

**AUTHORIZING CUSTOMS AND BORDER PROTECTION AND IMMIGRATION AND CUSTOMS ENFORCEMENT**

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**HEARING**

BEFORE THE

**SUBCOMMITTEE ON BORDER  
AND MARITIME SECURITY**

OF THE

**COMMITTEE ON HOMELAND SECURITY  
HOUSE OF REPRESENTATIVES**

ONE HUNDRED THIRTEENTH CONGRESS

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## **AUTHORIZING CUSTOMS AND BORDER PROTECTION AND IMMIGRATION AND CUSTOMS ENFORCEMENT**

**Tuesday, April 8, 2014**

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

The subcommittee met, pursuant to call, at 10:09 a.m., in Room 311, Cannon House Office Building, Hon. Candice S. Miller [Chairwoman of the subcommittee] presiding.

Present: Representatives Miller, Duncan, Jackson Lee, Sanchez, and O'Rourke.

Mrs. MILLER. Good morning. The Committee on Homeland Security, the Subcommittee on Border and Maritime Security will come to order. The subcommittee is meeting today formally to examine the need to formally authorize the U.S. Customs and Border Protection and also the U.S. Immigration and Customs Enforcement.

Our two witnesses today are, first of all, Kevin McAleenan. We welcome you back to the committee. He is the acting deputy commissioner of the U.S. Customs and Border Protection. Daniel Ragsdale, we welcome you as well. He is the deputy director of U.S. Immigration and Customs Enforcement. I will more formally recognize them in just a moment.

The U.S. Customs and Border Protection and the U.S. Immigration and Customs Enforcement are two of the largest Federal law enforcement agencies in the Government. Though it is hard to believe, neither one of them has ever been formally authorized by the Congress into law, since the creation of Homeland Security over 12 years ago. So for more than a decade, these two agencies have existed apart from explicit statutory authority which other agencies of the Federal Government routinely receive.

To that end, myself and the Ranking Member have introduced H.R. 3846 and also H.R. 4279, the United States Customs and Border Protection Authorization Act and the United States Immigration and Customs Enforcement Authorization Act, respectively. These bills represent the first attempt by the Congress since the Homeland Security Act was enacted to clearly delineate the current authorities and responsibilities of these two vital agencies which fall within the Department of Homeland Security. As the committee of primary jurisdiction over CBP and ICE, we are responsible not only for oversight of the agencies under their purview, of course, but also for the policy guidance to the Department

as a whole to furnish the agencies with the proper authorities to carry out their mission.

The fact that these agencies have been operating for as long as they have without statutorily mandating what Congress and the American people expect from CBP and from ICE is a problem we think that needs to be corrected. The Homeland Security Act—again, nearly 12 years old—reflects the choices made by Congress at the time to cobble 22 different agencies together very quickly. The provisions of the act do not fully address all of the authorities and current security missions of either ICE or CBP, which have significantly evolved over the last decade. In addition, the Homeland Security Act does not accurately reflect the current organization of the Department.

For example, most of the authority for the work that ICE and CBP now perform was vested in a position called the under secretary of border and transportation security. If you haven't heard of it lately, that is because it was eliminated by then-Secretary Chertoff in 2005. Nonetheless, the position remains in law. The legislation we are discussing today is the first step in fixing outdated provisions from the source legislation that created the Department.

Both agencies continue to rely on very vague authority given to the secretary or to the Homeland Security offices, like the Border and Transportation directorate that no longer exists. Certainly that is not a sustainable way to run two of the premier Federal law enforcement agencies, especially ones that are so critical to National security. For example, the Office of the United States Border Patrol is referenced only briefly in the Homeland Security Act, and ICE is not mentioned at all.

Congressional policy guidance and direction through the authorization process is long overdue, and certainly we believe we should begin, as the bills that we have introduced do, by authorizing ICE and CBP's current missions the way that the Department currently operates and then build on that foundation over time.

These bills specifically authorize each major component of the respective agencies to accomplish that goal. In the case of CBP, we authorize the specific functions of the Office of Field Operations, United States Border Patrol Office of Air and Marine, the Office of Intelligence and Investigative Liaison, and the Office of Internal Affairs.

When it comes to ICE, we authorize the Office of Homeland Security Investigations, Office of Enforcement and Removal Operations, and the Office of Professional Responsibility. The legislation also recognizes the lead role that ICE plays in administering the Intellectual Property Rights Coordination Center and the Export Enforcement Coordination Center. Once we have established a firm statutory foundation, then we can begin—as other committees do—to regularly authorize key parts of the Department every Congress, which reflect the committee's priorities.

Finally, it is well-known that the Committee on Homeland Security has some serious jurisdictional challenges. You only need to look at the multiple committees that received referrals to these bills as a case in point. However, we cannot let jurisdictional hurdles be an impediment to the work that is the core of this commit-

tee's purpose: Authorizing the agencies that fall under the DHS umbrella.

So I certainly want to thank the Ranking Member for her support for both of these bills. I also want to commend the work and assistance that both CBP and ICE provided as we started the difficult tasks of cleaning up the Homeland Security Act to give the proper authorities to these two agencies and to the men and women who are charged with protecting the homeland. Again, we appreciate the witnesses. I will formally introduce them in just a moment.

But at this time, the Chairwoman recognizes the Ranking Member of the subcommittee, the gentlelady from Texas, Ms. Jackson Lee, for any statement that she may have.

Ms. JACKSON LEE. Thank you so very much, Madam Chairwoman. Let me acknowledge Ms. Sanchez of California and Mr. O'Rourke of Texas, who are also present here this morning. Thank the witnesses for your presence this morning and for the work, great work, that you do. I am delighted to join with the Chairwoman, as Ranking Member, in also affirming the importance of a reauthorization and authorization legislation, which really is a road map and gives the kind of infrastructure to the work that is so ably being done and allows us to work closely on issues that will better enhance the service that both United States Customs and Border Protection and U.S. Immigration and Customs Enforcement are able to give on behalf of this Nation.

Enacting such legislation is long overdue. Authorizing legislation for these agencies has not been updated since the Homeland Security Act of 2002 established CBP and ICE within the Department of Homeland Security. I have been here long enough to have been part of that process and part of the organizing process of the actual Homeland Security Department, the merger of so many different agencies and, certainly, this committee. Neither component is authorized in law as it stands in its current form.

While the law has not been updated, the world has continued to turn. Today, CBP is one of the largest components within DHS, with 60,000 dedicated employees committed to securing and administering our Nation's borders. I also recognize that for those of us who have spent many a day, or hours, at the border—both Southern and Northern Border—we see the variations of service of those who work with CBP. We have heard their concerns, we have heard their descriptions of their work and their needs. I believe it is very important now to hone in on all the work and the workers, and to be able to provide an authorization bill that responds to some of their concerns, as well.

With that in mind, I would like to offer into the record, Madam Chairwoman, a statement by the National Treasury Employees Union, NTEU—the president is Colleen M. Kelly, national president—responding to the issue of the needs that they have with respect to the staffing issues that are so very important. I ask unanimous consent to put this into the record.

Mrs. MILLER. Without objection.

Ms. JACKSON LEE. Thank you.

[The information follows:]

STATEMENT OF COLLEEN M. KELLEY, NATIONAL PRESIDENT, NATIONAL TREASURY  
EMPLOYEES UNION

APRIL 8, 2014

Chairwoman Miller, Ranking Member Jackson Lee, distinguished Members of the subcommittee; thank you for the opportunity to provide this testimony. As president of the National Treasury Employees Union (NTEU), I have the honor of leading a union that represents over 24,000 Customs and Border Protection (CBP) Officers and trade enforcement specialists stationed at 329 land, sea, and air ports of entry (POEs) across the United States.

NTEU applauds the committee for introducing a bill authorizing the establishment of CBP, recognizing it as America's front-line border security agency, responsible for protecting the American people from the entry of dangerous goods and people, while at the same time facilitating legal trade and travel. NTEU also applauds the fiscal year 2014 Consolidated Appropriations Act (Omnibus), recognizing that there is no greater roadblock to legitimate trade and travel efficiency than the lack of sufficient staff at the ports.

Understaffed ports lead to long delays in our commercial lanes as cargo waits to enter U.S. commerce. NTEU strongly supported the fiscal year 2014 Omnibus Appropriations bill that provided funding to hire an additional 2,000 new CBP Officers by the end of fiscal year 2015 at the air, sea, and land ports of entry. NTEU also strongly supports the administration's legislative proposal in its fiscal year 2015 budget request to fund the hiring of an additional 2,000 CBP Officers—bringing the total number of CBP Officers to 25,775—paid for by an increase in customs and immigration user fees. This increase is supported by CBP's fiscal year 2014 Resource Optimization at Ports of Entry Report to Congress which includes the results of the Workforce Staffing Model that identifies a pre-Omnibus need for 3,811 new CBP Officers. It is important that the committee authorize funding for these additional 2,000 CBP Officers in fiscal year 2015 and beyond in H.R. 3846.

For years, NTEU has maintained that delays at the ports result in real losses to the U.S. economy. According to the U.S. Department of the Treasury, more than 50 million Americans work for companies that engage in international trade and, according to a recent University of Southern California study, "The Impact on the Economy of Changes in Wait Times at the Ports of Entry", dated April 4, 2013, for every 1,000 CBP Officers added, the United States can increase its gross domestic product by \$2 billion, which equates to 33 new private-sector jobs per CBP Officer added.

NTEU strongly supports the increase in the immigration and customs user fees by \$2.00 each to fund the hiring of an additional 2,000 CBP Officers in fiscal year 2015, but recognize that this increase may not be approved by Congress. CBP collects user fees to recover certain costs incurred for processing, among other things, air and sea passengers, and various private and commercial land, sea, air, and rail carriers and shipments. The source of these user fees are commercial vessels, commercial vehicles, rail cars, private aircraft, private vessels, air passengers, sea passengers, cruise vessel passengers, dutiable mail, customs brokers, and barge/bulk carriers. These fees are deposited into the Customs User Fee Account. Customs User Fees are designated by statute to pay for services provided to the user, such as inspectional overtime for passenger and commercial vehicle inspection during overtime shift hours. User fees have not been increased in years and some of these user fees cover only a portion of recoverable fee-related costs. In 2010, CBP collected a total of \$13.7 million in Commercial Vehicle user fees, but the actual cost of Commercial Vehicle inspections in fiscal year 2010 was over \$113.7 million—a \$100 million shortfall.

Increasing the immigration inspection user fee by \$2 will allow CBP to better align air passenger inspection fee revenue with the costs of providing immigration inspection services. According to the Government Accountability Office (GAO) (GAO-12-464T, page 11), fee collections available to ICE and CBP to pay for costs incurred in providing immigration inspection services totaled about \$600 million in fiscal year 2010, however, "air passenger immigration fees collections did not fully cover CBP's costs in fiscal year 2009 and fiscal year 2010."

Despite an increase in appropriated funding in fiscal years 2014 and 2015 for an additional 2,000 CBP Officers, CBP will still face staffing shortages in fiscal year 2015 and beyond. If Congress is serious about job creation, then Congress should support enactment of legislation that increases the IUF and COBRA fees by \$2.00 each and adjust both fees annually to inflation. If Congress does not enact the user-fee increases requested, the needed staffing enhancement must be funded by discretionary appropriations. This committee should authorize appropriations to address

the on-going CBP Officer staffing shortages as identified by CBP's Workforce Staffing Model, as well as shortages of CBP staff in CBP's other vital agriculture and trade inspection and compliance missions.

#### AGRICULTURE SPECIALIST STAFFING SHORTAGE

CBP employees at the ports also perform agriculture inspections to prevent the entry of animal and plant pests or diseases. The U.S. agriculture sector is a crucial component of the American economy, generating over \$1 trillion in annual economic activity. According to the United States Department of Agriculture (USDA), foreign pests and diseases cost the American economy tens of billions of dollars annually. Failure to detect and intercept these non-native pests and diseases imposes serious economic and social costs on all Americans. Staffing shortages and lack of mission priority for the critical work performed by CBP Agriculture Specialists and CBP Technicians assigned to the ports is a continuing threat to the U.S. economy.

To address CBP Agriculture Specialist staffing shortages at the ports of entry, NTEU supports funding to hire additional CBP Agriculture Specialists. We also support GAO recommendations aimed at more fully aligning Agriculture Quality Inspection (AQI) fee revenue with program costs (see GAO-13-268). According to GAO, in fiscal year 2011, CBP incurred 81 percent of total AQI program costs, but received only 60 percent of fee revenues; whereas the Animal, Plant Health Inspection Service (APHIS) incurred 19 percent of program costs but retained 36 percent of the revenues. In other words, APHIS covers all its AQI costs with AQI fee revenues, while CBP does not. AQI user fees fund only 62 percent of agriculture inspection costs with a gap of \$325 million between costs and revenue. To bridge the resulting gap, CBP uses its annual appropriation.

NTEU supports CBP's efforts to establish an Agriculture Specialist Resource Allocation Model to ensure adequate CBP Agriculture Specialist staffing at the POEs. Release of the Agriculture Specialist Workforce Staffing Model, initially due at the end of September 2013, however, has been postponed. NTEU has learned that the Model, when released, will show a significant staffing shortage at the ports and a need to hire a significant number of additional CBP Agriculture Specialists. NTEU requests the committee to authorize in H.R. 3846 funding to hire additional CBP Agriculture Specialists as specified in the forthcoming workforce staffing model.

#### FOREIGN LANGUAGE AWARDS PROGRAM (FLAP)

NTEU is strongly opposed to the \$16 million cut in the administration's fiscal year 2015 budget proposal for the Foreign Language Award Program (FLAP). Established in 1993, FLAP allows employees who speak and use foreign language skills on the job to receive a cash award if they use the language for at least 10 percent of their duties and have passed the competency test. Congress authorized FLAP as an incentive for CBP Officers and CBP Agriculture Specialists to learn foreign languages to augment duties at the ports of entry in order to better serve the traveling public and their security mission.

Congress understood that these law enforcement officers stationed at U.S. air, sea, and land ports of entry were in daily direct contact with international travelers. Facilitation of trade and travel along with port security is a dual mission of these employees. Not only do language barriers delay processing of trade and travel at the ports, for these law enforcement officers, communication breakdowns can be dangerous. Confusion arises when a non-English speaking person does not understand the commands of a law enforcement officer. These situations can escalate quite rapidly if that person keeps moving forward or does not take their hands out of their pockets when requested.

This incentive program, incorporating more than 2 dozen languages, has been instrumental in identifying and utilizing CBP employees who are proficient in a foreign language. At CBP, this program has been an unqualified success, and not just for employees, but for the travelers who are aided by having someone at a port of entry who speaks their language, for the smooth functioning of the agency's security mission.

Congress should be concerned about the impact on the traveling public and CBP's security mission if this 84% cut in this valuable program is implemented. In the fiscal year 2013 Senate Homeland Security Appropriations bill, Congress encouraged CBP to work with airport authorities to develop a "welcome ambassador" program and cited language within the CBP's fiscal year 2012 *Improving Entry Process for Visitors Report* stating, "[CBPOs are] the first face of the U.S. Government that travelers see at ports of entry. As a visible symbol of our Nation, CBP Officers have an important responsibility."

Incentivizing CBP Officers to attain and maintain competency in a foreign language through FLAP, not only improves the efficiency of operations, it makes the United States a more welcoming place when foreign travelers find CBP Officers can communicate in their language, and help expedite traveler processing to reduce wait times. In a recent U.S. Travel Association *Traveler Survey*, adding entry processing personnel fluent in foreign languages ranked second in priority—only surpassed by reducing long lines and wait times.

Pursuant to Title 19, section 58c(f) of the U.S. Code, FLAP is funded with user fee collections rather than appropriations. A portion of customs user fees paid by international travelers fund the availability of CBP personnel with foreign language fluency. It is clear that by reducing the program from \$19 million to \$3 million and reallocating these user fee funds, the incentives available to CBP Officers will be dramatically reduced. Many Officers will drop out of this program that requires ongoing training and testing to be eligible. This result will only add to the perception by international travelers that traveling to the United States is an unwelcoming experience and one to be avoided.

NTEU urges the committee to include FLAP authorization language in H.R. 3846 requiring FLAP payments to all eligible CBP employees.

#### CBP TRADE OPERATIONS STAFFING

CBP has a dual mission of safeguarding our Nation's borders and ports as well as regulating and facilitating international trade. In fiscal year 2013, all revenue collected by CBP exceeded \$41 billion with nearly \$30 billion of that revenue coming from the collection of trade duties. Since CBP was established in March 2003, however, there has been no increase in CBP trade enforcement and compliance personnel. NTEU is concerned that, rather than hiring additional CBP trade operations personnel, the budget proposes to cut trade operations positions including Rulings and Regulations staffers who are responsible for promulgating regulations and rulings, and providing policy and technical support to CBP, DHS, Treasury, Congress, and the importing community concerning the application of Customs laws and regulations.

NTEU urges the committee not to support cuts to CBP trade operations staff, but to authorize funding to hire additional trade enforcement and compliance personnel, including Import Specialists, at the ports of entry to enhance trade revenue collection.

NTEU commends the Department for increasing the journeyman pay for CBP Officers and Agriculture Specialists. Many deserving CBP trade and security positions, however, were left out of this pay increase, which has significantly damaged morale.

NTEU strongly supports extending this same career ladder increase to additional CBP positions, including CBP Trade Operations Specialists and CBP Seized Property Specialists and seeks authorizing language in H.R. 3846 to achieve this goal. The journeyman pay level for the CBP Technicians who perform important commercial trade and administration duties should also be increased from GS-7 to GS-9.

CBP continues to be a top-heavy management organization. In terms of real numbers, since CBP was created, the number of new managers has increased at a much higher rate than the number of new front-line CBP hires. According to CBP's own numbers, the Supervisor-to-front-line-employee ratio was 1 to 5.9 for the CBP workforce, 1 to 6.1 for CBP Officers and 1 to 6.9 for CBP Agriculture Specialists.

The tremendous increase in CBP managers and supervisors has come at the expense of National security preparedness and front-line positions. Also, these highly-paid management positions are straining the CBP budget. With the increase of potentially 4,000 CBP Officer new hires, NTEU urges the committee to require CBP to provide a staffing plan to return to a more balanced supervisor to front-line employee ration.

NTEU strongly urges Congress to end the sequester. Without enactment of the Omnibus appropriations bill, the sequester would have severely restricted CBP's ability to address critical staffing needs at the ports of entry in fiscal years 2014 and 2015. If Congress doesn't reverse the Budget Control Act, another round of sequestration will be devastating to CBP—requiring furloughs and hiring freezes, reducing services, increasing wait times for trade and travel, and jeopardizing National security.

#### RECOMMENDATIONS

Additional CBP staff must be authorized to ensure security and mitigate prolonged wait times for both trade and travel at our Nation's ports of entry. Therefore, NTEU urges the committee to end the sequester and include in H.R. 3846:

- authorization for an additional 2,000 CBP Officers—bringing the total staffing number to 25,775;
- authorization for an increase in agriculture inspection and trade enforcement staffing to adequately address increased agriculture and commercial trade volumes;
- authorization of enhanced pay and retirement recognition to additional CBP personnel, including Import and other Commercial Operations Specialists, CBP Seized Property Specialists, and CBP Technicians; and
- Language requiring CBP to continue the COBRA user fee funding for all FLAP eligible CBP employees.

Lastly, NTEU strongly supports legislation to allow CBP to increase, by \$2.00, user fees to help recover costs associated with fee-funded services and provide funding to hire additional CBP Officers. We also support including in the extension of the Travel Promotion Act that provides CBP the authority to collect a fee to fund the promotion of tourism, a provision requiring that a significant portion of fees collected be remitted to CBP to provide additional funding for CBP Officer new hires.

The more than 24,000 CBP employees represented by NTEU are proud of their part in keeping our country free from terrorism, our neighborhoods safe from drugs and our economy safe from illegal trade, while ensuring that legal trade and travelers move expeditiously through our air, sea, and land ports. These men and women are deserving of more resources to perform their jobs better and more efficiently.

Thank you for the opportunity to submit this testimony to the committee on their behalf.

Ms. JACKSON LEE. The agency has a myriad of new responsibilities, including administering more sophisticated travel screening programs, expanded trusted traveler initiatives, and enhanced border security technology. ICE is DHS's investigative agency, with over 20,000 men and women enforcing Federal laws governing border control, customs, trade, and immigration. Their work is also ever more complex, with investigations related to narcotic smuggling and human trafficking, in addition to immigration enforcement and other responsibilities.

I want to thank Mr. Ragsdale and ICE, and the representative of ICE, for participating in an official Congressional hearing in Houston, Texas on human trafficking, which, in that hearing, Houston, Texas was noted as the epicenter of human trafficking. I appreciate, Madam Chairwoman, and I—as we proceed on this reauthorization, the work that ICE is doing around the country to help save lives and to help end the exploitation of children and women and others in this deadly devastation, human trafficking, modern-day slavery. So I wanted to make note of that.

Given the scope and importance of the missions carried out by CBP and ICE, proper authorizing legislation is essential to ensuring appropriate staffing and programmatic guidance from Congress. It is the responsibility of the committee to ensure such legislation is acted upon. That is why I am proud to be an original cosponsor of both H.R. 3846, the United States Customs and Border Protection Authorization, and H.R. 4279, the United States Immigration and Customs Enforcement Authorization Act.

I thank the gentlelady from Michigan for working with our offices and for this bipartisan nature of the discussions regarding these bills to date, and looking forward to continued collaboration on the measures as they move through the legislative process. The bills, as introduced, provide an excellent basis for discussion today, and a good starting point for the legislative process.

Many times, the public sees CBP as the guys at the border and ladies at the border. ICE is seen, in many instances, by diverse

groups—particularly immigrant groups—as the detainers of individuals, their loved ones, or detainers of those who have been taken into immigration custody. Their work is vast and much broader. We must give them the tools to do so. I might add here, we must pass comprehensive immigration reform that will, in fact, allow them to have a structure of law that will ensure that the bad guys are detained, and others who want to do work have a process to access citizenship.

I look forward to continuing to work together as we move toward a possible markup. Today, I look forward to hearing from Members about what provisions they believe need to be included in legislation authorizing CBP and ICE, and we will be looking at the record. We are fortunate to have Members on the Democratic side with a great deal of expertise on border security matters, whether they represent a border district or have a long history of work with the subcommittee.

I hope that we will be actively engaged in laying the groundwork for a possible future markup by questioning the witnesses on issues relevant to the legislation being considered, along with a number of other initiatives that I have introduced. Members' insight will be invaluable as the legislative processes move forward. I understand that the administration has not yet taken an official position on either H.R. 3846 or 4279. However, I hope the witnesses will do their utmost to offer their insight, opinion, and expertise in response to Members' questions regarding the bills, as introduced.

I thank the witnesses for being here, and I am delighted to join with the Chairwoman on this hearing. I conclude by indicating to the Chairwoman and to the Members of the this committee I also have Attorney General Holder in the Judiciary Committee. At a certain point in this hearing I will be departing, and ask your indulgence. Thank you for your courtesy recognizing the overlapping schedule that I have. Thank you so very much.

I yield back at this time.

Mrs. MILLER. I thank the gentlelady. Other Members of the committee would be reminded that their opening statements might be submitted for the record. I will just pick up on one thing that that the gentlelady mentioned about human trafficking, which is such a terrible, terrible thing that is happening—as she mentioned, modern-day slavery, really. Our bill, our authorization, does authorize ICE to investigate and to look into human trafficking. So I think that is an important component.

Again, the Chairwoman is pleased to have two distinguished witnesses today to discuss our authorizing bills. First of all, Mr. Kevin McAleenan is the acting deputy commissioner of the U.S. Customs and Border Protection. Previously, he was the acting assistant commissioner for the Office of Field Operations at U.S. Customs and Border Protection, where he was responsible for overseeing CBP's anti-terrorism, immigration, anti-smuggling, trade compliance, and agricultural protection operations at the Nation's 329 ports of entry.

Daniel Ragsdale is the deputy director for U.S. Immigration and Customs Enforcement. Mr. Ragsdale executes oversight of ICE's day-to-day operations, including approximately 20,000 operation

and mission support personnel. The witnesses' full written statement will appear in the record.

The Chairwoman now recognizes Mr. McAleenan for his testimony.

**STATEMENT OF KEVIN K. MCALEENAN, ACTING DEPUTY COMMISSIONER, U.S. CUSTOMS AND BORDER PROTECTION, U.S. DEPARTMENT OF HOMELAND SECURITY**

Mr. MCALEENAN. Good morning, Chairwoman Miller, Ranking Member Jackson Lee, and distinguished Members of the subcommittee. Thank you for the opportunity to appear before you today to discuss the proposed legislation to authorize U.S. Customs and Border Protection, CBP, and formalize our role in securing America's borders and facilitating legitimate trade and travel.

Before I begin, I would like to thank this subcommittee for its continued support and commitment to CBP. H.R. 3846, the United States Customs and Border Protection Authorization Act, would authorize, for the first time, CBP's leadership, organization, and reporting structures. The bill provides a solid legislative framework that reflects today's CBP. It modernizes and clarifies current statute, specifically the Homeland Security Act of 2002, to remove references and authorities granted to entities that no longer exist and entrust them to the commissioner of CBP, where they are properly lodged.

The authorization bill recognizes the distinct and important role that CBP, the largest law enforcement agency in the United States, plays every day in keeping Americans safe. It recognizes the broad and complex border security, law enforcement and facilitation missions with which CBP is charged, and the unique capabilities that the people at CBP bring to bear to carry them out. Like its mission, CBP's law enforcement jurisdiction is highly complex and derives authority from a wide spectrum of Federal statutes.

CBP enforces customs laws related to tariff and revenue protection, immigration laws related to the admission of individuals to the United States. Additionally, CBP has been given the broad mandate to enforce all Federal laws, including drug, export control, money laundering, and agriculture at the borders of the United States.

The laws we enforce are vital to ensuring all persons and cargo entering the United States do so legally and safely through official ports of entry, preventing the illegal entry of persons and contraband, promoting the safe and efficient cross-border flow of commerce, and protecting U.S. business from harmful and illicit trade activities.

We perform our critical law enforcement mission with three front-line operational offices: Field operations, U.S. Border Patrol, and Air and Marine. Operating at 329 ports of entry across the United States in 16 pre-clearance locations internationally, CBP's Office of Field Operations plays a vital role in preventing terrorists and terrorist weapons the country, and securing and facilitating lawful trade and travel. Working to interdict high-risk passengers and cargo before they arrive at our ports of entry, the National Targeting Center leverages all available advance passenger and cargo information to detect and deter potentially dangerous persons

before they board an aircraft or vessel, or cargo before it is loaded on a conveyance destined for the United States.

In between ports of entry, the U.S. Border Patrol prevents terrorists and terrorist weapons, criminals and drug traffickers from entering the United States, detects and prevents the smuggling and unlawful entry of undocumented individuals, and apprehends those found to be in violation of the immigration laws.

The Office of Air and Marine protects the American people and the Nation's critical infrastructure through the coordinated use of Air and Marine forces to detect, interdict, and prevent the unlawful movement of people, illegal drugs, and other contraband toward or across our borders.

In addition to its security mission, CBP has direct responsibility for enhancing U.S. economic competitiveness. The Office of International Trade coordinates CBP's policies and strategies to reduce the cost for industry and enforce trade laws against counterfeit, unsafe, or fraudulently-entered goods. These offices receive direct operational support from the Offices of Intelligence and Investigative Liaison, International Affairs and Internal Affairs. CBP's mission support offices, as well as our Federal, State, local, Tribal, international and, critically, our private-sector partners are also vital contributors toward our mission.

I wish to thank the Members of the subcommittee for your pursuit of this authorization bill, which reflects the goals of the 9/11 Commission and the Homeland Security Act to integrate, streamline, and modernize our Nation's security functions into a unified force, a strengthened homeland security enterprise, and a more secure America that is better equipped to confront the range of threats we face today and in the days to come.

As H.R. 3846 progresses through the legislative process, we look forward to working with Congress to ensure that CBP retains the necessary authorities to keep terrorists and their weapons out of the United States, to secure our borders and to facilitate international trade and travel.

Thank you again for this opportunity to testify. I look forward to answering your questions.

[The joint prepared statement of Mr. McAleenan and Mr. Ragsdale follows:]

JOINT PREPARED STATEMENT OF KEVIN K. MCALEENAN AND DANIEL H. RAGSDALE

APRIL 8, 2014

Chairman Miller, Ranking Member Jackson Lee, Members of the subcommittee, it is an honor to appear before you today to discuss U.S. Customs and Border Protection (CBP) and U.S. Immigration and Customs Enforcement (ICE) and our efforts in securing America's borders. We would like to acknowledge and thank this committee for the consistent support and commitment you have shown to the mission and people of the Department of Homeland Security (DHS).

We appreciate the opportunity to talk about the authorization of CBP and ICE—two agencies that share a long and rich history. Our roots date back as far as the 18th Century when the First United States Congress established the United States Customs Service, operating out of official U.S. ports of entry (POEs), to be responsible for the collection of duties on imported goods. In the late 19th Century, Congress created the Bureau of Animal Industry, which later became the Animal and Plant Health Inspection Service (APHIS) under the Department of Agriculture, of which part of their responsibility was to support inspection activities at POEs. At approximately the same time, Congress established an immigration office, which later became the Immigration and Naturalization Service (INS), and placed inspec-

tors at major POEs to process immigrants seeking admission to the United States, and to collect a tax on all individuals admitted. Soon after, responding to a need to secure the borders between inspection stations, Congress established the Border Patrol.

Congress created DHS in the aftermath of the September 11, 2001, attacks, and in response to the recommendations of the 9/11 Commission. With the passage of the Homeland Security Act in November 2002, DHS formally came into being as a stand-alone, Cabinet-level department to further coordinate and unify National homeland security efforts, opening its doors on March 1, 2003. DHS brought together 22 agencies from across the Executive branch into a unified, integrated department, to prevent terrorism and enhance security; secure and manage U.S. borders; enforce and administer U.S. immigration laws; safeguard and secure cyberspace; and ensure resilience to disasters.

With the creation of DHS, the enforcement and service functions of INS and the U.S. Customs Service were absorbed into the Directorate of Border and Transportation Security, including U.S. Customs, Bureau of Border Security, and Bureau of Citizenship and Immigration Services. In 2003, President George W. Bush submitted a reorganization plan for DHS, renaming the Bureau of Border Security the Bureau of Immigration and Customs Enforcement and the Customs Service the Bureau of Customs and Border Protection. In 2007, DHS changed the name of the Bureau of Customs and Border Protection to U.S. Customs and Border Protection and the Bureau of Immigration and Customs Enforcement to U.S. Immigration and Customs Enforcement.

CBP assumed the Border Patrol and Inspections functions formerly conducted by INS, and the Agriculture Inspection functions formerly conducted by APHIS, while the Investigative functions were placed within ICE. The legacy U.S. Customs Service's Air and Marine Interdiction Division was initially transferred to ICE when DHS was created in 2003; however, because CBP also had Border Patrol air and marine assets, the Office of Air and Marine officially became CBP's third uniformed division and consolidated its assets into CBP in 2006.

Today, with 60,000 employees, CBP is one of DHS's largest and most complex components, with a priority mission of keeping terrorists and their weapons out of the United States. It also has a responsibility for securing the border—approximately 7,000 miles of land borders and 95,000 miles of coastline—and facilitating lawful international trade and travel. CBP takes a comprehensive approach to border management and control, combining customs, immigration, border security, and agricultural protection into one coordinated and supportive activity. On a typical day, CBP processes nearly 1 million travelers, screens more than 67,000 cargo containers, arrests more than 1,100 individuals, and seizes nearly 6 tons of illicit drugs. CBP enforces hundreds of U.S. laws and regulations, including customs, immigration, trade, and drug laws. In addition to its own regulations, CBP enforces more than 500 laws for 47 Federal agencies, in coordination with these agencies.

Like its mission, CBP's law enforcement jurisdiction is highly complex and derives authority from a wide spectrum of Federal statutes. CBP enforces customs laws<sup>1</sup> related to tariff and revenue protection, and immigration laws<sup>2</sup> related to the admission of individuals to the United States. Additionally, because of its presence at the border and its unique border search authority,<sup>3</sup> which is shared with ICE, CBP has been given the broad mandate to enforce all Federal laws—including drug, export control, money laundering, and agriculture laws—at the borders of the United States. This requires ensuring that all persons and cargo enter the United States legally and safely through official POEs, preventing the illegal entry of persons and contraband into the United States at and between POEs, promoting the safe and efficient flow of commerce into the United States, and enforcing trade and tariff laws and regulations.

CBP performs its critical law enforcement mission with three front-line operational offices—Field Operations, Border Patrol, and Air and Marine. CBP's front-line offices receive direct operational support from the Offices of International Trade, Intelligence and Investigative Liaison, International Affairs, and Internal Affairs. Additionally, CBP's mission support offices, as well as our Federal, State, local, Tribal, international, and private-sector partners are vital contributors toward CBP's mission.

The Office of Field Operations (OFO), operating at 328 POEs across the United States and 16 Preclearance locations internationally, plays a vital role in preventing

<sup>1</sup> See, e.g., Title 19, United States Code.

<sup>2</sup> See, e.g., Title 8, United States Code.

<sup>3</sup> See 19 U.S.C. §§ 482, 1461, 1467, 1496, 1499, 1581, 1582, 1583, 1589a, 1595, and 8 U.S.C. § 1357.

terrorists and terrorist weapons from entering the United States and enforcing customs, immigration, and agriculture laws and regulations. At our Nation's POEs, CBP inspects all individuals seeking entry to the United States and determines their admissibility. Expanding the Nation's zone of security, CBP's National Targeting Center (NTC) leverages all available advance passenger and cargo data, previous crossing information, intelligence, and law enforcement information, as well as open-source data, to interdict high-risk passengers and cargo at foreign departure locations before they can board or be loaded on a conveyance destined to the United States. In between the POEs, the Office of Border Patrol (BP) prevents terrorists and terrorist weapons, criminals, and drug traffickers from entering the United States; detects and prevents the smuggling and unlawful entry of undocumented individuals into the United States; and apprehends those people found to be in violation of the immigration laws. From the air and from the sea, the Office of Air and Marine (OAM) protects the American people and the Nation's critical infrastructure through the coordinated use of integrated air and marine forces to detect, interdict, and prevent acts of terrorism and the unlawful movement of people, illegal drugs, and other contraband toward or across the borders of the United States.

In addition to its security mission, CBP has direct responsibility for enhancing U.S. economic competitiveness. The Office of International Trade (OT) coordinates CBP's trade policies and strategies. By reducing costs for industry and enforcing trade laws against counterfeit, unsafe, and fraudulently-entered goods, CBP works to enable legitimate trade, contribute to American economic prosperity, and protect against risks to public health and safety. In 2013, CBP Officers processed more than \$2.3 trillion in trade and nearly 25 million cargo containers through the Nation's POEs, up 1 percent from last year. CBP also conducted more than 24,000 seizures of goods that violated intellectual property rights, with a total retail value of \$1.7 billion, representing a 38 percent increase in value from fiscal year 2012.

The Office of Intelligence and Investigative Liaison (OIIL) supports CBP's mission through a multi-layered approach that includes collecting and analyzing advance traveler and cargo information, using enhanced law enforcement technical collection capabilities, providing timely analysis of intelligence and information, and establishing intelligence-sharing relationships with Federal, State, local, and Tribal agencies and the intelligence community.

CBP's Office of International Affairs (INA) coordinates and supports foreign initiatives, programs, and activities within CBP. Through international cooperation and relationships, INA strives to extend U.S. borders by implementing programs and initiatives that promote anti-terrorism, global border security, non-proliferation, export controls, immigration, and capacity building.

CBP works to ensure that its officers and agents conduct their activities in a professional and humane manner that promotes the safety of its officers and members of the public it interacts with to build community trust. CBP's Internal Affairs (IA) Office is responsible for ensuring compliance with all CBP-wide programs and policies relating to corruption, misconduct, or mismanagement and for executing the internal security, integrity, and management inspections program. Among its responsibilities, IA investigates serious misconduct by CBP employees.

ICE is the principal criminal investigative arm of DHS and one of three DHS agencies charged with enforcing and administering the Nation's immigration system. Created through a merger of the investigative and interior enforcement elements of the U.S. Customs Service and INS, ICE's primary mission is to protect National security, public safety, and the integrity of our borders through the criminal and civil enforcement of Federal law governing border control, customs, trade, and immigration. As with CBP, in 2007, DHS changed the name of the Bureau of Immigration and Customs Enforcement to ICE.

Today, ICE has more than 19,000 employees in offices in all 50 States and 48 foreign countries. ICE promotes homeland security and public safety through the strategic and wide-ranging criminal and civil enforcement of hundreds of Federal laws governing border control, customs, trade, and immigration.<sup>4</sup> ICE primarily consists

<sup>4</sup>See, e.g., 8 U.S.C. § 1101 et. seq. (especially 8 U.S.C. §§ 1225(b), 1226, 1231, 1324, 1325, 1326, and 1357) (pertaining to general immigration arrest, detention, and enforcement provisions); 8 U.S.C. § 1363a and 19 U.S.C. § 2081 (pertaining to undercover investigative authorities); 15 U.S.C. § 1124, 18 U.S.C. § 2320 (pertaining to importing goods bearing infringing marks and trafficking in counterfeit goods or services); 19 U.S.C. Chapter 4 (the Tariff Act of 1930); 12 U.S.C. § 1829b, 12 U.S.C. §§ 1951–59, and 31 U.S.C. § 5311 et seq. (Bank Secrecy Act); 18 U.S.C. §§ 542, 545, and 554 (pertaining to entry by false statements and smuggling goods into and out of the United States); 18 U.S.C. §§ 1590 and 1591 (pertaining to peonage, slavery, and trafficking in persons); 18 U.S.C. §§ 2251, 2251A, and 2252 (pertaining to sexual exploitation and other abuse of children); 19 U.S.C. § 1589a (pertaining to enforcement authority of customs officers); 18 U.S.C. §§ 1956, 1957, and 1960 (Money Laundering Control Act); 19 U.S.C. §§ 2601–

of two operational programs: Enforcement and Removal Operations (ERO) and Homeland Security Investigations (HSI). Guided by ICE's prioritized enforcement principles, ERO identifies and apprehends convicted criminals and other individuals deemed removable, detains or places these individuals in alternatives to detention programs, and removes individuals determined to be illegally present (or otherwise subject to removal) from the United States. HSI is responsible for a wide range of domestic and international criminal investigations arising from the illegal movement of people and merchandise into, within, and out of the United States, often in coordination with other Federal agencies.

ERO enforces civil immigration laws in a manner to best promote National security, public safety, border security, and the integrity of the immigration system. To protect public safety and National security, ICE places highest priority on the removal of convicted criminals and those who pose a threat to our communities. The removal of these individuals from the United States is a National priority; and ERO's core functions are executed by a team of deportation officers and immigration enforcement agents that operate in nearly every jurisdiction of the United States. ERO facilitates the processing of individuals in removal proceedings through the immigration court system and coordinates their departure from the country, including the preparation of necessary travel documents.

The establishment of the Fugitive Operations Support Center (FOSC) in 2006 in Williston, Vermont is a key element in ERO's strategy to address enforcement of arrest and removal warrants to include fugitives, individuals who have illegally re-entered the United States after removal, and those posing a threat to our communities. Since inception, FOSC, by analyzing and reconciling ICE records pertaining to fugitive and the at-large convicted criminal populations, steadily reduced the number of existing fugitives nationally. In addition, the FOSC provides vital assistance to ICE Fugitive Operations Teams (FOTs) in the field with critical information on the identity, immigration and criminal history, and location of high-priority removal aliens in the United States, thereby resulting in increasing criminal arrest percentages over the last several years. Since 2003, ICE has gone from 8 FOTs Nation-wide to 129 FOTs deployed today. At the end of fiscal year 2013, criminal arrests accounted for 75 percent of overall arrests by fugitive operations, or 23,504 criminal arrests out of the 31,222 total fugitive operations arrests for the fiscal year.

In addition to the FOSC, the Law Enforcement Support Center (LESC) is a National enforcement operations facility administered by ICE. The center is a single National point of contact that provides timely immigration status, identity information, and real-time assistance to local, State, and Federal law enforcement agencies on individuals suspected, arrested, or convicted of criminal activity. The center protects and defends the United States by sharing timely and relevant ICE information with our law enforcement partners around the world. The number of requests sent to the LESOC increased from 4,000 in fiscal year 1996 to more than 1.4 million in fiscal year 2013. During fiscal year 2013, agents at the LESOC placed 12,289 detainers on aliens suspected of immigration violations. Finally, during fiscal year 2013, Law Enforcement Specialists and Deportation Officers at the center responded to 151,319 calls from law enforcement officers.

While ERO enforces civil immigration laws, HSI's Criminal Investigators conduct criminal investigations to protect the United States against terrorist and other criminal activity that threaten public safety and National security and bring to justice those seeking to exploit our customs and immigration laws world-wide. HSI is the DHS investigative agency with authority to investigate all violations of Federal law. HSI has jurisdiction over crimes with a nexus to the U.S. borders. To accomplish its mission, HSI uses its own legal authorities, and legal authorities shared with other law enforcement entities through cooperative agreements, to investigate immigration and customs violations, including export enforcement, human rights violations, narcotics, weapons and contraband smuggling, financial crimes, cybercrimes, human trafficking and smuggling, child exploitation, intellectual property violations, transnational gangs, and immigration benefit fraud.

HSI protects America's borders, National security, and public safety by targeting transnational threats, both at home and abroad. HSI is a critical U.S. law enforcement asset, responsible for disrupting and dismantling smuggling and all forms of transnational criminal organizations that seek to exploit America's legitimate trade, travel, financial, and immigration systems for illicit purposes. As the principal criminal investigative agency within DHS, and with jurisdiction over all crimes with a nexus to U.S. borders, HSI investigates a wide range of financial crimes, which

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2613 (Cultural Property Implementation Act); 21 U.S.C. §§ 841, 844, 952, and 959 (Controlled Substances Act); 46 U.S.C. §§ 70501-07 (Maritime Drug Law Enforcement Act); 50 U.S.C. §§ 1701-1707 (International Emergency Economic Powers Act).

includes money laundering and bulk cash smuggling (BCS). BCS has become the preferred method of moving illicit proceeds by all types of criminal enterprises, and HSI created the National Bulk Cash Smuggling Center (BCSC) in 2009 to proactively identify, disrupt, and dismantle criminal organizations exploiting BCS. The total value of HSI seizures of currency and monetary instruments has increased nearly 400% since fiscal year 2009, from \$276,325,178 to \$1,278,807,524 in fiscal year 2013.

In addition to these financial investigations, ICE is one of the leading agencies in the U.S. Government's efforts to prevent foreign adversaries from illegally obtaining U.S. military products and sensitive technology, including weapons of mass destruction and their components. HSI's Counter-Proliferation Investigations Program (CPI), part of the HSI National Security Investigations Division, oversees a broad range of investigations related to export law violations. CPI targets the trafficking and/or illegal export of conventional military equipment, firearms, controlled dual-use equipment and technology, materials used to manufacture weapons of mass destruction, including chemical, biological, radiological, and nuclear materials. HSI enforces U.S. export laws involving military items and controlled dual-use goods, as well as products going to sanctioned or embargoed countries. A part of the President's Export Control Reform Initiative is to improve law enforcement coordination to investigate violations of U.S. export control laws. In November 2010, President Obama signed Executive Order 13558, creating the Export Enforcement Coordination Center (E2C2)—an interagency de-confliction center consisting of 8 departments and 18 Federal agencies. New agency additions to the center have been the Export Import Bank and the U.S. Postal Inspection Service. The Executive Order establishes DHS as the Executive agency responsible for managing and operating the E2C2 and further directs that the center is mandated to coordinate and enhance criminal, administrative, and related export enforcement activities thereby protecting National security through greater export enforcement and intelligence exchange. The E2C2 serves as a conduit between Federal law enforcement agencies as well as between Federal law enforcement and the intelligence community, as the primary point of contact between enforcement authorities and agencies engaged in export licensing, coordinating law enforcement public outreach activities and establishing Government-wide statistical tracking capabilities for U.S. criminal and administrative export enforcement activities.

ICE is also one of the leading agencies in the investigation of criminal intellectual property violations involving the illegal production, smuggling, and distribution of counterfeit and pirated products, as well as associated money laundering violations. Led by ICE, the National Intellectual Property Rights Coordination Center (IPR Center), located in Arlington, Virginia, brings together 21 Federal and international partners to leverage resources, skills, and authorities to provide a comprehensive response to intellectual property theft. The former U.S. Customs Service established the IPR Center in 1999, but following the events of 9/11, priorities were necessarily shifted and the IPR Center could not be adequately staffed. ICE rejuvenated the IPR Center in 2008, and it now stands at the forefront of the U.S. Government's law enforcement response to global IP theft. The mission of the IPR Center is to address the theft of innovation that threatens U.S. economic stability and National security, undermines the competitiveness of U.S. industry in world markets, and places the public's health and safety at risk. The IPR Center brings together many of the key domestic and foreign investigative agencies to efficiently and effectively leverage resources, and promotes the skills and authorities to provide a comprehensive response to IP crime. In fiscal year 2013, the IPR Center received 8,529 new leads, more than five times the number of leads received in fiscal year 2012. Furthermore, in fiscal year 2013, HSI's investigative efforts and collaboration with CBP led to the seizure of counterfeit goods valued at over \$1.7 billion manufacturer's suggested retail price (i.e., the price that the legitimate good would have cost if purchased in the marketplace).

In addition to HSI and ERO, two other ICE offices have unique operational roles: The Office of the Principal Legal Advisor (OPLA) and the Office of Professional Responsibility (OPR). OPLA, the largest legal program in DHS, provides critical legal advice and counsel to ICE leadership and agency personnel on all matters related to the investigation and enforcement of the Nation's customs and immigration laws. Further, OPLA is the Federal Government's representative in exclusion, deportation, bond, and removal proceedings before the Nation's immigration courts, prioritizing litigation of those cases involving convicted criminals, terrorists, and human rights abusers. OPLA also provides critical legal support to ICE components focusing on customs, worksite enforcement, ethics, employment law, tort claims, and administrative law issues.

OPR investigates allegations of criminal and administrative misconduct involving ICE and CBP employees. In cases of potential misconduct, OPR prepares reports of its investigations for possible judicial or management action. OPR also provides independent reviews of ICE programs and offices, adjudicates ICE background investigations and issues security clearances for all prospective and current ICE employees and contract staff. OPR also contains an inspection branch that ensures ICE operates consistently with the high standards we promulgate to regulate our program offices and civil detention system. In addition, OPR is also responsible for the employee suitability and security clearance processes.

#### CBP AND ICE ENFORCEMENT AND FACILITATION EFFORTS AT AND BETWEEN POES

As the Secretary recently testified, we are gratified by the support Congress has provided to improve security at our borders and POEs and ensure active, world-wide enforcement of our customs and immigration laws. With that support, DHS has made great progress. There is now more manpower, technology, and infrastructure on our borders, in the interior and internationally, than ever before, and our men and women are producing results. CBP and ICE play an integral part every day in ensuring the safety and security of the American people.

Every day CBP personnel work to uphold and enforce CBP's authorities and continue to make tremendous progress. For example, in fiscal year 2013, Border Patrol apprehensions totaled 420,789 Nation-wide, 16 percent above fiscal year 2012, but 42 percent below peak fiscal year 2008 levels. Also in fiscal year 2013, CBP Officers and agents seized more than 4.3 million pounds of narcotics across the country. In addition, the agency seized more than \$106 million in unreported currency through targeted enforcement operations. At POEs in fiscal year 2013, CBP Officers arrested 7,976 people wanted for serious crimes, including murder, rape, assault, and robbery. Officers also stopped more than 132,000 inadmissible aliens from entering the United States through POEs. Additionally, CBP Agriculture Specialists conducted approximately 1.6 million interceptions of prohibited plant materials, meat, and animal by-products at POEs while also stopping more than 160,000 potentially dangerous pests. Providing critical aerial and maritime domain awareness, in fiscal year 2013, Air and Marine operations contributed to the seizure of more than 1.1 million pounds of narcotics and the apprehension of 63,000 individuals involved in illicit activities.

To protect public safety and National security, ICE prioritizes the removal of individuals who pose a danger to National security or a risk to public safety, including persons convicted of crimes, with particular emphasis on violent criminals, felons, and repeat offenders. In fiscal year 2013, ICE removed 368,644 individuals, of which 98 percent fell into one of ICE's immigration enforcement priorities. Of these removals, 216,810 (59 percent) were convicted criminal aliens, which is an 89 percent increase in the removal of convicted criminals since fiscal year 2008. In fiscal year 2013, ICE also completed the deployment of Secure Communities to all 3,181 U.S. jurisdictions in 50 States, 5 territories, and the District of Columbia.

As the largest investigative arm of DHS, ICE enhances National and border security by interrupting the illicit flow of money, merchandise, and people that support terrorism and other criminal activity. ICE made over 40,000 criminal arrests in fiscal year 2013, and ICE criminal investigators initiated more than 40,000 new investigations. ICE seized \$1.3 billion in currency and other monetary instruments and 1.6 million pounds of narcotics and other dangerous drugs.

#### H.R. 3846 (CBP) AND H.R. 4279 (ICE)

H.R. 3846, The United States Customs and Border Protection (CBP) Authorization Act and H.R. 4279, The U.S. Immigration and Customs Enforcement (ICE) Authorization Act were both drafted to authorize—for the first time—the organization and security functions of CBP and ICE. The bills modernize and clarify current statute, specifically the Homeland Security Act of 2002, to remove references and authorities granted to organizations that no longer exist and entrusts them respectively, to the commissioner of CBP and the director of ICE.

CBP and ICE support the intent of H.R. 3846 and H.R. 4279, and the committee's effort to authorize a modern-day CBP and ICE and their critical security functions. We thank the Members for their efforts in drafting the bills, which lay a foundation for formally authorizing the missions of CBP and ICE for the first time since the Department of Homeland Security was created in 2002. These authorizations recognize the distinct and important roles that CBP and ICE play, every day, in keeping Americans safe and facilitating legitimate travel and trade.

Additionally, CBP and ICE and the committee all agree that we need to ensure that both CBP and ICE maintain their existing authorities and responsibilities,

without inadvertently disrupting the continuity of current CBP and ICE missions, duties, functions, and authorities. We believe the bill provides a solid statutory foundation. It is important that any legislation preserve both agencies' flexibility to reorganize as needed to ensure that they remain dynamic and agile, capable of addressing emerging threats or changing operational environments.

#### CONCLUSION

CBP and ICE will continue to work with DHS and our Federal, State, local, Tribal, and international partners, to strengthen border security. We will remain vigilant and focus on positioning DHS's greatest capabilities to combat the greatest risks that exist today, preparing for emerging threats, and continuing to build a sophisticated approach tailored to meet the challenges of securing a 21st Century border.

As Secretary Johnson recently highlighted to the Committee on Homeland Security, more than 100 Congressional committees and subcommittees have jurisdictional oversight over the Department of Homeland Security. As such, both CBP and ICE's authorities are spread out across many statutes. We commend the subcommittee's endeavor to authorize CBP and ICE in statute. This pursuit reflects the very spirit and impetus of the Homeland Security Act: To integrate, streamline, and modernize our Nation's security functions into a unified force, a strengthened homeland security enterprise, and a more secure America that is better equipped to confront the range of threats we face today and in the days to come. We look forward to continuing to work with Congress on this endeavor.

Chairman Miller, Ranking Member Jackson Lee, and distinguished Members of the subcommittee, thank you for this opportunity to testify about the efforts of CBP and ICE in securing our borders. We look forward to answering your questions.

Mrs. MILLER. Thank you very much.

The Chairwoman now recognizes Mr. Ragsdale for his testimony.

#### **STATEMENT OF DANIEL H. RAGSDALE, ACTING DIRECTOR, IMMIGRATIONS AND CUSTOMS ENFORCEMENT, U.S. DEPARTMENT OF HOMELAND SECURITY**

Mr. RAGSDALE. Good morning, Chairwoman Miller, Ranking Member Jackson Lee, and distinguished Members of the subcommittee. Thank you for the opportunity to appear today to discuss the proposed legislation to authorize U.S. Immigration and Customs Enforcement and the important role we play in making our Nation more secure.

I would like to start by expressing my appreciation for the committee, and their commitment to the men and women of ICE. ICE has grown exponentially since the creation of DHS in 2001. Today, ICE has more than 19,000 employees and offices in 50 States and 48 foreign countries. ICE promotes homeland security and public safety through strategic and wide-ranging criminal and civil enforcement of hundreds of Federal laws governing border control, customs, trade, and immigration. Leveraging those authorities, ICE has become a powerful and sophisticated Federal law enforcement agency.

ICE consists of two main operational programs: Enforcement and Removal Operations, and Homeland Security Investigations. Guided by ICE's prioritized enforcement principles, ERO identifies, apprehends criminal and other removable aliens, detains these individuals, and removes those individuals determined to be illegally present in the United States. HSI is responsible for a wide range of domestic and international criminal investigations arising from the illegal movement of people and goods into, within, and out of the United States, often in coordination with other Federal agencies.

The work of ERO and HSI is bolstered by the Office of the Principal Legal Advisor, the Office of Professional Responsibility, and the key mission support work and the folks in management and administration. As the principal investigative arm of the Department, ICE enhances National and border security by dismantling transnational criminal organizations that seek to exploit our borders. In fiscal year 2013 alone, ICE special agents made 32,401 criminal arrests and initiated 126,000 new investigations. We seized \$1.3 billion in currency and other monetary instruments, and 1.6 million pounds of narcotics and other dangerous drugs.

Just last week, ICE agents, as members of the San Diego Tunnel Taskforce, in collaboration with our enforcement counterparts in Mexico, uncovered two sophisticated drug tunnels connecting San Diego's Otay Mesa Industrial Park with warehouses in neighboring Tijuana, Mexico. These two tunnels are the sixth and seventh cross-border passageways discovered in San Diego in less than 4 years. Similarly, ICE continues its efforts against illicit finance by supporting the bulk cash smuggling centers' inclusion of additional law enforcement partners.

ICE will also grow our commercial fraud by expanding investigative support and leveraging enforcement operations with State and local enforcement agencies. ICE will continue to develop its illicit pathways attack strategy to focus on cross-border threats, global illicit pathways including contraband smugglings, arms trafficking, money laundering, bulk cash smuggling, human smuggling and, most importantly, human trafficking. For ERO, ERO's agents and officers identified and arrested, and removed, more than 368,000 aliens; 82 percent were those who had been arrested in the interior and previously convicted of a crime.

ICE also conducted over 230,000 removals of individuals apprehended along our borders while attempting to unlawfully enter the United States. In sum, 59 percent of all ICE removals—a total of about 216,000—have been removed after having been convicted of a crime. ICE's commitment to prioritize the removal of criminal aliens and egregious immigration violators is evident in a recent ERO operation. Last week, ERO officers and fugitive operations teams throughout central and south Texas arrested 50 convicted criminal aliens, immigration fugitives, and other immigration violators during a 3-day operation.

Of the individuals taken into custody, 30 had convictions including sex offenses, rape, larceny, drug possession, domestic violence, aggravated assault, and driving under the influence. However, even with all these successes enhancing our National and border security, ICE sometimes faces challenges in asserting our authority. At present, there is no single piece of legislation that identifies ICE and sets forth our mission in a consolidated way.

H.R. 4279, the U.S. Immigration Customs Enforcement Act, does just that. As this bill makes its way through the legislative process, we look forward to working with the Congress to ensure that ICE's existing authorities and responsibilities are maintained.

Thank you again for the opportunity to appear before you today, and I will be pleased to answer any questions you have.

Mrs. MILLER. Thank you both very much. I think I will just pick up on your final comment there, Mr. Ragsdale, mentioning about

how there is no single piece of legislation authorizing. I remember when I first got on this committee and found out that neither CBP or ICE had ever been formally authorized by the Congress. I was floored, to tell you the truth. So that has been the principal impetus behind these two pieces of legislation.

As we said, other agencies are annually authorized, or routinely authorized, reauthorized, by the Congress. In this case, that has not happened with these two agencies. Certainly as was mentioned in regards to the 9/11 Commission recommendations and their goals, this is something that is very important. I think as we think about how the agencies have evolved over the last 12 years as well, just sort-of bringing them and recognizing the modern-day CBP and ICE as part of this legislative process also would be very helpful.

Perhaps you could talk just a little bit, both gentlemen if you will, about having this kind of clear guidance in the form of an authorization from the Congress. How that would really accrue positively to both of your agencies. I just throw that out there.

Mr. MCALEENAN. Thank you. Agree, actually, fully with the reasons you outlined for authorizing CBP. I mean, the evolution of the Department of Homeland Security and CBP itself, the growth of the organization, our missions, we are not just a small aspect of an under secretariat that, as your pointed out, no longer exists. Or the largest law enforcement agency in the United States, with the responsibility to enforce 500 laws from over 47 agencies. So clarifying that role and responsibility, establishing the name of our organization, the reporting structures, it would be very meaningful to have that in statute.

Mr. RAGSDALE. I would add, given our size, at 20,000, nearly 20,000, employees, and folks putting themselves in harm's way every day, there needs to be clarity about their mission. These are folks that are challenged with, you know, ever-sophisticated transnational criminal organizations, dangerous situations around the United States, particularly along the Southwest Border. Making sure that our mission is clear in their minds, in the minds of the Congress, the public is of critical import.

It is a cohesive message. It is a message that Federal partners and State and local partners understand. So I think for all the reasons you have articulated, as well as Mr. McAleenan, this—it just makes sense.

Mrs. MILLER. You know, also—and this is—I will be sensitive to what you can actually comment on because this is our problem, not your problem, the Congress not really giving the clear authorities and having—the last time I saw a wiring diagram there were 80 or 90 different committees and subcommittees that the Department of Homeland Security had to answer to. So the amount of time that your agencies spend in trying to react and respond to questions that all of these various jurisdictional umbrellas have over your agency has got to be very difficult.

It would seem to me that just having more clear guidance from an authorizing standpoint, as well, may be advantageous to your agencies, as well. How would you see that?

Mr. MCALEENAN. I think that is correct, Chairwoman. It is understandable that we have lots of oversight and interest in our mis-

sion. We have operations in all 50 States and 40 countries abroad. What we do at the ports of entry and between the ports affects every State in the Union. We appreciate the input from Congress. It is helpful to have a committee that understands the full scope of our mission and to have an authorizing bill that articulates that in one place, however. So I think, to your point, it is useful to have some clarity in that.

Mr. RAGSDALE. I would also agree. Certainly, clarity among all the issues that ICE is involved in as well, certainly brings some form and shape to the discussion. You know, we have a wide-ranging mission, as well. Protecting the border is something that touches many, many people in many different ways. But again, having an analytic framework and a legislative framework to have the discussion from certainly would streamline and clarify sort of everybody's expectations.

Mrs. MILLER. Well, I appreciate both of the agencies working very closely with both the staffs—my staff and the Ranking Member's staff—as well as we have put together this piece of legislation. It is my intent, actually, to have a mark-up on these pieces of legislation in the very near future. So I guess the last thing I would ask you gentlemen, if there is anything else that we should know about as far as what might be included, or other kinds of things that we ought to be looking at, this is your opportunity. I am not sure exactly what questions to ask you. You know your business better than we do, so is there something in particular that we ought to be looking at still?

Mr. MCALEENAN. From CBP's perspective, H.R. 3846 provides a good framework. We have had some robust exchange on the technical assistance side with your staff, and I think that has been a very good conversation. Nothing significant to offer today.

Mrs. MILLER. Very good.

Mr. RAGSDALE. Nothing significant here, as well. Again, we have had a great relationship with your staff during the technical assistance process. We see this as a huge step forward, so, you know, we think it is certainly great progress.

Mrs. MILLER. Okay, very good.

With that, I would recognize our Ranking Member for her questions.

Ms. JACKSON LEE. Thank you very much. Let me ask Mr. McAleenan a question on risk-based assessment. I have introduced H.R. 3575, the Putting Security First in Preclearance Act to require CBP to make a risk-based security case for any new preclearance site before expanding the program. What are the criteria CBP uses for determining whether there is a risk-based security case for deploying CBP personnel overseas, and how is that applied in the context of preclearance?

Mr. MCALEENAN. Thank you. I think it is perfectly appropriate to channel all of our operations, and our overseas operations in particular, to focus on the highest-risk pathways in the highest-risk areas. For preclearance, there are two main objectives for preclearance. Sometimes they exist in the same location, sometimes they are separate. Facilitating lawful international travel, and then securing it.

In the security side, in particular, as you have asked about, Ranking Member, the terrorism travel aspect is foremost. We look at things like the number of watch-listed persons that have traveled through a particular airport over the last several fiscal years. We also assess emerging intelligence and how that applies to that pathway in terms of individuals that might present a risk, headed toward the United States.

We look at the immigration factors. How many folks traveling on this route have proven to be inadmissible to the United States after examination? That is a really key aspect. The number of fraudulent documents and the use of fraudulent documents that we have intercepted. One aspect of preclearance that is not well-understood is the fact that it is also a great opportunity for agriculture enforcement.

So pathways that come from regions of concern where there are pests that could harm U.S. agriculture, a trillion-dollar industry that is critical to the country, that is a factor, as well. So we combine all those aspects to determine the risk basis for selecting a new location for preclearance.

Ms. JACKSON LEE. Well, I like the idea that we are on the same page about the at-risk approach, and hope that I can work with the Chairwoman as we move toward reauthorization to include that language in the legislation. I think that would be a very good place, and I am glad that we are sort of on a common approach to doing that. It is a very important part of your responsibility.

You have got 60,000 employees. Many of them are on our Northern Border and Southern Border. We offer them our appreciation. Over the last couple of months, or last year, as you well know, there were questions of overtime hourly compensation, relocation. What has the agency done to deal with some of those issues that the men and women who are on the border do that particular work? What has been the response?

Mr. MCALEENAN. Thank you for the question and your acknowledgment and continued support of the men and women of CBP. It is an honor to represent them today. They do tremendous work on behalf of the Nation and your respective States and the American people. In terms of the compensation issues, overtime is a critical aspect of how we conduct business. It allows us to flexibly respond to emerging threats or traffic patterns in a given day, both at ports of entry and between.

We are eager to continue to work with Congress to make sure that we are administering our application of overtime appropriately. We have several different types of overtime that our front-line personnel use. We have taken a number of steps, with the Secretary's guidance and Commissioner Kerlikowske's guidance to ensure that we have the right training, the right oversight, and the right review and auditing procedures for how we apply our overtime. We think it is critical to our operations and critical to recognize the great work that our men and women do, above and beyond the call of duty and above and beyond their standard shifts.

Ms. JACKSON LEE. Well, I would want the men and women to know that in this hearing room way up in here in Washington, DC, we are still concerned about them.

Let me have a question for ICE. But let me just quickly ask, in your recruitment obviously you have diversity with Hispanics. Are you looking for African-Americans, Asians, women in the recruitment of vast amount of employees that you have? Do you have a good outreach?

Mr. MCALEENAN. Absolutely. Actually, with this tremendous opportunity that Congress has given us in the fiscal year 2014 omnibus bill to hire 2,000 additional CBP Officers, we are actually targeting a more diverse geographic laydown so we can find people of all backgrounds, all races, all expertise and a lot of language skills, as well, so we can have the most representative workforce of the United States and the best workforce to interact with international travelers and others.

Ms. JACKSON LEE. Thank you. Let us know how we can be of help.

Mr. Ragsdale, very quickly, in the landscape of ICE offices all across America they do many things. Tell me how devastating, how you have heard how devastating and deadly human smuggling and human trafficking has come to be in terms of those who may be interfacing with those issues.

Mr. RAGSDALE. Well, as you know, those are crimes that are slightly different in terms of their sort-of, operational, sort-of results. The smuggling organizations have exploited our borders and they are sort-of commodity-agnostic. They move people, they will move drugs. So we are certainly bringing our hands to the fight against smuggling organizations.

The trafficking piece is one that is a little bit more difficult, and that is where we need to sort-of absolutely rely on outreach. It is the blue campaign, it is sort-of the "See Something, Say Something." There is a whole range of sort-of relying on folks to—when they see victims of trafficking that might need law enforcement help, to reach out. Through the tip line, and sort-of bring that to law enforcement's attention. We certainly have really put some increase, over a 400 percent increase, in investigative hours in human smuggling and human trafficking in the last 4 years.

Ms. JACKSON LEE. Well, very quickly, when it deals with human smuggling, as you well know, if you are restrained it is like trafficking or slavery. But my question—let me just finish on this last question—a reauthorization that ramps up legislation, or language, for that aspect of your business would be very helpful.

Mr. RAGSDALE. Indeed. It is certainly a scourge, and we absolutely want to bring every authority we have to that fight.

Ms. JACKSON LEE. Thank you, Mr. Chair. I hope that we will have one of our colleagues sit in the Ranking Member's seat.

Thank you very much. Yield back.

Mrs. MILLER. I thank the gentlelady. Before I recognize Mr. Duncan, Mr. McAleenan, as you are filling these positions for the 2,000 new officers—and the gentlelady was talking about the reach—certainly our veterans, our returning veterans, have got a tremendous skill set that would be just a huge value-add, I know, to your Department. So I am sure you are looking in that direction also, and we certainly encourage you to do so.

With that, the Chairwoman recognizes the gentleman from South Carolina, Mr. Duncan.

Mr. DUNCAN. Why, Thank you, Madam Chairwoman, and thanks for this hearing. Thank you, guys, for what you do, CBP and ICE and the whole Department, the challenges you face to keep us safe. Especially when there is no—sometimes no real clear direction, not only from Congress but maybe the administration, on what your role is. That is why I think the authorization bill is so necessary. That at least Congress can give you clear direction on what we think the priorities should be and in representation of our districts.

So thank you again, and I can't say that enough. So given the catastrophic risk that a smuggled dirty bomb could pose to an American city, would it be helpful for the committee to authorize CBP's covert testing program for transborder nuclear and radiological smuggling to ensure the systems and procedures in place are working? The gentleman from CBP.

Mr. MCALEENAN. So I don't know that it needs to be specifically authorized in the bill for us to continue that activity. I agree entirely with you, Congressman, that it is a critical aspect of testing our capabilities and ensuring that we are using the radiological detection equipment, the portal monitors, the handheld devices, our non-intrusive inspection technology to its greatest effectiveness at the border. We will continue to do so. I am sort-of agnostic on whether it needs to be specifically referenced in the bill.

Mr. DUNCAN. Okay. In your view, how should CBP coordinate with the Domestic Nuclear Detection Office, especially in the area of risk assessment then?

Mr. MCALEENAN. I think we need to continue to coordinate very closely with them. The DNDO brings tremendous expertise from folks across the spectrum, from the Department of Energy, from DOD. They have scientists that are expert in the field and understand the exact levels and types of radiation that can be detected in different settings. They are really—they help us provide—get a better sense of the overall global risk and the types of pathways that adversaries might use to move radiological and nuclear devices.

So I rely on that partnership. I am going to be meeting with the director of DNDO in a couple of hours today, actually, on precisely this issue. So I think it is critical for us to remain joined at the hip, and mutually informing each other's work.

Mr. DUNCAN. Okay. Well, we want to assist you with that mission. One thing I would like to ask you to do is between now and the full committee mark-up on this bill make contact with my office, and see if there is needed language in the authorization bill as a form of amendment. Or kind-of educate me and my staff on some of the programs, maybe off the record as well.

So let me just shift gears, and say in the 112th Congress more than 100 Congressional committees and subcommittees asserted jurisdiction over DHS. DHS personnel participated in 289 formal House and Senate hearings involving 28 committees, caucuses, and commissions which required testimony from more than 400 DHS witnesses. As the Chairman of the Oversight and Management Efficiency Subcommittee, I was involved in a lot of that, probably, to do so.

But the Department also participated in more than 4,300 briefings and other non-hearing engagements with Congress. That is

pretty substantial. So can you quantify for me how much time your components spend each year responding to Congress and preparing for meetings on the Hill? I am not gonna hold you to these numbers, but—

Mr. MCALEENAN. Well, I haven't actually done the math. I mean—but the number of hearings and briefings is extensive. We responded to about 3,500 inquiries from the Hill last year and 1,300 letters, as well as the dozens of hearings and hundreds of briefings we conducted. So it is a significant effort. We want to prepare and provide accurate information back to our oversight and appropriations committees. But it is quite an endeavor.

Mr. DUNCAN. Yes.

Mr. Ragsdale.

Mr. RAGSDALE. So I don't have specific numbers. But I will tell you it is a substantial amount of work. Certainly, you know, we welcome the oversight and we certainly welcome the robust style that we have with folks that are very interested in what we do. I think, as you have heard, because the border touches so many people in so many different ways, and there are so many laws that we investigate and enforce related to border protection, we certainly understand that.

Having said that, it is part of—what that level of effort does certainly have an impact on operations.

Mr. DUNCAN. Okay. How has this impacted your ability to actually manage the components? I mean, compliance with our request, how does that impact your day-to-day focus? Are you distracted, is it helpful, do we need to do more, should we consider doing less?

Mr. RAGSDALE. Well, I will say that I do spend several probably hours a day reviewing sort of requests from oversight. You know, whether it is correspondence, QFRs, there is a range of things. We certainly, again, welcome the partnership. But it is a substantial amount of time.

Mr. DUNCAN. Sir?

Mr. MCALEENAN. It is a substantial amount of time. But to—you asked three questions on the value. First of all, it is valuable? It is important to have Congressional oversight. There is a lot of important feedback from your constituents that we get through this process. It does take a while to answer all the different questions and sometimes similar questions from different angles. But, you know, it is an important part of our system and we understand that.

Mr. DUNCAN. Well, I will tell you it is invaluable for us to at least answer the question for constituents. But also to try to do our job. We realize we are a decade into this conglomeration, and I think oversight is important. But also I think authorization and clear direction is important. That is why I think this bill is so necessary.

So with that, Madam Chairwoman, I yield back.

Mrs. MILLER. I thank the gentleman very much.

The Chairwoman now recognizes the gentleman from Texas, Mr. O'Rourke.

Mr. O'ROURKE. Madam Chairwoman, thank you for holding the hearing and for the introduction, along with our Ranking Member, of these two important bills. I want to thank the panelists here

today from CBP and from ICE. I want to thank you and the people who work with you, and have been working with you for the years following September 11, 2001 and have kept this country, relatively speaking, very safe since then.

The agents and officers who work in the district I represent in El Paso help contribute to the fact that we are the safest community in America today, and we have been for the last 4 years. One of the safest, going back, for the last 10 years and plus. So I want to thank you.

I want to acknowledge, as other Members of this committee have, the unusual difficulty in the work that these agents and officers perform; the number of threats against which they must remain vigilant; the conditions under which they are working throughout the Northern and the Southern Border airports and other places.

Doing so, frankly, in a time of uncertainty beyond not having this authorization. You have sequester, you have Government shut-down, you have a failure on the Federal Government's part and Congress to fully support these agents and officers in their work. So we really appreciate the work that they do, in spite of all of that.

But along with the lack of authorization since—explicit authorization since 2002, we have also seen more than a doubling in the budget on border security. In 2003, it was somewhere around \$7 billion; today it is \$18 billion. We have doubled the size of the Border Patrol. That is on top of the fact that Border Patrol and CBP have some very unusual police powers when it comes to their ability to stop, question, detain, search and seize property, and go through that property at our ports of entry and then at those internal checkpoints.

So I guess starting with Mr. McAleenan, I would love for you to discuss what opportunities we have for greater transparency and oversight reporting, especially when you have these very unusual special powers at our borders and at our ports of entry.

That is following difficulty from—that Members of Congress, the press, the public have had in getting information about how CBP works, what your use-of-force policies are, this PERF report that was recently done and leaked, concerns about training and professionalism and customer service. What room do we have within this legislation, or otherwise, to address those issues?

Mr. MCALEENAN. Thank you, Congressman. Good to see you and your continued support for CBP. That is a good question. I think we are having a really productive dialogue with the Congress, with our stakeholders in the communities, with the non-Governmental organizations, with the Office of Civil Rights and Civil Liberties at DHS and others on these various issues. As you noted, we do have some unique authorities at the border of the United States, border search authority that—and the authority to search persons and conveyances.

We try to exercise that with judicious and careful precision, with supervision at each level of the ports and the Border Patrol. I think having that dialogue about our existing policies, and how carefully constructed they are, and also identifying those areas where they can be improved. Which is something, as you raised in the use-of-force area, that we have been working on hard this last year. We

are very proud of our men and women in the field. We think they exercise tremendous restraint in their encounters in a lot of dangerous situations.

But we also want to improve continuously, in terms of the training we give them, the tactics we teach them, the equipment that we provide so they can resolve situations at the lowest possible level of force. I think the recent release of our use-of-force policy, the discussions around that, I think Commissioner Kerlikowske has expressed to Congress in several occasions during his confirmation and in his first hearing his intent to continue that transparency and openness and that dialogue and even enhance it.

So I think this in an important topic that we can continue to talk through.

Mr. O'ROURKE. I appreciate that. I want to commend you and our new Secretary for this greater level of transparency, at the local level with Chief Luck of the Border Patrol, with DFO Higgerson. We have had nothing but responsiveness and transparency. So we really appreciate that. But I am concerned that these positive steps are somewhat dependent on specific people taking specific actions.

I would think it might make some sense to institutionalize this and make sure—much as the way that we are authorizing these agencies today—that we have a system on which the public can depend, Congress can depend, this committee can depend to ensure that we have that transparency, and it is not an elective decision made by a specific Secretary or agency head. But appreciate your answers to the questions.

With that, I will yield back.

Mrs. MILLER. I thank the gentleman.

The Chairwoman recognizes the gentlelady from California, Ms. Sanchez.

Ms. SANCHEZ. I thank the gentlelady from Michigan, and always love showing up to the subcommittee, Ms. Chairwoman, because you do a good job, I think. So obviously you and I and others on this committee have been working for awhile to try to try to get some of these bills to the House floor. So I appreciate the bipartisanship that you have exhibited in trying to do that.

Gentlemen, thank you for being here. Thank you, you know, for representing all the employees over there at Homeland Security. I was talking to Secretary Jensen the other day, and hoping that the morale of the Department is coming up. Every time we see the surveys of working for the Federal Government, of course it is very difficult to be a public servant these days. Even more difficult to be over at Homeland Security. So please send our best to those who are doing a good job for us over there.

I think one action, one idea that we can all stand behind is that we need to stop needlessly separating our families. I am sad to say that in my district, that in my area, Orange County, California, of the juveniles who are detained for all types of things from petty theft to grand larceny, let's say, that of those juveniles those who are undocumented and sent to ICE or requested for ICE to come over and detain them, that 43 percent of those type of undocumented detainees, juveniles in the State of California, are detained out of Orange County.

Which means it is—when we are 3½ million people out of 38 million people, that it is really tough to be a young person without documents in the county of Orange County. When I had an opportunity to meet with the director of ICE, John Morton, we discussed the continued need to use prosecutorial discretion and alternatives to detention as a way of keeping our families together. With the President's recent call to review all deportation policies, I would like to continue to highlight the need to use that discretion.

There is a clear difference between the impacts that deportation has on a mother of three versus a convicted felon. I would hope, as you all review those policies, that you continue to keep in mind the harmful effects that deportations have on our families and on our communities. I see the impact of these deportations on families that I represent, I hear the stories, I know you have heard the stories where people live in everyday fear of deportation of their mother and—simply because, these deportations, they didn't have the right identification or they were at the wrong place at the wrong time.

So I question—my question to you is: As you review your overall deportation strategies how will you include the voice and the perspective of our community stakeholders? What will you do to ensure that we uphold the principles of family unity and due process in our deportation standards?

Mr. RAGSDALE. Well certainly prosecutorial discretion is a concept that makes perfect sense. I think we have heard—or you have heard from ICE many, many times that we want our removals to be—have the greatest impact on public safety. Certainly the enforcement programs we have put in place, that started in June 2010 with former Director Morton's memorandum, have really sort-of transformed the way we do business. Last year, for 2013, 98 percent of the ICE removals fell into the four priorities identified in the memo.

So I think one of the themes that we certainly have heard today is law enforcement agencies and the men and women who do the real work like clarity. I think, you know, the idea of discretion is something they fully understand and embrace. I think they certainly understand there are many views on this topic. But clarity is something they can get behind and follow. The numbers certainly bear that out.

I was just in Orange County a week or so ago to launch Project iGuardian on protecting children from child exploitation. We have great partnerships in Orange County, we recognize that ICE's role in protecting families in Orange County is of particular import. But we do know that clarity is what really drives the best process here. I think the results speak for themselves in terms of the clarity that our folks have done, and I think—to the extent we see greater reform, which we support, we will get behind that, as well.

Ms. SANCHEZ. Chairwoman, my time is up. But if we have another round of questions I have some more questions. I just want to indicate we do have a great task force in Orange County with respect to human trafficking; one which we have funded over the years—I think up to \$600,000—to put police and probation and workers, et cetera, and some of the Federal agencies to work with

what is really a disgusting sex trafficking, domestic trafficking, et cetera of people.

Mrs. MILLER. Since we have no other—if you have another question, please—

Ms. SANCHEZ. Thank you, Madam Chairwoman. I appreciate the opportunity to ask.

Acting Director Ragsdale, in 2012 and 2013 I, along with other California Members, wrote to our Governor asking him to advocate for, and sign into law, the California Trust Act. As you know, this was in response to the ill-conceived Secure Communications program. It makes clear that the program needs clear, minimum standards for when local law enforcement will respond to Federal immigration detainer requests that results from the Secure Communications program. The program really put a strain on the trust between the community and our local law enforcement.

As you know, one of the things that happens with immigrant communities is that there are immigrants actually within those communities that actually prey upon the immigrant communities and those who don't—might not have the right documents or have over-stayed documents in our country because they know that they won't go to the police. So there is, you know, a whole set of—or people who are, and have been witnesses to crimes are afraid to go to the police because they may not be in status in the country.

I think that due process and distrust in immigrant communities with local law enforcement is really affected. So my question is: Are there any plans in pushing what I and other Members have advocated for, and California has done through the Trust Act, to all secure communication jurisdictions?

Mr. RAGSDALE. Well, if I understand your question correctly, obviously the State legislative process is obviously taken on a state-by-state tack. Obviously, you know, that process is something separate and distinct from what the agency does. What I will say is, it is probably important to note Secure Communities is and isn't. Secure Communities is a biometric information sharing between DHS and the FBI. It is not, in and of itself, an enforcement or deportation program.

It is an information-sharing program. Certainly, sharing biometric data is something that, just across the law enforcement spectrum, I think everyone recognizes is of great import. It certainly takes a lot of the issues around biographic information sharing in terms of name-spelling and so forth and so on that, again, sort-of clarifies—or, as I said before—sort-of gives some clarity to the process.

So, again, I think one has to go back and look at the removal numbers and the stated priorities that ICE is executed against to see that the work our men and women are doing—and, again, in a process that there are many, many different views are really focused on our stated priorities: Criminal aliens, fugitives, recent border entrants, and folks that present the greatest danger to public safety. The numbers bear that out.

Ms. SANCHEZ. One more question, Madam, if you will indulge me? I am sorry.

Assistant director, I have been notified by some of my colleagues that an ICE processing facility in El Centro, California will be clos-

ing in June. ICE has told the over 500 employees there that they must starting looking for new employment because a new facility is being constructed and operations will be transferred there. It is my understanding that not one of those employees will be guaranteed employment at the new facility, and that applying for the position won't be an option for most because the new facility requires different certifications.

So I am really concerned with the lack of transparency that has occurred during this transition, and I would like to ask you if ICE has requested an economic impact report for that closure in El Centro. For those of you who don't know El Centro, it has probably got the highest unemployment area—it is Imperial Valley—the highest unemployment of all of California. So it has a deep, deep impact when you see 500 jobs lost. Can your comment to that, please?

Mr. RAGSDALE. Sure. So there is probably a little confusion about exactly what is going on in El Centro.

Ms. SANCHEZ. Well, that is why we are asking.

Mr. RAGSDALE. I understand. So thank you for your question. We are actually looking to operate our detention facilities in places that not only meet our standards, but certainly looking at the cost per day. The El Centro facility, the SBC, is something that the Government owns.

Ms. SANCHEZ. What government?

Mr. RAGSDALE. We do, ICE owns it. But we find that for facilities owned by the Government the per-day rate is more expensive than we see in contract facilities. Also, the contract facility at El Centro has some—it is a blended workforce between contractors and Feds. So we have actually gone into a competitive procurement process and found another location in the same community that can provide the same service at a cheaper price. That is the process that is going on.

So it is not a question of removing jobs from the El Centro area. It is really just getting the same service that meets our detention standards at a better price.

Ms. SANCHEZ. Thank you, Madam.

Mrs. MILLER. I thank the gentlelady for her questions.

I will just comment that I know we have a number of—on the Northern Border, a number of our county sheriffs that provide the detention beds. That contract service, works out very, very well for ICE and certainly for the counties, as well. Which means for the taxpayers, overall. So I think that is an important consideration.

But, again, certainly you heard all of us thank you both, and ask you to extend our thanks to all the men and women that serve in your agencies. We certainly recognize their bravery and their—everything that they—the challenges that they face each and every day. We are very appreciative of that. I think, evidenced by this, by these two pieces of legislation the Congress also recognizes some of the weaknesses that we have.

We need to correct them, and really delineate your authorizations and your responsibilities, and help you however we can. So we appreciate both of you coming today. We look forward to the mark-up of both of these bills in the very near future. If there are any other questions from any of the Members on the subcommittee

here we will forward them to you and ask that you would respond to those, as well.

Pursuant to committee rule 7(e), the hearing record will be held open for 10 days. Without objection, the committee stands adjourned. [Whereupon, at 11:07 a.m., the subcommittee was adjourned.]

