

DOD to better support CBP by shifting from fixed to mobile sites that can quickly match the dynamic environment of the border—an important enhancement to our capability to detect and deter illegal activity at the border.

DoD also supports CBP through a number of counternarcotics missions and activities directly related to the threat posed by illicit drug trafficking. Support provided by the National Guard Counterdrug Program and through Joint Task Force—North contributes unique military skills that are an effective force multiplier to CBP operations.

CBP OFFICE OF AIR AND MARINE (OAM)

OAM is a critical component of CBP's layered approach to border security. With more than 1,200 law enforcement personnel operating aircraft and marine vessels from numerous locations throughout the United States and Puerto Rico, OAM conducts a broad range of operations and supports multiple operational objectives. OAM uses its sophisticated and integrated air and marine fleets to detect, sort, intercept, track, and apprehend criminals in diverse environments at and beyond U.S. borders. This specialized law enforcement capability allows OAM to make significant contributions to homeland security efforts across DHS, including the work of U.S. Coast Guard, FEMA, and U.S. Secret Service as well as numerous inter-agency partners including FBI and DEA, as well as other Federal, State, local, and Tribal agencies.

By instituting multiple initiatives to augment CBP's fleet of aircraft, OAM has solidified its ability to provide air support to front-line personnel. At the same time, OAM is also supported by our agency partners, and our continued partnership with DOD has been one of our greatest assets. Through Operation Phalanx, CBP continues to leverage the National Guard air assets to meet CBP's operational needs.

A key element of CBP's border security efforts has been OAM's aviation recapitalization program, which has increased the flexibility and effectiveness of CBP aircraft and air operations in support of Department of Homeland Security and its international, Federal, State, local, and Tribal partners. From fiscal year 2006 through fiscal year 2012, Congress provided CBP with over \$1 billion to accomplish the objectives laid out in our long-range plan to replace/upgrade CBP's aging fleet of aircraft and marine vessels. The fiscal year 2013 President's budget requests an additional \$67 million to continue this recapitalization effort which has enabled OAM to modernize its fleet of aircraft with advanced technology, expanded mission functionality, and improved detection capability.

Another major OAM initiative has been the acquisition of the UAS. As previously mentioned, the UAS provides critical aerial surveillance assistance to personnel on the ground. The unique construction and engine efficiency of the UAS enables OAM to effectively operate the UAS for long durations, up to 20 hours per sortie, allowing OAM to support several geographic areas, customers, and/or mission requirements if required before returning to base. UAS operating along the borders can cover hundreds of miles in a single sortie and provide detailed information on routes transited across the border, allowing the Border Patrol to selectively deploy ground agents to efficiently interdict illicit operations. By leveraging the unique capabilities of the UAS' satellite command-and-control architecture, OAM is able to adjust which ground control station and associated UAS aircrew commands the airborne UAS, transitioning control of the UAS during a single sortie between available ground control stations across the country and allowing quick adjustments for unexpected equipment outages. For example, FEMA uses the unique UAS capabilities to analyze waterways for weaknesses and shifts in support structures. Information both prior to flooding and in response is used by decision makers who need to move assets and personnel to affected areas in a timely manner.

OAM makes efficient use of its staffs' extensive aviation experience by dual-qualifying existing select aircrew to operate both the UAS and other manned aircraft, reducing the amount of aircrew required to stand up and operate a UAS site. For example, OAM placed a ground control station at Naval Air Station Corpus Christi, Texas, where OAM already maintains a squadron of aircrew to operate the CBP P-3 aircraft. By training some of the aircrew to also operate the UAS, CBP was able to place a Predator B aircraft at Corpus without incurring additional manpower requirements to fly the UAS and control its sensors.

Further, in cooperation with the DOD, CBP is working to migrate technology from a wartime mission to a homeland security application, and is currently operationally evaluating the Vehicle and Dismount Exploitation Radar (VaDER) on OAM UAS. Using the latest in radar technologies, VaDER has the ability to monitor vehicle and personnel movement over large areas independent of atmospheric conditions. Airborne testing on the UAS began earlier this year, and we are encouraged by the

results. The capability the UAS offers will drive important changes in the strategies and tactics we use to achieve our border mission.

OAM has additionally partnered with the U.S. Army to acquire new UH-60M Black Hawk medium-lift helicopters, and to convert its aging 16 UH-60A Black Hawks from "Alpha" to "Lima" models. The "Alphas" date back to the 1970s, and were becoming difficult to support, with phased maintenance costs increasing and safety-related structural issues becoming more prevalent. The new and converted Black Hawks offer greater speed and endurance, greater lift capacity, more sophisticated on-board data processing, a four-axis autopilot, altitude hold and an audible altitude alert. These advanced features increase safety for nighttime over-water operations, and make them the ideal platform for confronting border violence and supporting operations in hostile environments. In addition, the Army projects that the converted Black Hawks will cost significantly less to maintain and support over the lifetime of the fleet.

CBP is further maximizing operational effectiveness by replacing multiple aircraft types with a single, newer, more technologically advanced, and versatile airframe. CBP's aging PA-42 Customs High Endurance Tracker (CHET) Air-to-Air Interceptor and the C-12M Maritime Search Aircraft will soon be replaced with a new Multi-role Enforcement Aircraft (MEA). The MEA, equipped with state-of-the-art sensor equipment and satellite communications capabilities, will perform detection, tracking, and surveillance functions during marine, air-to-air, and over-land interdiction missions. The MEA will also be configured with Law Enforcement Technical Collection (LETC) equipment capable of identifying electronic emanations and cueing other air and ground assets towards suspected targets. In its multi-role configuration, the MEA will provide border protection, law enforcement, and rapid response contingency deployment capabilities.

CONCLUSION

Chairwoman Miller, Ranking Member Cuellar, and distinguished Members of the committee, thank you for this opportunity to testify about the work of U.S. Customs and Border Protection, and our efforts in securing our borders. CBP is committed to providing our front-line agents and officers with the tools they need to effectively achieve their primary mission of securing America's borders, and we look forward to continuing to work closely with our Federal, State, local, Tribal, and international partners in these efforts.

We look forward to answering your questions at this time.

Mrs. MILLER. The Chairwoman now recognizes Mr. Vaughan for his testimony.

STATEMENT OF MARTIN E. VAUGHAN, EXECUTIVE DIRECTOR, SOUTHWEST REGION, OFFICE OF AIR AND MARINE, U.S. CUSTOMS & BORDER PROTECTION, U.S. DEPARTMENT OF HOMELAND SECURITY

Mr. VAUGHAN. We submitted a joint statement—I agree with his oral testimony.

Mrs. MILLER. Very well. The Chairwoman now recognizes General Nichols for his testimony.

STATEMENT OF JOHN NICHOLS, ADJUTANT GENERAL, TEXAS NATIONAL GUARD

General NICHOLS. Madame Chairwoman and Ranking Member Cuellar, other distinguished Members, I am here representing the Texas National Guard. I want to begin first by thanking the Congresswoman, Congressman Cuellar, and Congressman McCaul for helping us to attempt to secure the C-130s at the 136th Airlift Wing in Fort Worth.

I want to put a little bit of historical perspective into the border issue. Since 1960, the National Guard has mobilized to help secure the border with Mexico. We have, time and time again, answered your call for ready and trained combat forces in support of the defense of the Nation. As you know, in 1989 the National Defense

Authorization Act created a National Counterdrug Program, which I think gets overlooked when we talk about National defense.

Title 32 section 112 of the U.S. Code of the National Defense Authorization Act authorized up to 4,000 National Guard members back in 1989 to be part of the National Guard Counterdrug Program. But we are in all 54 States and territories. So there are soldiers and airmen in the Joint Counterdrug Task Force with over 200 law enforcement agencies just in Texas alone.

This results in providing a significant contribution to counternarcotic operations along the Texas-Mexico border. Texas doesn't just rely on antidrug programs alone. But we also run operations through the Department of Public Safety, in concert with our Federal, State, and local law enforcement agencies.

Operation Rio Grande, which started back in early 2000, was primarily a law enforcement operation, surging Federal, State, and local law enforcement assets at intelligence-based times and locations. In Operation Border Star, we utilize members of the counterdrug task force with our DPS, work in concert with our friends and neighbors of the Customs and Border Patrol, where we go look forward with the Texas Rangers and conduct missions.

So, it is a team effort. We also bring counterdrug aviation into the fray. One of the very good developments with the new operation, with the helicopters coming to the border, is that we are allowed to continue to use our counterdrug aircraft in a counterdrug role along the borders. So it brings more assets.

Now, there are 12 helicopters on the border, plus two more from the counterdrug program. The counterdrug program is also the folks that help train the forces that came into Texas and showed them the tactics, techniques, and procedures while they are in Texas. Also, we make sure they are good neighbors to our neighbors, to our borders.

Also in June 2006, Operation Jump Start mobilized 6,000 Guardsmen, as you are well aware. Sixteen hundred of those folks were Texas Guardsmen. In 2010, we had asked to provide 1,200 soldiers and airmen. Of that, we got about 289 folks in Texas. We have got over 1,200 miles of border and received less than a quarter of the forces that were requested.

This mission did end, and now we are in the River Watch 2. It has been going on for about a month and, as Secretary Stockton said, I think we still have to analyze this. We are going to develop as we go. We are going to look at our tactics, techniques, and procedures to see how we can refine that. Then we will continue to adapt, both on the air and with our Counterdrug Task Force and with the Customs and Border Patrol.

My concern with the Counterdrug Task Force is, it has been a constant program since 1989 and it has proven results since then. Just in Texas alone, we have been responsible, with only 200 soldiers and airmen responsible and part and parcel interdicting \$54 billion worth of narcotics, drugs, and paraphernalia.

I don't have the National Guard number. We can certainly get that for you, since 1989 has been phenomenal. Last year alone, the whole Nation's counterdrug program interdicted \$18.5 billion, and the year before \$45.5 billion. Our counterdrug programs getting cut 50 percent this year. There is a \$100 million worth of reduction in

the DOD counternarcotics program; \$75 million of it is taken out of the counterdrug program.

That is a reduction of about 1,100 soldiers and airmen. But if you think about the price, for \$75 million is that a cost-effective program that interdicts \$18 billion or \$45 billion? So, if we look at the metrics, I think we could see a direct correlation between those folks working day in and day out in counternarcotics. Then the nexus between narco-terrorism, human trafficking, that these folks work directly with Customs Air and Border Patrol to help interdict.

The National Guard budget went from \$179 million to \$105 million. So, it is about \$74 million less. These operations in counterdrug also support our joint operations information centers throughout Texas. We have 38 analysts in there, with also a group called our Texas State Guard that helps the Customs and Border Patrol folks in our border security operation centers.

So we have a good team going, but I do fear if we lose the counterdrug opportunity, or force, we are going to lose a great opportunity to stop not only drugs coming to America, but those folks who carry the drugs and those coyotes that help them do that.

I thank you again for this opportunity and welcome any questions you may have at this time.

[The statement of General Nichols follows:]

PREPARED STATEMENT OF MAJOR GENERAL JOHN NICHOLS

APRIL 17, 2012

OVERVIEW

Madame Chairwoman, Members of the committee, thank you for inviting me here today. My name is Major General John Nichols, and I am the Adjutant General from the great State of Texas. It is a pleasure to be here providing you information on the Texas National Guard so you can make informed decisions that will strengthen our Nation's military forces and protect our borders and communities.

I want to begin by thanking Congresswoman Jackson Lee and Congressmen McCaul and Cuellar for their support in our fight to keep the C-130s at the 136th Airlift Wing in Ft. Worth. The battle is continuing, but thanks in part to your support, we are making headway.

In times of emergency, the Governor of Texas relies on the 136th Airlift Wing's eight C-130s to protect not only Texans, but all Gulf State citizens. Since 2005, the Texas Air Guard's C-130s have flown 423 storm sorties, delivering 939 tons of needed supplies along the entire Gulf Coast. In addition, the C-130s are the only aircraft that can be called into action by the Governor in a state of emergency, far faster than Federal forces can respond. As a result, Texas was the first to respond and successfully evacuate 800 hospital and nursing home patients during Hurricanes Ike and Gustav.

So again, thank you for helping us keep this issue alive in Washington, DC.

The National Guard is unique in that we are dual-missioned. First, we provide the President and the country with ready and trained combat forces in support of the defense of the Nation. Secondly, we provide the Governor and the citizens of Texas with mission-ready support to civil authorities.

The Texas National Guard has the largest Air and Army Guard force in the country and leads all other States in combat deployments. Since 9/11, we have deployed more than 31,000 soldiers and airmen in support of the Global War on Terror and overseas Contingency Operations. Our National Guard Soldiers and Airmen are on the front lines—at home and abroad—doing everything necessary to defend America and our way of life.

Today, I want to share with you the Texas National Guard's long history fighting the war on drugs. We support the National counter-narcotics fight in Texas with our:

- *Texas National Guard Joint Counterdrug Task Force.*—Authorized by the National Defense Authorization Act in 1989 under Title 32 Section 112 of the U.S. Code, the National Guard Counterdrug Program authorizes up to 4,000 National Guard members to perform drug interdiction and counterdrug activities in all 54 States and territories. The Texas National Guard's Joint Counterdrug Task Force (JCOTF) has provided unsurpassed, enduring, operational, counterdrug support to the combatant commander and the inter-agency enterprise for the past 22 years. The Task Force's highly-skilled soldiers and airmen offer the continuity necessary to foster and maintain positive relationships with over 200 Federal, State, and local drug law enforcement agencies and community-based organizations across the State of Texas, resulting in significant contributions to counter-narcotic operations along the Texas-Mexico border.

The Texas program is currently manned with 145 Army National Guard Soldiers and 70 Air National Guard Airmen, totaling 215 personnel serving on full-time National Guard Duty. These soldiers and airmen are currently assigned to over 70 Federal, State, and local law enforcement agencies and community-based organizations. Sixty-eight percent of the program's strength serves in direct support of Texas-Mexico border law enforcement support operations.

The Texas National Guard Joint Counterdrug Task Force uses a combination of investigative case analytical support and ground and aerial reconnaissance to assist law enforcement agencies in combating transnational threats, narco-terrorism and the direct nexus between drug trafficking, terrorism, and related border violence.

- The program's investigative case analytical support mission provides trained personnel to assist assigned law enforcement agencies in researching and analyzing case information and producing law enforcement intelligence products.
- Ground reconnaissance missions provide area observation of suspected drug activity through both unattended camera support and visual observation posts using night vision and infrared/thermal imagery equipment.
- Aerial reconnaissance missions are supported by both rotary wing and fixed-wing platforms. The Counterdrug Aviation Element accesses six LUH-72's (Lakota) to conduct law enforcement-requested reconnaissance missions.
- Finally, Texas is one of 11 States that share the remaining five RC26, fixed-wing reconnaissance aircraft on a rotational basis.

These combined capabilities have allowed the Texas Joint Counterdrug Task Force to contribute over 2.4 million work days to law enforcement agencies, resulting in drug seizure assists totaling over \$54 billion dollars and the successful interdiction of \$387 million dollars in drug trafficker's cash since the Task Force's inception in 1989.

In addition to the supply reduction and interdiction components of the program, the Joint Counterdrug Task Force has oversight of Texas National Guard Youth Programs in the State and provides critical drug demand reduction, civil operation support, and coalition-building services to schools and community-based organizations throughout Texas. In fiscal year 2011, the program's drug demand reduction team conducted educational presentations that reached more than 110,000 Texas middle school students and supported the State's "Red Ribbon Campaign," encouraging drug-free lifestyles.

The Texas Counterdrug Program also facilitates an extremely successful at-risk drug prevention youth program. Our Texas ChalleNGe Academy, located in Sheffield, Texas, operates a dynamic in-residence academy aimed at intervening in and reclaiming the lives of high school dropouts between the ages of 16 and 18. The academy produces graduates with the values, life skills, education, and self-discipline necessary to succeed as productive citizens. To date, more than 2,000 at-risk Texas youth have completed the ChalleNGe Academy.

Our second Counter Drug youth program, called STARBASE, short for Science and Technology Academies Reinforcing Basic Aviation and Space Exploration, is a National Guard program designed to expose 5th graders to math applications through projects, simulations, and experiments in aviation and space-related fields. STARBASE, a Science, Technology, Engineering, and Math program, commonly called STEM, and has conducted more than 450 classes and graduated nearly 15,000 students in the past 15 years. The program currently serves more than 30 schools and is 100% Federally-funded.

These are just a few examples of National Guard programs that have a positive impact on our communities. I'd like to transition now to discussing the fiscal year 2013 budget.

According to the President's fiscal year 2013 budget request, the Department of Defense Counter Narcotics budget of \$1.1 billion represents a loss of \$100 million in OCONUS and CONUS drug interdiction activities. Seventy-five million dollars of the \$100 million reduction is projected to come out of the National Guard

Counterdrug State Plans budget. This \$75 million reduction represents a 42% loss of the National Guard's fiscal year 2012 President's budget of \$179 million. The Department of Defense's support to the National Guard Counterdrug program has decreased from 27% of the Department's counter-narcotic budget in 2003, to 24% in 2012, to a dramatic drop to 9% projected for 2013. This reduction will essentially cripple the Guard's ability to support its Congressionally-mandated mission in support of the National Drug Control Strategy. Projected reduction in funding will result in over 1,100 fewer Guardsmen across all 54 States and territories. This reduction translates to approximately 4,100 fewer missions and 4,000 fewer flying hours supporting counternarcotic operations against the robust, continuously adapting, organized drug cartels and transnational criminal organizations aiming to exploit American borders and communities.

The impact to the Texas Joint Counterdrug Task Force and its 1,265 miles of Texas-Mexico border is devastating and will result in a reduction in force from 215 to 115 personnel on orders. Approximately 10% of the program's soldiers and airmen are currently deployed OCONUS in support of OEF and other overseas contingency operations, and because of their junior status with the Texas Joint Counterdrug Task Force, these members will not have a full-time job to return to upon demobilization.

The impact to Texas law enforcement agencies is profound:

- Reduction from 215 to 115 soldiers and/or airmen on orders;
- 100 soldiers/airmen lost = 42% reduction in strength;
 - 50 Investigative Analysts Lost = reduction from 38,687 man-days provided to LEAs in to 21,664 man-days provided;
 - 18 Special Operations Personnel Lost = reduction from 78,640 hours of ground surveillance conducted to 44,038 hrs of ground surveillance conducted;
 - Six Counterdrug Aviation Element Aviators Lost = reduction from 1,273 aerial surveillance hours flown to 712 aerial surveillance hours flown;
- 19 HQ Staff Lost;
 - Seven Drug Demand Reduction/Civil Ops Lost = reduction from 107,000 youth reached to 59,920 youth reached; and
- Reduction from \$981 million in seizure assists to \$549 million total seizure assists.

At this time, I would like to give you some specific background on the Texas National Guard's operations along the Texas-Mexico border not involving the Texas Joint Counterdrug Task Force.

TEXAS BORDER OPERATIONS—HISTORICAL PERSPECTIVE

Texas has a total area of over 266,000 square miles and is the second-largest State in the union and the second-largest in population with a total population of over 25 million (25,145,561). Texas shares a 1,241-mile international border with Mexico, with 26 border crossings and 26 official land, sea, and air ports of entry within the State, all of which have the potential to contribute to threats to United States security.

TEXAS BORDER OPERATIONS

Most recently, the Texas National Guard has assisted in border security since 2006. In March of that year, the State of Texas established the Border Security Operation Center and initiated Operation Rio Grande in response to border-related crime, including narcotics and human trafficking, as well as crime committed by undocumented aliens and smugglers. Operation Rio Grande was primarily a law enforcement operation, surging Federal, State, and local law enforcement assets at intelligence-based times and locations. This multi-agency effort included U.S. Border Patrol, the Texas Department of Public Safety, the Texas Parks and Wildlife Game Wardens, and local police departments and sheriff's offices, with the goals of deterring, disrupting, and disorganizing illegal activity. The Texas National Guard provided planning support during the initial five operations, one in each Customs and Border Protection sector in Texas. These operations lasted approximately 2 weeks each, from June–September in 2006.

In January 2007, Operation Rio Grande transitioned to Operation Wrangler. The State of Texas opened eleven Joint Operations and Intelligence Centers, one in each of the five CBP sectors, one covering the south Texas coast, and five covering major movement corridors. These JOICs serve as regional multi-agency planning, synchronization, and criminal information centers. The Texas National Guard provides personnel, in a State Active Duty status, to these JOICs, providing administrative and analytical support. During Operation Wrangler I, from January 22–29, 2007, Federal, State, and local law enforcement conducted surge operations along the entire

Texas-Mexico border. The Texas National Guard provided an additional 350 personnel, in State Active Duty status, to augment law enforcement efforts. This mission now has transitioned into Operation Border Star. The Texas National Guard currently has 38 personnel supporting six JOICs on this mission, as well as the Joint Counterdrug Task Force.

OPERATION JUMP START

In May 2006, President Bush announced the deployment of 6,000 National Guard personnel to provide support to U.S. Customs and Border Protection. Operation Jump Start was a 2-year, \$1.2 billion mission that ran from June 2006 through July 2008. Operation Jump Start augmented the U.S. Border Patrol with additional manpower for administrative and operational assistance missions, alleviating Border Patrol agents of these responsibilities and allowing those agents to be sent back out to the field where they were needed most. At its peak, the Texas National Guard deployed 1,900 personnel for Operation Jump Start.

DHS OPERATION PHALANX

On May 25, 2010, the President directed the temporary use of up to 1,200 National Guard personnel on the Southwest Border to support the Department of Homeland Security (DHS) activities. From October 1, 2010, through February 29, 2012, the Texas National Guard provided 286 personnel. In Texas, we called this mission Operation River Watch. Operation River Watch supported both Customs and Border Protection and Immigration and Customs Enforcement by supporting two key mission sets, Entry Identification, and Criminal Analysis. Additionally, the Texas National Guard provided a joint, 13 personnel Command and Control Cell.

Funding for the first year of support to Operation Phalanx was initially programmed for \$135 million. With careful execution of this funding, it was reduced to \$110 million. On December 15, 2011, the Secretary of Defense extended the EIT mission through the end of February and established the requirement for the Aerial Detection and Monitoring mission beginning not later than March 1, 2012. The budget for calendar year 2012, covering the last 2 months of Operation River Watch I and 10 months of Operation River Watch II, is \$60 million, a significant cost saving to the U.S. taxpayer.

In Texas, the Texas National Guard provided 246 personnel for Entry Identification Teams, or EITs, supporting Customs and Border Protection. At the request of CBP, this support was focused on three U.S. Border Patrol stations in the Rio Grande Valley sector: Rio Grande City, McAllen, and Weslaco. We provided one Texas Army National Guard company, each with 82 personnel, to each station. These personnel were fully integrated with U.S. Border Patrol and attended USBP Roll Call and shift briefings. The personnel and positioning was scheduled with their USBP counterparts. Our guardsmen were armed, but only for self-defense. They were trained extensively on the Rules for the Use of Force. These forces occupied highly overt positions, 24 hours a day, 7 days a week. The majority of these positions employed a Mobile Surveillance System, either a Scope Truck with an elevated camera, or a Sky Box, an elevated observation platform. Over the 17 months of Operation River Watch, these three companies were credited with assisting U.S. Border Patrol by observing 8,112 undocumented aliens, which led to 4,030 apprehensions and 3,417 aliens who turned back to Mexico prior to apprehension. The companies were also credited with the seizure of 17,665 lbs. of marijuana.

In the other key mission set, supporting Immigration and Customs Enforcement, the Texas National Guard provided 27 Criminal Analysts from both the Texas Army and Air National Guard in ten different locations throughout Texas, including the border area. All of these personnel maintained a Secret security clearance and assisted ICE in over 350 different Homeland Security Investigations, including: Immigration crime; human rights violations; human smuggling; smuggling of narcotics, weapons and other types of contraband; financial crimes; cybercrime; and export enforcement issues.

Operation River Watch was originally scheduled to end on June 30, 2011, but was extended three times. The first extension included the last quarter of fiscal year 2011 and the second extension included the first quarter of fiscal year 2012. The third extension completed the mission, and included January and February 2012.

In December 2011, the Department of Defense announced that not later than March 1, 2012, the National Guard personnel supporting DHS would be reduced from 1,200 to no more than 300 personnel. The mission sets changed as well. In addition to continuing the Criminal Analysis mission, the National Guard would transition from a ground-observation mission to an aerial detection and monitoring mission. Currently, the Texas National Guard Commander of Domestic Operations

is in overall command of 101 personnel conducting both rotary wing and fixed-wing aerial detection and monitoring to Customs and Border Protection, 15 personnel providing Criminal Analysis to Immigration and Customs Enforcement, and 11 personnel providing liaison and life support.

The Texas portion of this mission is known as Operation River Watch II. Texas has received a great deal of support with this mission. One of the planning factors was to sustain Texas' National Guard Joint Counterdrug Task Force capability by not using the task force as a force provider for Operation River Watch II. With the pending OCONUS deployment of a significant portion of the 36th Combat Aviation Brigade from the Texas Army National Guard, Texas has required support from over 10 States and territories to fill the aerial requirements. This effort is lead by the 2-151 Security and Support Aviation Battalion from the South Carolina Army National Guard, as the command element of Joint Task Force Liberty.

On March 1, 2012, Joint Task Force Liberty commenced operations supporting the U.S. Department of Homeland Security. The mission is to conduct aerial detection and monitoring in order to detect, interdict, and disrupt Terrorist Criminal Organizations/Drug Trafficking Organizations along the Texas-Mexico border through December 31, 2012. The intent of JTF Liberty is to augment Customs Border Protection operations. The presence of JTF Liberty allows the National Guard to support DHS with air mobile assets that can quickly match the dynamic environment of the border. This provides a significant enhancement in the ability to detect and deter illegal activity at the border and offers greater support to the thousands of men and women involved in border security.

JTF Liberty's area of responsibility spans over 200 miles of border, from the Gulf Coast to an area northwest of Laredo, incorporating both the Rio Grande Valley and Laredo sectors. The unit employs both Army and Air Guardsmen in Title 32 status in the command and control, operation, and maintenance of twelve UH-72A Lakota and one RC-26B aircraft. The JTF is committed to providing CBP with 640 rotary wing and 200 fixed-wing flight hours per month.

The Task Force is working closely with all stakeholders to better integrate efforts and resources. Through interagency collaboration, greater information sharing is emerging, enabling the employment of assets in a more deliberate manner with increased effectiveness. Development of techniques, tactics, and procedures, especially utilizing the UH-72A Mission Equipment Package, is on-going with demonstrated efficiency.

Since commencement of operations, Joint Task Force Liberty has executed a total of 1,073 flight hours, including 947 UH-72A hours and 126 RC-26B hours as of April 6, 2012. Additionally, in just over 1 month of operations, the Task Force was credited by CBP in assisting with 1,980 undocumented alien observations, 1,144 apprehensions, 689 turn-backs, 25 alien smuggling cases, and the seizure of 4,508 lbs. of marijuana.

Because of our long-standing successful partnerships and interaction with the Texas Department of Public Safety and the local and Federal law enforcement agencies along the border over the past 22 years, we want to further that success and increase our capabilities by establishing a Joint Interagency Training Center in South Texas. We are exploring the options with assistance from Congressman Cuellar to help us find suitable land. If the State can acquire the available land, then the Texas National Guard can work with Federally-funded agencies, such as the Department of Homeland Security, Customs and Border Patrol and DOD, to build facilities that all agencies can utilize for training. Our collaboration will ensure greater capabilities for all of our border operations. A facility like this does not exist anywhere along the Texas-Mexico border. We feel this is the essential next step in training and operations in such a vital area for the safety and security of America.

The National Guard in a Title 32 status is the only DoD provider capable of supporting domestic law enforcement agencies in the fight against illicit drugs and transnational threats to the homeland due to its exemption from the Posse Comitatus Act (18 USC Sec 1385). Congress has repeatedly demonstrated its recognition of both the capabilities and efficiencies that the National Guard brings to the counterdrug fight while simultaneously providing training and operational experience for Guard personnel. A key consequence of having these soldiers and airmen working with and standing by law enforcement is that they not only use and hone their military specialized skills, but they also gain additional skills by working with Federal, State, and local law enforcement and other community organizations. This makes them better soldiers and airmen and improves their units when they are mo-

bilized for overseas deployments to fight wars in Iraq, Afghanistan, and areas such as the Horn of Africa.

I hope I have done an adequate job of briefing you on a general overview of what the Texas National Guard does for our State and our country. The Texas National Guard is battle-ready, accessible, flexible, affordable, and a sustainable military force. Unlike our active-duty counterparts, Texas Guard members live and serve in each of Texas' 254 counties. We have over 100 facilities in 65 counties. This connection with every community is an incalculable advantage to State and National security. With Air and Army National Guard units in every corner of our State, our Governor has the capacity to quickly tailor and employ multi-service solutions to the full spectrum of domestic operations including to State emergencies, a need that is imperative in a State of our size.

Thank you all for the opportunity to appear before you today. The Texas National Guard will continue to support the President of the United States and the Governor of Texas and work to keep Texans safe by ensuring our readiness at the time of need.

Mrs. MILLER. Thank you very much, General.

The Chairwoman now recognizes Mr. Lepore for his testimony.

STATEMENT OF BRIAN J. LEPORE, DIRECTOR, DEFENSE CAPABILITIES AND MANAGEMENT, U.S. GOVERNMENT ACCOUNTABILITY OFFICE

Mr. LEPORE. Thank you, Madam Chairwoman. Chairman Miller, Ranking Member Cuellar, and Members of the subcommittee, thank you for the opportunity to be here today to present our observations on the costs and benefits of an increased role of the DOD in helping to secure the Southwest Border.

We reported our observations this past September. My testimony is based on our report, and I will make three points today. First, I will discuss some of the costs, benefits, and challenges of a DOD role in helping to secure the Southwest Border. Second, I will identify challenges associated from increased use of unmanned aerial systems and manned aircrafts along the border for this purpose. Finally, some considerations from assigning an increase in border security responsibilities to DOD.

Now my first point. The cost and benefits of an increased role for DOD. The DOD reported that it spent about \$1.35 billion for two separate border operations—Operation Jump Start and Operation Phalanx—conducted by National Guard forces in Title 32 status from June 2006 to July 2008, and again from June 2010 through September 30, 2011, respectively.

Here are some of the factors that help explain those costs. In Title 32 status, the key factor is whether in-State or out-of-State Guard forces are used, since out-of-State Guard forces can cost more due to the need for transportation. The ratio of officers to enlisted personnel, the nature and duration of the mission, and the types of equipment used can all affect the cost. If the Guard is prohibited from conducting law enforcement activities and does mobile patrols, the cost can be higher.

Here is why. DOD forces generally do patrols in pairs, but the Border Patrol often doesn't. Also, since the guards could not make arrests when engaging in support to law enforcement, they still need to call in the Border Patrol if the guard observed a person of interest.

Now, some of the benefits. They can be thought of in two ways. First, it benefits the border security from the Guard's patrols. Second, it benefits the members of the Guard itself or the Border Pa-

trol from the mission. Here are some of the border security benefits from Operations Jump Start and Phalanx.

The Border Patrol reported the National Guard helped to apprehend over 200,000 undocumented aliens under two operations. The Guard helped to seize almost 373,000 pounds of marijuana and the Guard helped to deter illegal activity at the border.

Here are some of the benefits to the Guard for the Border Patrol. DOD assistance provided a bridge or augmentation until newly-hired Border Patrol agents were trained and deployed. The Guard realized the training benefit from operating in environments similar to that experienced in overseas theaters of operations. It enhanced relationships with law enforcement agencies, and strengthened military-to-military relationships with Mexico's forces.

Now some of the challenges for using DOD forces in Southwest Border security. The Secretary of Defense did not want Title 32 Guard forces to make arrests so the Border Patrol had to be called in when arrests were needed. The use of out-of-State Guardsmen for long-term missions in an involuntary status can hurt recruitment and retention.

Customs and Border Protection officials noted the temporary nature of guard availability for border security makes it hard to include the Guard in a strategic border security plan. That is because the Guard has other missions, such as the disaster assistance, and may not be available when needed.

Now I will return to second point. Some benefits and challenges from increased air coverage along the border. Some benefits from an unmanned aerial vehicles include improved coverage along remote sections of the border; more precisely, real-time imagery and longer mission duration since a Predator Bee, for example, can fly up to 30 hours without landing to change pilots.

However, there are some challenges, too, such as limited availability when the vehicles are being used overseas by DOD, and limited access to National airspace due to concerns about the ability of unmanned vehicles to sense and avoid other aircraft in flight.

On the other hand, manned aircraft may cost more to fly, but have more immediate access to National airspace, since on-board pilots, in fact, can sense and avoid other aircraft in flight. It is important to note, DOD told us they did not actually use unmanned aerial systems for border security in the two operations because the systems were deployed overseas at that time.

Now my final point. Some things you may wish to keep in mind if DOD's participation in border security is to be expanded. DOD officials were concerned about the absence of a comprehensive border security strategy. So they felt it was harder to plan DOD's role. Department of Homeland Security officials were concerned that DOD forces are not always available, since they have other operational requirements. The border needs continuous security.

Department of State and DOD officials were concerned about creating a perception of a militarized U.S. border with Mexico, and Federal Aviation Administration officials are concerned about airspace safety due to concerns about the ability of the unmanned systems to detect and avoid other aircraft. Thus it might be prudent to consider these issues if there is to an expanded border security mission for DOD.

Madam Chairwoman, this concludes my prepared remarks. I would be happy to answer any question that you or the other Members of the subcommittee may have.

[The statement of Mr. Lepore follows:]

PREPARED STATEMENT OF BRIAN J. LEPORE

APRIL 17, 2012

GAO HIGHLIGHTS

Highlights of GAO-12-657T, a testimony before the Subcommittee on Border and Maritime Security, House Committee on Homeland Security.

Why GAO Did This Study

DHS reports that the Southwest Border continues to be vulnerable to cross-border illegal activity, including the smuggling of humans and illegal narcotics. Several Federal agencies are involved in border security efforts, including DHS, DOD, Justice, and State. In recent years, the National Guard has played a role in helping to secure the southwest land border by providing the Border Patrol with information on the identification of individuals attempting to cross the Southwest land border into the United States. Generally, the National Guard can operate in three different statuses: (1) State status—State-funded under the command and control of the Governor; (2) Title 32 status—Federally funded under command and control of the Governor; and (3) Title 10 status—Federally funded under command and control of the Secretary of Defense.

This testimony discusses: (1) The costs and benefits of a DOD role to help secure the southwest land border, including the deployment of the National Guard, other DOD personnel, or additional units; (2) the challenges of a DOD role at the southwest land border; and (3) considerations of an increased DOD role to help secure the southwest land border.

The information in this testimony is based on work completed in September 2011, which focused on the costs and benefits of an increased role of DOD at the southwest land border. See *Observations on the Costs and Benefits of an Increased Department of Defense Role in Helping to Secure the Southwest Land Border*, GAO-11-856R (Washington, DC: Sept. 12, 2011).

BORDER SECURITY.—OBSERVATIONS ON COSTS, BENEFITS, AND CHALLENGES OF A DEPARTMENT OF DEFENSE ROLE IN HELPING TO SECURE THE SOUTHWEST LAND BORDER

What GAO Found

The National Defense Authorization Act for Fiscal Year 2011 mandated that GAO examine the costs and benefits of an increased Department of Defense (DOD) role to help secure the southwest land border. This mandate directed that GAO report on, among other things, the potential deployment of additional units, increased use of ground-based mobile surveillance systems, use of mobile patrols by military personnel, and an increased deployment of unmanned aerial systems and manned aircraft in National airspace. In September 2011, GAO reported that DOD estimated a total cost of about \$1.35 billion for two separate border operations—Operation Jump Start and Operation Phalanx—conducted by National Guard forces in Title 32 status from June 2006 to July 2008 and from June 2010 through September 30, 2011, respectively. Further, DOD estimated that it has cost about \$10 million each year since 1989 to use active duty Title 10 forces Nation-wide, through its Joint Task Force—North, in support of drug law enforcement agencies with some additional operational costs borne by the military services. Agency officials stated multiple benefits from DOD's increased border role, such as assistance to the Department of Homeland Security (DHS) Border Patrol until newly-hired Border Patrol agents are trained and deployed to the border; providing DOD personnel with training opportunities in a geographic environment similar to current combat theaters; contributing to apprehensions and seizures and deterring other illegal activity along the border; building relationships with law enforcement agencies; and strengthening military-to-military relationships with forces from Mexico.

GAO found challenges for the National Guard and for active-duty military forces in providing support to law enforcement missions. For example, under Title 32 of the United States Code, National Guard personnel are permitted to participate in law enforcement activities; however, the Secretary of Defense has precluded National Guard forces from making arrests while performing border missions because of concerns raised about militarizing the U.S. border. As a result, all arrests and

seizures at the Southwest Border are performed by the Border Patrol. Further, DOD officials cited restraints on the direct use of active duty forces, operating under Title 10 of the United States Code in domestic civilian law enforcement, set out in the Posse Comitatus Act of 1878. In addition, GAO has reported on the varied availability of DOD units to support law enforcement missions, such as some units being regularly available while other units (e.g., ground-based surveillance teams) may be deployed abroad—making it more difficult to fulfill law enforcement requests.

Federal officials stated a number of broad issues and concerns regarding any additional DOD assistance in securing the Southwest Border. DOD officials expressed concerns about the absence of a comprehensive strategy for Southwest Border security and the resulting challenges to identify and plan a DOD role. DHS officials expressed concerns that DOD's border assistance is ad hoc in that DOD has other operational requirements. DOD assists when legal authorities allow and resources are available, whereas DHS has a continuous mission to ensure border security. Further, Department of State and DOD officials expressed concerns about the perception of a militarized U.S. border with Mexico, especially when Department of State and Justice officials are helping civilian law enforcement institutions in Mexico on border issues.

Chairman Miller, Ranking Member Cuellar, and Members of the subcommittee: I am pleased to be here today to discuss our observations on the costs, benefits, and challenges of a Department of Defense (DOD) role in helping to secure the southwest land border. The Department of Homeland Security (DHS) reports that the Southwest Border continues to be vulnerable to cross-border illegal activity, including the smuggling of humans and illegal narcotics. Several Federal agencies are involved in border security efforts, including the Departments of Homeland Security, Defense, Justice, and State. In recent years, the National Guard has played a role in helping to secure the southwest land border by providing the Border Patrol with information on the identification of individuals attempting to cross the southwest land border into the United States. Last year, we reported to the Senate and House Armed Services Committees our observations on the use of the National Guard and active duty forces to help secure the southwest land border of the United States as directed by the Ike Skelton National Defense Authorization Act for Fiscal Year 2011.¹

My statement today is based on our work conducted in 2011 and will examine: (1) The costs and benefits of a DOD role to help secure the southwest land border, including the deployment of the National Guard, other DOD personnel, or additional units; (2) the challenges associated with a DOD role at the southwest land border; and (3) considerations of an increased DOD role to help secure the southwest land border.

To conduct this work, we reviewed our previous assessments of southwest land border security and key documents related specifically to DOD efforts at the southwest land border, such as the legal authorities governing military forces operating under State, Title 32, and Title 10 status; the cost and benefits of recent efforts by DOD to assist DHS, including Operation Jump Start (2006–2008) and Operation Phalanx (2010–2011); DOD after-action reports and evaluations related to recent DOD efforts to support law enforcement efforts at the southwest land border; strategic and operational plans, and guidance related to addressing security concerns at the southwest land border; funding and cost data and sources of funding related to the deployment of DOD personnel, equipment, unmanned aerial systems, and manned surveillance aircraft; and other key documents.

In addition, to better understand the cost, benefits, and challenges of a DOD role in helping to secure the southwest land border, we met with and interviewed officials from DOD, including the Office of the Secretary of Defense, military services, National Guard Bureau, U.S. Northern Command, U.S. Army North, and Joint Task Force—North. Further, to distinguish the impact of an increased DOD role in helping to secure the border, we spoke with officials from DHS, Customs and Border Protection (CBP) (including U.S. Border Patrol, Office of Air and Marine); the Department of Transportation, Federal Aviation Administration; and the Department of State, including the Bureau of International Narcotics and Law Enforcement Affairs and Office of Mexican Affairs.

We performed the work on which this testimony is based in accordance with generally accepted Government auditing standards. Additional information on our scope and methodology can be found in the published report.

¹ See Pub. L. No. 111–383, §1057 (2011) for the mandate directing our review as well as GAO, *Observations on the Costs and Benefits of an Increased Department of Defense Role in Helping to Secure the Southwest Land Border*, GAO–11–856R (Washington, DC: Sept. 12, 2011).

BACKGROUND

National Guard

The National Guard, with its dual Federal and State roles, has been in demand to meet both overseas operations and homeland security requirements. Over the last decade the National Guard has experienced the largest activation of its forces since World War II. At the same time, the Guard's domestic activities have expanded from routine duties, such as responding to hurricanes, to include activities such as helping to secure U.S. borders. Generally, the National Guard can operate in three different statuses: (1) State status—State-funded under the command and control of the Governor; (2) Title 32 status—Federally-funded under command and control of the Governor (Title 32 forces may participate in law enforcement activities); and (3) Title 10 status—Federally-funded under command and control of the Secretary of Defense. Forces serving in Title 10 status are generally prohibited from direct participation in law enforcement activities, without proper statutory authorization, but may work to support civilian law enforcement. Although National Guard forces working in support of law enforcement at the southwest land border have been activated under Title 32, the Secretary of Defense has limited their activities with regard to law enforcement. Specifically, these National Guard forces are not to make arrests. Since 2006, the National Guard has supported DHS's border security mission in the four Southwest Border States (California, Arizona, New Mexico, and Texas) through two missions:

- Operation Jump Start (June 2006–July 2008) involved volunteers from the border States and from outside the border States; its mission included aviation, engineering, and entry identification, among others, according to National Guard officials.
- Operation Phalanx (July 2010–September 30, 2011) involved volunteer units and in-State units. The Secretary of Defense limited the National Guard mission to entry identification, criminal analysis, and command and control, according to National Guard officials.

Active Duty Military Forces

In addition to the National Guard, DOD provided support at the southwest land border with active duty military forces operating in Title 10 status. While active duty forces are normally prohibited from direct participation in law enforcement, Congress has at times authorized it. For example, §1004 of the National Defense Authorization Act for Fiscal Year 1991, as amended, allows the Secretary of Defense to provide support for the counterdrug activities of any other department or agency of the Federal Government or of any State, local, or foreign law enforcement agency if certain criteria, set out in the statute, are met.

COSTS AND BENEFITS OF A DOD ROLE IN HELPING TO SECURE THE SOUTHWEST LAND BORDER

Various factors influence the cost of a DOD role at the southwest land border, such as the scope and duration of the mission. Federal agency officials have cited a variety of benefits from having a DOD role at the southwest land border.

Factors that Affect the Cost of a DOD Role at the Southwest Land Border

The National Defense Authorization Act for Fiscal Year 2011 mandated that we examine the costs and benefits of an increased DOD role to help secure the southwest land border. This mandate directed that we report on a number of steps that could be taken that might improve security on the border, including the potential deployment of additional units, increased use of ground-based mobile surveillance systems, use of mobile patrols by military personnel, and an increased deployment of unmanned aerial systems and manned aircraft to provide surveillance of the southern land border of the United States.² In September 2011, we reported that DOD estimated a total cost of about \$1.35 billion for two separate border operations—Operation Jump Start and Operation Phalanx—conducted by the National Guard forces in Title 32 status from June 2006 to July 2008 and from June 2010 through September 30, 2011, respectively. Further, DOD estimated that it has cost about \$10 million each year since 1989 to use active duty Title 10 forces Nationwide, through its Joint Task Force—North, in support of drug law enforcement agencies with some additional operational costs borne by the military services.³

²See GAO-11-856R.

³The Deputy Assistant Secretary of Defense for Counternarcotics receives about \$1.1 billion annually for counternarcotics efforts, of which about \$10 million goes towards law enforcement mission support needs Nationwide, according to DOD officials.

As we considered the various steps we were directed to address in our report, we found that the factors that may affect the cost of a DOD effort are largely determined by the legal status and the mission of military personnel being used, specifically whether personnel are responding under Title 32 or Title 10 (Federal status) of the United States Code. For example, in considering the deployment of additional units, if National Guard forces were to be used in Title 32 status, then the factors that may impact the cost include whether in-State or out-of-State personnel are used, the number of personnel, duration of the mission, ratio of officers to enlisted personnel, and equipment and transportation needs. The costs of National Guard forces working at the border in Title 32 status can also be impacted by specific missions. For example, DOD officials told us that if National Guardsmen were assigned a mission to conduct mobile patrols, then they would be required to work in pairs and would only be able to perform part of the mission (i.e., to identify persons of interest). They would then have to contact the Border Patrol to make possible arrests or seizures because the Secretary of Defense has precluded National Guardsmen from making arrests or seizures during border security missions. Border Patrol agents, however, may individually conduct the full range of these activities, thus making the use of Border Patrol agents for these activities more efficient.

At the time of our review, Title 10 active-duty military forces were being used for missions on the border, and cost factors were limited primarily to situations whereby DOD may provide military support to law enforcement agencies for counternarcotic operations. Support can include direct funding, military personnel, and equipment. With the estimated \$10 million that DOD spends each year for Title 10 active-duty forces in support of drug law enforcement agencies Nation-wide, DOD is able—through its Joint Task Force—North—to support approximately 80 of about 400 requests per year for law enforcement assistance. These funds have been used for activities in support of law enforcement such as operations, engineering support, and mobile training teams. For example, DOD was able to provide some funding for DOD engineering units that constructed roads at the border. While DOD provided the manpower and equipment, CBP provided the materials. In addition, DOD was able to provide some funding for DOD units that provided operational support (e.g., ground-based mobile surveillance unit) to law enforcement missions.

We also reported on the cost factors related to deploying manned aircraft and unmanned aerial systems. DOD officials did not report any use of unmanned aerial systems for border security missions because these systems were deployed abroad. DOD officials, however, did provide us with cost factors for the Predator and Reaper unmanned aerial systems. Specifically, in fiscal year 2011, the DOD Comptroller reported that a Predator and a Reaper cost \$859 and \$1,456 per flight hour, respectively. DOD uses maintenance costs, asset utilization costs, and military personnel costs to calculate these figures. In addition, DOD officials identified other factors that may impact operating costs of unmanned aerial systems, including transportation for personnel and equipment, rental or lease for hanger space, and mission requirements.

With regard to manned aircraft, DOD provided cost factors for a Black Hawk helicopter and a C-12 aircraft, which were comparable to the type of rotary and fixed-wing aircraft used by DHS. For example, in fiscal year 2011, DOD reported that a Black Hawk helicopter and a C-12 aircraft cost \$5,897 and \$1,370 per flight hour, respectively. DOD uses maintenance costs, asset utilization costs, and military personnel costs to develop their flight-hour estimates. Furthermore, according to DOD officials, in fiscal year 2011, DOD contracted for a Cessna aircraft with a forward-looking infrared sensor (known as the Big Miguel Program), which costs \$1.2 million per year and assisted at the southwest land border.

Federal Officials See Some Benefits of a DOD Role in Helping to Secure the Border

Federal officials cited a variety of benefits from a DOD role to help secure the southwest land border. For example, DOD assistance has: (1) Provided a bridge or augmentation until newly hired Border Patrol agents are trained and deployed to the border; (2) provided training opportunities for military personnel in a geographic environment similar to combat theaters abroad; (3) contributed to apprehensions and seizures made by Border Patrol along the border; (4) deterred illegal activity at the border; (5) built relationships with law enforcement agencies; and (6) maintained and strengthened military-to-military relationships with forces from Mexico. Specifically with regard to Operation Jump Start (June 2006–July 2008), CBP officials reported that the National Guard assisted in the apprehension of 186,814 undocumented aliens, and in the seizure of 316,364 pounds of marijuana, among other categories of assistance, including rescues of persons in distress and the seizure of illicit currency. Based on these reported figures, the National Guard assisted in 11.7 percent of all undocumented alien apprehensions and 9.4 percent of all marijuana

seized on the southwest land border.⁴ During the National Guard's Operation Phalanx (July 2010–June 30, 2011), CBP reported that as of May 31, 2011, the National Guard assisted in the apprehension of 17,887 undocumented aliens and the seizure of 56,342 pounds of marijuana. Based on these reported figures, the National Guard assisted in 5.9 percent of all undocumented alien apprehensions and 2.6 percent of all marijuana seized on the southwest land border. In fiscal year 2010, active duty military forces (Title 10), through Joint Task Force—North, conducted 79 missions with 842 DOD personnel in support of law enforcement and assisted in the seizure of about 17,935 pounds of marijuana, assisted in the apprehension of 3,865 undocumented aliens, and constructed 17.26 miles of road, according to DOD officials.⁵

With regard to unmanned aerial systems at the time of our report, DOD had fewer systems available, since they were deployed to missions abroad, including operations in Afghanistan, Iraq, and elsewhere.

Moreover, DOD's access to the National airspace is constrained given the safety concerns about unmanned aerial systems raised by the Federal Aviation Administration, specifically the ability of the unmanned aerial system to detect, sense, and avoid an aircraft in flight. We also reported that, conversely, pilots of manned aircraft have the ability to see and avoid other aircraft, and thus may have more routine access to the National airspace. Further, DOD reports that manned aircraft are effective in the apprehension of undocumented aliens. For example, during fiscal year 2011, DOD leased a manned Cessna aircraft (the Big Miguel Program) that was used to assist in the apprehension of at least 6,500 undocumented aliens and the seizure of \$54 million in marijuana, as reported to DOD by DHS.

CHALLENGES OF A DOD ROLE IN HELPING TO SECURE THE SOUTHWEST LAND BORDER

A number of challenges exist for both the National Guard and for active-duty military forces in providing support to law enforcement missions on the southwest land border.

National Guard

National Guard personnel involved in activities on the border have been under the command and control of the Governors of the Southwest Border States and have received Federal funding in Title 32 status. In this status, National Guard personnel are permitted to participate in law enforcement activities; however, the Secretary of Defense has limited their activities, which has resulted in the inability of the National Guard units to make arrests while performing border security missions. The National Guard mission limitations are based in part on concerns raised by both DOD and National Guard officials that civilians may not distinguish between Guardsmen and active-duty military personnel in uniform, which may lead to the perception that the border is militarized. Therefore, all arrests and seizures at the southwest land border are performed by the Border Patrol.

Additionally, we found that the temporary use of the National Guard to help secure the border may give rise to additional challenges. For example, we reported that the use of out-of-State Guardsmen for long-term missions in an involuntary status may have an adverse effect on future National Guard recruitment and retention, according to National Guard officials. Finally, CBP officials noted that the temporary nature of National Guard duty at the border could impact long-term border security planning. These impacts are due to difficulties of incorporating the National Guard into a strategic border security plan, given the variety and number of missions that the National Guard is responsible for, including disaster assistance.

Active Duty Military Forces

In meeting with DOD officials, we heard of multiple challenges to providing support to law enforcement missions. Specifically, there are legal restraints and other challenges that active duty forces must be mindful of when providing assistance to civilian law enforcement. For example, the 1878 Posse Comitatus Act, 18 U.S.C. §1385, prohibits the direct use of Title 10 (Federal) forces in domestic civilian law enforcement, except where authorized by the Constitution or an act of Congress.

⁴The official start date for Operation Jump Start was June 15, 2006, and the official end date was July 15, 2008. Data from CBP is reported monthly, and as the beginning and end dates of Operation Jump Start fell in the middle of the calendar month, for the purposes of this analysis, the 24-month period analyzed was July 2006 (the first full month of the mission) through June 2008 (the last full month of the mission).

⁵Statistics on apprehension and seizure amounts were provided to DOD by CBP. DOD does not independently collect information on apprehensions and seizures, since DOD is not involved in those aspects of the law enforcement mission.

However, Congress has authorized military support to law enforcement agencies in specific situations such as support for the counterdrug activities of other agencies.⁶

DOD further clarifies restrictions on direct assistance to law enforcement with its guidance setting out the approval process for Title 10 forces providing operational support for counternarcotic law enforcement missions.⁷ The request of law enforcement agencies for support must meet a number of criteria, including that the mission must:

- Have a valid counterdrug nexus.
- Have a proper request from law enforcement (the request must come from an appropriate official, be limited to unique military capabilities, and provide a benefit to DOD or be essential to National security goals).
- Improve unit readiness or mission capability.
- Provide a training opportunity to increase combat readiness.
- Avoid the use of Title 10 forces (military services) for continuing, on-going, long-term operation support commitments at the same location.

Given the complexity of legal authorities and policy issues related to DOD providing support to law enforcement and the number of DOD entities that must approve a support mission by Title 10 forces, it can take up to 180 days to obtain final approval from the Office of the Secretary of Defense to execute a mission in support of law enforcement. While supporting law enforcement, DOD may be subject to certain limitations. For example, one limitation is that DOD units working on border missions cannot carry loaded weapons. Instead, DOD units working on the border rely on armed Border Patrol agents, who are assigned to each military unit to provide protection.

In addition, we reported in September 2011 that DOD's operational tempo may impact the availability of DOD units to fill law enforcement support missions. While some DOD units are regularly available to meet specific mission needs at the border (e.g., mechanized units to construct roads), other DOD units (e.g., ground-based surveillance teams) are deployed or may be deployed abroad making it more difficult to fulfill law enforcement requests at any given time. Further, DOD officials we spoke with also raised information-sharing challenges when providing support to law enforcement missions. For example, DOD officials commented that because there are different types of law enforcement personnel that use information differently (e.g., make an immediate arrest or watch, wait, and grow an investigation leading to a later arrest), it was sometimes difficult for DOD to understand whether information sharing was a priority among law enforcement personnel. DOD officials also noted that a lack of security clearances for law enforcement officials affects DOD's ability to provide classified information to CBP.

CONSIDERATIONS OF AN INCREASED DOD ROLE AT THE SOUTHWEST LAND BORDER

During our examination of an increased role for DOD at the southwest land border, agency officials we spoke with raised a number of broader issues and concerns surrounding any future expansion of such assistance. Agency officials identified four areas of concern:

- DOD officials expressed concerns about the absence of a comprehensive strategy for Southwest Border security and the resulting challenges to identify and plan a DOD role.
- DHS officials expressed concerns that DOD's border assistance is ad hoc in that DOD has other operational requirements. DOD assists when legal authorities allow and resources are available, whereas DHS has a continuous mission to ensure border security.
- Department of State and DOD officials expressed concerns that greater or extended use of military forces on the border could create a perception of a militarized U.S. border with Mexico, especially when Department of State and Justice officials are helping support civilian law enforcement institutions in Mexico to address crime and border issues.

⁶See Pub. L. No. 101-510, § 1004 (1990), as amended. For additional examples of statutes in which Congress has authorized military support to law enforcement, see 10 U.S.C. § 124 and 10 U.S.C. §§ 371-382. See also 10 U.S.C. § 375, which directs the Secretary of Defense to prescribe regulations to ensure that activities carried out in support of civilian law enforcement agencies, under the authorities provided in Chapter 18 of Title 10 of the United States Code, do not include or permit direct participation by a member of the Army, the Navy, the Air Force, or the Marine Corps in a search, seizure, arrest or other similar activity unless participation in such activity by such member is otherwise authorized by law.

⁷Deputy Secretary of Defense Memorandum, *Department Support to Domestic Law Enforcement Agencies Performing Counternarcotic Activities* (October 2, 2003).

- Federal Aviation Administration officials, who are part of the Department of Transportation, stated that they are concerned about safety in the National airspace, due to concerns about the ability of unmanned aerial systems to detect, sense, and avoid an aircraft in flight. The Federal Aviation Administration has granted DHS authority to fly unmanned aerial systems to support its National security mission along the U.S. southwest land border, and is working with DOD, DHS, and the National Aeronautics and Space Administration to identify and evaluate options to increase unmanned aerial systems access in the National airspace.

We did not make any recommendations in our September 2011 report.

Chairman Miller, Ranking Member Cuellar, and Members of the subcommittee, this concludes my prepared statement. I am pleased to answer any questions that you may have at this time.

Mrs. MILLER. Thank you very much, and I appreciate all witnesses for all of your testimony. Thank you.

One thing I would say at the outset that has been an issue is I think that there needs to be more of a meld between the Department of Defense and the Department of Homeland Security in ways, in every aspect. [Inaudible]. We need to talk about how it is a hindrance to DHS by not being able to utilize some of the current fiscal resources that we have in the inventory of DOD.

Particularly when thinking about shutting down or reducing the National Guard. But as well as, particularly now, all of these assets that are coming back—DOD assets coming back. Now we are bringing so much back, it does have applications for local first responders but, certainly, the National Guard in all of our States and CBP, as well.

I know as I talk with many of you, you have taken advantage of some of the tremendous resources that are coming back. I hope that is really going to be continuing, particularly in the case of the National Guard in Texas. I am not sure if you have any comment on what kinds of ways the Texas Guard, for instance, has been able to utilize some or all of the kinds of resources that are coming back.

As well, I think both the Guard and CBP would be glad that not only are resources coming back, the men and women who are returning are capable to utilize all this equipment. Do you have any comment on that?

General NICHOLS. Madame Chairwoman, we haven't really seen that equipment yet coming our way. It has mostly been directed to the State, where I think that the need is, and State and local law enforcement folks. So, we are looking at that. We have talked to Secretary Stockton about how we can get some of that equipment to the State. We got a little bit of it to the DPS, the Department of Public Safety.

I know the firefighting equipment comes over. Some of it doesn't look like firefighting equipment, but they can use it. The surveillance equipment is getting pushed down to the DPS and the State and locals. It actually comes from the military to the civilian law enforcement agencies.

Mrs. MILLER. I appreciate that. I appreciate that, General. I would just suggest that you really take a look at that. Take a look at equipment coming back. Thanks.

General NICHOLS. Absolutely. Thank you.

Mrs. MILLER. So I just mention that. Also, one other question I was interested in, your Joint Counterdrug Task Force, is you were

talking about your counterdrug force that you had. Is that unique for the Texas Guard?

General NICHOLS. No ma'am, it is Nation-wide. It is a \$179 million program. It is funded for all 54 States, territories, and the District. Some States are larger. The border States tend to be larger, but there are other States with higher drug traffic that are larger. Now, we get you the data on the budget for each State.

The alarming feature though—pardon me, the alarming item—is that we are getting that cut in half. It is not a jobs program, it is a drug prevention program. It is tied to crime, it is tied to American society. It is tied to stopping trafficking on the border. As I said, the counterdrug personnel work with Customs and Border Patrol, work with the DPS, work with the local law enforcement—at least 70 agencies along the border—to counter the trafficking of drugs and all the other operations that are associated with that.

Human trafficking because they are having people carry drugs over the border now. If you want to get across the border, here is your fee. You are going to pay me money and here is your fee—carry this, too. So when we have apprehensions, we are stopping drug trafficking, but we are also helping stop illegals from coming across.

If you want to look at the metrics again, it is a \$75 million reduction that is being taken out. It is \$75 million worth, \$9 billion to \$10 billion worth of production or prevention. I estimate that if we just add a linear regression there, if we take away half of the counterdrug force, we may lose half their effectiveness.

Mrs. MILLER. Thank you. I am a huge fan—I think we all are—of the National Guard. I mean, a case can be made in a business matrix, a budgetary consideration, about how cost-effective the National Guard is.

I know, Mr. Lepore, you were speaking on how much more expensive out-of-State units cost. Now, I don't think we have had out-of-State units for some period along the border.

Some out-of-State units have been added more recently to the National Guard troops along the border. Which is fine, I guess, in some way. However, really, the border is not just the concern of those particular States. It is a part of the Constitution for the country to protect our borders.

So if we have problems in Michigan, it's a National problem and the Border Patrol is completely responsible for doing that, it seems to me—and this might be for Mr. Lepore or the general, again, or whoever wants to take a hit at this—but it would seem to me that it would be most appropriate for National Guard units from all their respective States to take their turn in rotation to help protect the borders, whichever border we would send them to.

Although as Mr. Lepore points out, I think from a cost-effectiveness standpoint and a training standpoint, the taxpayers trust National Guard.

Mr. LEPORE. Yes. I think, Madam Chairwoman, you make a great point about the training. I think that is a really important point. There are a couple of aspects to it that I would suggest. One, when out-of-State Guard forces are going to be used there is a training benefit from simply picking up the course, selecting up the

equipment and transporting it from wherever it is to wherever it is going.

So, there is absolutely a training benefit. It enhances the ability of that particular Guard unit to deploy to any particular mission, whether it is a domestic mission or an overseas mission. So I think that is a great point. I think the other important point—and you touched on it, and I think it is exactly right—is, there is a benefit from actually doing the mission, as well.

Let me give you an example from the Southwest Border, from Operation Phalanx and Jump Start. One of the benefits that we identified in our report is that the Guard was operating in an environment that was in the desert southwest that is very similar to some of the environments they were operating in in overseas locations. So there absolutely is an important training benefit in both of those respects.

Mrs. MILLER. One of the comments—then I am sort of running over my time here—but talking about the training benefit. Believe me, I understand the risks along the borders. However, it does seem if there are Mexican guards conducting operations on their side, we should be patrolling ours.

It was mentioned in the testimony today, when the National Guard gave their statement, that they have to contact the Customs and Border Patrol in order to make any arrests. Is it true that they are not even armed, or don't have ammunition in their arms, when that happens? I have that concern.

General NICHOLS. Madam Chairwoman, that is not true. When we had troops on the border for the most recent, all of our soldiers were armed, they had body armor on them also. They couldn't apprehend, but there is a policy decision. The National Guard members can't apprehend. We have a law enforcement person there so that we are not militarizing the border.

We happen to be just—we are helping with deterrence at the border. We see the folks, then we will call Customs and Border Patrol, or local law enforcement for that matter. Many times you do have to try to stop folks. If you are down on the Rio Grande and cross the river, and if a person can get across the border and change their clothes in 45 seconds, they are part of the country now.

We don't know where they came from, and if they are unarmed. But they are armed, and they are allowed to defend themselves. There are very strict rules of the use of force there. So, we are not undefended. You will see that the Title 10 forces that come to the border sometimes are not armed. From the States' rights perspective, that is with me.

Mrs. MILLER. Thank you very much, General. My time has expired here, but I just again want to say how much we appreciate all that the National Guard has done along the border. The National Guard have once again demonstrated to the country that it is effective in providing security—whether that is in-theater or whether it is in the 30th percentile of the Guard and Reserve or in the theater or on our Nation's borders.

At this time, I would recognize my Ranking Member, the gentleman from Texas.

Mr. CUELLAR. Thank you very much. Again, I want to thank all of you all for the service which you all provide.

Since 2006, the Department of Defense has spent approximately \$1.4 billion in National Guard support under the Department of Homeland Security in border security. We know that there has been questions about the National Guard. But we do know that on December 31, 2010 the current operation funding expires.

Therefore, my question is: What happens after this particular December 31, 2010? What do we have to do so we can get that funding? My question, Secretary—and again, thank you for all the work that you do—I looked at the funding Texas got in 2011.

Secretary, again, thank you for all the work that you do. I looked at, for example, what Texas has done in the past in 2011, and I know the Border Patrol and BPS were one of the largest receivers of equipment, plus maybe with the exception of one or two areas in the border area, everything went up to the central part of the State of Texas. But I guess my question is, instead of making them wait for somebody to make that request, Mr. Secretary—and I saw, I think it was with Mr. Duncan who saw—the equipment that is out there.

It is a tremendous amount of equipment that is available. I can see how Border Patrol can use that equipment. I can see how the National Guard can use that equipment. For example, I would ask General Nichols right now to yield some of the equipment that is out there that is available to be used. I know because I have asked you that question already.

If I would ask the Border Patrol representative here, is there something else, any area of support that you would look at, I bet they would say, yes. Is there any way? Could you all just sit down and say, what do you need that we could transport that? Taxpayers' dollars have been used already. I have seen the equipment the last time, Mr. Duncan was out there in Iraq.

We saw the equipment is out there. I know there is—you would ask them, they will give you a laundry list of equipment that would be available. Not only the aerial equipment but also for example, you know, some of the intelligence centers that are being created right now. I know Robert Harris is looking at one for the border down there. The intelligence equipment that could be available, couldn't we just get—Mr. Stockton, couldn't we all just sit down and say, "What do we need?" instead of waiting for—I know there is a process. I understand all that.

But I would ask Mr. Nichols or maybe Mr. Vaughan if they would give you a list of the things that they know would be available right now—whether it is radar, whether it is other equipment, intelligence equipment that we use, monitors—I would ask if you do that.

At the same time, if you look at the GAO reports, one of the concerns the Department of Defense says is that there is no comprehensive strategy by Homeland. Homeland is going to say, oh, we do have a strategy. My understanding is at least the Department started to plan a strategy in December—I might be wrong—but in December you all started passing that information to senior members of Border Patrol, and the border, and they are supposed to be receiving this information.

We haven't seen it yet. But my understanding is, that information has already been sent out there. It has been signed and re-

ceived by senior members out there. I guess part of this, Mr. Stockton, is, on that strategy that they put there, I don't know if you already asked Border Patrol or Homeland, do you include this in that strategy? What is our role there?

Or General Nichols, if you ask Border Patrol, have you asked us are we part of that strategy? My guess is the Chairman asked them, the folks that are here. Mr. Nichols have you been asked to be a part of that strategy?

General NICHOLS. No, sir.

Mr. CUELLAR. Mr. Stockton, that might be maybe a different Secretary. But have you been asked to be part of that strategy?

Mr. STOCKTON. Well, I will defer to my Department of Homeland Security colleagues to address their own strategic policy formulation.

Mr. CUELLAR. My question: Have you been asked to provide input in that overall strategy?

Mr. STOCKTON. I have been in constant contact with my partners at DHS and CBP in order to support their development of their own policies and strategies for the future.

Mr. CUELLAR. My question is: Have you had input in the overall strategy? You are not answering the question. Have you been involved in the support? Has somebody been involved in the strategy? GAO is saying that there is not.

I am just saying that—and I am not criticizing anybody—I am just saying why can't we just sit down and tell us, hey, can we get involved in your strategy? Can we help you develop that? Can we give you some input? Here is the equipment we have available. What do you need?

If we have it available, here is what we can provide to you all.

Mr. STOCKTON. Congressman Cuellar, I will get back to you on the record with a very detailed answer. But I will say that when it comes to the Domestic Preparedness Support Initiative where we share DOD equipment and technology with our partners—Federal, State, and local and all the other activities that we have to support DHS and our Federal law enforcement partners there—there, as you know, we have a very aggressive outreach program. We don't wait for people to come to us.

We have State coordinators who are responsible for gathering and prioritizing requests for support from the Department of Defense with all of this equipment that is available.

With our partners in the Defense Logistics Agency, we very aggressively push out, via web page, via all kinds of other presence, knowledge about the availability of particular categories of equipment so that we can marry up requirements that exist—Federal, State, and local law enforcement—with the increasing flow of equipment coming back from the war.

Mr. CUELLAR. I appreciate the work that you do. But let me just give you an example and we can short-circuit this again.

General Nichols, do you have anything that Homeland—I mean, that Defense asset might be of interest to you to use for border security?

General NICHOLS. Sir, you know, through the counterdrug program we have quite a bit of equipment that we would use.

Mr. CUELLAR. But do you have anything that could be helpful to you that you might want to acquire from the Department of Defense?

General NICHOLS. Sir, I am going to have to tell you that I don't know the answer to that myself.

Mr. CUELLAR. I am sorry to be putting you on the spot—

General NICHOLS. That is okay.

Mr. CUELLAR [continuing]. But I think I know what the answer is. All I am saying is, if you all can just sit and talk to each other about the overall strategy, tell us what you need, give us a list. I understand we are going to the website—but I understand that we are not. I understand that.

But a simple phone call from one of you all to one of the other ones to say, tell us what you need so we can go in and short-circuit this and provide the equipment out there. I am not criticizing. I am just looking at a little bit more efficiency and a little more practical approach on how we do our things.

Anyway, if anyone could answer that question.

Mr. STOCKTON. Yes, please. Our assistant secretary of defense for special operations and low-intensity conflict is responsible for our counternarcotics activities in the Department of Defense, and has an extremely close collaborative relationship both with the State National Guard organizations in Texas, Michigan, and elsewhere but also, of course, with our Federal law enforcement partners.

They are responsible for very closely integrating the requests for support that come in from our partners with the DOD assets that we have available. So in that particular realm, in the counternarcotics realm, we have a terrific match-up.

Mr. CUELLAR. Again, thank you to all of you all. My time is over. But let me just say this. If you all can talk to each other about strategies and whatever we need, I think this would short-circuit a lot of what we are doing.

Thank you.

Chief VITIELLO. Thank you. I would just like to add that as far as the strategic framework is concerned, it is a framework that allows for collaboration as we move into implementation. So that threshold is open, and DOD has been part of the creation of it in the fact that DOD has a member on our staff that helped us write the words that are in the strategy.

I think as far as the equipment that we understand is overseas and will be returning to the United States, I think we have a very good story to tell on that. So we are—based on the input from the committee, the last time Chief Fisher was here you all tasked him to go look at what was all available because you had some information specifically to that.

We have been trading the lists of equipment. We are looking, in fact, at what is most useful for the specific border environments where the need exists. We will get to a point where we can judge the costs and maintenance for these particular pieces of equipment, and then look to get the ones that are available and deploy them along the Southwest Border.

Mrs. MILLER. Thank you, gentlemen. I would just—as a follow-on, it is not just the equipment. It is the men and women that are

trained so magnificently to utilize that. We have great applications for both the CBP and the National Guard members.

Chief VITIELLO. That is a wonderful point. As I was preparing for today's hearing, about 17,000 of CBP's 60,000 are veterans. So we always are looking for that as a recruitment avenue for bringing people into the workforce.

Mrs. MILLER. Excellent, excellent. I also would like to ask unanimous consent that Representative Gosar is welcome to join us today. We welcome you to the hearing. Without objection.

The Chairwoman will recognize the gentleman from South Carolina, Mr. Duncan.

Mr. DUNCAN. Thank you, Madam Chairwoman.

What I would like to do is, just for a second is to ask everyone to take off our Washington hats and get outside of the bubble that we operate in within the bureaucracies and whatnot, and think about this issue from the standpoint of the average American person out there who knows we have got the best-equipped, best-trained United States military. They are better than anybody in the world.

We have got a terrain that is similar, in the Southwest, to areas, as the gentleman mentioned earlier, to theaters of war that we are involved in right now. So when I go back to my district and I talk with folks about the porous Southern Border and issue of interdiction—whether it is drugs or illegal aliens coming in from the border—and other things that we are fearful may cross the Southern Border, they say, “Why can't we send the military down there, put two or three operational bases within the Southwest Border, and train our guys that are going to Afghanistan or other areas, train them in that similar terrain and stop the illegal border crossings?”

Stop the drugs coming into this country. Work in cohort with the CBP. That is what the average American out there thinks. But we are sitting here battling over jurisdiction and resources, and using an ad hoc approach. This is the question I am going to ask the gentleman in a minute—this ad hoc approach of, we are going to send the National Guard down there for a little while and then we are going to redeploy somewhere else.

There is going to be a lag, and we will do it again a year from now. There needs to be a comprehensive strategy of utilizing not only the United States military and the Customs and Border Protection and ICE to do their mission. There needs to be a comprehensive, concerted effort to secure the Southern Border and work together. Put our jurisdictional, I guess, paradigms aside, and defend this country and defend our border.

So the first question, General Nichols is: Would an increase in National Guard or DOD presence on the border—although you have training exercises, troops on the ground—would that serve as an effective deterrent to drug smuggling and illegal immigration?

General NICHOLS. Thank you, sir. I think it depends on what you do on the border. If you are going to simply do exercises and they know that you are doing exercises, then you are just filling a little void to go around when you go by. You come down in an exercise, or in an operation like Phalanx—we call it River Watch 2—and have a coherent plan.

Just blend it in with our partners, it will have a tremendous effect. Back up to the counterdrug program, that is well-vested into the protection of our border.

Mr. DUNCAN. The way I see it, sir, is if I was part of the DTO and I was thinking about crossing the U.S. border, and I knew that there was a possibility I was going to face the most well-equipped, well-trained United States military on the other side of the border, the possibility that I would run into those guys would be a tremendous deterrent to me. Because I wouldn't want to run into them.

General NICHOLS. Yes, sir. When we had the boots on the ground, they didn't apprehend, or were responsible for apprehending, a lot of people. But folks didn't show up in that area that they were. They went around it. It helps the Customs and Border Patrol to be more effective on the edges.

So we are the gaps in the fence, and the fence is broke down. We had our soldiers there 24/7 and could see folks coming and going. People did come through, U.S. citizens with proper identification. Because some of that wall, or some of that fence, is built inside U.S. property. It is not feasible to build right on the river in many cases.

So we think that we are very effective in deterrence. We have a lot of turnarounds, they call it. Over 1,000 folks came up, saw us, and turned around. We also had people that look across this far, from me to Madam Chairwoman, and they just stand there and watch us. If we would turn our back and move away, they would be ready to go.

It is like the Southwest Border is somewhat, in some ways, like Southwest Asia. But other places along the river, it is a river and it is a winding river. It is not the Rio Grande of the John Wayne days. It is a winding river that you can't see 100 yards in either direction. You can go to 100 yards and you are done.

So it takes more folks than that. I would bring up one point though. If given the mission in the coherent and cohesive plan, then assign it to the Guard and we will make it happen. As far as availability, we have got 450,000 National Guard members that are just as willing as their DOD partners to protect America, and I think support and protect America in America.

Mr. DUNCAN. Thank you for your service.

Madam Chairwoman, I am getting ready to go to the World War II Memorial for an honor, World War II veterans that served this country. I ask them these same questions. I believe this is an answer I would get. They would say, "Are we really serious about completing the mission, securing our border? Because if we were, like we were at that point in time in defeating an enemy, this country can do anything it puts its mind to."

If we are serious about stopping drugs coming across our border, stopping illegal aliens, working on a comprehensive immigration reform package that the Ranking Member and I have talked about numerous times—if we are serious, that is—I believe the World War II veterans would look me in the eye and say. "Congressman, if America is serious about dealing with this problem we can do so because we can do anything that we put our minds to."

With that, I yield back.

Mrs. MILLER. I thank the gentleman.

The Chairwoman recognizes the gentelady from Texas.

Ms. JACKSON LEE. Madam Chairwoman, thank you for your kindness. To the members of the panel, let me thank you. I am in between two meetings, but I believe that this is a crucial meeting. I wanted to personally take the opportunity to thank the Chairwoman and Ranking Member.

I just had the privilege of being at the Organization of American States, where we discussed a number of issues dealing with the issues that you are speaking of even today. Also, I want to thank the Chairwoman as well for these kinds of meetings.

I just personally want to acknowledge the assistant secretary of defense for homeland defense, Mr. Stockton, and acknowledge the deputy chief of Border Patrol, Mr. Vitiello, and Mr. Vaughan. Certainly I would like to say, Madam Chairperson, hopefully advise my dear friend, Major General John Nichols. We have worked together, and I continue to appreciate your service. Certainly, Mr. Lepore.

Gentlemen, just allow me for a moment—and again, let me thank Mr. Cuellar. We have shared a lot of conversation at the Organization of American States about the desperation of these countries as it relates to drug trafficking, drug cartels. Frankly, I think assets are probably needed in coalition with those countries. We can have somewhat of a different approach on our border, even though we want to be as clear as possible.

Madam Chairwoman, I am just going to put in the record for a moment that we had an important incident in Colombia dealing with the Secret Service. I have had briefings. I want simply to put on the record, the Homeland Security Committee did not cede its jurisdiction on this question, and it is not prolonging its investigators. Everyone has acknowledged this incident, the Secret Service and the military.

It will probably be the largest blight on the Secret Service in its 147-year history. I happen to support Director Sullivan, and I will continue to do so. But I believe, and I am calling for, a hearing on that issue. Because our work is to do the work that these gentlemen are speaking of and not the work of dealing with defaming or demeaning women, or possibly children.

We don't know what the levels of the investigation will show—and I say that meaning I don't know what agencies that were—but I put on the record that I abhor human trafficking. I believe prostitution is not to be blamed on the actor, the woman, but it is an institution that we need to address. Certainly the action of the Secret Service on the jurisdiction on the Homeland Security Committee somehow be fully investigated by this committee.

I sent a letter to our Chair and to our committee Chairperson—excuse me, our Ranking Member Thompson. Let me say that I join Mr. Cuellar in not wanting the border to be militarized. But I also join him in my enthusiasm for the Texas National Guard. One of my staffpersons is among the Texas Air National Guard. So I am delighted of the long-standing relationship at Ellington of working with the Government.

So let me ask Major General Nichols. Because maybe people are unclear as to what you do. If you would just let us know what you

do and could do to embrace in there, how is it compared to Operation Phalanx, if you would? I am going to ask my second question so we could just move on quickly.

That question goes to Mr. Vaughan. It has to do with assets that the GSO concluded each Office of Air Marines have been unable to meet its own benchmark for fulfilling the Border Patrol's request for air support along the Southwest Border. To what gap? Who is responsible for that gap? If it is possible for CBP and Marines to improve its availability ability? Is there a point at which it becomes impossible to do this with less?

So if you will follow up, let me go to General Nichols because people should know the work you do.

I thank the Chairwoman.

General NICHOLS. Thank you, Representative Jackson Lee. I will just talk about border security for Texas.

Ms. JACKSON LEE. Thank you.

General NICHOLS. Previously, with Phalanx I, we had about 289 soldiers. Most were on the border, again, 24/7 in a small area in the Rio Grande Valley. We also had about 15 soldiers and airmen in joint operations and information centers. They didn't gather intelligence. They were giving information, and they synergized it into operational plans.

They were well-trained prior to that through the counterdrug programming. I don't want to keep beating on that program, but I point to that as one of the benchmarks for what the National Guard can do to help out the rest of our Nation in countering narcotics and trafficking. You named it today, human trafficking—the other byproducts of bringing narcotics into America.

If that is not enough to do to stop narcotics, we stop the traffickers that bring it. We have shifted over now. We have demobilized those soldiers that are on the border. Now we are supporting Phalanx 2—we call that River Watch 2, it is Phalanx 2—with about 12 helicopters down in a couple of locations. I would rather not say where they are, but they are very close to the border.

Most of those folks are from other States. So we have a core team that are supporting them that is coordinating with the National Guard bureau, kind of in between the National Guard, Bureau and Customs and Border Patrol's focus to maintain those relationships that we built over Phalanx I. We are just now, I think, starting to see the benefits of those operations with the helicopters flying.

We have been doing it for about a month-and-a-half. It has been very productive. But as we continue, the more we go the better we will get.

Ms. JACKSON LEE. Thank you for your words.

Madam Chairwoman, if you would just indulge Mr. Vaughan to just answer quickly the question of what he has done with the assets that are needed, and the budget cuts. Thank you Mr. Vaughan.

Mr. VAUGHAN. Yes, ma'am. Thank you Ms. Congressman.

The questions you asked are two-fold. First, the measurement of our success on launching resources to assist Border Patrol, and the GAO report reference to some inability to do that. We have to understand that the missions are calculated, and based on success of being able to launch an aircraft to that particular mission. In some

of these cases, we can control, and in some cases we cannot. I will cite as examples.

Given bad weather, mechanical failures, et cetera there is—very similar to what the air carriers have issues with—a failure to be able to be able to launch and meet the requirement for that mission. That is recorded in our system. The things that actually air and marine can control in terms of percentages of missions lost in support of the Office of Border Patrol is around 7 percent.

Those kind of issues would be related to: Are crewmembers available, are aircraft available, to support the mission as it has been asked? So that addresses the GAO report.

The question on resources and availability. One thing that we have had occur over the last few years is the ability for the air-to-land integration to become more and more robust. There are pieces of equipment now in the interdiction model that are land-based. I give you the mobile surveillance systems, and the land port—or the land-based RVSS equipment—where we had the ability to detect potential threats that aren't usually the aircraft themselves.

Back when I had the pleasure of briefing you in Tucson, in Sierra Vista, on one occasion we talked about how the OH-6, the light observation helicopter that is Vietnam-era equipment that Border Patrol received, essentially went out on the patrol and did that detection themselves using the visual capabilities of the pilot. Now we have detection being done by the unmanned aircraft systems, detection being done by ground-based equipment, more unattended ground sensors.

So the aircraft aren't out doing that particular type mission as much as they were before. So we are now going to more of a classification of a threat, a tracking of the threat, and an actual interdiction or apprehension of the threat.

So yes, we are able to do more capabilities because the aircraft have been improved through additional sensor acquisitions, changing from the OH-6 light-observation helicopter to the more robust ASAR aircraft, of which we are receiving our 85th aircraft this year. I hope that addresses your questions.

Ms. JACKSON LEE. Let me just thank the Chairwoman. She has been just overly kind. I am going to submit additional notes that I would like to submit—additional questions, without objection—into the record, Madam Chairwoman.

Mrs. MILLER. Without objection.

Ms. JACKSON LEE. I would just acknowledge the Navy is in the house, as well. I see them, and just want to thank them for their service.

I thank all the witnesses, and I will pursue Mr. Vaughan on that question. Thank you. I yield back.

Mrs. MILLER. I thank the gentlelady.

The Chairwoman now recognizes the gentleman from Arizona, Mr. Quayle.

Mr. QUAYLE. Thank you, Madam Chairwoman. I want to thank all the witnesses for being here.

I want to kind of expand on what Mr. Cuellar was talking about. The concerns over a lack of a comprehensive strategy on the use of National Guard troops at the border, and the lack of a real long-

term strategy on the Southwest Border as well. When is that going to be updated?

Because when I am talking to, you know, with constituents in Arizona, one of the biggest issues is that with the ad hoc approach to the deployment of National Guard troops there is a ramp-up and ramp-down period. You can't just automatically deploy the number of troops that is called for at any given time. So he just would like to have more certainty, rather than getting up too close to that complete draw-down date and say, "Oh, actually we are going to re-deploy these people because we need them at the Southwest Border."

I think that my biggest concern here is that when you look, we have a Presidential election that is going to be occurring real soon. We don't know who is going to be elected and whether they are going to have the same desire to combat the drug cartels in northern Mexico. So we don't know what is going to happen.

A lot of people who have grave concerns about failed border security. So we have the draw-down that is going to be occurring. We are having the end of the aviation initiative at the end of the year. We don't have a long-term strategy. We don't have the fixed hours and integrated system up ready to be deployed.

I agree with Mr. Vitiello who has improved CBP in the last few years, and that is great. But what are we going to be doing in the meantime before we can actually get that force multiplier up? That is my concern, especially with what is going to continue to happen with the drug cartels in northern Mexico.

So Assistant Secretary Stockton, are you concerned about the ad hoc nature of the National Guard at the border? What do you think is going to be the best way to get that comprehensive strategy on whether we are using National Guard troops on a long-term basis? Or what is just the long-term strategy to have that comprehensive plan to actually secure our international borders?

Mr. STOCKTON. Thank you. We support the Department of Homeland Security and CBP. One of the critical facilitating components of our transition from the old fixed-entry identification team approach to support to this mobile airborne surveillance and monitoring was clarification by CBP of how they could best utilize DOD assets. How we could best be in support of them in a more operationally and tactically-effective support mission.

We will continue to rely on DHS and CBP to build out the long-range strategy, and also to tell us how we can best be in support of them. We really depend on DHS and CBP because they are in the lead for border security to build their strategy and then come to us with requests for assistance that are then considered by the Department of Defense.

That is the process, sir, by which we will be moving forward for any future consideration. We will wait for DHS and CBP to continue to refine any potential requests for assistance, and we will welcome them then.

Mr. QUAYLE. Okay. I think here is what I am trying to get at. We had a hearing just a few weeks ago in the full Committee for Homeland Security, and it is not just about the drug cartels that are wreaking havoc in northern Mexico. You have Hezbollah, who is in northern Mexico.

We have grave National security threats and we are having draw-down of the National Guard, yet we don't have the implementation to fully secure our border when we do have these threats. So I would ask you, Mr. Vitiello, because I know you mentioned that there is going to be an updated strategy from CBP. Can you give us any indication of what new steps are going to be utilized to better increase the security of the long port?

Chief VITIELLO. A pleasure. So in 2004, when we realigned the National strategy for the Border Patrol, it focused on resources. We were in a situation where we needed to grow smartly within the Border Patrol. So the 2,000-force strategy focuses on personnel, technology, and infrastructure.

Through the assistance of Congress and our own planning, we have done well on those accounts, right? The 6,000 new agents, the 1,000 that came to us again in 2010—infrastructure, as in fencing. Then we have the technology plan, specifically the lay-down for Arizona is, built and ready to deploy. Then we are doing that across the Southwest Border as well.

So the new strategy focuses on refining the use of the the equipment that is at the disposal of CBP. So the pillars are for information, you know, getting ahead of the threat—recognizing where the risks and vulnerabilities are, integration with all partners, including Mexico, Canada, State, local, Tribal, other Federal—and rapid response. Being able to proactively predict where threats may occur, where our vulnerabilities are and get to those locations along the border.

So that is the highlight. It is a top view of the strategy. It is going to be very dependent for us, in communities along the Southwest Border, to engage the residents, communities of interest, the business community where they have trade with Mexico and their security regimes, and then integration across, including our continued collaboration with DOD. So that when we do make this equipment available, we know exactly where to put it and we can get ahead of the risks, and minimize the vulnerabilities that still exist.

Mr. QUAYLE. Mr. Vitiello, but the cooperation with Mexico over the last few years has greatly increased.

Chief VITIELLO. Absolutely has, yes.

Mr. QUAYLE. How much damage, or fallout, has there been from Operation Fast and Furious, which Mexico did not know about, which put thousands of guns into drug cartels' hands? How much has that damaged our relationship to be able to work with the Mexican authorities? Because they have lost a little bit of trust in us.

Chief VITIELLO. So I have been aware that my counterparts in the security forces—SSP in Mexico, with DOD—are collaborating with military-to-military information. That is not a subject of discussion at my level. I can tell you, from field reports, that sector chiefs are regularly communicating with their counterparts on the south side of the border.

That is not a subject of discussion. There has not been a lack of engagement or enthusiasm to increase security in those locations because of that.

Mr. QUAYLE. So not on other levels? [Inaudible].

Chief VITIELLO. No. I can speak to my own experience and the reports that I get. It is not a factor.

Mr. QUAYLE. Okay, thank you.

I yield back.

Mrs. MILLER. The Chairwoman now recognizes the gentleman from Arizona, Mr. Gosar.

Mr. GOSAR. Well, thank you, Madam Chairwoman, for allowing me to attend.

Let me ask you, Secretary, just—do delays have consequences?

Mr. STOCKTON. Delays, sir?

Mr. GOSAR. Delays in action. Do they have consequences?

Mr. STOCKTON. They can, absolutely, sir.

Mr. GOSAR. Okay.

Mr. Vitiello, do delays have consequences?

Chief VITIELLO. Again, yes, at times.

Mr. GOSAR. Mr. Vaughan?

Mr. VAUGHAN. Yes, sir. I would agree.

Mr. GOSAR. Major Nichols?

General NICHOLS. Yes, sir. They do.

Mr. GOSAR. Well, I am a businessman. I see that delays cause problems. Particularly along Arizona's Southern Borders, along the borders in all Southwestern States. We constantly see bureaucracy. Because if we really demanded having a National security strategy at our border we would get it done. I would almost say we are acting like the U.S. Senate.

You know, we can do something very, very quickly. But in most cases, we can't even get anything done. That is my question. Do the people who live on the border in the United States demand the same kind of protection as somebody in, say, Wyoming or Massachusetts, Secretary?

Mr. STOCKTON. Absolutely. But again, the Department of Defense is in support of CBP and the Department of Homeland Security for this mission. They have lead responsibility.

Mr. GOSAR. You know I never was in the military. But, you know, I am a leader, and I will bet you are too. That is what my last question was, delays. Should we be pushing our leaders from Homeland Security to be enacting a policy that actually works?

Because we are seeing increased violence. We are seeing an increase in the National security threat. What it requires is leadership, and people in leadership to take an active stand. To push those leaders above us to make sure that we get something done. Would you not agree?

Mr. STOCKTON. I believe that the relationship between DOD and DHS is the strongest I have seen in the 3 years I have had the honor of serving in office. We have the closest possible relationship of understanding exactly how we can provide support to CBP and DHS. These are conversations we have daily.

Mr. GOSAR. Then if you support it, why don't you support anything from this administration on cutting funding to the border? Why would you even say anything about the issue?

Mr. STOCKTON. Well, I support the President's budget request.

Mr. GOSAR. Really? Okay.

How do you feel about that, Mr. Viola?

Chief VITIELLO. Vitiello. Specifically which part?

Mr. GOSAR. Do you feel that we should be cutting this budget at this time? So we have a very secure border?

Chief VITIELLO. So I think that it is our responsibility within our charge and our duties—the duties that I carry out to be responsible with—with the funds that the taxpayers provide for us to do this work.

Mr. GOSAR. But you also took a pledge, did you not, to protect the Constitution and the people that the Constitution serves? Did you not?

Chief VITIELLO. I feel like I live up to that, and I do my best to live up to it.

Mr. GOSAR. Okay, my next question, if you are adequately providing those resources, shouldn't you be speaking up on behalf of additional resources?

Chief VITIELLO. In regards to the operation, we are funded an enormous amount at CBP to accomplish the mission.

Mr. GOSAR. Maybe debt. General, I know this is part of your dictation. Tell me that you need additional resources and additional manpower for the security of this country and those people on the border?

General NICHOLS. Sir, I stand by my Governor, also. I already spoke. We need to get the counterdrug funding back in the budget. We have direct effects on America's security by having that force in place.

By cutting it in half, we are going to see a, I think, a linear relationship. We are going to lose that. In Texas, through our Operation Border Star we have got the BPS and the National Guard members, and our counterdrug members, operating on the border. Now, we are working with our CBP partners. Sometimes we are doing it on our own.

You know, our Governor asked for a thousand troops on the border, and he hasn't backed down from that request. It is still sitting somewhere in the District of Columbia.

Mr. GOSAR. I think that brings me to my point. Is that, you know, that when a good man stays silent we only have evil to carry forward. That is what we have got here. Because you have an election next July 1 of this year—and Mr. Quayle actually alluded to it. You know, we could affect elections just by our mere presence.

But when we do nothing, when we sit there and not advocate on behalf of what is actually going on there, that is disturbing. To even know that we don't have a problem and to see the resources. I mean, even by your own admission—you know I sit on Natural Resources—border officials basically report that we have only had operational control; 873 miles of a 2,000-mile border.

How in the heck can you not be asking for more? You know Secretary, that bothers me even more to say that we are going to live operationally with the President's budget. This is absurd. This is absolutely absurd. We actually post on our National Federal lands. We have opportunistic cells that understand that our Federal lands have to be "treated differently along the border." Give me a break.

What the American people want is to see leadership. What they want to do is, they want to see when you want, resources that you demand resources, and that you use your voice. Not squirmish around jurisdictions. Time is up. What is it going to take to get

that? A National security event that we are unprepared for? We witnessed one.

What is going to happen when we have an assassination attempt on the Saudi ambassador using drug cartels? I mean, we escaped, but what happens when one doesn't? Tell my ranchers and the landowners along that Southern Border it is a secure border. Give me a break. You ought to be demanding more resources, and telling the story like it is.

I have been on that border, as well. I find it incomprehensible how the bureaucracy works. It ought to be lethal, it ought to be quick. They ought to be pulling jurisdictions back and forth. Those people on the Southwest Border deserve nothing less.

I yield back my time.

Mrs. MILLER. The Chairwoman now recognizes the gentleman from Texas for a follow-on question.

Mr. CUELLAR. Yes, thank you. You know, we Members of Congress voted millions of dollars in cuts that we, as Members of Congress, cut that [Inaudible] difficult on that. I do want to say that the two areas that increased: The numbers in the military—homeland security is the second.

But I do understand the frustrations that we all have to deal with. But I do understand cutting. It went from \$2 billion. There are cuts, which hits the military, Homeland. It hits everybody; we have to deal with that.

My other question is: Can you—whatever type of law enforcement is already there, being from Texas—what sort of assets—I don't need you to say how many, but what sort of assets are you all bringing down to Texas with this operation? Can you tell me what you can say in public?

General NICHOLS. Sir, this is for Phalanx 2?

Mr. CUELLAR. Yes.

General NICHOLS. There are 12 Lakotas—UH-72 helicopters—equipped with packages that can see daytime/nighttime, Saturdays, too—movements on the border or directly, working with Customs and Border Patrol. They don't just go out there and zoom back and forth. They are usually pinpointed. But occasionally, they go out and look to see what they see.

But the operations are well done, well-coordinated. Like I said, we will see how that equates to how we did with the other boots-on-the-ground operation. It is certainly less costly but, you know, I can't tell you about the effectiveness of it.

But that is what we have—12 helicopters, two different locations working anywhere from Brownsville up north to points south. I would rather not limit that by saying 24/7, 365.

Mr. CUELLAR. Helicopters and fixed-wing?

General NICHOLS. Fixed-wing. Also the RC-26. That is another National Guard airplane. Fixing to lose that in 2015, though.

Mr. CUELLAR. Again, I have two points and then I will stop my questions. But one, I would ask you, please take a look at the GAO report. If anything, I think these officers should take a look at it and see what the folks have to say about, here are some of the issues that are being raised, No. 1.

No. 2, I would, again strongly urge you all, before you leave the room today, to communicate with one another. Say, "Hey, this

might be of interest to me, and all that.” Again I say that, you know, you all have been doing a great job. I am a big supporter. You understand, we set the budget, we cut. Therefore, you gotta deal with resources at hand, and you can’t lobby us for more money.

So, you know, we make the cuts and I understand that and it is a very difficult situation. But with whatever equipment we have out there, let us try to maximize our efforts to more risk-based, more intelligence-driven areas. In that, I would ask you to talk to each other before you all leave.

Let me just say, I appreciate all of the good work all of you all are doing, and the men and women that are out there, working along the border. I live on the border, I know the work that you all are doing, and you all have been doing a great job. Thank you very much. God bless.

Mrs. MILLER. I thank the gentleman.

I certainly want to thank everyone, all of the witnesses, that we have today. Your testimony has been very good, and I think we have had some excellent questions from the Members here as well. So we all want to work together. Certainly, on behalf of myself and the Ranking Member and everybody in our subcommittee, we look forward to working with all of you for our mutual goal—securing our border.

Again, I want to thank you for incredible work and the professionalism of all of you and the brave men and women that you represent here today, and the work that is being done. Thank you for your service to the Nation every day.

The hearing record will be open for 10 days. If Members have additional questions, they will be able to submit those for the record. With that, I will adjourn the subcommittee. Thank you very much.

[Whereupon, at 11:35 a.m., the subcommittee was adjourned.]

APPENDIX

QUESTIONS FROM RANKING MEMBER SHEILA JACKSON LEE FOR MARTIN E. VAUGHAN

Question 1. A recent Government Accountability Office report concluded that CBP's Office of Air and Marine has been unable to meet its own benchmarks for fulfilling the Border Patrol's requests for air support along the Southwest Border. CBP Air and Marine has suffered some significant budget cuts in recent years.

To what extent are these budget cuts responsible for this gap in capacity to provide support?

Answer. Since the merger of the legacy U.S. Border Patrol (OBP) and U.S. Customs Service aviation programs under CBP in 2005, the Customs and Border Protection Office of Air and Marine (OAM) has dramatically increased efficiency and effectiveness of CBP air operations in support of the Department of Homeland Security and its international, Federal, State, local, and Tribal partners. Most of these efficiencies were captured through the acquisition of technologies that then drove or facilitated changes in CBP air operations including decreased operations cycle time, effective asset procurement/modernization, and innovative sensor system integration. These operations developments have then resulted in expanded mission functionality, vastly improved detection capability, real-time customer support/interface, decreased mishaps and system downtime, and consequently provided a significant increase in overall CBP aviation mission effectiveness.

The CBP Office of Air and Marine (OAM) recapitalization plan is nearly complete, with more than \$1 billion appropriated by Congress from fiscal year 2006 through fiscal year 2012 to accomplish the objectives laid out in our long-range plan to replace/upgrade CBP's aging fleet of aircraft. The force that will support border security operations in fiscal year 2013 will be much more flexible, more capable, and will generate greater results per flight hour, enabling DHS to achieve its highest-priority missions within the budget requested by the President.

Question 2. Is it possible for CBP Air and Marine to improve its ability to provide support by repositioning its assets or taking other similar, lower-cost measures?

Answer. The CBP Office of Air and Marine (OAM) will not be able to increase its rate of response to support requests by repositioning its assets or similar, lower-cost measures. CBP continues to ensure OAM resources are deployed to the highest priority locations as efficiently and effectively as possible without creating additional border security vulnerabilities.

CBP utilizes a robust process to allocate its personnel, aircraft, marine vessels, and funding for fuel that supports its aviation flight and marine underway hours. Deployment decisions are made based on assessing a wide range of information. This comprehensive and collaborative process includes consideration of current operational capability and capacity; threats and challenges; actionable intelligence; operational coordination with the Border Patrol; formal discussions of annual Border Patrol requirements; asset acquisitions, maintenance, and requirements; operational initiatives and priorities; quarterly performance reviews, which include applicable data on results; and other evolving factors. Operating within its resource capacity, this process enables OAM to provide an agile, efficient, and effective response to emerging developments.

Question 3. Is there a point at which it becomes impossible to do more with less?

Answer. There is a minimum set of resources needed to provide the maintenance support, logistics, skilled personnel, support equipment, consumable supplies, and infrastructure required for a modern, effective air service. However, Congress has actively supported the CBPs aged aircraft recapitalization program, which has produced a more flexible and capable force over the past 6 years. With the additional

effectiveness gained through the multi-year investments, CBP will be able to support the Department's highest-priority missions within the resource levels requested in the President's budget.

