



MARCH 24, 2015

SECURING THE BORDER: ASSESSING THE IMPACT OF TRANSNATIONAL CRIME

U.S. SENATE, COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

ONE HUNDRED FOURTEENTH CONGRESS, FIRST SESSION

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**STATEMENT FOR THE RECORD
SUBMITTED BY GENERAL BARRY R. McCAFFREY (USA, Ret.)
TO THE U.S. SENATE HOMELAND SECURITY
AND GOVERNMENTAL AFFAIRS COMMITTEE
MARCH 24, 2015**

Chairman Johnson, Ranking Member Carper, thank you for the opportunity to provide testimony for this hearing on the topic of “*Securing the Border: Understanding the Presence of Transnational Crime.*” This statement will focus on how drug smuggling and transnational crime at our borders affect the nation at large.

The Border Security Challenge

The Department of Homeland Security and several of its subordinate agencies (e.g. U.S. Customs and Border Protection (CBP), U.S. Immigration and Customs Enforcement (ICE), and the U.S. Border Patrol (USBP)) are primarily responsible for protecting our borders and preventing the entrance of unauthorized individuals, terrorists, contraband, narcotics, and weapons of mass destruction into the United States. DHS and our border security agencies are ably supported by the Department of State’s visa issuance activities, the Department of Treasury’s anti-money laundering and terrorist financing programs, several Department of Justice agencies (e.g. DEA and FBI) that focus on transnational crime and drug trafficking, and multiple agencies in other departments that provide essential intelligence and other critical support.

Collectively, these federal agencies have to address a multiplicity of threats, including: cyber attacks and crime; drug trafficking; human trafficking; identity theft; illegal immigration; intellectual property theft; manipulation of securities and commodities markets; money laundering; penetration of financial systems; sophisticated frauds; and terrorism (and its financing). Transnational criminal organizations are engaged in all of these activities.

Border security is an enormous challenge given the volume of activity at our borders. On any given day last year 678,000 individuals and 300,000 privately owned vehicles crossed our land borders from Canada or Mexico, almost 300,000 individuals landed at one of our international airports, while 50,000 entered through our sea ports, and some 70,000 truck, rail, and sea containers entered our land and sea ports of entry.¹ As the cyber attacks by Iran and North Korea against two U.S. corporations last year underscored,² even if we were able to secure our physical borders, we would still be vulnerable to attacks from abroad.

As a nation, we have made enormous progress since the 9/11 attacks to increase the security of international trade flows, identify who is traveling to the United States before they arrive, and to be able to identify individuals who may pose threats or who merit additional scrutiny by a CBP

¹ <http://www.cbp.gov/newsroom/stats/typical-day-fy2014>.

² These two cyber attacks are summarized in Office of the Director of National Intelligence, Opening Statement by the Honorable James R. Clapper, Director of National Intelligence to Worldwide Threat Assessment Hearing, Senate Armed Services Committee, February 26, 2015.

officer when they arrive at a port of entry. While our security is much improved, there are still significant vulnerabilities that must be addressed.

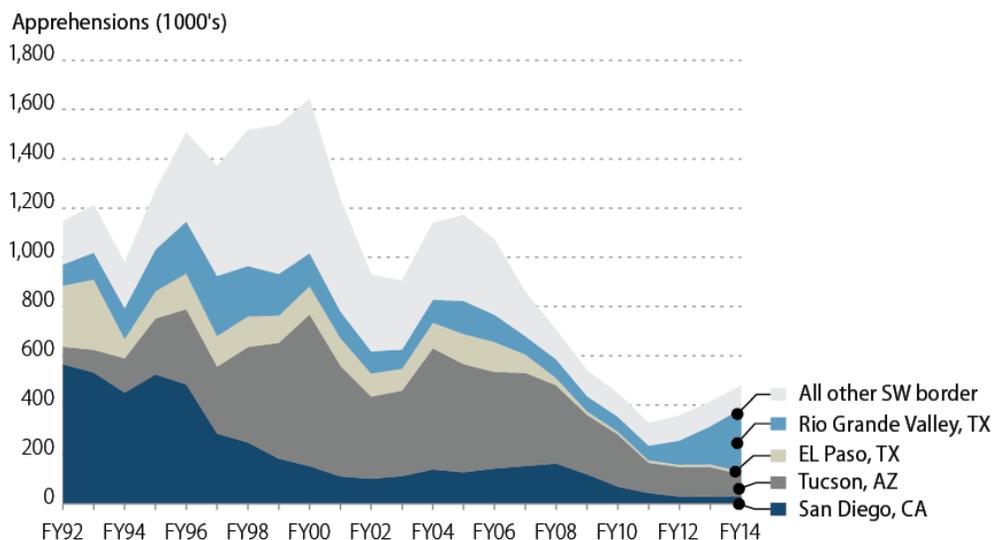
The U.S. – Mexico Border: our most vulnerable flank

The 2,000-mile border with Mexico is the principal vector for the introduction of illegal drugs and unauthorized immigration into the United States. Mexican transnational criminal organizations dominate drug and human trafficking at the U.S. – Mexico border.

The report recently released by the Texas Department of Public Safety provides great detail on the activities of Mexican drug cartels in border communities, particularly in the Rio Grande Valley, where human trafficking has surged in recent years.³

By many measures, the U.S. – Mexico border is more secure than it has ever been. Some 700 miles of fences and barriers have been erected along the border and the number of Border Patrol agents assigned to the border has doubled since 2001. The number of illegal border crossers apprehended by the Border Patrol has plummeted by 78 percent since 2000, as the following graphic demonstrates:

U.S. Border Patrol Apprehensions of Deportable Aliens, Southwest Border, by Selected Sectors, FY1992-FY2014⁴



Additionally, the composition of the migrant population has shifted. Last year, 53 percent of migrants apprehended at the border were not Mexican, whereas 10 years ago, 93 percent of individuals apprehended were Mexican.⁵

³ Texas Department of Public Safety (DPS), *Operation Strong Safety Report to the 84th Texas Legislature and Office of the Governor*, Feb. 2015, Unclassified Version.

⁴ Figure 6, page 22, Congressional Research Service report R42138, *Border Security: Immigration Enforcement Between Ports of Entry*, December 31, 2014.

⁵ Washington Post, “Border Patrol statistics show changing migration pattern,” November 14, 2014, http://www.washingtonpost.com/politics/border-patrol-statistics-show-changing-migration-pattern/2014/11/05/727c9132-6534-11e4-bb14-4cfea1e742d5_story.html

The significant decline in the number of individuals who seek to enter the United States across the Southwest Border is likely the result of multiple factors, including: greater USBP enforcement capabilities; more effective USBP operations; reduced economic opportunities in the United States; greater internal enforcement within the United States; and changing economic and demographic conditions in Mexico.

The surge of migration (to include unaccompanied children last year) in the Rio Grande Valley Border Patrol Sector – more than 25 percent of apprehensions along the SW Border now occur in this sector – suggests that additional federal enforcement resources and broader federal-state cooperation are required there.

Border cities such as El Paso and San Diego are regularly ranked among the safest large cities in the United States based on reported crime rates. However, it would be a stretch to say that the border and border communities are secure when CBP lacks a high-confidence ability to detect cross-border tunnels, seizes just 5-10 percent of the illegal drugs smuggled across the border, and interdicts less than 1 percent of the \$20 billion plus laundered to Mexico each year.

In 2010, the Border Patrol stated that it controlled just 129 miles of the 2,000-mile U.S. – Mexico Border and 32 miles of the 5,500-mile U.S. – Canada border (USBP subsequently abandoned this metric). As a former infantry commander, I find it difficult to believe that a Border Patrol that is only the size of a U.S. Army infantry division can secure 7,500 miles of land borders or that a Border Patrol force smaller than an Army brigade combat team can secure the entire U.S. – Canada border.

The relative lack of “spillover violence” in U.S. border communities in Texas, New Mexico, Arizona, and California is principally the result of decisions by the Mexican drug trafficking organizations to follow different rules of engagements within the United States. They clearly have the capability to act as violently in the United States as they do in Mexico. They elect not to act as they do in Mexico because of the capabilities, effectiveness, and integrity of our federal, state, and local law enforcement agencies and criminal justice systems. Simply stated, extreme violence in the United States would harm their bottom line. When Mexican transnational criminal organizations control smuggling across the U.S. – Mexico border and distribute heroin, cocaine, methamphetamines, and marijuana throughout the United States, we do not have a secure border and communities across the nation are imperiled.

We need to continue investing in security at our land borders and require DHS to demonstrate the effectiveness of its enforcement strategies. The reality is that despite significant improvements in the Border Patrol’s capability along the US-Mexico border, most individuals who attempt to cross the border illegally eventually succeed. The Congressional Research Service estimates that since 1994 the probability of being apprehended while crossing the border has averaged 0.49 – in other words an individual is more likely to make it into the United States than to be apprehended by the Border Patrol. This figure is substantially lower than CBP estimates.⁶

⁶ Congressional Research Service report R42138, *Border Security: Immigration Enforcement Between Ports of Entry*, December 31, 2014, page 25.

This failure to prevent illegal migration across the U.S. – Mexico border (and the failure to prevent “overstays” by individuals who enter the United States legally by land and air) has resulted in a population of unauthorized immigrants in the United States that is estimated at 11.2 million individuals and widespread repercussions across the nation. While this number has been relatively stable for several years, the approximately 500,000 Mexican nationals who have returned to Mexico in recent years have been replaced by immigrants from the ‘northern triangle’ Central American countries of El Salvador, Guatemala, and Honduras. The 2.7 million immigrants from these three small countries now constitute 24 percent of the unauthorized immigrant population.

Approximately 8.1 million unauthorized immigrants were working or looking for work in 2012 – they constituted 5.1% of the labor force – or one in twenty workers. The U.S. economy has accommodated these workers and different sectors will continue to require both skilled and unskilled foreign workers to augment the domestic work force. More unauthorized immigrants should not be the answer to such labor needs as it has in the past. In our schools, children of unauthorized immigrants made up 6.9% of students enrolled in kindergarten through 12th grade in 2012. The vast majority (5.5 million) of these children were born in the United States and are, consequently, U.S. citizens.⁷

Additionally, law enforcement and intelligence collaboration between federal, tribal, state, and local agencies must be improved in border regions and in communities where Mexican cartels are active.⁸ All too often, federal strategies and coordination centers inadequately incorporate state and local partners. CBP’s 2012 South Texas Campaign focused on integrating the activities of federal agencies and did not adequately incorporate capabilities of Texas agencies. In November 2014, DHS Secretary Jeh Johnson established three joint task forces to implement the DHS Southern Border and Approaches Campaign Plan.⁹ Joint Task Force West, which is responsible for coordinating border-control operations along the U.S. -Mexico border, would certainly benefit from increased collaboration with tribal, state, and local agencies along the entirety of the Southwest border. Exercises of mass migrations plans – at the Southwest border and elsewhere – should also include state and local authorities.

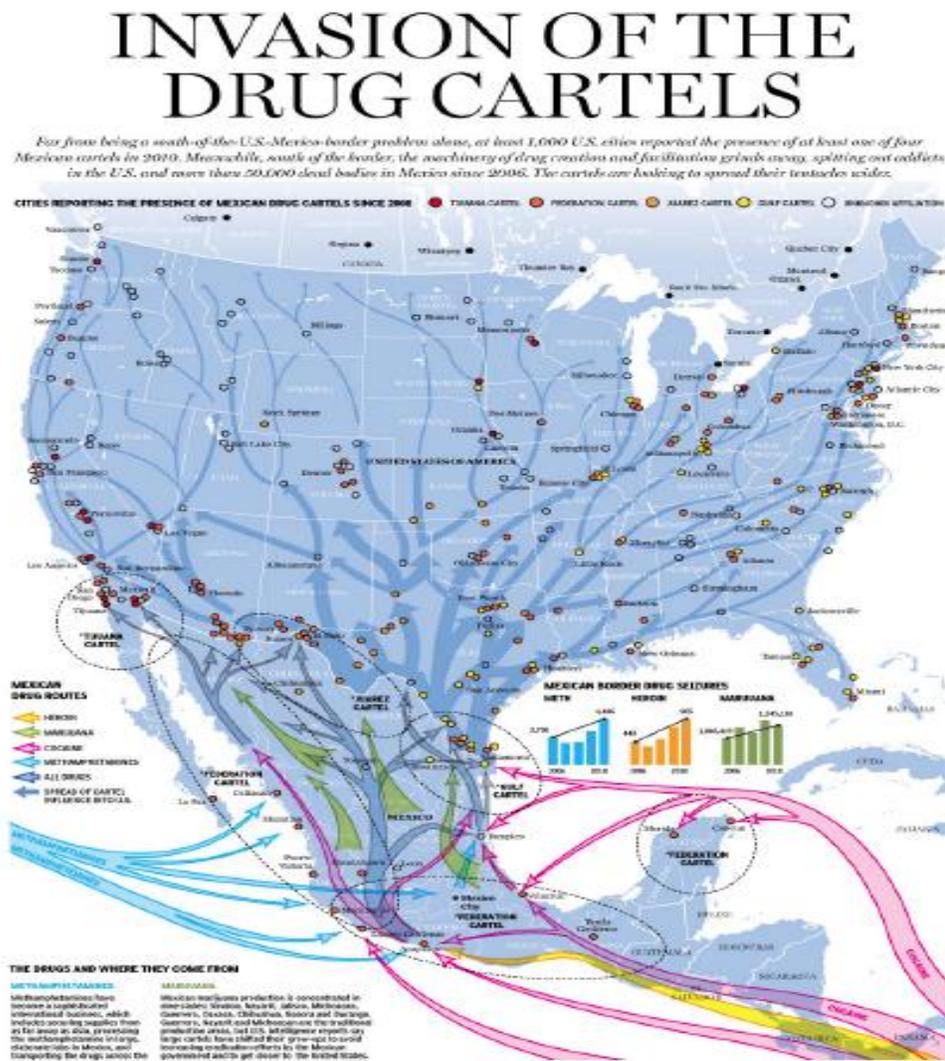
⁷ The statistics in these two paragraphs were excerpted from the Pew Research Center November 14, 2014 report *Unauthorized Immigrant Totals Rise in 7 States, Fall in 14*, http://www.pewhispanic.org/2014/11/18/unauthorized-immigrant-totals-rise-in-7-states-fall-in-14/ph_2014-11-18_unauthorized-immigration-01/

⁸ As the title of the report suggests, the June 2014 GAO report *Border Security: Opportunities Exist to Strengthen Collaborative Mechanisms along the Southwest Border*, <http://www.gao.gov/products/GAO-14-494>, concluded that collaboration between federal, state, and local agencies could be improved.

⁹ Memorandum entitled “Southern Border and Approaches Campaign”, issued by DHS Secretary Johnson on Nov 20, 2014, http://www.dhs.gov/sites/default/files/publications/14_1120_memo_southern_border_campaign_plan.pdf.

Mexican Drug Cartels: Active in more than 1,000 U.S. Cities.¹⁰

Mexican cartels are operating throughout the United States. According to the Office of National Drug Control Policy, Mexico is the primary source of heroin to U.S. markets,¹¹ the primary foreign source of methamphetamine and marijuana destined for U.S. markets, and 90-95% of U.S.-destined cocaine, which originates in South America, arrives on U.S. soil through Mexico.¹² The cartels are actively engaged in drug trafficking down to the retail level throughout the United States. The following chart depicts their presence in more than 1,000 U.S. cities.¹³



¹⁰ The U.S. Department of Justice’s National Drug Intelligence Center stated in its *2011 National Drug Threat Assessment* that “Mexican-based TCOs were operating in more than a thousand U.S. cities during 2009 and 2010” (page 8).

¹¹ Office of National Drug Control Policy, *National Drug Control Strategy*, 2014.

¹² Office of National Drug Control Policy, *National Southwest Border Counternarcotics Strategy*, 2013.

¹³ *Business Insider*, July 16, 2012 article “Mexican Drug Cartels Have Infiltrated All Of These US Cities,” <http://www.businessinsider.com/this-graphic-shows-what-mexican-cartels-and-drugs-come-to-your-town-2012-7>.

The Effects of Transnational Crime Within the United States

The 2011 *Strategy to Combat Transnational Organized Crime* states that “transnational organized crime (TOC) poses a significant and growing threat to national and international security, with dire implications for public safety, public health, democratic institutions, and economic stability across the globe. Not only are criminal networks expanding, but they also are diversifying their activities, resulting in the convergence of threats that were once distinct and today have explosive and destabilizing effects.”¹⁴ Several states have recently conducted assessments of the day-to-day impact of transnational crime at the local level.

In **California**, the magnitude of transnational crime is astounding, as reported by the state Attorney General:¹⁵

- An estimated \$30 to \$40 billion in illicit funds is laundered through California commerce every year.
- Mexican transnational criminal organizations are suspected of trafficking 70 percent of the U.S. supply of methamphetamine through the San Diego port of entry.
- Mexican cartels have formed alliances with California prison and street gangs to control trafficking routes, distribute drugs, and kidnap, extort, and kill as necessary to protect their criminal activities.
- Cartels use “Panga” boats to smuggle drugs and people into California. Boats capable of carrying 12 tons of marijuana have landed as far north as Santa Cruz County.
- 305 drug-related transnational criminal organizations operate in California, and 18 street and prison gangs have ties to these organizations.

Operation Strong Safety highlighted the threat posed by transnational crime to **Texas**:¹⁶

- Seven of the eight major Mexican cartels operate throughout Texas, and they have enlisted transnational and statewide gangs to support their drug and human smuggling and trafficking operations on both sides of the border. These gangs are responsible for a disproportionate amount of crime, and they threaten the safety and security of communities across the state.
- Mexican cartels are the state’s most significant organized crime threat.
- Illegal aliens from countries documented by the U.S. Department of State as having a known terrorism presence continue to be smuggled into and throughout Texas.

¹⁴ The White House, *Strategy to Combat Transnational Organized Crime*, July 25, 2011, <https://www.whitehouse.gov/administration/eop/nsc/transnational-crime>

¹⁵ The following statistics were excerpted from the California Attorney General Report: *Gangs Beyond Borders: California and the Fight Against Transnational Organized Crime*, March 2014, http://oag.ca.gov/sites/all/files/agweb/pdfs/toc/report_2014.pdf?

¹⁶ The following statistics were excerpted from the Texas Department of Public Safety (DPS), *Operation Strong Safety Report to the 84th Texas Legislature and Office of the Governor*, Feb. 2015, Unclassified Version.

In **Chicago**, the Sinaloa Cartel dominated the distribution of drugs. In 2013, the Chicago Crime Commission declared the criminal organization’s leader Joaquin “El Chapo” Guzman (who was subsequently captured in Mexico) Public Enemy Number One because of the deadly violence perpetrated by his organization. The last individual to be so designated was Al Capone in 1929.

These are not hypothetical threats; they are on-the-ground manifestations of the ability of transnational criminal organizations to penetrate our borders and to act throughout the United States. Our states, counties, and municipalities require continued federal assistance to address threats of this magnitude.

Conclusion

The *Council on Foreign Relations* estimates that the cost of transnational organized crime is roughly 3.6 percent of the global economy and observes that drug traffickers have destabilized entire areas of the Western Hemisphere and caused 50,000 deaths in Mexico within the past six years.¹⁷ Illegal drug trafficking generates enormous revenue for transnational criminal organizations. The United Nations estimates that illicit drugs generate some \$320 billion in global retail sales and \$150 billion in drug revenues in the Americas annually.¹⁸

Transnational crime is not stopping at our borders and is affecting communities and institutions across the United States. Transnational criminal organizations are active throughout the United States and involved in diverse criminal enterprises. Mexican cartels, whose primary focus is drug trafficking, are active in more than 1,000 U.S. cities, have formed alliances with local gangs, and have branched into other lucrative criminal activities. It would not be unreasonable to conclude that the Mexican drug cartels currently pose a greater national security threat than does ISIS. They certainly possess the capability to conduct deadly attacks just about anywhere in the United States.

The priority actions outlined in the *National Strategy to Combat Transnational Crime*¹⁹ are a solid framework for confronting this threat to national security and include:

- Enhance Intelligence and Information Sharing.
- Protect the Financial System and Strategic Markets.
- Strengthen Interdiction, Investigations, and Prosecutions.
- Disrupt Drug Trafficking and Its Facilitation of Other Transnational Threats.
- Build International Capacity, Cooperation, and Partnership.

¹⁷Council on Foreign Relations, *The Global Regime for Transnational Crime*, June 25, 2013, <http://www.cfr.org/transnational-crime/global-regime-transnational-crime/p28656>

¹⁸ Organization of American States, *The Economics of Drug Trafficking*, 2013, page 5, http://www.cicad.oas.org/drogas/elinforme/informeDrogas2013/laEconomicaNarcotrafico_ENG.pdf

¹⁹ The White House, *Strategy to Combat Transnational Crime*, 2011, https://www.whitehouse.gov/sites/default/files/Strategy_to_Combat_Transnational_Organized_Crime_July_2011.pdf

STATEMENT BY GENERAL BARRY R. MCCAFFREY (USA, RET.) FOR 24 MARCH 2015 U.S. SENATE HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS COMMITTEE HEARING ON “*SECURING THE BORDER: UNDERSTANDING THE PRESENCE OF TRANSNATIONAL CRIME*”

The porous U.S. – Mexico border continues to constitute a significant threat to national security. A continuing national security concern is that terrorist organizations, which have already formed a nexus with international drug trafficking organizations, might take advantage of existing smuggling routes and operations to introduce terrorists or weapons of mass destruction into the United States.

**Statement of John P. Torres, Retired Deputy Director
U.S. Immigration And Customs Enforcement, before
the United States Senate Committee on Homeland
Security and Governmental Affairs, Regarding A
Hearing On "Securing The Border: Assessing The
Impact Of Transnational Crime"**

Release Date: March 20, 2015

Dirksen Senate Office Building

Introduction

Chairman Johnson, Ranking Member Carper, and distinguished Members of the Committee:

Thank you for the opportunity to discuss the impact of transnational crime and threats to our border based upon my experience serving at Department of Homeland Security (DHS), Immigration & Customs Enforcement (ICE) and its predecessor agencies. I retired in 2013 as the Special Agent in Charge of Homeland Security Investigations (HSI) for the Washington, D.C. Field Office where I had served for nearly four years. Upon the creation of DHS in 2003, I served in a variety of leadership roles for ICE, including the Deputy Director and Acting Director. I retired with nearly twenty-seven years of federal service, and twenty-five of those years as a special agent.

During the course of my career, ICE targeted transnational criminal

organizations at every critical phase in the cycle: internationally in cooperation with foreign counterparts, where transnational criminal and terrorist organizations operate; at our nation's physical border and ports of entry (POEs) in coordination with U.S. Customs and Border Protection, where the transportation cells attempt to exploit America's legitimate trade, travel, and transportation systems; and in cities throughout the United States, where criminal organizations earn substantial profits off the smuggling of aliens and illicit goods.

For the past twenty-five years, transnational organized crime has expanded dramatically in size, scope and impact—posing a significant threat to national and international security. DHS and ICE worked closely with our federal, state, local and international partners to bring together best practices to combat transnational crime and related threats to our national security. From the early days of ICE, we established a number of programs and initiatives as part of our strategy to strengthen border security, enhance public safety and fortify the national security of the United States.

We started at home by taking shared responsibility and swift action within our own borders to combat transnational violent gangs and ruthless human smuggling and trafficking organizations. We transformed the deportation process to improve efficiencies and developed technology that allowed us to expand programs to target criminal aliens. We created programs to identify and strengthen the interdiction of national security threats. We built and enhanced international capacity, cooperation, and partnerships. These areas are just the highlights of the priorities that we focused on to combat transnational crime during my ten years creating, merging and building ICE.

The National Security Impact of Transnational Crime

From September 1997 through March 2000, I was assigned as an INS Agent detailed full time to the Headquarters of the Federal Bureau of Investigations in the International Terrorism Operations Section. In December 1999, while assigned to the Usama bin Laden Unit, we worked around the clock in response to a very credible threat of a terrorist plot to bomb unknown symbolic sites in the United States during millennium celebrations. It was during this time on December 14, 1999 that Ahmed Ressam, traveling under the alias of Benni Noris, was arrested while trying to enter the United States in a rented Chrysler 300M. In the trunk of that car were approximately 132 pounds of urea and aluminum sulfate (fertilizer); 47 ounces of a liquid similar to nitroglycerin; timing devices and other explosive making materials. FBI tests confirmed that these materials could make four medium sized bombs, which could be used as anti-personnel or car bombs.

At the time, Ressam was not cooperating, forcing us to race against the clock to potentially prevent a suspected New Year's Eve attack at an unknown location. In his possession were phone numbers to a contact that we traced back to New York City. These numbers led us to human smugglers operating from Montreal to Boston and New York City through Vermont. Ressam and his Algerian – Al Qaeda linked Armed Islamic Group (GIA), based in Montreal, used this human smuggling ring to their advantage to gain entry to the United States for some of its operatives. As early as 1999, al Qaeda linked terrorists were willing to use transnational criminal organizations to further their operations in the United States.

Today, the publicly released ICE strategy to combat transnational crime focused on the following principals:

- Attacking criminal networks within and beyond our borders;
- Prioritizing networks and pathways that pose the greatest threats;
- Participating and facilitating robust interagency engagement; and
- Pursuing a coordinated regional approach that leverages foreign partners.

At ICE, we worked hard to collaborate with federal, state, local partners at every opportunity. A coordinated strategy of attacking criminal networks at multiple locations along the illicit travel continuum was designed to reduce pressure on law enforcement resources and assist partner nations in preventing or disrupting organized alien smuggling within their own territories.

Over the years, in part due to the pressure applied through new national security initiatives, terrorists have increasingly turned to crime and criminal networks to fund and facilitate their illicit activities. A threat of particular concern is the convergence of terrorist travel and human trafficking. One case exemplified that concern. In 2012, ICE publicly released information regarding an HSI Attaché Quito terrorist mobility investigation that was conducted jointly with HSI Atlanta, the Department of Justice, the FBI, and Ecuadorian authorities through the HSI Quito Transnational Criminal Investigative Unit (TCIU). The investigation focused on a criminal travel network engaged in facilitating the illicit transnational movement of suspected members of terrorist organizations like Al Qaeda, Tehrik-i-Taliban Pakistan (TTP), and Jaish-e-Mohammed.

In September 2011, three Pakistani citizens pleaded guilty in the District of Columbia to one count each of conspiracy to provide material support to the Tehrik-I-Taliban (TTP), often referred to as the Pakistani Taliban, a designated foreign terrorist organization. As part of their plea agreements, the defendants agreed to a stipulated order of removal to Pakistan upon the completion of their sentences.

Securing the Borders Against Transnational Crime

Border Enforcement Security Task Forces (BESTs)

In 2006, ICE established the BEST program, which currently operates in 35 locations throughout the United States, Puerto Rico and Mexico. BEST leverages over 1000 federal, state, local, and foreign law enforcement agents and officers representing over 100 law enforcement agencies and provides a co-located platform to conduct intelligence-driven investigations to identify, disrupt and dismantle transnational criminal organizations along the Southwest and Northern Borders and at our nation's major seaports. Since the creation of BEST over 10,000 cases have been initiated. These crimes include weapons and munitions smuggling, money laundering, human smuggling, human trafficking, customs fraud, and cybercrime violations.

For example, the Hampton Roads Seaport BEST in Norfolk Virginia focuses on trade-based money-laundering, narcotics trafficking through cargo containers, weapons smuggling and counterfeit goods. In 2010, container terminals in Norfolk and Portsmouth, Va., handled 87,000 cargo containers on average. Due in part to the completion of the Heartland Corridor that runs

through the Midwest and the expansion of the Panama Canal, the port is likely to see an increase in direct foreign traffic, including super freighters which will significantly increase the amount of containers, crews and ships entering the United States via the Port of Virginia. The first early success of this Seaport BEST was in April of 2011 with the seizure of 55 kilograms of cocaine found in a vessel that transited the Panama Canal and docked at the Port of Virginia.

Criminal Alien Program

In 2005 was the Director of ICE's Detention and Removal Operations (DRO), today known as Enforcement and Removal Operations (ERO). The name change was in part due to the fact that we transformed the removal process for foreign nationals ordered deported from the United States. By building in a number of efficiencies into the process, ICE was able to take over the Criminal Alien Program (CAP) which had previously been run by the Special Agents in the Office of Investigations, today known as Homeland Security Investigations (HSI).

Using new technologies, ICE created a number of new programs to prioritize foreign nationals convicted of crimes committed here in the United States. These programs included the Detention Enforcement and Processing of Offenders by Remote Technology (DEPORT) Center. This Chicago based center incorporated the use of video conferencing allowing officers to interview felons serving their sentences at federal prisons. This reduced the amount of time that an offender spent in ICE detention, allowing the agency to utilize those detention beds for other priorities.

Another important program targeting criminal foreign nationals was the Violent Criminal Alien Section (VCAS). VCAS screens recidivist criminal aliens encountered through ICE and local law enforcement to seek criminal prosecution to mitigate the risk of future recidivism. Integral to success in this effort is the collaboration with the Offices of the United States Attorneys to prosecute the charged criminal offenders.

Human Trafficking and Smuggling Investigations

While at ICE, I also served as the Deputy Assistant Director for Smuggling and Public Safety. We launched several developed several initiatives and priorities, including improving ICE's ability to work with interagency and international partners to disrupt and dismantle international human smuggling and trafficking networks, as well as the organizations along their entire routes. This is a critical priority for ICE because illicit organizations can take advantage of established smuggling routes to smuggle humans, drugs, weapons, cash and potential terrorists.

For many years the United States has been a primary target destination for smugglers and traffickers who have been responsible for tens of thousands of men, women and children entering the country illegally each year. This international criminal market remains extraordinarily lucrative. Sadly, a significant number of children are brought to the United States in the hands of ruthless smugglers placing them at great risk.

In May 2003, police discovered dozens of smuggled immigrants—men, women, and children—locked in a hot, airless tractor-trailer outside

Victoria, Texas. The trailer, originally bound for Houston, had been unhitched and abandoned 175 miles from the Mexico border in a botched smuggling job. Ultimately, 19 people died in that trailer, including a seven year-old boy. It was the deadliest case of human smuggling in the United States in fifteen years.

Last year, unaccompanied children entered the United States at increasingly alarming rates. Some of these children were placed in the hands of smugglers by adults, even family members, to seek a better life for these children in hopes of some day becoming legalized in the United States. Not only does this pose a great risk to these children, but also poses a serious officer safety threat to the men and women who patrol our borders and investigate these ruthless organizations.

Transnational Gangs

Transnational gangs often conspire with other dangerous criminal organizations, which allow them to mature from small autonomous criminal groups into larger, international criminal enterprises engaged in human smuggling and trafficking, narcotics smuggling and distribution, money laundering, weapons and arms trafficking, kidnapping, and extortion.

In February of 2005, ICE launched Operation Community Shield, an ICE-led anti-gang program, which combines ICE's statutory and administrative enforcement authorities with law enforcement partnerships. These targeted enforcement operations have led to the development of information critical to the successful prosecution of transnational gang members for conspiracy and racketeering related violations. Since its inception in 2005, according to

ICE statistics, Operation Community Shield has led to the arrests of more than 32,000 gang members and associates representing more than 2400 gangs and cliques. Of these, 451 arrests were of gang leaders, and 14,994 of the arrested suspects had violent criminal histories.

The impact of transnational crime as it relates to violent gangs can be underscored by looking at a case study of MS-13 in Northern Virginia, where I served as Special Agent in Charge for the last three and a half years of my career. As early as 2003, MS-13 violence terrorized the community:

- 2003: Murder of Federal Witness Brenda Paz
- 2004: Murder of Jose Sandoval
- 2006: Murder of Shannon Angeles
- 2007: Murder of Melvin Reyes
- 2008: (Summer of Terror)
 - August 2008 (Shooting of Juvenile)
 - September 2008 (Shooting of pregnant female)
 - September 2008 (Shooting/Paralysis of victim)
 - October 2008 (Triple Shooting/ Disfigurement of 3 teens)

In 2011, in response to the growing trend of transnational gangs branching into the underworld of juvenile sex trafficking, the United States Attorney's Office for the Eastern District of Virginia (EDVA) created a Human Trafficking Task Force which was co-chaired by EDVA, ICE and the Federal Bureau of Investigations. It was housed at the local ICE Office in Northern Virginia and focused on training, victim services and law enforcement. We dedicated full time prosecutors and agents with a "zero

strike” intake policy. Within the first eighteen months, the Task Force rescued 36 victims and arrested 28 defendants. Some of the convictions are highlighted below:

- Jose Juarez Santa Maria (aka Sniper): Life in Prison
- Alexander Rivas (aka Casper 1): 120 Months in Prison
- Alonso Bruno Cornejo (aka Casper 2): 292 Months in Prison
- Henry Herrera (aka Lunatico): 300 Months in Prison
- Rances Ulices Amaya (aka Murder): 600 Months in Prison
- Yimmy Pineda Penado (aka Critico): 210 Months in Prison
- Jonathan Adonay Fuentes (aka Crazy Boy): 120 Months in Prison

These successful prosecutions dealt a serious blow to local MS-13 leadership and sent a strong message that the collective law enforcement community in Northern Virginia would deal with gang activity and sex trafficking swiftly and harshly.

Conclusion

The cases that I have highlighted today are indicative of the impact that transnational crime can have in our local communities. In my opinion, it is imperative that Congress continues to work with our federal law enforcement leaders to remain focused on combating transnational crime.

Thank you again for the opportunity to appear before you today. I am available to work with this Committee to help minimize the impact of transnational crime through its oversight responsibilities. I am pleased to answer any questions you may have at this time.

STATEMENT

OF

ELIZABETH KEMPSHALL

EXECUTIVE DIRECTOR
ARIZONA REGION OF THE SOUTHWEST BORDER
HIGH INTENSITY DRUG TRAFFICKING AREA

BEFORE THE
UNITED STATES SENATE
COMMITTEE ON HOMELAND SECURITY
AND GOVERNMENTAL AFFAIRS

“SECURING THE BORDER: ASSESSING THE
IMPACT OF TRANSNATIONAL CRIME”

MARCH 24, 2015

Statement of

Elizabeth Kempshall
Executive Director
Arizona Region of the Southwest Border
High Intensity Drug Trafficking Area
(Arizona HIDTA)

Before the U.S. Senate Committee on
Homeland Security and Governmental Affairs
“Securing the Border: Assessing the Impact of Transnational Crime”
March 24, 2015

Chairman Johnson, Ranking Member Carper, and distinguished Members of the Committee:

It is my privilege to address you today on behalf of the Arizona High Intensity Drug Trafficking Area’s (HIDTA) Executive Board concerning the current drug threats in Arizona and how these threats affect the rest of the country.

The Arizona HIDTA region is approximately 64,443 square miles and includes 372 miles of contiguous international border with Sonora, Mexico. The international border area consists of inhospitable desert valleys and rugged mountainous terrain, which are ideal for drug smuggling. The Arizona/Sonora corridor is comprised of six international land ports of entry (POEs) situated in Nogales (Mariposa and DeConcini), Naco, Douglas, Sasabe, Lukeville, and San Luis.

The Arizona HIDTA is comprised of nine counties that encompass the Phoenix and Tucson metropolitan areas, with a combined population of approximately 6,082,367 residents. Of the 21 Native American Reservations in Arizona, 17 are in the Arizona HIDTA region.

Six main interstate highways run through Arizona and connect Arizona to California, New Mexico, Nevada, Colorado, and/or Utah: I-8, I-10, I-15, I-17, I-19, and I-40. Due to Arizona’s geographical location and shared border with Mexico, all highways and roadways are exploited by Mexican drug trafficking organizations (DTOs) to transport large quantities of illicit drugs.

On an annual basis, the Arizona HIDTA Investigative Support Center's Threat Production Unit conducts a comprehensive intelligence study to identify the new and continuing trends in the Arizona region. The purpose of the yearly Threat Assessment is to provide strategic intelligence to the Arizona HIDTA and its partners to assist in the development of drug enforcement strategies.

The Threat Assessment found that the Sinaloa Cartel presents the primary operational threat to Arizona, possessing vast resources to source, distribute, transport, and smuggle large amounts of cocaine, marijuana, heroin, and methamphetamine in and through Arizona. The Sinaloa Cartel and affiliated Mexican DTOs exploit well-established routes and perfected smuggling methods to supply drug distribution networks based in Arizona cities, which in turn supply drug networks throughout the United States. The Mexican State of Sonora is home to key drug trafficking plazas controlled by the Sinaloa Cartel. The plazas are used for the staging of drugs, money, and weapons. Smuggling organizations, based on both sides of the Arizona/Mexico border, are hired to smuggle drugs through or between the Arizona POEs.

Arizona HIDTA investigations reveal several operational components to the drug business as it relates to Arizona. First, drugs are smuggled from Mexico into Arizona through the POEs, or between the POEs, through remote desert areas; then drugs are either transported directly to stash houses in Tucson or Phoenix or temporarily staged on the Arizona side of the border before landing in Tucson or Phoenix stash houses. Because Arizona is essential to the Sinaloa Cartel, law enforcement operations that successfully disrupt and/or dismantle Arizona-based drug organizations directly impact other U.S. drug markets, i.e., drug availability, price and purity, methods of operation, and shifting trends.

The metropolitan and surrounding areas of Phoenix and Tucson are command and control hubs for far-reaching Mexican drug distribution networks. The distribution networks supply ton quantities of marijuana, methamphetamine, cocaine, and heroin to large-scale customers located in Northwest, Midwest, Southeast, and East Coast cities. The Arizona Threat Assessment found that according to the El Paso Intelligence Center (EPIC) National Seizure System (NSS), from FY 2012 through FY 2014, 451 drug seizures occurred outside of Arizona but had a documented Arizona nexus. Specific to the 451 drug seizures, 315 seizures resulted in the seizure of 10,223 kilograms of marijuana; 74 seizures resulted in

the seizure of 202 kilograms of methamphetamine; 42 seizures resulted in the seizure of 141 kilograms of cocaine; and 20 seizures resulted in the seizure of 37 kilograms of heroin. The sheer volume of seizures with an Arizona nexus, along with investigative data, further confirms how vital Arizona is to Mexican DTOs.

The smuggling organizations that operate along the Arizona/Mexico border deploy an assortment of transportation methods to defeat law enforcement border defenses, such as tractor-trailer trucks and vehicles outfitted with deep hidden compartments; stolen vehicles; all-terrain-vehicles (ATVs); underground tunnels; ultralight aircraft; backpackers; and scouts and spotters to assist backpackers hiking through the desert.

Privately-owned automobiles and tractor-trailer trucks with hidden compartments are used prevalently for POE smuggling operations. POE seizures reveal the use of gas tanks, quarter panel door panels, and other natural voids in vehicles. Some of the more sophisticated concealment methods involve false oil pans, gas tanks, fire wall compartments, engine manifold areas, drive shafts, transmissions, and compartments built into the vehicle frame. Just recently, nearly 13,000 pounds of marijuana were seized from a Mexican national driving a tractor-trailer through the Nogales POE. The marijuana was inside boxes commingled with mechanical components. Another example is from an Arizona HIDTA long-term investigation that culminated in April 2013 and resulted in an Arizona record seizure of 137 pounds of methamphetamine; 107 pounds of heroin; and \$50,000, concealed in 140 PVC pipes in rear axles of nine semi-tractor trailers. The targeted smuggling organization utilized a specific method whereby semi-tractor-trailer trucks, already loaded with drugs concealed in PVC pipes, were driven from Nogales, Sonora, Mexico, through the Nogales POE by Mexican drivers to truck yards in Nogales, Arizona. At the Nogales, Arizona truck yards, U.S.-based drivers would take control and drive these same trailers, still loaded with drugs concealed in PVC pipes, to Phoenix or Los Angeles, for further transport to Atlanta, Georgia.

Arizona drug smuggling groups use pedestrian body carriers and oftentimes exploit children and their families to transport illicit drugs through the POEs. HIDTA investigations reveal ties between body carriers who crossed the border as pedestrians, then boarded commercial shuttles or buses destined for Tucson and/or Phoenix, Arizona. In addition to adult pedestrians carrying drugs through

the POEs, the Arizona HIDTA Threat Assessment reports the use of car seats, strollers, and the body area of infants and young children to conceal marijuana, cocaine, heroin, and methamphetamine. The organizations use grade school, middle school, and high school students. These methods are perceived by the smuggling organizations to be less likely identified by law enforcement.

Transportation and smuggling activities between the POEs in inhospitable desert valleys separated by rugged mountainous terrain are equally important and ideal for drug smuggling. Mexican smuggling groups often use backpackers, ATVs, and vehicles equipped to traverse washes, valleys, and pipeline roads, thus avoiding law enforcement checkpoints and smuggling sensors. An extensive system of scouts armed with radios, solar-powered radio repeaters, cellular phones, and weapons situated on high points along drug trafficking routes are vital to the smuggling groups. Located in strategic positions in Mexico and as far as 75 miles into Arizona, scouts protect drug loads from law enforcement and rip-crews and re-direct backpackers and vehicles to avoid law enforcement operations. The scout networks rely on sophisticated two-way radios and cellular phones for communication. Radios have complex, digital encryption technology, thus making it more difficult for law enforcement to detect and decode the frequencies used during smuggling operations. The remote activation and GPS capabilities of these radios allow for “smuggling supervisors” to monitor the progress and security of smuggling groups. Scouts also use high-powered optical devices and technical surveillance methods to observe law enforcement and coordinate smuggling operations along the border and through the desert valleys. The scouting network allows for the organization to have a continuous view of law enforcement presence on both sides of the border, making it easier to direct loads around any law enforcement presence. The scout’s role is fundamental to the drug organization’s success in supplying drugs to U.S. cities.

Tribal land located along the Arizona/Mexico border is a key smuggling corridor for illicit drugs. The territory of the Tohono O’odham Nation consumes approximately 71 miles, 19% of the Arizona/Mexico border. Tribal lands are used to stash large quantities of drugs prior to delivery to Arizona distribution networks and subsequently to U.S. drug markets. Specifically, the Tohono O’odham Indian Reservation, which straddles the Mexico/Arizona border, is exploited by the smuggling groups. Tribal members with family ties to Mexican drug organizations are used to facilitate drug movement, transport illicit drugs to

Phoenix and Tucson stash houses, and recruit other tribal members to support trafficking activities. Support activities include providing temporary stash locations and delivering food and water to backpackers. Arizona HIDTA investigative reporting indicates illicit drugs moved through the Nation are transported on Federal Routes 1, 34, 15, 21, and 19.

Vehicle incursions are employed as a method to move illicit drugs through Arizona border areas. Sometimes vehicle incursions are assisted by crews, brush clearers, and fence cutters. Additionally, cranes and ramps have been observed along the border. Most importantly, vehicle incursions present a potential threat to law enforcement because drivers are often aggressive and drive at high rates of speed to avoid detection.

Marijuana is regarded as the greatest drug threat to the Arizona HIDTA region. It remains a cash crop for Mexican drug trafficking organizations. The Arizona/Sonora corridor is the most significant marijuana trafficking route for both the Sinaloa Cartel and large-scale, Sonora-based DTOs. The majority of the marijuana smuggled into Arizona is destined for other parts of the U.S. According to the EPIC NSS, despite a 27% decrease in Arizona marijuana seizures, from 608,075 kilograms seized in Calendar Year (CY) 2012 to 445,871 kilograms in CY 2014, Arizona still accounts for 39% of all marijuana seized in the Southwest Border states. As recently as February 2015, an Arizona HIDTA investigation resulted in the seizure of 4,700 pounds of marijuana in Bisbee, Arizona, which led to the discovery of a tunnel at a residence in Naco, Arizona.

Methamphetamine is supplied to Phoenix and Tucson distribution networks by the Sinaloa Cartel and other Mexican-based sources at unprecedented levels. According to the Arizona HIDTA Threat Assessment, it is the second greatest drug threat in the Arizona HIDTA region. The EPIC NSS shows Arizona methamphetamine seizures increased from 1,877 kilograms in CY 2012 to 2,523 kilograms in CY 2014, a 34% increase. Arizona HIDTA methamphetamine seizures show similar trends, increasing 30% from 685 kilograms seized in CY 2012 to 890 kilograms in CY 2014. The overwhelming availability of methamphetamine is confirmed by the prices, which have been on the downturn for the past five years, from approximately \$8,000 per pound to \$3,000 per pound. Methamphetamine in solution is an emerging trend facing Arizona law enforcement. The Arizona HIDTA Threat Assessment found that methamphetamine in solution seizures have

increased in Arizona. Methamphetamine in solution is concealed in the gas tank and windshield wiper fluid reservoir areas of transportation vehicles and in tequila bottles, beer bottles, and soda bottles. The abundance of methamphetamine in Arizona is directly correlated to increased methamphetamine production in Mexico by the Sinaloa Cartel and other Mexican DTOs.

Most often, the drug trafficking trends occurring within the Arizona HIDTA region set the trends for other United States regions. For example, the June 2014 Arizona HIDTA Threat Assessment Heroin Study reported that circa 2007, Mexican “white” heroin first surfaced in Arizona, and investigations increasingly showed direct connections between Mexico-based sources and wholesale heroin buyers in East Coast, Midwest, and Northwest cities. In 2009, Federal, state, and local law enforcement entities began to observe an increase in the amount of heroin seized in Arizona. The number of Arizona HIDTA investigations whereby heroin exhibits were seized increased 36% from 140 in CY 2013 to 190 in CY 2014. EPIC NSS shows Arizona heroin seizures increased from 486 in CY 2013 to 507 in CY 2014; however, looking further back, approximately 180 kilograms of heroin were seized in 2010, showing an astounding 181% increase from CY 2010 to CY 2014.

Seizing the opportunity to profit from the growing appetite for heroin pursuant to the prescription drug epidemic, the Sinaloa Cartel and other Mexican DTOs adapted to meet the growing heroin demand by producing, smuggling, transporting, and distributing wholesale quantities of Mexican white, brown powder, and black tar heroin to the expanding Northeast, Midwest, and Northwest heroin markets through Arizona-based trafficking networks. The Arizona HIDTA Heroin Study shows from CY 2012 through June 2014, approximately 163 heroin seizures totaling 575 kilograms occurred outside of Arizona but linked to distribution networks operating in Arizona. In June 2014, an Arizona HIDTA investigation into a Mexico heroin organization resulted in the seizure of 89 pounds of white heroin. The investigation revealed the Tucson-based Mexican distribution cell was supplying multi-pound quantities of heroin to Las Vegas, Nevada, Denver, Colorado, and Portland, Oregon.

The Arizona HIDTA is uniquely qualified to combat the immense drug trafficking threat facing Arizona, for this threat is too big for one single agency. Intelligence is an integral component of the infrastructure of the Arizona HIDTA Program.

Through the systematic collection, analysis, and dissemination of secure, accurate, and timely intelligence, there is increased inter-agency communication, coordination, and deconfliction, which heightens officer safety, eliminates duplication of effort, and enhances investigations. Coordination through shared intelligence is critical to combating the tremendous threat posed by the Sinaloa Cartel and Mexican drug trafficking organizations. The Arizona HIDTA philosophy of cooperation and coordination is based upon enhanced information and resource sharing through co-located and/or collaborative Task Force Initiatives strategically stationed throughout the region. Under the coordination umbrella of the Arizona HIDTA, the participating law enforcement agencies eliminate duplicative operational and investigative programs and facilitate tactical, operational, and strategic intelligence sharing. The extent of inter-agency cooperation supported by the Arizona HIDTA illustrates that all Initiatives are working investigations in an efficient and effective manner. The Arizona HIDTA approach demonstrates that when traditional organizational barriers are overcome, Federal, state, local, and tribal law enforcement entities can better focus investigative and intelligence resources in dismantling and disrupting the most dangerous and prolific drug trafficking organizations.

Thank you for the opportunity to appear before you and for the Subcommittee's continued support of the HIDTA Program. The Arizona HIDTA remains committed to facilitating cooperation among Federal, state, local, and tribal law enforcement through the sharing of intelligence and to supporting coordinated law enforcement efforts.

I will be glad to address any questions you may have at this time.

Tuesday, March 24, 2015, at 10:00 a.m., Senate Homeland Security and Governmental Affairs Committee

Testimony for the hearing on **the Border: Assessing the Impact of Transnational Crime**

Chairman Johnson, Ranking Member Carper, and Members of the Committee, good morning and thank you for your invitation for me to speak to you today on this very important issue.

My name is Benny Martinez. I'm the chief deputy sheriff of Brooks County in South Texas. The Brooks County sheriff's department, with five deputies and the sheriff, is responsible for maintaining law and order within a rural region of 943 square miles that encompasses the county seat of Falfurrias. Outside of the city of Falfurrias, the county consists primarily of privately owned ranchland. The sandy terrain is mostly vegetated with mesquite trees, scrub oaks, and prickly pear cactus. The county's total population is about 8,500.

Brooks County has a U.S. Border Patrol checkpoint, known as the Falfurrias checkpoint that is approximately 70 miles north of the U.S/Mexico border on U.S. Highway 281. U.S. Highway 281 is a major north/south artery from the Rio Grande Valley area that leads to Houston, San Antonio, Austin and Dallas and other destinations throughout the interior of the United States.

Highway 281 is part of the Gulf Coast corridor, which is one of the most active drug and human smuggling corridors in the United States. The Falfurrias checkpoint was the busiest checkpoint in the country in regards to undocumented crosser apprehensions (until the surge of unaccompanied minors last summer) and narcotic seizures. The current checkpoint facility will soon be replaced by a new one that will increase the number of inspection lanes from three to eight.

Because of Brooks County's geographical location and the Border Patrol checkpoint, it has its own very unique challenges. In most cases, smugglers/coyotes drop off undocumented crossers and drug smuggling backpackers on the south side of the Falfurrias checkpoint. They are led by the smugglers and made to walk east and west of Highway 281, moving north through private ranch lands, to then get picked up on Texas Highway 285 by other smugglers who will then transport them on the Gulf Coast corridor to cities north. In other cases local gang members or others seeking monetary gain, who live in the county, drive their human and drug loads through private property by having access to keys to locked property gates.

The sad reality is that many of those who are being led through the brush by the smugglers do not survive their demanding journey. In the past six and a half years, the county has recovered 443 bodies of undocumented crossers. We estimate that we recover less than half of all those who perish. From 2008 to 2014 the Brooks County has spent almost \$700,000 for body recoveries.

The Mexican cartels and the transnational and statewide gangs continue to increase the level of organized criminal activity in the Rio Grande Valley and throughout the state. We, who live in and near border communities where cartel drug and human smuggling operations are prevalent, face additional public safety issues such as home invasions; felony vehicle evasions; pseudo police stops; extortion, kidnappings, sexual

assaults of illegal aliens, and the recruitment of Texas children to transport drugs, people, and stolen vehicles across the border. The gangs and cartels have been responsible for shootings at law enforcement officers patrolling the Rio Grande River and they've contributed to the deaths of undocumented crossers on Texas ranches and farms.

Violent transnational gangs such as MS-13 gang members are in Texas and elsewhere. MS-13 was recently linked in two separate murders of school-age children in the Houston area, one of which was ordered from El Salvador. Nearly all of the subjects had illegally crossed into the United States at the Texas border.

Since 2011, the number of MS-13 members encountered by U. S. Border Patrol in the Rio Grande Valley sector has increased each year, accelerating in 2014. This coincides with increased illegal migration from Central America during the same time period. In Fiscal Year 2014, MS-13 represented 43 percent of all gang encounters within the Rio Grande Valley sector, and approximately 11 percent of MS-13 members encountered were juveniles. In addition, there are at least three major Mexican/American gangs that are known to be active in our communities and throughout Texas, if not the country.

There was one particular case that affected me and one of my deputies personally. You will note the unsealed indictment that is included with my written testimony. In this case a smuggler from Falfurrias with a history of smuggling marijuana north and bringing cash back south, stated to an informant that two Zeta members were upset that they lost a load of 1100 lbs. of marijuana in December of 2010 because of Brooks County law enforcement. They heard that Benny Martinez was in charge of law enforcement in the county and the Zeta members wanted to know where Benny and one of his deputies lived so that they could make Benny "talk".

Also of great concern to Brooks County is the known apprehension of undocumented crossers from special interest countries with confirmed ties to terrorist groups.

I would like to emphasize that Brooks County law enforcement has a very close working relationship with state and federal law enforcement partners. Without their help, I can't imagine how we would have fared. The Texas Lieutenant Governor's office stepped up to the plate two years ago when no one else would and directed \$150,000 to the county to help with our depleted budget.

I would also like to recognize those who have come to Brooks County's aid and to the aid of the family members of the 443 deceased victims found in the county. Dr. Kate Bradley, from Texas State University; Dr. Lori Baker, from Baylor University; Dr. Krista Latham, from Indianapolis University; and Dr. Harrell Gill-King, from North Texas State University have all helped in identifying the victims so that their families could be notified.

In closing, while we are faced with many difficult security challenges, we also have to remind ourselves that South Texas is the epicenter of legitimate trade and travel for the country. Therefore, it is incumbent upon local, state and federal law enforcement agencies to ensure our communities remain safe -- and with the help of this committee -- I am confident the safety, economic vitality and prosperity of our region will continue to prevail.

Again, Mr. Chairman, Ranking Member and Committee Members, thank you for the opportunity to share Brooks County's challenges and those of the nation's concerning the dangerous affliction of transnational crime. I would be pleased to answer any questions that you may have.

Closing statement:

Until the United States is serious about securing the border, the transnational criminal organizations will continue to operate on the border, within small rural communities, and throughout all major cities of this nation. I hope and pray that this committee will recommend strong measures be taken and acted upon to do just that. I also hope that you would seriously consider recommending that Brooks County be added to the existing list of border counties because of the overwhelming financial burden it receives due to its geographical location.



STATEMENT FOR THE RECORD

Bryan Costigan

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Supervisory Agent
Montana Department of Justice
Division of Criminal Investigation
Secretary, National Fusion Center Association

United States Senate
Committee on Homeland Security & Governmental Affairs
“Securing the Border: Assessing the Impact of Transnational Crime”

March 24, 2015

Chairman Johnson, Ranking Member Carper, thank you for inviting me to testify on this important topic. My name is Bryan Costigan and I am testifying today in my capacity as the director of the Montana Analysis and Technical Information Center (MATIC), one of 78 fusion centers in the National Network of Fusion Centers (National Network). Fusion centers bring together law enforcement, public safety, fire service, emergency management, public health, protection of critical infrastructure and key resources (CIKR), and private sector security personnel to understand local implications of national intelligence, as well as add state and local information and context to federal intelligence, thus enabling local, state, and federal officials to better protect our

communities. I also serve as Secretary of the Executive Board of the National Fusion Center Association (NFCA).

Information Sharing and Analysis Regarding Threats in Montana and Along the Northern Border

As my colleague Mike Sena, the president of the NFCA, indicated last month in testimony before the House Homeland Security Committee, our public safety, law enforcement, and intelligence communities have made dramatic progress over the past decade in analyzing and sharing information related to threats to the homeland. Information sharing on these threats - both criminal and terrorist in nature - has become more routine. Relationships have been developed and sustained across state and agency lines that are helping investigators solve crimes and prevent further crimes. Technology has given us better tools to support the process of analyzing and sharing threat information, and enhancing situational awareness during critical incidents. Federal support has been essential, including the assignment of intelligence officers and analysts from Federal partners, technical assistance, training and exercises, linkage to key information systems, grant funding, and security clearances. These tools add critical value to the resources committed by state and local governments to make the National Network a foundation of homeland security information sharing.

As Director of the Montana fusion center I can say that this improvement is evident on the Northern Border. While much of the country's attention is focused on the Southern Border, the vast expanse of our Northern Border presents countless opportunities for transnational criminal organizations and terrorist groups. Going forward, Congress should ensure that law enforcement and homeland security partners along the Northern Border at every level - including Border Patrol, Customs, Homeland Security Investigations, Immigration and Customs Enforcement, state, local, and tribal law enforcement - have resources adequate to meet the threats.

The State of Montana has 563 miles of border with Canada that spans two Border Patrol sectors and 15 ports of entry, including one in Glacier National Park. As long as I have been in law enforcement in Montana - more than 30 years - we have enjoyed a relatively strong culture of sharing resources among state, local, tribal, and Federal law enforcement agencies. It is not uncommon to have a variety of agencies responding to critical incidents along the border. There is an implicit understanding that each agency will support others. As this committee knows, it is often the cultural barriers to information sharing and coordination of analytical activities that prevent effective coordination. As I have had the opportunity to travel around the country as part of my responsibilities on the board of the NFCA, I have seen great improvements, but I also know there is much to be done. Leadership is the key ingredient in advancing the

effectiveness of our efforts. I am fortunate that my leadership in Montana - from Governor Bullock, Attorney General Fox, Division of Criminal Investigation Administrator Lockerby, and Investigations Bureau Chief Strandell - continually emphasize the need for collaboration to achieve our mission.

The Montana fusion center serves a focal point for information sharing among the many agencies that operate in the state. Within the center DHS is represented along with state and local agencies. The Joint Terrorism Task Force (JTTF) is located in the same state facility as the MATIC and that physical proximity enhances information sharing among agencies. In addition to our partners at MATIC we have shared information with the Border Patrol and Customs and Border Protection, as well as with Canadian agencies through CBP and Border Patrol partners at the Integrated Border Enforcement Teams (IBET). Our fusion center has completed joint products with DHS I&A, FBI, and CBP regarding issues that impact the border.

Drug trafficking organizations in Montana utilize well-established corridors that for the most part originate along the Southern Border. However, the rapid development of the Bakken shale oil region in Montana, North Dakota, and Saskatchewan has led to a major increase in illegal drug activity across our state. The oil boom has also brought a change in the players involved in drug trafficking through Montana. Previously, Montana-based organizations controlled much of the trade, and many Montanans would leave the state to procure larger drug quantities. Now we are seeing outsiders move into the trade to take advantage of the burgeoning population with more disposable income. A significant amount of methamphetamine used to be manufactured within Montana, but a combination of Federal and state policy initiatives and aggressive drug enforcement has caused a change in the illegal trade - over the past 10 years there has been a shift to smuggling finished meth from Mexico. Once rare in Montana, Mexican-sourced heroin is becoming more common as it competes with and beats in price the easily available opioid pharmaceuticals that are often the “gateway” to addiction. The majority of the non-marijuana illegal drugs in Montana utilize smuggling routes that originate in Mexico.

At the fusion center we are working with our state, local, and Federal partners including the Rocky Mountain HIDTA and other regional HIDTAs to analyze and understand these trends and provide information to support counter-drug operations. We are able to identify smuggling routes through coordination with investigators across the state by sharing analysis. In addition, access to reporting by federal agencies within classified and non-classified systems, reporting from HIDTAs such as Director Kempshall’s, the Regional Information Sharing Systems (RISS), and other fusion centers is critical. Very recently DHS shared information with our fusion center regarding an organization smuggling narcotics from Mexico through the United States into Canada utilizing Montana Ports of Entry. Utilizing this information, we are able to reach to our

state and local law enforcement partners to educate them on the organization's tactics and improve the ability for them to share information back with us and our federal partners to address the threat.

Elsewhere along the Northern Border, the Ohio Strategic Analysis and Information Center (SAIC - the Ohio state fusion center) is the hub for coordination for the Ohio Northern Border Initiative Task Force. The task force's mission is to provide law enforcement support in collaborative efforts with border partners to detect, deter, and respond to threats to the security of Ohio's international border, coastline, and inland connected waterways. The task force also interacts regularly with the Northeastern Ohio Regional Fusion Center in Cleveland. All of the county leads on the task force hold secret clearances and attend monthly briefings in Columbus at the SAIC. The task force also interacts regularly with the New York State Intelligence Center (NYSIC - the New York State fusion center) regarding foreign flagged vessels that have also travelled New York waterways.

In Maine, the Maine Information and Analysis Center (MIAC - the Maine state fusion center) is engaged daily with federal partners on border security efforts. In fact, a CBP officer is assigned to the MIAC and works in the fusion center's space, so collaboration on joint efforts related to the Northern Border is occurring on a daily basis.

In 2012, a South Dakota law enforcement officer encountered two foreign nationals at a traffic stop who were in possession of over 100 stored value cards and a credit card reader. This raised suspicions because criminal organizations are known for stealing credit cards or credit card numbers and transferring money from them to stored value cards. Since CBP requires that individuals declare monetary instruments totaling \$10K or more to Port of Entry Officials, criminal elements exploit a vulnerability in border security by using stored value cards because they can hold as much value as the vendor will allow and are easy to hide. The South Dakota officer sent a report on the individuals and their vehicle to the South Dakota Fusion Center (SDFC). After conducting state and federal records checks in coordination with the North Dakota State and Local Intelligence Center (NDSLIC) and Federal partners at ICE, it was discovered that the individuals had ties to an active ICE transnational organized crime money laundering investigation involving stored value cards. It was also discovered that the individuals had previously unknown ties to North Dakota, Washington, and Florida. Through this collaboration, the SDFC and NDSLIC were able to provide previously unknown information about the individuals to ICE to further support their investigative efforts.

In Michigan, the Michigan Intelligence Operations Center (MIOC - the Michigan state fusion center) coordinates with CBP, Border Patrol, and HSI on a regular basis to provide information and analysis pursuant to requests related to border threats. Recently, police in Windsor, Canada notified the Detroit Police Department that the Detroit/

Windsor tunnel would be shut down in both directions due to explosive devices found inside a vehicle. Multiple fireworks, knives, and other weapons were found and two male U.S. suspects were referred for secondary inspection by CBP. Analysts at the Detroit and Southeast Michigan Information and Intelligence Center (DSEMIIC - the regional fusion center in Detroit) assisted by providing complete work-ups for both suspects and provided the information to Border Patrol, DHS, and the Detroit Police Department, and the suspects were subsequently arrested.

Earlier this year CBP received information regarding a port runner into Canada. The subject's name and description was provided to DSEMIIC analysts, who provided a driver's license photo to assist law enforcement in locating the suspect. The suspect was apprehended by Windsor Police through a coordinated effort by DSEMIIC, CBP, Canadian Border Services Agencies, and Windsor Police. Last year, DSEMIIC analysts assisted the HSI BEST Detroit division on an Ecstasy smuggling ring from Windsor, Canada into the U.S. by providing vital records information, bridge cards, and affiliates of a total of 13 subjects. Analysts were able to identify associates of the subjects possibly involved in drug trafficking between Windsor and the U.S.

These stories are just a few examples from the Northern Border region of how fusion centers are serving as focal points for state and local analytic resources to support a variety of Federal Homeland Security missions beyond terrorism. Fusion centers regularly support DHS component agency investigative activities and on many occasions support disaster operations such as during Super Storm Sandy. Fusion centers routinely provide analytic support and information to United States Secret Service and HSI investigations into matters such as the proliferation of fraudulent Resident Alien Cards. My fusion center in Montana recently participated in a multi-state joint analytical effort with CBP regarding fraudulent drivers licenses, which can facilitate a range of criminal activity with obvious implications for border security. It is critical for Congress to recognize that fusion centers support the full spectrum of Homeland Security missions at the state and local level. Some DHS component agencies currently have personnel assigned to some fusion centers, and that level of engagement enhances information sharing and analytic collaboration. Border security is one of those Federal missions where fusion centers could be more effectively utilized to coordinate state and local resources to further enhance what is inherently a Federal responsibility.

The National Network of Fusion Centers

Thanks to strengthening partnerships across jurisdictional lines, we are sharing *more information more effectively* than ever before through fusion centers about a range of threats. This is happening despite the fact that no single entity has the authority to enforce effective information sharing practices. Because of the decentralized nature of

public safety in America, policies on sharing information - including information on threats that are related to our borders but are not stopped at the borders - cannot be dictated by any one organization. Common policies and practices have been developed by consensus through multilateral and interagency policy bodies - including the Global Justice Information Sharing Initiative (Global) and the Criminal Intelligence Coordinating Council (CICC) and must be continually reinforced through day to day engagements between Federal, state, and local partners. As you might imagine, this is extraordinarily difficult to achieve in practice, but we have made excellent progress and are continuing to build on that progress.

But we must work every day to overcome challenges related to jurisdiction, culture, security clearance levels, and information access if we want to continue to make progress. In my capacity as a board member of the National Fusion Center Association I am part of discussions nearly every day with my fusion center colleagues, our federal partners including the DHS Office of Intelligence & Analysis, our counterparts in other public safety disciplines, and with private sector stakeholders to develop stronger processes and build stronger relationships. With the active support of this committee and the rest of Congress and our state legislatures, we must continue our commitment to a true nationwide information sharing enterprise with the National Network of Fusion Centers as a centerpiece and build on the success we have achieved to date.

Over the past several years, the state and local share of budget resources allocated to fusion centers has grown substantially - state and local governments provided over half of all funding for fusion centers in FY 2014. Yet Federal funding support through FEMA Preparedness Grants - SHSGP and UASI - remains critically important. The NFCA has joined other law enforcement associations on a letter to Congress urging that the Law Enforcement Terrorism Prevention Activities (LETP) requirement in the Implementing Recommendations of the 9/11 Commission Act of 2007 (P.L. 110-53) be strengthened. The law requires that 25% of SHSGP and UASI funding be used for "law enforcement terrorism prevention activities" and specifies some of those types of activities including support for fusion centers. While states have latitude to allocate funding according to risk and priorities, we agree with the intent of the 2007 law and believe that terrorism prevention activities should be constant priorities, especially as grant funds have declined over the past five years. The Government Accountability Office (GAO) found in its November 2014 report on information sharing and fusion centers that in 2012 states inaccurately categorized about \$60 million in projects as "related to fusion centers" when in fact those funds did not support fusion centers. As we have suggested in our letter to Congress, requiring a governor-designated state law enforcement executive to review the LETP portion of grant plans would help to ensure those funds truly support terrorism prevention activities.

A common misconception that is often repeated in news stories and in advocacy papers is that fusion centers are “DHS fusion centers”. This is simply not true: DHS does not exercise operational control of any fusion center. State and local governments own and operate fusion centers, and we collaborate closely with DHS, the Department of Justice, and other federal agencies to facilitate wider analysis and sharing of threat information. Each governor designates a primary fusion center in each state. Together with other recognized fusion centers, these centers comprise the National Network of Fusion Centers. The national network is a decentralized, distributed network of analysts, public safety partners, and in a growing number of cases CIKR and private sector partners. Most centers have representation from DHS and in some cases the FBI and other Federal investigative agencies. This organizational structure allows for each center to be directed according to the priorities of its agency sponsor, while maintaining a direct upward and downward link to national counterterrorism intelligence. This is squarely in line with what the 9/11 Commission called for in its report.

Since fusion centers are owned and operated by state and local entities, there is wide variation among the centers in terms of budget and capabilities. Fusion center priorities in San Francisco are different from priorities in New York State and from our center in Montana. The interests are different because their populations, critical infrastructure, and threats are different, and the fact that they are free to address the issues they feel need to be addressed is a real strength of the national network of fusion centers.

The first of two common threads through all the centers – and the key Federal interest – is a link to Federal partners and to each other through information sharing mechanisms. The Critical Operational Capabilities (COCs) that are maintained (and measured through an annual assessment process facilitated by DHS) in each center ensure the centers are ready and able to support homeland security missions regardless of their local priorities.

Of central importance is the access each center has to local, regional, and state sources of information - public safety records, criminal intelligence databases, and personal relationships across communities - that allow the center to add local and regional context to national intelligence, as well as provide information and value-added intelligence to support counterterrorism and other criminal investigations that would otherwise be difficult or unlikely for lead Federal investigative agencies to obtain. Also critically important from the national perspective is that each fusion center has methods of distribution across local, regional, and statewide technical and personal networks that Federal investigative and intelligence agencies could not possibly build or maintain.

Thus, the dual value proposition of the National Network of Fusion Centers is that no other organizational structure can provide faster or more efficient access to state and local information that may support counterterrorism or other investigations, or enable

faster or more efficient situational awareness across relevant jurisdictions. Refining the processes that allow this to happen is an ongoing priority.

The second of the two common threads through all centers is a focus on vigilantly protecting against infringements of citizens' privacy, civil liberties, and civil rights. Fusion centers are part of a much larger domestic protection enterprise whose mission is safeguarding the American people - including our ability to exercise Constitutional rights and be free from unwarranted government intrusions in our lives. Privacy protections are not an afterthought for the NFCA, the National Network, or our Federal, state, and local partners. In fact, the first order of business last year during the development process of our national strategy was to address privacy, civil liberties, and civil rights. That is why it is literally Goal Number 1 in the strategy: "Uphold public confidence through the safeguarding of information and the protection of the person and the privacy, civil rights, and civil liberties of individuals." We cannot achieve our collective mission without the public's trust and confidence.

All fusion centers have strong publicly available privacy policies in place, we train our people on them, and we emphasize transparency. Privacy policies have been established across all 50 States and all operational fusion centers at least as comprehensive as the Information Sharing Environment (ISE) Privacy Guidelines. Training has occurred for more than 200,000 local, tribal, state, and federal front line officers to identify and report suspicious activity in accord with the ISE Suspicious Activity Reporting (SAR) Functional Standard, and several thousand analysts have been trained in accord with vetting guidelines to ensure that ISE SARs are demonstrably behavior-based and their handling (retention, redress, and other related considerations) is fully compliant with privacy policies. The very first initiative in our strategy relates to training and education for law enforcement and public safety partners on fusion centers' role in the protection of privacy, civil rights, and civil liberties. The strategy's second initiative relates to conducting assessments on the impact of certain technologies on privacy, civil liberties, and civil rights of citizens, and developing policies to mitigate any impact *prior* to procurement. We look to the Technology Policy Framework published by the IACP in January of 2014 to support these efforts.

Counterterrorism analysis and information sharing functions are components of the fusion center mission but they are not - and they should not be - the sole components. That is because our fusion centers report to governors, state law enforcement executives, county, and municipal public safety leadership. They do not report to the Federal government, nor should they. The vast majority of fusion centers including ours in Montana are "all-crimes" centers, which reflects the fact that criminal intelligence analysis, data sources, interagency relationships, and information sharing capabilities resident in the centers are useful for all types of investigations - not just terrorism. While the Federal interest in fusion centers relates primarily to their ability to contribute to

counterterrorism efforts, the reality is that the fusion process is effective for any public safety effort. Case in point is the discussion we are having today - certain transnational organized criminal groups may not be linked to terrorism, but those groups pose an even more direct threat - and impact - to American citizens every day. Whether the crime is terrorism, child abduction, gang violence, drug trafficking, or oil field theft, the fusion process maximizes efforts to prevent, deter, or investigate the crime. Institutionalized collaboration through information sharing and co-location is effective no matter the nature of the crime. Our Federal partners benefit from the all-crimes approach because it amounts to “drilling” on real-world scenarios using the fusion center critical operational capabilities every day. When a terrorism threat emerges, fusion center participants and customers “know the drill.”

We are still often asked about the difference between fusion centers and JTTFs. To be clear: JTTFs are federally run investigative bodies that support the FBI's unique mission to investigate terrorism threats in this country. Fusion centers play a much different role; they're not only information sharing hubs in states and metropolitan regions. Fusion centers are where we train a cadre of terrorism liaison officers (TLOs), including police officers, firefighters, EMS workers, and our private sector partners on indicators and warnings of terrorism. Fusion centers have the ability to catalogue critical infrastructure in each state and region and analyze incoming suspicious activity reports (SARs) against the national threat picture and against what we know about our critical infrastructure. We have the ability to then rapidly share information and intelligence among the entire National Network and with the FBI. But often that SAR information has no nexus to terrorism. It's about drug dealing or gang activity or firearms trafficking or mortgage fraud. So the all-crimes approach mentioned above gives us the ability to analyze that information and funnel it to the right place. And we know that, sometimes, information that at first blush appears to be criminal in nature -- the Torrance, California gas station robberies, the smuggling of cigarettes in North Carolina, the sale of pseudoephedrine in California -- actually is linked to terrorist activity.

It does not make sense to try to separate crime and terror in our daily work of analyzing threat information and criminal activity. We have to knock that wall down. If we're going to continue to improve, we have to understand that the sharing of information makes communities safer. Our ultimate goal is to prevent terrorism. But in every community across the country there are violent crimes that terrorize neighborhoods and families and affect lives and businesses every day. Fusion centers are uniquely situated to do things that JTTFs or no other program can do. We can bring together disparate resources, data sets, analytical perspectives, and personnel in order to analyze and share information on terror, crime, or other threats to public safety. We can make sure that JTTFs get the information they need from state and local partners, but that the DEA and CBP and HSI and chiefs and sheriffs and governors get the information they need about non-terrorism public safety threats as well.

National Strategy for the National Network of Fusion Centers, 2014-2017

In July of 2013, the House Homeland Security Committee released a report titled “Majority Staff Report on the National Network of Fusion Centers.” It reflected the painstaking work of several committee staff who visited more than 30 fusion centers across the country and met with dozens of federal, state, and local fusion center partners. The findings of this report contrasted significantly with a 2012 report from this committee’s Permanent Subcommittee on Investigations that was highly critical of fusion centers. Among the key findings of the House committee’s 2013 report was an acknowledgement that “the National Network is a National asset that needs to realize its full potential to help secure the Homeland.” The report also recognized the direct impact of fusion center information sharing on terrorism investigations by noting that according to information provided by the FBI and DOJ, between December 2008 and December 2012, “176 SARs [suspicious activity reports] entered by fusion centers into the eGuardian or Shared Spaces SAR databases [...] resulted in the FBI opening new terrorism investigations.” “Additionally, 289 Terrorist Watchlist encounters reported by fusion centers enhanced existing FBI cases.” The level of productivity mentioned in the 2013 House report has increased since it was published. In the one-year period between August 2013 and July 2014, 238 SARs submitted by fusion centers supported FBI investigations. When I hear people question the value of fusion centers to federal counterterrorism efforts, I point them directly to these statistics. The value of fusion centers to homeland security efforts is clear.

In late 2013 the NFCA formed a working group comprised of law enforcement and other public safety groups, emergency management, and the National Governors Association, and dedicated hundreds of hours to developing a strategy to shape the continued maturation of the National Network of Fusion Centers. The resulting work - the National Strategy for the National Network of Fusion Centers 2014-2017 - was published in July of 2014. The strategy can be found at our website: www.nfcausa.org.

The strategy objectives and priority initiatives are now driving efforts to improve analysis and sharing around all types of threats, and this will lead to enhanced collaboration in addressing border-related transnational organized criminal threats. It is an ambitious strategy - we specified 37 initiatives that advance each of the strategy’s four goals. The strategy development process was just the beginning. While several initiatives are already well underway, we are in process of developing an implementation plan that to prioritize our actions through 2017 to achieve objectives under the strategy. In addition to our national strategy, we worked with DHS Intelligence & Analysis, the FBI, and other members of the Information Sharing and Access Interagency Policy Committee (ISA-IPC - the federal interagency forum that oversees the planning and implementation of the Information Sharing Environment) to support their development of

a Federal “Engagement Strategy” which is fully complementary with our strategy. Working together with our Federal partners, we identified a dozen initiatives that will be joint priorities over the next several years. For the first time, there is a clear Federal strategy that directly supports the state and locally driven National Network.

Central to that support is our ongoing engagement with the DHS Office of Intelligence and Analysis. The National Network continually relies on our partners at I&A. The support provided by I&A personnel assigned to fusion centers is critically important. I&A Undersecretary General Frank Taylor and his staff have invested considerable time and effort in determining the best path forward for I&A’s deployment of personnel in the field. They have regularly interacted with the NFCA and sought our input along with that of our state and local partners. Unfortunately, the Intelligence Authorization Act of 2014 constrained I&A’s choices through limiting language in the classified annex to the bill - a move that was made by the Intelligence Committees without consulting any fusion center directors or other state and local stakeholders impacted by the decision.

The impact of the new I&A field deployment plan won’t be known until the changes are in place, but there is concern across the National Network about what it will mean for fusion center connectivity to certain classified systems and information that is essential to sharing threat intelligence with state and local law enforcement and other public safety partners. One of the primary objectives in the fusion center strategy is enhancing analytical collaboration in the field. Limiting I&A presence in fusion centers threatens to inhibit that collaboration, including with regard to border-related transnational criminal threats.

As NFCA President Mike Sena testified on the House side last month, every fusion center should have an I&A intelligence professional with the authority to collect and share raw information to include release authority, execute joint production, and effectively share information across all classification levels. Decisions regarding the appropriate type of intelligence professional for each fusion center should be the result of discussions between those state and regional fusion centers and I&A.

In addition to the assignment of personnel, DHS provides important training opportunities for analysts in fusion centers. In particular, DHS facilitates the delivery of specialized analytic seminars focused on specific threat topic areas such as gangs, drugs, and borders for fusion center analysts. The seminars bring together a diverse range of state and local subject-matter experts (SMEs) and partner agencies/organizations from all levels of government to inform analytic efforts. These seminars provide a welcome opportunity for fusion center and federal analysts to discuss emerging threats, trends, and patterns and collaborate on joint products and best practices. Montana has benefited from attending these seminars both as a trainee and a SME.

Technology Policy Challenges Impacting Law Enforcement's Ability to Share Information to Detect, Prevent, and Investigate Threats

To *share* information we have to *have* it in the first place, as well as mechanisms to *communicate* it across the public safety enterprise. Tips and leads - "see something say something" - from members of the public, police officers, sheriffs' deputies, and Federal agents are one very important source of such information. In the 21st Century, technology applications are increasingly important sources of valuable information. Just as the private sector in America is continually adopting new methods of generating useful information and communicating with one another via new technologies, American law enforcement and public safety at all levels must adopt the latest technological innovations in order to adapt to increasingly sophisticated criminals - especially criminal organizations and terrorist organizations that are operating and communicating across national borders with much more freedom than ever before.

The use of technology by law enforcement and intelligence agencies also comes with important limitations, restrictions, checks, and balances that the private sector does not have to deal with. That slows down our ability to adopt technology and tap its full potential, but we understand why. We in law enforcement fully appreciate that these restrictions are rooted in the Constitution that grants all of us our sacred freedoms. We abide by the laws, policies, and regulations that help to give the public confidence that its government is respecting privacy, civil rights, and civil liberties as it carries out its mission of protecting people and finding perpetrators when crimes are committed.

We get concerned, however, when policies threaten to completely eliminate or render minimally useful our adoption of new technology or access to data. We have a responsibility to share our informed perspectives with policymakers to help understand the implications of policy decisions on our ability to investigate crimes or generate intelligence that can help prevent crime or terrorism. The thing we fear is knowing - in the aftermath of a deadly event - that we could have had access to information to prevent or identify a threat ahead of time, but a law or policy prevented our timely access to it. We currently adhere to all the requirements of 28 CFR Part 23 regarding data retention and other issues, and we are used to taking measures like these. We expect it. But we believe it is important to understand the implications of adding new restrictions without fully considering the implications on our ability to share information.

Today we are dealing with several of these types of issues: the "going dark" challenge that renders warrants for communications intercepts useless; device encryption issues that prevent the gathering of either incriminating or exculpatory evidence after a crime has occurred; automated license plate recognition (ALPR) technology provides

investigative leads with anonymous data, but is being severely restricted in some areas with short data retention policy mandates and is even prohibited in other areas. Policy decisions on these and other issues will have an impact on our ability to generate and share information to detect, prevent, and investigate crime and terrorism - including along our national borders.

Technology is also how we enable fast, efficient sharing of information across jurisdictions. In Montana and across the National Network of Fusion Centers we have embraced technology to assist us in the gathering, analysis and dissemination of information. After the critical shooting incidents in Newtown, Connecticut, the Aurora Theater and the Sikh Temple in Wisconsin, to name just a few examples, fusion centers worked to enhance our ability to share timely and accurate information across the entire the National Network in a real-time environment. Working with Homeland Security Information Network (HSIN) staff at DHS, the Situational Awareness Room or “SitAware” was developed. This communications resource is now utilized routinely by the network and other public safety partners during planned and critical events. It has been used to coordinate information sharing among the National Network and our partners in such events as the Boston bombings, the Super Bowl, and national elections. More recently the SitAware concept has been replicated by the National Network to facilitate better real-time information sharing regarding cyber threats. The Cyber Information Network Awareness Room or “CINAware” has been established through HSIN to assist in responding to emerging cyber threats. Neither of these important efforts could have been possible without the support of DHS. We must continue to support the development and enhancement of technology to improve the availability, dissemination, and coordination of information to fusion centers and our partners.

Conclusion

Chairman Johnson and Ranking Member Carper, thank you on behalf of the Montana Department of Justice and the Montana fusion center for inviting me to testify today. My colleagues in fusion centers across the country are happy to be a resource for you and your staff as you consider how to continue effectively supporting strong collaboration among those of us who protect our fellow citizens.