

DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS FOR FISCAL YEAR 2005

TUESDAY, MARCH 9, 2004

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 10:09 a.m., in room SD-124, Dirksen Senate Office Building, Hon. Thad Cochran (chairman) presiding.
Present: Senators Cochran, Stevens, Gregg, Byrd, and Leahy.

DEPARTMENT OF HOMELAND SECURITY

STATEMENT OF ASA HUTCHINSON, UNDER SECRETARY, BORDER AND TRANSPORTATION SECURITY DIRECTORATE

OPENING STATEMENT OF SENATOR THAD COCHRAN

Senator COCHRAN. The hearing will please come to order. Today we continue our review of the President's fiscal year 2005 budget request for the Department of Homeland Security. We're specifically considering at this hearing the programs and activities within the Border and Transportation Security Directorate. Our objective is to provide the resources the Border and Transportation Security Directorate requires to manage its responsibilities and to carry out its mission successfully.

The President is requesting a total of \$14.4 billion in discretionary funding for programs and activities managed by the directorate, which includes the US VISIT project, Customs and Border Protection, Immigration and Customs Enforcement, the Transportation Security Administration, and the Federal Law Enforcement Training Center.

I'm pleased to welcome to this hearing the Under Secretary for Border and Transportation Security, Mr. Asa Hutchinson. Before calling on him, I'm happy to yield to Senator Byrd and other senators who may wish to make opening statements. Senator Byrd.

STATEMENT OF SENATOR ROBERT C. BYRD

Senator BYRD. Thank you. Mr. Chairman, you are very kind to delay the hearing until I arrived, and I say this with respect to the other senators as well. I have a problem some mornings in getting to my station on time. I hope that in the future you will not delay the hearings on my account. Please go ahead, and I will understand. You are always punctual, and I would prefer that you not delay hearings on my account.

Welcome, Mr. Under Secretary. Last week, the Department of Homeland Security celebrated its first anniversary. Much has been accomplished. The integration and restructuring of the 22 agencies continues. The hard-working men and women of your Department continue to perform their important jobs. But I remain concerned that there are real vulnerabilities facing this Nation that require immediate responses.

Last December, Secretary Ridge said, quote, "The strategic indicators, including al Qaeda's continued desire to carry out attacks against our homeland, are greater now than at any point since September 11th." So Mr. Chairman, I would think that the Administration would want to address such a threat with a robust front line of defense. Yet, as I review the budget, I find numerous examples of a defense that relies more on paper, more on studies, more on reports, rather than on the layered defense that the President and the Secretary often describe in their homeland security speeches.

Let me just give a few examples. More than 5.7 million containers are brought into this country each year through our ports. Yet, we inspect only 5 percent of these. Most American air passengers would be shocked to learn that, while they and their baggage are subjected to often rigorous inspections, the vast majority of the cargo carried in the belly of the plane in which they are flying is not inspected. The Department claims that they have a so-called known-shipper program that is secure for air cargo, but this is a paper process. TSA personnel review paperwork from the shippers rather than the actual cargo.

TSA has yet to even initiate a pilot program for air cargo inspection. We approved funds last September to hire 100 air cargo inspectors to carry out real inspections and yet, 6 months later, very few inspectors have been hired.

On January 5, 2004, the new visa tracking system known as US VISIT began operations at 115 airports and 14 seaports. As envisioned when first mandated in 1996, this system is supposed to track the entry and exit of visa holders and other visitors to our country. It has been declared a success by the Department, except few realize that, while we are capturing data on people entering this country at the 115 airports, we are getting voluntary information on people exiting the United States at only one airport. We need to do a better job in order to know exactly who is exiting, as well as entering, the United States.

At the same time, we need to ensure that sufficient funds are provided to integrate the various existing biometric databases. We need to make sure that the US VISIT system and the Border Patrol IDENT system are compatible with the FBI's Integrated Automated Fingerprint Identification System.

Last year, pursuant to the Maritime Transportation Security Act, U.S. ports were required to submit security plans to the Department. But to actually make this country safer, money must be provided to help the ports implement those plans. Instead, the President is proposing to cut port security grant funding by over 60 percent.

The Federal Air Marshal Service did not have sufficient resources this year to maintain the number of air marshals on tar-

geted domestic and international flights, and because the Administration has proposed no increase for next year, a bad problem could become worse next year.

I want to make sure that this subcommittee and this Congress provide real homeland security to the American people, not just assurances on paper. The President has told his agencies not to seek supplemental appropriations this year, but I don't think that homeland security can wait. To this end I will be sending a letter to the Secretary today urging him to propose a reallocation of existing resources from nonessential pay accounts to increase funding for port security grants and for the Federal Air Marshals Program right away. I will be discussing these issues today and I'm looking forward to hearing from our witness on these and other issues.

Thank you, Mr. Chairman.

Senator COCHRAN. Thank you, Senator Byrd. Senator Leahy.

STATEMENT OF SENATOR PATRICK J. LEAHY

Senator LEAHY. Thank you, Mr. Chairman. I know I've served with both of you for well over a quarter of a century on this committee, and I couldn't help but think at the beginning of it, it's nice to know that there are a few of us who still show senatorial courtesies, and both the senior senator from Mississippi and the senior senator from West Virginia constantly show those courtesies, and I appreciate that.

Mr. Secretary, I enjoyed chatting with you this morning earlier. Sometimes people forget that, along with all the serious matters, we have even more serious matters, like how are the children, how are the grandchildren, and a lot of things like that to catch up on. And of course, I see the Under Secretary both in this committee and also in the Judiciary Committee. And I told you before, you have one of the most challenging jobs in the Department of Homeland Security, and I am grateful for your accessibility to Congress during the Department's first year. There were some who thought when you formed the new department you would no longer want to be accessible, and I think your own experience here on the Hill does you well, because you have always been accessible.

I told you when you first took the job you were lucky because you would be inheriting a number of fine employees in my home State of Vermont where we have a very substantial presence. You told me at that time you would make good use of them, and you have kept your word. I am particularly pleased that you and Michael Garcia, who also traveled with you to Vermont, have recognized the tremendous value of the Law Enforcement Support Center, LESC, in South Burlington, Vermont. This LESC provides information to State and local police departments throughout the Nation regarding immigration status and identities of aliens suspected, arrested or convicted of criminal activity, and operates 24 hours a day 7 days a week.

I was over there after a large snowfall and someone said, what do you do in a case like this where you have close to 3 feet of snow that fell in the last 24 hours. And they said, well, you know, what do you do about getting to work? And they said what do you mean, this shift comes in at this time and this shift comes in at this time. I think it took them a while to realize that the people from out of

State were asking what do you do about the snow. Well, you shovel it and you go to work. But, the other thing that was most interesting was that they accept the dedication and responsibility for the country, and I know it makes me very happy and I'm sure it does you and the others.

I joined Mr. Garcia last August to announce expanding capabilities in the LESC and I look forward to continue working on this project.

I have a couple concerns and I will submit some questions on the record. I'm concerned about the Department's response to those who fled Haiti in recent weeks. I think Haitians intercepted at sea receive entirely different screening. All interdicted Cubans are individually interviewed regarding fear of persecution. I understand that only those Haitians who loudly protest, the so-called shout test, receive such an interview. And when you see on the television news every night Haitians being shot down in the street, you have to have some concern. I understand also the Department intends to continue regular deportation proceedings against Haitians in the United States, notwithstanding the strife and basic lack of law and order in Haiti. I join with Senators Kennedy and Durbin and will have some questions on that.

Secondly, I know Congress has set an October deadline for Nations who take part in the visa waiver program to include biometric identifiers in their passports. It is a very helpful thing to have but I understand that only a small handful of the 27 countries that are participating in the program are expected to meet the deadline. As a result, visitors from these countries will need to either obtain visas, which would dramatically increase the workload here and abroad for our officials and certainly would dramatically impact tourism, and might lead to reciprocal action against American travelers. One of my questions will be whether we should extend that deadline, or whether you think such an extension would compromise our security.

And lastly, I know that you're working to meet another deadline that Congress has established, the December 31st deadline for screening travelers in our 50 busiest land port of entries. Many worry whether that can be done, and whatever you want to add on to that I would appreciate.

Mr. Chairman, as I mentioned, very soon I have to go to another committee, but again, the Under Secretary has always been responsive in questions and so with your permission, I will insert something for the record.

Senator COCHRAN. Without objection, it will be printed in the record. We appreciate you being here and your work for this committee.

The subcommittee has received statements from Senators Campbell and Hollings which will be placed in the record.

[The statements follow:]

PREPARED STATEMENT OF SENATOR BEN NIGHTHORSE CAMPBELL

Thank you Mr. Chairman and I'd like to thank our witnesses for taking the time to come talk to us today.

My constituents and the entire Nation are looking to this Committee to provide the necessary funds to protect those who travel our country's skies, seas, rails, and roads. It is your directorate that is responsible for making sure that law enforce-

ment officials and first responders have the technology they need to ensure our country's safety.

This country is the world leader in technology development and that is to our advantage when protecting the nation. But as I fly back to Colorado every weekend, and wait in line at the baggage screeners and walk through the metal detectors, I wonder if these procedures really ensure my safety. I wonder if we are really using the best technology available.

Colorado is the home of many small technology companies that, in my view, have developed a number of cost-effective, time saving, and life saving technologies that I am certain have not yet gotten into the right hands. I have done my best to send them to meet with your directorate, but I don't know the extent of their success. I hope that you will elaborate on how you work with small technology firms.

I also know that with some of the technology chosen, that you are doing your best to watch the bottom line. But when you are doing the job of equipping those who protect us, shouldn't they have the best technology available, not just the cheapest?

I support every dollar that Congress has given to the Department of Homeland Security. I believe that we have made great advancements quickly by upgrading security procedures, response plans, and better training personnel to react and respond in times of need. But I think that we need to pay more attention to whether this money is being put to the best use possible.

Again, thank you, Mr. Chairman. I look forward to hearing the testimonies of our guests and I will have a number of questions to ask at the appropriate time.

PREPARED STATEMENT OF SENATOR ERNEST F. HOLLINGS

I am pleased that the Department of Homeland Security has taken administrative control of the Federal training facility in Charleston. As you know, a temporary overflow training facility for basic training of Border Patrol recruits started in 1996 at the old Navy Base in Charleston. Legislation we passed here in Congress drastically increased the Border Patrol training needs, as it significantly increase the number of agents deployed to protect our borders. The Charleston facility was due to close in 2004, but through the fiscal year 2003 Commerce, Justice and State Appropriations Bill, we officially designated Charleston as a permanent Federal training center.

We also secured funding—over \$14 million—for the Charleston Border Patrol Academy to improve the infrastructure for the training center. After we committed to these improvements, the Department of Homeland Security took ownership of the facility through the Federal Law Enforcement Training Center (FLETC), which suited me.

After a year of cooperation, coordination and our support the Coast Guard Maritime Law Enforcement Academy was officially established in February 2004 at FLETC-Charleston by the Coast Guard Commandant. We have been able to direct some important functions to Charleston, and this is one of them.

Senator COCHRAN. Mr. Secretary, we have your prepared statement, which we appreciate your submitting to the committee. It will be printed in the hearing record, and we invite you to make any remarks you think will be helpful to the committee's understanding of this budget request. You may proceed.

STATEMENT OF UNDER SECRETARY ASA HUTCHINSON

Mr. HUTCHINSON. Thank you, Mr. Chairman, and Senators Byrd and Leahy, thank you for your gracious comments this morning. We appreciate what I view as a partnership with this committee, your counsel, advice, and admonitions from time to time are helpful, and certainly we receive those with appreciation. I also want to thank the committee for most recently approving the US VISIT fiscal year 2004 spend plan that allows us to move forward. Thank you for your prompt action on that request and again, the admonitions that you gave.

With your support, I believe we have made some significant progress toward meeting our congressional mandates for homeland security and for meeting the expectations of the American people.

The \$16 billion budget request for BTS marks a 10 percent increase over the 2004 budget and is a reflection of this President's commitment to border security, transportation security, and other areas of enforcement within my arena.

BTS, as you know, has a number of agencies within it. It comprises the largest directorate with 110,000 employees that are doing an outstanding job day in and day out. If you look back over the last year, one of the major initiatives that we have carried out would be strengthening our border security through the one face at the border initiative—training officers to perform three formerly separate inspection functions. We've also expanded the container security initiative, and the Customs-Trade Partnership Against Terrorism program provides security in the global supply chain.

I believe that we have increased the safety of air travel by increasing the effectiveness of the Federal Air Marshal program, establishing a Federal flight deck officer program, increasing the baggage screening efforts, developing a comprehensive air cargo security plan, and new requirements in that regard. We have developed new technologies such as US VISIT and the SEVIS, or the program that identifies and tracks foreign visitors and students. We have pursued and increased our investigatory capabilities for identifying, apprehending and removing those who violate our immigration laws, illegally employ undocumented workers, and traffic in human cargo.

So, we have done a number of things through the last year, including increasing our training capabilities through the Federal Law Enforcement Training Center. If you look at the 2005 budget that the President has submitted, it continues to build upon this foundation by increasing our efforts to secure our borders and our transportation systems.

Under the Customs and Border Protection budget we seek an overall increase of \$223 million, including a \$25 million increase for the container security initiative that allows us to do a more expansive job of prescreening cargo before it reaches our shores. It provides for a \$15 million increase in the Customs-Trade Partnership Against Terrorism program. A \$20 million increase for improvements in the National Targeting Center, which has been a very effective risk assessment tool for arriving international air passengers and shipment of goods to our country. Our US VISIT program will continue to work to complete the first increment of US VISIT, as well as expand its capabilities to the 50 busiest land ports, and the budget that has been submitted for fiscal year 2005 is consistent with the development of that program.

To date, the program has had a significant amount of success in increased security with 125 criminal watch list alerts, 51 criminal apprehensions, and we have processed over 2 million visitors since January 5.

Across BTS agencies over \$100 million has been requested for detection systems between our ports of entry, including expansion of the P-3 aircraft which provide important detection and monitoring capabilities. We've continued to build on our aviation security with a TSA budget that has an increase of \$892 million, which is 20 percent over the comparable 2004 level, and includes \$20 million for credentialing systems such as the transportation worker identifica-

tion card, hazardous materials transporters, and foreign student pilots. It includes funding for the CAPP II program and very importantly, \$159 million to enhance the training programs for our screener personnel.

I'm very pleased with the submission on the ICE budget that provides an increase of \$300 million over 2004 that will allow us to enhance our enforcement efforts, including \$10 million to support the new Visa Security Unit program that will help us overseas to add a security perspective to the visa issuance in working with the State Department. We've enhanced by \$23 million our capability for investigations performed by special agents devoted to immigration enforcement, including establishing stronger work site enforcement, consistent with the President's proposal for a temporary worker program. It also includes \$100 million for increase in detention and removal of illegal aliens, a very important part of our efforts.

PREPARED STATEMENT

Finally, the Department's infrastructure is supported by the investment in the Federal Law Enforcement Training Center to support our security and training programs, not just for homeland security agencies, but for a broader range of Federal law enforcement agencies that utilize its services. The budget request provides for a \$5 million increase in funding for that agency.

So with that outline, Mr. Chairman, I look forward to the discussion this morning and look forward to the continued cooperation with this committee.

[The statement follows:]

PREPARED STATEMENT OF ASA HUTCHINSON

Mr. Chairman, Senator Byrd and Members of the Subcommittee: I am honored and pleased to appear before the Committee to present the President's fiscal year 2005 budget for the Border and Transportation Security (BTS) Directorate. I want to thank you for your strong support of BTS components, especially for the resources you provided in fiscal year 2004, and look forward to working with you in the coming months on our fiscal year 2005 budget.

The \$16 billion BTS request represents a 10 percent increase in resources over the comparable fiscal year 2004 budget, and reflects the Department's strong and continued commitment to the security of our homeland. The fiscal year 2005 budget is a \$1.5 billion increase over fiscal year 2004, and it includes funding for new and expanded programs in border and port security, transportation security, immigration enforcement, and training.

The Border and Transportation Security Directorate made great strides during the first year of operations. Over 110,000 employees and a budget of \$14 billion were reassembled and brought under BTS. The Directorate was quickly established and successfully began operations on March 1, 2003—bringing together the legacy agencies and programs that now make up BTS—Customs and Border Protection (CBP), Immigration and Customs Enforcement (ICE), Transportation Security Administration (TSA), Federal Law Enforcement Training Center (FLETC), and the United States Visitor and Immigrant Status Indicator Technology (US VISIT) program. Customs, border, immigration, transportation security and training activities have been rejuvenated under their new agencies, increasing the effectiveness of our dedicated employees. BTS continues to create new ways to enhance security by sharing information and intelligence and by coordinating operations within the Department among levels of governments, and horizontally across agencies and jurisdictions. Through the hard work of our dedicated and talented employees, America is more secure and better prepared than we were 1 year ago.

In addition to the stand-up of the Directorate, we have achieved many results since our creation, including:

- providing fused and enhanced security coordination among our components and other Federal, State and local security providers and stakeholders, especially during Operation Liberty Shield and the recent holiday season, including the establishment of the Transportation Security Coordination Center (TSCC) to coordinate intelligence sharing and command and control activities for our national transportation sector;
- strengthening border security through the “One face at the border” initiative, which is cross-training officers to perform three formerly separate inspections—immigration, customs, and agriculture—allowing us to target our resources toward higher risk travelers;
- expanding the container security initiative (CSI) and Customs-Trade Partnership Against Terrorism (C-TPAT) to provide improved security to the global supply chain;
- instituting new cutting edge systems, like US VISIT, to identify and track foreign visitors and students, recording the entry and exit of foreign visitors to strengthen our immigration system;
- safeguarding air travel from the terrorist threat by: increasing the presence of Federal Air Marshals, establishing a Federal Flight Desk Officer program, instituting 100 percent checked baggage screening, issuing new regulations for enhanced air cargo security, expanding the use of explosives detection canine teams, checking names of master cockpit air crew lists, and streamlining and training Federal passenger and baggage screeners deployed at airports across the Nation;
- eliminating potential weaknesses in security by suspending transits without visa (TWOV);
- negotiating an agreement with the European Union with respect to Passenger Name Record (PNR);
- negotiating a memorandum of understanding with the Department of State to ensure a coordinated and increasingly effective visa issuance process; and
- establishing a visa security office to provide oversight and guidance on Section 428 of the Homeland Security Act, including establishing two offices in Saudi Arabia to review 100 percent of visa applications;
- standing up a SEVIS tiger team to process foreign students during the summer 2003 back-to-school season; and
- effecting improvements in security capabilities, capacity, training, and infrastructure.

Fiscal Year 2005 Budget Request

The fiscal year 2005 budget for the Directorate builds upon the significant investments and accomplishments effected and in progress.

Strengthening Border and Port Security

Securing our border and transportation systems continues to be an enormous challenge. Ports-of-entry (POE) into the United States stretch across 7,500 miles of land border between the United States and Mexico and Canada, 95,000 miles of shoreline and navigable rivers, and an exclusive economic zone of 3.4 million square miles. Each year more than 500 million people, 130 million motor vehicles, 2.5 million railcars, and 5.7 million cargo containers must be processed at the border and POE.

In fiscal year 2003, CBP processed 412.8 million passengers and pedestrians arriving in the United States—327 million at land borders, 70.8 million at international airports, and 15 million at sea ports. The fiscal year 2005 CBP budget seeks \$2.7 billion for border security inspections and trade facilitation at ports of entry and \$1.8 billion for border security and control between ports of entry.

During fiscal year 2005, we will continue to strengthen our border and port security. The CBP budget seeks an overall increase of \$223 million to maintain and enhance border and port security activities, including the expansion of pre-screening cargo containers in high-risk areas and the detection of individuals attempting to enter the United States illegally.

Specifically, the budget includes an increase of \$25 million for the Container Security Initiative (CSI) which focuses on pre-screening cargo before it reaches our shores, and an increase of \$15.2 million for Customs Trade Partnership Against Terrorism (C-TPAT). C-TPAT focuses on partnerships all along the entire supply chain, from the factory floor, to foreign vendors, to land borders and seaports. As of late January 2004, nearly 3,000 importers, 600 carriers, and 1,000 brokers and freight forwarders are participating in C-TPAT, surpassing the Department's original goal of participation of the top 1,000 importers.

As well as continuing development for secure trade programs, the budget also seeks an increase of \$20.6 million to support improvements for the National Targeting Center and for multiple targeting systems that focus on people, cargo and conveyances. These systems use information from diverse sources to provide automated risk assessments for arriving international air passengers, shipments of goods to our country, and land border passenger traffic.

The United States Visitor and Immigrant Status Indicator Technology (US VISIT) program's goals are to enhance the security of our citizens and our visitors; facilitate legitimate travel and trade across our borders; ensure the integrity of our immigration system; and respect the privacy of our welcomed visitors. US VISIT represents a major milestone in our efforts to reform our borders. We deployed the first increment of US VISIT on time, on budget, and met the mandates established by Congress, including biometric capabilities ahead of schedule. The budget seeks a total of \$340 million in fiscal year 2005, an increase of \$12 million over the fiscal year 2004 level for the program. As of late February, over 1.5 million foreign nationals had been processed for entry, generating 125 watch list alerts, and resulting in 51 criminals apprehended. The 2005 funding will further strengthen border security, and enable modernization of border management systems and capabilities. Specifically, funding will be used to expand the entry system to 115 land POEs, beyond the busiest 50 that will be covered by the US VISIT program in fiscal year 2004. Funding will also be used to expand implementation of an exit solution at our air and seaports. Alternatives are being developed and tested, and will be implemented at 80 airports and 14 seaports in fiscal year 2004.

Within the BTS component budgets, over \$100 million is included for detection systems, a critical element in the war on terrorism. The CBP budget seeks an increase of \$64.2 million to enhance land-based detection and monitoring of movement between ports, and \$10 million to deploy and operate unmanned aerial vehicles. In order to protect the homeland against radiological threats, the CBP budget seeks \$50 million for radiation detection monitors and equipment. The ICE budget request includes an increase of \$28 million to increase the flight hours of P-3 aircraft by 200 percent. In addition to providing vital detection and monitoring capabilities in the source and transit zones containing mountainous terrain, thick jungles and large expanses of water, the P-3 provides an important capability for domestic airspace security missions.

Improving Aviation Security

We have made great strides in rebuilding and reinvigorating of our aviation transportation security system. We have made significant investments in baggage screening technology—over \$2 billion to purchase and install Explosives Detection Systems machines (EDS) and Explosives Trace Detection machines (ETD) to the nation's airports—and established a robust technology research and development program. We have deployed 45,000 Federal passenger and baggage screeners at the Nation's airports, expanded the National Explosives Detection Canine Team program, and trained pilots to be Federal Flight Deck Officers.

The fiscal year 2005 TSA budget seeks an increase of \$892 million to enhance transportation security, a 20 percent increase over the comparable fiscal year 2004 level. Specifically, to strengthen interwoven, concentric layers of transportation security, the budget requests increases of \$20 million for credentialing systems (i.e., Transportation Worker Identification Credential, Hazardous Materials transporters, and foreign student pilots); \$25 million for operating the Computer Assisted Passenger Prescreening II System; and \$113 million to and improve screener performance through training and the deployment of information technology. A substantially improved air cargo security and screening program was implemented last year, and the \$85 million request sustains funding to continue program enhancements and associated air cargo screening technology research and development. We are providing another \$400 million for EDS equipment to improve airport operational efficiency.

Enhancing Immigration Security and Enforcement

The ICE budget request of \$4 billion, which is an increase of \$300 million over the fiscal year 2004 level, seeks to strengthen immigration security and enforcement. Comprehensive immigration security and enforcement extends beyond efforts at and between the ports-of-entry into the United States. It extends overseas, to keep unwelcome persons from arriving in our country, and removing persons now illegally residing in the United States. Pursuant to section 428 of the Homeland Security Act, and the Memorandum of Understanding between the Departments of Homeland Security and State, the ICE fiscal year 2005 budget request of \$14 million includes an increase of \$10 million to support a new visa security unit (VSU).

The BTS personnel stationed at overseas posts, including Saudi Arabia, will continue to work cooperatively with U.S. Consular Officials to enhance security and the integrity of the visa process.

As announced on January 7, 2004, the Administration is committed to enhanced immigration integrity and border security. My Directorate will be working to implement a program that meets those goals, while benefiting the economy. Current ICE immigration enforcement programs and the enhancements in the fiscal year 2005 ICE budget request support and are consistent with a number of elements in this initiative, particularly worksite enforcement. Specifically, the fiscal year 2005 request includes an increase of \$23 million to more than double the number of investigations currently performed by ICE—providing an additional 200 investigators. With these resources, ICE will be able to facilitate the implementation of the President's temporary worker program initiative by establishing a traditional worksite enforcement program that offers credible deterrence to the hiring of unauthorized workers.

The request also includes nearly a \$100 million increase for the detention and removal of illegal aliens. Detention and Removal of illegal aliens present in the United States is critical to the enforcement of our immigration laws, and the requested funding will expand ongoing fugitive apprehension efforts, the removal from the United States of jailed illegal aliens, and additional detention and removal capacity.

As part of our overall immigration enforcement strategy, ICE will continue to analyze data generated through the Student and Exchange Visitor Information System (SEVIS) and US VISIT program to detect individuals who are in violation of the Nation's immigration laws and pose a threat to homeland security. The fiscal year 2005 budget requests \$16 million to support these compliance efforts.

Immigration fraud poses a severe threat to national security and public safety because it enables terrorists, criminals, and illegal aliens to gain entry and remain in the United States. An aggressive, focused, and comprehensive investigations and prosecutions program will detect, combat and deter immigration fraud. The \$25 million included in the fiscal year 2005 budget will provide stable funding to the benefits fraud program by replacing funding previously provided through the Immigration Examinations Fee Account.

Building Departmental Infrastructure

The fiscal year 2005 request includes an increase of \$5 million for the Federal Law Enforcement Training Center to support our security program enhancements and capability sustainment. The FLETC not only serves Federal client groups, but also provides training to State and local law enforcement providers. In addition, to enhance global law enforcement efforts, FLETC develops and offers a curriculum that includes international applications.

Conclusion

Our homeland is safer and more secure than it was a year ago, thanks in part to the dedicated and talented team we have in BTS which excels at coordinating and effecting cross-component activities. Through their efforts, and with the support of our partners in government and the public and private sectors, we will continue to substantially improve our nation's security. I thank the Congress for its support, which has been critical to bringing us to this point. With your continued support for our fiscal year 2005 budget, we will continue to improve the security of our nation.

I am grateful to be here today to outline our efforts for a safer and more secure America. Thank you for inviting me to appear before you today, and I look forward to answering your questions.

US VISIT

Senator COCHRAN. Thank you very much, Mr. Secretary.

Last week President Bush met with President Vicente Fox of Mexico and announced that citizens of Mexico who hold border crossing cards and are frequent visitors will not have each entry recorded into the US VISIT database. Can you tell us more about how this new policy will be implemented by your directorate?

Mr. HUTCHINSON. Thank you, Mr. Chairman. I would emphasize that for those who have a border crossing card, we already have their fingerprints in our database and they have undergone a terrorist screen or a security screen in order to be able to receive this

border crossing card. And, if they would utilize this card for long-term visa purposes they would be enrolled in US VISIT just like our visitors are at the airports. It will take us a little bit longer to develop a program in which we can record each entry and exit and we hope to utilize radio frequency technology to pilot and to develop that capability. Our concern, of course, would be that with over 100 million crossings of Mexicans using this laser visa or border crossing card, it would be difficult to enroll each one of them in US VISIT under the current circumstances. So, that is the consideration for not tracking them in that fashion but rather, using it as we have at our airports and seaports, for those who would utilize it as a regular visa to stay in our country for a longer period of time.

Senator COCHRAN. The budget states that an exit capability is expected to be deployed at up to 80 airports and 14 seaports this year. Can you give us a report on the exit pilots that are currently running as a part of US VISIT?

Mr. HUTCHINSON. Yes, Mr. Chairman, and before I answer that specifically, I want to emphasize that we have an exit capability for all our airports and seaports through the APID or advanced passenger information database, transmitted from the airlines. So, we have a record of the departure of those people who would be foreign citizens leaving our country. Therefore, we could track whether they have overstayed their visas or not. So we have that capability biographically. What we are piloting in the Baltimore International Airport is an exit capability that will also biometrically confirm their departure from this country.

It is being piloted in Baltimore and thus far, it has been a very successful program. I heard testimony from the airport director there who applauds the program and the cooperation we have had, and particularly the fact that we have personnel there that will help a foreign visitor to utilize the system.

We are piloting other different ways to implement an exit procedure. Those will be developed and put into place by June of this year, so by the end of this year we hope to have a complete evaluation of what is the best exit procedure for our airports that would expand upon our current biographical capability.

Senator COCHRAN. The US VISIT program office is reviewing the proposals for the prime integration contract. What are the plans to meet the deadline for deploying the entry and exit capabilities to the 50 busiest land ports by the end of this calendar year?

Mr. HUTCHINSON. We do anticipate that the integrator contract would be awarded in the May time frame. That still leaves us a significant amount of time to utilize their capabilities. But in the meantime, through our US VISIT program office we're able to continue to deploy to the 50 busiest land ports our exit solution that would be used as secondary, similar to what we're doing at our airports. And so a great deal of work can be done to fulfill the mandate this year even before the integrator is brought on board. What they will primarily focus on would be looking at the radio frequency technology and how that can be used to quickly track the entry and exit without clogging those borders. We have some preliminary ideas, but the integrator support will be very critical in developing a final solution on that.

Senator COCHRAN. Senator Byrd, I'm prepared to yield to you for any questions you have. I noticed the presence of the distinguished senator from New Hampshire. Before proceeding, I was wondering if you could yield to him for any opening statement.

Senator BYRD. Yes, I would like to hear his opening statement.

Senator GREGG. I have no opening statement, Mr. Chairman.

Senator COCHRAN. Senator Byrd.

TSA

Senator BYRD. Thank you. Mr. Secretary, your TSA budget proposal for 2005 requests just \$143 million out of a total request of \$5 billion for non-aviation related activities. The Aviation and Transportation Security Act requires that the TSA protect all modes of transportation, not just aviation. Take mass transit for an example.

On February 6, individuals opposed to policies of the Russian government exploded a bomb deep inside a tunnel of the Moscow subway system, killing more than 40 people. The Tokyo subway was attacked with sarin gas in 1995. Subsequent analysis of the attack concluded that up to 8,000 deaths could have occurred if the attack had been executed as planned. We should not focus all of our attention on the threats posed by the 9/11 attacks. There continues to be significant threats to the New York City Subway System, the Washington Metro, the Chicago Transit Authority, and other mass transit systems.

In testimony to the Senate Intelligence Committee on February 24, FBI Director Mueller stated that our transportation systems across the country, particularly the subways and bridges in major cities, as well as airlines, have been a continual focus of al Qaeda targeting. Despite this reality, there is a huge disparity between what you have requested for aviation, compared to what you have requested for the other modes of transportation.

You have made no proposal for mass transit security grants, no request for bus security grants, no request for truck security grants, and port security grants, have been reduced from the \$124 million which Congress provided to only \$46 million, and the Department proposed to transfer away from TSA that remaining grant program to an agency with no transportation security expertise.

Now, how can you fulfill the mandate of protecting all modes of transportation without requesting funds for this purpose? Given what you are proposing, how do you intend to be accountable to the American people for ensuring transportation security?

Mr. HUTCHINSON. Thank you, Senator Byrd, and we agree with your concerns about the other modes of transportation and that they should not be neglected. We are looking at a different type of relationship and solution for the other modes of transportation versus our 100 percent inspection regime, a focus in aviation security. And so at TSA, we do have a relationship with the different modes of transportation. We are working on assessments and standards setting. We're working with other directorates and other agencies to accomplish the security that you highlighted.

For example, the subways, that is a transportation system with a number of players in that arena, including the IAIP directorate,

or Information Analysis and Infrastructure Protection directorate, and our Science and Technology directorate, looking for some technological solutions to help detect and prevent those type of harmful attacks. And so we are coordinating our efforts with them, as well as working with our TSA officials who have that standard setting responsibility. We will continue to develop that relationship and seek additional funding as is necessary to expand that mission.

Senator BYRD. Mr. Secretary, you haven't answered my question. I'm concerned about the lack of funding for the security of those other modes of transportation. I listened very carefully, but I didn't get an answer to my question.

Mr. HUTCHINSON. Would you like me to proceed again, Senator Byrd?

Senator BYRD. Yes. Would you like me to ask the question again?

Mr. HUTCHINSON. I think I got the gist of the question. We have a staff at headquarters of 120 inspectors. They are charged with the responsibility of looking at these other modes of transportation, working with local communities, setting standards for them, and working with other agencies—for example, the Department of Transportation. We are protoneuron with the industry stakeholders as well for information sharing with regards to threats to these different modes of transportation. We are looking to the Science and Technology Directorate to identify the security threat and developing the technology that would help detect those hazardous materials threats to our subway systems. And the same is true for the other modes of transportation that you mentioned.

Senator BYRD. I don't think I got the answer yet. I'll ask the question again. You may not want to answer it, and I say this respectfully to you.

Your TSA budget proposal for fiscal year 2005 requests only \$143 million out of a total request of \$5 billion for non-aviation related activities. The Aviation and Transportation Security Act requires the TSA to protect all modes of transportation, not just aviation. How can you fulfill the mandate of protecting all modes of transportation without requesting funds for this purpose? Given what you are proposing, how do you intend to be accountable to the American people for ensuring transportation security?

I believe it is a mistake to weaken the non-aviation functions of TSA. On February 25, Congressman Sabo and I wrote to Secretary Ridge and urged him not to transfer the TSA grant programs, port security grants, truck security grants, bus security grants, and Operation Safe Commerce, as well as FEMA's Emergency Management Performance grants from TSA to the offices of State and local government coordination. The deadline for making that transfer could be as early as March 26th, and I want to personally make the same points to you. I urge you and the Secretary to give serious consideration to the concerns expressed in our letters.

Mr. HUTCHINSON. And Senator Byrd, I very respectfully agree with your concerns and clearly you could look at this as a comprehensive solution to security, we're looking at a shared responsibility in that regard, and not exclusively that of TSA. And we are still sorting through some of that division of responsibility. But we believe that the budget allows sufficient support from a headquarters level of the standard setting, the regulations that need to

be looked at, and the partnership that we might have with the Department of Transportation and with the Coast Guard, who has a major role in the mission of port security.

Now, I realize that there has been some concern expressed about the transfer of the grant programs from TSA to the State and local administration within the Department, but I have been assured and feel confident that we are implementing the steps necessary to make sure that the TSA expertise on port security is utilized for the administration of those grants.

Senator BYRD. Mr. Chairman, may I ask another question at this point or do you wish to proceed?

Senator COCHRAN. Senator Byrd, we've taken up just about between 10 and 15 minutes in this round, and I was going to recognize Senator Gregg for any questions, and then we have a chance for another round.

Senator BYRD. Thank you.

Senator COCHRAN. Senator Gregg.

US VISIT

Senator GREGG. Thank you, Mr. Chairman, and thank you, Senator Byrd, for your courtesy. Mr. Secretary, the US VISIT program is obviously the core to your effort to try to get some control over who's coming into the country and you have already explained the program. As I understand the program, basically there will be two fingerprints taken, the thumb and——

Mr. HUTCHINSON. Two index.

Senator GREGG. The index fingers of both hands, and that will be electronically and digitally taken. And here's my question. We spent in another committee, CJS, which I chair, and it's a fabulous facility up in West Virginia, a huge amount of money, literally hundreds of millions if not billions of dollars on developing a fingerprint database for the Nation called IAFIS, which is under the control of the FBI. It's my understanding that the US VISIT fingerprints will not be compatible with that database, that the manner in which the fingerprints are being taken is not compatible, without a significant amount of increased work load. In other words, the turnaround time on an IAFIS fingerprint is very brief. If you're fingerprinted under the IAFIS system it's almost an instantaneous turnaround time. If you're fingerprinted under your system it's 35 times longer, assuming you can do the workload at all to get that fingerprint confirmation back, and really the two systems aren't compatible, they simply aren't compatible.

I guess my question to you is why would we set up—I can understand that you don't want to make getting into and out of the country too complicated and that's why you probably went to the two-finger fingerprinting and a flat screen versus a rolled approach, which is what the IAFIS was built on. But why did we spend all this money to create this database if you folks aren't going to structure a system that takes advantage of it?

Mr. HUTCHINSON. Thank you, Senator Gregg. And first, I have had numerous conversations with the FBI and the head of their fingerprint division, and we certainly want to move in coordination with each other. But for example, the IAFIS system has 44 million prints in it, most of them of U.S. citizens, many of them whose

crimes have expired, and just a whole host of reasons that they might be in there. As our US VISIT program is developed, it is not designed for U.S. citizens but for foreign visitors. So we take a slice of what is in the IAFIS database and put it in our IDENT system so that it can be checked, so there is that limited capability. Now as we expand our program, hopefully there will be more connectivity there.

But in addition right now, to connect to IAFIS you have to have 10 rolled prints, and we cannot have 10 rolled prints at our ports of entry because of processing time as people come in. As the technology develops so that we can perhaps have 10 or 8 scanned prints in a quick fashion, then we hope to be able to gravitate to that, so we can then interconnect with the IAFIS. But it is a problem not just for the US VISIT, but also the State Department, because they have deployed technology overseas for the two index fingers since that was the agreement between the Attorney General, the Secretary of State, and the Secretary of Homeland Security.

So it is a process issue because of the time constraints. It is a systems issue in terms of what it takes to interact with the IAFIS program. And it's a technology problem that we hope technology will be able to help us with in the coming years. In terms of the processing time, it takes us 8 seconds for our two digital fingerprints to get a response from our system. It would not be any different if we were connecting it to the IAFIS system. And if there is a question where we connect with secondary, where we can connect with IAFIS, we can take the rolled prints as to any additional information that we need from them.

Senator GREGG. What you're saying is that we're building from scratch a new system which is going to be essentially independent of IAFIS in that they won't be able to access IAFIS directly. Yes, there are 44 million fingerprints in IAFIS, which is one heck of a database, and obviously the vast majority of them are American citizens who have somehow come into a position where they would be subject to that scrutiny. But a huge percentage, a huge number are international fingerprints, and I just, it's going to be hard for me as a legislator if we have an event in this country and an individual comes into this country who went through the US VISIT program, got fingerprinted, but didn't show up because your program doesn't have a big enough database yet to pick the person out. We find out after the person has done some destructive event in this country that that person's fingerprints are sitting there at IAFIS and we knew that he was a bad guy.

So I understand the technology problem. I understand the practical problem of having to roll everybody coming into the country. And I can see where you made the decision and that you know, you're going to have to start from scratch building a database. But there's got to be a better answer here to getting these two converged. If it takes dollars in order to do the technology conversions in order to get IAFIS to a digital capability where it can handle your type of needs, we'll do it. Because quite honestly, your issue is a heck of lot bigger than any other issue the FBI has today.

That fingerprint database of 44 million should be used to protect this country against terrorism. That should be its primary purpose today. Granted, it was created to protect us and deal with criminal

events in this Nation, but that isn't what it should be used for. It is a huge resource sitting there that should be used to protect us from people coming into this country to do us harm, and it should be integrated with your system, totally integrated.

And so, I guess your answer to me was, well, we can't integrate because we're not there yet. My question to you is what do we need to get there and how quickly can we get there?

Mr. HUTCHINSON. And that's the right approach to it, Senator. We, first of all, are wanting to gravitate to 8 scanned prints, which would be, I believe compatible for entry into the IAFIS system. That will take us some time because that's something the State Department has to work on as well, and we have to partner with them on the technology.

Senator GREGG. We can bring the State Department along.

Mr. HUTCHINSON. The other suggestion that I would have is that we utilize the services of the National Institutes of Standards, NIST, that evaluated our system, what its capabilities were, and I think that their counsel would be helpful in not just looking at what we need to do to make these compatible, but who needs to make some adjustments. For example, should IAFIS develop a system that does not just simply have to take 10 rolled prints. Can they develop a system that is interacting to the 8 scanned prints or the 10 scanned prints. I hope they would look at that solution as well.

Senator GREGG. That's fine, NIST is a wonderful technical agency and I suppose we could hold a hearing on this, we could have CJS and maybe do a joint hearing, and bring all the different parties to this fingerprint issue together and try to get movement. But we shouldn't have to do that. This administration should have a game plan which is in place and which is signed off on by the three key parties, State, yourself and the FBI, and which says this is the time frame, this is the technology changes we have to make, and this is what it's going to cost us. You should be coming to us with that plan so that we can fund it and we can hold you accountable to that time frame. Saying that we should call NIST and say well, NIST, will you tell FBI to straighten out, IAFIS is not the answer. The answer is that you folks, because you are the administration, should be doing this. I mean, that's what administrations do. Congresses shouldn't have to do that.

And I'm really discouraged about this. We spent so much time getting this—database up and running and now it's being marginalized in the most singly important thing we have to do as a country, which is defend ourselves from people coming in who are our enemies. It's just very hard for me to figure out why we aren't more aggressively pursuing a resolution of those issues, rather than you're going your way setting up your database and saying well, we can't get into IAFIS because we can't roll 10 prints, and the FBI is out there saying they can't do it with digital and they aren't going to do two prints, and they aren't going to convert their system because it's too expensive and too complicated for them to do it. And then we're supposed to go call NIST up and say really, who has the answer here. You guys should have the answer and it should be given to us.

So what I'm going to ask you for is for you to gather the Secretaries of Homeland Security and State and the Attorney General, and get us a statement of policy as to how you're going to get the FBI fingerprinting databases coordinated so that they all are integrated and can communicate with each other in a time frame that's going to occur before we're attacked again.

Mr. HUTCHINSON. Thank you, Senator. That's a fair request and we will certainly be delighted to work and develop that joint strategy.

Senator GREGG. Thank you.

Senator COCHRAN. Mr. Secretary, just as a way of following up on Senator Gregg's questions, I'm curious to know what funds the Department intends to dedicate to this project, the integration of the systems during fiscal year 2004 and what account is being used to fund the project. Do you have that information or would you like to submit that for the record?

Mr. HUTCHINSON. We probably will supplement the answer that I will give now. But first, and as Secretary Ridge testified—I believe it was before you, but it might have been the House Appropriations subcommittee, is the existing need for integration so that the Border Patrol agents can access IAFIS. The funding is in place to do that and it is pledged to be accomplished by the end of this year, and I think the Secretary indicated that we will scrounge around if there needs to be a few extra dollars to achieve that goal, but we're committed to making sure the information integration with IAFIS is accomplished.

In reference to Senator Gregg's comments and questions, that integration will be funded out of the \$340 million in 2004 for US VISIT. That's the budget that we have to work with to accomplish objectives of 2004, as well as moving toward any integration, and of course, any other funding would come from the State Department's budget and the Department of Justice.

[The information follows:]

INTEGRATION OF DATABASE SYSTEMS IN FISCAL YEAR 2004

Therefore, to accelerate the implementation of IDENT/IAFIS capability within the Department, we intend to reallocate \$4 million of the remaining funds provided in Public Law 107-117. The \$4 million, when combined with fiscal year 2003 funds already provided (\$3.5 million obligated for IDENT/IAFIS as part of increment 1 Entry-Air/Sea), will allow BTS to implement IDENT with 10 print capabilities in secondary processing areas at 115 airports, 14 seaports and 50 of the largest land border ports. In addition, this funding will support implementation of the IAFIS/IDENT 10 print capability at 70 percent of the Border Patrol stations. The remaining land ports of entry, 30 percent of the Border Patrol stations and major ICE locations (to be identified) will receive this capability in 2005.

Senator COCHRAN. One observation is that if this project is not receiving the support and attention required to get it to completion, should a separate project office be set up to implement the program?

Mr. HUTCHINSON. I would not suggest so. We have a very effective project office in US VISIT that has the capability. And I don't mean simply to recite challenges in this effort, but you know, we had a choice this year of recognizing that we could have an added security value by putting our fingerprint scanners at our primary ports of entry and we did this, and we're looking at when we change it down the road to a broader capability, we probably lost

a million dollars for those fingerprint scanners. So for the added security value, it was a good decision to make, but we recognized at the time that we're going to have to gravitate to probably 8 prints at a minimum, for a number of reasons. So we recognize the need to move to that standard and that will be a part of the US VISIT oversight responsibilities.

Senator COCHRAN. Is there a final deployment schedule to roll out version two of the integration project to all Border Control facilities or when can these facilities expect the roll-out to be completed?

Mr. HUTCHINSON. There is, and that will be completed by the end of this year. I believe we have IAFIS at 20 Border Patrol stations. I think we have about another hundred that are on schedule to be given the connectivity to IAFIS, and so that should be completed on schedule by the end of the year.

Senator COCHRAN. Senator Byrd.

Senator BYRD. Thank you. I particularly was interested in Senator Gregg's and your questions, and the answers.

Last month a few days after the Democratic primary, the President went to Charleston, South Carolina, to crow a little about his efforts to improve the security of the ports. I must say that I found this kind of a political event to be somewhat disingenuous. The President signed the Maritime Transportation Security Act on November 14, 2002. That law authorized initiatives to improve security at our ports, but I'm not convinced that the Administration has done that much since then to actually make our ports safer. Given the huge demand for port security funds, why is this Administration only requesting \$46 million to actually secure our ports?

PORT SECURITY

Mr. HUTCHINSON. Senator Byrd, it's because we believe that there is a shared responsibility, both in terms of the private sector, and the port authorities, and the Federal Government spurs that on, sets the example, funds a significant portion of the projects, which I believe that we have done. Last year I think there were two rounds of port security grants, so there was a very substantial amount that was invested last year, and it was a combination of grants to port authorities but also to the private sector. But, we do not believe it's exclusively a Federal Government responsibility to do all of the port security investment, the private sector has a responsibility, as well as the governmental port authorities.

Besides the port grants, we are also investing substantially in port security in terms of the activities of the Coast Guard, the Customs and Border Protection, and the other agency responsibilities related to the ports.

Senator BYRD. Well, I know that we are going to continue to hear that answer. We still inspect less than 5 percent of the 5.7 million containers that come into our ports each year. The President took credit for making available \$179 million this year in funding for grants for port security. He failed to mention that he did not request a dime of those funds. He failed to mention that the Coast Guard port directors, who actually have responsibility for safety, estimated that \$1.25 billion would be needed in the first year and \$5.4 billion would be needed over the next 10 years to comply with

the new Federal regulations mandated by the Maritime Transportation Security Act. He failed to mention that last year he opposed my amendment to provide \$460 million in port security grants. He failed to mention that his budget for fiscal year 2005 proposed to cut port security grants by 60 percent, from \$124 million to \$46 million, when the last competition for grants resulted in over \$987 million in applications from ports nationwide.

Now I'm afraid something terrible is going to happen one of these days, and then what will be said? Our ports must compete with other ports, including ports in other countries. If these security costs result in higher prices, assuming the costs are going to have to be borne by industry, are you and the President not concerned that business may go elsewhere, costing U.S. jobs?

Mr. HUTCHINSON. Well, I think that first of all, we've discussed significantly the port security grants and the philosophy behind the amount that is requested. You also raised the question of the fact that only 5 percent of the 6 million sea containers are inspected that come into our ports. I think this is, again, a philosophical question as to whether you inspect 5 percent, 10 percent, 15 percent, or 100 percent. And I suppose if we inspected 20 percent of all the cargo, there would be those who would argue it ought to be 100 percent, that argument exists right now. I think it's a better decision to try to make sure we inspect the right 5 percent or right 10 percent, or whatever that number is, and that we inspect all of those, 100 percent of those containers that indicate a risk to our Nation.

So that is the strategy that we're developing. We are not underestimating your concerns and what we know as threats to our ports. We take that very seriously, and that's why the Coast Guard has conducted more than 36,000 port security patrols. That's why we have imposed the regulations that require the security plans by the vessel operators and the port authorities, all to enhance the security, in addition to the partnership that we have in the cash investments for port security.

CAPPS II

Senator BYRD. Mr. Secretary, the fiscal year 2004 Appropriations Act included a provision requiring the General Accounting Office to review the privacy and security of the proposed CAPPS II airline system. The GAO recently submitted a report to us that stated that your Department has met only one of the eight criteria set out by Congress before you could move ahead with deployment of the system. I understand that the Department concurs with the GAO's findings. Where is DHS now in testing of the CAPPS II system?

Mr. HUTCHINSON. Senator, we are actually months away from actual testing data for CAPPS II. We are obviously aware of the airlines' concern about voluntarily sharing data, so we're looking to find a vehicle of having the data that we need to query out the testing, and my best estimate would be that we are still a number of months away from doing the testing to the CAPPS II.

Senator BYRD. Now that the GAO concluded that your Department has not met the requirements of the law, I encourage you not to deploy the CAPPS II system until you have satisfied for this subcommittee that the requirements of the law have been met.

I have several questions, Mr. Chairman. I could submit several of these for the record at your pleasure.

Last week the Department celebrated its 1-year anniversary. To commemorate the event, Secretary Ridge released a list touting the Department's major accomplishments in its first year and, indeed, much has been accomplished. For instance, his press release notes that a seal has been developed to establish an identity for the Department. Good. You know who you are and for whom you are working. The release also noted that employees received a lapel pin signed by the Secretary and featuring the new Department seal.

IMMIGRATION ENFORCEMENT

Sadly, no mention is made in the list of the Department's accomplishments for the enhanced enforcement of our immigration laws. At best, there is a passing reference to the new Department's reorganization of the immigration enforcement functions. Especially in light of the President's sweeping amnesty proposal, I'm surprised that the Department has nothing to report as an accomplishment in enforcing our existing immigration laws. Many members who were opposed to the creation of the Department, like myself, were concerned that the focus of the Department and its personnel would shift from traditional duties to terrorism. Why is the Department unable to point to significant improvements and successes in enforcement of existing immigration laws? What specifically is your director doing to enhance immigration enforcement?

Mr. HUTCHINSON. Thank you, Senator, and I'm grateful for the opportunity to reflect on significant achievements in the area of immigration enforcement. It is estimated, as you know, that there are 8 million illegal workers in this country at the present time. It's estimated that 40 percent of those are here because of visa overstays. And so whenever you talk about what we've done with US VISIT and being able to have a better control of those who come into the country and overstay their visas, that system is a significant accomplishment in immigration control. It produces information on people who overstay their visas and stay here in the country illegally.

We have created an office of compliance within the Bureau of Immigration and Customs Enforcement that is responsible for receiving the information and providing leads to the field in order to determine who should be processed for removal from the country. So, that is a huge step forward in immigration enforcement.

In addition, we have successfully implemented the SEVIS program, which tracks our foreign visitors coming into this country, and in one fall semester, as over 200,000 students came into our country, we apprehended over 200 that came in here who were not properly accepted into a university. I think our country is safer because of that effort.

We have also, of course, put 1,000 more patrol agents on our northern border, and we have increased our resources on the southwest border. The chief of police of Phoenix attributed immigration enforcement in Arizona and our Operation Ice Storm to a successful reduction of violent crime in the Phoenix area.

And so at every level, from the fugitive operations to Operation Predator to Operation Ice Storm, I think we have done a very, very significant amount of work in immigration enforcement.

Senator BYRD. Do you miss being in your old job?

Mr. HUTCHINSON. Every once in a while I miss being up there on the House side.

Senator BYRD. I think you did a good job. I watched you very carefully during the impeachment procedures.

Mr. HUTCHINSON. Thank you, sir.

Senator BYRD. I thought you kept a level head on your shoulders. I thank Senator Gregg for raising the issue of compatibility between US VISIT and the FBI databases. Chairman Cochran and I raised the issue with Secretary Ridge almost a year ago.

BORDER PATROL: IDENT

On a related matter, last week the Department of Justice Inspector General released a report that examined the case of a Mexican citizen who had been detained by the Border Patrol on two occasions in January 2002 for illegally entering the United States. On each occasion, Border Patrol agents returned him voluntarily to Mexico. They did this because IDENT, the immigration agency's automated fingerprint identification database and the Federal Bureau of Investigation's automated fingerprint identification database were not integrated and the Border Patrol agents who apprehended him did not learn of his extensive criminal record or past deportation. If his full history had been learned, according to Border Patrol policies, he should have been detained and subjected to prosecution. Instead, he was returned to Mexico. Subsequently, he again crossed the board illegally, and made his way to Oregon in September of 2000 where he raped two nuns and killed one.

In the report, the Inspector General again found delays in the effort to integrate the IDENT and IAFIS databases. While he found some progress in deploying an integrated version of IDENT-IAFIS, full integration of the two systems remains years away. Current projections are that the two systems will not be fully integrated until at least August 2008, almost 2 years behind the original scheduled completion date. Both the Department of Justice and the Department of Homeland Security say they recognize that the databases need to be integrated. However, the IG report found uncertainty as to who is responsible for the overall management of the integration project. It states that Justice and Homeland have yet to enter into a memorandum of understanding delineating the specific roles and responsibilities of each agency in the project.

Can you give us an update on your plans for developing a memorandum of understanding with the Justice Department so that this project can move forward?

Mr. HUTCHINSON. Yes, sir, and that certainly points out that there is much work that remains to be done, and I'm grateful for the opportunity to recite some of the efforts that we have implemented, but we are the first to acknowledge that there is much more to be done and this is certainly a perfect example of it. The IG is correct, to wait until 2008 would be absolutely wrong and intolerable, so under Secretary Ridge's leadership we are going to get it done this year. We want to avoid this type of tragic circumstance

in the future, and it was a tragic circumstance of this particular case, and it shows the extraordinary cost of not having all of the information needed for our Border Patrol agents.

We have that system at 20 sites now, and we're going to add 100 this year and get them connected. And if there's a few left after that, we'll find the money to get it done. We have accelerated the schedule to get it done this year. We want to look at more opportunities to give our agents in the field, and inspectors, all the tools they need, particularly this type of access to the FBI database.

Senator BYRD. Thank you. Thank you very much, Mr. Chairman.

TRADE ENFORCEMENT

Senator COCHRAN. Thank you, Senator Byrd.

Mr. Secretary, something that your State and my State is interested in is our domestic fish industries, catfish and other activities relating to the production of aquaculture resources. I was recently informed that the Customs and Border Protection officials took 6 months to review and comment on a request for new tariff codes for Vietnamese exports of fish into the United States. I've written to Secretary Ridge about this issue, but I would like to bring this to your attention personally and receive any comment that you have about a commitment to trade enforcement, which in my view should remain a high priority for the Border and Transportation Security Directorate. I hope you will look into the problems that may exist in the Department regarding catfish dumping or trade rules that need to be enforced aggressively by the directorate.

Mr. HUTCHINSON. Thank you, and I certainly share the same concern, coming from Arkansas, in reference to the enforcement of our trade laws on this commodity as well as others. I don't know the specific answer on why it took 6 months to review that tariff code and I would be happy to provide a specific answer to you. We have made a commitment not to reduce our resources and commitment to trade enforcement, and we have a good partnership with the Department of the Treasury to carry on those trade enforcement efforts. I'm co-chairman of the Coe Act, which is the partnership with industry in their advisory committee on how we handle our trade rules, so we will get a specific answer to you on that question.

[The information follows:]

VIETNAMESE EXPORTS OF FISH INTO THE UNITED STATES

CBP processing time for 484(f) requests varies depending on the complexity of the request and the purpose of the request. While most requests are processed within the 6-month period, exceptional requests have taken longer. (As a comparison, the 484(f) committee received a request for a statistical breakout for low-melt polyester fiber on June 30, 2000, which was not approved until May of 2001 for implementation on July 1, 2001. While rare, these situations do occur.) The request for these fish breakouts was one of these exceptional requests.

The 484(f) request received by CBP was submitted in advance of the Federal Register Notice published on August 12, 2003, referenced in the requestor's submission, and the instructions to CBP issued on September 12, 2003. Those documents needed to be reviewed in conjunction with the requestor's submission because CBP is the agency responsible for collecting the antidumping duties under the order and identifying attempted evasion of the order. This 484(f) request was also intended to allow the domestic industry to monitor specific foreign competition.

The first problem was that CBP (and the ITC, based on their report) did not agree with the requestor as to the proper classification of the imported species of fish and

therefore, the proposed breakouts. This is not an unusual occurrence. Since the 484(f) committee usually tries to meet the purpose of the request even if the committee does not technically agree with the request, the issue for CBP was how to meet the requestor's goals.

CBP found that the specific imported fish were more subject to misclassification than other commodities for which breakouts have been requested. This fact meant we needed to be able to segregate these fish from the other fish properly classified in the various subheadings.

CBP also had to reconcile the recent change to the FDA labeling requirements with CBP import laws, regulations, and policies and enforcement capabilities.

CBP needed to take into consideration our informed compliance responsibilities to importers under the MOD ACT followed by our enforcement capabilities. We also considered our ability to physically identify non-compliant fish, our ability to target shipments for sampling and maintain the physical integrity of the perishable sample through the laboratory analysis process, and whether other agency requirements would be effected by any of the breakouts. We also took into consideration concurrent work being done by the Bureau of Immigration and Customs Enforcement. Finally, we applied our knowledge of certain techniques that have been used to avoid payment of higher duties on other perishable commodities.

All of these considerations are not routinely necessary during our review of 484(f) requests and required information from multiple CBP offices and time to correlate the elements into a plan. Once the facts were finalized, CBP responded to the other 484(f) members with our proposal.

Note that CBP met with the requestor's representatives on February 27, 2004 and were able to come up with a new proposal that will meet their needs for trade data and allow CBP to more easily enforce the current antidumping order and verify trade data. At the same time, this proposal will allow implementation prior to the resolution of the classification issue. The requestor will provide some additional information to CBP at which point we will forward the proposal to the other committee members (Census and the ITC.) We anticipate that our proposal will be satisfactory to the other committee members and the new breakouts will be implemented no later than July 1, 2004.

FEDERAL AIR MARSHALS

Senator COCHRAN. Thank you very much. In connection with Federal air marshals, I notice that the budget request is essentially flat for the Air Marshals program. Is this a concern to you? Do you think an adequate level of resources are available under the budget request to fund pay raises and other inflationary costs that may occur with this program?

Mr. HUTCHINSON. We did get hit with the pay increases that are built into the budget that had to be absorbed. We have a strong commitment to the Federal Air Marshals program. That's one of the reasons we took a number of steps to add some additional capabilities to supplement the air marshals with other Federal agents who travel, including cross-training additional ICE agents and a partnership with the Secret Service. We believe that with those force multipliers out there, and with the continued commitment to the air marshals, that the President's budget is sufficient in that area.

We are, you know, for this year, looking at a number of different areas to make sure that there is no any significant diminishing of our commitment to the air marshals.

NORTHERN BORDER AIR WING

Senator COCHRAN. The Air and Marine Operations program has been stretched pretty thin for the last 2 years. Long-term repetitive details for personnel and assets are being used to protect the northern border and the national capitol region. The appropriations for fiscal year 2004 included resources for the establishment of a per-

manent northern border air wing. Will you tell us what the status of establishing this air wing is, when will there be permanent employees on board, and when will aircraft be purchased, for example. Are you going to have to continue to rely on detailees to cover the northern border and the national capitol region if you go forward with the establishment of this air wing?

Mr. HUTCHINSON. I think it's important that we have that air wing capability on the northern border, and we are actively pursuing it. The assets that are deployed, you know, are from our existing resources, but the 2005 budget does request \$28 million for P-3 aircraft surveillance that will help in regard to our interdiction efforts, and also the assets that we need for the CAPP or the protection of our air space. So there are some funds designated in the 2005 budget for this purpose.

As to the exact time frame on the deployment and the establishment of the air wing for the northern border, Senator, I will have to get back to you.

[The information follows:]

EXACT TIMEFRAME ON THE DEPLOYMENT AND ESTABLISHMENT OF THE NORTHERN BORDER AIR WING

The fiscal year 2003 War Supplemental provided \$20.5 million to launch the Bellingham Air Branch, the first of five Northern Border Branches. Planned allocation is as follows: \$2.5 million for personnel transfers, \$12.6 million¹ for medium lift helicopter acquisition and \$6.6 million for multi-role enforcement aircraft. Staffing will be provided through a combination of new hires and the transfer of experienced personnel from other AMO field locations.

In fiscal year 2004, AMO received \$35.2 million in Operations and Maintenance (O&M) funding to launch AMO's Northern Border Branch in Plattsburgh, NY. Planned allocation is as follows: \$10 million¹ for medium lift helicopter acquisition and \$6.6 million for multi-role enforcement aircraft, \$9.7 million for facility and \$2.7 million for aircraft spares. An additional \$5.4 million was appropriated in Salaries and Expenses funding to cover the cost of 36 personnel.

Plattsburgh and Bellingham each will be equipped with three aircraft, including one Multi-Role Enforcement Aircraft (Pilatus PC-12 fixed-wing), one Medium Lift Helicopter and one Light Enforcement Helicopter.

The two PC-12 Pilatus aircraft have already been purchased and delivery is expected in May 2004/early fiscal year 2005, respectively. Contracts have not yet been awarded for the two Medium Lift Helicopters and Light Enforcement Helicopters required for full activation of Bellingham and Plattsburgh. Currently, the UH-60 Black Hawk is fulfilling the MLH role and the AS350 is fulfilling the LEH role at other AMO branch locations.

The President's fiscal year 2005 budget includes \$35.2 million to launch the third Northern Border Branch.

AMO will continue to rely principally on detailees to execute the ongoing National Capital Region (NCR) Airspace mission. AMO has sustained the NCR mission by transferring funding, personnel and equipment from other missions and requirements.

LONG-RANGE RADAR SYSTEM

Senator COCHRAN. We are looking forward to getting a report from the Air and Marine Operations officials on the current radar situation around the country. What is the total amount that the FAA had in its budget for operating the long-range radar system? Can you tell us how much is being requested by other agencies across the government by agency, and is there any particular reason that new resources are being requested in the fiscal year 2005

¹ Funds from these two appropriations were combined to purchase one medium lift helicopter.

budget to allow the Department to assume this FAA responsibility, as opposed to a transfer from the FAA budget?

Mr. HUTCHINSON. You're not speaking of our TARS, you're speaking of the long-range——

Senator COCHRAN. The long-range radar system.

Mr. HUTCHINSON. I don't know the answer as to why that is not being transferred from the FAA, but clearly that is a priority to have that capability for the protection of our borders.

TSA: PORT SECURITY GRANTS

Senator COCHRAN. The Transportation Security Administration's budget has 54 percent of the request dedicated for aviation passenger and baggage screeners pay, benefits, training and human resource services. There are other grant programs administered by the TSA dealing with trucking security, port security grants, and operation of safe commerce that are slated to be moved to the Office for Domestic Preparedness under the reorganization of the Department. The 2005 budget proposes to reduce or terminate funding for these programs. My question is, will the Transportation Security Administration continue to have responsibility for security over all sectors of transportation or will aviation security continue to be the main focus of the agency?

Mr. HUTCHINSON. Well, in terms of budget, clearly aviation would be the main focus of the agency, but in terms of responsibilities and partnerships, the other modes of transportation are very important to us. I know that for example, in reference to Amtrak, there is a close partnership there, we have some pilot projects where we are working with Amtrak to enhance security, and we believe that we would exercise this through standard setting, best practices and regulation if necessary.

In reference to the grant programs, the expertise still resides in TSA. And even though the grant program is being transferred to the Office for Domestic Preparedness in Homeland Security, we will be connected in terms of evaluating those grants, and helping to set the priorities for those in terms of security, and that would be true for the other grants in the transportation modes.

Senator COCHRAN. So there will be coordination and an active role for the Transportation Security Administration in coordinating with the Office for Domestic Preparedness for the administration of those programs?

Mr. HUTCHINSON. Absolutely, Mr. Chairman. That's essential and that was the understanding when that transfer was made.

Senator COCHRAN. Is there an indication that additional funds may be made available within the existing grant programs for port security grants in the Office for Domestic Preparedness?

Mr. HUTCHINSON. I think that the grant level is as suggested in the 2005 budget, but I know that in 2003 there were a number of rounds that had built up and been announced for the port security grants. I don't know exactly the layout planned for 2004, but as far as I know, that amount of grant money is fixed based upon the allocation in the 2004 budget.

TSA: SCREENERS

Senator COCHRAN. The Aviation and Transportation Security Act provided that the Federal Government be responsible for screening operations for airline passengers at airports throughout the country, and there was a pilot program established at five airports to utilize private screeners in place of Federal screeners. One of these is located in Mississippi. The law provides for the ability of airports to apply to the Department of Homeland Security to opt out of using Federal screeners and to use qualified private screening companies at the end of a 3-year period, and that will be coming up in November of this year. When do you anticipate results of the Department's study on the private screening companies to be made available from these five airports that have been participating in the program?

Mr. HUTCHINSON. I think there are two things I would emphasize. One, it is important to get the results from those five airports that were the subject of that pilot for private screening. I would expect that information within the coming months so it can be evaluated. The second part of the equation is the criteria that we would use for determining how we respond to those airports that might request to opt out. And, I have asked for that plan and that program to be developed and reported back to me for review. With both of those issues resolved, I think in the coming months we should have an indication as to the results and the direction we can go.

Senator COCHRAN. There is some indication that the funding might not be sufficient to provide additional airports with the funds to use private screeners. There is \$119 million in this year's appropriated account for private screening programs, but only a \$10 million increase requested for 2005. Do you anticipate a need for additional funding if airports apply to use private screeners?

Mr. HUTCHINSON. I would think the assumption is that it would be a level costing. I don't think we would anticipate a private screening capability or authorization to be based on an increase in funding for that airport.

FLETC

Senator COCHRAN. The Federal Law Enforcement Training Center was given responsibility for the Charleston, South Carolina training facility in this fiscal year 2004. This facility was previously operated and maintained by the Border Patrol. Has the Department of Homeland Security developed the level of funding that should be transferred to the Federal Law Enforcement Training Center to operate this location, and if so, when will this transfer take place?

Mr. HUTCHINSON. The transfer has effectively taken place. The FLETC has taken over the responsibility for that facility and the Border Patrol operations. It is being handled out of the regular portion of the budget. I am not aware of any specific needs that would require increased funding.

TRANSIT WITHOUT VISA PROGRAM

Senator COCHRAN. Senator Stevens, I appreciate your being able to come to the hearing. You're recognized for any statements or questions you may have of the witness.

Senator STEVENS. I'm here, Mr. Chairman, and good morning, Senator Byrd, primarily because my staff has told me that there is an intent of Homeland Security to implement new regulations to replace the transit without visa program. This, I'm told it's called the TWOV program, falls apart every time the alert status is raised, and has led numerous carriers to bypass U.S. airports, particularly our Anchorage airport, which is the largest cargo landing airport in the United States today. There is significant loss of revenues for the airports because the foreign carriers will not respond as quickly as the changes come about in our programs.

And we had significant capability for intelligence gathering opportunities when those flights came through. As a matter of fact, our people cooperated totally with the intelligence people to make sure that we gained all the information we possibly could get from any activity with regard to the shipments.

But we have had one international carrier that has suspended its stop in Anchorage three times now since 9/11. Every time the TWOV program is raised because of risk status, they just cancel out. We want to join with you, and with the whole country in terms of homeland protection, but it does seem to me that we ought to have some sort of regimen that will take into account the necessity to maintain these flights on a regular schedule.

Right after 9/11, as you know, many of them cancelled in Alaska altogether and went to Canada. Those same flights left Canada and put the burden for checking the flights on the carriers in the interior of the midwest, rather than in the area of Alaska where we have substantial qualified people for that activity. Because it's such a large airport and handles so much volume of cargo, it can get the job done quickly, much more quickly than a smaller airport which does not have that volume and is not used to doing the check as the first stop in the United States. Are you familiar with this at all?

Mr. HUTCHINSON. Yes, sir. In reference to the transit without visa program, it was suspended because of specific threat information that we had. It was suspended. We recognized the adverse economic consequences that this had on the Anchorage airport, which has a significant transit without visa passenger load. We immediately started working with the airlines to determine what security measures could be put into place that would allow us to reinstitute a similar type of program that would not have the security vulnerabilities.

We have developed an answer and a program that we could put into place, which would reinstitute similar portions of that type of program, and would allow the transiting of some of the international passengers through our airports again. We are circulating that plan in the interagency process, and we do hope that we will be able, in the near future, to have a resolution of that. We understand the economic consequences, we do want to have the security measures in place before it is reinstituted.

And you're right, Senator, it was complicated by the fact that over the holidays we did have a specific threat to the aviation industry, which would not have been a good time to redeploy that program or a similar one.

Senator STEVENS. These are the so-called ATP regulations?

Mr. HUTCHINSON. Yes, sir.

Senator STEVENS. Will they be promulgated in a way that they will not change on an orange alert?

Mr. HUTCHINSON. That is correct. These would be designed so that they provide the security measures that are necessary and they would allow for a constant program. Now I can tell you that, you know, if we have a specific threat information and we see there is a vulnerability that we didn't even think about, it's within the realm of possibility that we might have to take an additional security step in orange that would impact that program. But that is not the design, the design is that it would have a constant flow because it has the security measures in place.

Senator STEVENS. On the last recess I went to Anchorage and I went through the whole new wing of the airport that has been designed in total compliance with your Department. As a matter of fact, we have a problem because your Department requested and received over some \$40 million from the amount of money that was put up to build the terminal. For the Homeland Security facilities within the new addition, they had to be finished before the terminal could be finished. And so they all agreed, and I now have the task of getting another \$40 million, and that's another fight down the road.

But the problem is that it was designed to handle the regulations that were in effect, and now those regulations, if they are changed, will require an additional kind of management of the cargo. We're not talking about a very heavy passenger load internationally. This is primarily cargo. There are very few passengers on those planes and in many instances none. What we're looking at is the cargo problem. I'm told that there are 6.5 miles of tracks that are suspended from the ceiling that carry this cargo so it has a chance to be inspected, and then it can go back on the plane. I don't think anywhere else in the United States has that design.

But, by the changes in this ATP, what happens is that they go to Vancouver or go to another place, Calgary, and then they go to land in some podunk that doesn't have any facility at all. So we are over intensifying regulation in an area that, I believe, has the most modern baggage and cargo inspection in the country today, and should have with the volume of cargo we have coming through there. I urge you to consider what the change in regulations does to that installation. It puts cargo into places ultimately, if it's going to continue on to the United States, if it's destined for what we call the South 48, it's going to completely disrupt this process and put enormous burdens on small airports when we're prepared to take the total burden but for the continued change in the regulations.

Mr. HUTCHINSON. We'll certainly look at the concern that you raise, and recognize the investment in security that has already been made. I think the proposed plan, that again is in interagency circulation, looks not just at the physical security arrangement, but addresses some other vulnerabilities dealing with the passengers

that would travel under that program. So, there are really two parts to the security concerns. One would be the passengers who transit themselves, and the other part would be the physical security measures that would be placed at the airports. Obviously there has been a substantial investment in Anchorage and that should be taken into consideration.

Senator STEVENS. I know you must travel a lot, but have you traveled to Alaska since this new position you've got?

Mr. HUTCHINSON. Senator, I have not had that privilege. I know my brother has at your invitation, but I have not been there, and I look forward to that opportunity.

Senator STEVENS. I would hope that you would see fit to make that trip soon because these facilities are almost completed now and this new addition is almost completed, and I just think it's going to be unfortunate if we have invested all this money and then find out it will not comply because of a change in regulations.

As a matter of fact I just might arrange, Mr. Chairman, for a little extracurricular activities for our friend from Homeland Security if you come up soon. The sooner the better.

Mr. HUTCHINSON. Thank you, Senator, for that invitation.

Senator STEVENS. I do hope you will come, I'm serious.

Mr. HUTCHINSON. I will say that if you have any concerns when we put these regulations out, I will then make sure I go up there to ensure everything is taken into consideration. I will say we don't want to have an adverse impact on what's already been done up there.

Senator STEVENS. I'd like to go with you. I'd like to show you these things and get the people out there who designed them in compliance with existing regulations, and see if the regulations must change, how we can quickly meet those regulations without taking more of the AIP money.

Mr. HUTCHINSON. We will be glad to work with you and your staff to make sure that that's handled in the proper way.

Senator STEVENS. Thank you very much, Mr. Chairman.

Senator COCHRAN. Thank you, Senator Stevens. Senator Byrd, do you have anything further?

FEDERAL AIR MARSHALS

Senator BYRD. Mr. Secretary, your budget request for the Federal Air Marshals is essentially a flat line request similar to last year's funding level. Yet, on two occasions in less than a year, late last summer and again over the recent winter holidays, you increased the threat level to code orange, in large part because intelligence and other indicators led you to believe that there were enhanced threats to the United States via airplanes flying into or over this country.

However, based on budget briefings with my staff, I understand that the resources directed to this program are not sufficient to hire the number of air marshals that should be hired to maintain a more robust presence on targeted flights.

As I mentioned in my opening statement, I wrote to Secretary Ridge today urging him to propose to this committee a transfer of excess salary funds to the Federal Air Marshals Program. I urge you to make that proposal soon.

Mr. HUTCHINSON. Senator, we're happy to receive your letter, evaluate it and make an appropriate response. We recognize the importance of Federal air marshals and I know that last year, wherever there was a concern expressed about an adverse impact on their work force, we did find the funds to make sure that didn't happen, and certainly this year we will make sure that there is a robust commitment there, and we look forward to receiving your letter.

Senator BYRD. I have further questions for the record, Mr. Chairman.

Senator COCHRAN. Thank you, Senator.

Mr. Hutchinson, we appreciate very much your excellent service in the Department of Homeland Security and your cooperation with our subcommittee. Senators may submit written questions, I have some that I will submit, as does Senator Byrd, and there may be others. We ask that you respond to the questions within a reasonable time.

ADDITIONAL COMMITTEE QUESTIONS

Senator BYRD. I thank Secretary Hutchinson for his appearance, for his good work, and hope that he will come to West Virginia on his way to Alaska.

Mr. HUTCHINSON. Thank you, Senator. I have been to West Virginia.

Senator BYRD. We have a beautiful place down there called the Greenbrier.

Mr. HUTCHINSON. I have enjoyed those rooms.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR THAD COCHRAN

U.S. VISITOR AND IMMIGRANT STATUS INDICATOR TECHNOLOGY (US VISIT)

Question. Last week, President Bush met with President Vicente Fox of Mexico and announced that citizens of Mexico who hold border crossing cards and are frequent crossers of the border will not have each entry recorded into the US VISIT database. Please provide a more detailed explanation of this policy?

Answer. The Department of Homeland Security is committed to developing a solution for the processing of Border Crossing Card (BCC) holders.

—Most Mexican citizens who travel to and from the United States regularly may apply for a multi-use travel document, B1/B2 Visa/BCC also known as a “laser visa”, which serves as either a BCC or a B1/B2 visa. Mexican citizens who use the travel document only as a BCC will not initially be subject to US VISIT processing during primary inspection inasmuch as their biometric data (fingerscans and photographs) have already been captured during the BCC issuance process. This is an interim solution for the land border while the Department explores the long term solution to record the entry and exit of persons crossing our land ports of entry.

—When admitted under the BCC program, Mexican citizens may stay in the United States for up to 72 hours and travel within the “border zone” (within 25 miles of the border in Texas, California and New Mexico, and 75 miles of the border in Arizona). Approximately 6.8 million Mexican nationals today utilize a BCC to make approximately 104 million crossings per year when using the card as a BCC card only.

—Prior to issuing a BCC to a Mexican citizen, the Department of State conducts biographic and biometric checks on the individual. The fingerscans and photograph of the Mexican citizen are then embedded into the BCC. A holder of a BCC is inspected to determine that he or she is the rightful bearer of the document when crossing through a U.S. port of entry.

—As the next phase of US VISIT is implemented at southern land ports of entry by the end of 2004, if a Mexican citizen chooses to use the BCC as a B1/B2 visa (traveling outside the “border zone” and/or staying longer than 72 hours in the United States), he or she will undergo US VISIT processing at the land border secondary inspection areas.

Question. Customs and Border Protection is in the process of deploying readers for the border crossing cards. What will be the policy as to when border crossing cards are read? Will the readers be integrated into US VISIT eventually?

Answer. In certain circumstances, Homeland Security’s Customs and Border Protection (CBP) officers may have reason to believe the person presenting the BCC is not the person to whom it was issued. At that point, the individual is sent to secondary inspection to determine if there are any problems with the BCC, which could include running the BCC through a biometric reader or processing the person through US VISIT.

IDENT/IAFIS INTEGRATION PROJECT

Question. The Department of Justice Office of Inspector General issued a report on the progress made in integrating the biometric systems of the Department of Homeland Security and the Department of Justice. While the report does not make specific recommendations to the Department of Homeland Security, it does state that the IDENT/ENFORCE project team reports through the US VISIT program office. Further, it indicates that some of the delay in implementing the integration is due to the emphasis that is being placed on the roll-out of US VISIT. Is this project receiving enough support and attention? Should a separate project office be set up to implement this program?

Answer. The implementation of IDENT/IAFIS is a top priority at both DHS and DOJ, and a working group has been developed of representatives from DOJ, FBI, CBP, ICE, USCIS and US VISIT to define plans for completion of IDENT/IAFIS implementation at all 115 Air, 14 Sea, 165 Land Border POEs, as well as all Border Patrol Stations and specified ICE locations.

Question. Have you finalized a deployment schedule to roll-out Version 1.2 of the IDENT/IAFIS integration project to all Border Patrol facilities? When will the Version 1.2 roll out be completed?

Answer. Currently a comprehensive plan to complete implementation of Version 1.2 of the IDENT/IAFIS integration project is being developed including components from FBI, DOJ, CBP, ICE, USCIS and US VISIT. The implementation of 70 percent of Border Patrol Facilities is scheduled for the end of this year, and the remaining 30 percent by the end of next year.

Question. What consideration is being given to rolling out the Real Time Image Quality software developed for US VISIT to other IDENT stations in order to improve the quality of the fingerprint being captured?

Answer. The use of the real time image quality capture inside of US VISIT has been a significant enhancement to US VISIT. This capture improvement has really enhanced US VISIT and expanding this to IDENT is currently a system change request for the contractors to implement.

Question. What funds will the Department be dedicating to this project in fiscal year 2004, and what account will fund this project?

Answer. US VISIT is working to obtain approval to utilize \$4 million (which remains unexpended) from the \$10.1 million received as part of the 2002 Counter Terrorism funding (Public Law 107–117).

Question. What funds are requested for fiscal year 2005?

Answer. \$3 million from base resources will be used in fiscal year 2005 to complete IDENT/IAFIS deployment.

72-HOUR RULE—SOUTHWEST BORDER

Question. As the Border and Transportation Security Directorate moves forward with implementing the US VISIT system, what is the Department’s position on revising the 72-hour rule to allow Mexican citizens that have been cleared to possess a border crossing card to stay in the United States for a longer period of time?

Answer. While the Department of State adjudicates the application for a Border Crossing Card (BCC), DHS is responsible for establishing the policy surrounding the use and eligibility of such a visa document.

Many Mexican citizens who travel to and from the United States regularly apply for a multi-use travel document, also known as a “laser visa,” which serves as either a BCC or a B1/B2 visa. Mexican citizens who use the travel document only as a BCC will not initially be subject to US VISIT processing during primary inspection inasmuch as their biometric data (fingerscans and photographs) is captured during

the BCC issuance process. This is an interim solution for the land border while the Department explores the long term solution to record the entry and exit of persons crossing our land ports of entry. As the next phase of US VISIT is implemented at southern land ports of entry by the end of 2004, if a Mexican citizen chooses to use the BCC as a B1/B2 visa (traveling outside the "border zone" and/or staying longer than 72 hours in the United States), he or she will undergo US VISIT processing at the land border secondary inspection areas. Readers for BCC's will be deployed at the 50 busiest land ports of entry by the end of June 2004.

Question. When does the Department plan to move forward with revising the rule?

Answer. We hope to complete our review soon. Once the review of the BCC document is complete, we'll be able to make a more informed decision regarding this rule.

STAFFING OF UNDER SECRETARY'S OFFICE

Question. The Border and Transportation Security Directorate oversees 20 percent of the entire Department's budget—with such disparate areas as trade enforcement, airport screening, protection of Federal facilities, and training inspectors. Not only is the responsibility wide, but it includes arguably the organization with the most difficult management problems. For the last year, the Under Secretary for Border and Transportation Security's office has relied heavily on detailees from within the Department and even from organizations outside of the Department of Homeland Security. Currently, 56 percent of the filled positions in the office are staffed by detailees. Have you been able to move ahead with hiring permanent employees? Do you expect the office to be fully staffed by permanent employees by the end of fiscal year 2004?

Answer. We have aggressively pursued the permanent staffing for the Office of the Under Secretary. We have entered into an interagency agreement with the Office of Personnel Management to provide dedicated position classification and staffing services to this office and fully expect to have selections made for all permanent staff by the end of fiscal year 2004.

Question. Is the Under Secretary's office staffed properly to allow it to oversee and coordinate such a broad reach of programs?

Answer. The Under Secretary's office is properly staffed to oversee the Directorate's programs. We appreciate your recognition of the challenges within the first year: forming the new bureaus of Customs and Border Protection (CBP) and Immigration and Customs Enforcement (ICE); fielding US VISIT system requirements on time and within budget; maturing the Transportation Security Administration; and reorienting Federal Law Enforcement Training Center's mission focus to meet the needs of the new Department. The Department continually assesses its effectiveness and efficiency, and we will promptly communicate any additional resource requirements, as necessary, to ensure we can meet our mission requirements.

RESEARCH AND DEVELOPMENT FUNDING

Question. The budget proposes to transfer additional research and development programs out of the components within the Border and Transportation Security Directorate to the Science and Technology Directorate, but it does not transfer all of the programs. Have all of these research and development programs been identified? Are there more programs that should be transferred to the Science and Technology Directorate, such as the Transportation Security Lab within the Transportation Security Administration, or the Research, Evaluation and Development Branch within the Bureau of Customs and Border Protection?

Answer. The budget proposes to transfer some Border and Transportation Security Directorate research and development programs to the Science and Technology Directorate to help improve the effectiveness and efficiency for certain programs. The other programs have synergies or considerations that require additional consideration before change is recommended.

Question. Do you feel that good working relationships have been established between the Border and Transportation Directorate and the Science and Technology Directorate? Are the needs of the Border and Transportation Security Directorate being met?

Answer. Yes. Since the start up of the Department, we have worked hand in hand with the Science and Technology Directorate. The Science and Technology Directorate has established a Border and Transportation Security Portfolio Manager. We also have a joint BTS and S&T Technology Working Group that is developing a technology roadmap for BTS to ensure we leverage technology in the most appropriate manner.

PERFORMANCE-BASED PAY SYSTEM

Question. The Department's budget for fiscal year 2005 includes resources to implement the performance-based pay system. Did the Border and Transportation Security Directorate play a role in creating the framework for this system? Will the needs of the Border and Transportation Security Directorate be served by this new system?

Answer. The Border and Transportation Security Directorate did play a role in creating the framework for this system which is being designed to meet the needs of all components of the Department. In April 2003, the Secretary and the Director of the Office of Personnel Management established a DHS/OPM HR Systems Design Team composed of DHS managers and employees, HR experts from DHS and OPM, and professional staff from the agency's three largest Federal employee unions. The DHS employees on this 48 member team represented a cross-section of the Department including employees from the following components within the Border and Transportation Security Directorate: the Bureau of Immigration and Customs Enforcement; the Federal Law Enforcement Training Center; the Transportation Security Administration; and the Bureau of Customs and Border Protection.

During April and July of 2003, this team entered a research and outreach phase, examining promising and successful practices and conducting a series of town hall meetings and focus groups across the country in order to inform employees about the design process and to solicit employee's perceptions of current HR policies. These outreach sessions included employees from across DHS, including a representative sample of employees from the Border and Transportation Security Directorate.

As a result of the work of the Systems Design Team, 52 options were presented to a Senior Review Committee whose members included two top officials from the Border and Transportation Security Directorate: Robert Bonner, Commissioner of Customs and Border Protection; and James Loy, then Administrator, Transportation Security Administration.

One of the roles of this Committee was to discuss the work of the Design Team and to express views that would inform decisions to be made subsequently by DHS Secretary Ridge and OPM Director James regarding which systems should be implemented within DHS. The Committee members agreed that any new HR system for DHS must be mission-focused and that its design must facilitate mission performance and that HR options might need to be tailored to specific parts of DHS.

The proposed regulations published in the Federal Register on February 20, 2004, reflect the thoughtful review and consideration by Secretary Ridge and Director James of all input received during the process as outlined above. It was determined that the regulations, as proposed, would best meet the needs of the Border and Transportation Security Directorate, as well as the Department as a whole.

Question. What are the estimates for how much it will cost to implement the new performance-based pay compensation system within the Border and Transportation Security Directorate?

Answer. \$102.5 million requested in the President's Budget for implementation of the new HR system Department wide. BTS' share of implementation costs is covered in this request. Costing for design and deployment of the new HR system was identified based on independent government cost estimates that were developed to plan for the anticipated systems integration contract. Other agencies of similar size and complexity, notably Treasury, were benchmarked in projecting team size and skill levels and associated labor rates. Cost breakouts were estimated based on detailed GSA labor category descriptions and a skill analysis of the types and levels of contract employees that will be needed to support this effort. Major breakdown of costs includes: \$27 million for program management, oversight and evaluation; \$31 million for training and communications to support system implementation; \$42 million for detailed systems design and implementation support (business process re-engineering, compensation expertise, etc.); and \$2.5 million to fund the HQ performance pool.

As additional background for each of the major funding categories: Centralized program management funding is required to manage appropriate cost, schedule, and control activities at the Departmental level, ensuring that the system investment is managed appropriately and at a good value. Program management funding will also provide for OMB-required earned value management, as well as risk management and evaluative activities. A centralized program management philosophy, rather than each component attempting to manage their own implementation, is critical in keeping program costs down and in ensuring consistency of deployment across the enterprise.

Training funds are absolutely essential in ensuring that the new HR flexibilities achieve the desired results. Funding is provided to adequately train all DHS executives, managers and supervisors on aspects of the new system and their responsibilities as leaders in the DHS environment. Training funding will also provide for awareness and change management activities to ensure that all DHS employees understand system changes. Funding will support a comprehensive HR certification program to ensure that DHS HR professional are prepared for system changes and new job responsibilities.

Funding for detailed systems design and implementation support is required to provide access to experts that will assist in designing the particulars of the new DHS performance management system, job evaluation system (including the creation of job clusters), compensation system (including new pay ranges and market pay processes), linkages for pay and performance, and development of competencies for DHS positions. This detailed expertise is required to ensure that DHS designs a program that appropriately links pay, competencies and performance and through that linkage DHS performance is enhanced.

We are projecting fully loaded life cycle costs of \$408.5 million for complete system implementation. It is important to note that the \$102.5 million is requested for full implementation of the new system (including project management, systems design, training and communications, etc.), not just the training aspects of system implementation. Major components of this figure include \$102.5 million for system implementation, \$10 million for Coast Guard performance pool, an estimated \$165 million for other component performance pools, and a 6-year life cycle cost of \$131 million for human resources information technology.

Question. Is there a timeline as to when each of the components of the Border and Transportation Security Directorate will transition to this new compensation system? If so, what is it?

Answer. Current plans provide for all components of the Border and Transportation Security Directorate, which are covered by the proposed regulations, to be converted to a new compensation system in January of 2006.

TETHERED AEROSTAT RADAR SYSTEM

Question. The information provided by the Tethered Aerostat Radar System, known as TARS, is a critical component in the Department's efforts to interdict illicit air traffickers. Do you believe that the Department of the Defense is providing sufficient support to the TARS program to enable the Air and Marine Program to effectively carry out its mission?

Answer. The TARS program has declined from 14 operational sites to 8 operational sites (Lajas, Puerto Rico, is due back on-line in May). Recent close coordination and meetings between the Department of Homeland Security and the Deputy Assistant of Defense for Counter Narcotics have resulted in frank and open discussions related to TARS. The dialogue is productive and ongoing at this time, and DHS' requirements have been acknowledged by DOD. DHS believes that this critical system supports homeland security and provides a critical detection and monitoring capability. That mission is a DOD responsibility. The DHS position is that Congress properly assigned the mission to DOD and funded TARS to meet the mission requirements.

Question. Does the Bureau of Immigration and Customs Enforcement have the necessary expertise and personnel to take over the management and maintenance of the TARS program?

Answer. That mission is a DOD responsibility. The DHS position is that Congress properly assigned the mission to DOD and funded TARS to meet the mission requirements.

TRANSPORTATION SECURITY FOR ALL MODES

Question. Three major grant programs currently administered by the Transportation Security Administration involving trucking security, port security grants, and Operation Safe Commerce are slated to be moved to the Office for Domestic Preparedness under the Department's announced reorganization of grant programs. The fiscal year 2005 budget proposes to reduce or terminate funding for these programs.

What funding will be available within the Maritime and Land Security operations for fiscal year 2005 to increase security for railways, roadways, and all other modes of transportation in light of the Administration's proposal to terminate funding for intercity bus and trucking grants?

Answer. The responsibility of securing our Nation's rail and mass transit systems is a shared one. DHS, DOT, and other Federal agencies are working together to en-

hance rail and transit security in partnership with the public and private entities that own and operate the Nation's rail and transit systems. The DHS grant program for improving rail and transit security in urban areas has awarded or allocated over \$115 million since May 2003. Additionally, the Administration has requested \$24 million for TSA to advance security efforts in the maritime and surface transportation arenas, and has requested that \$37 million of the Federal Transit Administration's Urban Security Bus grants be available for security related projects. In addition, DHS will conduct the following activities and initiatives to strengthen security in surface modes:

- Implement a pilot program to test new technologies and screening concepts to evaluate the feasibility of screening luggage and carry-on bags for explosives at rail stations and aboard trains;
- Develop and implement a mass transit vulnerability self-assessment tool;
- Continue the distribution of public security awareness material (i.e., tip cards, pamphlets, and posters) for motorcoach, school bus, passenger rail, and commuter rail employees;
- Increase passenger, rail employee, and local law enforcement awareness through public awareness campaigns and security personnel training;
- Ensure compliance with safety and security standards for commuter and rail lines and better help identify gaps in the security system in coordination with DOT, with additional technical assistance and training provided by TSA;
- Continue to work with industry and State and local authorities to establish baseline security measures based on current industry best practices and with modal administrations within the DOT as well as governmental and industry stakeholders, to establish best practices, develop security plans, assess security vulnerabilities, and identify needed security enhancements; and
- Study hazardous materials (HAZMAT) security threats and identify best practices for transport of HAZMAT.

Question. How will the Transportation Security Administration coordinate with the Office for Domestic Preparedness on the grant programs (trucking security, port security grants, intercity bus grants, and Operation Safe Commerce) that will be moved pursuant to the reorganization?

Answer. It is anticipated that TSA will continue to provide the necessary operational expertise for the grant programs through participation in pre-award management functions. These functions include determination of eligibility and evaluation criteria, solicitation and application review procedures, selection recommendations and post award technical monitoring. TSA will also continue to leverage existing transportation expertise by working with industry stakeholders and DOT modal administrations to ensure that Federal security grants facilitate the seamless integration of security planning activities by industry stakeholders and governmental stakeholders at the regional, State, and local levels.

Question. In addition to the \$169 million made available for the port security grant program by the Transportation Security Administration, \$75 million was made available in fiscal year 2003 by the Office for Domestic Preparedness for the same purpose. Do you anticipate that funds will be made available once again for port security grants within the existing grant programs in the Office for Domestic Preparedness?

Answer. The fiscal year 2005 President's budget requests \$46 million for Port Security Grants under the Office for Domestic Preparedness.

TSA'S ROLE WITHIN THE DEPARTMENT OF HOMELAND SECURITY

Question. Over 54 percent of the President's budget request for the Transportation Security Administration for fiscal year 2005 is dedicated for aviation passenger and baggage screeners' pay, benefits, training, and human resource services. Last year, Admiral Loy testified that the Transportation Security Administration was developing a National Transportation System Security Plan (NTSSP) to explain "its' vision to complete the important task of ensuring the security of all modes of transportation, not just the aviation sector".

Will the Transportation Security Administration continue to have responsibility for security over all sectors of transportation or will aviation security continue to be the main focus for TSA?

Answer. Ensuring that our Nation's transportation systems are secure must be accomplished through effective partnering between appropriate Federal, State, local and private industry entities. Although TSA was created in the wake of the September 11 attacks and charged with responsibility for ensuring that all modes of transportation are secured, the Administration has consistently held that that this responsibility must involve the coordination of appropriate Federal, State, local and

private industry partners, many of whom were already in the business of providing security for their particular piece of the transportation puzzle. TSA's main charge, both under ATSA and now as part of the DHS family, is to coordinate these efforts under the guidance of the Secretary and the Under Secretary for Border and Transportation Security, identifying gaps and working with appropriate partners to ensure that existing security gaps are filled.

Recognizing this, the Department of Homeland Security (DHS) has requested substantial resources in fiscal year 2005 across the agencies within the Department involved with securing transportation modes other than aviation, including resources in the Coast Guard and Customs and Border Protection (CBP) for ports, maritime security, and cargo security; in Information Analysis and Infrastructure Protection (IAIP) for vulnerability assessments, intelligence, and infrastructure protection for all sectors including transportation; and in Emergency Preparedness & Response (EP&R) for emergency response to only name a few. In addition to working with other DHS components, TSA works closely with our sister Federal agencies outside of DHS to ensure that all government resources are maximized. For example, under the leadership of BTS and DHS, TSA is coordinating key standards-setting efforts in areas such as transit and rail security, and is working closely with modal administrations of the Department of Transportation to help leverage their existing resources and security efforts to accomplish security goals.

Question. When can we expect the National Transportation System Security Plan and what role will the Transportation Security Administration play in securing all modes of transportation?

Answer. TSA's role in securing the transportation system begins at the system or sector-wide level, across the individual modes, thus ensuring consistency and consideration of inter-modal issues (such as assets, incidents, or supply chains that straddle multiple modes, and inter-modal exercises). The Department of Homeland Security (DHS) has assigned TSA primary Sector Specific Responsibility (SSR) for the Transportation Sector as DHS implements Homeland Security Presidential Directive 7 (HSPD-7), which directs the establishment of "a national policy for Federal departments and agencies to identify and prioritize United States critical infrastructure and key resources and to protect them from terrorist attacks." In accordance with DHS's HSPD-7 implementation plan, TSA is developing the Transportation Sector Specific Plan (SSP). A first draft of the SSP is due to DHS by early summer, 2004 (at the same time when SSPs from the other 12 sectors of critical infrastructure are also due). In developing the transportation SSP, TSA is working under BTS guidance and with partners in the U.S. Coast Guard and the Department of Transportation (DOT). The SSP will discuss how Federal and private-sector stakeholders will communicate and work together; how important assets in the transportation sector will be identified, assessed, and prioritized; how protective programs will be developed; how progress in reducing risk will be measured; and how R&D will be prioritized in the sector. In the Transportation Sector, the SSP will further these efforts currently underway and help ensure that they are systematic, complete, and consistent with the efforts in the other 12 sectors.

Prior to the issuance of HSPD-7, TSA was developing the National Transportation System Security Plan (NTSSP). Its purpose was to provide a systematic sector-wide approach to Transportation Security, to pull all Federal partners into the effort together, and to provide guidance to the writers of Modal Security Plans. Now HSPD-7 is driving an economy-wide systematic approach to Infrastructure Protection, including the Transportation SSP described above. The SSP will be expanded into a "new" NTSSP, by adding additional chapters (some already drafted in the "old" NTSSP) to complete the original intent of the NTSSP. This includes guiding development of Modal Security Plans, providing explicit links to other Federal plans such as the National Response Plan (NRP) and the National Incident Management System (NIMS), and other operational guidance. On behalf of DHS and in conjunction with other Federal agencies, the completed NTSSP will guide and integrate a family of security plans to prevent, mitigate, and respond to intentional disruption of the Nation's transportation systems while ensuring freedom of movement for people and commerce.

Parts of the draft "old" NTSSP are already in use, as the USCG drafts the MTSA-mandated Maritime Transportation Security Plan, and as other modal security plans begin development. A draft of the "new" NTSSP should be completed by the end of summer, 2004.

TSA's role within each sector will vary from mode to mode. In aviation security, TSA has the operational and regulatory lead role. TSA's efforts in non-aviation security over the past 2 years have focused on greater information sharing between industry and all levels of government, assessing vulnerabilities in non-aviation sectors to develop new security measures and plans, increasing training and public aware-

ness campaigns, and providing greater assistance and funding for non-aviation security activities. In partnership with other component agencies of DHS and in coordination with DOT, State, local and private sector partners, TSA will continue to leverage existing security initiatives, coordinate the development of national performance-based security standards and guidance; identify areas where regulations may be necessary to improve the security of passengers, cargo, conveyances, transportation facilities and infrastructures; and identify areas where better compliance with established regulations and policies can be achieved. TSA will work with DHS components, modal administrators within DOT, and its government and industry stakeholders to continue these efforts, establish best practices, develop security plans, assess security vulnerabilities, and identify needed security enhancements.

Question. The Homeland Security Act of 2002 requires the Transportation Security Administration be maintained as a distinct entity within the Department of Homeland Security for 2 years from the date of enactment with the sunset of the Transportation Security Administration as a distinct entity within the Border and Transportation Security Directorate to occur November 2004. How do you envision the Transportation Security Administration's role within the Department of Homeland Security if not maintained as a separate distinct entity in the Border and Transportation Security Directorate?

Answer. The Homeland Security Act requires that TSA be maintained as a distinct entity for 2 years after enactment. As an integral part of the Border and Transportation Security Directorate, TSA is currently providing a robust security framework in the aviation environment and coordinating closely with other DHS and DOT partner agencies both to identify security vulnerabilities in other modes of transportation and identify appropriate mitigation strategies to reduce those vulnerabilities. Further, TSA is coordinating Federal efforts to develop the transportation chapter of the National Critical Infrastructure Protection Plan (NCIP) being developed as a result of Homeland Security Presidential Directive (HSPD) number 7. At this time there are no plans to alter TSA's status as a distinct entity within the BTS Directorate; however, the Secretary continually reviews the missions and programs of each DHS component to ensure that they complement, rather than duplicate the missions of any other. In the event that the Secretary decides, under authority conferred upon him by Section 872 of the Homeland Security Act, to reorganize any of the components of the Department including the TSA, appropriate notification will be provided to relevant Congressional committees by the President.

FEDERAL SCREENER OPT-OUT PROGRAM

Question. The Aviation and Transportation Security Act passed shortly after the terrorist attacks of September 11, 2001, provided for the ability of airports to apply to the Department of Homeland Security to opt-out of using Federal screeners and to use qualified private screening companies at the end of a 3-year period which occurs this November 2004.

When do you anticipate the results of the Department's study on the private screening companies that have been providing passenger screening at the five airports participating in the pilot program will be made available?

Answer. TSA hired BearingPoint to conduct an independent performance evaluation of the private contractor screening compared to Federal screening. The study evaluated performance in security, compared costs, and analyzed customer/stakeholder satisfaction. It concluded that TSA has succeeded in developing and executing a pilot program that both meets the Congressional requirements and ensures outstanding security. Results of the study were made public on April 22, 2004 and are available on TSA's web site at http://www.tsa.gov/interweb/assetlibrary/Summary_Report.pdf.

Question. Do you feel that there will be a large number of airports that will apply to use private screeners rather than continue to use Federal screeners?

Answer. Under ATSA, individual airports may, starting on Nov 19, 2004, submit proposals to "opt out" of having Federal passenger and baggage screening and to return to private companies providing those security services under contract to and close oversight by TSA. TSA continues to work with its key stakeholders for the development of an application process for airports who are interested in opting out. TSA is in the early stages of developing an efficient, understandable, and effective procedure for opt-out applications and is currently drafting the specific contents of the opt-out guidance. At this time, it is still unclear how many airports will seek to opt out. Most airports are awaiting additional details regarding the application process and parameters of the program before making a decision. Should an airport request to opt out, its application must be assessed and approved by the TSA Ad-

ministrator. TSA is committed to ensuring a fair, supportive transition program that recognizes the outstanding skills of TSA's current work force.

Question. With the opt-out date approaching rapidly, when do you anticipate providing guidelines, application procedures, and approval criteria for the airports that are trying to decide whether or not to apply to use private screening companies?

Answer. TSA is currently working to develop guidelines for the opt-out program. TSA hopes to release initial guidance in late May or early June. This guidance will consist of an overview of issues such as, indemnification and reimbursement to contractors, the application and award process, and delineating clear roles and authority for TSA headquarters, the Federal Security Directors and their staff, and the airports and contractors, that will help airports gauge their level of interest in the opt-out program.

Question. With \$119 million provided this year for the private screening pilot programs and only a \$10 million increase requested for fiscal year 2005, how do you anticipate providing funding for additional airports that may apply to use private screeners?

Answer. The Administration did not request a separate funding line item for private screening for precise reason that we cannot predict in advance what airport interest will be in an opt-out program. All funding requested was rolled up into one screener line, and it is critical that the Congress provide maximum flexibility to allocate resources. Supporting budget documents showed a level of \$130 million purely for display and comparability purposes. This amount will provide sufficient resources to maintain contract screener operations at the five pilot airports through the end of fiscal year 2005. Actual funding needs for contract screening operations may be higher or lower depending on a variety of factors such as the current evaluation of contract screening, the program's future deployment and management structure, the level of interest garnered from the airport community, and the time it takes to smoothly transition airports into and/or out of contract screening. TSA will adjust resources between Federal and contract screeners as necessary.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

Question. The United States Coast Guard and the Federal Law Enforcement Training Center recently announced plans to transfer the United States Coast Guard's Maritime Law Enforcement School to the Federal Law Enforcement Training Center in Charleston, South Carolina. What impact will this proposed change have on the Department of Homeland Security and what additional fiscal year 2005 funding will this consolidation require?

Answer. At the U.S. Coast Guard's request, the Maritime Law Enforcement School located at Coast Guard Training Center Yorktown, VA, and the Boarding Team Member School located at Coast Guard Training Center Petaluma, CA, will be merged, relocated and commissioned as the Coast Guard Maritime Law Enforcement (MLE) Academy at the Federal Law Enforcement Training Center in Charleston, SC, by October 1, 2004. Both the Coast Guard and the entire Department of Homeland Security (DHS) will benefit by this consolidation of law enforcement training functions. To reflect the increase in Coast Guard mission capabilities and training requirements, the MLE Academy will be established to provide expanded training for their personnel in support of maritime homeland security and law enforcement. The MLE Academy will provide for the training of maritime law enforcement capabilities central to all Coast Guard maritime security missions. The MLE Academy will also provide training to local and State law enforcement personnel in support of the Federal Boat Safety Act. It will cost approximately \$4 million to relocate the Coast Guard MLE Schools to the FLETC Charleston. This includes one new building, a personal defensive tactics building. The FLETC will fund \$2 million for construction and renovations. The U.S. Coast Guard will fund approximately \$2 million for transportation of existing equipment, relocation of personnel, dependents and household goods, boarding platform training aids, installation of a simunitions lab and telecommunications infrastructure.

The Coast Guard will move 50 positions (FTP) to Charleston, SC. The positions come from the USCG training centers at Yorktown, VA (36) and Petaluma, CA (14).

The Coast Guard estimates it will train 1,872 students annually.

The affiliation and co-location with of the Coast Guard with the FLETC provides them a first step towards standardization. It will enhance their law enforcement training and promote better coordination among field activities with their sister agencies. Both the Coast Guard and the entire Department of Homeland Security (DHS) will benefit by this consolidation of law enforcement training functions. The Homeland Security Act consolidated 22 agencies in creating the Department of Homeland Security, and established Law Enforcement as one its core missions. The

Maritime Transportation Security Act (MTSA) directed the integration of standards and training curriculum for “maritime security professionals.”

QUESTIONS SUBMITTED BY SENATOR RICHARD C. SHELBY

Question. Over the last two funding cycles, Congress has provided \$85 million to the TSA for development, tech evaluations, pilot programs, and rollout of a Transportation Worker Identification Card (TWIC). How many TWIC cards have been issued to date? What has the TSA spent this \$85 million on?

Answer. The Consolidated Appropriations Resolution, 2003, provided \$35M for the Transportation Worker Identification Credential (TWIC) and Registered Traveler (RT) programs. Of this total, \$25 million was initially assigned to TWIC, and \$10 million was assigned to RT. TWIC spent a total of \$15 million on planning and executing the Technology Evaluation Phase. TSA internally reallocated \$5 million and returned the remaining \$5 million to the Treasury. The \$10 million for RT was subsequently reallocated internally. The fiscal year 2004 Appropriation Act provided \$50 million to TWIC to support planning and execution of the Prototype Phase. Our most recent analysis indicates that \$50 million is sufficient for this task. To date no operational TWIC cards have been issued. It is estimated that up to 200,000 cards may be issued during the Prototype Phase.

Question. When Congress tasked TSA and the Department of Transportation with developing a plan to protect our transportation infrastructure, Secretary Mineta moved forward with a vision for how a transportation credential should work. Unfortunately, implementation appears to have been hindered by poor leadership and a shifting idea of what TWIC should be and how it should be implemented. Where is the problem?

Answer. TWIC development continues to move forward as planned. During the early stages of the development process, data, technical information and lessons learned were gathered from a wide range of sources including industry stakeholders and other Federal credentialing projects. The RFP for the TWIC Prototype Phase will be released in the immediate future. The proposed plan leverages the stakeholder relationships established over the past 24 months and during the Technology Evaluation Phase, as well as a partnership with the State of Florida for the network of deep-water ports. The goal of the prototype is to evaluate the full range of TWIC business processes within a representative operational environment. The plan includes facilities and workers from all transportation modes and is focused in three regions, Philadelphia-Wilmington, Los Angeles-Long Beach, and the Florida ports.

Various card production options were evaluated within the context of system requirements. Centralized card production using existing Federal card production facilities that meet all of the system requirements was determined to be the most cost effective solution for the prototype phase. Key factors in the evaluation included: physical security and controlled access to the production process; secure supply chains for card stock and special security features (e.g. holograms, special inks, secret keys); standardization of training; and, economies of scale with high capacity production machines. Centralized card production will be further evaluated during the prototype, and the final evaluation report will include a detailed analysis on all card production options and a recommendation for DHS decision.

Question. According to your written testimony, you have combined the credentialing under one program and have requested \$20 million for that line item. I am told that this request is nearly \$100 million below the level TSA needs to implement the program for only the highest risk areas and fully \$150 million below the level needed for full and timely implementation system wide. How do you plan to make up this shortfall?

Answer. The fiscal year 2005 President's Request includes \$50 million in fee spending authority for the TWIC program. As prototype planning continues, we have continued to explore questions surrounding the population size, technological requirements, and methods for achieving rapid implementation. This planning will be shared with Congress once completed.

Question. It is my understanding that while the fiscal year 2003 bill required a thorough evaluation of all technologies, the \$85 million would be adequate to evaluate and establish a basic framework and prototype for a TWIC. Why now are you asking for more money to complete this part of the project?

Answer. The funds that have been provided by Congress have enabled TSA to complete the planning and technology evaluation phases and will enable TSA to execute the Prototype Phase. In anticipation of a successful completion of the prototype with positive results, TSA is requesting \$50 million in fiscal year 2005 to begin TWIC implementation.

Question. Does TSA anticipate establishing a fee for the access and administration of the TWIC? If so what will this fee fund? When can we expect these programs to be fully underway?

Answer. The TWIC concept is a Federally-led public-private partnership to improve security across the transportation system. Accordingly, as authorized by Congress, TSA envisions that a fee would be collected for each credential issued and would fund the cost of enrollment, card production and issuance, identity management, network infrastructure, and revocation alerts. Transportation facilities will be responsible for access control systems and any modifications that they choose to make in accordance with their own security plans.

The Prototype Phase is planned to be implemented over 7 months. Upon completion of Prototype, DHS will review the data and decide how best to implement the findings. TSA anticipates that we could begin shortly thereafter to execute that decision.

Question. As I remember the original timetable, our ports and greater transportation system should now be operating under a credentialing system that will provide increased security through use of a TWIC card and the requisite card readers and databases. The TSA TWIC website outlines the three goals of the program as to: improve security, enhance commerce, and protect personal privacy. Has the lengthy process in some way increased the potential of accomplishing these goals? What are we getting for increased costs and missed deadlines?

Answer. The evolution of the program will result in a more robust Prototype Phase that incorporates a process for collecting data that will allow the exploration of multiple options for TWIC implementation, including detailed cost-benefit analysis, assessment of feasibility of use by facilities multiple disparate business practices, and more inclusive, in-depth consultations with stakeholders.

Question. What have you done to ensure the security of the card? Can you offer me assurances that the security efforts you have taken will stand up to the test?

Answer. TWIC views security from a system perspective. TWIC is not just a secure ID card, but it is also an identity management solution that leverages advanced security technology and procedures to deliver an overall chain of trust. Both the Technology Evaluation Phase and the upcoming Prototype Phase include extensive evaluation of security features, and security testing and evaluation will be an ongoing part of the TWIC program.

For the card specifically, TWIC is using advanced security features that leverage the strength of the core technology. The surface-based technology will include special inks, security overlays and complex visual design features that will counter attempts to forge or tamper. The Integrated Computer Chip (ICC) is based on the NIST Government Smart Card Specification and complies with a number of security protocols and validations. The ICC includes encryption, secret keys, and active defenses. TWIC will also use a biometric securely embedded in the ICC to link the individual positively to the completed background check and to updates to that background check.

Question. Concerns have been raised that TWIC will hinder rather than enhance commerce. Can you provide data on what kind of delays will occur due to TWIC access requirements?

Answer. One of TWIC's three goals is the enhancement of commerce. The TWIC architecture was developed using extensive stakeholder inputs. The TWIC Integrated Project Teams (IPT) have been working with regional stakeholders to develop site level implementation plans, which will enhance commerce at these sites. During the Technology Evaluation Phase, access control transaction times were measured using a range of technologies. These results were incorporated into the planning for the Prototype Phase, which will further refine the process. The Prototype Phase evaluation report will include extensive data on all aspects of access control transactions, including time and impact to the commercial process.

Question. Delays are causing problems down the line for my, and I am sure many other senators, constituents. Recently, I was asked by one of my constituents whether they should move forward with their own credentialing system upgrades. I was remiss to inform him that it did not appear TWIC would be available for use in the foreseeable future. My constituent informed me that because of these delays he would be forced to move forward with upgrades of his own that may or may not work within the TWIC system. It seems ridiculous to force constituents committed to security to invest in multiple technologies. Mr. Secretary, that does not appear to enhance commerce to me, does it to you? Are we supposed to have a seamless system?

Answer. TSA shares your determination to maximize the benefits of TWIC while minimizing financial or technological burdens on stakeholders. Consequently, a guiding principle in the design of TWIC is that the credential be interoperable with

existing security systems. TWIC envisions a secure identity management tool that can be used in existing access control systems. TSA is communicating with stakeholders in order to update them on the direction of our work and thereby assist them to make informed decisions about security investments.

Question. In addition, I am always concerned about the privacy of individuals. Many have raised concerns about the TWIC and its relationship to a national ID system. How will you protect the information? How will you guarantee the security of the personal information required to attain the TWIC?

Answer. Protection of personal privacy is one of the program's key goals, having been seamlessly integrated in planning from the initial system design. The DOT lead privacy advocate was a member of the original design team. The TWIC team has and will continue to work with the DHS and TSA Privacy Officers to ensure that TWIC remains faithful to our stated goals.

TWIC recognizes that acceptance of the credential is inexorably linked to the holder's confidence that his or her privacy will be respected. TWIC is designed to operate on the minimum amount of personal information, which will be securely stored and encrypted. Access to personal information will be controlled and auditable. All information that will be gathered is subject to a formal privacy impact assessment.

Question. The focus of TSA and the Directorates funding is towards Airline Security. As I understand it, the TWIC will increase security across the transportation system as a whole. In fact, at some point Admiral Loy characterized TWIC as a "Flagship Program". If this is a "Flagship Program", what is the delay in implementation? What are you doing to fix this problem?

Answer. TWIC remains an important initiative for DHS and TSA. The longer timeline is indicative of the need to explore different options on how best to implement an identity management system for transportation workers across multiple facilities, consultation with stakeholders, and to incorporate learning into the development process.

Question. Mr. Secretary, what have you done to ensure that evaluation of TWIC moves forward in a manner that does provide the tax payer with a safe and secure transportation system, while improving the flow of commerce and constantly ensuring our citizens privacy?

Answer. We recognize the urgency of the advancing this program. The Prototype Phase is scheduled to begin in the summer of 2004 and last 8 months. We are committed to a fast track process for review of the results of the Prototype Phase and making final decisions on implementation.

QUESTIONS SUBMITTED BY SENATOR ROBERT C. BYRD

CAPPS II—AIRLINE PASSENGER INFORMATION SYSTEM

Question. Mr. Secretary, the fiscal year 2004 Homeland Security Appropriations Act included a provision requiring the General Accounting Office (GAO) to review the privacy and security of the proposed CAPPS II airline passenger pre-screening system. Last month, the GAO submitted a report to us that stated that your Department has met only one of the eight criteria that we set out before you could move ahead with deployment of the system.

I understand that the Department concurs with GAO's findings. Where is DHS now in testing of the CAPPS II system? What is your timeframe? How long do you expect to test the system?

Answer. Seven of the eight areas identified by the Congress could not be certified by the GAO as having been completed, as they are contingent on testing of CAPPSII. System testing can only begin once TSA obtains a significant quantity of PNR data from airlines or from U.S. Customs and Border Protection (CBP) under the terms of an agreement DHS reached with the European Commission for CBP's use of such data. However, the agreement has not yet been ratified by the European Parliament. Once PNR data is received for testing purposes, 30 days is required for evaluation of the data. Testing will then be conducted for 30 days, followed by 30 days for analysis of the test results. Once testing is complete, the seven remaining areas of interest to the Congress can be certified by the GAO.

CAPPS II—TESTING

Question. One of the concerns about the testing of the proposed CAPPS II system has been the lack of access to actual traveler data to test the system. Airlines have been reluctant to voluntarily provide data because of the very real concerns of privacy groups about how that data will be used. Some have stated that this lack of data for testing is one of the reasons why some of the specific criteria laid out in

the Appropriations Act have not been met. There is some speculation that the Department is planning to issue regulations to compel airlines to provide data for the purposes of testing.

Can you confirm for the Subcommittee whether the Department is planning to compel airlines to provide data on travelers for the purposes of testing CAPPS II? Will you provide this Subcommittee notice of your plans prior to making any public notice? Also, of the funds requested for this program in the fiscal year 2005 budget request, what is requested solely for additional testing of the program—as opposed to implementation and operation of the system?

Answer. TSA plans to use the Notice of Proposed Rulemaking (NPRM) vehicle to seek public comment on the collection of Passenger Name Record (PNR) data for the operation of the CAPPS II program, and would likely issue an order compelling the collection of historical PNR data for testing purposes simultaneously with publication of that NPRM. Each of these documents would require regulated parties to take reasonable steps to ensure that passengers are provided notice of the purpose for which the information is collected, the authority under which it is collected, and any consequences associated with a passenger's failure to provide the information.

As mentioned above, system testing can only begin once TSA obtains a significant quantity of PNR data from airlines or from U.S. Customs and Border Protection (CBP) under the terms of an agreement DHS reached with the European Commission for CBP's use of such data. However, the agreement has not yet been ratified by the European Parliament.

There are two components to the plan for CAPPS II testing: testing with historical PNR data and full system testing that would take place once connectivity is established with an airline to test with live data. TSA estimates the cost associated with completing system and performance testing at \$5 million. This involves testing to the system “end to end” to validate the ability of the system to receive all of the different types of records from the airlines and post the results of the risk assessment to the boarding pass. Once system testing has been completed, performance testing is required to verify that the time required to complete each end-to-end transaction meets the system performance standards.

FINGERPRINT DATABASE INTEGRATION: VASTLY DELAYED AND DANGEROUS

Question. Last week, Department of Justice Inspector General Glenn A. Fine released a report that examined the case of a Mexican citizen, Victor Manuel Batres, who had been detained by the Border Patrol on two occasions in January 2002 for illegally entering the United States. Both the Department of Justice and the Department of Homeland Security say they recognize that the databases need to be integrated, however the IG report found uncertainty as to who is responsible for the overall management of the integration project. It states that Justice and Homeland have yet to enter into a memorandum of understanding delineating the specific roles and responsibilities of each agency in the project. It also finds that the integration project recently has been slowed by the attention placed by Homeland on other technology projects, such as US VISIT. You may recall that I raised this issue with Secretary Ridge last year when he met with Senator Cochran and me to discuss fingerprint database integration as it related to US VISIT. Last week, Secretary Ridge acknowledged this problem and pledged to find \$4 million this year to begin to “fix” it. From which sources will you find these funds and when can we expect to receive a reprogramming or transfer proposal?

Answer. The Department of Homeland Security is committed to accelerating implementation of IDENT/IAFIS 10 fingerprint capability for enforcement processing at ports of entry, and at Border Patrol locations and Immigration and Customs Enforcement offices.

While we begin planning our implementation plan, we plan on using \$4 million of the remaining funds provided in Public Law 107–117 (fiscal year 2002 counterterrorism funding) for IDENT/IAFIS implementation. The \$4 million, when combined with fiscal year 2003 funds already provided (\$3.5 million obligated for IDENT/IAFIS), will allow DHS to implement IDENT with 10 print capabilities in secondary inspection at 115 airports, 14 seaports and 50 of the largest land border ports. In addition, this funding will support implementation of the IAFIS/IDENT 10 print capability at 70 percent of the Border Patrol stations. The remaining land ports of entry, 30 percent of the Border Patrol stations and major ICE locations (to be determined) will receive this capability early in calendar year 2005. Funding for fielding these capabilities is estimated to be approximately \$3 million, including the implementation of IDENT/IAFIS at Border Patrol stations will provide the capability to biometrically identify and/or perform status verifications on individuals sus-

pected of illegally crossing the border. Implementation at ICE offices will support investigation of individuals apprehended for overstays and/or watch list hits.

Question. The IG report made a series of recommendations to expedite integration of IDENT/IAFIS. Does this mean that your Department will take the lead responsibility in merging these data bases so that similar tragedies can be prevented in the future? How long will a full integration take and how much is it likely to cost?

Answer. Yes, the Department of Homeland Security will work with the Department of Justice to accelerate our integration into the FBI's IAFIS (10 print, criminal history) and the legacy INS IDENT (2-print, immigration) systems. An integrated workstation has already been developed. It has been deployed to a limited number of sites. DHS intends to complete deployment of this capability in 2005. The total cost for fielding the capability is expected to be \$7 million and will be funded within existing resources.

FEDERAL AIR MARSHALS: STAFFING

Question. Your budget request for the Federal Air Marshals is essentially a flat-line request similar to last year's funding level. Yet on two occasions in less than a year—late last summer and again over the recent winter holidays—you increased the threat level to Code Orange—in large part because intelligence and other indicators lead you to believe there were enhanced threats to the United States via airplanes flying into or over this country.

However, based on budget briefings with my staff, I understand that the resources directed to this program are not sufficient to hire the number of Air Marshals that should be hired to maintain a more robust presence on targeted flights. If that is indeed accurate, why are you not requesting more funding for hiring additional air marshals, expanding their training, and increasing the tools at their disposal for protection of airplanes and their passengers?

Answer. The Department of Homeland Security (DHS) continues to view the Federal Air Marshal Service (FAMS) as a fundamental component of our national security plan and overall counter-terrorism efforts. The services provided by the FAMS are integral to our efforts to instill and sustain public confidence in our civil aviation system and for providing an expanded law enforcement capability in our skies that previously did not exist. In fact, within the span of roughly two and a half years the FAMS has fielded a trained work force of literally thousands of Federal Air Marshals to protect America's citizens and interests in our commercial air transportation system.

In this same time, DHS has also worked with the Congress to invest in, develop and implement a layered security plan that encompasses the coordinated efforts of an entire spectrum of Federal, State and local agencies. These agencies are working together to provide an array of intelligence, enforcement and protection services to our civil aviation system, our borders and to other areas vital to the Nation. Under this strategy, we have established mechanisms and programs designed specifically to complement one another within the limited resources afforded to the Department. For example, DHS has invested in cutting edge technology to airport and baggage screening activities; we have hardened cockpit doors; we have established a Federal flight deck officer training program; and we are continuously working to apply the latest intelligence information in shaping our decision-making and response to terrorist threats.

The Department has also evaluated how to best use Federal Air Marshals to expand their effectiveness and overall impact. The FAMS was recently transferred from the Transportation Security Administration (TSA) to the U.S. Immigration and Customs Enforcement (ICE). This fusion of the FAMS into ICE not only establishes an integrated enforcement presence in the aviation sector; it enhances ICE's overall capabilities and resources to enforce its mission, which is to detect and prevent vulnerabilities or violations that threaten the Nation's homeland security. Furthermore, this realignment has made possible other initiatives such as the Mission Surge Program, which will pair Federal Air Marshals with ICE agents during peak threat periods, such as the Code Orange alerts or other such events.

In addition to Mission Surge, the Department is also evaluating ways to capitalize on the presence of thousands of Federal law enforcement personnel using the civil aviation system to travel on a daily basis. Although these personnel cannot replace a Federal Air Marshal, they are armed and capable of providing a level of security in the case of an in-flight event. This initiative, known as the Force Multiplier Program, is in its infancy.

Through this layered approach, the Department continues to make significant progress in our counter-terrorism efforts and capabilities. The Department will con-

tinue to work with you and other members of the Congress towards addressing your concerns and best meeting the Nation's homeland security requirements.

US VISIT: FULL DISCLOSURE

Question. Last year Secretary Ridge took the old visa tracking system known as “entry-exit” and as one of his first acts he gave it a snazzy new name befitting the new Department—US VISIT—or the United States Visitor and Immigrant Status Indicator Technology. He also committed that US VISIT would be operational at all of our Nation's international airports and seaports by January 1, 2004. After some lobbying by the airlines, who were concerned about possible problems standing up the system—and leery of the prospect of long lines of weary holiday travelers, he pushed back the operational day to January 5. By all accounts, the system worked, there were few technical glitches and, as you noted in your testimony, some bad actors have been caught by the new system. That is all to the good—as we want to know who is entering and existing our country. Indeed, Congress first started calling for an “entry-exit” system back in 1996.

But there seems to be a disconnect. There seems to be a bit of over-selling of this program by the Secretary and the Department and the Administration. It is true that we are capturing information and checking fingerprints and photos with visa holders who are entering our country at 115 airports and 14 seaports—but do not pop the champagne just yet. At how many airports are we currently capturing information to verify who is exiting the country? One. At only one airport out of 115 are we learning who is exiting our country. The same holds true of exit information at our seaports—one out of 14.

Secretary Hutchinson, this troubles me. I am troubled that an extremely important security program—and one that I support—is being inaccurately represented. It is being presented as more than it truly is. And I am concerned that if the Secretary and the Department can make the claim that they met the deadline to get this program started—when only half of the job is done for this first phase, how can we and the American people know that the next deadline is truly met? And, if you cannot meet your own self-imposed deadline for a relatively-easy system in a controlled environment (people waiting to board a plane), how can we be certain that you will meet your next deadline which we understand is verifying the entry and exit of visa holders at our 50 largest land border ports-of-entry?

Answer. As stated in the record, the first Congressional mandate for an electronic entry and exit system was in 1996. In 2000, the Immigration and Naturalization Data Management Improvement Act (DMIA) fully amended and replaced section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. Under the provisions of the DMIA, the Administration is required to integrate all authorized or required alien arrival and departure data that are in electronic format in existing systems maintained (at that time) by the Department of Justice and the Department of State. The DMIA also set forth timelines for this integration and deployment effort.

On January 5, 2004, the deployment of the newly integrated systems containing alien entry and departure data was successfully launched to all of our Nation's international airports of entry, as well as to 14 of the Nation's largest sea ports at which international travelers arrive. Although, not required by statute, the Secretary sought to improve on the mandate and requested that all non-immigrants with non-immigrant visas entering at these locations should also have their fingerprints scanned so that checks of additional databases containing information on aliens could also be made. We are also piloting the capture of biometric data at the point of departure. The collection of data from the pilot sites is expected to continue until early in fiscal year 2005, with plans to initiate exit installation in fiscal year 2005 based upon the solutions identified.

Building upon these successes, US VISIT functionality will be deployed to the top 50 land border ports of entry in accordance with the timelines set forth in DMIA. US VISIT will work with the to-be-awarded prime contractor to develop the processes, infrastructure and technology required to capture similar data upon entry and exit at the land borders in a way that will minimize any deleterious effect on the flow of goods and peoples across our borders.

TERRORIST WATCHLIST INTEGRATION

Question. One of the most important items on the Department's list of unfinished business is the integration of terrorist watchlists. Earlier this year, Secretary Ridge said the list would be fully functional “by mid-May.” Because many of the agencies you oversee—such as the Transportation Security Administration, Customs and Border Protection, and Immigration and Customs Enforcement—rely daily on accurate

information about the potential threats to this country posed by individuals on these lists, I would imagine that the integration of this information would be a priority.

What is the status of the watch list integration and what are you doing to ensure that rapid progress is being made on this important national security project?

Answer. Integration of terrorist watchlists is proceeding. The Terrorist Screening Center (TSC) has been established with its own consolidated database comprising information from the Terrorist Threat Integration Center (TTIC). TTIC is collecting information from all the agencies holding watchlists to verify the information and add names and data to TSC's list.

INTEROPERABILITY GRANTS

Question. According to "A Needs Assessment of the U.S. Fire Service", a report conducted by FEMA in conjunction with the National Fire Protection Administration, only one-fourth of all fire departments can communicate with all of their rescue partners. The Council on Foreign Relations' June, 2003 study on Homeland Security Needs estimated that the need for interoperable communications equipment funding was \$6.8 billion over the next 5 years. The February 2003 National Task Force on Interoperability report entitled "Why Can't We Talk" found that "in many jurisdictions radio communications infrastructure and equipment can be 20–40 years old. Different jurisdictions use different equipment and different radio frequencies that cannot communicate with each other. There are limited uniform standards for technology and equipment."

Last year, the Administration proposed and Congress agreed to drop homeland security funding specifically for interoperability grants. Once again, the President has proposed no specific funding for interoperable grants and the \$85 million Department of Justice program for law enforcement interoperable grants is proposed for elimination. The Secretary recently announced a very modest interim solution to the interoperable problem. Yet, the Administration assumes that State and local governments will use their first responder grants for this purpose and requests no specific funding for the estimated \$50 million cost for the interim solution.

The President is proposing to reduce first responder grants by over \$700 million and government-wide by \$1.5 billion. With these cuts, why do you believe States will be able address both the interoperable communication problem as well as the funding shortfall in first responder requirements?

Answer. The President's fiscal year 2005 budget request provides significant support for the mission and programs administered by the Office for Domestic Preparedness. As you know, The Homeland Security Act of 2002 (Public Law 107–296) designated ODP as the principal Federal agency responsible for the preparedness of the United States for acts of terrorism, including coordinating preparedness efforts at the Federal level, and working with all State, local, tribal, parish, and private sector emergency response providers on all matters pertaining to combating terrorism, including training, exercises, and equipment support.

The President's request includes \$3.561 million, which is a \$3.3 million increase from the fiscal year 2004 request. With these resources, ODP will be able to maintain its role in enhancing the security of our Nation. The two primary means through which ODP provides funds to States and the Nation's emergency prevention and response community are the Homeland Security Grant Program (HSGP) and the Urban Areas Security Initiative (UASI). The President's fiscal year 2005 budget request includes \$750 million for HSGP and more than \$1.4 billion for UASI. With these funds, states, urban areas, and other units of local government can undertake a wide range of domestic preparedness activities, including the purchase of specialized equipment. Interoperable communications equipment is an allowable expense and falls within the HSGP and UASI funding requirements. In fact, to facilitate communications interoperability, ODP strongly encourages all new or upgraded radio systems and new radio equipment purchased with these funds be compatible with a suite of standards called ANSI/TIA/EIAA–102 Phase 1 (Project 25). These standards have been developed to allow for backward compatibility with existing digital and analog systems and provide for interoperability in future systems.

Overall, though, I think it is important to remember that we are operating in a fiscal and security environment where we must ensure maximum security benefits are derived from every security dollar. To do that, we must be able to take a new look at the way in which we allocate resources. Additionally, given the Department's improved ability to analyze risks, threats, and vulnerabilities, the Department is better able to provide targeted funds to increase the security of the Nation. The Department will continue to work with the States and territories to provide the resources they need—equipment acquisition funds, training and exercise support, and

technical assistance—to deter, prevent, respond to, and recover from acts of terrorism.

GRANT CONSOLIDATION WITHIN ODP

Question. On January 26, your Department exercised authority granted to you under Sec. 872 of the Homeland Security Act which permits the movement and consolidation of functions without congressional approval. Your proposal would consolidate the administration of 24 grant programs into a single office. During briefings for my staff, your aides justified this move as a way to address a strong interest by the States in a “one-stop shopping” center for all grants. I have serious concerns about the decision to transfer ALL Transportation Security Administration grant programs from TSA to the Office of Domestic Preparedness.

Many of us in Congress have been concerned that while we passed legislation creating the Transportation Security Administration—this Administration has treated it as the Aviation Security Administration. TSA was created to focus on securing ALL modes of transportation—buses, and trucking, and seaports—not just aviation. Aviation security is a primary concern, of course, but it cannot be the only concern. We on this Committee have had to cajole and wheedle and scrape together what few precious resources we could find to fund grant programs to address port security, and bus security, and trucking security and the safe flow of commerce traveling by sea. Now, you are shifting those programs to another agency with little expertise in transportation issues and proposing to eliminate funding for several of the programs. If these TSA grant funds are moved out of TSA’s budget and away from its operational control, the President might just as well abolish the agency. Change the agency’s name to the Only Aviation Security Administration.

Why do you want to move these TSA grant funds to the “one-stop shop”? Are you not concerned that TSA will lose its “all transportation” focus if its grant funds are removed from its budget?

Answer. The move to create a one stop shop for grants is based upon input from the user or grantee community and is designed to enhance coordination of the multitude of preparedness and security grants currently administered by the Department (ODP, FEMA and TSA). The one-stop shop consolidation will allow DHS to gain a global perspective on all of the grants to ensure that redundancies are minimized, funds are directed to the highest best use and DHS can proactively make recommendations to States, localities and other recipients on mutual aid and dual use opportunities.

Moving the TSA grants to SLGCP will provide DHS with concrete benefits. First, it will allow the substantial bulk of the TSA personnel who are not impacted by the consolidation to focus on their core mission of transportation security. Next, it creates internal (to DHS) and external (to recipients) improved efficiencies because only one DHS team (SLGCP) will interact with grant recipients rather than two separate teams (one at SLGCP and one at TSA) and, more importantly, recipients who apply for more than one type of grant (e.g. a UASI and a TSA grant) will only need to deal with one DHS team (SLGCP).

Final policy responsibility for grant guidance and grant distribution will reside with the Office of State and Local Government Coordination & Preparedness. However, overall hazards and transportation security policy input will remain with FEMA, TSA, as well as the Coast Guard, and MARAD. And, to ensure the continuing involvement of TSA in the grant process, ODP will create a distinct office dedicated specifically to transportation related grants. This office will work closely with TSA in developing transportation security grant policy.

STATE FORMULA GRANTS

Question. Mr. Secretary, State formula grants have been the largest source of homeland security money for State and local governments. In fiscal year 2003, Congress provided \$2.1 billion for State formula grants, and in fiscal year 2004 provided nearly \$2.2 billion for this purpose.

Your 2005 budget request drastically changes the scope of State formula grants. You request only \$1.2 billion for the program, choosing instead to invest \$1.4 billion into the urban areas security initiative, which targets specific cities. Your request also changes the way in which State formula grants are distributed. Your budget does not distribute funds according to the PATRIOT ACT requirement that all States get a portion of funds, but rather according to “terrorism risk factors.” I am sympathetic to your proposal to shift money from the State grant program to grants to high threat urban areas. Most of the funds should be targeted to the areas where the risk is highest. However, for the funds that remain in the State grant program,

I believe the PATRIOT ACT formula should be retained. Will you keep the small State minimum for State grants as required by the PATRIOT ACT?

This proposal effectively turns the State homeland security grants into an extension of the Urban Areas Security Initiative. I agree that it is important to target resources to areas at greatest risk, but it is equally important that we ensure that every State has the resources needed to build up a basic homeland security infrastructure. This budget does not achieve both goals.

Answer. I strongly support the idea that homeland security is a national responsibility shared by all States, regardless of size. That is why I firmly believe that there should be a minimum level of preparedness across the country and that every State should receive some level of assistance from the Department of Homeland Security.

Further, I strongly support the President's fiscal year 2005 budget request that provides for additional factors to be considered when making determinations on how to distribute homeland security funds to States and localities. While I support the concept behind the PATRIOT Act—that every State should receive minimum levels of support—I firmly believe that funding allocations decisions should be based on a number of other factors not included in the PATRIOT Act formula, including the presence of critical infrastructure and other significant risk factors. With the input that the Department is receiving from the States through their updated homeland security strategies, and with the more robust intelligence analysis and data collection capabilities within the Department, the Department will be better able to prioritize support for your efforts to prevent, prepare for, and respond to terrorist incidents. The President's fiscal year 2005 request recognizes this enhanced ability, and provides the Secretary of Homeland Security the latitude and discretion to determine appropriate funding levels to the States.

GRANT APPLICATIONS

Question. Please provide the Subcommittee with a list of the number of applications (and the total amount requested) for port security, bus security, truck security, Operation Safe Commerce, hazmat security and fire grants per grant-making round and the amounts awarded on State by State basis.

Answer. The following table provides the number of applications received and the total amount requested for port security, bus security, truck security and Operation Safe Commerce per grant round:

Grant Program	Number of Applications/Proposals Received	Total Amount Requested
Port Security Round 1	856	\$696,957,362
Port Security Round 2	1,112	995,905,305
Port Security Round 3	1,042	987,282,230
Intercity Bus Security	84	45,611,455
Truck Security	16	70,984,782
Operation Safe Commerce	33	97,966,809

The following table provides the dollar amount of grants awarded by State:

State Name	Port Security Round 1 Total	Port Security Round 2 Total	Port Security Round 3 Total	00P Port Security Grants Total	Intercity Bus Se- curity Total	Truck Security— Highway Watch Total	Operation Safe Commerce Total
ALABAMA	\$0	\$948,000	\$1,098,571	\$0	\$0	\$0	\$0
ALASKA	1,344,929	4,086,255	758,569	250,000	0	0	0
AMERICAN SAMOA	0	0	0	0	0	0	0
ARIZONA	0	0	0	0	99,950	0	0
ARKANSAS	0	0	0	0	0	0	0
CALIFORNIA	17,152,573	28,017,757	33,704,614	9,076,700	177,116	0	13,697,053
COLORADO	0	0	0	0	0	0	0
CONNECTICUT	296,636	2,201,337	3,825,565	0	0	0	0
DELAWARE/PENNSYLVANIA	1,925,000	5,512,369	1,830,700	3,730,555	342,765	0	0
DISTRICT OF COLUMBIA	0	27,356	0	0	773,614	0	0
FED. STATES OF MICRONESIA	0	0	0	0	0	0	0
FLORIDA	19,572,606	17,654,425	7,625,747	10,947,378	141,580	0	0
GEORGIA	2,305,400	2,629,643	4,237,611	0	265,003	0	0
GUAM	0	0	518,900	0	0	0	0
HAWAII	802,523	7,005,561	4,247,966	0	0	0	0
IDAH0	0	0	0	0	0	0	0
ILLINOIS	0	872,250	7,025,300	0	51,278	0	0
INDIANA	0	68,800	353,760	0	113,813	0	0
IOWA	0	0	51,600	0	226,272	0	0
KANSAS	0	0	221,540	0	0	0	0
KENTUCKY	0	55,136	1,439,578	0	0	0	0
LOUISIANA	4,968,207	19,991,897	23,552,896	6,650,200	0	0	0
MAINE	175,000	2,054,000	621,200	0	0	0	0
MARSHALL ISLANDS	0	0	0	0	0	0	0
MARYLAND	3,764,000	4,518,532	5,586,150	0	338,482	0	0
MASSACHUSETTS	3,789,669	4,333,651	3,005,829	0	1,173,875	0	0
MICHIGAN	135,000	409,000	897,263	0	0	0	0
MINNESOTA	0	0	813,100	0	335,102	0	0
MISSISSIPPI	555,132	705,444	2,245,740	0	0	0	0
MISSOURI	0	125,000	50,000	0	0	0	0
MONTANA	0	0	0	0	0	0	0
NEBRASKA	0	0	0	0	0	0	0
NEVADA	0	0	0	0	320,791	0	0
NEW HAMPSHIRE	200,000	80,000	1,570,203	0	73,182	0	0
NEW JERSEY	0	5,493,067	5,129,950	7,613,106	2,454,220	0	0

	NEW MEXICO	0	9,847,792	6,699,713	0	4,477,768	172,130	0	0
	NEW YORK	8,013,360	4,870,000	3,224,114	0	0	566,591	0	13,818,770
	NORTH CAROLINA	250,000	0	0	0	0	0	0	0
	NORTH DAKOTA	0	0	0	0	0	0	0	0
	NORTHERN MARIANA ISLANDS	0	0	1,379,577	0	0	0	0	0
	OHIO	550,622	777,000	3,100,127	0	0	44,408	0	0
	OKLAHOMA	0	725,000	0	0	0	0	0	0
	OREGON	623,000	1,185,000	1,024,970	0	0	9,900	0	0
	PALAU	0	0	0	0	0	0	0	0
	PUERTO RICO	3,000,000	637,000	3,585,870	23,490	0	0	0	0
	RHODE ISLAND	261,500	435,000	1,498,563	0	0	0	0	0
	SOUTH CAROLINA	1,819,072	1,845,389	5,225,019	5,124,554	35,263	0	0	0
	SOUTH DAKOTA	0	0	0	0	0	0	0	0
	TENNESSEE	198,052	639,655	768,285	123,375	10,755,138	0	0	0
	TEXAS	8,345,366	18,814,061	31,960,813	12,158,057	0	0	0	0
	UTAH	0	0	0	0	0	0	0	0
	VERMONT	0	0	0	0	0	217,542	0	0
	VIRGIN ISLANDS	0	1,873,245	869,275	1,582,468	0	0	0	0
	VIRGINIA	6,044,618	5,068,358	1,681,280	6,600,000	841,330	19,300,000	0	0
	WASHINGTON	5,179,974	14,895,156	7,030,942	6,765,724	26,407	0	27,528,219	0
	WEST VIRGINIA	750,000	522,000	565,000	0	0	0	0	0
	WISCONSIN	0	0	0	0	0	120,873	0	0
	WYOMING	0	0	0	0	0	0	0	0
	GRAND TOTALS	92,022,239	168,924,136	179,025,900	75,000,000	19,800,000	19,300,000	55,044,042	

AIR CARGO: PILOT PROGRAM

Question. I understand that the bulk of air cargo carried on narrow-body aircraft is broken down—as opposed to being containerized in larger containers. What percentage of U.S. flights carrying air cargo are made on narrow-body aircraft? Has TSA started physically screening these broken-down forms of air cargo using explosive detection devices—even if only in a pilot program as strongly urged by the Congress in the fiscal year 2004 Homeland Security Act? If not, why not? When do you intend to initiate such a program—given that the bill was signed into law on October 1, 2003—over 5 months ago?

Answer. TSA does not compile statistics regarding the percentage of U.S. flights carrying air cargo utilizing narrow-body aircraft. Last November, TSA instituted mandatory cargo screening requirements for air carriers. The screening requirements apply to cargo transported on both wide body and narrow body aircraft—including “break bulk” shipments transported on narrow body aircraft. TSA is finalizing a protocol, which will allow the air carriers to utilize Explosive Trace Detection equipment to screen cargo. TSA is also currently conducting a pilot program of Explosive Detection Systems ability to screen cargo for explosives. As TSA’s cargo screening requirements continue to evolve TSA will continue to test and analyze the feasibility of using additional explosive detection capabilities for cargo.

FLETC BUDGET: CHARLESTON

Question. For many years, the FLETC has used facilities at the former Navy base in Charleston, SC as a satellite training location for training law enforcement personnel from the Border Patrol and other agencies because it was unable to accommodate them at its two main training facilities. Last year, prior to the creation of the Department of Homeland Security and the consolidation and reorganization of numerous agencies, Congress appropriated and the President signed into law approximately \$14 million for the Border Patrol Academy at Charleston. I understand that FLETC proposes to move all Border Patrol training to its main facility at Glynco, GA and use the Charleston location for training for other agencies. However, that move is not likely to occur for nearly 2 more years. There is considerable confusion over the use of the funds provided by Congress for construction activities at Charleston. It is clear that the Congress intended for these funds to be used in Charleston. Will you commit that these funds will be spent in Charleston as directed by Congress and provide the Subcommittee with a plan for allocating those funds?

Answer. The FLETC will use the funds in the amount of \$13,896,000.00 for projects in Charleston. The Core of Engineers spent approximately \$104,000 for design prior to the administrative transfer of Charleston to the FLETC. A summary of the projects are:

- Construction of Tactical Training Mat Rooms for defensive tactics training for the USCG Marine Law Enforcement Academy;
- Renovation of new wing in Building 654 for administrative space for the USCG Marine Law Enforcement Academy;
- Renovation of four classrooms in building 61 for classroom space for the USCG Marine Law Enforcement Academy;
- Renovation of old wing in Building 654 for administrative, conferencing and training space for the FLETC and Partner Organizations’ training management and operations staffs;
- Construction of Indoor Firing Range to provide training and re-qualifying students in firearms proficiency; and
- Construction of Security/Communications system that will allow the FLETC Charleston to provide efficient and cost effective training while utilizing the latest state of the art technologies.

FLETC BUDGET: FACILITIES OPERATING FUNDS

Question. I am a strong supporter of consolidated Federal law enforcement training—in part because of the budgetary savings which can be achieved. During site visits by my staff to the FLETC facilities in SC and GA, they were told that the Border Patrol’s training budget for activities at Charleston was \$34 million in fiscal year 2004 and is proposed to be \$42 million in fiscal year 2005. Is that correct? If so, where will these funds come from? Are the agencies going to transfer funds to FLETC or will FLETC bill them for training? Without clear indications of funding streams to pay for the operation of the facility in Charleston being placed in the FLETC budget—or in the budgets of the agencies attendant at these facilities—how

can you ensure that consolidated training will work efficiently and that these facilities will operate robustly and effectively?

Answer. The Border Patrol has been providing the funding to operate the Charleston facility since the late nineties. The amounts provided by the Border Patrol included resources for TDY of agents that are not applicable to the operations of Charleston by the FLETC. The final amount has not been determined but the current estimate is approximately \$21 million to operate Charleston. In addition, 25 FTE will be necessary to operate the facility and the source of those FTEs are being determined. A transfer of funds from the Border Patrol to the FLETC will be necessary to align responsibilities with Federal appropriations. The FLETC is currently evaluating the resources required for the additional basic training programs to be conducted in Charleston for three new Partner Organizations. These new agencies are United States Coast Guard Marine Law Enforcement Academy, The Administrative Office of the U.S. Courts and the Defense Logistics Agency. The FLETC will not be able to operate the Charleston training site without these resources.

FLETC: CAPITOL POLICE TRAINING COSTS

Question. What are the costs FLETC has borne for non-basic training conducted at the Cheltenham facility for the United States Capitol Police for fiscal years 2002–2004 and what are the anticipated costs for the same training for fiscal year 2005? What are the annual basic training costs?

Answer. The Capitol Police have historically provided some follow-on basic training for their officers at locations in the Washington DC area. This training was not done at a FLETC location, was never paid for by the FLETC, and therefore is not in the FLETC's base funding. This is consistent with other Partner Organizations such as the United States Secret Service which provides its follow-on basic training at their Beltsville location. Now that the Capitol Police is conducting agency specific basic training at a FLETC location, namely Cheltenham, for consistency purposes, this funding could be included as part of FLETC's annual workload projections. The precise amount of funding would need to be negotiated with the U.S. Capitol Police.

U.S. CAPITOL POLICE OPERATIONAL EXPENSES AT FLETC'S CHELTENHAM FACILITY

Service	Building 3 Fiscal year 2003	Building 31 Fiscal year 2003	Buildings 31, 231, 40 Fiscal year 2004
Electricity	\$5,554	\$49,365	\$52,364
Fuel Oil	5,361	21,259	25,516
Security	1,908	16,960	17,990
Telephone Service	10,106		
Telephone Service		11,731	
Telephone Service			10,169
Telephone Lease		84,844	84,844
Refuse Disposal	600	900	900
Water/Sewer	1,636	14,537	15,420
General Janitorial	7,326	65,113	69,069
Additional Trash Pulls (Daily)		5,172	5,172
Total	32,491	269,880	¹ 281,445

¹ Estimate.

FLETC: OTHER ISSUES

Question. Approximately 60 percent of the FLETC workforce is comprised of contract employees. From perimeter security guards and role players used in training scenarios to food service workers and the maid service, these employees work hard and perform much needed services. Given the exceedingly high percentage of contract employees, does the Department expect FLETC to conduct further efforts to contract out yet even more work?

Answer. The FLETC has developed a plan for competitive sourcing to be in compliance with the A-76 circular. At this time, the positions planned for study include 13 Automotive Mechanics in fiscal year 2005; 21 Media Support positions and 30 Facilities Management positions in fiscal year 2006; 4 Critical Incident Stress Management positions and 9 Property Management positions in fiscal year 2007; and 20 Human Resources positions and 36 IT/Training Devices/AV positions in fiscal year 2008.

Question. The horrific events of 9/11 resulted in a massive increase in hiring of Federal law enforcement personnel. These new hires required training and Congress provided temporary authority to re-hire retired Federal annuitants to assist in training activities. I am told that these annuitants are providing FLETC and the Department excellent and valuable service based on their years of skill and real life experience. However, this authority will soon expire and I understand that a significant portion of FLETC's training would be negatively affected if it lost this authority. Do you plan to request that Congress extend this authority either permanently or for another 5 years?

Answer. The FLETC intends to recommend to the Administration an extension to its rehired annuitant hiring authorization and waiver to dual compensation. Historically, it has been very challenging for FLETC to recruit highly qualified law enforcement instructors with a Federal criminal investigative, GS-1811, background because the FLETC has no authority to pay law enforcement availability (LEAP) compensation. Any current Federal criminal investigator interested in an instructor position at the FLETC must be willing to take a 25 percent cut in his/her annual salary when accepting a FLETC position. In addition, retaining their law enforcement "6c" retirement status sometimes becomes an issue, and they also lose their privileges to use government vehicles for response necessities.

Prior to the tragic events of 9/11, the FLETC had been working vigorously with its former department, Department of the Treasury, and Office of Personnel Management officials to gain approval to implement the rehired annuitant hiring flexibilities contained within the Federal personnel management system. As mentioned above, the FLETC had been seeking this approval in order to overcome the recruitment and retention challenges associated with staffing Law Enforcement Specialist (Instructor), GS-1801, positions with applicants possessing extensive Federal criminal investigative backgrounds. Furthermore, the FLETC intended to maximize the provisions of the program by recruiting recent 1811 retirees who could share the latest law enforcement techniques and practices being utilized in the field.

The need for the majority of FLETC instructors to possess a criminal investigative background has been and continues to be validated through management studies and student feedback surveys. Instructors having this background gain instant credibility with their students because they are able to share real world experiences and demonstrate the application of skills and information being taught. In addition, the FLETC's mission has continued to expand post 9/11 into areas such as counterterrorism, antiterrorism and transportation security training which require attracting even more specialized expertise in a highly competitive market. Therefore, it is essential that the FLETC continue to take advantage of this proven hiring flexibility in its efforts to maintain a highly qualified law enforcement training instructor workforce. Reverting back to traditional instructor recruiting and staffing practices would adversely impact and unduly hamper this effort.

TSA: SLOW MOVEMENT OF APPROPRIATED FUNDS

Question. In the fiscal year 2004 Homeland Security Appropriations Act, Congress provided \$7 million for hazardous materials security and the truck tracking program, \$10 million for intercity bus security grants, and \$22 million for the trucking industry security program. That bill was signed into law in October. Nearly 6 months later those funds have not yet been released. Since security for these other modes of transportation are so important, why has TSA been sitting on these funds?

Answer. In the coming months, TSA plans to request proposals for funding or announce awards for a number of programs. These include:

- TSA anticipates issuing a Request for Applications (RFA) for both the fourth round of Port Security Grants Program (\$50 million remaining from fiscal year 2004) and Intercity Bus Security grants by late spring, 2004, with final awarding of grants expected in late summer.
- A fourth quarter fiscal year 2004 release of the RFA is anticipated for both the Highway Watch Program and Operation Safe Commerce, with final award anticipated in the fall.
- TSA intends to announce Request for Proposals for the Truck Tracking Project in early summer. Final award is anticipated in early fall, 2004.
- Award for Nuclear Detection and Monitoring is anticipated by mid-summer, 2004.

PORT SECURITY

Question. The deputy assistant director of the FBI's counterterrorism office stated in January that our Nation's seaports remain vulnerable targets for attack. "The intelligence we have certainly points to ports as a key vulnerability. I can't be more

specific about the threats of attacks. We have received information that indicates there is an interest.”

If there is an “interest” in attacking our ports, why does the Administration continue to refuse to give our seaports the resources they require to secure our ports? Why is only \$46 million requested for port security grants when the port directors tell us that \$1.125 billion will be needed in the first year and \$5.4 billion will be needed over the next 10 years to comply with the new Federal regulations mandated by the Maritime Transportation Security Act.

Additionally, during the most recent port security grant competition (December 2003), over half of the funding for port security grants was awarded to private companies. A tremendous need for port security funding also exists for port authorities and State and local agencies. What approach are you taking to allocate the funding between these different entities? Additionally, what type of checks and balances do you have in place to ensure that private companies are not receiving a disproportionate share of this port security funding?

Answer. In Port Security Grants Round 3, consistent with provisions of the Maritime Transportation Security Act of 2002, the Transportation Security Administration, U. S. Coast Guard and the Maritime Administration determined that regulated facilities should receive preference. The vast majority of regulated facilities are private companies. However, public entities were well represented with awards totaling 45.3 percent of the available funds.

In general, port security grant funds are dispersed through a competitive grant process. The multi-level, interagency review ensures that these funds go to the highest national security needs.

- Eligible grant applicants are limited to critical national seaports as stipulated in the fiscal year 2002 DOD Supplemental Appropriations (Public Law 107–117) and referred to in subsequent appropriations. This designation included:
 - Controlled ports—Ports which have access controls for vessels from certain countries due to national security issues
 - Strategic ports, as designated by a Maritime Administration port planning order
 - A nationally important economic port or terminal responsible for a large volume of cargo movement or movement of products that are vital to U.S. economic interests as required for national security
 - Ports, terminals, and U.S. passenger vessels responsible for movement of a high number of passengers
 - Ports or terminals responsible for the movement of hazardous cargo.
- All grant applicants must have a completed security assessment and tie the vulnerabilities identified in the assessment to the mitigation strategies requested in the application.
- Subject matter experts from the U.S. Coast Guard (USCG), the Maritime Administration (MARAD), and TSA conduct a multi-level review of all port security grant applications.
- Field level review is conducted by the USCG Captain of the Port and MARAD Regional Director to validate applicant eligibility and prioritize all proposals within their zone, utilizing the CG Port Security Risk Assessment Tool (PSRAT).
- National level review is conducted by representatives from the USCG, MARAD, and TSA based upon published evaluation criteria. All eligible proposals from the field level review are prioritized on a national level.
- Executive level review board of agency representatives examines the recommended proposals from an overarching national perspective.
- Senior level selection board (currently TSA Administrator or his representative, USCG Commandant or his representative, MARAD Administrator) provides the final approval of the proposed grantees/projects.

INTEGRATED FINGERPRINT SYSTEMS

Question. Mr. Secretary, Senator Cochran and I met last year in the Capitol to discuss our concerns about the plans for obtaining only two fingerprints of visitors to the United States as a means to fulfill the biometric component portion of the entry-exit visa tracking system you have named US VISIT. I suggested that I was concerned that capturing only two fingerprints might make it more difficult to compare these two new prints with more extensive existing fingerprint databases such as the FBI's Integrated Automated Fingerprint Identification System (IAFIS). In fact your own Department's Inspector General report dated December 31, 2003 noted that the Department of Justice has worked for several years to integrate your

Department's two-print system—known as the automated biometric identification system, or IDENT—with the FBI's IAFIS system.

The IG states that, "This integration is critical to identifying illegally entering aliens on lookout lists or with criminal histories, but progress has been slow."

What is the status of the integration of these systems? Can you give the Committee a progress report on the integration of these systems?

Answer. Prior to the establishment of the Department on Homeland Security, DOJ, working with the FBI and INS, began work on a project to integrate the FBI's IAFIS (10 print, criminal history) and the INS' IDENT (2-print, immigration) systems.

Since that time, an integrated IDENT/IAFIS workstation has been developed. DHS intends to accelerate deployment in 2004 and complete deployment by the end of calendar year 2005. To accelerate the implementation of IDENT/IAFIS capability within the Department, we intend to seek a reallocation of \$4 million of the remaining funds provided in Public Law 107-117. The \$4 million, when combined with fiscal year 2003 funds already provided (\$3.5 million obligated for IDENT/IAFIS), will allow BTS VISIT to implement IDENT with 10 print capabilities in secondary processing areas at 115 airports, 14 seaports and 50 of the largest land border ports. In addition, this funding will support implementation of the IAFIS/IDENT 10 print capability at 70 percent of the Border Patrol stations. The remaining land ports of entry, 30 percent of the Border Patrol stations and major ICE locations (to be identified) will receive this capability in 2005. The implementation of IDENT/IAFIS at Border Patrol stations will provide the capability to biometrically identify and/or perform status verifications on individuals suspected of illegally crossing the border. Implementation at ICE offices will support investigation of individuals apprehended for overstays and/or watch list hits.

IMMIGRATION

Question. The Enhanced Border Security and Visa Entry Reform Act requires all immigration databases to be made interoperable and, eventually, combined into the Chimera data system, which is to include all known immigration, law enforcement, and intelligence data on aliens. What progress has been made thus far on creating the Chimera data system?

Answer. On the 28th of October 2002, the Immigration and Naturalization Service published an informational document regarding a comprehensive information technology planning and infrastructure modernization program called "Atlas". That document was entitled the "Atlas Business Case" and provided a concise high-level view that demonstrated the INS' confidence in Atlas' strategic, technical, and financial merits. The business case reflected investment principles, emulation of industry best practices, and compliance with the Clinger-Cohen Act of 1996, as well as with other related legislative and government guidance.

Consistent with the urgencies of the Government's post-September 11 security agenda, the Atlas Business Case was subsequently socialized and promoted within the Department of Justice and sent to the Hill for budgetary consideration. It was understood that the Atlas Program would be the fundamental IT infrastructure foundation on which INS business applications would operate. In its business case, the INS illustrated that the successful Atlas transformation strategy would hinge upon a robust IT infrastructure containing a secure, scalable backbone that would support all INS business processes. Atlas, it was shown, would also provide database interoperability at the infrastructure level and support data sharing at the applications level. From the beginning, the Atlas design strategy also supported emerging Department of Homeland Security (DHS) requirements. Unlike the previous environment, Atlas was proposed to reside within an integrated Enterprise Architecture (EA) that would harmonize the following:

- System hardware, including mainframes and servers
 - Data services, including data and voice circuits
 - Data communication equipment, including servers, switches, local area networks (LAN), wide area networks (WAN), routers, and cabling
 - Computer security, information assurance activities and enterprise information.
- This, specifically, is the area that would later come to be identified as the focus area for the suggested Chimera project.
- Workstations, including personal computers and laptops and enterprise-wide software (i.e., office automation, e-mail, operating system, etc.)
 - Operational support to maintain and operate the modernized IT infrastructure

Perhaps in contemplation of partitioning and re-tasking of the INS and its resources, or perhaps in calculating the initial complexity and cost of implementing Atlas, a counter-suggestion was made in committee and transmitted back to the De-

partment of Justice and the INS that certain specific information security and assurance attributes of Atlas could be separately expedited and put into action under a new initiative tentatively labeled "Chimera".

However, other program initiatives under way at INS and the new Department of Homeland Security were also addressing the same security concerns. In particular, the "US VISIT" program had pursued the same set of concerns and an active, high-precision approach for addressing critical information security and assurance requirements.

Because of the US VISIT Program's ongoing and comprehensive approach to information security and assurance requirements within the DHS sphere of immigration-related operations, Chimera has been suspended and is being revisited to determine its potential as a duplicative effort.

Question. As part of the 1990 Immigration Act, Congress authorized general arrest authority for all immigration law enforcement officers. INS never developed regulations to implement this authority. Has DHS developed such regulations?

Answer. Yes, ICE issued a memo implementing general arrest authority for the ICE Office of Investigations and Detention and Removal in November 2003.

Question. Representatives of the Department of Homeland Security Council (union of legacy INS employees) reported at a press conference on March 3 that no more than 5 percent of Immigration and Customs enforcement personnel have received cross-training. When does DHS expect to complete cross-training of all existing personnel? What percentage of all needed cross-training is funded in the President's budget proposal?

Answer. OI conducted a manual survey the last week of March 2004. At that time 830 Special Agents had completed the cross-training. This accounts for 19 percent of the OI workforce of 4,463 which is targeted for cross-training in this fiscal year. The Automated Class Management System is expected to be on-line by the end of April, 2004. At that time, training statistics will be more readily available.

OI has established a target to complete the cross-training for all non-supervisory Special Agents GS-05 through GS-13 by the end of fiscal year 2004. This cross-training will be accomplished using a train-the-trainer format with initial training being conducted at the Federal Law Enforcement Training Center.

Cross-training beyond this priority group and into fiscal year 2005 will be funded out of base appropriations.

Question. A pay disparity of a full grade exists between Immigration Special Agents (GS-12) and Customs Special Agents (GS-13). It appears that the new regulations proposed by the Administration would hide this disparity within a pay scale, rather than addressing it directly. Is this correct and, if so, what impact is this disparity having on morale within ICE?

Answer. On April 13, 2004, Mr. Garcia announced that new Criminal Investigator (CI) position descriptions had been classified and all ICE GS-1811 series employees would be assigned to them by May 2004. The new journey-level position, which is established at the GS-13 level, will be applied at that time to all qualifying criminal investigators. As a result, the approximately 1,200 former Immigration and Naturalization Service (INS) personnel affected by this pay gap will be eligible for immediate promotion to GS-1811-13 on May 2, 2004.

OTHER ISSUES

Question. Does the fiscal year 2005 budget assume the reauthorization of COBRA which is set to expire on March 31, 2005?

Answer. Public Law 108-121 reauthorized COBRA through March 1, 2005. The fiscal year 2005 budget assumes that COBRA will be reauthorized beyond the March 1st expiration date.

Question. What is the net increase in discretionary funding (excluding supplemental appropriations) for the Department of Homeland Security Bureau of Customs and Border Protection Salaries & Expenses between fiscal year 2004 and fiscal year 2005? Looking at the fiscal year 2005 budget it appears that the increase is just over 4 percent barely enough to cover for inflation.

Answer. There is a \$210 million net increase in discretionary funding for CBP's Salaries and Expenses between fiscal year 2004 and fiscal year 2005. This net increase includes \$185 million in program increases and \$350 in increases for annualizations of prior year pay raises and other inflation related costs. These increases are offset by a \$23.7 million decrease for a DHS-wide savings initiative, termination of one-time costs associated with fiscal year 2004 program increases and the fiscal year 2004 rescission.

Question. What is the Department doing to correct the problem of the Department not paying legacy Customs Inspectors and new CBP officers for their required work

on the 60 day of basic training at the Federal Law Enforcement Training Center (FLETC)?

Answer. We do pay employees covered by the Fair Labor Standards Act (FLSA) overtime while engaged in training at FLETC for 6-day weeks. The Government Employee and Training Act (GETA) prohibits us from paying non-FLSA employees under FLSA provision. Our COPRA covered front-line personnel are not subject to FLSA. COPRA was specifically designed for Customs Officers and is the exclusive pay act for our Customs legacy personnel. Our agency position on this matter was recently sustained in an arbitration decision.

QUESTIONS SUBMITTED BY SENATOR DANIEL K. INOUE

Question. Recently, a week-long convention of Asian life insurance providers and sales representatives scheduled to convene in Honolulu this August was cancelled. The convention was expected to produce more than \$17 million in visitor spending, \$1.41 million in State taxes, and rent 6,500 hotel room nights. The cancellation was not due to lack of interest by prospective attendees, but instead was due to the problems caused by the extended visa issuance process. Your Department has been working with the State Department to enhance security and the integrity of the visa process. Your budget requests an increase of \$10 million to support a new visa security unit. How will this unit help to ensure that visas are processed quickly to ensure that Hawaii will be able to host similar conventions in the future?

Answer. BTS is working with the State Department to assure that the provisions of the law known as Section 428 are implemented. The ICE VSU will be deploying Visa Security Officers to selected foreign posts; will be working to enhance State Department Consular officer training; will be working to improve the Visa Security Advisory Opinion (SAO) process; and develop with the State Department the appropriate employee performance plan oversight of Consular Officers by DHS. All of these efforts will improve the integrity of the visa issuance process and assure that visa applicants receive the appropriate level of review.

The Department of Homeland Security's (DHS) visa security operations are located exclusively in Saudi Arabia at this time. Since beginning our operations in Saudi Arabia, thousands of visas applications have been reviewed by DHS officers. From over 3,500 applications, approximately 27 have been delayed for reasons of security. Most visa applications in Saudi Arabia are acted upon within 48 hours. This is in compliance with congressional language as to 100 percent review of visa applications in Saudi Arabia.

It is anticipated, DHS will dedicate staff to the SAO process, which in turn will further aid to expedite requests and ensure timely security screening on behalf of our officers in the field.

Question. The budget justifications for the US VISIT program discuss the deployment plan for the full program. In furtherance of complete implementation, a Request for Proposals was published last November with bids due this January. How many proposals were received? In light of the proposals you received, is the budget request sufficient for full implementation of the program, including the meeting of your statutory deadlines for deployment to the 165 identified points of entry?

Answer. We received three bids for the Prime integrator contract.

With the resources in the fiscal year 2004 appropriation, and provided approval of the fiscal year 2005 President's request, US VISIT will have the resources necessary to meet the statutory deadline (US VISIT functionality in secondary) for the 50 largest land border ports by December 31, 2004 and the 115 remaining land sites by December 31, 2005.

Question. The budget request includes an increase of \$23 million for Immigration and Customs Enforcement. This increase is intended to more than double the number of investigators and facilitate the implementation of the President's proposal for a temporary worker program. According to your testimony, in furtherance of the President's proposal, you would establish a traditional worksite enforcement program to deter the hiring of unauthorized workers. What efforts are currently being undertaken to detect, deter, and punish employers who hire undocumented workers?

Answer. Enforcement efforts targeting companies that break the law and hire illegal workers will need to increase in order to ensure the integrity of the temporary worker system. The President's Immigration proposal provides for an enhanced worksite enforcement program, and the \$23 million requested for fiscal year 2005 will allow ICE to enhance its worksite enforcement efforts and provide credible deterrence to the hiring of unauthorized workers. ICE worksite enforcement investigations generally involve a review of company employment records to verify the immigration status of workers and to determine if the employer has committed any viola-

tions. ICE agents also conduct extensive outreach initiatives to educate employers about their legal responsibilities.

Additionally, the Basic Pilot Program, an automated system administered by USCIS, enables employers to verify the immigration status of newly hired workers. It is currently available in six states, but is planned for availability to employers in all 50 states by the end of this year. This is a voluntary program and is provided at no cost to employers. Information on the Basic Pilot Program is available to the public on the USCIS website.

Question. The Visa Waiver Program is a critical element of the Hawaii tourism industry as it allows citizens of 27 countries to enter for non-immigrant purposes without a visa. However, by October 26, all Visa Waiver countries must certify that the new passports they are issuing contain biometric identifiers. How many of the 27 countries are currently expected to meet this deadline? Would you support extending the biometric passport deadline in order to avoid major disruptions in travel to the United States from key tourism markets in Europe and Asia? What is the Directorate doing to work with the foreign governments in the visa waiver program to encourage compliance?

Answer. Due to a variety of factors, the Departments of Homeland Security and State have requested a 2-year extension for the October 26, 2004 deadline for machine readable, biometric passports. The problem is not lack of will or commitment, but challenging scientific and technical issues. Due to technical challenges that include the durability of chip technology and the feasibility of facial recognition technology in an operational environment, few, if any, of the 27 countries participating in the Visa Waiver Program (VWP) will be able to meet the October 26, 2004 deadline. In fact, the standards have not yet been set. Therefore, a 2-year extension is being requested to make it possible for countries to comply with this mandate.

The Department of Homeland Security has been working very closely with foreign governments to develop the optimum solution that enhances security for all without impeding legitimate travel and tourism. All citizens traveling under the Visa Waiver Program will be enrolled in US VISIT upon entry through an air or sea port after/ on September 30, 2004.

QUESTIONS SUBMITTED BY SENATOR ERNEST F. HOLLINGS

SEAPORT SECURITY IMPLEMENTATION COSTS

Question. Commissioner Bonner announced with much fanfare, that we would sign agreements with major foreign ports, under the "Container Security Initiative", so that we could inspect containers in foreign seaports. It is my understanding, that while this sounds quite smart, there are a lot of practical problems. For instance, foreign nations use their own security equipment for security to protect their own ports, and they have not been all that forthcoming in providing their security equipment for our use.

Can you tell me, how many marine containers underwent physical inspection, in foreign ports as a result of the "Container Security Initiative"? What does this represent as a portion of the total that was physically inspected?

What is the budget for the implementation of non-intrusive inspection equipment at U.S. ports, and how does it compare with the budget for the "Container Security Initiative"?

Answer. All cargo moving through a CSI port is screened by CBP using our multi-layered targeting and risk analysis systems. All high-risk cargo is inspected for weapons of mass destruction before being laden on a vessel bound for the United States in a CSI port. Physical inspection statistics for containers will be provided by the General Accounting Office in the forthcoming review of the CSI program.

As of April 23, 2004, U.S. Customs and Border Protection has deployed approximately \$73.9 million worth of large-scale, non-intrusive inspection systems and radiation portal monitors to U.S. seaports. The Container Security Initiative (CSI) was appropriated \$61.7 million in the President's 04 budget, of which approximately \$12 million has been allocated for non-intrusive inspection equipment for the CSI overseas ports.

Question. The budget for FTE's for full time positions was set at 220 for the Transportation Security Administration's Maritime and Land Division, yet it is my understanding that to date, this Division is only operating with 160.

You have a number of responsibilities, such as conducting criminal background investigations, that are languishing. What is taking so long in hiring the remaining 60 Full Time Employee positions that, I understand are budgeted for the Transportation Security Administration's Maritime and Land Division but not yet hired?

Answer. The Office of Maritime and Land Security (MLS) within the Transportation Security Administration currently has 169 full-time employees on board. We do not anticipate at this time hiring additional FTE.

With reference to criminal background check responsibility, since security threat assessments of certain individuals within the transportation system are a critical component of our mission, TSA created a Credentialing Program Office (CPO) to consolidate TSA background check activity across all modes of transportation. The CPO has established processes for conducting background checks, adjudicating results and for follow-on coordination with the law enforcement and intelligence communities. TSA is already required to conduct criminal history records checks on airport security screening personnel, individuals with unescorted access to secure areas of airports, and other security personnel—pursuant to Section 114(f)(12) of the Aviation and Transportation Security Act, Public Law No. 107-71, 115 Stat. 587 and 49 USC § 44936 (a)(1)(A). In addition to the extensive background checks that TSA currently undertakes in aviation security, TSA has been delegated responsibility for conducting security threat assessments on commercial drivers seeking hazardous material endorsements for transporting hazardous materials in commerce pursuant Section 1012 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT) Act, Public Law 107-56, October 25, 2001, 115 Stat. 272. Implementing the Alien Flight Student Program will be consistent with work already underway by TSA through the CPO.

ARMING PILOTS

Questions. Last week, Denver news stations were reporting that commercial airline pilots that have been armed with semi-automatic pistols through the Federal Flight Deck Officer (FFDO) program were misplacing or losing weapons at an alarming rate. According to Channel 9 News, the Transportation Security Administration (TSA) and Airline Pilots Security Alliance were the source of information indicating that in the last 60 days approximately 300 weapons had been misplaced by FFDOs.

My understanding is that a Southwest Airline Pilot lost his weapon while it was being transported in the lockbox system that is designed to protect it while traveling, and that most of the guns reported as “misplaced” came under similar circumstances.

Are the reports of misplaced and lost weapons by FFDOs accurate? Do you believe the current procedures for FFDO firearm transport are proper? How many FFDOs have actually lost or misplaced their weapons since the program began? What steps need to be taken to responsibly ensure that armed pilots do not lose or misplace their guns?

Answer. TSA takes seriously its obligation to ensure that FFDO firearms and lockboxes do not fall into the hands of individuals not authorized to handle such items. The FFDO program office works closely with carriers to ensure that training is provided to crewmembers and baggage handlers to ensure proper handling and storage of lockboxes. In some instances, lockboxes have been identified as not placed in the precise location expected, but with the exception of the one reported incident, the lockbox has always been quickly retrieved without endangering the traveling public.

There has only been one incident involving an FFDO firearm that was lost and not recovered. TSA takes this incident very seriously and is pursuing an investigation. It must be considered in light of the thousands of FFDO missions flown every week and the number of incidents where weapons are lost or stolen in law enforcement activities.

COCKPIT DOORS

Questions. For 2 years, I was repeatedly told that it was not possible to devise an affordable system that would properly allow a pilot to leave the flight deck without also potentially allowing a terrorist to have access to the cockpit. Now, United Airlines has come forward and announced a “Secondary Barrier Project” that they have committed to install fleet-wide.

United Airlines has committed to install—fleet-wide—barriers that have already been certified to help prevent a potential terrorist access to the cockpit. They will be cheap (under \$10,000) and quick to install (overnight). I believe they will provide a much greater degree of security, and apparently it was shown to the TSA with great enthusiasm.

Are you aware of United’s effort? Do you believe the installation of second doors or barriers improve the security on commercial airliners? Has TSA considered re-

quiring all commercial airlines to install similar devices? Would their installation allow TSA to change other security directives and perhaps lower the cost of aviation security?

Answer. TSA is aware of and applauds United's initiative in this effort. TSA will work closely with the air carriers to better understand the security effectiveness, structural feasibility, and costs associated with installing similar devices throughout the commercial aviation fleet. Once a thorough examination in these areas has been completed, TSA will assess the appropriateness of requiring installation of secondary cockpit doors relative to existing security measures and determine what, if any, alterations should be made to the overall aviation security program.

RAIL SECURITY

Question. Border and Transportation Security Directorate is charged with, "securing our Nation's transportation systems." How much funding is planned in your Directorate's fiscal year 2005 budget for rail security?

Answer. The responsibility of securing our Nation's rail and mass transit systems is a shared one. DHS, DOT, and other Federal agencies are working together to enhance rail and transit security in partnership with the public and private entities that own and operate the Nation's rail and transit systems. The DHS Urban Area Security Grant program has awarded or allocated over \$115 million to improve security for mass transit and rail systems since May 2003. Additionally, the Administration has requested \$24 million for TSA to advance security efforts in the maritime and surface transportation arenas, and has requested that \$37 million of the Federal Transit Administrations Urban Security Bus grants be available for security related projects. In addition, DHS will conduct the following activities and initiatives to strengthen security in surface modes:

- Implement a pilot program to test the new technologies and screening concepts to evaluate the feasibility of screening luggage and carry-on bags for explosives at rail stations and aboard trains;
- Develop and implement a mass transit vulnerability self-assessment tool;
- Continue the distribution of public security awareness material (i.e., tip cards, pamphlets, and posters) for motorcoach, school bus, passenger rail, and commuter rail employees;
- Increase passenger, rail employee, and local law enforcement awareness through public awareness campaigns and security personnel training;
- Ensure compliance with safety and security standards for commuter and rail lines and better help identify gaps in the security system in coordination with DOT, with additional technical assistance and training provided by TSA;
- Continue to work with industry and State and local authorities to establish baseline security measures based on current industry best practices and with modal administrations within the DOT as well as governmental and industry stakeholders, to establish best practices, develop security plans, assess security vulnerabilities, and identify needed security enhancements; and
- Study hazardous materials (HAZMAT) security threats and identify best practices for transport of HAZMAT.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

Question. The Federal Law Enforcement Training Center (FLETC) established a temporary overflow training facility for basic training of Border Patrol recruits in 1996 at the old Navy Base. Border Patrol training needs drastically increased due to legislation passed by Congress to significantly increase the number of agents deployed.

The facility was due to close in 2004, however Congress included a provision in the fiscal year 2003 Commerce, Justice and State Appropriations Bill which officially designated Charleston as a permanent Federal training center absolving the end date of the Charleston site as a temporary facility. Congress also secured \$14 million in the fiscal year 2003 Commerce, Justice and State Appropriations Bill for the Charleston Border Patrol Academy to improve the infrastructure for the training center.

Since the Federal Law Enforcement Training Center (FLETC) has taken administrative control of the site in Charleston, how much of the \$14 million has been transferred from Customs and Border Protection to FLETC for use in Charleston?

Answer. A Reimbursable Agreement (RA) between the FLETC and Immigration and Custom Enforcement (ICE) has been prepared in the amount of \$13,896,000. The FLETC has signed the agreement with a statement of work attached and forwarded to ICE for approval. The Core of Engineers spent approximately \$104,000

for design prior to the administrative transfer of Charleston to the FLETC. A summary of the Charleston projects are:

- Construction of Tactical Training Mat Rooms for defensive tactics training;
- Renovation of new wing in Building 654 for administrative space for the USCG Marine Law Enforcement Academy;
- Renovation of four classrooms in building 61 for classroom space for the USCG Marine Law Enforcement Academy;
- Renovation of old wing in Building 654 for administrative, conferencing and training space for the FLETC and Partner Organizations' training management and operations staffs;
- Construction of Indoor Firing Range to provide training and re-qualifying students in firearms proficiency; and
- Construction of Security/Communications system that will allow FLETC Charleston to provide efficient and cost effective training while utilizing the latest state of the art technologies.

QUESTIONS SUBMITTED BY SENATOR PATRICK J. LEAHY

TSA

Question. I am very concerned about numerous reports of mismanagement I have heard with TSA Human Resources and its contractors, currently Accenture. I am aware of one Burlington, Vermont, Screener Manager and as many as 80 Screener Managers at Dulles who were promoted to their positions on February 9, 2003, yet they have still not received the full back pay for their promotions.

I have been waiting since November 6, 2003, for a written explanation as to why the Burlington, Vermont, employee has not received any back pay. Apparently, the Office of Chief Counsel is still reviewing the matter.

The best explanation I have heard so far—just informal, nothing in writing—was that the airports were not authorized to make all of the promotions on February 9, 2003, but went ahead and made them anyway. At best, this sounds to me like a big communications problem between TSA, its HR contractor, and the airports. At worst, this sounds like the employees were misled. Unfortunately, it is the people who have been performing the work who are getting the raw end of the deal.

Could you please update me on this situation and explain what is being done to remedy the back pay issue?

Answer. A reply to your letter regarding the constituent in Burlington was sent to you in March 2004. A copy of the letter, dated March 19, 2004, was faxed to your office on April 21, 2004. To summarize what TSA stated in the letter, we could not backdate your constituent's promotion because TSA policy stipulates that promotions do not become effective until they receive final approval by the necessary TSA officials. This policy is based in part on a U.S. Comptroller General precedent.

Taking care of our employees is a very high priority for TSA. It is very important to TSA that its employees receive the compensation for the jobs that they are performing and that those who were promoted to the Lead and Supervisory Screener positions were promoted appropriately. At Dulles, all appropriate promotions were made, and all one-time awards were paid. TSA believes that all of these issues at Dulles have now been fully resolved.

The issues involving lead and supervisory positions at Dulles resulted when screeners were offered promotions inappropriately. At the time this situation occurred, TSA was transitioning from its initial human resources service contractor to the current contractors and was building a fully functioning human resources organization, including program management of the contractors. Dulles posted job announcements internally for the positions of Lead Screeners and Supervisory Screeners with a closing date of December 20, 2002. Unfortunately, at that time, the FSD organization at airports did not have delegated authority to conduct recruitment and assessment processes, which includes the authority to promote existing employees at the airport.

TSA's Office of Human Resources did not become aware of the issue until May, 2003. TSA worked expeditiously to develop a solution whereby all individuals who were inappropriately promoted at Dulles were provided compensation with a one-time monetary award, consisting of the difference between their screener salary and the salary that they would have received for the period they were "promoted." Additionally, TSA "re-announced" the supervisory screener positions, and screeners who were inappropriately promoted were afforded full and fair opportunity to compete for the positions. TSA provided affected screeners the one-time award regardless of whether they succeeded or not in being promoted under the valid procedure.

HAITI

Question. I am concerned by the Department's response to those who have fled Haiti in recent weeks. Haitians intercepted at sea have received entirely inadequate screening for asylum. For example, while all interdicted Cubans are individually interviewed regarding their fear of persecution, only those Haitians who loudly protest their return—the so-called “shout test”—receive such an interview. I joined with Senators Kennedy and Durbin in writing to the President last week to protest and seek changes in this and other policies. (A) Will you provide individual interviews to all Haitians interdicted at sea? (B) Will you suspend deportations against Haitians currently in the United States until the political situation in Haiti improves?

Answer. Haitians manifesting a fear of return are and will continue to be interviewed by a USCIS Asylum Pre-Screening Officer (APSO). In accordance with Department of State direction, DHS will continue to conduct non-criminal Haitian removals.

DATABASE INTEGRATION

Question. The Washington Post yesterday editorialized about a report Inspector General Fine issued last week on the slow pace of the integration of IDENT and IAFIS, the fingerprint identification databases of the former INS and the FBI. The report examined the case of Victor Manuel Batres, a Mexican national with a criminal history who was twice simply returned to Mexico by Border Patrol agents whose database did not identify him as a wanted man. Batres eventually entered the country illegally, and then raped two nuns in Oregon, killing one. The Inspector General reported that the integration that would give Border Patrol agents access to the FBI database was 2 years behind schedule, and was not expected to be completed until 2008. Last week's report is the third OIG report in the last 4 years to highlight various aspects of this problem. (A) Why has progress on this issue been so slow? (B) When can we expect that Border Patrol agents will have access to the immigration and criminal histories in one database? (C) When will DHS enter into an MOU with DOJ about how this integration will happen?

Answer. The Department of Homeland Security is committed to accelerating implementation of IDENT/IAFIS 10 fingerprint capability for enforcement processing at ports of entry, Border Patrol locations, and Immigration and Customs Enforcement offices.

While we begin planning our implementation plan, we plan on using \$4 million of the remaining funds provided in Public Law 107–117 (fiscal year 2002 counterterrorism funding) for potential use for IDENT/IAFIS implementation. The \$4 million, when combined with fiscal year 2003 funds already provided (\$3.5 million obligated for IDENT/), will allow BTS to implement IDENT with 10 print capabilities in secondary processing areas at 115 airports, 14 seaports and 50 of the largest land border ports. In addition, this funding will support implementation of the IAFIS/IDENT 10 print capability at 70 percent of the Border Patrol stations. The remaining land ports of entry, 30 percent of the Border Patrol stations and major ICE locations (to be determined) will receive this capability early in calendar year 2005. Funding for fielding these capabilities is estimated to be approximately \$3 million, but a clearer estimate will be provided as the planning and implementations proceed. Completing the implementation of IDENT/IAFIS at Border Patrol stations will provide the capability to biometrically identify and/or perform status verifications on individuals suspected of illegally crossing the border. Implementation at ICE offices will support investigation of individuals apprehended for overstays and/or watch list hits.

The Department of Homeland Security will work with the Department of Justice to accelerate our integration into the FBI's IAFIS (10 print, criminal history) and the legacy INS IDENT (2-print, immigration) systems. An integrated workstation has already been developed. It has been deployed to a limited number of sites. DHS intends to complete deployment of this capability in 2005.

QUESTION SUBMITTED BY SENATOR PATTY MURRAY

Question. Thank you Mr. Chairman.

I'm pleased to join you, Senator Byrd, and the rest of our colleagues in welcoming Mr. Hutchinson today.

He has been handed a tough task in a very difficult time. I know he is committed to keeping our country safe, and I thank him for his leadership.

Mr. Hutchinson, the Federal Government—and specifically your Department—has done an admirable job of providing resources and training to help secure the threats

to our Northern Border. As a result of increased activity on the border, more individuals are being apprehended for crimes at or near the border but handed over to local law enforcement.

However, the prosecution, defense, court and detention costs are very high. And, our local governments have been left with the responsibility for providing law enforcement services to most areas at and near the international border.

One example from Washington State is Whatcom County and the City of Blaine—the areas that rests on the Northern Border of Washington State on Interstate 5. This community is responsible for 112 miles of border, including 89-miles of a shared land border with Canada and a 23-mile coastal border.

As you know, the Department of Homeland Security operates five land points-of-entry within the county. Additionally, there are three international airports and several marine ports of entry within Whatcom County's jurisdiction.

Mr. Hutchinson, terrorists, armed drug and weapons smugglers, and wanted fugitives regularly traverse residential neighborhoods at or near the border, creating huge threats to public safety and demands on local law enforcement.

In Whatcom County, more than 85 percent of all criminal apprehensions made by Federal law enforcement agents at or near our border are turned over to the county. In fact, last year Whatcom County spent approximately \$3 million on Federal deferred cases, and this year they estimate their costs will rise to \$4 million.

In these difficult fiscal times for local communities these extra burdens are having serious impacts on their budgets. But unlike the communities of Buffalo and Detroit, my small, rural county is staggering under the increased pressure on its budget.

Mr. Hutchinson, the Southwest Border Initiative provides financial support to communities along the southern border who are experiencing this very problem. However, Whatcom County, which is the least populated northern border county with a major crossing has seen no such relief.

I can't stress to you enough the impact \$4 million has on a community of this size.

I believe a similar program should be established for Northern Border States, particularly those State that have high traffic volumes, such as Washington State.

Mr. Hutchinson, are you aware of this inequity between southern and northern border communities, and how is your Department prepared to help?

Answer. Senator Murray, thank you for bringing this important issue to my attention. As you know, some of the initiatives undertaken to improve homeland security have produced unintended consequences. Tighter border security should lead to more interdictions and arrests. But, while the National Strategy for Homeland Security specifies that costs and performance are to be a shared responsibility, we certainly are not advocating that local jurisdictions take on a disproportionate share of the burden in that regard. Therefore we welcome your reports that outline these potential inequities. I understand that the U.S. Attorney and our ICE officers have met with your county officials to find a more balanced approach to performing this important workload, including the prospects that the arrestee's initial appearance occur in the Bellingham Magistrate's Court. While those potential solutions may not lead to the full relief sought, they are a step in the right direction while the Federal budget addresses this increased workload.

SUBCOMMITTEE RECESS

Senator COCHRAN. Our next hearing of the subcommittee on the budget request for the Department of Homeland Security will be held on Tuesday, March 23 in this same room. At that time the Commandant of the United States Coast Guard, Admiral Thomas Collins, and the Acting Administrator of the Transportation Security Administration, Mr. David Stone, will be here to discuss the budget request for the programs under their jurisdictions.

Until then this subcommittee will stand in recess.

[Whereupon, at 11:47 a.m., Tuesday, March 9, the subcommittee was recessed, to reconvene at 10 a.m., Tuesday, March 23.]