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OVERSIGHT OF THE U.S. DEPARTMENT OF HOMELAND SECURITY

HEARING

BEFORE THE

COMMITTEE ON THE JUDICIARY UNITED STATES SENATE

ONE HUNDRED ELEVENTH CONGRESS

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OVERSIGHT OF THE U.S. DEPARTMENT OF HOMELAND SECURITY

WEDNESDAY, DECEMBER 9, 2009

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Committee met, Pursuant to notice, at 10:09 a.m., in room SH–216, Hart Senate Office Building, Hon. Patrick J. Leahy, Chairman of the Committee, presiding.

Present: Senators Leahy, Feinstein, Feingold, Schumer, Cardin, Whitehouse, Klobuchar, Specter, Franken, Sessions, Kyl, and Cornyn.

OPENING STATEMENT OF HON. PATRICK J. LEAHY, A U.S. SENATOR FROM THE STATE OF VERMONT

Chairman LEAHY. Good morning. I thank everybody for being here, and I welcome Secretary Napolitano back to the Committee for her second oversight hearing since her confirmation in January. In the first several months of the Secretary's tenure at the Department of Homeland Security, we have seen some marked changes in the way that immigration enforcement and domestic security are conducted, reflecting a new approach that I hope will serve us well as we consider broader immigration reform legislation in the new year. And I know that Senator Schumer as Chairman of the Subcommittee will be working on that, and we will try to have immigration reform legislation.

We often hear that we cannot begin comprehensive reform of our immigration laws until we have won control of our borders. Well, since the Senate last considered immigration reform—and many of us, Republican and Democratic members alike, worked with the former President, George W. Bush, to try to get comprehensive reform, and I several times publicly applauded him for his efforts on that. But most of the enforcement benchmarks and triggers included in prior legislation have been substantially met. Indications are that illegal immigration has receded. And, Madam Secretary, we commend you and the men and women of the Border Patrol for their extraordinary efforts.

The Department is also now acting more pragmatically and effectively to deter employers from hiring immigrants who are not authorized to work in the United States by conducting targeted audits and, where appropriate, laying the groundwork for meaningful prosecution of employers that flout the law. While the prior administration launched large-scale worksite immigration raids, disrupting business operations and often depriving arrested workers

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of due process—I think that was an overreaction—Madam Secretary, you have adopted a sensible approach to immigration enforcement. It probably reflects your significant experience as a prosecutor before you were here, and as a Governor.

Sensible enforcement of current law will not by itself solve our Nation's immigration problems, and we do need reform, and comprehensive reform.

An example from my home State of Vermont demonstrates how badly we need broad-based reform of our immigration laws. Three weeks ago, at least four Vermont dairy farms were visited by Immigration and Customs Enforcement agents as part of a nationwide workplace immigration audit. Vermont dairy farmers are law-abiding people. They want to respect the law. They want to hire lawful workers. But they struggle to find American workers and—unlike other agricultural businesses—they are not eligible to hire temporary foreign workers under the H2–A visa program. We do hire temporary workers in Vermont for apple picking and things like that. Unfortunately, on dairy farms, you need them year round. You cannot tell the cows, "We will be back to milk you in 6 months." It just does not work that way. So the result is that many dairy farmers are forced to choose between their livelihood and adhering faithfully to our immigration laws. And I have urged the Department of Labor to modify the H2–A program in its current rulemaking process, and I continue to fight for enactment of the AgJOBS legislation. I would urge you, Madam Secretary, to support these.

Another example again from Vermont demonstrates how we can use our immigration laws to promote job creation and foreign investment in the United States. At a hearing in July, we saw how the investor program known as EB–5 Regional Center Program is bringing millions of dollars of foreign investment into the State of Vermont and helping create jobs in places like Jay Peak. And I want to commend Senator Sessions, who has been a strong supporter of the EB–5 process. We have worked together on legislation on this. And I want to thank the Secretary for the Department's recent approval of an expansion of the EB–5 Regional Center program in Vermont. I have long advocated making this a permanent program. We have extended it for another 3 years. I think it should be permanent. It has worked across the country in Alabama, Iowa, New York, Maryland, Oklahoma, California, Illinois, Pennsylvania, South Carolina, Vermont, Wisconsin, and, of course, Vermont. It creates jobs.

We also have to have immigration laws that are fair, humane, and reflect our American heritage. On that score, I appreciate the steps Secretary Napolitano has taken to begin to reform the shameful condition of our immigration detention system. We should have systemic reform, including enforceable standards of detention conditions, internal and independent oversight, broader use of secure and humane alternatives to detention, and expanded access to legal counsel for the detained.

We want America to live up to our ideals in welcoming and protecting asylum seekers and refugees. The Department has made progress in resolving the harm to genuine refugees caused by the overly broad application of the material support bar. We all say we

are a Nation of immigrants. My maternal grandparents immigrated here from Italy, my paternal great-great-grandparents from Ireland. That is what makes this country what it is. But more still needs to be done. I urge the Secretary to act swiftly to issue regulations on severe gender-based persecution as a basis for asylum claims. The landmark case in this area, *Matter of R-A-*, has now been pending for 14 years. We need regulations in place to protect other victims.

But I want to commend the Secretary for working in a constructive manner to address the impending December 31st REAL ID compliance deadline. The residents of States that are not materially compliant with REAL ID may otherwise be denied access to airplanes and Federal buildings. The National Governors Association stated last month that as many as 36 States may fail to comply by December 31st. I can just think of thousands of Americans from these States have IDs that will get them on planes to go visit relatives over Christmas, and if there is strict enforcement of the laws, when they come to fly back home, they will be told that they cannot.

Senator Akaka introduced and I cosponsored a bill called PASS ID, which makes reasonable alternatives to REAL ID. The bipartisan National Governors Association supports this bill. The PASS ID bill awaits action on the Senate floor, although there has been an anonymous hold on it. I hope that that hold will be lifted. If it is not, I suspect whoever is doing the holding, it will become clear, and when thousands and thousands of irate people from that Senator's State start calling in, we will be sure to direct the calls to the right place.

Senator Sessions.

STATEMENT OF HON. JEFF SESSIONS, A U.S. SENATOR FROM THE STATE OF ALABAMA

Senator SESSIONS. Thank you. Madam Secretary, thank you for being with us. You have one of the great large departments in our country. Not too long ago, we cobbled it together. It takes some strong leadership from the top, and you have the background that would qualify you for that, and we want to be supportive when we can and provide the oversight that we are required to provide.

The primary mission of the Department is to lead a unified national effort to secure America to deter terrorist attacks and protect against threats. I believe Attorney General Holder, who testified before us not long ago, his decision to bring Khalid Sheikh Mohammed and other terrorists to New York City for civilian trials is an action that makes your mission more difficult. Bringing foreign nationals into the United States allows them to take advantage of immigration laws and assert various rights in Federal courts, though at our last Department of Justice oversight hearing, the Attorney General seemed unfamiliar with these consequences when asked about them. So I would hope that you can clarify that for us today and see what we can do about this action that I think would bring into our country some very dangerous people and has the potential of resulting in their being released in the United States.

A major component of your mission is securing of the Nation's borders, deterring those who would attempt to enter illegally, and

finding and removing those who have come here in violation of law, while facilitating entry of legal immigrants and visitors in a fair and timely manner. So I am disappointed by some of the actions that you have taken that I think undermine the enforcement measures for those in the country now illegally, which I think is critical to curbing illegal immigration in this country.

At a time when the unemployment rate is 10 percent, I believe it is not responsible to invite or allow illegal workers to take jobs that should be available to American citizens and legal immigrants.

Now, by pushing for the legalization of an estimated 12 million people here illegally or by turning a blind eye to the estimated 11.8 million illegal workers who are now displacing Americans from jobs, I believe that your policies are not helping.

Earlier this year, I told the President at a meeting that we had there that there should be a real possibility for us to reach an agreement on a number of important immigration issues. The American people, however, cannot accept and will not accept another bait and switch like the 1986 bill, where it, in effect, provided immediate amnesty to millions of people who had entered illegally in exchange for promises in the future for enforcement that never occurred. So I do think it is important that we demonstrate and you demonstrate enhanced and improved enforcement if we are going to be able to ask the American people to support any kind of comprehensive bill in the future.

We have, I am pleased to say, made some important strides in securing our borders, and I know the Department took some effective steps in the final years of the Bush administration to strengthen interior enforcement. Through the construction of fencing and increased Border Patrol agents, we have seen a dramatic reduction—really, a significant reduction in the amount of apprehensions at the border. I hope and believe this indicates that fewer people are trying to enter illegally. In fact, the number of people caught illegally attempting to enter the United States dropped by more than 23 percent in 2009, and the 556,000 apprehensions made in 2009 represents an almost 50-percent decrease from the 1.1 million arrests made at the border in 2005–2006.

The Department of Homeland Security has completed over 340 miles of pedestrian fencing and almost 300 miles of vehicle barriers, and this in addition to almost doubling the amount of Border Patrol agents since 2005.

So these are developments that have been critical to this progress, but to be frank, the leadership did not come from the executive branch. It came from Congress and the American people who insisted that these things be done.

The fact is that the current DHS policies are systematically weakening, I think, our interior enforcement, and we need to talk about that. I believe that the American people rejected this philosophy in 2006 and 2007, and we need to be able to assure the American people that laws will be enforced and that we are not going to just look the other way. Faith in the system is eroded and a message is sent worldwide when we fail to enforce our laws, and the message is if you can just get into this country you are safe, do not worry about it, sooner or later they are going to give you a legal status.

Worksite enforcement has been in free fall under your leadership. Based on statistics released from ICE, administrative arrests inside the country pursuant to worksite enforcement actions have fallen 68 percent since 2008 to 2009, just in that period of time. Criminal arrests have fallen 60 percent, criminal indictments have fallen 58 percent, and criminal convictions have fallen 63 percent. So I think the dramatic reduction in worksite enforcement efforts is not healthy, and it is not going to be made up by I–9 audits, which have not proved historically to be effective.

Under current policies, DHS has rescinded the no-match rule, weakened the 287 Local Law Enforcement Cooperation Program, and pressed for passage of a bill that would unacceptably weaken the REAL ID Act. These actions are troubling because they indicate the administration is saying that if illegal aliens are able to get into our country, they will not be bothered. So this is, I think, a wrong policy and a wrong message.

This country is a Nation of immigrants. We do welcome millions of people, the millions each year who follow the law and enter our country through the lawful channels. This country is a Nation also of laws, and we cannot refuse to enforce those laws. It undermines respect for the great tradition and heritage of American law.

So I look forward to discussing these issues with you during the hearing. They are important questions. I really and truly believe that we have an opportunity to continue to make progress in immigration far greater than a lot of people have thought, and at this time of surging unemployment, I think it is important that we do so.

Thank you for your work. Thank you for the skills and talents you bring to the office, and I look forward to working with you in matters on which we can agree and to raising matters where we do not agree.

Thank you.

Chairman LEAHY. Thank you, Senator Sessions.

Madam Secretary.

STATEMENT OF HONORABLE JANET NAPOLITANO, SECRETARY, U.S. DEPARTMENT OF HOMELAND SECURITY

Secretary NAPOLITANO. Well, thank you, Chairman Leahy, Senator Sessions, members of the Committee.

Securing our borders and enforcing our immigration laws remain top priorities for the Department of Homeland Security. Over the past year, we have taken unprecedented action to achieve our goals, and the results have been striking. As part of the Southwest Border Initiative, we have added more manpower, technology, and resources to the border. We have implemented a southbound strategy to prevent illegal weapons and cash from crossing the border into Mexico and supporting the large drug cartels there, and we have expanded our partnerships with our Federal, State, tribal, and local partners along the southwest border and with Mexico and Mexican law enforcement.

Compared to last year, seizures in all categories—drugs, smuggled cash, illegal weapons—are up dramatically as a result of the southbound strategy.

As noted, apprehensions are also at decade lows, down 23 percent this year. And, Senator Sessions, I agree with you; interior enforcement is part and parcel of immigration enforcement. We have in the last year identified and removed criminal aliens, fugitives, and gang members at record numbers. In fiscal year 2009, ICE removed a record number of illegal immigrants, 387,000, of which 136,000 were criminal aliens.

Secure Communities, which we are expanding throughout the law enforcement agencies in the United States, that checks the biometrics booked in local jails identified more than 111,000 criminal aliens just in its first year.

We have improved oversight of the 287(g) program and renegotiated the agreements there to make them more effective.

We have enhanced and expanded E-Verify. This is also part of interior enforcement. Over 175,000 employers at more than 600,000 worksites are using the system, with thousands more joining every week. And that is important because that provides a way for the American worker to know that the legality of workers is being checked.

We have taken action to reform the immigration detention system to ensure that those in custody are treated humanely, given appropriate, timely medical care. We are improving Federal oversight and management, including more direct supervision of detention facilities by ICE. We are also developing strategies for alternatives to detention to be used where appropriate.

These efforts are part of our enforcement, but as you both noted, we also facilitate the legal entry into the United States, and, Mr. Chair, I had the honor of being at Ellis Island last Friday and swore in 140 new citizens to the United States, including 10 active-duty military, and that is one of the great pleasures of being the Secretary of Homeland Security. And while I was there, they gave me the ship register where my grandfather came over and immigrated. So it just illustrates once again that we are a Nation of laws and a Nation of immigrants.

With respect to that, we have eliminated the name check backlog at USCIS. We have launched a very customer-oriented website. We also have eliminated the so-called widow's penalty and other things that were not consistent with our overall immigration values.

Finally, we have continued to ensure that lawful travelers and commerce move across the borders swiftly and securely. WHTI has been fully implemented at land, sea, and air ports. Compliance remains very high, above 95 percent. We are strengthening US–VISIT.

And then, lastly, on the issue of the driver's licenses, the 9/11 Commission recommended that there be more secure provisions surrounding the issuance of driver's licenses. There was a provision tacked onto an appropriations bill called REAL ID to do that. Unfortunately, it was tacked on without adequate consultation with the States who have to administer the driver's license program. Working with the National Governors Association, working across party lines, PASS ID was developed. I urge you to see if you can move this legislation forward. This deadline is fast approaching, and as, Mr. Chairman, you noted, this is something, even if we extend the deadline, we have not furthered the 9/11 Commission re-

port, which is to get to a more secure driver's license system. So it is something——

Chairman LEAHY. But you do support the PASS ID?

Secretary NAPOLITANO. Oh, absolutely. And we are very interested—and I think the national security, as we build the architecture of it, requires that we take on that recommendation and move the issues forward.

Finally, we need to know—or we look forward to working with you on immigration reform. The President is committed to that. He is committed to reform that includes serious, effective, and sustained enforcement, that includes improved legal flows for families and workers, and a firm way to deal with those already illegally in the country. We need to demand responsibility and accountability from everyone involved—the Department of Homeland Security, our law enforcement partners, businesses who must be able to find the workers they need here in America, and immigrants themselves—as we enforce the law moving forward.

So I look forward to working with you, Mr. Chairman, Senator Sessions, and others on this Committee to develop a path forward early next year to reform the immigration system as a whole.

Thank you, Mr. Chairman.

[The prepared statement of Secretary Napolitano appears as a submission for the record.]

Chairman LEAHY. Thank you very much. We are going to go a little bit out of order. Senator Schumer has asked to ask one question. He has to go to a meeting for the White House. I have already discussed this with Senator Sessions, so, Senator——

Senator SCHUMER. Thank you, Mr. Chairman. Thank you, all my colleagues on both sides of the aisle, and thank you, Secretary Napolitano. Just a brief question. This is on WHTI, the Western Hemisphere Travel Initiative. It went into effect on June 1st. In Buffalo, New York, and around our northern border, we have seen a precipitous drop-off in border crossings, and a good part of it, at least the people up there believe, is just because of lack of education.

The Canadians believe they need a passport to travel across the border. Obviously, they do not. WHTI was put together to make it easy to travel across the border. But the problem is they believe that, and a good number of our Americans believe the same.

Western New York, Buffalo, depends on cross-border traffic. It is probably the No. 1 thing in its economy.

So all I am asking you here today is: Would you be willing to work with me and commit to working with you and your Canadian colleague to get an education campaign on both sides of the border, informing people what the requirements are of WHTI, that you do not need a passport, and that it is not very hard to travel across the border? Because it is hurting our economy up there pretty badly.

Secretary NAPOLITANO. Senator Schumer, yes. In fact, we have had an extensive education campaign for several months up there, including when people get to a crossing point, they are given a tear sheet saying, "This is all you need to do, and you can go over here and get your WHTI card right there"—one-stop shopping, as it were.

Senator SCHUMER. Right.

Secretary NAPOLITANO. But we are more than willing——

Senator SCHUMER. Yes. The problem is the people who do not go because they think they need a passport, they know a passport costs money. Less than a third of Canadians and a slightly higher—less than a third of Americans and a slightly higher percentage of Canadians have a passport, and it has retarded travel. So we need to get that education to the people who have not gone across the border, and if you could help us with that and work with your Canadian colleague, it would be most welcome.

Secretary NAPOLITANO. We would be pleased to do so.

Senator SCHUMER. Mr. Chairman, my colleagues, thank you.

Chairman LEAHY. Thank you. I hear the same questions in Vermont. Many of us go back and forth to Canada as though we are going to another State, and it does affect commerce considerably on both sides of the border. And others have, as my wife does, family members in Canada, and I do not say this just as a personal thing, but I know somebody—hundreds and hundreds of people in our State of Vermont who do, and it becomes an issue with families. So the education, to the extent we can get the Canadians to do the same, would be very helpful.

Apparently, TSA, the Transportation Security Administration—and you and I discussed this before you came in—reportedly posted an airport screening manual online last spring that detailed procedures for screening passengers, how certain materials could be masked and so on. They described the settings for x-ray machines and explosives, listed the countries from which passport holders would be subject to greater scrutiny. Apparently, TSA learned of this last Sunday after a blogger put it on the Internet. Then they initiated an internal review.

Who should be held accountable?

Secretary NAPOLITANO. Well, first of all, Mr. Chairman, let me say two things about the posting itself, and that is that the security of the traveling public has never been put at risk, and that the document that was posted was an out-of-date document. Nonetheless, the posting of it did not meet our own standards for what should be available on the Net and not available on the Net.

So we have already initiated personnel actions against the individuals involved in that. We have already instituted an internal review to see what else needs to be done so that the incident never recurs. And I have directed that not just at TSA but we do a review departmentwide on all of our components, because as you know we have got one of the biggest departments around, to make sure that we are being rigorous and very disciplined on what is posted and what is not.

Chairman LEAHY. Am I correct that this involved a contractor?

Secretary NAPOLITANO. The individual involved was a contractor. Some of the supervisors ultimately were in TSA. I should also say that with respect to this particular incident, we have also asked the Inspector General to do his own independent review to supplement and complement what we are doing.

Chairman LEAHY. Thank you.

This week, new terrorism-related charges were filed in the case against David Headley, a U.S. citizen who was originally arrested

for conspiring to commit terrorist attacks in Denmark, but now he has been charged with helping to plan the deadly Mumbai attacks in India last year. And there have been a number of arrests within the United States of persons charged with plotting attacks. I am not asking you to go into individual cases, but as you can imagine, this raises a great deal of concern among Americans if we have people plotting attacks from the United States even though they may be conducted outside the United States, because it is just as easy to plot such attacks and plot them inside the United States.

How do we and how does DHS plan to contribute to confronting the problem of homegrown terrorism in a targeted, effective manner? I mean, how much coordination goes on here? We know that 9/11 could have been stopped before it happened if all the dots had been connected. I am not going to go back and rehash who dropped the ball there, but how do we make sure we are not dropping the ball today?

Secretary NAPOLITANO. Well, Mr. Chairman, with respect to Headley, I will keep my remarks restricted just on the nature of the case, and it is in the justice system, as you yourself noted. But we coordinate and are coordinating very extensively with the FBI, the CIA, the DNI, and other intelligence agencies in terms of cases that emanate from abroad and threats that now emanate from the interior of the United States.

Second, we are increasing our sharing of information to State and locals. Those are eyes and ears, local law enforcement, that need to be more fully engaged and employed in watching for those who would seek to do us harm and have the information, the situational awareness to do it.

One of the ways we are doing that, Mr. Chair, is through support of fusion centers across the country.

Chairman LEAHY. The support of what?

Secretary NAPOLITANO. Of fusion centers, where we have Federal, State, and local law enforcement collocated. And to give you some nuts and bolts, one of the problems we are working through there or one of the challenges is security clearances so that people can get information at top secret and above levels, and that is a process that is underway right now.

And, last, we are really asking the American people to lean forward and at the individual and at the business level and community level, wherever, to recognize that our security is really a shared responsibility and that there are things that can be done at all levels, even as we work at the DHS to prevent something from occurring.

Chairman LEAHY. I agree with you it is important for just the average person to come forward with things. But then we have got to make sure the word gets throughout the Government. I mean, 9/11 could have been totally avoided. There had been warnings from at least one FBI agent to Washington about the concerns he had with the people who were getting the flight lessons, and he was told, "Well, that is above your pay grade. We have got it under control," and nobody did. And it really worries me that that could ever happen again.

Now, one issue, totally different, on which I hope you can be of help—and I mentioned this in my opening statement—is the H2–

A agricultural worker visas. I would like to have them available to dairy farm workers. The fact that dairy farmers cannot use this program is a problem. It makes little sense when you consider the reason for H2–A visa programs. And now it is not a problem just in Vermont. It is a problem in Wisconsin. It is a problem in every State that has a dairy industry. I have commented formally in the Department of Labor's H2–A rulemaking process. I have written to Secretary Solis about this.

H2–A rules would permit sheepherders on a western range to obtain H2–A visas even though the jobs are exactly what prevent dairy farmers from obtaining workers, and that is really not fair. I am not suggesting we cut it out for them by any means, but will you give serious consideration to addressing this issue with the Secretary of Labor to encourage the Labor Department to make the rules necessary on the H2–A program?

Secretary NAPOLITANO. Mr. Chair, yes, and we have been working with the Department of Labor. The issue presented is whether through rule or reg we can fix this issue for the dairy farmers under H2–A or whether there will actually need to be a statutory change. And the lawyers are looking at that issue right now.

Chairman LEAHY. God bless the lawyers. But we do want a solution one way or the other as soon as we can.

Secretary NAPOLITANO. Agreed.

Chairman LEAHY. Thank you.

Senator Sessions, and, again, I appreciate your courtesy.

Senator SESSIONS. Thank you. And I know Senator Leahy is always working to be effective in helping his constituents, and there are some problems with the farm worker policies that we have. Let me just say fundamentally what I think we have a problem with.

Under the last two proposals of comprehensive reform, it basically allowed people to come to work temporarily for 3 years, to bring their family, and then opt to re-up again. That clearly is not a strategy that would be effective in the sense that it has no real potential to see them return home. They put down roots. Their children start going to school. So if we are going to have an ag program, I think it clearly has to be on a temporary basis where, if a person wants to come for a season or in the case of dairies, maybe they would have two people come and work 10 months each or something of that fashion. But the idea that we would call a temporary working program a program in which people come for multiple years with their families, with the ability to extend, is really an immigration policy, and puts us in a very difficult position.

There are so many tough questions on these immigration issues, but that is one of the matters that I think we have got to get our thinking correct about.

Madam Secretary, I was troubled, I raised with your earlier, about your statements in a Washington State workplace investigation, and you said that you were going to get to the bottom of it. And the way I understood it, the message you were sending was—and I told you that—that you did not want those raids, you did not want agents out doing what the law requires, and that is, to investigate businesses who have large numbers of people who are here illegally. And statistics by ICE show that administrative arrests of

illegal immigrants are down 68 percent, and that is the category I am talking about. Criminal arrests are down 60 percent, criminal indictments are down 58 percent, and criminal convictions are down 63 percent last year. The only activity that has increased is the amount of requirements under the I–9 audits. Such audits, which were a fixture of INS policy during the Clinton administration, are widely considered to be ineffectual. The fines that businesses face are small and too small to deter the activities that we are concerned about.

In addition to focusing on paperwork issues, the administration has repeatedly refused to take into custody or deport illegal aliens found working when you do the investigations.

In one high-profile case, for example, American Apparel, a notorious Los Angeles-based immigration scofflaw garment manufacturer, they were allowed to terminate hundreds of illegal employees in a series of small weekly dismissals, and the illegal aliens were allowed to walk free and in a way that would allow them to seek employment elsewhere.

A recent story on Minnesota Public Radio recounts a similar practice where 1,200 illegal aliens were found employed in well-paid janitorial jobs, but instead of detaining and deporting them, the officials went to great pains to assure the public that they were not being arrested.

When we spoke about worksite enforcement at the last hearing, you told me, "We continue worksite enforcement," and "we continue all our enforcement actions, and we will very vigorously."

In your written response to questions for the record, you also stated ICE's new worksite enforcement strategy would "target employers who knowingly hire illegal labor, while continuing to arrest and remove illegal workers." You promised that, "Worksite enforcement operations will continue, administrative arrests of illegal aliens will occur, and ICE will conduct worksite enforcement investigations of any business, regardless of size, that is suspected of knowingly employing unauthorized workers."

So how do you square those statements with the numbers that indicate a significant reduction in enforcement actions?

Secretary NAPOLITANO. Well, Senator, I am glad to answer those questions because I think it is important to emphasize all of the work that has been done on the interior of our country to enforce the immigration laws. And just let me repeat, this year, since I have been Secretary, ICE removed a record number of illegal aliens and a record number of criminal aliens. And what we are doing is really focusing on those in the interior of the country who have broken the law and also those who impact the public safety.

Now, with respect to worksite enforcement itself, we have—and if we have not supplied you with these numbers, I would be happy to do that—a record number of businesses and individuals debarred from Federal contracting for immigration violations; a record number of notices of intent to fine—and I agree with you, the fines are too low. It is one of the things that I hope that Congress will take a look at when it addresses immigration reform—final orders to cease violations at record highs. We have literally done dozens and dozens of worksite enforcement, and I think one of the key differences that I would like to emphasize is almost a change in in-

tent as we go into a worksite. When we go into a worksite, our focus, our intent now is to go after the employer him- or herself, themselves, because they are creating the demand, and you have to deal with immigration as a supply and a demand issue.

That is difficult under the current law, I will say, because the current law does not give us some of the enforcement tools we would like to do that. But that is why I think you have to look at all of the numbers, not just a few, to see that there has actually been more worksite enforcement this year than in prior years.

And, last, I would reiterate E-Verify. E-Verify is a fast-growing system. It is a way that is easy. It is continually being built, improved, what have you, for employers to verify that the employees that they are hiring are here in the country legally. And I hope to keep driving the immigration system as a whole toward employer use of E-Verify.

Senator SESSIONS. Thank you. The border area is very important, and progress is being made there. But we do need to reduce that jobs magnet, particularly in a time of record unemployment for our country.

Secretary NAPOLITANO. I agree.

Chairman LEAHY. Thank you, Senator Sessions.

Senator Feingold.

Senator FEINGOLD. Thank you very much, Mr. Chairman. Madam Secretary, thank you for being here.

FEMA has now obligated $44 billion in response to Hurricanes Katrina, Rita, and Wilma since 2005. However, according to the Excluded Parties List System, the EPLS database, FEMA has not suspended or debarred a single contractor. Does this mean that your Department maintains that no FEMA contractor has committed fraud during the reconstruction efforts or otherwise?

Secretary NAPOLITANO. Senator, let me have the opportunity to take a look into that and give you a more thoughtful response later.

Senator FEINGOLD. Do you have any initial sense of——

Secretary NAPOLITANO. I have made no such conclusion, but I do not know whether there are any actions that are underway, and that is what I would like to check for you.

Senator FEINGOLD. Well, I would very much appreciate that response and really would like to know if this EPLS database is being used properly, if, in fact, there have been fraud investigations. And if not, I would like to know why not.

Secretary NAPOLITANO. Fair enough.

Senator FEINGOLD. In August of this year, the Department issued new policies governing searches of travelers' electronic devices, such as laptops or iPods, at the border. I am deeply disappointed with the policies the Department adopted and, in particular, the refusal to adopt any sort of standard for searching U.S. citizens at the border.

Madam Secretary, in addition to the inconvenience they cause international business travelers, these policies also do nothing to assuage concerns that the Department could be engaging in racial profiling when it conducts these border searches. This is unacceptable, and that is why I am planning to reintroduce the Travelers' Privacy Protection Act in the coming months. I have been told that

the Department was at least attempting to increase oversight and transparency related to these searches, but given the vastly different standards that are laid out for ICE and CBP under the two policies, it is unclear whether even that goal has been accomplished.

The two policies, when read in tandem, seem to create a series of loopholes that would allow these electronic devices to be held and searched for long periods of time without requiring a showing of probable cause.

For example, isn't it true that CBP agents have to obtain supervisory approval to keep a laptop for more than 5 days, but an ICE officer does not have to obtain any additional approvals to hold and search a laptop for up to 30 days?

Secretary NAPOLITANO. Well, but we are talking about seizures at the border, and that would be conducted by CBP.

Senator FEINGOLD. That is my point, though. Isn't there a differential between the two agencies with regard to laptops or iPods, depending on the agency?

Secretary NAPOLITANO. Senator, yes, but I think we would differentiate based on the different types of investigations that each of those components perform.

Senator FEINGOLD. As I understand from discussions with your staff, it is really ICE officers who are conducting all in-depth searches of electronic devices and, hence, it is the ICE policy, not the CBP policy, that would apply. Is that correct?

Secretary NAPOLITANO. I would have to have a greater context. I think we have to step back and look at what is it that we are doing from a law enforcement perspective. First of all, we have changed the policy with respect to search of electronic media, particularly the laptop. That was the genesis of the original set of questions I think that you posed at my oversight hearing a few months ago. That policy was revised significantly to have more supervisorial oversight.

The plain fact of the matter is that we seize electronic media; sometimes ICE seizes it in conjunction with a criminal investigation; sometimes the Secret Service seizes it in conjunction with a criminal investigation. But the concern was raised with respect to business travelers who are traveling internationally being stopped at the border, and that is the policy that we have revised, provided more supervisorial import.

But I also have to say, as someone whose agency is responsible for the counterterrorism mission, or partially responsible for it, that this is an important capacity for us to have as a law enforcement matter.

Senator FEINGOLD. I do not doubt that at all, but I am looking for some appropriate trigger for this kind of search, which I think is serious business, and for consistency between the different agencies.

Secretary NAPOLITANO. Senator, if I might, at the border the law has been for many years now that the reasonable suspicion standard does not apply for somebody entering the country and at the border. And if the question is why don't you apply the same standard at the border as is done in the interior of the country, where you would have to have a higher standard, the answer is because

entry into the country is something that is not viewed as an absolute right, and that is why the law in that area differentiates the standards for search.

Senator FEINGOLD. Madam Secretary, we will continue to discuss that over time.

Over the last several years, DHS has substantially increased its reliance on state and local law enforcement authorities to enforce federal immigration laws, including recent expansion of 287(g) partnerships with law enforcement and the Secure Communities Program. Both of these programs have stated that their goal is to remove dangerous criminal aliens from local communities, and yet there have been numerous reports of widespread abuse of these programs by law enforcement, including selective enforcement of certain laws against Latinos and other minorities and pre-textual traffic stops and other arrests for minor violations. I think this is unacceptable, especially because most of the law enforcement communities that have signed on to these agreements do not have policies prohibiting racial profiling.

I understand that DHS has tried to address some of these concerns by coming up with a standard 287(g) agreement that will require law enforcement to prosecute any charges that they file against an individual they arrest, but I do not think this will get at many of the concerns civil rights groups have raised about arrests for minor traffic offenses and immigration-related charges.

So if the goal of these programs is to prioritize the arrest of dangerous criminals, why not set clear guidelines that limit arrests and referrals to felonies?

Secretary NAPOLITANO. Senator, in effect, that is what has happened, because what we did is we took 287(g)—and, by the way, we still have—there has been some suggestion made that we have reduced it. No. We have refocused it on two areas. One is in the jails, to run immigration checks in the jails, and that way it and Secure Communities are complements of each other. And second is in conjunction with Federal task forces whose priorities are Federal fugitives and felony gang members—you know, the higher-level criminals who impact public safety.

Senator FEINGOLD. Well, if that is the effect, why not have the guidelines say that?

Secretary NAPOLITANO. Well, Senator, I think that that in effect is what happens, and those agreements now have all been renegotiated and signed.

Senator FEINGOLD. Well, I would urge that the guidelines reflect that purpose, which is to get at the more serious offenses. But I thank you for your answers.

Chairman LEAHY. Thank you.

Senator Kyl.

Senator KYL. Thank you.

Madam Secretary, Governor, thank you for being here. You spoke earlier about the TSA breach. I applaud you for adding an IG review to that. Could I also make another recommendation? That is, when breaches like this occur in the intelligence community—CIA, for example—they do a damage assessment by a red team, by somebody not within the agency itself, to determine what advantage a potential inmate could have gotten from the information,

and then usually make recommendations about what procedures or other actions are necessary to ameliorate that damage.

If you have not decided to do that already, could I recommend that you do that and, when it is done, provide the Committee with a classified version of the report? And, by the way, ordinarily these things are best done really quickly. Any comment?

Secretary NAPOLITANO. Senator, yes, that is something we have been looking at. I think my first question has been, well, what exactly was put out there that was not otherwise available, either by observation of an airport checkpoint or the like. But, indeed, if it is ascertained that there was some serious information not otherwise available that was put out, I think the red-teaming issue is something I would consider, absolutely.

Senator KYL. Well, just from public reports, there are clearly things you do not want out there—spelling out the settings on the x-ray machines and explosive detectors, passenger and luggage screening details, pictures of credentials that are authorized, those kinds of things. Clearly, somebody could take advantage of those things, and I think it is really important that not Department of Homeland Security but somebody outside the Department make that evaluation.

Secretary NAPOLITANO. Right, Senator. I think that is one of the genesis for the IG taking a look at it, and it is a suggestion I am happy to entertain.

Senator KYL. Please. Secondly, you know of my support for something called Operation Streamline, a method by which you deter illegal immigration by charging those who repeatedly cross the border illegally with misdemeanor offenses and ensuring that they have jail time. There are two basic questions I want to ask you about that.

First of all, I was disappointed that the only mention in the conference report of this is a report that I had asked to be done to determine what resources both your Department and DOJ would need to make available to maintain and expand this program. It has been very effective in two areas that I know of, and my understanding is that it has had a rocky start in the third: Del Rio, Texas; Yuma, Arizona, both very, very effective; Tucson sector I do not think has been fully implemented, and I think part of the reason may be a lack of detention space. So two questions.

What are your plans with expanding Operation Streamline? If so, where do you think it might be? And then, secondly, I will get into the question of detention space with you.

Secretary NAPOLITANO. Right, Senator. I think that, first of all, I support Operation Streamline; I think it is effective. I think with respect to the Tucson sector, which is by magnitude the largest sector that we have, that provides some logistical difficulties. I think we have the bed space available. I think we are solving our detention issues.

We have had an issue with the Ninth Circuit recently vis-a-vis Streamline that has—it just came down a couple of days ago about how pleas are done in Streamline matters. And given the volume of cases—and I know you know that courthouse well—we have had to be working now down there in terms of how are we going to

operationally address the court of appeals' concerns so we can continue building Streamline in the Tucson sector.

And while I am not free to discuss the President's budget at this time, obviously, I can say that it in my view fully addresses some of our issues on the southwest border.

Senator KYL. Well, thank you for that. This study that is required will ask you to report to use your evaluation of what else you need to expand the program effectively. I am concerned because the conference does not increase detention space at all. It does include some money for alternatives to detention, but, of course, alternatives to detention is exactly not the point with Operation Streamline. The whole point there is the deterrent effect of detention.

Secretary NAPOLITANO. Yes, and the issue there, however, is if you can take some of the other detainees and put them in alternatives to detention, you can put your Streamline detainees in a hard bed.

Senator KYL. Sure. If you think the detention is adequate, though, I think we will need to—I would respectfully request that you include that argument in the study that you perform for us, because I think there is a concern, at least among some of us in the Congress, that we need additional detention space, especially to make something like Operation Streamline work.

Secretary NAPOLITANO. Thank you.

Senator KYL. Obviously, this also gets to the question of the security of the southern border. It is not secure yet, and the first line of defense are the Border Patrol agents. The bill for funding this year only calls for an additional 100 agents, but the conference report also requires that the northern border increase agents by about 700, from 1,525 to 2,012. Obviously, they have to come from somewhere, presumably the southern border. Wrong. I mean, we cannot do that, especially if we are going to try to—well, I guess one question: Do you still intend to try to reach the goal of 20,000 agents? Second, how will we maintain—you have said that your goal is to maintain a force of 17,000. Of course, we have 17,415, as I understand it, and need more.

So how do you square all of these numbers and the fact that the Obama administration only requested funding for 100?

Secretary NAPOLITANO. What we are doing, I think, to get to the root of your question, Senator, is how do we keep meeting our Congressional marks on the southern border in terms of number of agents and meet our Congressional marks on the northern border without subtracting from one to get to the next. The answer is our staffing plan calls for us—what we are going to do is reduce headquarters staffing, and we are going to reduce academy staffing at the Border Patrol in order to make sure that we hit both of those marks and stay within the financial needs of the country.

Congress has been very clear that, you know, we need to be as rigorous budgetarily as we can be, so we really did a scrub inside and said, all right, now where can we move some FTEs to get to our agent——

Senator KYL. That is good. May I just interrupt, though, and ask what is the mark for the southern border for next year in terms of active agents?

Secretary NAPOLITANO. I will have to get you the exact number, but it is right around 20,000.

Senator KYL. OK. I appreciate it.

Secretary NAPOLITANO. It is the congressional mark.

Senator KYL. OK. Also, I have got a couple other questions. My time has expired, so I will submit those for the record, and thank you again.

Secretary NAPOLITANO. Thank you.

Chairman LEAHY. Thank you, Senator Kyl.

Senator Whitehouse.

Senator WHITEHOUSE. Thank you, Chairman. Welcome.

Secretary NAPOLITANO. Thank you.

Senator WHITEHOUSE. If you do not mind, I would like to briefly shift the topic to——

Chairman LEAHY. Senator Whitehouse, I wonder if you would mind, Senator Cardin was—and I did not see him standing there. He is actually supposed to be next.

Senator WHITEHOUSE. And he is the senior member of our class of Senators who came in 2 years ago, so I owe him very great deference.

Senator CARDIN. I appreciate the courtesy. I am prepared to wait for Senator Whitehouse and then I guess Senator Cornyn, and I will be prepared to question.

Chairman LEAHY. Then, Senator Whitehouse, go ahead.

Senator WHITEHOUSE. Well, I thank Senator Cardin.

Chairman LEAHY. I thank both Senators.

Senator WHITEHOUSE. On cyber, we had a hearing. It is good that Senator Cardin is here. He held it in his Judiciary Subcommittee. Your Deputy Under Secretary Phil Reitinger from DHS was there, associate Deputy Attorney General James Baker was there, and the senior officials from NSA and the FBI were there. And I asked them if any of them were satisfied with the existing legal structure within which the cyber defense effort currently operates, and I got a unanimous array of "No" from each of them.

There is, I understand, an interagency process that is led by or through the National Security Council, but given all the responsibilities of the National Security Council, I am not entirely comfortable that that is a good and lasting governance structure for our cybersecurity efforts. I see that more as an interim structure, and I would love to hear your thoughts on the adequacy of the present legal structure, whether you concur with the views of the other officials who spoke at Senator Cardin's hearing, and where you think our governance of our cybersecurity efforts should go, bearing in mind that a lot of principals at the Cabinet meeting have a piece of this issue.

Secretary NAPOLITANO. Well, I think, Senator, two things. One is you are right, the legal parameters in which we are handling some of the cyber issues are being looked at very deeply now. I would say it is not simply a domestic issue in that regard. It is an international issue, because obviously the networks are international in scope. Some of the logistical issues involve things like servers that are not located in the United States, but, yes, that is part of an interagency process that is ongoing.

With respect to how that is organized, I think that what, in fact, has happened is that DHS has moved, as the President's Policy Review suggested, to be the lead agency for the protection of the dot-gov sites as well as intersection with the private sector on dot-org and dot-com sites. And, indeed, I just had some meetings in Silicon Valley not too long ago. Phil has been out there quite a bit talking with the private——

Senator WHITEHOUSE. Although, if I could interrupt on that, ultimately DOJ will have the lead on all of the legal determinations. That is their lane of the road. Ultimately, other agencies will have the technical lead because of the technical complexity of undertaking the efforts that we do. And when you take out the technical aspects and the legal aspects, it is hard to see how Homeland Security ends up with a very strong platform for persistent leadership unless there is some vehicle for coordinating the DNI and you and the Attorney General and everybody together. And I am not comfortable that that presently exists. I think the NSC has set a good interim measure, but it would seem that that should devolve into a more formal cyber-specific governance structure at some point. And are you really confident that DHS at the top of that orbit with everybody else in the layer below it is the appropriate—shouldn't there be a White House leadership on this?

Secretary NAPOLITANO. Well, I think there is White House leadership through the NSC process, but I would suggest, Senator, that the DHS platform is actually much more significant than your question suggests.

I was just, for example, out in Virginia at the ribbon cutting for the NCCIC, which is a huge computer center that is part of the DHS structure now. Of course, we are working with DOJ on matters that are investigatory in nature for when they need to bring cases, and our alliance is very, very close.

The NSA, with all of its technical capacity, provides assistance both to us and to DOD which has the lead, obviously, on the dot-mil side of the world, and we take our road map from the President's review. Now what we have been focusing on—and, by the way, Phil is a former DOJ prosecutor, so the alliance there could not be closer.

But, in any event, we take our review organizationally in terms of how the cyber world is divided from the policy review, and one of our key things we are focused on now, quite frankly, is staffing up.

Senator WHITEHOUSE. Well, in my last minute, let me just ask more precisely, are you comfortable with the existing governance structure? Or is that still a work in progress? And can we expect a more permanent governance structure for the defense against cyber attacks to emerge as the interagency process goes forward?

Secretary NAPOLITANO. Senator, I would think that there is an evolution, but I would suggest, if this is where the question is going, that the presence or absence of a czar per se is not the way we have organized to me what ultimately will evolve. To me what ultimately will evolve out of this is a very robust coordination component within the NSC structure with on the operational side DHS on the lead, as I have suggested, for dot-gov intersection on the private sector with dot-org, dot-com, and DOD on the dot-mil side.

Senator WHITEHOUSE. Thank you. My time is expiring. And I believe Senator Cornyn now has the floor.

Senator CORNYN. Thank you very much.

Madam Secretary, good morning. Good to see you.

Secretary NAPOLITANO. Good morning.

Senator CORNYN. I know last Wednesday you testified before the Commerce, Science, and Transportation Committee on security challenges post-9/11, and one question had to do with whether you were consulted by the Attorney General before the decision was made to try Khalid Sheikh Mohammed and other 9/11 co-conspirators in New York—or at least attempt to try them there, since you know and I know a judge will ultimately decide where that trial will take place. But were you consulted?

Secretary NAPOLITANO. No, I did not talk with the Attorney General. That is a prosecution decision as to where and in what venue to bring a case, and I believe that properly is held by the AG.

Senator CORNYN. And I agree that the Attorney General is the one that makes that decision, at least preliminarily. Of course, the President of the United States is going to have to make a decision whether the military authorities will, in fact, turn the detainees over to the civilian authorities. I assume that permission, that authority will be granted, since I cannot imagine the Attorney General would have announced this decision without at least some indication from the President that he agreed with him.

But the question I have for you is I asked the Attorney General about some of the immigration-related issues, and I know that you know that seven Senators on the Committee wrote a letter in November asking for further detail on the immigration status of these detainees. Do you have an opinion as to what sort of legal status would be conferred on these detainees once they are brought to American soil and what implications that might have in terms of, if they were acquitted or charges were dismissed, whether they would be able to be detained indefinitely or not?

Secretary NAPOLITANO. Yes, Senator, and we have sent you a formal response to your letter. But here is the way it works, and that is, for example, for a detainee who is brought here for purposes of prosecution, they are paroled—and that is the technical term used, but they are paroled into the country only for purposes of prosecution. There are no immigration benefits that accrue to that.

And with respect to the second part of your question, if there were to be an acquittal, then what would happen is we would immediately take that individual and move them into removal proceedings from the country.

Senator CORNYN. So that would be litigation?

Secretary NAPOLITANO. Well, they would go through that process, but we would remove them from the country.

Senator CORNYN. But there is no——

Secretary NAPOLITANO. They get no immigration rights in that context that are any different than the fact that they have no immigration rights per se where they are right now.

Senator CORNYN. And where would you remove them to if their home country would not take them back? Back to Gitmo?

Secretary NAPOLITANO. Senator, those are questions that I do not like to answer on a speculative basis.

Senator CORNYN. On a speculative basis?

Secretary NAPOLITANO. Yes, sir. I think that, first of all, you have to—first of all, the question that was raised in the letter to me was: For what purposes do they enter the country? Are they able, for example, to apply for asylum or refugee status? The answer is no. They are only brought into the country for purposes of prosecution, and in the off chance that there were to be an acquittal for those individuals, they would immediately be put into removal proceedings and deported from the country.

Senator CORNYN. Well, Madam Secretary, I understand that would be your intention, but certainly they would, once in the country, have some legal rights, would they not, to—and possibly you would not be the one making that decision, possibly some judge would be making that decision.

Secretary NAPOLITANO. Senator, they are only—and there is statutory language to this effect, but they are only brought into the country for purposes of prosecution.

Senator CORNYN. Well, I guess this goes to my questions I had for General Holder, and that is that while he says he made a decision that these individuals could be safely tried in Manhattan, as I alluded to earlier, a judge is going to decide on a change of venue whether or not they are going to be tried there or somewhere else. And certainly once they are brought into the country, if they have certain additional rights as a result of their presence on American soil, you are not necessarily going to be the last word. A judge, if they invoke the jurisdiction of the courts, is ultimately going to make that decision.

You know, I asked General Holder what happens if for some reason, since the administration has made the decision that now detainees will be treated like criminals rather than enemy combatants under the laws of war, and some court decides that when Khalid Sheikh Mohammed asks for a lawyer and he was denied a lawyer and because of coercive and enhanced interrogation techniques that his testimony cannot be used and somehow decides that he cannot be tried in an Article III court, what guarantees do we have that he can be detained indefinitely, either here or somewhere else?

Secretary NAPOLITANO. Well, Senator, again, I think what the Attorney General decided is based on a firm conviction in the values inherent in the criminal justice system and the American court system and that this trial can be held, and held successfully in New York City.

Senator CORNYN. Well, I think what concerns me the most is that actually I think the decision was not fully vetted and thought out in terms of what the potential consequences would be. I have no doubt as to what the Attorney General's intentions are, but he is not the final judge, so to speak, and someone else will be making that decision.

For example, as you know, the Supreme Court has said that you cannot indefinitely detain someone in this country under the *Zadvydas* decision, and the question is: If they are not available for repatriation to their home country, where will we keep them?

Anyway, you get my point. I understand the Attorney General has not signed off on the letter yet. We have not gotten it yet. But we——

Secretary NAPOLITANO. You should get it today.

Senator CORNYN. We look forward to that.

If I can just ask you one last question quickly about smuggling, human-smuggling initiatives. I was in the Rio Grande Valley recently, and ICE briefed me on the problems they are having with wire transfers by criminals and drug cartels to traffic in narcotics and smuggle people. I am, frankly, impressed with the good work they have done, but they tell me they need some additional legal resources. For example, on many of the money transfers, people can claim to be somebody they are not, and there is not adequate identification which will allow law enforcement officials to trace the source of the funds.

Are you aware of that issue generally? And what I am offering is if there are additional legal authorities that your Department needs or ICE needs in order to track down and prosecute these wire transfers involving narcotics or human smuggling, we would be glad to work with you on that.

Secretary NAPOLITANO. Thank you, Senator, and I am very aware of that issue. That is something that I worked on when I was Attorney General of Arizona, among other things, and I would hope when the Committee takes up the issue of immigration that some of those tools could be contemplated.

Senator CORNYN. When will that be?

Secretary NAPOLITANO. Well, the Chairman indicated in his testimony that he would like to take it up next year.

Chairman LEAHY. I was one of those who worked with former President Bush and complimented his efforts on a comprehensive package, and I would hope that we can get back to trying that. I think that is something that is going to require Republicans and Democrats to come together. I think it can be done. I do not think anybody, no matter where you are in the political spectrum, feels the system we have today is working perfectly by any means. And I would hope that we have a comprehensive bill, and I think that the efforts will be there, and I would certainly be willing to work, obviously, as I have on so many other issues, with the Senator from Texas and everybody else on this.

Senator CORNYN. Mr. Chairman, I look forward to that. You know, we have tried and I hope we will try again to address comprehensive immigration reform. Narrow issues like providing ICE the information they need in order to track down these wire transfers to me seems like such a narrow issue. I hope it does not wait on the necessary——

Chairman LEAHY. I would hope some of those things could be done in the meantime. That is a basic law enforcement matter, and we should be able to do it.

Senator Cardin, you have been waiting patiently. I thank you again for your courtesy in allowing Senator Whitehouse to go ahead. Please go ahead.

Senator CARDIN. Thank you, Mr. Chairman.

Madam Secretary, it is a pleasure to have you here. I am actually going to follow up first on Senator Whitehouse's comments on

cybersecurity. The hearing I conducted in the Terrorism Subcommittee was rather sobering, the vulnerability of America, that we know that there are nation states that are actively trying to compromise our cybersecurity in the United States. We know that these efforts could lead to soldiers or terrorists or criminals invading our country through cyberspace.

One of the sobering numbers that came out at that hearing, Madam Secretary, is that when asked how effective are we in preventing this, the 80-percent number came out, which would, I think, be very damaging to think that there is a 20-percent success rate. Now, admittedly, a lot of it is private resources, not always Government resources that are being attacked. But it does mean that we are losing billions of dollars a year through cyber attacks. It does mean that we are vulnerable to a hostile force trying to come in and interfere with our cyber information, compromising our energy sources, our financial systems, our military.

In your response, you talked about the fact that we have a review going forward, and there is an issue now as to whether there needs to be a more focused person within the White House or whether the Department of Homeland Security should take the lead. Clearly, NSA plays a critical role here. The Department of Defense has their own.

I still am concerned as to whether we have a game plan in place. The initial review showed that there was still a lot more that needed to be done. This is an urgent issue, and I just want to emphasize the urgency of action here.

Now, there are two parts to this. I would like to have you respond to both. Senator Whitehouse mentioned is the legal basis adequate, adequate for effectiveness in getting the information we need and to have in place what we need to protect our Nation, but also privacy. When we look at EINSTEIN II, there is a concern that there is personally identified information that may be available. We are not sure that we have in place adequate oversight to make sure that we minimize invasion of individual privacy. And now as we move toward EINSTEIN III, those same concerns are in place.

So we want you to work with us to make sure that we have institutionalized the protection of privacy for American citizens on personal information that is not needed for our security. But then, second, we want to make sure that we have in place adequate laws and structures so that we can counter the vulnerability that bad players are trying to perpetrate on the United States.

I am particularly mindful that NSA, located in Maryland, the premier collection agency in the world, is actively working on this, and I just call to your attention to give this matter the highest attention.

Secretary NAPOLITANO. Well, Senator, I could not agree with you more. Indeed, I believe that the cyber mission is one of the major missions of the whole homeland security environment. It is also a rapidly evolving one and changing one. Almost by the time you are talking about a particular intrusion, it is past, and you are on to the next one.

So I just want to clarify, if I might, one thing, and that is, I do not think there is any confusion, at least amongst the Cabinet, as

to the division of labor; that is, the Department of Defense operationally has a dot-mil side; the Department of Homeland Security, the dot-gov, plus the intersection with the private sector; that the NSA provides technical assistance to both. The institutionalization of privacy, the protection of privacy issues is built now into our own DHS process. So from an operational standpoint, we have moved in a way past the initial review. The question I think Senator Whitehouse had goes to somebody coordinating operational efforts in the case of a major attack from the White House.

Senator CARDIN. Well, I think that was his concern, but I think he was also concerned on the broader issues to make sure that we have in place the coordination that requires interagency, and whether that is adequately addressed under the current chain of command. I think that is still an issue that we are not quite confident is in place. The review by the President seemed to indicate that that was not clear. I know he has taken steps to counter some of that, but at least the initial information from the review indicated that there was a need for stronger coordination.

Secretary NAPOLITANO. Senator, I think that is correct, and I think in the months since that review, a great deal of work has been done, but will continue to be done in this regard. Again, this was an area, if I might say, that we have really put a priority on over the last year, and one of our chief challenges right now, one of the key priorities we have is really speeding up the hiring process to bring on more individuals who work in this arena.

Senator CARDIN. Well, I thank you for that, and we really want to work with you closely on that.

Secretary NAPOLITANO. Thank you.

Senator CARDIN. Another hearing we had in our Subcommittee—we get all the tough topics. We have a high-containment lab in the United States, and obviously of concern here was the anthrax attack on the Congress itself. Fort Detrick, which is located in Maryland, is moving forward with this BSL–4 lab which we are proud of the work that is being done there by very dedicated people dealing with some of the most challenging risks against America.

There is also here an issue of coordination. There are a lot of Federal agencies that are involved in dealing with our high-containment labs, and there have been some reports here indicating—I know that the Committee on Homeland Security, Senator Lieberman and Senator Collins have filed legislation. Part of that would be to try to deal with select agent lists by tier so that there are added precautions to those who deal with those chemicals and agents that could very well be used as a weapon of mass destruction and to require greater background checks, greater security issues, training, et cetera, greater inventory controls, et cetera, at Tier 1.

Have you had a chance to review those recommendations? And do you have any view on it?

Secretary NAPOLITANO. I have reviewed them and have discussed them with members of the Department, including the newly confirmed Under Secretary for Science and Technology, Dr. O'Toole, who is really an expert in this whole area. The way we look at it is that the Department of Homeland Security provides standards that would need to be met, in a way similar or analogous to what

we have been doing in the chemical arena in the CFATS process where you have the tiering, as you suggest, 1, 2, 3, and 4, and you have an engagement process by which laboratories are tiered and standards established.

Senator CARDIN. Well, I would just urge you that we need to have a system that promotes best practices, but we also—because there are a lot of good things going on, but we also need to have much more sophisticated background checks, et cetera, and continuing review for those who have access to those items that could very well be part of a weapon of mass destruction. And I think Senator Lieberman's point is to try to move us in that direction. I know there have been other recommendations, and I hope that we can move quickly on these issues as well.

Secretary NAPOLITANO. I concur.

Senator CARDIN. Thank you, Mr. Chairman.

Chairman LEAHY. Thank you very much.

Senator Feinstein has been waiting here patiently for an hour. Please.

Senator FEINSTEIN. That is quite all right. Thank you very much, Mr. Chairman.

Madam Secretary, I just wanted to talk to you for a moment. I am really concerned that we may be unwittingly presiding over the demise of American agriculture. I have never seen it more stressed. I come from the largest agricultural State in the Union. California is a driver, sometimes for good, and sometimes a driver for not so good. But what we see happening are growing numbers of farmers moving to Mexico, operating lands in Mexico, hiring Mexicans, and importing into this country. I will give you one example. A man by the name of Steve Scaroni has moved 2,000 acres and 500 jobs from his $50 million operation in California, to Guadalajara. Today he exports to the U.S. 2 million pounds of lettuce a week, and he has spent thousands of dollars to startup his new farms and train workers.

That is what is happening. Western Growers tells me that at least 84,000 acres of farmland from California and Arizona are now in Mexico, and at least 22,000 ag jobs formerly in these two States are now in Mexico. And we see it in apples. We see it in dairy. We see it in pears. We see it in row crops. And if you add to that some of the other economic stressors, for the first time in my lifetime I have seen farmers in bread lines in the Central Valley. And you add to this your I–9 audits, which send a chilling effect over the rest of agriculture, respectfully I do not agree with the Ranking Member. I think we are destroying agriculture because, like it or not, agriculture depends on a non-domestic workforce to the greatest extent. Virtually all of the big ag States do. And I think we have to recognize it.

And so I have been increasingly concerned by the inability to move any legislation that would give some protection to workers who are committed to work agriculture for a period of years, and that, namely, is AgJOBS. The current H2–A seasonal worker program will not do it. If you are 24/7, 365 days a year, the H2–A program will not do it. And I am increasingly concerned by what is happening. Of course, the product of this is that we import more food produce from outside our country, and, which has raised con-

cerns about food safety and salmonella, as there were with peppers and other things coming into the country in the summer of 2008.

I think a country that is strong really should be able to produce its own food, but you cannot do it with domestic labor. That is just a fact. So we have to have public policy that deals with it.

I wanted to say that to you publicly because I hammer it and hammer it, and no one pays attention. It is as if we are in this great thrust to drive anybody that is illegal out of this country no matter how valuable their services may be.

Another problem that I have had is the Visa Waiver Program. I believe the Visa Waiver Program essentially is the soft underbelly of the visa system. Now we have 35 countries in it. We have 16 million people coming in. I believe about 40 percent of the undocumented population comes from people who have overstayed their authorized visit in the United States. I have always suspected people come in on a visitor's visa and they just decide to stay, and that is a large part of the undocumented population.

So let me ask you this question. What steps has DHS taken to begin to track who has entered the United States through the Visa Waiver Program and if they have left or overstayed their visit?

Secretary NAPOLITANO. Senator, we have taken a number of steps on the visa overstay issue, and I would be happy to supply you with a more complete briefing, or your staff with a more complete briefing, but particularly those who come in by air, tracking them as they come in, and now being able to measure better whether or not they have left. We are also working——

Senator FEINSTEIN. How do you do that specifically?

Secretary NAPOLITANO. Well, because we have better air travel documentation than we did before. For example, ESTA helps us, other programs that we are using help us. So there are mechanisms in place that are giving us better control, particularly in the air environment, who is coming in, who needs to be leaving.

It leaves open, of course, the question of measuring those who are coming in, not leaving, or leaving on the land ports.

Senator FEINSTEIN. And how do you know today how many are leaving? And if you do know, what percent are actually leaving?

Secretary NAPOLITANO. I do not think that we can say with precision what percentage of visa holders stay over. But I think we can say that the issue of the visa overstays has been one of the kind of most difficult but top priority problems that we have been working on these last 10 months.

Senator FEINSTEIN. I know you have, and we have talked about it. To be candid with you, there still is no way to know if people have left, so, I mean, that is the nitty-gritty of this issue. Have people left the country? They are here for a specific period of time. The visa expires. Do they leave? I mean, even if it were a simple form, as in China, when you go into China you just fill out a slip in triplicate, whether you are business or pleasure, and where you will be staying. We do not even do that. So we do not know, essentially, if that visitor has left our country.

Secretary NAPOLITANO. Senator, first of all, we are getting more information on the incoming traveler, particularly in the air environment.

Second, one of the ways that we are now picking up more of the overstays is by the enhancement of other activities that we are doing in interior enforcement. For example, as we expand Secure Communities—and we hope to in the next few years have it in every jail across the country—there will be a biometric that will be taken when you are booked, and if you are an overstay, we will pick you up right then and there. And, therefore, there will be a removal process instituted right then and there.

So some of these other mechanisms that we have built up I think will help reduce that visa overstay problem.

Senator FEINSTEIN. I have been at this for many years now. When do you think we will have a system where we will be able to know if visa waiver travelers have left the country?

Secretary NAPOLITANO. Senator——

Senator FEINSTEIN. Because we keep increasing the pool of countries. When the visa waiver program was first established, it was limited to 8 countries. We are now 35 countries that people can come in without a visa. And yet we do not have the data as to whether they leave.

The blame for the illegal immigration problem is put on poor people who come over the border, when it may not be the major part of the problem. We have no way of knowing.

Secretary NAPOLITANO. Senator, I think your comments illustrate some of, as you and I both know, the complexities of this issue. But one thing I would caution us against is the notion that we are going to build or should build a massive biometric exit system around the country. The expense and added value of that to security I think is dubious. There are other mechanisms better able to tell us not just about an overstay, but an overstay who is here to do us harm.

Senator FEINSTEIN. Thank you.

Chairman LEAHY. Thank you.

Senator Franken.

Senator FRANKEN. Thank you, Mr. Chairman, and thank you, Madam Secretary.

Since October 2003, 104 immigrant detainees have died in our custody, in the custody of Immigration and Customs Enforcement, and I am sure some of those were inevitable. But others were likely preventable.

For example, in 2006, a man from Ghana died in custody from a heart attack after guards waited 40 minutes to provide him medical attention, let alone open his cell. They would not open his cell for 40 minutes.

Last year, another detainee died after falling and fracturing his skull, and then, according to newspaper accounts, being shackled and pinned to the floor of the medical unit as he moaned and vomited, then being left in a disciplinary cell for more than 13 hours.

An Ecuadorian woman, Maria Inamagua, died in a Minnesota facility 3 years ago. ICE found that her death was inevitable, but also found that she had not undergone her mandatory medical intake exam, despite being detained for 2 months.

You inherited this problem. I know that. And I know that you are trying to fix it. But the first step in improving conditions is

identifying the problem. So my question to you is: What went wrong here?

Secretary NAPOLITANO. Well, we did an extensive review of the detention situation at ICE, Senator, and I think several things which we have moved to correct. One is we decentralized it too much. We did not have ICE personnel on site. We did not have clear standards that we enforced. The contracting, particularly as we outsourced all of these detention facilities, was not all that it should have been.

We now have moved—and we can brief your staff in more detail, but we have moved to correct all of those problems and to really evaluate that detention system and hold it to the standards that it should meet in any legal system.

Senator FRANKEN. Thank you. I want to now talk about immigrants, seekers of asylum. Every year tens of thousands of democracy and human rights activists who are victims of religious persecution and ethnic cleansing come to our borders to seek protection. These really are the huddled masses, and our asylum and refugee programs which protect these people and welcome them to our country are an important part of what makes us the land of the free. And Minnesota has a special place in these programs. As recently as 2006, we took more refugees than any other State except California.

But right now ICE is detaining thousands of applicants for asylum, often for months at a time. In fact, in recent reports it is suggested that, if anything, more asylum seekers are being detained and for longer. Your Department has the discretion over whether or not to detain asylum seekers. Why are we increasingly detaining asylum applicants?

Secretary NAPOLITANO. Well, Senator, oftentimes what happens is someone who is in the country illegally is arrested and picked up, and at that point they claim asylum. They have not claimed asylum as they entered the country. We have some categories of individuals who are seeking asylum that we are looking at en masse as to whether or not they should fall within asylum eligibility. That is an interagency process we are working on with the State Department and the Justice Department.

And then with respect to trying to move or increase the speed of the adjudication process, we are doing everything we can to look at methods to streamline, but there are certain limitations that are on that, limitations in terms of availability of hearing officers, availability of evidence adjudicators and the like.

Senator FRANKEN. Well, I have read about people who have come seeking asylum when they arrive, and they know that if they go back, they are—or they claim that when they go back they are going to be subject to violence or retribution, and they have been imprisoned. And in 2005, a Congressionally authorized bipartisan commission found that it was not appropriate to detain asylum seekers in prisons. That was 4 years ago, but today asylum seekers continue to be detained in State and county jails alongside violent criminals, and they wear prison jumpsuits and they are shackled, and they are even put in solitary confinement.

These are people who come and say they are seeking asylum. They are not criminals. ICE currently detains asylum seekers in

several county jails in Minnesota. In October, you announced that you would take steps to better manage special non-criminal, non-violent populations like asylum seekers. Will this include separating them from accused and convicted criminals and getting them out of prison-like conditions? I would encourage that.

Secretary NAPOLITANO. Senator, yes, part of our overall detention reform is to really do a risk analysis for every individual who comes into our system, and if they are not felt to be a danger to the community or else-wise, to look at how they should be housed and under what conditions. And so not everybody needs to be housed in the same way as your question implies.

Senator FRANKEN. Well, just following up on that, there is a credible fear interview to determine whether these people have a credible fear, and very often they continue to be detained after it has been determined they have a credible fear if they go back.

Secretary NAPOLITANO. Right, and what we have been doing is working with our field officers to increase and speed up the process by which they are paroled into the country temporarily, if there has been adjudication of credible fear.

Senator FRANKEN. OK. Well, thank you. And I would encourage that.

Secretary NAPOLITANO. Yes, absolutely.

Senator FRANKEN. Thank you.

Thank you, Mr. Chairman.

Chairman LEAHY. Thank you very much.

Senator Specter.

Senator SPECTER. Thank you, Mr. Chairman, and I join my colleagues in welcoming you here, Madam Secretary, and I commend you for the good job you are doing.

Secretary NAPOLITANO. Thank you.

Senator SPECTER. I appreciated the meeting that you participated in when you were in Philadelphia some time ago about manufacturing vaccines, and we have seen a very serious problem with H1N1, the swine flu, vaccine with the delivery falling far behind what was anticipated because they are foreign manufacturers, by and large. Australia, illustratively, used it for their own purposes. And with respect to the possibility of bioterrorism, there is a long list of problems, potential problems—anthrax, botulism, Ebola, smallpox. And we seem to be bogged down in bureaucratic infighting between a couple of Federal agencies, with the rumor the Department of Defense and BARDA not wanting to see us go ahead—or DARPA not wanting to see us go ahead with HHS and BARDA. There have been briefings at the very highest levels with the Vice President and Secretary Sebelius, yourself, and OMB Director Orszag.

My question to you is: Isn't this a problem of such a magnitude and with our experience with H1N1 that we ought to be moving ahead promptly to try to find some way to deal with vaccines should we have a bioterrorist attack?

Secretary NAPOLITANO. Senator, I think that, first of all, on the vaccine question, we are now catching up in terms of projections and availability of vaccine, and we still need to encourage the American public to get that H1N1 vaccine.

Senator SPECTER. Our projections have not been too good so far.

Secretary NAPOLITANO. But the numbers are not—it is now a very robust production schedule, and it is meeting—we will at some point in December be at the number that we predicted in the fall—or the manufacturers, more specifically, predicted in the fall we would be at. But the real question, which is the availability domestically of manufacturing capacity, development capacity, I think the H1N1 episode reveals how useful it would be to have that capacity domestically.

Going to the second part of your question, I think that that is an urgent issue for us with respect to other bio agents moving forward.

Senator SPECTER. Well, thank you. I think it is urgent, and I am glad to have your concurrence, and see if we cannot break the logjam and move ahead.

I turn now to another subject, and that is the subject of the jobs created by the EB–5 program which gives an individual who wants to become a U.S. citizen preferred status by investing $500,000 in the United States and creating at least ten jobs from that. And this has been an enormously successful program in Pennsylvania, promoted by Governor Rendell, and it has produced some $2,300,000,000 in investments and the creation of more than 6,000 jobs and the expectation immediately of 6,000 more jobs. And we have run into a very serious problem with regard to investments in one Pennsylvania project where there was a change in investment, and at the time the processes were made, there was a disclosure that there would be—the business plan specifically provided for alternative investments, and those alternative investments were made. And there are five investors who have put up $2,500,000 and created a great number of jobs, and they had advice from the Deputy Chief of Service Operations Center of USCIS that there could be alternative investments. And now their status is being challenged, and their appeals have been denied.

I have learned about this matter only recently and wrote to the Director of the U.S. Citizenship and Immigration Services and would ask consent that a copy of the letter be made a part of the record, Mr. Chairman. Mr. Chairman, a unanimous consent request.

Chairman LEAHY. Without objection.

[The letter appears as a submission for the record.]

Senator SPECTER. And my request to you, Madam Secretary, is to take a look at it. There would need to be a promulgation of written guidelines, but it seems to me on the merits and as a matter of equity, where there is a substitution of investment—and that was stated in advance that there ought to be no problem. But you have three people whose appeals have been denied all the way up the chain, and they are now being reviewed by USCIS that we need to, as a matter of fairness, deal with them. But as an example of somebody who is going to be deported under these kinds of circumstances, certainly it will be a damper on this important program, especially at a time when we need all the job stimulus we can get.

Secretary NAPOLITANO. Senator, I would be happy to take a look at that request and see what we can do with that. I am sure Director Mayorkas will take a look at it. We are working on the guide-

lines on EB–5 and working also with the Department of Commerce to see what would make sense in the environment, because as you say, these investments lead to American jobs.

Senator SPECTER. I very much appreciate that.

One final question in the small amount of time I have remaining, and that is, is there any process possible to simplify checks at airports? Listen, we have to do whatever it takes to be safe in the airports, but you wonder sometimes about all of the rigmarole and the ages from the very young to the very old, and a question arises in my mind as to whether we are not overreacting. We had the White House Mall on Monday night. I did not see you there. Were you there?

Secretary NAPOLITANO. I was there.

Senator SPECTER. OK. Well, it was——

Secretary NAPOLITANO. I was all dressed up.

[Laughter.]

Senator SPECTER.—a big crowd. My credential was checked three times as I walked through long lines. Was yours checked three times?

Secretary NAPOLITANO. No. I walked right in.

[Laughter.]

Senator SPECTER. Well, I will not ask you why you have preferred status because I know you are entitled to it. But it raises the question in my mind, and I am glad to be checked as often as they want to check us going into the White House. But it is a reaction to the gate crashers, obviously, of a couple of weeks ago. And I wonder, do you have results as to what all of these elaborate tests at airports showed? Do they really find things? Remember the old slogan—well, you are too young—in World War II, "Is this trip really necessary? Is all of it really necessary?" Because if it is, fine.

Secretary NAPOLITANO. Senator, a couple of things. One is I consistently ask in the Department what is the value-added of any procedure that we are imposing and what is the threat that we are attempting to deal with.

A second thing I ask is: Is there a better way? And this is where, for example, there is a project underway that, if successfully completed, may allow us to get rid of the liquid limitation, which is a real—it is a problem for travelers who do not want to have to necessarily check a bag.

So we are consistently asking those types of questions, and they are the kinds of questions that we ought to be asking because, you know, travel and the ease of travel and all of that is something we want to foster.

Senator SPECTER. Thank you very much, Madam Secretary.

Thank you, Mr. Chairman.

Chairman LEAHY. Thank you.

We have mentioned and touched on this earlier in my statement that by December 31st, a very short time from now, States have to materially be compliant with the REAL ID bill under the act that was zipped through, whether citizens are not going to be able to use driver's licenses as identification to board commercial aircraft at airports all across the country. Thirty-six States are now compliant. I had mentioned to you I had this horror scene of thousands of Americans who have flown to visit friends or family or rel-

atives for the holidays with no problem, and then get to board a plane on January 2nd or 3rd or 4th and are told they cannot get on the plane, having exactly the same IDs that they had to get on the first link of the plane.

Will your agency take any administrative steps so that we do not have this kind of chaos and confusion after midnight on December 31st?

Secretary NAPOLITANO. Mr. Chairman, this is a very frustrating situation for——

Chairman LEAHY. I mean, I would love to get the bill passed since we——

Secretary NAPOLITANO. Yes, there is a solution out there that is a legislative one.

Chairman LEAHY. It has been held up by one of these aggravating holds, but go ahead.

Secretary NAPOLITANO. Mr. Chairman, there is a solution, a legislative solution, and ultimately it will have to be a legislative solution. In the meantime, I have a set of not very attractive options, and they are not very attractive for the fundamental reason that simply granting an extension does not move us forward on the security side and fulfilling what the 9/11 Commission recommended. But I am looking at what our options are now should the Congress not act.

Chairman LEAHY. Please keep in touch with me on that.

Secretary NAPOLITANO. Absolutely.

Chairman LEAHY. When you testified in May, you said you were conducting an internal review of the effectiveness of internal border checkpoint programs, including one that is on Interstate 91 in Vermont. That one has been a source of ongoing concerns. It is some considerable distance from the border. If somebody is a really serious smuggler, there are half a dozen parallel roads, two-lane roads that go along there, and they just get off the interstate, take a parallel and come back. If you have got a GPS, it is pretty easy to do.

I have always been concerned about these kinds of checkpoints from years ago when I was asked if I could prove that I was a U.S. citizen. I had the license plate 1 on the car. My ID said I am a U.S. Senator, but it did not seem to satisfy the person that I was a U.S. citizen. I suspect that they had a deficient civics class when they were growing up. I have not had that happen since, and it has been years since that. But I do get horror stories of people who are just taking products to market, taking kids to school, are late for a doctor's appointment, and suddenly they have to prove they are citizens, people born and raised in Vermont and so on. What about this?

Secretary NAPOLITANO. Well, we have looked at the issue of temporary interior checkpoints, and I particularly look at the ones in Vermont because I know of your interest and will provide you with greater detail on actual numbers.

But my view, Senator, is that they are and should be part of a border strategy so that we do have some means off the geographical border to see what is coming across. They do provide useful information.

Now, we do make apprehensions——

Chairman LEAHY. No, I understand that, but they are so far removed from the border that the vast number of people going down there—if you really wanted to get involved in smuggling, you are just not going to take the interstate. Your predecessor proudly gave me a list of the number of marijuana arrests and people whose visas had been over that they had over a period of several months of stopping people there. And I pointed out that if you really want to find people with visas gone or marijuana or something, every day we have hundreds of thousands of people that drive in from Maryland or Virginia into the District of Columbia. Just put a road block on every single one of the bridges and the roads coming in here, and I can guarantee you you will get hundreds of people.

Now, there may be a bit of an outcry from those who are going to work because you would have a traffic jam that would take a week to unravel. And I think you and I would quickly agree that for the number of arrests you would get, it is not a very effective thing to do.

We are just a little State, but there are some of us who love it and were born there and are concerned about it and wonder if this is overkill.

Secretary NAPOLITANO. Mr. Chairman, I think it is not, and we have the same question in Arizona, which is the State I am familiar with, and New Mexico, which is the State I grew up in. And it is part of—we need to look at the border as an entire region and have some facilities that are non-permanent in nature, that are off of the border, that move around, that surprise people, that they cannot depend upon as part of our overall strategic look.

Now, how we conduct those checkpoints and whether they cause undue delay, that is an issue that I think we can take another look at.

Chairman LEAHY. Well, these border things, it also reflects who we are. I mean, in Canada we could not have a better friend, and I look at this and I hear the complaints about—a disappointing number of complaints from Vermonters about their treatment in reentering the United States from Canada, but also from Canadians in entering, something I never heard before, in recent years just a lot of them, and some of them seem pretty legitimate. We are a welcoming country, and if somebody is treated like you are criminal unless you can prove otherwise by the people at our border, whether it is when you get off an international flight or driving across the border, it does not help. And to the credit of the Customs and Border Protection officials in Vermont, they had a recent meeting in Newport, Vermont, a border city, actually the one my wife was born in, and they made it very clear they want to hear about these negative experiences. I think they were surprised at the number they had. And I know these are hard-working men and women, and I know it is not an easy job, and I know they are the first people who are going to ask if somebody got through that shouldn't and say, "How did that happen?" But it is the image of America. Sometimes that is the first thing people see of America is at our border. We should not assume that everybody is guilty when they come through.

Secretary NAPOLITANO. Mr. Chairman, we will continue to work to improve that.

Chairman LEAHY. OK. I have questions about what Senator Kyl and I gave the Department the authority it needed to provide waivers and exemptions, certain material support cases. That may be one for the record, but I really would like an answer on it.

[The information referred to can be found in the Questions and answers.]

Chairman LEAHY. Also, I know that Judge Webster has been asked to oversee the Fort Hood investigation, and to the extent your Department is involved in that eventually, I have told the White House I expect a report to come here, certainly to Senator Sessions and myself and ultimately to the Committee.

Jeff, did you have anything further?

Madam Secretary, Senator Kyl asked you about the Border Patrol agent numbers, and he indicated there was a 100-person increase in the budget, but you are moving a couple thousand to the northern border. How does that not result in a reduction of agents at the southern border? Can you give us an analysis of the numbers?

Secretary NAPOLITANO. I can, and I think more appropriately I think I should give you and your staff—we will give you kind of the staffing plan. But as I suggested to Senator Kyl, we are not moving agents from the southern border to staff the northern border. It is not going to happen. It is not part of our plan.

Senator SESSIONS. Will the numbers be up or down a year from now at the border?

Secretary NAPOLITANO. They will be up.

Senator SESSIONS. OK. That is good to hear, and if you can explain that, I would appreciate it.

You know, Operation Streamline, since people are not detained for that long a period of time, it does not require, it seems to me, the quality of the housing that you would do if you were maintaining someone in a prison institution for longer periods of time. But what we have learned with crystal clarity is that releasing people who have entered the country illegally on any kind of bail results in very few showing back up when their deportation hearing comes. So it is just a devastation of any enforcement idea if you do not hold them pending their hearing.

Have there been any changes in the number of people that you are releasing on bail? Because we finally got the previous administration to end the catch-and-release for the most part. I think there are probably some areas that needed further improvement, but it sounds to me like that, as you told Senator Franken, I think, on asylum cases you are looking to release them as soon as possible. Well, often that means they do not return.

Secretary NAPOLITANO. No, Senator, and I think those things should not be confused. I think what he was asking about was the adjudication of credible fear matters, and they have been bogged down in the system, and we are looking to improve that process.

Now, we also have told the Congress—and Congress asked us to provide an alternatives to detention plan. Obviously, that has to be contingent upon a credible belief by us that we will have that individual back in court and ready for deportation. As a matter of practice, there are ways to help ascertain that and to supervise that, and we do do that.

On Streamline, as I suggested to Senator Kyl, I agree that Streamline is very useful. We also believe that we have enough detention space identified for the individuals apprehended in the Streamline sectors, which include the larger sectors of the border. And we are working——

Senator SESSIONS. Well, I hope you will look to expand that streamline process. It does seem to be effective, and it strikes me if you ask the average American when you apprehend somebody who has entered the country illegally, shouldn't they at least be required to have some sort of conviction of a misdemeanor of some kind before they are sent back, I think they would all agree that that makes sense.

With regard to E-Verify, I understand that the Arizona law, which you signed into effect, is under appeal now in the Supreme Court, that the Ninth Circuit in a strong opinion affirmed the legality of that law, which says that the State of Arizona basically declared that businesses should check with the E-Verify system to verify whether or not the person is lawfully in the country before they hire them. The Supreme Court indicated they would like to ask the U.S. Government to file a brief in the case. Has a decision been made? And why wouldn't we want to file a brief supporting that law that seems to be working well?

Secretary NAPOLITANO. Well, Senator, I think the process is underway in the Federal Government as to how to respond to the U.S. Supreme Court's request. But you are correct, I did sign that law, and I signed it out of my belief that you have to deal effectively with the demand side for illegal labor as well—which is actions involving employers, E-Verify, those sorts of things, even as you work to strengthen the border itself.

Senator SESSIONS. I think that is correct, and to suggest that once you have gotten into the country illegally that you are now free to work and stay in the country indefinitely is not the message we need to send. I have really become a strong believer that an important part of your job and the President's job and the Congress' job is to send a message throughout the world where large numbers of people, through polling data, say they would come to the United States if they could. To send a message that you can come, we have large numbers of people that come every year, but you must do so lawfully, that is a message we need to send and it is important.

I have been somewhat concerned in recent days as I have learned about the Cory Voorhis matter in which this agent complained publicly during a political campaign in Colorado that the district attorney who was running for higher office at that time had plea bargained a number of cases to agricultural trespass, where people illegally in the country committed a drug crime or some other more serious offense, and they were allowed to plead to a misdemeanor agricultural trespass because apparently that did not result in deportation.

After the election was over, he was attacked apparently, criticized, prosecuted, acquitted, and it now turns out from your internal investigation that supervisors who were involved in that case have failed a polygraph test and apparently have been determined

to have conducted themselves wrongly with regard to this individual.

To be brief, it is our understanding that the Office of Professional Responsibility has documents showing that the supervisor who criticized and apparently moved against Mr. Voorhis, who has also been terminated, and who is now contesting his termination, and that ICE presented the supervisor for criminal prosecution to the U.S. Attorney for felony offenses, including perjury and providing false statements, and that OPR sustained administrative charges against the supervisor, and that the final report was complete on April 3rd, but apparently ICE has yet to take any action against the supervisor, but they are continuing to seek to remove Mr. Voorhis.

Do you know anything about that? And I think we need to make sure that this is done right?

Secretary NAPOLITANO. Senator, I am not personally familiar with that matter, but I will become personally familiar with it.

Senator SESSIONS. Thank you. I think it needs to be looked at. I do not believe there is anything wrong with a Federal agent or State police officer criticizing a prosecutor. I used to be one, a prosecutor, and it did not make people every time you enter into a plea bargain, but I do not think they should be disciplined solely for that. If some violations occurred, I understand it. But, likewise, I do not believe you should allow a climate to develop in the Department that indicates that people who disagree with the policies of the Department will be punished if they express themselves. Do you understand the value of that?

Secretary NAPOLITANO. Absolutely. And as somebody who has run a large prosecution office, I can appreciate the value of your comments.

Senator SESSIONS. Thank you.

Chairman LEAHY. Senator Klobuchar will be the last questioner, and then we will finish the hearing.

Senator KLOBUCHAR. Very, very good. I rushed back from the floor and made it in time. I want to thank you, Secretary Napolitano, for being here. As you know, we just talked last week or so in the Commerce Committee, and I will say what I said then. I want to thank you for your great help in addressing the flooding in the Red River Valley for both Minnesota and North Dakota, and I was really impressed by the work of the people in your Department.

Secondly, one other thing that I did not mention in Commerce the last oversight hearing in May occurred about a month before the Western Hemisphere Travel Initiative took effect, and we had serious backlogs of travelers in Minnesota who were suddenly going to need passports or other documents to get to Canada, which had not been required before, and while this is going on, we have had a decline in the tourism industry all over the country. And I have learned from talking to people in Minnesota that the implementation of the Western Hemisphere Travel Initiative has been much smoother in our State. This is a good thing, Madam Secretary, and people anticipated and they were pleased with how things went in a timely fashion and the pragmatism of the people in the Department. So I wanted to thank you for that as well.

At the Commerce hearing, we talked about my concern about the no-fly list and some of the secure flight issues, so I am not going to go into that again. I did want to touch on something I know was touched on briefly here about the accidental disclosure of Transportation Security Administration airport screening procedures when that confidential document was placed online. I know that you said to an earlier question that it did not represent a significant security risk but did violate the standards of your Department. And I was just wondering what steps you are taking to make sure that these kinds of disclosures do not happen again. Obviously, they are of concern.

Secretary NAPOLITANO. Yes, Senator, and several things. One is we have asked the Inspector General to look at the entire issue about what occurred.

Second, several employees have already been placed on administrative leave, and the contractor involved who actually made the inappropriate posting has been dealt with appropriately.

Third, we are going back through our own procedures at the TSA for what gets posted and how, and also making sure that the employees throughout the Department have their training and memories refreshed as to the necessity for when redaction needs to occur, how that properly is to be done.

Senator KLOBUCHAR. Very good. Well, thank you, and we will look forward to hearing the results of all of this as we move forward. I know we have talked before about the Border Enforcement Security Task Force in the southwest corner of our country, and I wanted to get an update on that. I do not think you have talked to anyone else about that here. Have you seen any change in the drug cartels' tactics in Mexico since the coordinated efforts began? And a second question would be how you would assess Mexico's state and local law enforcement officials' work in rooting out corruption, going out after the cartels, and being more vigilant?

Secretary NAPOLITANO. We have increased the number of Border Enforcement Security Teams, BEST teams, across the border. They have been very effective, collaborative efforts to make sure that whatever violence is occurring on the Mexican side of the border does not spill over onto the U.S. side, and they are helpful for a number of other reasons as well, going after fugitive aliens, for example, criminal alien gangs as another example. So that continues to be a very effective tool for us.

Our law enforcement relations with Mexico are the best I have seen in the almost 17 years that I have been working border-related crime issues. For example, for the first time we are seeing Mexico actually create basically its own vetted border patrol so that, you know, we have an agency to work with along the border. They basically removed 1,500 of their customs officials last year and replaced them with vetted officers. So our ability to work at the law enforcement level has greatly improved.

Then, last, I think that progress is being made against the cartels. There have been several significant arrests and seizures. Some have been kept on the Mexican side. Others are being contemplated for extradition to the United States. And at the Federal level, the coordination between President Obama and President Calderon is very, very close.

Senator KLOBUCHAR. Very good. Thank you.

One other thing that I do not think we have talked about before is the creation of the Import Safety Commercial Targeting and Analysis Center that you have helped spearhead. At the University of Minnesota, we have a National Center for Food Protection and Defense, which has been certified as a Homeland Security Center for Excellence, so we have long recognized the importance of securing the safety of the food chain. And I am just concerned about this, being from an agricultural State and starting to see some of the products that have been coming in from other countriesin the last few years. Obviously, we are addressing some of our own food concerns. I am one of the original sponsors on the bill to bring us more food safety. But I continue to be concerned about what is coming in from outside of our borders and the effect that could have on our homeland security. Could you talk about that?

Secretary NAPOLITANO. Senator, I can. As you know, we have opened up a center in that regard. We are also really working with all kinds of food supply chain issues and would be happy to provide you with a more in-depth briefing.

Senator Feinstein in her questions to me related the fact that some agriculture is leaving the United States as a homeland security issue, and I think she has nailed it, and as have you by your questions.

Senator KLOBUCHAR. Right.

Secretary NAPOLITANO. So we have really got to look at that.

Senator KLOBUCHAR. I think that is why we called the farm bill the Food Security Act, just how important it is for us to be able to produce our own food.

The last question I have is about the Recovery Act, which included $1 billion for TSA to procure and install explosive detection systems and checkpoint explosive detection equipment for checked baggage at airports and an additional $680 million to improve infrastructure and technology at our Nation's borders. Can you give an update on how much of the security funding has been spent and how you plan to utilize the funding over the next year?

Secretary NAPOLITANO. Yes, and I can give you a spread sheet in detail, but the contracts are out, the obligations have been made. A number of jobs have been related to those contracts. The inline baggage systems are being installed in airports across the country. And the northern ports, the construction contracts have been let, and that work is underway.

Senator KLOBUCHAR. Thank you very much. I appreciate it.

Chairman LEAHY. Thank you, and we will stand in recess, and I thank you, Secretary Napolitano.

Secretary NAPOLITANO. Thank you, Mr. Chairman.

Chairman LEAHY. We appreciate your being here, and there will be follow-up questions from several other members of the panel. Thank you.

[Whereupon, at 12:23 p.m., the Committee was adjourned.]

[Questions and answers and submissions for the record follow.]

QUESTIONS AND ANSWERS

Question#:	1
Topic:	objectives
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Tom A. Coburn
Committee:	JUDICIARY (SENATE)

Question: Do you believe national security objectives recently passed into law by Congress, namely the directive that Border Patrol gain operational control of our borders and the construction of the SBInet fence, should be subservient to 40-year old environmental law?

Response: The Department of Homeland Security (DHS) works with other Federal, State, and local agencies and affected communities to achieve our border security mission while doing everything possible to uphold the values of responsible environmental stewardship. To that end, DHS, U.S Customs and Border Protection (CBP), and the U.S. Border Patrol (USBP) coordinate very closely with federal land managers and resource agencies, including the Department of the Interior (DOI) and its constituent bureaus including the United States Fish and Wildlife Service (USFWS). DHS has issued waivers of environmental, land management, and other statutes when necessary for the expeditious construction of the important border infrastructure projects. Besides these waivers, the Border Patrol can achieve effective control of the border within the existing environmental law framework. The greatest challenges for border operations occur within border wilderness areas, as the Wilderness Act imposes very stringent limitations on the types of activities and uses that may be undertaken within designated wilderness areas. Nevertheless, we work cooperatively under a 2006 MOU among DHS, DOI and USDA to minimize the impacts of our mission essential activities that must occur in wilderness areas. USFWS has been able to issue a favorable compatibility determination for a SBInet tower in Cabeza Prieta Wilderness area (in Arizona). We are of the view that effective border enforcement actually promotes wilderness values and the goals of the Wilderness Act, as it can reduce the negative impacts that result from illegal entry on and through designated wilderness areas.

56497.001

Question#:	2
Topic:	vehicles
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Tom A. Coburn
Committee:	JUDICIARY (SENATE)

Question: There are 4.3 million acres of wilderness on Interior and Forest Service lands along our southern borderlands region that Border Patrol operates in. Do you believe that Border Patrol should be prohibited from regularly patrolling these areas without vehicles as is currently the case?

Response: There is only a little over a million acres of federally designated wilderness immediately adjacent to the International border, and we do not believe that USBP is currently prohibited from regularly patrolling Wilderness areas without vehicles. DHS, CBP, and the USBP are committed to responsible stewardship and therefore use, wherever possible, the least impactful mode of transportation appropriate to the circumstances. Since Wilderness areas do not have roads, a combination of patrolling on foot, on horseback, in the air and when needed in motorized vehicles allows use of the most effective transportation for the purpose at hand. We also believe that effective border enforcement can actually promote wilderness values and the goals of the Wilderness Act. Since effective border enforcement promotes wilderness values, DHS and Federal land managers need to work together to determine the appropriate strategy to deter illegal activities from occurring in this area, with the understanding that interdiction activities must continue to occur to prevent the smuggling of people and illegal contraband into the United States.

Question: How appropriate is it for custom border agents to have to wait for the arrival of horses for pursuit purposes on wilderness areas?

Response: Unless the horses are close, Border Patrol Agents can not reasonably and do not await their arrival to respond to exigent circumstances. Pursuant to a 2006 Memorandum of Understanding Among U.S. Department of Homeland Security and U.S. Department of the Interior and U.S. Department of Agriculture, the parties agreed that where there are exigent circumstances in wilderness areas, USBP will use the "lowest impact mode of travel practicable to accomplish its mission and operate all motorized vehicles in such a manner as will minimize the adverse impacts on threatened or endangered species and on the resources and values of the particular Federal lands, provided officer safety is not compromised by the type of conveyance selected."

56497.002

Question#:	3
Topic:	towers
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Tom A. Coburn
Committee:	JUDICIARY (SENATE)

Question: How many SBInet towers are proposed or have been placed in wilderness areas?

Response: One SBInet tower has been proposed for placement in a wilderness area. We have approval from the Department of Interior (DOI) to build that one communications tower in a wilderness area as part of our deployment in the Border Patrol AJO Station area of responsibility for which construction has just started.

Question: If none, wouldn't the inability to place towers in wilderness areas leave gaps in our border security?

Response: While an inability to place towers in wilderness areas would impact our ability to use technology to detect border incursions. DHS and DOI have worked together to site the AJO project tower so as to allow us to meet operational needs and minimize our impact on the environment. At this time we believe only the one tower needs to be constructed in a wilderness area.

56497.003

Question#:	4
Topic:	mitigation
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Tom A. Coburn
Committee:	JUDICIARY (SENATE)

Question: How much has DHS paid in "mitigation" monies to the Department of the Interior and the Forest Service for border security-related activities?

Response: Over the past few years, DHS has worked closely with the Department of the Interior, the U.S. Forest Service, and other federal and state agencies regarding environmental stewardship efforts for border security activities. A significant part of this close coordination has included conducting numerous environmental surveys and impact studies (to minimize the level of impact and hence the amount of mitigation that would be needed), and then funding appropriate mitigations. U.S. Customs and Border Protection (CBP) has obligated or planned up to $57 million more to DOI for mitigation of unavoidable impacts caused by border security-related activities.

The items listed in the table below are in two categories: items funded by CBP as a result of regulatory consultation under Section 7 of the Endangered Species Act or as part of our environmental stewardship commitments to minimize the environmental impacts of our past and ongoing border security activities (Non-Mitigation) and items funded in mitigation of the unavoidable impacts of border security activity (Mitigation Funds). The funding listed below has been or will be provided by CBP through various Interagency Agreements and under appropriate authorities, such as the Economy Act.

Summary of CBP Funds Executed with DOI			
Item	**Agency**	**Date**	**Amount**
Non-Mitigation			
• One DOI employee (TDY) for on-site subject matter expertise	Department of Interior	Jul-08 to present	$200,000
• IPaC System	US Fish & Wildlife	Sep-07 to present	$5,700,000
• Environmental Monitoring Protocol	US Geological Service	Fall 2009	$50,000
Mitigation Funds			
• BMGR/Cabeza Pronghorn BO	US Fish & Wildlife	Fall 2008	$811,000
• Phillip Banco Refuge RGV	US Fish & Wildlife (via	Fall 2009	$138,000

56497.004

Question#:	4
Topic:	mitigation
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Tom A. Coburn
Committee:	JUDICIARY (SENATE)

	USACE)		
Funding actions pending (estimated):			
• Comprehensive Mitigation Agreement regarding PF70, PF225 and VF300 Fence Construction	DOI	In Process	Up to $50,000,000
• Ajo 1 Towers Mitigation	US Fish & Wildlife	In Process	$4,200,000
• Tucson West Towers Mitigation	US Fish & Wildlife	In Process	$1,800,000

Question#:	5
Topic:	Southern border
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Tom A. Coburn
Committee:	JUDICIARY (SENATE)

Question: What is your assessment of the current security status of the Southern border on federal lands?

Response: DHS continues to work closely with those agencies that administer and manage federal lands along the southwest border. Federal agencies such as DOI and its constituent bureaus as well as the USFS, are engaged with DHS and CBP. Together we try to balance the need for border security with environmental protection and conservation. There are, of course, challenges, and issues such as the inability to access and/or build infrastructure and deploy technology in certain locations are of continuing concern. We believe that the lands along the international boundary with Mexico where personnel, technology, and infrastructure are limited will continue to be exploited by alien and drug smuggling organizations. We believe this is something that DOI and other land management agencies have also recognized.

Question: What areas are the most vulnerable to human and drug smuggling?

Response: Two of the most notable areas being exploited by alien and drug smuggling organizations are in Arizona: The Coronado National Forest and Organ Pipe Wilderness located in the Tucson area.

56497.005

Question#:	6
Topic:	patrol
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Tom A. Coburn
Committee:	JUDICIARY (SENATE)

Question: In a letter from you, dated October 2, 2009, you state, "We could see a significant increase in the use of the more remote areas along the border by the smuggling organizations. The ability of the USBP to effectively patrol these areas has never been more critical." How can Congress help you effectively patrol these areas?

Response: It is the desire of the United States Border Patrol (USBP), to leave a minimal footprint while conducting detection and interdiction activities in and around remote areas. However, USBP's enforcement zones are comprised of some very remote areas. The illegal activities of cross-border violators in those areas not only pose a threat to the security of the United States, but to the health of the border ecosystems. DOI, USDA (USFS), and USBP must continue to coordinate their activities to address threats to both national security and the ecosystem.

There are unique challenges posed by the various land use classifications and topography Many of the areas designated as wilderness are rugged and remote, which make patrolling and the placement of infrastructure difficult.

Question#:	7
Topic:	bill language
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Tom A. Coburn
Committee:	JUDICIARY (SENATE)

Question: What has been the effect of recently passed language included in the Department of Interior appropriations bill to prohibit any activities by the Department of Interior and the U.S. Forest Service from impeding, restricting, or prohibiting DHS border security activities?

How will this language help DHS gain operation control of all of our borders?

Response: USBP has reassured Department of Interior (DOI) representatives that we have in no way reduced our strong commitment to collaborate closely on issues so that they can be resolved in a manner which considers fully both national security requirements as well as environmental factors. Efforts to achieve effective control are enhanced by reinforcing the close coordination (which this language has augmented) with the land and resource managers that is already occurring.

56497.006

Question#:	8
Topic:	grants - 1
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Tom A. Coburn
Committee:	JUDICIARY (SENATE)

Question: In October, Timothy Manning, Deputy Administrator of FEMA, testified before a House Homeland Security Subcommittee that DHS had no way to measure if homeland security grants have improved state and local preparedness.

What steps is DHS taking to be able to measure how grants have better prepared our states and localities to respond to a terrorist attack on natural disaster?

When do you expect DHS to be able to measure how grants have improved preparedness?

In your opinion, should Congress authorize new grant programs without requiring DHS to measure their effectiveness?

Should Congress earmark grants for personal projects?

Response: FEMA Deputy Administrator Manning's October 1, 2009 testimony before the House Homeland Security Committee outlined efforts that were currently underway to help evaluate the efficacy of federal spending toward increased preparedness at the local, State and national levels. FEMA is currently evaluating its processes and systems in order to identify useful and workable components to assist in measuring preparedness. Further, FEMA is creating a Preparedness Task Force, to be comprised of State, local, federal and private sector stakeholders, practitioners and experts, that will be charged with evaluating all of FEMA's preparedness efforts, including its attempts at measuring progress and outcomes. We expect this Task Force to provide recommendations for a workable system that will facilitate the measurement of our efforts by the end of Fiscal Year 2010.

The Department believes that establishing and measuring the efficacy of its preparedness programs is a fundamental responsibility and one that is shared with the Congress. We look forward to working with the Congress as it considers any new grant programs to ensure that identified needs are met and that accountability is provided for in the administration of all grant programs.

DHS feels that grant programs are most effective when resources are allocated based on threat, risk, homeland security needs, or as part of a competitive process and that the

56497.007

Question#:	8
Topic:	grants - 1
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Tom A. Coburn
Committee:	JUDICIARY (SENATE)

criteria for allocation is transparent and is developed in consultation with our State, local and tribal partners and with the Congress.

Question#:	9
Topic:	grants - 2
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Tom A. Coburn
Committee:	JUDICIARY (SENATE)

Question: The 9/11 Commission warned in its report that homeland security grants were in danger of becoming pork-barrel funding. While federal spending on homeland security has increased exponentially since 9/11, state spending on homeland security has remained almost flat as a percentage of total state appropriations. Studies suggest that this trend may indicate a more dangerous practice of federal grants supplanting state spending on homeland security. With this in mind, the Fire Grants Reauthorization Act of 2009, which recently passed the House, would increase fire departments dependency on federal funding. The Reauthorization would change the funding for these grants to a percentage allotment: 25 percent to career fire departments; 25 percent to volunteer fire departments; and 25 percent to combination fire departments (mixture of career and volunteer). The bill also decreases matching levels. Are you concerned that this bill would encourage states to become dependent on homeland security grants?

Response: No. While we are certainly concerned about the non-federal level of funding being committed to homeland security, we do not have any specific expectations that Fire Grant funds increase State dependency on the federal funds. There are two reasons for this view:

- Fire grants are not made to the States, but directly to the local fire departments; and
- Fire grants are competitive. In terms of budgeting and planning, no applicant can rely on a successful financial assistance request. Historically, we have funded 25% of the fire grant requests, and only 10% of the fire prevention and safety requests.

56497.008

Question#:	10
Topic:	secure communities
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable John Cornyn
Committee:	JUDICIARY (SENATE)

Question: DHS is expanding its Secure Communities Initiative, especially in Texas. I know the main focus of the program is to screen individuals for immigration status after they have been booked into jail on a criminal charge. However, I am concerned about potential gaps in the interior enforcement strategy. Right now, except in Houston, police officer's don't conduct real-time, biometric/fingerprint screening at the time of road-side stop and arrest.

With Secure Communities, does ICE detain all criminals who are screened at time of booking?

If only some aliens are detained, what happens to the other criminals?

Response: Under the Secure Communities (SC) strategy, U.S. Immigration and Customs Enforcement (ICE) seeks to identify potentially removable criminal aliens at the earliest stage possible – when they are being booked by local law enforcement officials on criminal charges. While ICE detains all aliens who are determined to be mandatory detention by statute, and other aliens who pose a risk to the community, there are several classes of aliens that ICE does not detain. This group includes aliens who are not subject to removal and aliens whose release will not pose a threat to the community and not deemed a flight risk. Aliens not subject to removal are not taken into ICE custody or placed into removal proceedings. Aliens whose release will not pose a threat to the community and are not deemed a flight risk are processes, placed in removal proceedings, and subsequently released into the ICE Alternatives to Detention (ATD) Program.

At the time of booking, these aliens are under the custody of the local law enforcement entity. Under SC, ICE prioritizes enforcement actions toward the most serious criminal aliens. SC leverages its technology to allow ICE to prioritize and remove criminals who are the most significant offenders, in order to prevent the most dangerous aliens from being released back into the community. The early identification of dangerous criminal aliens permits ICE to initiate removal proceedings while these aliens are in custody for their criminal offenses. This decreases the amount of time an alien is in ICE detention upon release from Federal, State, and local prisons and prevents the release of dangerous criminals to the community.

If resources are available, enforcement actions will also be applied to those charged with or convicted of lesser offenses.

56497.009

Question#:	11
Topic:	litigation
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable John Cornyn
Committee:	JUDICIARY (SENATE)

Question: One of my priorities for immigration reform in the past and today is streamlining judicial review of immigration cases. In recent years, immigration litigation has literally exploded, with aliens challenging every facet of immigration law. Some challenges are legitimate; others are frivolous and designed delay the alien's removal from the United States.

What is DHS doing to increase attorney resources in high volume districts?

Have you asked AG Holder to designate attorneys from the Department of Homeland Security, who have expertise in immigration matters, to serve as Special Assistant Attorneys (SAUSAs) in high volume districts?

Response: ICE's Office of the Principal Legal Advisor currently has 33 Special Assistant United States Attorney's (SAUSA) (24 Criminal, 9 Civil) located across the country. Twenty-three of the 33 SAUSAs are full-time, the remaining 10 are part-time.

Expanding and reinforcing the Special Assistant United States Attorney (SAUSA) program in high-volume areas is important to DHS. Currently, ICE has six attorneys along the Southwest Border with immigration expertise in the SAUSA program, specifically Phoenix, Houston, and Los Angeles. Plans to continue SAUSAs in the current offices and secure SAUSAs in other areas along the Southwest Border, specifically Tucson, Las Cruces, San Antonio, and San Diego, are underway.

SAUSAs handle a variety of issues pertaining to immigration cases, including reentry, illegal reentry, misrepresentation, false official statements, illegal aliens in possession of firearms, and other immigration cases arising under 8 U.S.C. §§ 1325 and 1326. Additionally, SAUSAs prosecute ICE-related matters concerning child exploitation, smuggling, sex tourism, fraud, weapons, and transporting and harboring aliens. SAUSAs in certain offices assist in the filing of urgent arrest and search warrants and communicate with ICE special agents and CBP officers regarding cases that include hostage situations, drug stakeouts, and possible criminal prosecutions.

The SAUSA program enables ICE to utilize its attorneys, who have immigration expertise, in areas where criminal prosecution of immigration-related cases is prevalent. This assists the United States Attorney offices in effectively prosecuting these cases.

56497.010

Question#:	12
Topic:	E Verify
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable John Cornyn
Committee:	JUDICIARY (SENATE)

Question: The Supreme Court recently granted certiorari to review the Arizona Legal Workers Act – a state law requiring Arizona businesses to use E-Verify to determine worker immigration status. I note that the Supreme Court recently asked for the Government to file a brief on its position.

Has the Solicitor General consulted with you about the brief?

Will you have to recuse yourself from response because you were the Governor who signed the bill?

Response: The lawsuit referenced in your question is Chamber of Commerce of the U.S.A. v. Candelaria, No. 09-115, in which the parties who are challenging the Arizona law are currently seeking review (or certiorari) by the Supreme Court. The Supreme Court has not, however, decided whether to grant certiorari in the case. Rather, on November 2, 2009, the Court requested the views of the United States on whether the Court should grant or deny the petition for writ of certiorari. The Solicitor General decides how the United States will respond to this request from the Court. The Solicitor General asked the Department of Homeland Security, among other federal agencies, for its views on whether the Government should recommend that the Court grant or deny certiorari. The General Counsel of DHS is responsible for responding to such requests for DHS from the Solicitor General, and I understand that he has responded to that request. I have full confidence in the General Counsel's ability to thoroughly and accurately analyze the legal issues in this case and to faithfully represent the Department's interests to the Solicitor General. In consultation with the Office of the General Counsel and the Department's Designated Agency Ethics Official, I also carefully considered the issue of recusal and concluded that such action was not necessary in these circumstances.

56497.011

Question#:	13
Topic:	reform
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable John Cornyn
Committee:	JUDICIARY (SENATE)

Question: We know that if immigration reform is enacted, there will be a surge in applicants seeking status. I recently met with Director Mayorkas and we discussed the shortfalls in his agency's funding. I am deeply concerned that if we move towards comprehensive reform, the agency chiefly responsible for implementing reform won't have the staff or money to make the program work from Day 1.

What plans are in place to ensure that USCIS has the money and people, well in advance of any reform bill, to handle the volume of applications and background checks?

Response: The Department intends to work very closely with our partners in the Administration and the Congress to craft legislation that ensures USCIS, U.S. Immigration and Customs Enforcement (ICE), and U.S. Customs and Border Protection (CBP) all have the resources necessary to implement immigration reforms effectively. This will be a priority focus and need for any implementation program. Not only will we need the funding for implementation of reforms, but we also must ensure that this effort does not degrade services provided to our customers other than those directly affected by any legalization or other new programs that may be established by reform legislation.

Question: Have you included a request for appropriations in the DHS Fiscal Year 2011 proposals?

Response: Any request for appropriations will be detailed within the President's budget request for FY 2011.

56497.012

Question#:	14
Topic:	EPLS
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Russell D. Feingold
Committee:	JUDICIARY (SENATE)

Question: I appreciated your offer during the hearing to look into my question regarding FEMA's use of the Excluded Parties List System (EPLS) Database. Despite obligating billions of taxpayer dollars, it appears FEMA has not suspended or debarred a single contractor on the EPLS database.

Has FEMA suspended or debarred any contractors?

If so, why hasn't the agency listed these contractors in the EPLS?

If not, please indicate whether there are ongoing investigations into contracting fraud, particularly during relief for Hurricane Katrina, how long those investigations have been pending, and when they are expected to be completed.

Does DHS plan in the future to list debarred contractors in the EPLS?

Response: EPLS shows that FEMA has registered 27 actions in total, all of which have entered archive status. While FEMA has not suspended or debarred any contractor recently, this should not be taken to mean that FEMA has been complacent in monitoring its contractors. Additionally, FEMA is aware of an ongoing investigation that began in the second quarter of FY07 spearheaded by the Department of Justice involving a contractor with which FEMA does business. The allegations involve fraud and the case is scheduled to go to court in March of this year. If the contractor is convicted of fraud, FEMA will propose debarment of the firm and adhere to the process established for that purpose.

56497.013

Question#:	15
Topic:	planning
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Russell D. Feingold
Committee:	JUDICIARY (SENATE)

Question: I remain concerned that we do not have in place the disaster response structure needed to deal with a catastrophic incident. In April of this year, GAO found that the lack of key planning documents limited FEMA's ability to conduct exercises evaluating preparedness for a catastrophic incident, as required by law. For example, FEMA had not issued the necessary planning document for a mass evacuation. I understand that the 2010 exercise that is currently scheduled will entail the need for a simulation of a mass evacuation. Has the Department issued the mass evacuation annex? If not, how will the relevant parties in the exercise know what their responsibilities will be and how will we validate our ability to execute a mass evacuation?

Response: FEMA's disaster response structure involves the coordination of planning efforts and development of plans at several levels – national, regional and state. At the national level, FEMA has the National Response Framework (NRF) with 15 associated Emergency Support Function (ESF) Annexes, 8 Support Annexes, and 8 Incident Annexes (including the Mass Evacuation Annex and Catastrophic Incident Annex). All disasters (including catastrophic events) require a certain level of specialized planning, but still operate within the same basic response structure. For example, during a catastrophic disaster, the NRF-Catastrophic Incident Annex and Supplement would be used to direct the immediate notification and deployment of national federal resources. FEMA would also use other relevant NRF-ESF, Support, and Incident Annexes to posture national federal resources needed to support the response effort. At the regional level, response plans integrate with and describe how the federal government will support states in responding to disasters. Regional plans address how incoming national resources would be coordinated and allocated to support response at the incident level. In addition, there are several national and regional scenario-specific plans that address response requirements for a given scenario (i.e. Hurricane, Terrorist Use of Explosives, Improvised Nuclear Device) that can be used during a response. Many of these scenarios are catastrophic in scope.

The NRF does have an Incident Annex addressing mass evacuation and can be used if mass evacuation is exercised in the 2010 National Level Exercise. The annex has been in place and available since the NRF was published in June of 2008 and can be found at the online NRF Resources Center (http://www.fema.gov/emergency/nrf/#). FEMA is currently developing the Mass Evacuation Operation Supplement. In addition, FEMA is supporting local/state and regional mass evacuation planning through the Mass Evacuation and Transportation Program (METP). MEPT provides technical assistance

56497.014

Question#:	15
Topic:	planning
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Russell D. Feingold
Committee:	JUDICIARY (SENATE)

and subject matter expertise to develop local/state and integrated Regional plans. FEMA also provides planning guidance for evacuation planning initiatives including CPG 301 Emergency Management Planning Guide for Special Needs (July 2009) and CPG 302 Evacuation of Household Pets (DRAFT) in response to the Pets Act of 2006.

56497.015

Question#:	16
Topic:	earmarks
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Russell D. Feingold
Committee:	JUDICIARY (SENATE)

Question: Historically, the majority of FEMA pre-disaster mitigation grants have been earmarked. This has been a real problem in Wisconsin because there are insufficient funds left in the grant program to award on a competitive basis, after all the earmarks are disbursed. I don't support any earmarks, but given that members of Congress are not, generally speaking, in a position to evaluate the merits of sometimes highly technical mitigation projects, and they also do not have a broad national perspective on the need for different projects, do you agree that these pre-disaster mitigation funds are one funding stream that should definitely not be earmarked?

Response: The table below outlines the appropriated funds, and distribution of the administrative support funds, earmark amount, competitive amount, number of competitive applications (including requests for management costs) and total competitive requested funding received from FY 2006-2010. PDM funds have only recently been earmarked beginning in FY 2008. The Administration has not supported PDM earmarks in the past, and believes that allocating funds on a competitive basis is the best way to ensure that risk is mitigated.

The cost to the Federal government to administer an earmarked PDM project is substantially higher than the cost of a project that has proceeded through the normal PDM competitive process. Furthermore, FEMA feels that the PDM program benefits from a competitive process in that it focuses resources where the program proposals can best mitigate risk.

FY	Appropriation Amount	Admin. Program Support / Technical Assistance	Earmark Amount	Effective Competitive Amount	No. of Competitive Applications	Total Competitive Requested Funding
10	$100 M	$10 M	$24.6 M	$65.4 M	434	$258.4 M
09	$90 M	$9 M	$28.0 M	$53.0 M	443	$297.4 M
08	$114 M	$11.4 M	$54.0 M	$48.6 M	445	$307.7 M

56497.016

Question#:	16
Topic:	earmarks
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Russell D. Feingold
Committee:	JUDICIARY (SENATE)

07	**$100 M**	**$10 M**	**$0 M**	**$90 M**	**430**	**$291.7 M**
06	**$50 M**	**$5 M**	**$0 M**	**$45 M**	**190**	**$133.8 M**

Question#:	17
Topic:	DoD forces
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Russell D. Feingold
Committee:	JUDICIARY (SENATE)

Question: I understand that the Defense Department may be re-evaluating its plan to establish three consequence management response forces to assist civilian authorities with responding to such incidents. Do you believe that all three forces are needed?

Response: If the U.S. homeland is attacked, it is very likely that civilian capabilities will be quickly overwhelmed and Department of Defense (DOD) support will be required. FEMA supports DOD's preparations to provide additional Chemical, Biological, Radiological, Nuclear, and Explosives (CBRNE) consequence management response capabilities in support of Defense Support of Civil Authorities (DSCA). It is FEMA's understanding that DOD is currently reviewing possible additional solution sets to address civilian agency shortfalls in responding to domestic CBRNE incidents.

56497.017

Question#:	18
Topic:	scanning
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Russell D. Feingold
Committee:	JUDICIARY (SENATE)

Question: Our existing container security programs depend on bilateral partnerships with foreign governments and the private sector. The GAO has recently concluded that DHS's unilateral move towards a 100 percent scanning requirement may lead foreign countries and private companies to limit their cooperation with us, which could reduce our access to their security data and voluntary information transfers, key elements of our container security programs. What steps is DHS taking to ensure that we preserve our access to these important sources of information?

Response: CBP's experience working with foreign governments to implement the Secure Freight Initiative (SFI) operational pilots at overseas ports has not in fact indicated that those governments or any private sector entities were or would be less willing to share data with CBP if the 100% mandate was established. The primary data related concerns expressed by both foreign governments and private sector operators centered on protection of data deemed law enforcement sensitive and potential delays in container cycle times. Despite the strong concerns that foreign partners expressed about 100% scanning, the level of cooperation in implementing the scanning pilots has been excellent.

Question#:	19
Topic:	search
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Russell D. Feingold
Committee:	JUDICIARY (SENATE)

Question: During our discussion of the Department's new policies concerning searches of laptops and other electronic devices at the border, you stated that CBP officers are conducting all searches at the border. But, as I mentioned during the hearing, it is my understanding from discussions with your staff that if CBP officers retain a laptop or decide they need to conduct an in-depth search of an electronic device, they rely on ICE agents to conduct that in-depth search. Is that not correct? In that instance, would CBP's policy or ICE's policy govern retention of the device?

Response: Either CBP or ICE may conduct a border search of information contained in electronic devices. When CBP detains, seizes, or retains electronic devices, or copies of information from electronic devices, and turns such over to ICE for analysis and investigation, ICE policy will apply once it is received by ICE. Otherwise, CBP policy may be followed, including if CBP requests technical or subject matter assistance from other federal agencies to assist CBP in reviewing the information contained in an electronic device.

56497.018

Question#:	20
Topic:	policy
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Russell D. Feingold
Committee:	JUDICIARY (SENATE)

Question: Your new policies for searches of electronic devices at the border set no outer limit for how long a laptop or iPhone may be held, so long as there are appropriate supervisor approvals. Does that mean that ICE or CBP could conceivably hold an electronic device indefinitely under your policy and never seek a warrant or other court order to retain the laptop?

Response: A CBP officer may detain electronic devices for a brief, reasonable period of time to perform a thorough border search without suspicion. CBP policy provides that the search is to be completed as expeditiously as possible, and unless extenuating circumstances exist, the detention of devices ordinarily should not exceed five (5) days. Officers may seize and retain an electronic device as evidence or as potentially forfeitable material when, based on a review of the electronic device encountered or on other facts and circumstances, they determine that there is probable cause to believe that the device contains evidence of or is the fruit of a violation that CBP is authorized to enforce.

When, as part of a border search, CBP detains, seizes, or retains original electronic devices and turns the device over to ICE for analysis and investigation, or ICE directly detains, seizes, or retains original electronic devices, ICE policy requires that ICE Special Agents determine whether it is appropriate to detain the device, or make a copy of the content and return it.

ICE policy requires ICE Special Agents to complete the search of detained electronic devices, whether originals or copies, in a reasonable time given the facts and circumstances of the particular search, generally within 30 days unless circumstances exist that warrant more time. In cases where the investigation cannot be completed within 60 days, ICE Special Agents are required to obtain supervisor approval for an extension. Any subsequent extensions must be obtained every 15 calendar days thereafter. The ICE policy contains a list of factors to consider in determining what constitutes a "reasonable time,." and further provides that ICE Special Agents should take into account any additional facts and circumstances unique to the case. Lastly, ICE policy requires that originals be returned to the traveler as expeditiously as possible at the conclusion of a border search that did not result in a seizure and/or a prosecution.

56497.019

Question#:	21
Topic:	federal laws
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Russell D. Feingold
Committee:	JUDICIARY (SENATE)

Question: I understand that the Major City Chiefs Association, which represents the chiefs of police confronting the vast majority of crime in this country, is concerned about the use of state and local law enforcement to enforce federal immigration law. They contend that these agreements will divert limited resources away from solving violent crimes and will have a chilling effect on communities, who already mistrust police. What steps are you taking to address this concern and ensure that minorities who are the victims of crime are not too scared to come forward and report crime?

Response: The 287(g) program is voluntary. ICE does not solicit LEAs for membership into the program. In order for an LEA to be considered for a 287(g) partnership with ICE, an LEA must submit an official request for 287(g) authority. Illegal Immigration Reform and Immigrant Responsibility Act added Section 287(g), commonly referred to as the "287(g) program." The 287(g) program is a very useful tool for local law enforcement officers who work violent crimes, such as drug and gang related violence. In particular it affords officers access to immigration databases and records. This provides them the capability to question or investigate criminal aliens who are still at large or under suspicion. It also provides the law enforcement agency (LEA) the authority to make arrests for violations of federal offenses under immigration laws and/or prepare cases for ICE to initiate administrative immigration removal proceedings.

287(g) training increases state and local law enforcement officers' awareness of when they should consider the immigration status of certain individuals in order to access the various special protections available to victims, witnesses, and informants under immigration law. For example, a victim of a crime who may also be an illegal alien may be asked to testify or otherwise assist in the prosecution of a suspected criminal. If the alien witness is undocumented, that alien is subject to removal at any time. In these cases, the LEA can work with ICE to designate special status for the alien until the case is resolved. Tools such as these are valuable in encouraging cooperation from the immigrant community and effectuating successful prosecutions.

56497.020

Question#:	22
Topic:	material support
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Russell D. Feingold
Committee:	JUDICIARY (SENATE)

Question: I worked for years to help Hmong refugees and asylees who faced problems resettling in the United States or adjusting their status because their support for the United States in Vietnam was considered "material support" for terrorism under the Immigration and Nationality Act's overly broad definition. Thankfully, the Hmong were granted a waiver last year, but there are many other groups and individuals that have been swept up unfairly in overbroad interpretations of what constitutes a terrorist organization or material support for a terrorist organization. For example, one Burundi refugee was said to have provided "material support" to a rebel group when he was robbed of $4 and his lunch by armed rebels. Another man from Somalia has been denied asylum and has been detained in an immigration jail for the last year because militants who kidnapped him forced him to stand in the middle of a road holding a gun in his hand for over a day. He only did this after watching another captive get shot for refusing to do the same. Is the Department examining its current legal position regarding the INA terrorism bars? Will you consider proposing new statutory exceptions for duress and other situations involving individuals who pose no security threat?

Response: DHS understands that the Immigration and Nationality Act's (INA's) broad definitions of terrorist activity, terrorist organizations, and the provision of material support to terrorists or terrorist organizations can encompass individuals who do not present a risk to U.S. national security, including genuine refugees who may face persecution – sometimes at the hands of terrorists themselves. DHS is committed to achieving the right balance between employing flexible and effective tools for proactive counter-terrorism efforts through immigration law and honoring our proud tradition of providing immigration benefits and protection to deserving individuals who do not pose a threat to our security.

To this end, DHS and our interagency partners are thoroughly reviewing the process for issuing new exemptions. The Department is also examining various issues of legal interpretation regarding the terrorist-related inadmissibility grounds, including material support. It is my belief that we can, in short order and under the existing statutory framework, implement a process that will allow us to maintain our counterterrorism efforts while also providing protection and immigration benefits to individuals who do not pose a threat.

While DHS continues to work in an interagency process to achieve this goal, progress has been made in providing relief to cases in which the provision of material support was

56497.021

Question#:	22
Topic:	material support
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Russell D. Feingold
Committee:	JUDICIARY (SENATE)

made under duress, provided the totality of the circumstances justify the favorable exercise of discretion. In FY2009, USCIS approved 1,677 exemptions for individuals found to have been compelled, coerced or threatened to provide material support to a terrorist organization. We would welcome the opportunity to research the two cases referenced above further.

Question#:	23
Topic:	investment
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Russell D. Feingold
Committee:	JUDICIARY (SENATE)

Question: According to a GAO report issued in September, CBP has invested $2.4 billion on tactical infrastructure for the border fence and expects the total 20-year life-cycle cost for the fence to be $6.5 billion, but CBP has not assessed whether this massive investment has been effective at reducing unlawful immigration and improving border security. Will you direct the Commissioner of CBP to conduct an evaluation of cost effectiveness, to assess the impact of the current and expected future tactical infrastructure investment on effective control of the border? If so, how quickly can Congress get the results of such an evaluation?

Response: The Government Accountability Office (GAO) report entitled Secure Border Initiative: Technology Deployment Delays Persist and the Impact of Border Fencing Has Not Been Assessed (GAO-09-896) recommended that Customs and Border Protection (CBP) conduct a cost-effective evaluation of the impact of the tactical infrastructure's contribution to border security. CBP concurred that this study would be beneficial and has since committed to completing this study by the end of calendar year 2011.

The U.S. Border Patrol (USBP) recently met with a representative from the University of Arizona's Center of Excellence and discussed CBP's need to analyze the impacts of tactical infrastructure on border security. The Center of Excellence has since informed USBP that they have an open task order with the Department of Homeland Security and that USBP would only need to apply sufficient funding to initiate this study. USBP is currently developing its Fiscal-Year 2010 spend plan for allocation of the necessary funding to facilitate the study and ensure its completion by the end of calendar year 2011.

56497.023

Question#:	24
Topic:	custody
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Russell D. Feingold
Committee:	JUDICIARY (SENATE)

Question: The Migration Policy Institute recently issued a report stating that as of January 25, 2009, 992 persons had been detained for at least six months following receipt of a final removal order. These individuals appear to be in presumptive violation of the Supreme Court ruling, Zadvydas v. Davis. Please provide the following information:

How many immigrants have been detained in ICE custody in 2008 and 2009 for more than six months following receipt of a final removal order?

Response: In 2008 and 2009, 725 aliens were detained in ICE custody for more than six months following receipt of a final order of removal. However, detention beyond the presumptively reasonable removal period that was established by the U.S. Supreme Court's holding in *Zadvydas v. Davis* does not necessarily mean that these individuals were detained in violation of the Immigration and Nationality Act.

Pursuant to the United States Supreme Court decision, *Zadvydas v. Davis*, 533 U.S. 678 (2001), when ICE is unable to identify a country willing to accept the individual, ICE Office of Detention and Removal Operations (DRO) conducts a custody review pursuant to the guidelines set forth in 8 CFR § 241.4, which requires that a review be conducted on all aliens who are being held for more than 90 day removal period to assess whether or not the alien should continue to be detained. If the alien is a flight risk or poses a serious threat to the community, the DRO Field Office Director has the authority to continue his/her detention for an additional 90 days. If the alien has not been removed within 180 days, authority to release or detain the alien is transferred to ICE's Headquarters Office of Detention and Removal Operations, and a subsequent case review is conducted pursuant to 8 CFR § 241.13. This process ensures that continued detention is justified and in compliance with governing statutes, regulations and policy and applies to all aliens regardless of nationality.

Question: How many immigrants have been detained in ICE custody in 2008 and 2009 for more than one year following receipt of a final removal order?

Response: In 2008 and 2009, 501 aliens were detained in ICE custody for more than one year following receipt of a final order of removal.

56497.024

Question#:	24
Topic:	custody
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Russell D. Feingold
Committee:	JUDICIARY (SENATE)

Question: How many immigrants are currently being detained for more than six months following issuance of a final removal order?

Response: Currently, 336 aliens have been in ICE custody for more than six months subsequent to the issuance of a final order of removal.

Question: Please provide a breakdown of time frames that they have been held.

Response: Please see below breakdown:

6 months to a year – 221
1 year to 5 years – 112
Over 5 years – 3

Question: What percentage of the above immigrants have received stays of removal?

Response: DRO does not track the data on the number of aliens that received stays of removal.

Question: What percentage of the above immigrants have not been released because they are unable to obtain travel documents?

Response: ICE does not track the total number of aliens who have not been released because they are unable to obtain a travel document. There are several reasons why an alien may be detained beyond the presumptive, six month *Zadvydas* period. These include an alien's refusal to make timely application in good faith for travel documents to facilitate his/her departure and/or DRO's ongoing pursuit to obtain travel documents from the country of removal, which may take longer than six months to obtain. *See e.g.* INA § 241(a)(1)(C).

Question: Will DHS issue regulations that clarify what constitutes a "reasonably foreseeable removal," set timelines for release of immigrants that are not at risk of committing future crimes, and ensure all immigrants receive a hearing before an impartial adjudicator once they have been detained six-months following issuance of a removal order?

Response: An assessment regarding what constitutes when removal is "reasonably foreseeable" is a fact-specific assessment. Thus, given the unique nature of each individual's case and the independent circumstances surrounding the acceptance of

56497.025

Question#:	24
Topic:	custody
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Russell D. Feingold
Committee:	JUDICIARY (SENATE)

nationals by each repatriating country, DHS has no current plans to further define in a regulation of what constitutes one's removal as being "reasonably foreseeable."

Moreover, as described above, governing statutes, regulations and policy already exist which establish timelines for release of immigrants who neither pose a flight risk nor are at risk of committing future crimes. DHS will develop regulations to improve the post order custody review process related to the Detention of Aliens Subject to Final Orders of Removal in light of the Supreme Court's decisions in Zadvydas v. Davis, 533 U.S. 678 (2001), Clark v. Martinez, 543 U.S. 371 (2005). The regulations will also make conforming changes as required by the Homeland Security Act of 2002.

56497.026

Question#:	25
Topic:	data mining
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Russell D. Feingold
Committee:	JUDICIARY (SENATE)

Question: In December 2008, the DHS Privacy Office issued a report on data mining technology and policy issues.

Please provide an update on the implementation of the Principles for Implementing Privacy Protections in S&T Research, which according to the report S&T has agreed will govern new research performed at S&T laboratories, S&T-sponsored research conducted in cooperation with other Federal government entities, and research conducted by external performers under a contract with S&T.

Response: S&T has taken several steps to implement the Principles throughout the S&T Directorate, and ensure that Program Managers and researchers are aware of their responsibilities in applying the Principles. Throughout last year's annual privacy training events, S&T privacy staff incorporated the Principles into the Directorate-wide privacy awareness training program, and conducted supplemental training for Program Managers on the implementation of the Principles. Additionally, the Principles are reflected in ongoing S&T practice regarding the review and conduct of research projects. S&T conducts Privacy Impact Assessments (PIA) on privacy-sensitive research projects, during which the Principles, including data security, data quality and integrity, and data minimization, are evaluated and integrated into the research process through in-depth discussions between S&T Program Managers, S&T privacy staff, and the DHS Privacy Office. S&T is currently working with Program Managers and the DHS Privacy Office to further implement the Principles.

Question: How has DHS applied the lessons learned at the 2008 public data mining workshop to its existing data mining projects?

Response: The DHS Privacy Office submitted the Department's 2009 Data Mining Report to Congress on December 29th. The report describes the three DHS programs that involve data mining as defined by the Federal Agency Data Mining Reporting Act of 2007: (1) the Automated Targeting System (ATS) Inbound, Outbound, and Passenger modules administered by U.S. Customs and Border Protection (CBP); (2) the Data Analysis and Research for Trade Transparency System (DARTTS) administered by U.S. Immigration and Customs Enforcement (ICE); and (3) the Freight Assessment System (FAS) administered by the Transportation Security Administration (TSA).

56497.027

Question#:	25
Topic:	data mining
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Russell D. Feingold
Committee:	JUDICIARY (SENATE)

The 2009 Report demonstrates the Department's commitment to transparency, accountability, and appropriate use of data mining technologies - the core lessons of the 2008 public workshop. To provide transparency into their operations, DHS programs that use personally identifiable information in connection with data mining publish Privacy Impact Assessments in the Federal Register, that describes how the program works, analyze any identified privacy risks, and describe the steps taken to mitigate those risks. The DHS Privacy Office provides ongoing oversight for these programs to ensure that they are implemented with privacy protections in place. Perhaps most importantly, the Department does not make decisions about individuals based solely on the results of data mining. DHS employees conduct investigations to verify (or disprove) the results of data mining, and then bring their own judgment and experience to bear in making determinations about individuals initially identified through data mining activities.

56497.028

Question#:	26
Topic:	joint fusion center
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Dianne Feinstein
Committee:	JUDICIARY (SENATE)

Question: It is my understanding that the Department partners with State, local, and tribal governments and the private sector to gather information. Simultaneously, to meet their own all-threats, all-hazards information needs, many States and larger cities have created fusion centers, which provide state and local officials with situational awareness. On November 27th, I received a letter from Undersecretary Elaine Duke regarding a 90-day feasibility and resource study for a Joint Fusion Center - Program Management Office – within the Office of Intelligence Analysis.

Are you aware of such a study and the proposed management office? If so, would you please describe, in your opinion, what would be the objective of such an office?

Are there inefficiencies in the current fusion center construct that would require such an office and are State and local law enforcement getting the intelligence they need?

Response: DHS I&A is currently developing an intra-Departmental Report and Recommendations on the establishment of a Joint Fusion Center Program Management Office (JFC-PMO). A JFC-PMO would coordinate, integrate, and synchronize the Department's relationships with, support to, and engagement of State and major urban area fusion centers to ensure a collaborative and coordinated approach by all DHS Components. The JFC-PMO is intended to bring to bear the full capabilities and resources of the Department in support of our State, local, and tribal partners.

DHS is committed to supporting our State and local customers in the most efficient manner possible, while ensuring they receive the timely, actionable information they require. DHS will continue to coordinate its efforts across the entire Department to provide integrated, holistic support to fusion centers.

56497.029

Question#:	27
Topic:	analysts
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Dianne Feinstein
Committee:	JUDICIARY (SENATE)

Question: According to your May 2009 testimony, the Department will triple the number of intelligence analysts working at the Southwest border, providing a greater capability to develop pre-operational intelligence reports, strategic intelligence products and post-operational impact assessments' to ensure that resources have the maximum impact possible to protect public safety.

Have these analysts been deployed, if so, to where? Can you please describe how these additional analysts will be coordinating with State and local law enforcement in California? Will these analysts be able to identify gun or drug shipments prior to them reaching the U.S. border and how will that type of information be shared with local law enforcement?

Response: Yes, these analysts have been deployed.

Prior to the Southwest Border Violence initiative in FY09, the ICE Office of Intelligence (Intel) had analysts at the Border Violence Intelligence Cell (BVIC) at the El Paso Intelligence Center (EPIC), and analysts working at the eight Border Enforcement Security Task Forces (BESTs) along the Southwest Border. Subsequently, additional ICE Intel analysts were deployed to the BVIC, and one each to the ICE Attaché offices in Mexico (Mexico City, Hermosillo, Tijuana, Monterrey and Ciudad Juarez). The number of analysts at the Southwest Border BESTs – San Diego, Imperial Valley, Yuma, Tucson, El Paso, Laredo, San Antonio, and Rio Grande Valley (Harlingen, TX) – was tripled. The number of analysts was also increased to support each of the BESTs in Deming and Las Cruces, New Mexico.

State and local law enforcement agencies are participants in the BESTs in all locations, so intelligence produced in support of the BESTs also supports state and local partners participating in these taskforces. In addition, the BVIC serves as Southwest Border-wide support, and its capabilities allow for daily interaction with the Drug Enforcement Administration (DEA), and the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) and the BESTs. The BVIC has intelligence research specialists assigned to the EPIC gun desk and DEA units which allows for de-confliction of information, a common operating picture of the agencies involved, and the dissemination of tactical, operational and strategic intelligence to ICE and other personnel and agencies, as appropriate. These capabilities, and those at the BESTs, together with information sharing in ICE's Attaché

56497.030

Question#:	27
Topic:	analysts
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Dianne Feinstein
Committee:	JUDICIARY (SENATE)

offices, allow ICE to identify gun and drug shipments prior to their arrival at the U.S border.

Additionally, the ICE Intel Field Intelligence Group (FIG) El Paso staffs an analyst on the EPIC Watch Desk, which responds to queries from state and local law enforcement partners.

Lastly, FIGs located within California, specifically, San Francisco, Los Angeles and San Diego have each assigned a point of contact to liaise with state and local law enforcement coordinated through DHS Fusion Centers in California. Intel's analysts foster two-way information sharing and conduct analysis, and support risk-based, information-driven decision making; further, the FIG analysts provide direct support to California's state and local law enforcement with ongoing case support and they provide strategic and tactical intelligence to California's partner agencies.

56497.031

Question#:	28
Topic:	indemnification
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Dianne Feinstein
Committee:	JUDICIARY (SENATE)

Question: As you may be aware, when DHS enters into information sharing agreements with State, tribal and local law enforcement agencies, they are barred from signing mutual indemnification agreements. This lack of mutual indemnification means that State, tribal of local law enforcement agencies could be held liable in the event of inappropriate or illegal use of the information by a Federal agent. While some larger law enforcement agencies can afford that legal exposure, the vast majority cannot. As a result, the continuing ability of State, tribal and local law enforcement agencies to fully participate in information sharing initiatives is at risk.

What is the Department's view on this critical issue and how can this obstacle to critically needed information sharing between federal, State, tribal and local law enforcement agencies be mitigated?

Response: To date, DHS has not identified the lack of mutual indemnification agreements with our State, local, and tribal partners as an impediment to information exchange.

DHS recognizes exchanges of information between the Department and our State, local, and tribal law enforcement partners must adhere to the U.S. Constitution and applicable laws, regulations, and policies, including and especially those intended to protect individual privacy and civil liberties interests. To that end, DHS works to ensure information sharing arrangements entered into with State, local, or tribal authorities do not encroach upon the sovereign rights, privileges, and immunities of either the Federal government or the individual States. This includes addressing and resolving in a timely and legally appropriate manner any terms or conditions of these arrangements found in practice to be inconsistent with any applicable law, regulation, or policy.

Question#:	29
Topic:	CAP speech
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: On November 20, several Senators (including Judiciary Committee members Senators Sessions, Hatch and myself), sent you a letter regarding your speech before the Center for American Progress. We took issue with your statement that "requiring illegal immigrants to register to earn legal status...will strengthen our economy as these immigrants become full-paying taxpayers." You also said "immigration reform will be a boon to American workers." Your response back to us did not address this issue. Can you please clarify your comments from the CAP speech that suggests that a legalization program will improve our economy and help American workers?

Response: A legalization program will strengthen our economy. Over the years, immigration has helped build this country's economy into one of the greatest and most powerful economies in the world, and it remains so even during the present temporary downturn. Immigrants create *new* jobs by forming new businesses, spending their incomes on American goods and services, paying taxes, and raising the productivity of U.S. businesses. Legalization could also have a strong positive effect on American workers' wages, particularly workers in low-skill occupations. As I stated in my speech before the Center for American Progress, "unions will never achieve the best terms for workers when a large part of the workforce is illegal and operates in a shadow economy." As long as these workers in the shadow economy have a fear of removal, they have little leverage to press employers for improved wages and working conditions. A legalization program would bring millions of workers out of the shadow economy, thus helping raise wages and improve working conditions for all U.S. workers, especially those in low-skill occupations in which many illegal immigrants are currently employed.

56497.033

Question#:	30
Topic:	patrol model
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: You indicated in your response (dated December 7 to several Senators) that more than 111,000 aliens in state and local jails were identified through the Secure Communities program. When asked about the 287g program, you said you have focused the program to two areas: jails and task forces. Why have you refrained from using the patrol model? What are your specific concerns about this model that has forced you to move away from it, even though that is what Congress intended when we created the program?

Response: The patrol model has historically been the most challenging for ICE to adequately supervise. The patrol model has led to cases in which individuals have been taken into custody in remote areas of the United States where neither ICE officers, nor adequate detention space was in close proximity. This required the deployment/transport of ICE officers to these remote locations, time to process and review charging documentation, and the transport of lower priority individuals to detention facilities that are often a great distance away. In such instances, devotion of limited ICE resources to lower level enforcement activities greatly detracted from DHS priorities and the 287(g) program.

With the issuance of the revised memorandum of agreement (MOA) in July, 2009, ICE has improved its oversight of the 287(g) program. The current focus on identification, apprehension and processing of higher level criminal aliens in the task force and jail models is a more effective and efficient use of ICE 287(g) program resources. As evidenced by current MOAs with the Alabama Department of Public Safety and the Colorado State Patrol, 287(g) immigration authorities can in some cases be effectively delegated to law enforcement agencies which primarily conduct patrol missions and still focus use of those authorities to further agency mission priorities. An LEA's application to the 287(g) Program is decided on a case-by-case basis that focuses on a number of factors to include the LEA's particular needs as well as ICE resources.

56497.034

Question#:	31
Topic:	division
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: The Fraud Detection and National Security division of Homeland Security has produced two benefits fraud assessments in the past few years: one on religious workers and another on the H-1B visa program. Is the division currently working on other reports (if so, please describe) and does the division plan to study other immigration or visa programs in the future?

Response: The Fraud Detection and National Security (FDNS) Directorate of U. S. Citizenship and Immigration Services (USCIS) is currently working on several Benefit Fraud and Compliance Assessments (BFCAs) that are going through the final review process. It is anticipated that these studies will be completed shortly. To date, USCIS has completed BFCAs immigrant religious workers (Form I-190), H-1B nonimmigrant specialty occupation workers (Form I-129), and E-1 and E-3skilled and unskilled immigrant workers (Form I-140). USCIS is currently working on reviewing a number of assessments and preparing draft reports for formal circulation within USCIS Headquarters. USCIS will be formalizing its process to prioritize BFCAs and is reviewing previously completed reports to see how our approach, data collection, and analysis can be strengthened before applying further resources to this purpose. As with the earlier BFCAs, USCIS will use the results to identify and develop procedural and policy changes to inform officers of potential vulnerabilities being exploited and to ultimately deter fraud.

FDNS is currently working on BFCAs relating to immigration benefits for asylees, nonimmigrant intra-company transferees in the capacity of a manager or an executive (L-1A), immigrant multinational executives and managers workers in the (E-13) classification, immigrant family members from Yemen, and immigrant family members seeking status based on marriage.

In addition to the in-depth BFCAs, FDNS will continue to assess fraud in new and innovative ways, including the implementation of the Risk Assessment Program (RAP) which makes use of computer modeling and analytics. The RAP is a collaborative effort of the program offices within USCIS and DHS's Office of Immigration Statistics, led by FDNS. The RAP was designed to maximize the use of agency resources, focus on system-based and A-file analyses, and employ a flexible array of tools in the study of fraud. The risk indicators identified by the assessments will be used to inform the risk analyzer currently under development as part of the USCIS transformation effort.

56497.035

Question#:	32
Topic:	ASVVP
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: In a letter dated November 10, Director Mayorkas told me that U.S. Citizenship and Immigration Service planned to expand the Administrative Site Visit and Verification Program (ASVVP) from 5,000 site visits in 2009 to up to 25,000 site visits in the coming year (FY10). Can you please provide me with statistics on how many site visits, of the 5,191 in fiscal year 2009, were referred to Immigration and Customs Enforcement for investigation? How many cases has ICE accepted or will accept for investigation? How many have been or will be referred to the U.S. Attorney's office for prosecution?

Response: U.S. Immigration and Customs Enforcement (ICE) does not track the number of U.S. Citizenship and Immigration Services (USCIS) referrals based on the results of the USCIS site visits. As such, ICE through its project codes and/or administrative case numbers, is only able to track the number of hours expended in support of the USCIS Administrative Site Visit and Verification Program, which for fiscal year 2009 was 168 hours.

ICE does not track cases generated by the USCIS Administrative Site Visit and Verification Program referred to U.S. Attorneys' Offices.

There were 13,143 cases sent to the ASVP inspectors for site visits. Of the 11,430 visits, two cases resulted in being referred to ICE. These two cases are still pending with ICE for acceptance/rejection. Since these two cases are pending with ICE, no cases have been forwarded or accepted by the USAO.

Of the 5,191 ASVVP site visits completed in FY 2009, only two resulted in referrals to ICE. This is because ASVVP site visits are not performed on cases suspected of fraud. H-1B site inspections are randomly pulled from completed (approved) change of status and extension of stay petitions. Religious worker-based site inspections are done for all petitions whose location has not previously received a favorable site inspection.

Applications and petitions suspected of fraud are referred to ICE in accordance with a Memorandum of Agreement signed on September 26, 2008. As the specific referral criteria are law enforcement sensitive, we are not including them here, but the primary criteria are focused on major fraud conspiracies and attorney/preparer fraud, not lower-level, single-scope fraud. This enables ICE to concentrate on cases where criminal prosecution is likely, while USCIS pursues the verification of fraud administratively.

56497.036

Question#:	32
Topic:	ASVVP
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

When USCIS finds fraud, the petitions are denied, and the aliens are placed in removal proceedings. Pertinent data is entered into USCIS's Fraud Detection and National Security Data System (FDNS-DS) and a lookout posted in the TECS. This lookout is primarily aimed at detecting and culling out of the system any future filings. A TECS check is conducted on all persons seeking immigration benefits. Between 30 and 33 million TECS checks are conducted by USCIS per year. This joint USCIS/ICE anti-fraud strategy enhances efficiency by ensuring that cases are reviewed and action taken by the appropriate authority in a timely manner.

56497.037

Question#:	33
Topic:	rules
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: If an individual is in the United States on an H-1B visa, but is subsequently laid-off or fired, how long does that individual have to remain in this country? Does the Department make it clear to beneficiaries of these rules? Given the current economic downturn, is the Department taking steps to make sure that foreign workers who are unemployed are being forced to return to their home country so that American workers have an opportunity for these high skilled and higher paying jobs?

Response: An H-1B nonimmigrant is admitted conditioned upon being employed by the H-1B petitioner. If the employment ends, this condition is no longer satisfied. The alien is no longer in a lawful nonimmigrant status and may be subject to removal proceedings. As with any alien admitted as a nonimmigrant, section 237(a)(1)(C)(i) of the Immigration and Nationality Act (INA) makes an H-1B nonimmigrant subject to removal as a deportable alien if the H-1B nonimmigrant "fail[s] . . . to comply with the conditions of [H-1B] status." Therefore, the alien should leave the United States "as soon as possible" after employment terminates.

Depending on the individual's circumstances, the H-1B worker may be eligible to remain in the United States due to a timely filed request for a change of status or for extension of stay, or because of a pending adjustment of status application. In deciding whether to approve a change or extension of status for any out-of-status nonimmigrant, however, USCIS *may* exercise discretion on a case-by-case basis to grant the extension or change status in spite of the failure to maintain status.

Although the terminated H-1B alien is no longer authorized to live or work in the United States as of the date of termination, the alien does not begin to accrue unlawful presence, for purposes of triggering admissibility bars, at that time. Under current USCIS policy, nonimmigrants admitted until a specific date will begin to accrue unlawful presence as follows: 1) the day following the date the authorized period of admission expires, as noted on, Arrival/Departure Record; 2) if USCIS finds, during the adjudication of a request for immigration benefit, that the alien has violated his or her nonimmigrant status, unlawful presence will begin to accrue either the day after Form I-94 expires or the day after USCIS denies the request, whichever is earlier; or 3) if an immigration judge makes a determination of nonimmigrant status violation in exclusion, deportation or removal proceedings, unlawful presence begins to accrue the day after the immigration judge's order or the day after the Form I-94 expired, whichever is earlier.

56497.038

Question#:	33
Topic:	rules
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

U.S. employers are required to notify USCIS if there has been a material change in the terms and conditions of the H-1B nonimmigrant's employment, including if the alien has been laid-off or otherwise terminated [See 8 CFR 214.2(h)(11)(i)(A)]. Once USCIS has received notification of the termination, it may revoke the approval of the petition. If USCIS decides to revoke the petition, it will communicate that decision to the petitioner. As the beneficiary is not a recognized party to the proceeding, USCIS does not issue direct notice of revocation to the beneficiary.

56497.039

Question#:	34
Topic:	I9
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: How many I-9 audits has the Department done this calendar year? Of these, how many aliens have been identified as working illegally in the United States? Of those identified, how many aliens have been removed from the United States?

Response: U.S. Immigration and Customs Enforcement (ICE) tracks Form I-9 inspections by fiscal year (FY). In FY 2009, ICE conducted 1,444 inspections and, in FY 2010 through November 30, 2009, ICE initiated 1,089 inspections.

For open worksite investigations between July 1, 2009, and November 30, 2009, ICE has identified 39,838 instances of employees using suspect documents as a result of Form I-9 inspections.[1] ICE does not track the ultimate disposition of individuals with suspect documents.

The Form I-9 inspection is primarily a compliance tool used by ICE to ensure employers are verifying the identity and work eligibility of their employees and, thereby, employing a legal workforce. Form I-9 inspections often uncover suspect or fraudulent documents that may result in the arrest of unauthorized workers, but employer compliance remains a primary goal of the audit program. Additionally, I-9 audits are an important tool in identifying criminal violators by employers and developing criminal cases.

[1] ICE headquarters did not track the number of suspect documents identified on cases closed prior to July 1, 2009.

56497.040

Question#:	35
Topic:	PASS ID
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: You have endorsed the PASS ID Act, a bill that repeals the 2005 REAL ID Act and delays implementation of secure drivers license standards. The REAL ID law prohibits individuals who do not have REAL ID compliant licenses from boarding airplanes. This was done because 18 of the 19 hijackers acquired some form of fraudulent ID to board the planes that they flew into the World Trade Center and the Pentagon. The 9/11 hijackers obtained 30 licenses and IDs, and used 364 aliases. The PASS ID Act as drafted, however, would allow individuals to board a commercial aircraft no matter what type of ID they possess. Do you believe that individuals with non-compliant and, therefore, less secure drivers licenses should be allowed to board an airplane?

Response: The REAL ID law requires that a Federal agency not to accept, for any official purpose, a driver's license or identification card issued by a state to any person unless that State is meeting the requirements of subsection 202(a) of the REAL ID Act. Individuals who do not have a REAL ID compliant license may still board airplanes, if the individual produces another form of identification that is acceptable to TSA to confirm identity. The current draft of the PASS ID Act includes a similar provision. Similarly, the bill, S. 1261.

It is important to recognize that, just as required under REAL ID, under the PASS ID Act bill, individuals who do not have a compliant driver's license may be allowed to board an airplane if the individual produces another form of identification that is acceptable to TSA to confirm identity. If an individual does not or cannot produce an alternative identification that is acceptable to TSA, that individual may be subject to additional screening by TSA.

56497.041

Question#:	36
Topic:	digitization
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Chuck Grassley
Committee:	JUDICIARY (SENATE)

Question: Secure drivers licenses depend, in part, on the information provided to motor vehicle departments. An individual applying for a license will have to prove his or her identity and U.S. citizenship or immigration status, so verification of documents like birth certificates, will be an important part of the process. Are you committed to funding the digitization of the vital statistics records of people born in this country? Will the Administration push for funding in its Fiscal Year 2011 budget for this endeavor so that we can truly achieve a more secure drivers license standard?

Response: DHS agrees that the verification of documents like birth certificates is an important part of the process to increase the security of state-issued identity documents. In FY2008, DHS provided a $4 million dollar Vital Events Verification Grant to subsidize states' installation of a capability needed to facilitate the electronic verification of vital events records such as birth records for all U.S. jurisdictions. In addition, DHS is committed to assisting states to develop and deploy the capability for all state departments of motor vehicles (DMV) to electronically connect to their respective Vital Record Agency, which could enable all state DMVs to verify in-state and ultimately out-of-state birth record identity information.

Lastly, in FY 2006 Congress provided that not less than $6 million dollars shall be made available to states for REAL ID pilot projects on integrating hardware, software, and information management systems. $3 million of the $6 million dollars were awarded to Kentucky to fund a REAL ID Pilot Project which is being implemented to test as well as validate birth record verification processes and to develop a common set of standards that all states can use to validate birth records during the driver's license issuance process. Through this grant, DHS is also working with officials in Kentucky to provide all other states the needed technical assistance and special tools required for each state's birth record data quality.

56497.042

Question#:	37
Topic:	rights
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: Before the Judiciary Committee, you stated that terrorist detainees who are being transferred to U.S. soil from Guantanamo Bay would be placed in removal proceedings if acquitted during criminal trials. Because removal proceedings are immigration proceedings, please outline what specific rights and benefits these terrorist detainees would have access to during the removal proceedings. Please list all relevant statutory, case law, common law, and constitutional law citations that provide the basis for your answer.

Response: In making any decisions about the disposition of Guantanamo Bay detainees, the safety and security of the American people are the Administration's top priority. This nation has a long history of successfully trying, convicting, and imprisoning terrorists, and we have confidence in the ability of our legal system to handle these cases.

Current law provides that Guantanamo Bay detainees may be brought into the United States only "for the purposes of prosecuting such individual, or detaining such individual during legal proceedings." Department of the Interior, Appropriations Act, 2010, (Pub. L. No. 111-88, § 428(c) (2009) (DIAA) Department of Homeland Security Appropriations Act, 2010, (Pub. L. No. 111-83 § 552(d) (2009) (DHSAA). Following standard procedures regularly used by the Department of Homeland Security (DHS), detainees at Guantanamo Bay who are charged with federal crimes would be paroled under section 212(d)(5) of the Immigration and Nationality Act (INA), for purposes of prosecution, to the custody of the United States Marshals Service. In immigration law, "parole" is a term of art, and section 212(d)(5) specifically provides that parole "shall not be regarded as an admission" into the country. Paroled individuals are treated as though they were still at the border applying for admission throughout their period of time in the country.

If Guantanamo Bay detainees were placed in proceedings under INA 240 following an acquittal or completion of a sentence, it is important to note that under section 552(f) of the DHSAA, no DHS funds may be used to provide any immigration benefit to Guantanamo Bay detainees except for parole into the United States "for purposes of prosecution and related detention." This section specifically bars using any DHS funds to provide detainees with any immigration benefit including, "classification as a refugee or applicant for asylum." So while detainees could file applications for relief from removal, they would be barred from receiving any immigration benefits. Further, aliens who have been determined to have engaged in terrorist activity under INA § 212(a)(3)(B) are

56497.043

Question#:	37
Topic:	rights
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

statutorily ineligible for most immigration benefits. See, e.g., INA §§ 208(c)(2)(B) (asylum); 241(b)(3)(B) (withholding of removal); 245(a)(2) and (c)(6) (adjustment of status).

Regarding the Convention Against Torture, U.S. policy would be the same after transfer of detainees to the United States as it has been while they are held at Guantanamo Bay. Consistent with article 3 of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Foreign Affairs Reform and Restructuring Act of 1998 (FARRA), Pub L. No. 105-277, div. G., § 2242(a), it is the policy and practice of the United States Government not to transfer a detainee, regardless of where he is currently held, to a country in which it is more likely than not he will be tortured. In the event this policy precludes repatriation of a detainee whom the United States seeks to transfer abroad, U.S. policy would be to work to identify an alternative resettlement country, as it has done with respect to some detainees at Guantanamo Bay.

While Guantanamo Bay detainees would be barred from any immigration benefits, all aliens in removal proceedings are granted certain rights in removal proceedings before an immigration judge. These include a reasonable opportunity to examine the evidence unless the evidence if classified and to cross-examine witnesses presented by the Government (INA § 240(b)(4)(B)), as well as the privilege to be represented by counsel at no expense to the Government (INA §§ 240(b)(4)(A), 292).

Since the Guantanamo Bay detainees would be paroled into the country, they would be considered applicants for admission under INA § 235(a)(1), and, therefore, in order to be admitted into the country they would have the burden of showing that they are "clearly and beyond doubt" entitled to be admitted, INA § 240(c)(2)(A). Although not relevant here in light of the statutory restrictions on receiving immigration benefits, they would also bear the burden of showing eligibility for relief from removal. INA § 240(c)(4).

Guantanamo Bay detainees who would be in removal proceedings under INA § 240 would be ineligible for release from custody under existing law. Current appropriations law provides that "none of the funds available in this or any other Act may be used to release an individual who is detained [at Guantanamo Bay]" into the United States or its territories. DIAA § 428(a): DHSAA § 552(a). Additionally, as parolees, Guantanamo Bay detainees would be unable to ask an immigration judge to release them from custody during the pendency of removal proceedings. 8 C.F.R. §§ 1003.19(h)(2)(i)(B), 1003.19(h)(2)(ii). While Guantanamo Bay detainees would have a right to seek release though a petition for a writ of habeas corpus (a right the Supreme Court has granted them at Guantanamo), the appropriations law prohibits the use of funds to release them from custody.

56497.044

Question#:	37
Topic:	rights
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Aliens who have been ordered removed by an immigration judge may seek administrative review of a decision to the Board of Immigration Appeals (BIA), 8 C.F.R. § 1240.15, and judicial review of the BIA decision in the federal court of appeals. INA § 242(a).

56497.045

Question#:	38
Topic:	L visa
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: I'm interested in your thoughts about the L visa blanket petition. Companies are approved a blanket petition on the front end, allowing them to bring in an unlimited number of workers under that petition. This was created to streamline the process for companies. Can you explain how the blanket petition works, and outline the procedures in place to ensure individuals are coming legitimately to the United States? And, would you advise Congress to keep the blanket petition on the books?

Response: The Blanket L-1 petition allows large companies to pre-qualify to transfer L-1 employees. It enables companies, and their qualifying entities (parent companies, branches, subsidiaries, and affiliates), with an approved Blanket L-1 petition to have the flexibility to transfer people to the United States quickly and on short notice without having to file an individual petition with USCIS. Instead, the companies or their qualifying entities file Form I-129S, along with a copy of the blanket petition Approval Notice, to the USCIS or a consulate abroad. Submission of Form I-129S and the blanket petition Approval Notice does not guarantee that the beneficiary will be eligible for L-1 classification; the consular or service officer must still determine whether the beneficiary qualifies for the classification.

(Note: Canadian citizens, in accordance with NAFTA, may present Form I-129 and all supporting documentation (completed and forwarded to them by the petitioner) to a pre-flight inspection station or Class A port of entry at the U.S.-Canadian border in order to apply for admission.)

In order to be eligible for an L blanket petition, the petitioner:

- along with its entities, must be engaged in commercial trade or services;
- must have an office in the United States which has been doing business for one year or more;
- must have three or more domestic and foreign branches, subsidiaries, or affiliates; and
- must have one of the following:
    - at least 10 approved L-1 employee transfers in the previous 12 months;
    - U.S. subsidiaries or affiliates with combined annual sales of at least $25 million; or
    - an U.S. workforce of at least 1000 employees.

56497.046

Question#:	38
Topic:	L visa
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

The L Blanket program is an effective tool for large, multi-national companies to transfer key personnel in a timely manner, to the benefit of the U.S. economy.

Question#:	39
Topic:	MOUs
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Orrin G. Hatch
Committee:	JUDICIARY (SENATE)

Question: Can DHS provide to me any copies of Memoranda of Understanding (MOUs) regarding the Transportation Security Administration's authority to detain persons that are flying domestically for further investigation of their immigration status?

Response: The Transportation Security Administration does not have authority to detain or conduct investigations as to the immigration status of individuals who are flying domestically. Consequently, there are no Memoranda of Understanding (MOUs) with other agencies setting forth procedures related to this subject. If a member of the TSA workforce uncovers information that calls into question the immigration status of an individual, then the matter is referred to the appropriate law enforcement authority, including Immigration and Customs Enforcement.

56497.048

Question#:	40
Topic:	287g
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Orrin G. Hatch
Committee:	JUDICIARY (SENATE)

Question: Last Congress, I worked closely with Administration officials to bring the 287(g) program to select areas in Utah. I believe the 287(g) program, as originally enacted, is a key step forward in paving the way for increased coordination between Immigration and Customs Enforcement (ICE) and local law enforcement officials. This program has proven successful as an approach to catch and deport illegal aliens who are committing crimes and harming the safety of our neighborhoods. This program has proven to be an effective tool in immigration law enforcement and local crime-fighting in my home state.

Another program that has been promoted by your Agency is Secure Communities: a plan to identify and remove criminal aliens from the United States. Under this program, after an individual is arrested and charged with an offense, local law enforcement can check an individual's fingerprint against the DHS and FBI fingerprint databases.
As between the 287(g) program and the Secure Communities program, which one would you recommend to my Utah law enforcement constituents and why?

Is it true that the Secure Communities may help identify some criminal aliens whose visas have expired, but it does not help identify those aliens who have illegally crossed the border without any interaction with Customs and Border Patrol or immigration authorities in general?

Response: ICE's Secure Communities (SC) and the 287(g) program compliment each other in the identification and removal of criminal aliens. The technology utilized by Secure Communities (referred to as interoperability) enables local law enforcement agencies (LEAs) to biometrically search the criminal history and immigration status for individuals in their custody. The 287(g) program cross-designates state and local officers to enforce certain immigration laws as authorized through section 287(g) of the Immigration and Nationality Act. Utilization of these programs is dependent on availability of ICE resources, detention space, and other factors pertinent to the location and the LEA. These programs can operate alone or in concert with one another.

Under SC, Congress provided ICE with funding to "improve and modernize efforts to identify aliens convicted of a crime, sentenced to imprisonment, and who may be deportable, and remove them from the United States once they are judged deportable."

56497.049

Question#:	40
Topic:	287g
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Orrin G. Hatch
Committee:	JUDICIARY (SENATE)

The SC strategy seeks to improve public safety by implementing a comprehensive, integrated approach to identify and remove criminal aliens from the United States.

Interoperability is the integration of two federal biometric databases. A single LEA submission of fingerprints as part of the customary criminal arrest and booking process will automatically check both the Integrated Automatic Fingerprint Identification System (IAFIS) of the FBI's Criminal Justice Information Services (CJIS) Division and the Automated Biometric Identification System (IDENT) of the Department of Homeland Security's (DHS) US-VISIT Program.

Individuals who have no prior contact with DHS or law enforcement will result in a no match from interoperability. However, the LEA may submit a further request for a biographic check to the ICE Law Enforcement Support Center (LESC) so further checks can be accomplished. Generally, such individuals need to be interviewed before their removability can be assessed. In some cases, an examination of documents can assist this process. This assessment may lead to the issuance of a Notice to Appear, which leads to a formal adjudication of immigration status through the immigration court system.

The 287(g) Program officers utilize their Delegated Immigration Authority to identify and process individuals encountered through the program that may be removable from the United States. ICE is responsible for supervision of these officers. ICE also maintains signatory authority on administrative, immigration charging documents. 287(g) is particularly important as it often focuses on identifying subjects previously encountered by U.S. Immigration authorities.

SC and 287(g) differ in several ways:

1. Under SC, through the use of biometric information sharing technology, ICE officials, not state or local law enforcement, determine an individual's identity and alienage.

2. 287(g) identifies aliens utilizing interview techniques, biographical data, and DHS system access unless interoperability is deployed in a 287(g) facility.

3. SC does not authorize state or local law enforcement officers to take immigration-based enforcement action. SC requires ICE resources (i.e.: agents, transportation, and detention space) to process aliens identified, unless there is a 287(g) presence at the jail. If 287(g) officers are present, they will process cases identified through interoperability.

56497.050

Question#:	40
Topic:	287g
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Orrin G. Hatch
Committee:	JUDICIARY (SENATE)

4. 287(g) is operational in that certain immigration enforcement authorities are delegated to local law enforcement officers to perform immigration enforcement pursuant to the 287(g) Memorandum of Agreement.

As noted above, the 287(g) and the Secure Communities programs can operate either stand alone or in concert. Together, the two programs support one another by indentifying criminal aliens that pose a threat to our communities and public safety.

Both 287(g) and SC would be an asset to the state of Utah. Deployment of interoperability to counties in Utah is currently scheduled to begin the second quarter of Fiscal Year 2010, to be completed by Fiscal Year 2013. A specific recommendation about 287(g) is not possible given that 287(g) is jurisdiction and agency-specific. Requests by state and local law enforcement agencies for delegation of certain immigration enforcement authorities under 287(g) are addressed on a case-by-case basis by the ICE Office of State and Local Coordination.

56497.051

Question#:	41
Topic:	cyber
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Orrin G. Hatch
Committee:	JUDICIARY (SENATE)

Question: The growing threat of cyber crime is one that affects millions of Americans every year. Cyber criminals operate in an arena where international borders mean nothing. These enterprising criminals reach into multiple sectors of not only the American economy, but also the global economy. Computer virus incidents and data breaches cost companies billions of dollars every year and affect consumer confidence. While technologies for detection and defense are attempting to keep pace, the threat is constantly evolving.

Cyber crime is something that I am focused on addressing because of the pervasiveness of this crime and its national security implications. I recently hosted a Republican High Tech Task Force Roundtable on cyber crime. The U.S. Secret Service, your Department's chief investigative agency for data breaches, computer fraud and other cyber crimes, provided meeting participants an informative presentation on the transnational cyber crime model. This was very insightful given the successful investigations and criminal intelligence gathered by the Secret Service on domestic and international cyber criminals. The Secret Service detected and apprehended persons responsible for the two largest and most complex data breach cases ever prosecuted in the United States, the Heartland Systems Payment and TJX Companies cases – doing all of this on a relatively small budget of $2 million under the Electronic Crime Task Force.

Where do you plan on taking DHS cyber security initiatives and investigations?

Response: In recent years, the combination of the information revolution, the effects of globalization, and the proliferation of the Internet have irrefutably and permanently altered the arena in which today's cyber threats, including criminal elements, operate. The Department of Homeland Security (DHS) plays a vital role in the Nation's effort to combat cyber crime while also addressing cybersecurity matters. The United States Secret Service (USSS) and the U.S. Immigration and Customs Enforcement (ICE) are on the forefront of the effort to combat cyber crime, whereas DHS's National Cyber Security Division (NCSD) focuses on coordinating the security of public- and private-sector networks from attacks, regardless of the malicious actor's identity or motivation.

The USSS continues to observe significant increases in the quality, quantity, and complexity of cyber cases targeting the U.S. financial and other critical infrastructures. Current trends show an increase in network intrusions, hacking attacks, malicious software, and account takeovers, resulting in data breaches affecting every sector of the

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Primary:	The Honorable Orrin G. Hatch
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American economy. The multinational, multi-jurisdictional nature of these cyber crime cases has increased in complexity and, accordingly, increased the expertise, time, and resources needed for successful prosecution and adjudication. The anonymity, level of collaboration among cyber-criminals, and the transnational nature of these crimes have raised both the intricacy of these cases and the level of potential harm to the U.S. critical infrastructures.

To face the emerging threat posed by these often-well-funded and well-organized cyber criminals, the USSS developed and adopted an innovative and multi-faceted approach that has led to the successful investigation and prosecution of some of the largest known international cyber criminal organizations. The USSS accomplished this by:

- Providing the necessary computer-based training to enhance the investigative skills of special agents through their Electronic Crimes Special Agent Program;
- Collaborating with other law enforcement agencies, private industry, and academia through their network of 29 Electronic Crimes Task Forces (ECTFs);
- Maximizing partnerships with international law enforcement counterparts through their overseas field offices;
- Identifying and locating international cyber criminals involved in cyber intrusions, identity theft, credit card fraud, bank fraud, and other computer-related crimes through the analysis provided by their Cyber Intelligence Section; and
- Providing our State and local law enforcement partners with the necessary computer-based training, tools, and equipment to enhance their investigative skills through the National Computer Forensic Institute. This training is provided at no cost to State and local law enforcement agencies and acts as a "force multiplier" for the Secret Service.

The ICE Cyber Crimes Center (C3) investigates domestic and international criminal activities occurring on or facilitated by the Internet. C3 brings together highly technical assets dedicated to conducting cross-border criminal investigations to analyze emerging trends and threats. To accomplish this mission, C3 comprises four sections – Child Exploitation, Computer Forensics, Cyber Training, and Cyber Crimes – that investigate how the Internet is used to further criminal activities in the areas of identity document fraud, money laundering, narcotics trafficking, child exploitation, illegal exports, and human trafficking and smuggling.

Unlike USSS and ICE, NCSD, within the DHS Office of Cybersecurity and Communications, addresses threats to government and private-sector systems in ways that help secure those systems against attack, independent of origin and motivation of the attack. NCSD and its operational branch, the United States Computer Emergency

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Readiness Team (US-CERT), do not have law enforcement authorities, but they leverage liaisons from the USSS and the Federal Bureau of Investigation to coordinate with law enforcement. Rather than pursuing law enforcement investigations, it focuses on computer network defense and security. US-CERT is responsible for increasing the security of Federal Executive Branch civilian networks and supporting State, local, and private-sector partners as they secure their critical information systems.

Regardless of the origin or motivation of a particular cyber threat, US-CERT works with its partners to adopt specific measures in response to identified threat actors. The vulnerabilities within information technology (IT) networks and systems are threat-neutral, meaning that a vulnerability can be exploited just as easily by a nation state, criminal, or other threat actor. As a result, NCSD works with its partners to develop vulnerability-mitigation strategies that are similarly threat-neutral and will reduce the likelihood of successful cyber exploitations. Computer network security is, however, accomplished using multiple disciplines to secure Federal and private-sector networks, with support provided by and to law enforcement, intelligence, other federal agencies, and State, local, private-sector and international partners. Law enforcement entities may be notified when a computer network event occurs that falls within their areas of responsibility. In such scenarios, US-CERT will work with that law enforcement entity and provide it with contact information so it can coordinate directly with the affected partner, as appropriate.

NCSD's major cybersecurity initiatives are designed to enhance its mission effectiveness. Recent and current initiatives include:

- Working with the IT Sector Coordinating Council to develop the IT Sector Baseline Risk Assessment, which identifies and prioritizes national-level risks to critical sector-wide IT functions while outlining strategies to mitigate those risks and enhance national and economic security;
- Engaging with State, local, and tribal governments and private-sector partners to enhance multi-directional information sharing regarding vulnerabilities, sector-specific consequences, and mitigation strategies that can contribute to a more resilient critical infrastructure by raising the baseline level of risk awareness and reduction practiced across the public and private sectors;
- Activating the National Cybersecurity & Communications Integration Center, which will improve the Nation's capability and capacity to detect, prevent, respond, and mitigate disruptions of voice and cyber communications through the unification of vital IT and communications operations centers;

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- Deploying EINSTEIN 2 sensors to sites within Federal Executive Branch civilian networks, which add intrusion-detection system capabilities, improve malicious-activity analysis, and enhance situational awareness; and
- Enhancing engagement with private-sector partners to address control-systems security. This area of cyber concern will see substantially increased levels of collaboration, especially following the creation of the Industrial Control Systems Cyber Emergency Response Team, a 24-hour operational element that complements US-CERT protection, analysis, and response capabilities.
- Developing EINSTEIN 3 (E3). E3 is an active defense system that will be used to protect Federal Executive Branch civilian departments and agencies from advanced persistent threats. Although E3 is not solely focused on criminal activity, it will help protect Federal Executive Branch civilian department and agency employees from falling victim to known phishing schemes and financial fraud, while working in conjunction with other technologies (such as spam filters and anti-virus software) and proper security controls within each Federal department and agency.

Question: Will DHS commit more funding to Secret Service cyber investigations in the coming years?

Response: For future-year budget requests, DHS will continue to support the USSS to strengthen its investigative priority of safeguarding the Nation's critical financial infrastructure. DHS acknowledges the USSS's success in cyber crime investigations and fully recognizes how its expertise contributes to the DHS mission.

Additional funding for the USSS will continue to pay for critical training, equipment, and personnel required to maintain their technical proficiency and to effectively combat cyber crime. Given the proliferation of cyber crimes targeting our financial institutions in recent years, the USSS has achieved a particular expertise in the investigation of large network intrusion cases that threaten to compromise public confidence in our banking system. In Fiscal Year 2009 alone, the USSS was responsible for prosecuting cyber financial crime cases involving $443 million in actual losses, the arrests of 5,808 suspects, the seizure of more than $142 million in assets, and the prevention of approximately $1.8 billion in potential loss to the American public and our Nation's financial institutions.

DHS agrees with Congress' decision in recent years to provide funding to the USSS, including an additional $5.7 million over the budget request in FY 2009, for USSS cyber crime investigations and international field office operations. These funds allowed the USSS to: 1) enhance cyber investigation resources in support of the Administration's

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Comprehensive National Cyber Security Initiative and more efficiently manage forensic examinations by enhancing its capacity to store and review digital evidence; 2) support existing ECTFs by broadening partnerships across academia, the private sector, and State and local law enforcement agencies; 3) assist in the collection, analysis, and dissemination of cyber crime investigative data through CIS; and 4) train special agents through ECSAP to become the most highly qualified computer forensic experts in law enforcement. These funds also provided the USSS with an opportunity and the appropriate resources to establish an international field office in Tallinn, Estonia. While DHS supported second-year funding in FY 2010 to establish the USSS office in Tallinn, Estonia, final approval for opening the office has not yet been granted. Also, in FY 2010, DHS requested and Congress approved $2 million to cover a portion of the operational and equipment costs associated with the Electronic Crime Task Forces.

The Department understands that no single law enforcement agency has the staffing, training, equipment, and assets in place to combat cyber crimes targeting our Nation's critical financial infrastructure. Therefore, it is important that State and local law enforcement partners are provided the appropriate funding and training to combat cyber crime on the front lines. The NCFI, which was developed in partnership with the USSS, provides State and local law enforcement officials, prosecutors, and judges with the training to act as a force multiplier for the USSS and other Federal law enforcement agencies involved in cyber crime investigations. Since the NCFI's opening in May 2008, DHS has provided the USSS with $4 million in annual funding to support it. This funding supported the training of 564 State and local law enforcement officials representing 300 agencies from 49 States and two U.S. territories.

As highlighted above, the USSS fulfills a vital role within DHS by securing the Nation's critical infrastructures and investigating attacks against our financial institutions. Investigations remain an essential component of the USSS mission.

Question: What is your opinion on where the cyber security coordinator belongs? At DHS? The Commerce Department? The White House?

Response: DHS agrees with and supports the placement of the current cyber security coordinator as a key member of the President's national security staff. DHS believes the creation of this senior-level cyber position within the White House will help ensure coordination and collaboration across government agencies. No single agency controls cyberspace, and the success of our cyber mission relies on more than one department. As such, the many government players with complementary roles – including DHS, the Intelligence Community, the Department of Defense, the Department of Justice, and

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other Federal agencies – will require coordination and leadership to ensure effective and efficient execution of the overall cyber mission.

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Question#:	42
Topic:	Shield America
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Orrin G. Hatch
Committee:	JUDICIARY (SENATE)

Question: The U.S. Immigration and Customs Enforcement (ICE) manages the Shield America program. As you are aware, this program screens exported cargo and ensures that prohibited items and technology are not shipped overseas to hostile parties or nations. I understand that there are some issues with inbound screening of cargo at ports. I realize that some of these issues are logistical, technological or budgetary in nature. However, if there is one lesson we should have learned from our Southwest border screening, ICE needs to inspect not only inbound traffic but outbound too.

Is this setback on missing the cargo screening deadline going to adversely impact outbound cargo screening as well?

Can you provide any updated information on outbound cargo screening?

Response: Project Shield America (PSA) is an industry outreach initiative developed by ICE to partner and share information with munitions and technology manufacturers, dealers and exporters to prevent the illegal export of sensitive U.S. munitions and strategic technology to terrorists and criminal organizations. The PSA initiative is not a cargo or enforcement screening program. ICE does, however, partner with CBP in initiatives that will curtail the illegal diversion of sensitive U.S. technology. This partnership seeks to identify and mitigate any scheme to illegally obtain sensitive technology.

U.S. Customs and Border Protection (CBP) utilizes a layered strategy to screen export cargo that includes the Automated Export System (AES), Automated Targeting System (ATS), document review and physical inspections. CBP coordinates its efforts with ICE and other federal agencies to enforce export laws and regulations.

In support of cargo exports screening, CBP utilizes Census regulations that require exporters to submit export cargo information via the Electronic Export Information (EEI) in AES prior to departure. This information is utilized by CBP officers to screen cargo in order to identify high-risk cargo. The use of ATS provides CBP officers with the ability to analyze large volumes of data; facilitating the export process by validating legitimate export shipments and identifying suspect shipments for further review or scrutiny. Additionally, CBP outbound teams randomly screen conveyances' export manifests and conduct warehouse sweeps to identify high-risk or unmanifested cargo.

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Hearing:	Oversight of the Department of Homeland Security
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CBP officers coordinate with ICE's Exodus Command Center (ECC) when sensitive or controlled commodities are suspected of being exported contrary to law.

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Question#:	43
Topic:	uscis
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Orrin G. Hatch
Committee:	JUDICIARY (SENATE)

Question: I appreciate the dedication of many U.S. Citizenship and Immigration Services (USCIS) employees who do their best to work effectively and efficiently while dealing with extremely heavy workloads. I know this can be very challenging, but for the most part I believe they try to be responsive in a timely manner. However, at times there are significant delays, which separate families and put extreme emotional, physical, and financial stress on the family. The wait seems to be particularly long at the USCIS office in Ciudad Juarez, Mexico.

Do you have any plans to put additional resources at this office?

Response: The delay in the adjudication of *Applications for Waiver of Ground of Inadmissibility* (Forms I-601) received by the USCIS Field Office in Ciudad Juarez has been a concern and the subject of much effort and redirection of resources throughout 2009 for USCIS.

Approximately 80% of all Forms I-601 filed overseas are filed at the U.S. Consulate in Ciudad Juarez, which has experienced a significant surge in receipts over the past 4 years. In Ciudad Juarez, Form I-601 receipts grew 670%, from approximately 3,280 in FY2005 to almost 22,000 applications in FY2008, overwhelming the production capacity of the office. It is difficult to increase staff in an overseas office, and it takes time, as USCIS presence overseas is limited by space constraints and subject to Department of State approval. The dramatic increase in receipts and inability to quickly add staff to the office in Ciudad Juarez resulted in a backlog of I-601 applications and significant delays for applicants.

In light of the staffing constraints and large volume of applications received at Ciudad Juarez, USCIS and the Department of State partnered to institute procedures to identify and grant clearly approvable waiver applications within a few days of filing, thus enabling a significant number of applicants to receive their immigrant visas almost immediately after filing the Form I-601 and join their family members in the United States within days of filing their applications. Since the institution of this process in 2007, approximately 50% of all applications filed have been found to be clearly approvable on the evidence submitted with the application. The remaining 50% have been or will be "referred" to other offices for further consideration.

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Although USCIS was able to increase the staff at the Ciudad Juarez office in FY2009 by adding two officers, there are still an insufficient number of officers in Ciudad Juarez to keep up with the new receipts and eliminate the backlog of referred cases that developed over the past years. While almost half of Form I-601 applicants receive an approval within days of filing an application, the other half has had to wait up to 15 months for a decision. To address this delay in processing, USCIS is in the process of implementing a robust backlog elimination plan.

We are bringing into the United States some of the overseas adjudicative workload. The creation of the USCIS International Adjudications Support Branch (IASB) in May 2009 is an example of our efforts in this direction. The IASB, located in the USCIS Asylum Office in Anaheim, California, was established, in part, to help address overseas workload surges. The branch currently is composed of a supervisory adjudication officer branch chief, 9 adjudication officers and two support staff. The IASB has provided and will continue to provide adjudicative support to the USCIS Ciudad Juarez Field Office by adjudicating referred Forms I-601.

In addition to the creation of IASB, USCIS has tapped other resources to work on reducing the Ciudad Juarez I-601 backlog, including staff from other overseas offices, asylum offices, and domestic offices to assist in eliminating the backlog, with the aim of achieving by the end of FY2010 a 6-month or less processing time for those cases that cannot be approved within days of filing.

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Question#:	44
Topic:	law suits
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Orrin G. Hatch
Committee:	JUDICIARY (SENATE)

Question: There seems to be a trend of filing law suits against Sheriff's Departments and law enforcement agencies who detain persons suspected of illegally entering the country. All receiving facilities have procedures they conduct when they receive a prisoner. These procedures include obtaining fingerprints, conducting NCIC warrant checks and in some jurisdictions, immigration checks with the local ICE field office. In cases where the prisoner is a felony violator for illegally entering the U.S., ICE places a hold on the prisoner. Even though the pending state charges may be a bondable offense, the ICE detainer supersedes the bail request. Organizations are filing law suits against state and local agencies for allegedly unlawfully detaining these prisoners. Their argument is that the prisoner is never brought before a federal magistrate for an initial appearance. In some cases these prisoners sit idle in the county jail for months before ICE takes custody of the prisoner. I find it troubling that agencies have to expend precious budget funds to fight off these law suits. In these economic times when state and local budgets are stretched thin, the last thing these agencies should be spending money on is fighting off frivolous law suits.

Is there anything procedurally that DHS or ICE can do to address these law suits?

Response: ICE lodges immigration detainers with Federal, State, and local law enforcement agencies (LEAs) to provide notice of ICE's intent to assume custody of an individual in the LEA's custody prior to the subject's release into the community. ICE's detainer authority (codified in 8 CFR § 287.7) derives from ICE's general authority to arrest and detain individuals for violations of immigration law. The detainer is essentially a request to provide prior notice to ICE of an intended release or in some cases to hold an alien for up to 48 hours (not including weekends and holidays) after state or local authorities would have released them. This permits ICE to coordinate transfer of custody.

To help address the issue of lawsuits against sheriffs departments and local law enforcement agencies, ICE has expanded its public relations efforts to notify interested parties about detained aliens that will come into ICE custody and the relevant authorities for these actions.

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Question#:	45
Topic:	WBI
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Orrin G. Hatch
Committee:	JUDICIARY (SENATE)

Question: There has been some controversy over a new technology being used by TSA called whole body imaging or WBI. WBI systems can detect a wider variety of threats including explosives and other contraband. TSA has deployed WBI systems at a number of airports including Salt Lake City International Airport. However, many have legitimate concerns about the image that is produced using this technology. Therefore, what are the Department's and TSA's plans for using WBI?

Are these systems only being tested?

IS WBI being tested with an eye toward replacing metal detectors as the primary airport scanning method?

How is the Department and TSA addressing the privacy issue?

Is technology being developed that morphs the image taken into a "cartoon-like" form yet highlights possible weapons and explosives.

What is the status of this technology and when will it be deployed?

Response: The Transportation Security Administration (TSA) has conducted extensive testing of Advanced Imaging Technology (AIT), formerly known as Whole Body Imagers or WBI. This technology has significant advantages over the Walk-Through Metal Detectors (WTMDs), in that it is capable of detecting non-metallic threat items. TSA continues to evaluate the AIT to determine its suitability to potentially replace the WTMDs as a primary screening device.

TSA continues to refine the concept of operations and the standard operating procedures for AIT to ensure an acceptable balance between passenger privacy and security effectiveness. Privacy protection provisions have been thoroughly documented in a formal Privacy Impact Assessment (PIA) which is currently available to the public. The PIA can be found at http://www.dhs.gov/xlibrary/assets/privacy/privacy_pia_tsa_wbiupdate.pdf .

Privacy protections include no storage or retention of images during operational screening, a facial blur for the millimeter wave technology, and the Transportation Security Officer (TSO) viewing the image being located remotely from the individual

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being screened so that the TSO viewing the image is unable to see the actual individual. In addition, TSA continues to evaluate possible display options that include a "stick figure" or "cartoon-like" form that provide greater privacy protection to the individual being screened while still allowing the unit operator or automated detection algorithms to detect possible threats. TSA is working directly with technology providers to develop advanced screening algorithms for the AIT which would utilize Automatic Target Recognition to identify and highlight possible threats.

Currently, TSA has deployed 40 AIT systems to 19 airports. A contract for 150 units was awarded in September 2009. TSA plans to purchase an additional 300 units in fiscal year 2010.

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Question#:	46
Topic:	legislation
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Orrin G. Hatch
Committee:	JUDICIARY (SENATE)

Question: One of the vital tasks of CBP is ensuring the efficient flow of legitimate trade across our borders. Recently, Chairman Baucus and Senator Grassley introduced a piece of legislation titled the Customs Facilitation and Trade Enforcement Reauthorization Act. This legislation will provide CBP with greater resources to achieve their mission of facilitating trade. Specifically, it will create a new division within the CBP's Office of Field Operations to improve customs facilitation and trade enforcement. In addition, it authorizes a new Trade Advocate to act as a liaison between the private sector and CBP. As you know, I have been an ardent supporter of vigorous enforcement of intellectual property rights enforcement. I strongly support the reauthorization of the National Intellectual Property Rights Coordination Center. This Center, which is part of ICE, is designed to coordinate Federal efforts to prevent the import and export of goods which violate US IPR law. The legislation also gives CBP the explicit authority to seize unlawful circumvention devices.

What are the Departments thoughts about this legislation?

Does the Department support this bill?

Response: Overall, the Administration is concerned that S. 1631 overly subordinates Customs and Border Protection's (CBP) border security and law enforcement activities to those related to trade facilitation, reduces agency discretion to re-direct resources in response to changing priorities, and complicates existing lines of authority.

For example, the Administration does not support the establishment of an Office of Trade, as proposed in Section 102, which would improperly subordinate CBP's border security and law enforcement activities to those related to trade facilitation. The organizational changes that the bill proposes, while emphasizing the trade facilitation mission, would reduce the resources and focus of counterterrorism and border security, immigration enforcement, cooperation within the international customs community, and other activities; and would leave the agency ill-equipped to manage the complex functions of CBP.

While the bill emphasizes customs facilitation and trade enforcement generally, the bill also downgrades CBP's current trade relations function. The bill would move the Office of Trade Relations from the CBP Commissioner's office to a new Office of Trade. This

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move would undermine the effectiveness of this office to serve as an independent resource to assist the trade community with issues across all components of CBP.

As another example, sections 102, 103, 122, 235, 236 of the bill commit training and staff to specific issue areas such as Intellectual Property Rights (IPR) enforcement, and would require two separate budgets for CBP and Immigration and Customs Enforcement (ICE) – one for the commercial operations and one for the non-commercial operations of those agencies, thereby fragmenting the mission frontline and reducing agency discretion to re-direct resources in response to changing priorities. Training CBP officers (CBPOs) in only one area of enforcement would not make the most effective use of resources, as CBPOs are trained in several areas of enforcement and security to enable them to carry out the multiple agency responsibilities at the border.

A final example we would point to are sections 102 and 121 of the bill, which (re)establish the agencies of CBP and ICE and the positions of Commissioner and "Director." This bill would create an inconsistency in the reporting structure of CBP and ICE, in that the bill would have the Commissioner of CBP report to the Secretary and the head of ICE reporting to the Deputy Secretary. There does not appear to be any rationale for creating different reporting structures for sister agencies that are inconsistent with the status quo, as both the CBP Commissioner and the ICE Assistant Secretary currently report to the Secretary.

With regard to the reauthorization of the National IPR Coordination Center, which is currently operating in the manner envisioned by the legislation and would be established in statute by the legislation, the Administration offers several recommendations and points of clarification. The Administration recommends that the bill acknowledge the existing National IPR Coordination Center, and clarify that the bill does not propose the creation of a separate new entity. The Administration recommends that Section 232 of the legislation should also be amended to remove language pertaining to the position of the Assistant Director of the National IPR Coordination Center, a General Schedule level position, as the National IPR Coordination Center is already led by a Director that is Senior Executive Service. In reference to Section 232(b)(2) regarding the "Assistant Director" of the National IPR Coordination Center's duty to coordinate training for domestic and international law enforcement agencies, we also recommend that the leader of the National IPR Coordination Center receive the concurrence with the Department of State, which currently administers and directs international IPR training assistance.

56497.086

Question#:	47
Topic:	agents
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Jon Kyl
Committee:	JUDICIARY (SENATE)

Question: The Department of Homeland Security conference bill only included funding for 100 new, additional Border Patrol agents for FY 2010. The conference report requires that the northern border increase the number of agents from 1,525 to 2,212 along the northern border in FY2010. The conference, however, does not require that any particular number of agents be maintained along the southern border. DHS has said it will "maintain its force of 17,000" along the southern border. But, there are currently over 17,415 agents along the southern border. Did the administration request enough funding for more than 100 agents, in order to reasonably expect to add agents to the southern and northern border, and, if not, why not? [the Obama administration only requested 100]. Since there are only 100 new positions funded, how will DHS increase agent strength along the northern border without reducing the force, or by increasing the force, along the southern border? A University of Texas study (completed in the 1990's) determined that the southern border needs 20,000 agents.

Response: CBP will maintain funding for 20,163 Border Patrol agents in FY 2011.

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Question#:	48
Topic:	fencing
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Jon Kyl
Committee:	JUDICIARY (SENATE)

Question: DeMint Fence language requiring that 700 miles of real fence (fence that would prevent pedestrians, not just motorists, from crossing over) be completed by December 31, 2010 was stripped in the FY 2010 DHS conference: Although $800 million is included in the DHS conference bill for "integrated Border Security Fencing," could zero dollars actually be dedicated to fencing if you decide to have alternate barriers constructed instead? What are your plans, please detail them. What do you expect to spend on actual fencing (single, double, or triple layer pedestrian fencing) on the southern U.S. border? How many miles do you plan to build?

Response: Pedestrian and vehicle fence remain an important and effective tool in achieving effective control of our southern border, and to date DHS has completed approximately 642 miles of its planned 655 mile fence. CBP has identified requirements for approximately 20 miles of additional fence near Presidio, Roma and Los Ebanos, Texas, but due to ongoing challenges these segments have not been constructed. In FY 2010, CBP plans to construct approximately 14 miles of fence in Roma and Los Ebanos, Texas, pending approval from the Secretary of Homeland Security. At present, approximately $77 million is planned for construction of these fence segments, however, these segments are still in the early planning phase and are subject to change based upon possible engineering constraints and operational needs. Additionally, the Border Patrol is currently evaluating the need to replace legacy pedestrian fence that was not constructed to current performance standards and carries a high maintenance and repair cost. The Border Patrol will continue to reassess operational requirements and the need for additional fence will be based upon an analysis of identified threats, vulnerabilities and risks.

56497.088

Question#:	49
Topic:	operation streamline
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Jon Kyl
Committee:	JUDICIARY (SENATE)

Question: Operation Streamline, as you know, is an expedited prosecutorial program in place in a few Border Patrol sectors along the southwestern border, to facilitate the prosecution of those who cross the border illegally by charging them with a misdemeanor offense and requiring jail time for them. In the Yuma, Arizona Border Patrol Sector, Operation Streamline helped reduce apprehensions 68 percent in the year after Streamline began. Scant mention of Streamline is included in the conference report. In fact, only a report on Operation Streamline (an amendment I successfully had added during Senate consideration of the bill) is required to be completed about the resources DHS and DOJ need to expand the program to other appropriate sectors. When do you plan to complete this report? Please detail your plans for appropriate expansion of Operation Streamline? Do you plan to expand Operation Streamline? If so, when and where?

Response: The report is in the final stages of the review process and we anticipate Congress will receive it in the near future.

Operation Streamline has been implemented in five out of the nine southwest border sectors: Del Rio, Laredo, Yuma, Rio Grande Valley, and Tucson.

Although Operation Streamline is currently limited to the aforementioned five sectors, CBP's vision is to work with the remaining sectors' United States Attorneys' Offices to determine whether an Operation Streamline Program for those sectors is viable as a tool to mitigate illegal activity along the border.

Prior to implementing Operation Streamline in a sector, the Border Patrol, Federal Judges/Magistrates, U.S. Attorney's Office, U.S. Marshals Service, U.S. Immigration and Customs Enforcement (ICE) Office of Detention and Removal Operations, and the CBP Office of Chief Counsel typically met to discuss the program and reach agreements as to how Streamline cases would be handled in their respective area of responsibility (AOR). Each implementation plan is also based upon local agreements and the resources available in each geographic location. In each instance, the best collaborative solution is being implemented in a manner that maximizes the resources of each of the participating agencies.

Continuing the expansion of Operation Streamline along the southern and northern borders of the U.S. will facilitate the reduction of "clutter" caused by illegal migration into the United States. Decreasing the number of cross-border incursions by illegal aliens

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Primary:	The Honorable Jon Kyl
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will contribute towards achieving overall operational control of the Nation's borders as enforcement personnel can then concentrate on other transnational threats. The progressive reduction in apprehensions in those areas where Operation Streamline has been implemented indicates the program is effective in reducing both initial illegal entry attempts and subsequent re-apprehension rates of those persons prosecuted under the program.

56497.070

Question#:	50
Topic:	EVerify
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Jon Kyl
Committee:	JUDICIARY (SENATE)

Question: Weakened E-Verify language: Instead of a permanent authorization for EVerify, as required by an amendment by Senator Sessions and added to the Senate version of this bill, EVerify is only authorized for 3 years in the conference bill. And, instead of retaining the language by Senator Grassley clarifying that contractors must utilize EVerify for new and already existing/current employees, the conference report strips the Grassley language and, therefore, DHS will likely determine that contractors must use EVerify only to verify the work eligibility of new hires. My staff has received verbal reports from DHS that you will require current and new contractor hires to go through EVerify. Please elaborate.

Response: DHS has a continued commitment to working with employers to maintain a legal workforce, and requiring those who seek federal contracts to use this system, will create a more reliable and legal workforce. The FAR E-Verify rule complements our Department's continued efforts to strengthen immigration law enforcement and protect critical employment opportunities. The E-Verify Federal contractor rule requires the insertion of the FAR E-Verify clause into applicable Federal contracts, conditioning the contract on the Federal contractor's agreement to use E-Verify for their new hires and all employees (existing and new) assigned to a Federal contract. There are limited exceptions to this requirement including types of Federal contracts that are exempt as well as organizations that need only verify employees assigned to a covered contract.

56497.071

Question#:	51
Topic:	bed space
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Jon Kyl
Committee:	JUDICIARY (SENATE)

Question: Failure to increase detention bed space funding: $1.7 billion total is included in DHS conference to identify and remove criminal aliens in the FY 2010 DHS conference, but the conference bill does not increase, only maintains, the current detention bed space level of 33,400. Instead of increasing detention bed space, the conference report includes $70 million for alternatives to detention.

If, as you say, you are committed to working toward comprehensive reform next year, and that stepped-up enforcement will be a part of the effort, how does maintaining detention space, instead of increasing it, make sense?

Response: ICE's plan to increase criminal alien apprehensions does not necessarily mean that additional bedspace will be necessary. ICE is working to improve its efficiency in its use of detention space, including reducing the average length of stay for detainees. By using current detention space more effectively, ICE can remove more individuals without increasing detention space requirements. ICE also plans to manage increases in the number of criminal aliens who are apprehended by considering a range of options related to the detention status of detainees not subject to mandatory detention or who do not threaten public safety or national security. ICE will assess each detainee's threat to the community and risk of flight and will use its authority to detain or release individuals on a case-by-case basis.

Question: Did the Obama [Administration] request additional funds for FY 2010?

Response: Yes the Administration requested additional funding for the Comprehensive Identification and Removal of Criminal Aliens (CIRCA) program for FY 2010. In FY 2009, CIRCA received $150 million. In the President's budget request, $195.6 million was requested for CIRCA in FY 2010 and Congress provided $200 million for CIRCA.

Question: In its relation to Operation Streamline, please provide details about how you plan to accommodate those individuals who spend time in detention before removed from the U.S. How many additional detention spaces are needed?

Response: As part of the ongoing collaboration between ICE and CBP, bed space requirements to support Operation Streamline are carefully coordinated to ensure that detention space is readily available. ICE and CBP agree that approximately 5,000 bed spaces will support Operation Streamline in FY 2010.

Question#:	52
Topic:	no match
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Jon Kyl
Committee:	JUDICIARY (SENATE)

Question: A Senate-passed amendment to allow the Department of Homeland Security to go forward with what is called the "no match" rule was stripped. The language of the amendment that was stripped would have blocked the Obama Administration from changing the "no-match" rule put in place in 2008. That rule requires that the Social Security Administration notify employers when their employees are using a Social Security number that does not match their name. These "no match" letters help employers who want to follow the law and make sure they are employing legally authorized individuals. What is your position on no-match letters?

Response: The Department has rescinded the Social Security No-Match Rule in favor of the more modern and effective E-Verify system. The No-Match Rule was blocked by court order shortly after issuance and has never taken effect. No-Match letters inform an employer many months or even a year later that an employee's name and Social Security Number provided for a W-2 earnings report do not match SSA records—often due to typographical errors or unreported name changes. E-Verify addresses the data inaccuracies that can result in No-Match letters in a more timely manner, including advancements in the E-Verify system that reduce typographical errors and reduce initial mismatches, and provide a more robust tool for identifying unauthorized individuals and combating illegal employment. The No-Match Rule was rescinded on October 7, 2009, effective November 6, 2009, 74 Fed. Reg. 51447 (Oct. 7, 2009). The litigation was dismissed on November 18, 2009.

56497.073

Question#:	53
Topic:	Ft. Hood
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Patrick J. Leahy
Committee:	JUDICIARY (SENATE)

Question: On December 8, 2009, FBI Director Mueller asked William Webster, a former Director of the Bureau and a retired federal judge, to conduct an independent review of the policies, procedures, and actions of the Joint Terrorism Task Forces in San Diego and Washington that reviewed e-mails sent by the suspect prior to the November 5, 2009 shooting at Fort Hood, Texas. I asked the Attorney General about this investigation when he appeared before the Judiciary Committee on November 18, 2009, and I have written to the President's Assistant for Homeland Security and Counterterrorism, John Brennan, requesting the results of the administration's review.

Did the Department of Homeland Security have a role in either of the Joint Terrorism Task Forces that looked at the activities of Major Nidal Hasan?

The President is investigating what information about the suspect was in the hands of government agencies prior to the tragic events at Fort Hood. How is the Department contributing to that investigation?

Response: The Department of Homeland Security (DHS) had no role in either of the Joint Terrorism Task Forces (JTTF) that looked at the activities of Major Nidal Hasan. While members of the DHS Intelligence Enterprise participate in JTTFs, none played a role in, or directly supported, the investigation of Major Nidal Hasan prior to the shooting at Fort Hood on November 5, 2009.

Following the Fort Hood shooting, DHS conducted searches for responsive records on Nidal Hasan and his relatives in its Component databases. The results of these searches were shared with the Federal Bureau of Investigation.

56497.074

Question#:	54
Topic:	agreement
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Patrick J. Leahy
Committee:	JUDICIARY (SENATE)

Question: I have fought long and hard to modify a law that prevents genuine refugees and asylum seekers from obtaining protection in the United States. The law, which contains an overly broad definition of "material support" to terrorist organizations, has the effect of barring some who were victims of terrorist organizations. It has been two years since Senator Kyl and I gave the Department the authority it needed to provide waivers and exemptions in certain "material support" cases. You recently provided exemptions to certain groups of Iraqis and Kurds that opposed Saddam Hussein and were longtime allies of the United States. This was a welcome step. Yet, approximately 8,000 refugees with pending adjustment applications are still being held in limbo while the Department studies how to exercise its exemption and waiver authority.

How close are you to reaching an interagency agreement to process these cases? What are the remaining obstacles to solving this problem? How can Congress assist the Department in resolving these cases?

Response: The National Security Council has taken the lead on coordinating with the interagency (DHS, DOS, and DOJ) to consider new exercises of the exemption authority, and a complete review of this process is ongoing. Since the last Administration, DHS has actively pursued resolution of the issues concerning the use of the exemption authority at the interagency level. As part of this effort, during the fall of 2009, DHS proposed new exercises of the exemption authority that would reach a large number of the cases currently on hold. These proposed exemptions have been under active review and consideration at the interagency level. This issue is a high priority within DHS and we are committed to its success.

56497.075

Question#:	55
Topic:	gender
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Patrick J. Leahy
Committee:	JUDICIARY (SENATE)

Question: The agency's position on gender-based asylum claims in Matter of R-A- is welcome, and I thank you for helping to resolve a case that was been pending for 14 years before an immigration judge issued a grant of asylum on December 10, 2009. The Department must now issue binding regulations to govern asylum claims based on gender-based persecution.

Is the Department drafting new regulations on gender-based asylum claims? If so, when will they be released for notice and comment rulemaking?

Response: The Department is committed to promulgating regulations that will clarify this area of asylum law. As you know, in order to be eligible for asylum, an applicant must establish that he or she has been, or has a well-founded fear of being, persecuted on account of race, religion, nationality, membership in a particular social group, or political opinion. Gender-related asylum claims are often based on the particular social group ground, and have raised a number of complex analytical questions about the meaning of that particular social group ground as well as about the interpretation of other aspects of the statutory standards for asylum. The Department believes that the best way to address these questions is through a regulation that would codify a set of generally applicable principles for the analysis of all asylum cases. Our goal is to issue a regulation that would provide necessary guidance for the consistent resolution of some of the difficult interpretive questions that may be raised by gender related claims, including those involving domestic violence. This issue is a priority for the agency. In the coming months, we will be engaging in the necessary intra-agency and interagency discussion and will work diligently to accomplish this regulatory initiative.

56497.076

Question#:	56
Topic:	social groups
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Patrick J. Leahy
Committee:	JUDICIARY (SENATE)

Question: In the 1985 landmark case, Matter of Acosta, the Board of Immigration Appeals (BIA) held that "membership in a particular social group" is defined by a group of persons, all of whom share a common characteristic that members of the group "cannot change, or should not be required to change because [the characteristic] is fundamental to their individual identities or consciences." Matter of Acosta, 19 I&N Dec. 211 (BIA 1985). However, in recent years, the Board began to require in some social group cases that applicants establish additional characteristics like "social visibility." This requirement has been strongly criticized by practitioners and judges, most notably by Judge Richard Posner of the 7th Circuit who wrote that "if you are a member of a group that has been targeted for assassination or torture or some other mode of persecution, you will take pains to avoid being socially visible." Gatimi v. Holder, No. 08-3197 (7th Cir. Aug. 20, 2009). The lack of clarity in the standard for social group claims has led to inconsistent and unjust results in cases in which persecuted persons apply for asylum when fleeing gender-based harms, persecution based on sexual orientation, or characteristics that the victims might seek to hide from society.

Will you work me to resolve this issue in a manner that would codify the Matter of Acosta social group standard based on common fundamental characteristics but that does not require additional factors, such as social visibility, be proved?

Response: We agree that it is critical to establish clearer standards for determining whether a particular social group exists, and to ensure the consistent application of those standards. We also agree that the standard set out in *Matter of Acosta* should remain the starting point for particular social group analysis. Whether or how the perceptions of society about a group of people should play into the analysis is a complex question that we are considering very carefully. We would like to take this opportunity to clarify, however, that it is the Department's position that, under the current legal standards that require "social visibility," sexual orientation does define a cognizable particular social group.

56497.077

Question#:	57
Topic:	nexus
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Patrick J. Leahy
Committee:	JUDICIARY (SENATE)

Question: In addition to showing that they are members of a particular social group, asylum applicants must show that the persecution was "on account of" their membership in a particular social group. This nexus requirement can be established by considering not only direct evidence, but also circumstantial evidence, such as a legal system or social norms tolerating persecution of a particular group. INS. v. Elias-Zacharias, 502 U.S. 478 (1992). The proposed gender-based asylum regulations issued in 2000 but never promulgated would have codified consideration of the broader legal and social context as relevant to the analysis of nexus. See Asylum and Withholding Definitions, 65 Fed. Reg. 76,593, 76,597 (proposed Dec. 7, 2000) (to be codified at 8 C.F.R. pt. 208).

Will you work me to resolve this issue in a manner that would codify the nexus requirement consistent with the Supreme Court's decision in INS v. Elias Zacarias?

Response: The Department agrees that under current law, including the Supreme Court's decision in *INS v. Elias-Zacarias* nexus may be established through either direct or circumstantial evidence. We also agree that the legal and social context of the society in question can provide important and relevant evidence about the motives of a persecutor. We will carefully consider whether this point would be appropriate for clarification in a rule.

56497.078

Question#:	58
Topic:	border security
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Patrick J. Leahy
Committee:	JUDICIARY (SENATE)

Question: Recently, an amendment was adopted to the Interior Appropriations legislation that altered the way in which the Department coordinates with the Department of the Interior in terms of enforcement activities on Federal border lands and environmental protection.

How does this amendment affect the cooperation between the missions of the two agencies? Will it alter the way in which the Department of Homeland Security works with the Department of the Interior?

Response: DHS is committed to an increasingly close and effective working relationship with DOI, and believes that this recent amendment served to focus light on the value of this relationship to the American People.

56497.079

Question#:	59
Topic:	reform
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Patrick J. Leahy
Committee:	JUDICIARY (SENATE)

Question: On October 6, 2009, the Department released a major report on immigration detention reform, titled "Immigration Detention Overview and Recommendation" (hereinafter "Schriro report"). But at virtually the same moment in time, your senior advisor for this reform initiative and the author of the report, Dr. Dora Schriro, resigned from the Department. I was impressed by the Schriro report and would like to see it implemented.

What is the status of detention reform within the Department? Are you committed to implementing the full scope of the Schriro report's recommendations?

Response: In October, Phyllis Coven replaced Dora Schriro in the Office of Detention Policy and Planning (ODPP). ODPP does not have a named director or acting director at this point. Ms. Coven holds the title of Deputy Director. Ms. Coven brings 17 years of experience to the position, leading major immigration reform initiatives in the federal government and for the United Nations. ODPP has launched work on multiple aspects of the ICE detention reform initiative and Dr. Schriro's recommendations, deepening consultation with NGOs, Congress, industry and other constituents. These actions translate a strategic vision into a concrete and practical action plan.

ICE has identified and is pursuing a critical path for implementing improved conditions in major facilities during the course of the calendar year. This will include the issuance of three new sets of detention standards, and the completion of a comprehensive facilities readiness field assessment. Progress is also well underway on the creation of a new risk assessment classification instrument and intake process. These tools are critical to the placement of detainees in facilities based on risk, and expansion of the Alternatives to Detention Program. Furthermore, hiring, selection, and training of new on site Detention Monitors to be posted at ICE's major facilities is underway, and implementation of a new detainee on-line locator system is planned for this summer.

ICE has utilized Dr. Schriro's report as the foundation for our detention reform effort and has moved forward in implementing its central recommendations.

56497.080

Question#:	60
Topic:	monitor
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Patrick J. Leahy
Committee:	JUDICIARY (SENATE)

Question: When the Schriro report was issued, I praised the Department for planning to increase internal oversight of detention facilities, but expressed concerns that ICE was not committed to inviting reputable independent monitors to visit detention facilities and issue public reports. The American Bar Association and UN High Commissioner for Refugees both conducted external monitoring in the past and would likely be willing to do so in the future, but should be allowed to report publicly on their findings.

Given the Obama administration's commitment to transparency and the documented record of ill treatment of immigrant detainees, have you reconsidered this matter? Will you allow independent organizations to monitor detention facilities and then make their reports public?

Response: U.S. Immigration and Customs Enforcement (ICE) remains committed to working collaboratively with community-based and non-governmental organizations that have an interest in immigration detainees in order to further the agency mission of enforcing immigration law. ICE welcomes and works to accommodate all reasonable requests from these organizations for site visits and facility tours in accordance with the applicable detention standards. In fact, ICE has accommodated requests for facility tours from the American Bar Association (ABA) and the United Nations High Commissioner for Refugees. ICE will soon meet with the ABA regarding the public release of their detention facility reports.

Although ICE does not permit independent organizations like ABA to serve as full-time monitors at its detention facilities, ICE accommodates ABA visits. In order to promote public awareness of ICE's detention facility inspection program, ICE produces a semi-annual report on agency-wide compliance with both the Performance Based Standards and the National Detention Standards. The report includes the results of all detention facility inspections conducted during the six-month period covered in the report, as well as documentation of the steps taken to identify any deficiencies noted. The first report was issued in the spring of 2008.

As part of ICE's ongoing detention reform initiative, the agency is updating its detention standards. ICE remains fully committed to transparency and is appreciative of the work done by these community-based and non-governmental organizations to promote the observance and protection of human rights.

56497.081

Question#:	61
Topic:	deaths
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Patrick J. Leahy
Committee:	JUDICIARY (SENATE)

Question: The number of deaths in immigration detention since October 2003 has climbed to at least 106. The lack of adequate medical care may have contributed to some of these deaths, and litigation is pending in at least two cases over allegations of wrongful death or denial of adequate medical care.

Please outline the steps that the Department is taking to ensure immigration detainees have access to adequate medical care. How will the Department avoid any preventable tragedies from occurring in the future?

Response: ICE's national detention standards require that immigration detainees have access to appropriate health care. To that end, ICE requires that each of its detainees undergoes an initial health screening at intake, within the first 12 hours of admission to an ICE detention facility. This screening includes evaluation of the individual's medical, dental, and mental health status. During the screening, medical staff reviews the detainee's health history (through an interpreter, if needed). Additionally, within 14 days of arrival to a detention facility, ICE detention standards also require that ICE detainees receive a health assessment, which includes a physical exam and a more detailed review of the individual's health history. In addition to these routine processes, all ICE detainees have the opportunity to address their medical concerns on a daily basis by submitting a sick call request to the medical staff onsite.

Individuals who have been identified with acute or chronic health care needs are referred to a primary care provider for assessment and implementation of an appropriate medical treatment plan. Those detainees identified with an infectious disease are isolated from non-infectious patients and placed in the appropriate health care setting in order to receive treatment. Detainees requiring specialized care that cannot be provided on-site are referred to an appropriate medical specialist.

In accordance with health care standards, every facility housing ICE detainees has a written plan for the delivery of 24-hour emergency health care. All facilities have arrangements with nearby medical facilities, including hospitals, which are used for emergency care, outpatient and inpatient health care services not provided within the detention facility. In those rare cases where an ICE detainee requires hospitalization, the hospital assumes medical decision-making authority, including the patient's drug regimen, lab tests, X-rays, and treatments.

56497.082

Question#:	61
Topic:	deaths
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Patrick J. Leahy
Committee:	JUDICIARY (SENATE)

In order to more effectively monitor the health care provided to ICE detainees with potentially serious medical conditions, DIHS staff meet regularly to discuss such cases and to review the propriety of treatment and any related housing requirements to ensure that those detainees are placed in the most appropriate facilities for the provision of their medical services.

Moreover, as part of ICE's ongoing detention reform initiative, ICE is working to create a new detainee medical classification system to further ensure that detainees are placed in facilities that have the appropriate level of services needed to address their health care needs. Additional efforts are underway to identify and implement a comprehensive electronic health care system, to include electronic medical records.

56497.083

Question#:	62
Topic:	transfers
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Patrick J. Leahy
Committee:	JUDICIARY (SENATE)

Question: As the volume of immigration detention has increased, so has the number of transfers of detainees from one facility to another. Transfers are costly to the government and to the affected non-citizens. Not all immigrants in detention have legal relief, and many will be sent home quickly. But some are asylum seekers, some are eligible for VAWA relief or U visas, and some have claims of derivative citizenship. When an immigrant is transferred from the place of apprehension to a distant, remote jail, they often lose access to counsel, legal documents, potential witnesses, and family members who might be able to assist in preparing a legal case.

A report released by Human Rights Watch last week quantified the number of transfers per year but was unable to quantify the cost of transfers because, apparently, ICE does not track these costs.

As a part of your detention reform initiative, will you require ICE to begin to track the costs of immigrant detainee transfers, including the cost of flights of vehicle travel; personnel, such as detainee escorts; and administrative costs, such as transferring files and conducting medical screenings after each transfer?

Response: As part of our Detention Reform Initiatives, ICE is developing options which the agency hopes will reduce or limit the costs of detainee transfers. ICE plans to monitor the transfer of aliens in custody in order to limit its frequency, clearly articulate the criteria used in making a transfer decision, and identify ICE's obligation to timely notify legal counsel and family members. Through the continuing process of reviewing and improving detention and transfer methodology, ICE will be better positioned to track costs associated with the detention process, including transfers.

56497.084

Question#:	63
Topic:	shackling
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Patrick J. Leahy
Committee:	JUDICIARY (SENATE)

Question: An Eighth Circuit court recently held en banc that shackling pregnant inmates during labor and delivery when they posed no flight or security risk violates the U.S. Constitution's prohibition against cruel and unusual punishment. Nelson v. Corr. Med. Servs., 583 F.3d 522, 534 (8th Cir. 2009) (en banc). In the federal system the U.S. Marshals Service and the Federal Bureau of Prisons have developed guidelines restricting the use of shackles on pregnant detainees to only the most extraordinary circumstances. The Schriro report recommended that ICE develop specialized detention policies for vulnerable populations, such as women, families, and asylum seekers, but no ICE policy specifically restricts the use of shackles on pregnant women.

Given that ICE's detainees are in civil custody, not criminal, do you agree that the protections for pregnant ICE detainees should be at least as strong as those for criminal inmates in federal custody?

Response: ICE agrees that the protections for pregnant ICE detainees should be comparable to or superior to those afforded to criminal inmates in Federal custody. The humane treatment of pregnant detainees is a longstanding policy of ICE.

ICE has been working diligently to address the concerns of Congress to revise our standards regarding the use of restraints on pregnant detainees.

56497.085

Question#:	64
Topic:	new facilities
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Patrick J. Leahy
Committee:	JUDICIARY (SENATE)

Question: The Department's detention reform initiative contemplates building new immigration detention facilities that embrace a model of civil custody rather than penal detention. I welcome that shift in philosophy, but want to be sure that even under a new system, immigrants in custody can access legal counsel.

In choosing the location of any new facilities, will you commit to carefully considering factors such as access to legal counsel and medical care?

Response: Yes, ICE is committed to providing access to legal counsel and medical care. In fact, as part of the agency's detention reform initiative, ICE is not only revising its Performance Based National Detention Standards, we are also drafting a new set of Adult Residential Standards. Both sets of standards will ensure that detainees are provided with appropriate access to legal counsel, legal materials, and medical care.

56497.086

Question#:	65
Topic:	cooperation
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Patrick J. Leahy
Committee:	JUDICIARY (SENATE)

Question: Section 287(g) of the Immigration and Nationality Act authorizes the Department of Homeland Security to enter into agreements with state and local law enforcement agencies to cooperate in the enforcement of our immigration laws. You have applauded the program as a "force multiplier" that allows you to more effectively and efficiently target the removal of criminal aliens. Critics claim, however, that from Frederick County, Maryland to Maricopa County, Arizona, the authority has been abused and allows for racial profiling and broad sweeps that terrorize immigrants and their communities. Critics further argue that as a consequence of this program, immigrant communities are less likely to cooperate with local law enforcement, thereby undermining the public safety mission. I appreciate that you have made efforts to address these concerns by standardizing 287(g) agreements to require that local law enforcement agencies pursue all criminal charges that originally caused the offender to be taken into custody.

Please explain how this requirement will prevent local law enforcement agencies from engaging in racial profiling rather than leading to the perverse result of having them pursue minor charges to a conviction, simply because they have to in order to justify the arrest?

Have you seen a decrease in complaints of racial profiling since the new MOUs went into effect?

What statistics is the Department collecting to verify whether there continues to be any merit to the above criticisms? For example, does the Department collect data that determines whether certain racial groups are disproportionately arrested for relatively minor infractions such as traffic violations?

What else can the Department do, in addition to standardizing the 287(g) agreements, to ensure that state and local law enforcement agencies do not engage in racial profiling?

Response: The issuance of the revised Memoranda of Agreement (MOA) in July, 2009, contributed to ICE's improved oversight of the 287(g) program. Participating agencies are required to inform ICE of all complaints regarding their 287(g) officers as well as the outcome of those complaints and findings relevant to any investigations by the LEAs. ICE also has its independent internal affairs component, the Office of Professional Responsibility, conducting independent and thorough reviews of all 287(g) programs to

56497.087

Question#:	65
Topic:	cooperation
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Patrick J. Leahy
Committee:	JUDICIARY (SENATE)

discover any deficiencies and areas of improvement to ICE upper level management. Finally, the patrol model, which had historically been the most problematic with regard to ICE supervision, has also been phased out and is only operational in two MOA locations.

The new MOA also requires LEAs to utilize immigration enforcement authorities consistent with ICE's priorities; most importantly, that pursuing level one offenders is the top priority of ICE. Furthermore, the MOA requires participating local law enforcement agencies to pursue all criminal charges that originally caused the offender to be taken into custody. The new MOA makes clear that the intent is to focus on criminal aliens who pose a threat to the community or public safety. The new MOA also adds an ICE pre-approval oversight requirement that the LEAs must follow when using solely administrative immigration arrest authority as opposed to their inherent state or local arrest authority. In the task force officer model, ICE wants to ensure that decisions to arrest individuals solely on the basis of immigration enforcement authority and not for state or local charges, align with ICE priorities. These measures aid in preventing cases of racial profiling.

ICE has instituted a process to ensure that complaints of racial profiling are investigated and tracked by OPR and DHS CRCL. OSLC is tracking this information to capture any 287(g) CRCL case statistics in fiscal year 2010. Beginning in fiscal year 2010, ICE began capturing data reflecting the levels (I, II and III) of criminality, which align with ICE priorities. ICE plans to obtain historical arrest data from LEAs, pertaining to MOA jurisdictions, which can be correlated with 287(g) arrest data to help identify arrest trends that are not consistent with overall arrest data in those specific areas. This can help to identify any disproportionate number of arrests vis-à-vis minor infractions or other discrepancies.

ICE has been, and continues to be, very aware of the possibility of misuse of its delegated immigration authorities. As a result, ICE has implemented numerous safeguards to best ensure that the 287(g) program is operating consistently across the country to identify violations and prevent future violates regarding civil rights and racial profiling. Comprehensive training to all state and local law enforcement officers prior to, and during, their assumption of immigration authority is the bedrock of the 287(g) program. Additionally, vigorous oversight and supervision of all programs by ICE supervisory personnel is another critical component.

ICE has implemented a comprehensive training program for all 287(g)-authorized state and local law enforcement officers. Pursuant to the MOA's, state and local law enforcement officers are chosen through a specific process to attend the Immigration Authority Delegation Program (IADP) training. In coordination with other DHS

56497.088

Question#:	65
Topic:	cooperation
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Patrick J. Leahy
Committee:	JUDICIARY (SENATE)

components, the OSLC, along with assistance from ICE's Office of the Principal Legal Advisor (OPLA) and the Office of Professional Responsibility (OPR), created a 287(g) candidate questionnaire. This questionnaire asks partnering law enforcement agencies to provide information about their individual officers' and their disciplinary history (to include allegations about use of force and other discriminatory matters).

While attending IADP, a 287(g) nominee will study areas such as immigration and criminal law, document examinations, cross-cultural communications and intercultural relations, alien status, ICE operations, statutory authority, removal charges, ICE Use of Force policy, and avoidance of racial profiling.

During IADP, all students receive civil rights training. The officers are instructed that while acting as immigration officers, they are bound by all federal civil rights statutes and regulations, including the U.S. Department of Justice (DOJ) "Guidance Regarding the Use of Race by Federal Law Enforcement Agencies," dated June 2003. The course specifically addresses the Executive Branch's stance on racial profiling and the constitutional concerns regarding use of race in domestic law enforcement activities. The following blocks of instruction dealing with racial profiling and civil rights/civil liberties are taught during the 287(g) IADP: Civil Rights, Officer Liability, Use of Race Guidelines, Cross Cultural Communication, and Victim Witness Awareness.

Additionally, ICE now requires annual refresher training through its Virtual University, which is available on line to 287(g) officers. One of the training blocks is "Guidance Regarding the Use of Race by Federal Law Enforcement Agencies." All 287(g) trained personnel are now mandated to take this annual refresher training. An officer's failure to do so will result in a revocation of their delegated authorities.

ICE streamlined the complaint process (appendix B of the standardized MOA) and added the requirement that all complaints will be forwarded to the DHS Office for Civil Rights and Civil Liberties Review and Compliance. Finally, earlier this year, ICE implemented an advisory committee to review all pending requests for 287(g) authority from state and local law enforcement agencies. The committee is comprised of numerous ICE components and includes DHS' Office of Civil Rights and Civil Liberties Review and Compliance. This committee will lend more transparency within the Department as to the reasoning for approving or disapproving a particular request for 287(g) authority.

56497.089

Question#:	66
Topic:	data
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Patrick J. Leahy
Committee:	JUDICIARY (SENATE)

Question: Assistant Secretary John Morton has stated that the National Fugitive Operations Program (NFOP), which identifies, locates, arrests, or otherwise reduces the fugitive alien population in the United States, would focus its resources on targeting "the worst of the worst" criminal aliens with final orders of removal. I applaud the Department's decision to abandon its arrest quota system, which according to the Migration Policy Institute was leading the agency to arrest "the easiest targets, including many persons without a criminal history and non-fugitives." However, I remain concerned that the agency may still be sweeping up more non-criminal aliens than criminals, and still picking up a large number of non-fugitives. The Des Moines Register reported on September 16, 2009 that in the Iowa region, non-fugitives comprised nearly 42 percent of arrests and that only 36 percent of arrests were criminals.

Please explain whether the data reported in the Des Moines Register is accurate and representative of national data?

Please provide the latest annual data on NFOP that details the following numbers: criminal arrests, non-criminal arrests; fugitive arrests; non-fugitive (collateral) arrests. Please disaggregate fugitive arrests by threat categories, i.e., threat to national security, threat to the community, fugitives convicted of violent crimes, fugitives with criminal records, and fugitives that are non-criminal. Please break down criminal arrests by type of crime committed, and please specify how many criminal aliens were convicted of traffic violations and immigration offenses.

What additional steps do you plan to take to ensure that the program uses its funds to actually target the "worst of the worst" criminal aliens with final orders of removal?

Response: In Fiscal Year (FY) 2009, non-fugitive aliens comprised 46 percent of arrests made in Iowa; 30 percent of these individuals were criminals. The chart below provides a breakdown of these arrests. Notably, the FY 2009 arrest data for Iowa shows a dramatic increase in criminal arrests over FY 2008. This is consistent with the increased emphasis on criminal arrests by the Office of Detention and Removal Operation's (DRO) National Fugitive Operations Program (NFOP). In addition, these statistics for Iowa are not indicative of the NFOP as a whole.

56497.090

Question#:	66
Topic:	data
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Patrick J. Leahy
Committee:	JUDICIARY (SENATE)

Iowa Region Statistics FY2008 and FY2009									
	Fugitives			Non-Fugitives					
Fiscal Year	Criminal	Non-Criminal	Total	Criminal	Non-Criminal	Total	Total Arrests	Percent of Non-Fugitives	Percent of Criminals
FY08	1	22	23	1	1	2	25	8%	8%
FY09	27	110	137	50	67	117	254	46%	30%

In FY 2009, nationwide criminal arrests under the NFOP increased 101 percent over FY 2008. As a whole, the NFOP made 35,094 arrests in FY 2009, of which 76 percent (26,571) were fugitives, and 45 percent (15,944) were criminals. The following table provides a full breakdown of arrests for FY 2008 and 2009.

Fiscal Year	Fugitives			Non-Fugitives			Total Arrests
	Criminal	Non-Criminal	Total	Criminal	Non-Criminal	Total	
FY08	5,652	20,284	25,936	2,267	5,952	8,219	34,155
FY09	11,289	15,282	26,571	4,655	3,868	8,523	35,094

Fugitive arrest by threat category
FY 2009: 35,094 total arrests
26,571 fugitives (11,289 criminals, 15,282 non-criminals)
8,523 non-fugitives (4,655 criminals, 3,868 non-criminals)

Fiscal Year	Fugitive Priority	Arrests
2009	1	1
	2	373
	3	1,222
	4	11,144
	5	13,831
Total		**26,571**

56497.091

Question#:	66
Topic:	data
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Patrick J. Leahy
Committee:	JUDICIARY (SENATE)

In the above listed table, Fugitive Operations Priority Levels 1-5 indicate:

1. Fugitives that pose a threat to national security
2. Fugitives that pose a threat to the community
3. Fugitives convicted of violent crimes
4. Fugitives with criminal records
5. Fugitives that are non-criminals.

The following table provides information on the total number of criminal arrests categorized by the type of crime that was committed. The category "Other Crimes" includes convictions for lesser crimes or crimes that were not tracked in ENFORCE, ICE's database system used to track and process aliens for removal . A total of 2,612 fugitives fell into the category of fugitives convicted of violent crimes and who pose a threat to the community. In addition, there were 8,677 fugitives with criminal records who were arrested in FY 2009.

Fugitive Crimes	Fugitive	Non-Fugitives	Total
Assault	326	165	491
Burglary	198		198
Drug Trafficking	1,250	555	1,805
Fraud	352	58	410
Murder	31	10	41
Kidnapping	23	2	25
Rape	219	183	402
Robbery	178	38	216
Human Trafficking	35	9	44
Total Violent Crimes	**2,612**	**1,020**	**3,632**
Other Crimes	**8,677**	**3,635**	**12,312**
Total Criminal Arrests	**11,289**	**4,655**	**15,944**

To ensure the Fugitive Operations Program continues to increase the numbers of criminal aliens arrested, on December 8, 2009, ICE Assistant Secretary John Morton issued the new National Fugitive Operations Program Priorities and Goals. This document emphasizes the programs core mission—the apprehension and removal of fugitive aliens.

56497.092

Question#:	66
Topic:	data
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Patrick J. Leahy
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It also creates three tiers which fugitive operation teams will utilize to prioritize their workload. The teams will focus the vast majority of their resources, at least 70 percent, on Tier I Fugitives. Within Tier 1, fugitives are further broken down into levels, with level I and II warranting more attention than level III (and so forth). Thus, the vast majority of fugitive operations resources are now focused on apprehending fugitives who pose a threat to national security or have been convicted of violent crimes. In addition, the new priorities allow teams to target "Tier 2 previously removed aliens" and "Tier 3 at large criminal aliens convicted of crimes." The following is a list of the newly-created fugitive operations priority tier levels.

Tier 1: Fugitive Aliens

I. Fugitives who pose a threat to national security
II. Fugitives convicted of violent crimes or who otherwise pose a threat to the community
III. Fugitives with a criminal conviction other than a violent crime
IV. Fugitives with no criminal conviction

Tier 2: Previously Removed Aliens

I. Previously removed aliens who pose a threat to national security.
II. Previously removed aliens convicted of violent crimes or who otherwise pose a threat to the community
III. Previously removed aliens with a criminal conviction other than a violent crime
IV. Previously removed aliens with no criminal conviction

Tier 3: Removable Aliens Convicted of Crimes

I. Aliens convicted of level 1 offense, as defined for purpose of Secure Communities
II. Aliens convicted of level 2 offenses, as defined for purposes of Secure Communities
III. Aliens convicted of level 3 offenses, as defined for purposes of Secure Communities

Finally, the National Fugitive Operation Program has increased the scope of its Operation Cross Check in relation to the "worst of the worst" criminal aliens. Operation Cross Check is a targeted enforcement operation that focuses on the identification, apprehension, and removal of the worst criminal offenders in local communities across the United States. In December 2009, during Operation Cross Check in California, Fugitive Operations teams in San Francisco, Los Angeles, and San Diego arrested nearly

56497.093

Question#:	66
Topic:	data
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Patrick J. Leahy
Committee:	JUDICIARY (SENATE)

300 foreign nationals with criminal convictions during a three-day enforcement surge, making it the largest operation targeting at-large criminal aliens ever carried out by ICE.

56497.094

Question#:	67
Topic:	Zogby
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: In a recent speech to the Center for American Progress on November 13, you indicated the Obama Administration plans to push for a comprehensive approach to immigration reform which includes a "measure to give legal status to an estimated 12 million illegal immigrants," or amnesty to those who entered the country in violation of our laws. I believe this approach would not only undermine the enforcement gains we've made at the border, but would encourage a spike in illegal activity. A recent Zogby Poll found, "a clear majority of people in Mexico, 56 percent, thought giving legal status to illegal immigrants in the United States would make it more likely that people they know would go to the United States illegally." The poll also found that "interest in going to the United States remains strong even in the current recession, with 36 percent of Mexicans (39 million people) saying they would move to the United States if they could."

The Zogby poll reflects a known trend that border violations occur more frequently during amnesty discussions. Would you agree with that assessment and have you considered the impact pushing amnesty would have on Border Patrol and the inevitable surge of those seeking to enter the country illegally?

Response: DHS has carefully considered potential impacts and responses to a possible increase in persons seeking to enter the U.S. illegally.

Analysis of our data does not indicate a marked increase in attempted illegal crossings into the U.S. resulting from immigration reform discussions. U.S. Customs and Border Protection (CBP) has strategic and tactical plans in place to respond to increases in migration, both at the ports of entry and between the ports of entry. Such contingency planning continues to be an integral part of work on comprehensive immigration reform.

Over the last several years, we have also made major improvements in border infrastructure and markedly increased the resources devoted to securing the southwest land border. The improvements significantly enhance our ability to respond operationally to increases in migration.

56497.095

Question#:	68
Topic:	unions
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: In your speech to the Center for American Progress on November 13th, you stated, "As labor leaders have made clear to me, immigration reform will be a boon to American workers. Think about it: unions will never achieve the best terms for workers when a large part of the workforce is illegal and operates in a shadow economy." According to the most recent estimates from the Pew Hispanic Center, over seven million jobs are currently filled by illegal workers. Furthermore, at over 15 million Americans are currently out of work. Last week the Las Vegas Sun reported that U.S. citizens are now showing up at day labor center in Nevada looking for work. This past Sunday, the AP reported that jobless professionals are seeking holiday sales positions in record numbers.

Can you elaborate on this idea and explain how unemployed Americans will benefit from increased competition by the millions of illegals already present who are granted amnesty and the millions more who will stream across the border?

Do you agree that the stolen jobs held by illegal immigrants rightfully belong to citizens and legal immigrant workers?

Response: A legalization program will strengthen our economy. Over the years, immigration has helped build this country's economy into one of the greatest and most powerful economies in the world, and it remains so even during the present temporary downturn. Immigrants create *new* jobs by forming new businesses, spending their incomes on American goods and services, paying taxes, and raising the productivity of U.S. businesses. Legalization could also have a strong positive effect on American workers' wages, particularly workers in low-skill occupations. As I stated in my speech before the Center for American Progress, "unions will never achieve the best terms for workers when a large part of the workforce is illegal and operates in a shadow economy." As long as these workers in the shadow economy have a fear of removal, they have little leverage to press employers for improved wages and working conditions. A legalization program would bring millions of workers out of the shadow economy, thus helping raise wages and improve working conditions for all U.S. workers, especially those in low-skill occupations in which many illegal immigrants are currently employed.

56497.096

Question#:	69
Topic:	us visit
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: The U.S. Visitor and Immigrant Status Indicator Technology (US-VISIT) program stores and processes biometric and biographic information to, among other things, control and monitor the entry and exit of foreign visitors. Currently, an entry capability is operating at approximately 300 (115 airports, 14 seaports, and 154 of 170 land ports) U.S ports of entry, but an exit capability does not. GAO stated, "if and when Comprehensive Exit will be operational remains unclear, in part because DHS still does not have an integrated master schedule defining the timing and sequencing of the work and events needed to deliver US-VISIT exit capabilities." I read your written testimony from last week's Commerce Science, and Transportation committee hearing where you stated "[f]rom May 28 to July 2, 2009, US-VISIT tested biometric air exit procedures at two airports, Detroit Metropolitan Wayne County Airport and Hartsfield-Jackson Atlanta International Airport, in accordance with a Congressional requirement that additional biometric collection testing be done prior to publishing a final rule on the topic."

Response: The tests ended in July 2009. The results of the test are contained in a report submitted to the House and Senate Committees on Appropriations, Subcommittees on Homeland Security. US-VISIT and Department staff are available to brief the Senate Judiciary Committee, if requested.

Question: Has the Department developed a timeline beyond this testing phase?

Response: At this time, the Department has not yet developed a timeline. A full schedule will be developed pending a decision on a biometric exit program.

Question: What is the timeline for implementing universal biometric entry recording (to include all Mexicans and Canadians) at the land ports?

Response: The Department of Homeland Security (DHS) has not made a decision on the implementation of universal biometric entry recording. The deployment of universal biometric collection for all foreign nationals at the northern and southern land borders would require substantial time, effort, and manpower resources. If DHS were to use current technology, collection could not be done without dramatic increases in traffic congestion at the inspection stations, resulting in significant inspection wait times and severe, negative economic and diplomatic impacts. Additionally, it would result in pushback by those U.S. citizens who, to reenter, would have to spend hours waiting in the same traffic lines as foreign nationals.

56497.097

Question#:	69
Topic:	us visit
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

The large volume of travel across our land borders presents many significant challenges to biometrically recording the entry of all foreign nationals at the land ports. Each year, our land border ports of entry see more than 300 million crossings at 170 port locations, including seasonal and other ports that are not open year round.

However, we are exploring the use of radio-frequency identification technology to facilitate either biographic only or biographic and biometric checks done without a foreign national (or foreign nationals) leaving the vehicle, while also exploring new technology that would speed up the collection or verification process. Second, DHS is currently collecting biometrics in secondary inspection at all land borders from a significantly large population – all aliens persons who are not Canadian B-1/B-2 visitors, Mexican Border Crossing Card (BCC) holders, or diplomats, for example. And within the Canadian and Mexican populations, aliens who are seeking long-term stays have their biometrics collected, as do routine border crossers, at a Customs and Border Protection (CBP) officer's discretion.

Although there is no specific timetable for acquiring all non-U.S. citizens' biometrics collected at land borders, DHS is examining the issue thoroughly, in both a long-term and short-term view, to maximize our ability to screen individuals and secure the border without disrupting the free flow of traffic and commerce.

56497.098

Question#:	70
Topic:	raid
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: After the February 2009 Bellingham, Washington worksite enforcement raid, you called for an internal review of the events that transpired. Pro illegal immigrant groups who were outraged by the raid itself were extremely vocal. Now, almost a year later, of the 28 illegal immigrants caught in the raid, 8 have left the country voluntarily, 5 were deported, and 15 await a hearing before an immigration judge. The company, Yamato Engine Specialists, was fined $100,000 and its owners sentenced to a year of probation. It seems to me that, although the sentence seems light, you can have serious worksite enforcement that focuses on the employers and the employees.

What was determined by the internal review of those who participated in the raid?

It was reported that shortly after the raid, 150 people applied for the open positions at Yamato.

Would you agree that at 10% unemployment, worksite raids could be a boon to American and legal workers currently seeking employment?

Response: In March 2009, ICE's Office of Professional Responsibility (OPR) conducted a review of the Yamato Engine Specialists, Inc., worksite enforcement operation that occurred in Bellingham, WA. OPR's internal review included interviews, examination of documentation, and analysis of the planning, coordination, notification and reporting procedures employed. Overall, this review concluded that the ICE operation was planned, executed and reported in accordance with established DHS and ICE guidelines, policies and procedures.

Protecting employment opportunities for the nation's lawful workforce is one of the stated goals of the worksite enforcement program as outlined in the Worksite Enforcement Strategy, dated April 30, 2009, by the Director of the ICE Office of Investigations.

56497.099

Question#:	71
Topic:	costs
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: The 287(g) program is more cost-effective than other criminal alien programs. For example, in 2008, $219 million was spent to remove 34,000 fugitive aliens. At the same time, only $40 million was spent on 287(g) programs, but those programs resulted in 45,000 arrests of criminal aliens. Recently, this Administration has changed the Memoranda of Agreement ("MOA"), requiring local law enforcement to pick up some of the costs, and track the types of offense committed by criminal aliens, even though this information may only be disclosed when there is ICE approval. This appears to be a way to micromanage the program, limiting its success. Given the success of the 287(g) programs, why has the Administration decided to limit the effectiveness of these cost-efficient programs?

Response: The costs associated with arresting an alien are a different measure from the costs associated with post-arrest detention and administrative removal. The statistic regarding removal of fugitive aliens (aliens with outstanding orders or removal and who often have a criminal history) appears to reflect affirmative efforts to identify, arrest and remove fugitive aliens whereas the statistic regarding 287(g) appears to reflect only arrest.

The new MOA will not limit the effectiveness of the 287(g) Program. The new MOA aligned 287(g) local operations with major ICE enforcement priorities—specifically, the identification and removal of criminal aliens. ICE is able to utilize this new MOA to strengthen its supervision of participating agencies, by setting forth operational and administrative standards for consistent and effective delegation of immigration authorities. The MOA does provide that participating agencies are responsible for personal expenses, salaries, benefits, and for training. However, if the training provides a direct service to the government and funding is available, the Office of State and Local Coordination (OSLC) will cover the cost of travel, housing, per diem expenses for the training, and for the purchasing, installation, and maintenance of technology (computer/IAFIS/Photo and similar hardware/software) necessary to support the investigative functions of participating agencies. As funding was available in Fiscal Year 2009, OSLC covered all of these expenses for those agencies requesting training technology requests.

The new MOA has incorporated ICE priorities for arrests and are categorized as Level 1, Level 2, and Level 3. As you noted, this statistical information can be disclosed to a

56497.100

Question#:	71
Topic:	costs
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

requesting agency. However, for issues related to data integrity and consistency, ICE must be notified of the request prior to disseminating any information.

By adding more data quality controls, and setting forth operational and administrative standards for law enforcement agencies participating in the 287(g) program, this Administration has increased the effectiveness, oversight, and supervision of the program.

56497.101

Question#:	72
Topic:	minor offenders
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: In May 2009, ICE directed the 287(g) program in Davidson County, Tennessee to release the illegal aliens in its custody because ICE 'does not want to fill up immigration detention space with 'minor' offenders." However, these "minor" offenders are usually habitual offenders who burden the local community and law enforcement. How does ICE define what is considered a minor offense?

Shouldn't we continue to detain and remove those individuals who have burdened our local communities by not only by breaking local law, but also violating our immigration laws, which is considered a crime in this country?

Response: Foreign born nationals, identified through the 287(g) program, who are removable, may be placed into ICE custody. Aliens that do not have a previous criminal background, or those who have committed offenses which are considered less severe may not require detention and in the alternative, may be released using an electronic monitoring system through the Alternative to Detention program.

ICE utilizes its discretion when deciding to detain and process an alien for removal. This discretion provides ICE with flexibility to make custody management decisions, to facilitate the processing of removable aliens through the immigration courts, and to enforce their departure from the United States.

ICE's overall strategy on arrest and detention relies upon a risk-based approach to identify and remove all criminal aliens amenable for removal in jails and prisons throughout the United States based on their threat to the community. The following three levels are illustrative of ICE's risk-based approach. These levels are used to allocate appropriate resources to identify and determine the immigration status of aliens arrested for a crime that pose the greatest risk to the public and also the amount of resources that can be appropriately used in the protection of local communities.

- **Level 1** – Individuals who have been convicted of major drug offenses and violent offenses such as murder, manslaughter, rape, robbery, and kidnapping;
- **Level 2** – Individuals who have been convicted of minor drug offenses and mainly property offenses such as burglary, larceny, fraud, and money laundering; and
- **Level 3** – Individuals who have been convicted of other offenses.

56497.102

Question#:	72
Topic:	minor offenders
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

ICE evaluates those aliens that are considered non-egregious offenders for potential placement in the Alternative to Detention (ATD) program on a case-by-case basis. Factors that are included in making a determination include, but are not limited to: community ties, age, local area family support, ability to provide for themselves, potential danger to the community, and previous supervised reporting history. The only inhibiting factors for participation in the ATD program are an alien's age (participants must be at least 18 years of age) and an alien's status under Section 236 of the INA, which imposes mandatory detention for aliens convicted for certain serious criminal offenses.

56497.103

Question#:	73
Topic:	agreements
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: You say DHS has revised and modified 287(g) agreements to make them "effective force multipliers in our efforts to apprehend dangerous criminal aliens." But by limiting the program to criminal aliens only, you have essentially said that law enforcement should not intercept an illegal alien until the alien has committed a crime, been caught, been prosecuted, convicted, sentenced, and jailed. How is this a more effective force multiplier?

Response: The 287(g) program is a valuable law enforcement tool, which augments ICE's enforcement strategy by acting as a force multiplier. The program trains officers from state and local jurisdictions to utilize delegated immigration officer authority consistent with ICE priorities. These priorities include identifying and removing criminal aliens who pose a threat to public safety or a danger to the community.

The newly revised and standardized Memorandum of Agreement (MOA) enhances ICE's oversight of the 287(g) program and increases the program's effectiveness. It also clearly defines the objectives of the 287(g) program, outlines the immigration enforcement authorities delegated pursuant to the MOA, and provides guidelines for ICE supervision of its 287(g) partner agency's law enforcement operations. This supervision includes information reporting and tracking, complaint procedures, and implementation measures. The new MOA promotes consistency to ensure that all of our 287(g) state and local law enforcement partners are using the same standards in implementing the 287(g) program.

One significant change in the new MOA is a description of ICE's priorities. Specifically, the MOA requires ICE's partners to pursue level one offenders as a top priority. Additionally, the MOA requires participating state and local law enforcement agencies to pursue all underlying criminal charges that led the offender to be taken into custody.

Although criminal aliens are the top priority of the 287(g) program, the new MOA does not advise law enforcement to only intercept illegal aliens with convictions. In fact, the new MOA clearly states that the intent is to focus on criminal aliens who pose a threat to the community or public safety. For example, this includes known alien gang members who may not have a prior criminal conviction.

56497.104

Question#:	74
Topic:	list
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: Can you provide a list of the companies for which ICE has done I-9 audits since January 2009?

Response: The list of companies (attached) is labeled law enforcement sensitive and should not be publicly released as the majority of the inspections conducted in FY 2009 are still open investigations. With respect to Form I-9 inspections, ICE only publicizes the identities of companies that are found to be in violation of the law and have received a Final Order to Cease Violations and Pay Fine. Actively publicizing companies that have been the subject of an inspection but were found to be in compliance may have the unintended consequence of unfairly portraying the business in a negative light to the public.

56497.105

Question#:	75
Topic:	criminal aliens
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: The agency has voiced its commitment to the identification and removal of criminal aliens. The identification part is going better with the roll out of Secure Communities interoperability and modest 287(g) expansion.

What is the agency doing to ensure that the criminal aliens identified are actually removed?

Response: In FY 2009, ICE hired over 500 new Immigration Enforcement Agents (IEAs) and Deportation Officers (DOs) to support the increase in workload generated by ICE's criminal alien enforcement initiatives. Detention and transportation resources have also been added to ensure that criminal aliens identified and charged by ICE are detained, adjudicated, and removed from the United States in a timely manner. ICE also created three regional Interoperability Response Centers (IRCs) designed to provide support around the clock to ICE field offices as well as state and local law enforcement participating in the Secure Communities initiative. The IRCs leverage video teleconferencing technology to conduct interviews of criminal aliens who are detained in local jails and begin the removal process prior to the release of criminal aliens into ICE custody. In FY 2009, ICE removed over 135,000 criminal aliens.

Finally, Detention and Removal Operations (DRO) supports the Field Office Directors' criminal alien enforcement efforts through liaisons with foreign governments and international law enforcement organizations to facilitate the removal and acceptance of foreign nationals to their home countries.

Question: What is the agency's plan to increase bed space to accommodate the increased number of criminal aliens?

Response: ICE is meeting its detention requirement by ensuring detention beds are available for aliens whose detention is required by law as well as those whose release would pose a danger to the community or flight risk. To meet this requirement, ICE has deployed a number of initiatives to make its current detention system more efficient. First, ICE is working to improve the efficiency of the removal process, which will reduce the average length of stay in detention. DRO is working with the Department of State to attempt to reduce the notification time required for foreign removals, which would reduce the average length of stay in ICE detention. Additionally, ICE has improved the travel documents issuance process by the implementation of an automatic electronic system

56497.106

Question#:	75
Topic:	criminal aliens
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

(eTD). Finally, ICE has expanded the capacity of its Alternatives to Detention (ATD) program, which will allow ICE to supervise the release of aliens whose detention is not required while at the same time ensuring their appearance at a court proceedings and ultimate compliance with a final order of removal.

Question#:	76
Topic:	GAO
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: The GAO reported that only about 1/3 of criminal aliens arrested under 287(g) are actually placed in removal proceedings. Similarly, only a small share of those identified under Secure Communities interoperability will actually be removed. This is not because they are not "serious" criminals, but because ICE does not have the capacity to process them for removal. Please explain why is DHS/ICE allows known criminals and likely future criminals to be released back into the community instead of having them removed?

Response: The above referenced GAO report, published in 2008, reports that of the 43,000 aliens arrested pursuant to the 287(g) authority, ICE detained approximately 34,000. Of those detained, ICE placed approximately 41 percent in removal proceedings, and an additional 44 percent agreed to be voluntarily removed. The remaining 15 percent of those detained by ICE were: given a humanitarian release, eligible for some alternative form of relief, sent to Federal or State prison, or released from detention due to the minor nature of the crime committed and prioritization of ICE detention space. The remaining 9,000 criminal aliens were incarcerated in state prison for completion of their sentence or granted administrative relief.

ICE takes a risk-based approach when aliens are identified and found to be amenable to removal, as defined by Secure Communities' prioritization threat levels 1 through 3. This risk-based approach is used to allocate available resources to identifying, determining the immigration status of, detaining, and removing aliens arrested for crimes that pose the greatest risk to public safety. Upon their release from the custody of Federal, State and local law enforcement agencies, ICE makes every reasonable effort to remove, all criminal aliens subject to removal.

Ensuring the continuing identification and expeditious removal of criminal aliens is among ICE's highest priorities. A cornerstone of ICE's strategy is to increase State and local partnerships, thus creating a force multiplier that will effect time-sensitive screening of all foreign born detainees and facilitate the identification of criminal aliens. This screening is accomplished through the delegation of immigration authority to local law enforcement agencies utilizing Section 287(g) of the Immigration and Nationality Act.

ICE also leverages the best available technology through the Secure Communities Interoperability Initiative. Interoperability provides access to the technology of the Federal Bureau of Investigation's (FBI) Integrated Automated Fingerprint Identification

56497.108

Question#:	76
Topic:	GAO
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

System (IAFIS) and DHS' Automated Biometric Identification System (IDENT) in order to assist ICE and State and local law enforcement officers to positively identify criminal aliens in prisons and jails.

Question#:	77
Topic:	removal
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: In August 2009, the Houston Chronicle reported that illegal aliens subject to approximately 800 criminal charges or convictions were released inside the United States between 2003 and February 2009 due to a "lack of resources," 300 of those in 2008 and 2009. These charges include homicide, sexual assault, and drug offenses. Is this Administration committed to the removal of these criminal aliens, or will we continue to see this trend of "catch and release?"

Response: ICE is committed to removal of criminal aliens. In order to prevent the release of aliens that are most likely to pose a threat to public safety, U.S. Immigration and Customs Enforcement (ICE) relies on a strategic risk-based approach to identifying, arresting, detaining and removing criminal aliens. The following three levels demonstrate ICE's risk-based approach. These levels will be used to allocate appropriate resources to identify, arrest, detain, and remove criminal aliens from the U.S. who pose the greatest risk to public safety:

- **Level 1** – Individuals who have been convicted of major drug offenses and violent offenses such as murder, manslaughter, rape, robbery, and kidnapping;
- **Level 2** – Individuals who have been convicted of minor drug offenses and mainly property offenses, such as burglary, larceny, fraud, and money laundering; and
- **Level 3** – Individuals who have been convicted of other offenses.

ICE achieved historic results in FY2006, setting new records for enforcement activity, ending the long-standing practice of "catch-and-release" along the nation's borders, launching major new initiatives, and transforming its detention and removal process. In subsequent years, ICE substantially increased the number of charging documents issued which initiated removal proceedings in large numbers. Specifically, in FY2007, ICE issued 164,296 charging documents to removable aliens; 221,085 in FY2008, and 232,796 in FY2009. Since April 2009, the percentage of criminal aliens detained by ICE for removal has increased by over 12 percent.

Additionally, ICE continues to ensure the identification and removal of criminal aliens in a timely fashion by strengthening partnerships with federal, state, and local law enforcement agencies through the 287(g) program, enhancing resources dedicated to the

56497.110

Question#:	77
Topic:	removal
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Criminal Alien Program (CAP), and the activation of interoperability through the Secure Communities Initiative.

ICE takes a risk-based approach when aliens are identified and identified as removable, as defined by Secure Communities prioritization threat levels 1 through 3. This risk-based approach is used to allocate appropriate resources in identifying, determining immigration status, detaining, and removing aliens arrested for crimes that pose the greatest risk to public safety. ICE is committed and makes every reasonable effort to remove all criminal aliens subject to removal, upon release from the custody of federal, state and local law enforcement agencies.

56497.111

Question#:	78
Topic:	databases
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: This Administration has emphasized the Secure Communities program as a way to reduce the criminal alien population in the U.S. Even though this is a step in the right direction, there are some serious concerns with the programs. Specifically, the program does not adequately address the problem of illegal immigrants who unlawfully cross the border without any interaction with immigration officials. How does the Administration plan on addressing this problem? How can this program detect illegal immigrants whose fingerprints are not in fingerprint databases because they have never encountered immigration officials or the lawful entry process?

Local law enforcement officials can only check the fingerprints of potentially criminal aliens AFTER they have been arrested and charged with a crime. Therefore, it is likely that many illegal immigrants who encounter local law enforcement will slip through the cracks because they are stopped by the police, but not specifically charged with a crime. How does the Administration plan on addressing this problem?

Response: In all jurisdictions, including those that currently do not have the benefit of interoperability under Secure Communities, if a local law enforcement agency (LEA) identifies a person believed to be a non-U.S. citizen, he/she can submit an "Immigration Alien Query" (IAQ) to ICE's Law Enforcement Support Center (LESC). The LESC is the ICE 24-hour national enforcement operations facility that provides timely immigration status real-time assistance to local, state, and federal law enforcement agencies on aliens suspected, arrested, or convicted of criminal activity. Additionally, as part of the deployment of Secure Communities, ICE emphasizes to state and local law enforcement that if fingerprints are submitted and a response is received that no match has been made with any data in the DHS databases, those law enforcement officials are encouraged to call their local ICE office to obtain further assistance. For aliens booked into jails in which there is a Criminal Alien Program (CAP) presence or a jail model 287(g) agreement, aliens may also be identified through ICE officer screenings of jail rosters. These checks identify persons who then receive further review to determine alienage.

In order to maximize public safety, ICE prioritizes its enforcement actions through a risk-based approach. Persons who have not been charged with a crime are not considered a high priority for ICE's criminal alien programs but may be encountered through other types of enforcement actions. By assessing the risk each alien poses to the public, ICE focuses immigration enforcement on the most dangerous criminal aliens first. If appropriate, as resources permit, a detainer may be lodged or ICE may take custody of a non-criminal alien encountered by local law enforcement.

56497.112

Question#:	79
Topic:	Rapid REPAT
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: Another program this Administration has commended is the ICE Rapid Repatriation program, or Rapid REPAT, which allows non-violent criminal aliens to consent to removal and decrease their incarceration in the U.S. Critics from the left and the right have expressed concerns over this program. Critics from the right do not believe this program is effective because many of the participants re-enter, the U.S. unlawfully and continue to commit crimes. Critics from the left are concerned that these criminal aliens do not fully understand what is at stake because, if they are caught again, the criminals have to carry out the remainder of their sentence plus 20 years. Has the Administration addressed these concerns with the Rapid REPAT program? What new measures does the Administration plan on implementing?

Response: The Rapid REPAT program is statutorily authorized, joint partnership with State correctional and parole agencies that allows for conditional, early release of non-violent aliens for removal from the United States. It is a voluntary program limited to aliens convicted of non-violent offenses (other than certain offenses relating to firearms or explosives). The identification and processing of incarcerated criminal aliens prior to release into ICE's custody reduces the burden on the taxpayer and ensures that criminal aliens are promptly removed from the United States through early release from their criminal sentence. This program allows ICE to more effectively achieve its objective of identifying and expeditiously removing criminal aliens from the United States.

ICE is in the process of formalizing partnerships with participating states through the use of a standardized Memorandum of Agreement (MOA) and Standard Operating Procedures (SOPs). Through this standardization process, ICE and the participating states will ensure that the aliens understand the agreement and potential penalties associated with violation of the terms of participation in the program, and undertake participation in a voluntary manner.

Aliens who participate in the program and illegally re-enter U.S. after removal are amenable to federal criminal prosecution and state parole violation. If an alien participant re-enters the United States without authorization, certain states have applicable provisions that provide that parole violations that could require the alien to complete his or her state sentence. The alien participant may also be subject to federal criminal prosecution for illegally re-entering the United States. Aggravating factors in illegal reentry may increase possible sentences of up to 20 years imprisonment in accordance with section 276(b) of Immigration and Nationality Act (INA). These

56497.113

Question#:	79
Topic:	Rapid REPAT
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

aggravating factors generally depend on the prior criminal history of the illegal reentrant. However, INA section 276(b)(4) provides for a sentence of up to 10 years for illegal reentry of participants in the Rapid Repat program.

As of December 31, 2009, there have been over 8,800 criminal aliens released to ICE custody under the Rapid REPAT Program, with cost savings amounting to approximately $408 million to the participating states.

56497.114

Question#:	80
Topic:	FDNS
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: At the recent DHS symposium on workplace compliance and enforcement efforts, the USCIS/FDNS representative described recent efforts to assess the level of fraud by conducting audits of petitioning companies in certain visa programs. Yet the official went to great pains to stress that the audits were purely informational, for research purposes, and would not trigger any actual investigations. All previous studies of benefits programs have indicated that fraud is and always has been a serious problem. Is the Department planning to move past studying the problem and start trying to reduce the fraud?

Response: At the November DHS Symposium on Worksite Enforcement, the FDNS representative spoke about the three reasons why an employer may receive a visit from FDNS officers or contract inspectors. One of the reasons an employer may be visited involves formal FDNS studies, known as Benefit Fraud and Compliance Assessments (BFCAs). The BFCAs and other anti-fraud components of the USCIS Risk Assessment Program provide, for the first time, reliable data regarding immigration benefit fraud. This data is used to support the implementation of policy and procedural changes that will reduce fraud and to inform adjudicators of the indicators of fraud.

At the Symposium, the FDNS representative also explained that employers may be visited and interviewed by USCIS officers when fraud is suspected. These targeted visits occur when FDNS receives a valid referral from USCIS or other sources regarding immigration benefit fraud. Many of these referrals are based on guidance developed and distributed to adjudicators as a result of the BFCAs.

The third type of visits the FDNS representative discussed were audits performed under the Administrative Site Visit and Verification Program (ASVVP). The ASVVP relies on pre and post-adjudication site visits to verify basic information that is contained in petitions and applications. Currently, ASVVP inspectors perform pre-adjudication Compliance Reviews (site visits) on petitioning religious organizations and post-adjudication visits on randomly-selected H-1B petitions. Information collected during an ASVVP site visit is reported to FDNS officers in Service Centers who then determine whether there is a need to perform further inquiries or initiate a fraud investigation, and whether to refer the case back to an adjudicator for further action.

56497.115

Question#:	81
Topic:	fraud
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: The benefits fraud assessments on religious workers and the H-1B visa program have been valuable to policy makers. While pointing out the flaws in the adjudication process, it has allowed us to improve or try to amend the programs to better benefit newcomers, businesses, and the American people. Will you commit to allowing your officers within the Fraud Detection and National Security unit to do more assessments, even if it means revealing loopholes and problems on the front end of the adjudications process?

Response: USCIS is committed to detecting, deterring, and combating immigration benefit fraud, engaging FDNS as its primary lead. With this said, USCIS is also examining ways to enhance its assessment and analysis capabilities in reviewing processes and potential vulnerabilities in the adjudications processes.

56497.116

Question#:	82
Topic:	Voorhis
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: During the hearing we spoke about the Cory Voorhis matter. Mr. Voorhis is a former ICE agent who complained publicly during a Colorado political campaign that the district attorney who was running for Governor had a policy of entering into plea bargains with illegal immigrants in order to assist them in avoiding deportation. Mr. Voorhis was accused of improperly accessing a federal crime database. Although a jury acquitted Agent Voorhis of all charges, ICE refused to reinstate him and instead launched a 2 year investigation into his conduct. In February of this year, ICE terminated Agent Voorhis, citing to the very conduct for which he was acquitted. It has also been reported that supervisory agents provided false testimony against Mr. Voorhis. One supervisor, Tony Ruoco, later failed a polygraph test. I asked you whether you knew anything about this matter and you replied, "I'm not personally familiar with that matter, but I will become personally familiar with it."

I understand that Mr. Voorhis' case is currently pending before the Merit Systems Protection Board. Please provide any and all information the Department has with respect to his case and a detailed explanation of the reasons for Mr. Voorhis' termination and to what extent false testimony was used as a basis for his termination.

According to recent press reports, the Department has re-opened an investigation into Mr. Ruoco's alleged perjury. Please provide a status update with respect to that matter.

What has the Department done with respect to Mr. Voorhis' allegations that the Denver District Attorney's Office, in concert with Denver ICE, entered into plea agreements with illegal immigrants in order to avoid deportation?

Response: Secretary Napolitano requested ICE re-open the investigation regarding Mr. Ruoco. The investigation is currently on-going; therefore, we cannot further comment.

Regarding the allegation of ICE and the Denver District Attorney's Office collaboration on plea agreements designed to allow illegal aliens to avoid removal, ICE's Office of Professional Responsibility has reviewed all the relevant materials. There was insufficient information to commence an investigation.

56497.117

FY 2009-2010 Companies Subject to Form I-9 Inspection[1]

The Morris Group, Inc.	Birmingham	AL
Bayshore Construction	Bay Minette	AL
Fastrak Masonry	Troy	AL
White Spunner Construction	Mobile	AL
Zebra Construction Company	Mobile	AL
Carolina Roofing Company	Calvert	AL
Thyssenkrupp Steele USA	Mobile	AL
Baker Concrete	Evergreen	AL
Shell Chemical Company	Saraland	AL
Huntsville Utilities	Huntsville	AL
Capitol Structures	Fort Smith	AR
O.K. Foods Industries	Fort Smith	AR
Fishermans Wharf Steak & Seafood, LLC	Texarkana	AR
Lockheed Martin	Camden	AR
Southern Bakeries	Hope	AR
West-Ark Sod and Turf	Fort Smith	AR
Willow Brook Retirement	Fort Smith	AR
Ozark Mountain Poultry	Rogers	AR
Scurlock Ind. Of Fayetteville	Fayetteville	AR
Mi Ranchito, Cabot, Searcy	Little Rock	AR
Sun Canyon Inn	Sierra Vista	AZ
Morgan Development	Yuma	AZ
American Springs/Mechanic	Yuma	AZ
MAACO Collison Repair	Prescott	AZ
E&K of Phoenix Inc.	Phoenix	AZ
Diamondback Metal Systems	Tempe	AZ
Galco	Phoenix	AZ
Stockwell Scientific	Scottsdale	AZ
Aim Royal Insulation	Phoenix	AZ
VIP Painting	Phoenix	AZ
H&H SAGUARO SPECIALISTS	Phoenix	AZ
HANDLEBAR J INC	Scottsdale	AZ
TEMPE MECHANICAL	Tempe	AZ
APACHE PIPELINES INC	Phoenix	AZ
ROBERT J BLOOMBERG MD	Tempe	AZ
SHARP DRYWALL	Chandler	AZ
AMMEX REBAR PLACERS INC	Scottsdale	AZ
ROBERTS TIRE SALES INC.	Mesa	AZ
FRIEDMAN RECYCLING COMPANY	Phoenix	AZ
DIVIERSIFIED GOURMET INC.	Tolleson	AZ
Randy's Restaurant	Scottsdale	AZ
QUINCY JOIST COMPANY	Buckeye	AZ
ARIZONA TRAILER MANUFACTURING, INC	Buckeye	AZ

[1] Information is based on manually tracked reports from ICE field offices. Company names are only available for investigations in the "open" status on July 1, 2009, or after. The names of companies whose inspection was closed prior to July 1, 2009, were not reported to ICE headquarters.

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56497.118

DEL RIO INDUSTRIES	Phoenix	AZ
RONNING LANDSCAPING	Mesa	AZ
Spray Systems/ERI	Tempe	AZ
New Southwest Door Company inc.	Tucson	AZ
Asplundh Tree Expert Co.	Tucson	AZ
Pueblo Center Partners	Tucson	AZ
Las Cazuelitas LLC	Tucson	AZ
Ruiz Masonry & Building Supplies	Tucson	AZ
Tucson Container Corp	Tucson	AZ
Schnipke Southwest LLC	Tucson	AZ
Eagle Rock Excavating LLC	Tucson	AZ
Advanced Construction Products	Tucson	AZ
Inn Suites Hotels Inc.	Tucson	AZ
Ricardo's Restaurant LLC	Hereford	AZ
Santiago's Re-Pack	Rio Rico	AZ
Golden Corral Restaurant	Yuma	AZ
TAC Building Contractors	Yuma	AZ
Pete King Construction	Phoenix	AZ
DLS Precision Fab LLC	Phoenix	AZ
MDS Pharma Services	Tempe	AZ
ChemResearch Co. Inc.	Phoenix	AZ
Kinder Morgan Energy Partners LLP	Phoenix	AZ
Mail Terminal Services LLC	Phoenix	AZ
CTM Magnetics, Inc.	Tempe	AZ
Robertson Fuel Systems LLC	Tempe	AZ
Speedy Gonzalez Construction Inc.	Glendale	AZ
Nalco Co.	Tempe	AZ
Beltmann Group Inc	Phoenix	AZ
Hi-Tech Fabrication Inc.	Phoenix	AZ
Mike Campbell & Associates Ltd	Phoenix	AZ
Veolia Transportation Services Inc.	Mesa	AZ
F. Rodgers Corporation	Chandler	AZ
Hensel Phelps Construction Co	Phoenix	AZ
Norquay Construction Inc	Tempe	AZ
VMC Enterprises Inc	Buckeye	AZ
Tel Tech Networks Inc.	Phoenix	AZ
Straightline Utilities LLC	Fountain Hills	AZ
Powers Steel & Wire Products Inc.	Phoenix	AZ
Jabil Circuit Inc.	Tempe	AZ
Phoenix Pipelines Inc.	Phoenix	AZ
Pros Ranch Market Inc.	Phoenix	AZ
Jetstrip Inc.	Mesa	AZ
Fabricating/Distributor Inc.	Mesa	AZ
Arizona American Water Company	Phoenix	AZ
Tucson Airport Authority	Tucson	AZ
Abrams Airborne Manufacturing, Inc.	Tucson	AZ
Falcone Brothers & Associates, Inc	Tucson	AZ
Dynamic Manufacturing and Engineering, LLC.	Tucson	AZ

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Statewide Products Co	Tucson	AZ
Chevron Products Co	Tucson	AZ
Acme Meat Co Inc	Tucson	AZ
Arizona Shuttle	Tucson	AZ
Metro Water District	Tucson	AZ
Trico Electric CO-OP Inc.	Marana	AZ
Goudy Engineering Inc	Tucson	AZ
Universal Avionics Systems Corporation	Tucson	AZ
Malone Meat & Poultry Co	Tucson	AZ
Advanced Controls Corp	Tucson	AZ
BAE Systems Incorporated	Tucson	AZ
1MD Inc., DBA Castro Electric	Sierra Vista	AZ
Eugenia R. Hawkins DBA Circle H Industries	Hereford	AZ
Tiffin Aviation Services	Nogales	AZ
Sun Belt Builders Inc.	Sonoita	AZ
High Performance Water Systems Inc.	Yuma	AZ
DopplerTech Inc.	Yuma	AZ
BET-KO-AIR Inc.	Yuma	AZ
Medina General Contracting Inc.	Yuma	AZ
Paranetics Technology Inc	San Luis	AZ
Cibola Information Systems Inc.	Yuma	AZ
Arviso Engineering Inc.	Yuma	AZ
Pulice Construction LLC	Phoenix	AZ
First Credit Union	Tempe	AZ
Hire Standards	Phoenix	AZ
BIO-JANITORIAL SERVICE INC.	Glendale	AZ
Roadway Electric LLC	Phoenix	AZ
Pinnacle West Corp	Phoenix	AZ
•	Glendale	AZ
CBN Building Maintenance	Phoenix	AZ
EURO FRESH FARMS INC.	Willcox	AZ
EURO FRESH FARMS INC.	Willcox	AZ
Sun Drywall	Sierra Vista	AZ
KE&G Development LLC	Sierra Vista	AZ
Sheehan Construction	Napa	CA
GILLS ONIONS, LLC	Oxnard	CA
E.L. Hobbs	El Cajon	CA
Gate Gormet	San Diego	CA
Apical Industries, Inc	Oceanside	CA
The Cheesecake Factory Restaurants, Inc.	Pasadena	CA
L&M Optical Disc West	Valencia	CA
Great China Buffet	Azusa	CA
Fresno Mattress Factory	Fresno	CA
La Tapatia	Fresno	CA
American Range Corp	Pacoima	CA
City of Murrieta	Murrieta	CA
Ashley Furniture	Colton	CA
A-1 Fire Protection	San Diego	CA

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56497.120

Lotus Vegan Restaurant	North Hollywood	CA
American Professional Ambulance	Van Nuys	CA
Bouncing Souls	San Fernando	CA
Star Scrap Metal	La Mirada	CA
Arteagas Check Cashing	Long Beach	CA
Real Pro Nursing	Los Angeles	CA
Southern California Body Shop	Los Angeles	CA
National Retail Transportation	Compton	CA
Tambuli Seafood Market	Long Beach	CA
Thermo Power Industries	Los Alamitos	CA
Hi-Tech Engineering	Santa Monica	CA
O'Tasty Foods Inc.	City of Industry	CA
PM Packaging	Compton	CA
All American Cabinetry	Van Nuys	CA
Valley Thrift Store	Sun Valley	CA
Star Nail Products Inc.	Valencia	CA
WMS, Inc., dba El Chaparral	Mission Hills	CA
Electronic Source Company	Van Nuys	CA
T Brennan, Aircraft Maintenance	Northridge	CA
Xi Computer Corporation	San Clementa	CA
Kirkhill Aircraft Parts Co	Brea	CA
8E6 Technologies	Orange	CA
Accord Engineering Inc	Santa Ana	CA
Adams Rite Aerospace, Inc.	Fullerton	CA
Advanced Chemistry &	Garden Grove	CA
GARGIULO, INC.	Somis	CA
All Pallet Recycling MFG., Inc	Riverside	CA
RJ Manufacturing	Murrieta	CA
Brownwood Furniture	Rancho Cucamonga	CA
Fiesta Food Warehouse	Monero Valley	CA
China Palace Buffet	Perris	CA
Galvan's Place and Finishing	Riverside	CA
Mission Car Wash	Upland	CA
De Jagger INC	Indio	CA
Craig's Tri-County Plumbing	Ornage	CA
Renaissance Counters	Fallbrook	CA
Estancia La Jolla Hotel & Spa	La Jolla	CA
Burger King	Chula Vista	CA
Solana Beach Baking Co.	Solana Beach	CA
Killion Industries, Inc.	Vista, CA	CA
Donate Construction	Chula Vista	CA
Rescom Services, Inc.	Vista, CA	CA
Jack in the Box	North Park	CA
Paradise Point Resort & Spa	San Diego	CA
La Fachada	San Diego	CA
Discover Nature	San Diego	CA
New Way Landscaping	San Diego	CA
Pacific Terrace Hotel	San Diego	CA

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56497.121

R&B Catering	San Marcos	CA
Adelaide's Florist	La Jolla	CA
WOODIE'S SPORTS GRILL BAR AND BILLIARDS	Escondido	CA
TROPICS NIGHTCLUB	San Marcos	CA
ALSCO, INC	San Diego	CA
OC-ONCORE	San Marcos	CA
VITRO AMERICA	Oceanside	CA
Rockin Baja Lobster Coastal Cantina	Oceanside	CA
Mellace Family Brands	Carlsbad	CA
Southbay Sand Blasting	San Diego	CA
On the Border	San Diego	CA
All American Sleep Products	San Diego	CA
Kings Inn Hotel	San Diego	CA
Carls Jr	Lemon Grove	CA
Patriot Roofing, Carlsbad	Carlsbad	CA
San Marcos Restaurant	San Diego	CA
Cardenas Market	Calexico	CA
Imperial Valley Stop	Westmoreland	CA
Christine's Restaurant	Brawley	CA
A Plus Furniture	Brawley	CA
Superior Cattle Feeders LLC	Calipatria	CA
Imperial Date Gardens, Inc.	Bard	CA
INCOTEC Corporation	Mojave	CA
C&L Coating	Bakersfield	CA
Castle Print & Publishing, Inc.	Bakersfield	CA
Black Bear Diner	Redding	CA
Puerto Vallarta Mexican Restaurant	Redding	CA
SMARTE CARTE, INC.	SAN JOSE	CA
Dave Heyden Landscaping	Chula Vista	CA
DMS Facility Services	San Diego	CA
B&C Nutritional Products (Merical)	Vista	CA
PR Farms	Clovis	CA
Poindexter Nuts	Selma	CA
B&R Security	Fresno	CA
Bright Way Building Maintenance	Tustin	CA
Turnover Carpet and Cleaning	El Cajon	CA
Agilent Technologies	Roseville	CA
L.E. Cooke	Visalia	CA
Palm Valley Care Homes Inc.	Elk Grove	CA
Bergensons Property	Oceanside	CA
European Home Care, Inc	Redlands	CA
Vision Scenery Corporation	Burbank	CA
Pacific Rim Mechanical	San Diego	CA
AIRSERV	San Francisco	CA
Menzies Aviation	San Francisco	CA
American International Industries	Los Angeles	CA
Golden Hydro	Cotati	CA
Snapware Corporation	Mira Loma	CA

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56497.122

SENBA-USA Inc.	Hayward	CA
Erick Nielsen Enterprises Inc.	Orland	CA
JATCO Inc.	Hayward	CA
Staffchex	Hayward	CA
Tero Tek International	Delano	CA
JOIA Accessories, Inc.	Los Angeles	CA
San Fernando Valley Adult Day Care	Granada Hills	CA
Chocolates a la Carte	Valencia	CA
Jacobellis Sausage Company	Burbank	CA
Santa Clarita Convalescent Hospital	Santa Clarita	CA
Omega Case Company	Burbank	CA
W Macine Works, Inc.	San Fernando	CA
Trans-Cal Industries	Burbank	CA
Impulse Ambulance, Inc.	North Hollywood	CA
Hydra-Electric Company, Inc.	Burbank	CA
Sun Air Parts, Inc.	Valencia	CA
Flight Line Products, Inc.	Valencia	CA
Frazier Aviation, Inc.	San Fernando	CA
Electro Adapter, Inc.	Chatsworth	CA
L.A. International Distributer	Los Angeles	CA
Los Angeles Airport Urgent Care Inc	Inglewood	CA
Jordan Nuclear Company	Los Angeles	CA
Laura's French Baking Company	Los Angeles	CA
Borg Produce Inc	Los Angeles	CA
Abraxix Bioscience	Los Angeles	CA
Hana Financial Inc	Los Angeles	CA
Hitachi Automotive Products	Torrance	CA
Irwin Industries, Inc.	Long Beach	CA
Los Angeles Calco Inc.	Arcadia	CA
Water & Power Community Credit Union	Los Angeles	CA
Smark Chemicals	Los Angeles	CA
Arco Products VinVale Terminal	South Gate	CA
Chem-Mex Industries	South Gate	CA
Anaheim Yellow Cab	Anaheim	CA
California Yellow Cab	Santa Ana	CA
Jim Hicks & Co	Santa Ana	CA
Main International Group	Santa Ana	CA
STPCA SunTen Laboratories	Irvine	CA
Weber Precision Graphics	Santa Ana	CA
Penjoyan Produce	Costa Mesa	CA
Branan Medical Corporation	Irvine	CA
A&M Dental Laboratories	Santa Ana	CA
RTI Electronics inc	Anaheim	CA
Airborne Systems North America of CA Inc.	Santa Ana	CA
Modified Plastics Inc	Santa Ana	CA
ONSITE CONSTRUCTION AND ENGINEERING INC.	Nipomo	CA
TACT CONSTRUCTION	Ojai	CA
AEROVIRONMENT, INC	Simi Valley	CA

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56497.123

L-3 COMMUNICATIONS TITAN CORPERATION	Simi Valley	CA
TECH ADVANTEDGE	Port Hueneme	CA
Double Barrel Environmental	Riverside	CA
Premier Medical Transportation	Colton	CA
East Valley Water District	Highland	CA
Starlite Reclamation Environmen	Fontana	CA
Haz Mat Trans, INC	San Bernardino	CA
Western Municipal Water District	Riverside	CA
Brickley Environmental	San Bernardino	CA
FLABOB, LLC	Riverside	CA
Filter Recylcling Service, INC.	Rialto	CA
Deutsch	Hemet	CA
BCVWD	Beaumont	CA
Valley Convalescent Hospital	El Centro	CA
Mexicali Tacos	El Centro	CA
CASO Financial Services	Calexico	CA
America's Best Value Inn	Westmoreland	CA
Mike's Place	Calexico	CA
Imperial Valley Tours	Holtville	CA
Spreckels Sugar Company	Brawley	CA
Merchant Bonded Services	Calexico	CA
Pueblo Nuevo Restaurant	El Centro	CA
Gold Cross Ambulance	El Centro	CA
Imperial Valley Transist	Calexico	CA
Calexico Taxi Cabs	Calexico	CA
Kinder/Morgan	San Diego	CA
SGIS	San Diego	CA
Atlas Construction Supply	San Diego	CA
Analyze Soft	San Diego	CA
Challenger Sheet Metal	San Diego	CA
Servi-Tek	San Diego	CA
Southland Fire	San Diego	CA
Star & Crescent Boat Company	San Diego	CA
Cell Biolabs, Inc.	San Diego	CA
Harmony Egg Farm	San Diego	CA
La Jolla Bank	San Diego	CA
Reuben H. Fleet Science Center	San Diego	CA
Valley Center Municipal Water District	Valley Center	CA
San Diego Ice Arena	San Diego	CA
Electric Motor Specialists	San Diego	CA
New Leaf Biofuel, LLC	San Diego	CA
Columbia Export Service	San Diego	CA
Sony Electronics INC	San Diego	CA
EDCO-Recycling and Waste Collection Services	San Diego	CA
McMahon Steel Company INC	San Diego	CA
DHL Express	San Diego	CA
Advanced Chemical Transport	Escondido	CA
Northgate Gonzalez Inc.	Vista	CA

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56497.124

Otay Water District & Dam	Spring Valley	CA
Vanguard Composites Group	San Diego	CA
Continuous Computing Corp	San Diego	CA
Pacific Trust Bank	Chula Vista	CA
Goodrich Corporation (Rohr, Inc.)	Chula Vista	CA
Jif-Pak Manufacturing	Vista	CA
Fredericka Manor	Chula Vista	CA
Shaw Group	San Onofre	CA
United Nursing International	San Diego	CA
Sweetwater Authority	Chula Vista	CA
Helix Water District	La Mesa	CA
Aurora Fine Chemicals, LLC	San Diego	CA
Coastal Concrete	El Cajon	CA
Five Star Medical Transport	Chula Vista	CA
Professional Maintenance Systems (PMS)	San Diego	CA
Hard Rock Hotel	San Diego	CA
Home Energy Systems	San Diego	CA
Family Health Centers of San Diego	San Diego	CA
L-3 Communications Corporation	Spring Valley	CA
Integrits Corporation	San Diego	CA
Dotworkz	San Diego	CA
Balboa Ambulance Incorporated	El Cajon	CA
Xenonics Holdings	Carlsbad	CA
McDonalds - lindberg Field	San Diego	CA
Information Systems Laboratories INC	San Diego	CA
Composite Engineering, Inc.	Sacramento	CA
Polarity, Inc.	Sacramento	CA
Aldetec, Inc.	Sacramento	CA
Jadoo Power Systems,	Sacramento	CA
XCOR Aerospace	Mojave	CA
ASB Avionics LLC	Mojave	CA
VALIMET INC.	Stockton	CA
Applied Aerospace	Stockton	CA
Fresno Catering Service	Fresno	CA
International Recycling	Fresno	CA
Downtown Beauty Supply	Fresno	CA
Redding Aero Enterprises Inc	Redding	CA
First Student Inc.	San Francisco	CA
Securitas Inc.	Walnut Creek	CA
Petermann Northwest LLC	San Francisco	CA
Ameriguard Security Inc.	Fresno	CA
KaiserAir	Santa Rosa	CA
Sonoma Jet Center	Santa Rosa	CA
King American Ambulance Co.	San Francisco	CA
Pride Industries	Vacaville	CA
Martin's Metal	Fairfield	CA
Aviation Port Services	Oakland	CA
Town Taxi	San Francisco	CA

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Shimmick Construction	Oakland	CA
The Wedge Entertainment	Daly City	CA
Ranger Pipelines Inc.	San Francisco	CA
Golden Gate Bridge & Transp. Dist	San Francisco	CA
Clover-Stornetta Farms Inc.	Petaluma	CA
Remote Satellite Systems int'l	Petaluma	CA
BELLI Corporation	Petaluma	CA
Mcguire & Hester	Oakland	CA
Chenega Security and Protection Services LLC	Redding	CA
Gamco Industries Inc.	Los Angeles	CA
Urgent Express Office	Los Angeles	CA
First Mortgage of America	Santa Ana	CA
I.T.S. CORPORATION	Oxnard	CA
Triad Transport, INC/Triad	Fontana	CA
Palm Relaxing Station	Fresno	CA
Johnson Dairy	Eaton	CO
Samy A Construction	Del Norte	CO
Split Rail Fence Co	Littleton	CO
Navajo Manufacturing Co	Denver	CO
Pegasus Restaurant	Castle Rock	CO
Royal Express Cleaners Inc	Denver	CO
Saigon Bowl	Denver	CO
Si Amigos	Aurora	CO
Las Adelitas Inc	Aurora	CO
All Packaging Co	Aurora	CO
Maxim Show Club	Denver	CO
Western Excelsior	Mancos	CO
City Market	Aspen	CO
City Market	El Jebel	CO
Lirgo Systems	Parker	CO
McDonald's	Parker	CO
Mountain City Meat Company	Denver	CO
Western States Reclamation, Inc.	Fredrick	CO
San Luis&RioGrandeRailroad	Alamosa	CO
Pawnee Power Station in Brush, CO	Brush	CO
Malley Healthcare & Rehabilitation Center	Northglenn	CO
Parascript Management Inc	Boulder	CO
North American Property Services	Greenwood Village	CO
Air Serv	Denver	CO
Environmental Demolition, Inc.	Denver	CO
Plum Creek Precast Company	Littleton	CO
Pipeline Industries, Inc.	Denver	CO
HSS Security	Denver	CO
Durango Silverton Narrow Guage Railroad	Durango	CO
Hansen Weather - Port Corp	Delta	CO
Olive Garden	Grand Junction	CO
Worley & McCullough	Monte Vista	CO
Talent IT Services, Inc.	Manchester	CT

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Calabro Cheese Corporation	East Haven	CT
John J. Masi Company, Inc.	Bridgeport	CT
Webilent Technology, Inc.	Windsor	CT
Class Act Cleaning	Berlin	CT
Ginza Japanese Cuisine	Bloomfield	CT
Montage, Inc	Washington	DC
Sushi Taro	Washington	DC
Microfinance International Corporation	Washington	DC
Nastos Construction	Washington	DC
Next Communication	Washington	DC
Northwest Health Care Center	Washington	DC
Wendy's	Newark	DE
Potts Welding & Boiler Repair	Newark	DE
Valero Delaware City Refinery	Delaware City	DE
All Green Holdings, Inc.	Tampa	FL
Gate Gourmet Inc.	Tampa	FL
Northeast Drywall Inc.	Tampa	FL
Rotonics Manufacaturing Inc.	Lake Wales	FL
SENSATION VIDEO	Ft Lauderdale	FL
RJ FOOD MART, INC.	POMPANO BEACH	FL
EL MARIACHI RESTAURANT, INC.	WESTON	FL
UNICORN PAINTING, INC.	HOLLYWOOD	FL
NAUTICAL FURNISHINGS, INC.	FORT LAUDERDALE	FL
SPICE RESTO-LOUNGE, INC.	HOLLYWOOD	FL
NATIONAL LIQUIDATORS	FORT LAUDERDALE	FL
ROSEN'S PRESTIGE CADILLAC SERVICE, INC.	FORT LAUDERDALE	FL
ITALICA RISTORANTE, INC.	FORT LAUDERDALE	FL
J.D. Packing, Inc.	Miami	FL
D'Elite Hair Salon and Spa	Miami	FL
North Miami Bagle, Inc.	North Miami	FL
Dade Paper Company	Miami	FL
Hialeah Aluminum Supply	Miami	FL
peppy's ion the Gables	Miami	FL
Mr. Kibeth Restaurant	Miami	FL
Hotel Victor	Miami	FL
Quality Staffing Group, Inc.	Miami	FL
Palm Roofing corporation	Miami	FL
Smart Auto Sales	Miami	FL
Diana Bakery AKA Roblaj Bakery	Miami	FL
Bay Harbor Fine Foods supermarket AKA Jomino, Inc.	Miami	FL
Crown Linen, LLC	Miami	FL
Bayamo Radiators Auto Repairs, Inc.	Miami	FL
Alex International LLC	Miami	FL
Bayamo General Auto Repair, Inc.	Miami	FL
Rudy Export Corporation	Miami	FL

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Vila & Son Landscaping	Miami	FL
Miami Outboard Club	Miami	FL
Grove Harbor Mariana	Miami	FL
US Imagina LLC	Miami	FL
Unlimited	Miami	FL
SOBA LOUNGE JAPANESE	West Palm Beach	FL
Centerport, Inc.	West Palm Beach	FL
Frenchman's Creek	West Palm Beach	FL
Jet Aviation	West Palm Beach	FL
Merchant's Exports	West Palm Beach	FL
Signature Flight	West Palm Beach	FL
Taste of India	Melbourne	FL
University Food Mart	Melbourne	FL
Hampton Inn, Bonita Springs, Fl	Bonita Springs	FL
Allied Recycling Inc.	Fort Myers	FL
Blue Water Landscape & Irrigation, Inc.	Orlando	FL
China Town Restaurant	Kissimmee	FL
The Great Wall Chinese Restaurant	St. Cloud	FL
Chow Time Grill & Buffett	Panama City	FL
Ken Griffin Landscape Contractors, Inc.	Gulf Breeze	FL
Bacalao Restaurant	Sarasota	FL
Parkesdale Farm Market Inc.	Plant City	FL
Nulab Inc.	Clearwater	FL
Pelican Bay	Dunedin	FL
Nature's Coast Brick Pavers Inc.	Hudson	FL
Florida Potato and Onion	Plant City	FL
Salem's Gyros	Tampa	FL
G2 Secure Staff LLC	Tampa International Airport	FL
DAL Global Services LLC	Tampa International Airport	FL
Persica Landscaping Co., Inc. & Persica Florida Nurseries, LLC	Tallahassee	FL
Surface Technologies Corporation	Neptune Beach	FL
Standard Precast Inc.	Jacksonville	FL
Down to Earth of North Florida LLC	Jacksonville	FL
Cypress Landscape Management Inc	Jacksonville	FL
Sheltra & Son	Indiantown	FL
La Familia de Castro Inc	Gainesville	FL
Sun State Nursery& Landscaping Inc	Jacksonville	FL
Sun-IT Solutions, Inc.	Jacksonville	FL
United Forming, Inc.	Jacksonville	FL
BROWARD MEAT AND FISH MARKET	NORTH LAUDERDALE	FL
POPPY'S PIZZA & SUBS	SUNRISE	FL
TORTILLA MEXICAN, INC.	OAKLAND PARK	FL
PIZZA HEAVEN	WESTON	FL
NATIONAL SERVICE GROUP & ASSOCIATES	DAVIE	FL

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CRS MANAGEMENT CORP	COCONUT CREEK	FL
TULAY FOOD MARKET INC	OAKLAND PARK	FL
LA BAMBA MEXICAN AND SPANISH REST.	PLANTATION	FL
THE PALMS 2100 CONDOMINIUM ASSOC	Fort Lauderdale	FL
BALISTRERI REALTY, INC.	Lighthouse Point	FL
Jupet INC.	Fort Lauderdale	FL
CHIPMASTER, CORP	Fort Lauderdale	FL
DRAGON SPRING RESTAURANT	LAUDERHILL	FL
PADRINO'S RESTAURANT	PLANTATION	FL
LA PERLA SEAFOOD BAR AND GRILL	Sunrise	FL
N/A	Coconut Creek	FL
N/A	Plantation	FL
Fort Pierce, FL.	Fort Pierce	FL
First State Bank	Key West	FL
Edward Estevez CHB, Inc.	Miami	FL
ABC Restaurant Supplies & Equipment	Miami	FL
Advance Building Engineers, Inc.	Miami	FL
Triangle Fire, Inc.	Miami	FL
P & L Towing		FL
Biscayne Bay Pilots	Miami	FL
Apex Air Comditioning		FL
P M Electrical Contractors		FL
Allied Joint Venture	Miami	FL
JBTGJ, Inc (Digital Video Systems)	Miami	FL
American Defense Supplier	Miami	FL
Infinity Aerospace Manufacturing, Inc	Miami	FL
HMC Helicopter Service, Inc.	Miami	FL
Phiston Technologies, Inc.	Miami	FL
Coverlux, Inc.	Miami	FL
Security Solutions International LLC	Miami	FL
Miami Police Supply, Inc (Police Eq of America, Inc., Owner)	Miami	FL
Airport Lejeune Pawn Shop (Lejuene Road Jewelers Exchange are the registered agents)	Miami	FL
Miami Firearms Training, Inc.	Miami	FL
Biscayne Helicopter, Inc.	Miami	FL
JE Tires Enterprises	Miami	FL
Camco Cable Service	Miami	FL
AMG Healthcare Services Inc.	Miami	FL
Criterion Analysis Inc.	Miami	FL
Rechtien International Trucks, Inc.	Miami	FL
HL Biotech, Inc.	Miami	FL
Carlos & Susana School Bus Service	Miami	FL
Criminalistics, Inc	Miami	FL
Altyus, Inc	Miami	FL
Global Pharmacy Services, Inc.	Miami	FL
Miami Firearms Training	Miami	FL
Com Jet Corp	Miami	FL
National Gun Inc	Miami	FL

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WPB WATER TREATMENT FACILITY	West Palm Beach	FL
GALAXY AVIATION	West Palm Beach	FL
ROTORTECH SERVICES INC PB AIRPORT	West Palm Beach	FL
DEFENSE SUPPLIERS OF ELECTRONIC	Cape Canaveral	FL
Naples Air Center	Naples	FL
Europe-American Aviation	Naples	FL
Big Tree, Inc.	Punta Gorda	FL
U.S.S.I.	Punta Gorda	FL
Collis Roofing, Inc.	Longwood	FL
Girard Environmental Services, Inc	Sanford	FL
Apparel Design by Soulmates, Inc.	Orlando	FL
Cigarz at City Walk, Inc.	Orlando	FL
Branco Lath & Stucco, Inc.	Orlando	FL
EASTERN SHIP BUILDING GROUP	Panama City	FL
Thompson's Meat Supply	Pensacola	FL
WEST COAST METAL ROOFING	Pensacola	FL
SUNCOAST ICE, INCORPORATED	Sarasota	FL
SULPHURIC ACID TRADING COMPANY, INC.	Tampa	FL
CROSS ENVIRONMENTAL SERVICES, INC.	Tampa	FL
STAFFING EXPRESS, INC.	Tampa	FL
SEA-3 OF FLORIDA	Tampa	FL
OXFORD BUILDING SERVICES, INC	Tampa	FL
YARA NORTH AMERICA, INC.	Tampa	FL
DIAMOND B FARMS, INC.	Plant City	FL
LSG SKY CHEFS	Tampa	FL
ESI GROUP INC.	Tampa	FL
QUANTUM AVIATION SERVICES, INC.	Tampa	FL
AIRPORT SERVICES INTERNATIONAL GROUP, INC.	Tampa	FL
TRIANGLE SERVICES	Tampa	FL
Gadsden Tomato Company	Quincy (Tallahassee)	FL
Tapesouth Inc	Jacksonville	FL
Eastern Poultry Distributors Inc	Ponte Vedra Beach	FL
QC Management Inc	Jacksonville	FL
Bubba Foods LLC	Jacksonville	FL
Snowbird Environmental Systems Corporation	Jacksonville	FL
Eleets Intermodal Company Inc	Jacksonville	FL
ADF Airways	Miami	FL
Miami Industrial Gases, inc.	Miami	FL
Nichvic Enterprise LIC	Miami	FL
Savon Foods, Inc.	Miami	FL
Curtis & Rogers Design Studio, Inc.	Miami	FL
JetAire Aviation, Inc.	Miami	FL
DD Health Home Care	Miami	FL
Just In Time Services, Inc.	Miami	FL
Merflex International, Inc.	Miami	FL
Ali Meat Industry	Orlando	FL
Shalimar of Central Florida, Inc.	Kissimmee	FL

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All USA Elevator Services	Miami	FL
Zitro 13 Inc.	Ocala	FL
Kepano Express, Inc.	Orlando	FL
Superbuffet Clearwater Inc.	Clearwater	FL
Boyd Consruction	Brunswick	GA
Minerva Indian Cuisine	Alpharetta	GA
Jenkins Plumbing	Pooler	GA
Lyle Industries Inc.	Dalton, GA	GA
Dean Trading	Dalton, GA	GA
King Green Inc.	Gainesville	GA
Four Seasons Landsca	Newnan	GA
Alpha Nursing Services	Atlanta	GA
Stansberry Management	Alpharetta	GA
McDonalds # 31192	Richmond Hill	GA
McDonalds # 29380	Hinesville	GA
Sea Island Company	St. Simons Island	GA
Select Staffing Company	Buford	GA
Designer & Decorator Outlet	Dalton, GA	GA
Accufleet	Atlanta	GA
SETCO Grading LLC	Newnan	GA
KC Janitorial	Atlanta	GA
Value Village	Atlanta	GA
McDonalds # 32738	Richmond Hill	GA
McDonalds # 27966	Savannah	GA
McDonalds # 18938	Pembroke	GA
McDonalds # 26336	Hinesville	GA
McDonalds # 04093	Jesup	GA
McDonalds # 08100	Claxton	GA
McDonalds # 05169	Richmond Hill	GA
McDonalds # 19816	Riceboro	GA
McDonalds # 19975	Glenville	GA
McDonalds # 11526	Hinesville	GA
McDonalds # 13169	Darien	GA
North American Medical	Marietta	GA
Southern Waste & Rec	Atlanta	GA
Axiom Corporation	Atlanta	GA
Georgia Aquarium	Atlanta	GA
MKI Waste Oil System	Lawrenceville	GA
B&W Directional Boring	McDonough	GA
Pinnacle Security Grou	Atlanta	GA
Mercury Air Center	Atlanta	GA
Benton Village of Stockbridge	Roswell	GA
Micron Optics	Atlanta	GA
Griffin Contracting, Inc.	Savannah	GA
H.A. Sack Company, Inc.	Statesboro	GA
Keith Ray Construction Company	Savannah	GA
AAA Cooper Transporatation, Inc.	Savannah	GA
GEMI Trucking	Savannah	GA

TSYS	Columbus	GA
Kemira Chemicals, Inc.	Columbus	GA
Proctor & Gamble	Albany	GA
CARTERSVILLE WATER TREATMENT FACILITY	Cartersville	GA
CARTERSVILLE - BARTOW CO. AIRPORT / PHOENIX AIR	Cartersville	GA
SQM North American Corporaton	Atlanta	GA
S.A. White Oil Company, Inc.	Marietta	GA
Lockheed Martin Assembly Services	Americus	GA
Hong Kong Massage	TAMUNING	GU
Guam Hana Tour	TAMUNING	GU
LSG SkyChefs	TAMUNING	GU
Core Tech International Corporation	BARRIGADA	GU
Serrano Construction and Development Corporation	DEDEDO	GU
Keum Yang Corporation	TAMUNING	GU
Modern International, Inc.	BARRIGADA	GU
American Black Dragon, Inc.	TAMUNING	GU
Guam Yooshin Corporation	BARRIGADA	GU
Koa Coffee Plantation	Captain Cook	HI
Mountain Thunder Coffee Plantation	Kailua-Kona	HI
Captain Cook Coffee Company	Captain Cook	HI
Greenwell Farms Inc	Kealakekua	HI
Heavenly Hawaiian Ltd	Holualoa	HI
Kona Mountain Coffee LLC	Kailua-Kona	HI
Kona Controls LLC	Kealakekua	HI
Talia Ranch LLC	Captain Cook	HI
Fernando's Mexican Restaurant	Kahului	HI
Kauai Coffee Company Inc	Honolulu	HI
TNT Plastering & Stucco Inc	Pearl City	HI
Kona Kulana Farms	Holualoa	HI
Agro Services Inc	Kamuela	HI
Big Island Stone Masonry LLC	Kailua-Kona	HI
Hawaii Engineering Group Inc	Honolulu	HI
PHK Inc, Seawatch Inc	Kapalua, Wailea	HI
Olu Kai, LTD. (DBA: Huggo's, Huggo's on the Rocks, and Paradise Gourmet Catering)	Kailua-Kona	HI
Force Marine Inc	Hilo	HI
Friendly Island Landscape & Nursery, LLC	Lahaina	HI
Reef Development of Hawaii Incorporated	Aiea	HI
OGL International Inc	Honolulu	HI
Team Clean, Inc.	Honolulu	HI
Hawaii Aviation Contract Services, Inc.	Honolulu	HI
Flight School Hawaii, Inc.	Honolulu	HI
Ohana Pacific Bank	Honolulu	HI
Metro Buffet	Cedar Rapids	IA
Clean Des Moines	Des Moines	IA
Center Fresh	Sioux Center	IA
Allen Schnittjer's Farm	Hopkinton	IA
Sonoco Corrflex, LLC	Iowa City	IA
CFA Staffing	Iowa City	IA

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Reinhard Foodservice	Cedar Rapids	IA
John Morrell	Sioux City	IA
Pine Ridge Farms	Des Moines	IA
J&L Enterprises	Sioux City	IA
Diversified Staffing	Sioux City	IA
Advance Services	Sioux City	IA
All In A Day Staffing	Sioux City	IA
Adecco Employment	Sioux City	IA
Manpower	Sioux City	IA
Rose Acre Farms	Winterset	IA
Ricks Brothers	Hayden	ID
Larson Farms Inc.	Hamer	ID
Record Steel Construction	Meridian	ID
Sorento Lactalis	Nampa	ID
Royal Western Ent. Inc.	Eagle	ID
Wood Enterprises, Inc.	Chicago	IL
Utility Concrete Products, Inc.	Morris	IL
Storm Trap, Inc.	Morris	IL
New Dimensions Precision Machining, Inc.	Union	IL
Elite Staffing	Granite City	IL
The Strive Group, LLC	Edwardsville	IL
The Cheesecake Factory Restaurants, Inc.	Chicago	IL
FAIP North America, Inc.	Elk Grove Village	IL
Bohemian Crystal Restaurant	Westmont	IL
Dupage Machine Products, Inc.	Glendale Heights	IL
Fairmont Care Center	Chicago	IL
Rosewood Care Center	North Brook	IL
Menza Foods LLC	Burr Ridge	IL
MPC Containment International	Chicago	IL
Cassidy Brothers, Inc.	Franklin Park	IL
Chemical Light, Inc.	Vernon Hills	IL
Michelle's Cleaning Service	Westmont	IL
Chase Fasteners, Inc.	Melrose Park	IL
Wedekemper, Inc.	Carlyle	IL
Hydrox Laboratories	Elgin	IL
Entertainment Cruises, Inc.	Chicago	IL
Pizzo & Associates, LTD	Leland	IL
Bestway Transportation Inc.	Bensenville	IL
Midwest Coast Logistics	Chicago	IL
Butterfield Petroleum LLC	Aurora	IL
Elk Grove Village Petroleum LLC	Elk Grove Village	IL
Naperville Petroleum LLC	Naperville	IL
Orchard Petroleum LLC	Oswego	IL
Transfer Logistics Inc.	Chicago	IL
Lake & Milwaukee Inc.	North Brook	IL
2059 Hicks Gas and Food Inc.	Rolling Meadows	IL
Premier Class Transportation	Lincolnwood	IL
Asteroid Precision Grinding Company, Inc	Des Plaines	IL

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Orland Park Petroleum LLC	Orland Park	IL
Oswego Petroleum LLC	Oswego	IL
Shorewood Petroleum LLC	Shorewood	IL
Manisha Gas & Food Inc	Chanahon	IL
Joliet Petroleum LLC	Joliet	IL
Port to Port Logistics Inc.	Elk Grove Village	IL
Fabritech, Inc.	East Alton	IL
Texas Roadhouse	Springfield	IL
Bloomington Meats	Bloomington	IL
Select Concrete & Excavation	Champaign	IL
Flat Cat Employment Services	Noblesville	IN
Westfield Steel Inc.	Westfield	IN
American Paving & Asphalt	Lafayette	IN
CJ International	Indianapolis	IN
Midwest ISO	Carmel	IN
Regent Aerospace Corp.	Plainfield	IN
Kenneth M. Williams & Assoc	Indianapolis	IN
Tomahawk Labor, Inc.	Kansas City	KS
Target	Olathe	KS
LSI Midwest Lighting	Kansas City	KS
Mi Ranchito Mexican Restaurant	Lenexa	KS
Little Joe's Asphalt	Bonner Springs	KS
Z-Best Painting Company	Overland Park	KS
Mid American Auto Exchange	Olathe	KS
7th Street Auto Sales	Kansas City	KS
Best Value Services	Wichita	KS
A&H Electric	Wichita	KS
Able Services	Franklin	KY
La Azteca LLC	London	KY
Jumbo Buffet	Louisville	KY
DTM Distribution	Bowling Green	KY
Solrac Corporation	Bowling Green	KY
SEKRI Inc	Corbin	KY
Blue Chip 2000, Inc.	Hebron	KY
Linc	Hebron	KY
Print Fulfillment Services	Louisville	KY
A Tree Care Inc	Louisville	KY
A&T Industrial Services, INC	Louisville	KY
AUDUBON COMMUNITIES	New Orleans	LA
OKI NAGO Restaurant	Metairie	LA
Kiewit, Massman, Traylor	Metairie	LA
ARK-LA-TEX	Mandeville	LA
Rotolo Consultants	Slidell	LA
Dunham Price Group	Lake Charles	LA
Full Service Systems	Lake Charles	LA
Fuji Japanese Steakhouse	Lake Charles	LA
Beyond Cleaning	Metairie	LA
BLUE HARBOR POINT CARWASH	Mandeville	LA

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BROTHERS PETROLEUM, LLC	Gretna	LA
Willco of HOUMA, Inc.	Houma	LA
Vacco Marine, Inc.	Houma	LA
Tacos El Amigo	Houma	LA
St. Vincent Seafood	Golden Meadow	LA
Waste Management	Lake Charles	LA
McDonald's Cost.	Shreveport, LA	LA
Southern Industrial Contractors	Rayville, LA	LA
Hanson Pipe and Products	New Orleans	LA
Gibbs Construction	New Orleans	LA
Mechanical Construction Company	New Orleans	LA
Turn Services	New Orleans	LA
United Cab	New Orleans	LA
Altantic Aviation	Kenner	LA
Southern Scrap Material Co LLC	New Orleans	LA
Pure Water Concepts, LLC	Baton Rouge	LA
Cooper Consolidated	LaPlace	LA
SDT Waste & Debris Services	New Orleans	LA
J W Grand, Inc.	Baton Rouge	LA
IDIM Construction	Carencro	LA
Buffet City	Lafayette	LA
T.M.M. Services L.L.C.	Houma	LA
Seatrade International Co. Inc.	New Bedford	MA
Northern Pelagic Group, LLC (NORPEL)	New Bedford	MA
Sea Watch International, Ltd.	New Bedford	MA
Mar-Lees Seafood, LLC	New Bedford	MA
Tempest Fisheries, Ltd.	New Bedford	MA
A.M.L. International, Inc.	New Bedford	MA
MCR Construction, Inc.	Somerville	MA
Maple Leaf Capital Ventures Corporation	Woburn	MA
Standardized Sanitation Systems, Inc.	Billerica	MA
SAMPCO, Inc.	Pittsfield	MA
Alder Foods, Inc.	Walpole	MA
Jimmy's Allenhurst, Inc.	Danvers	MA
Pureview, LLC	Chelsea	MA
Marder Trawling, Inc	New Bedford	MA
Andover Healthcare, Inc.	Salisbury	MA
Zaim Law Firm	Lowell	MA
Aetna Fire Alarm Service Co., Inc.	Dorchester	MA
All in One Insulation, Inc.	West Boylston	MA
ABP Corporation Dba Au Bon Pain	Boston	MA
Jetsetter Spa, Inc.	East Boston	MA
Austin National Investments, Inc. Dba Wok & Roll	East Boston	MA
SYCCO Services, LLC	Weymouth	MA
Yankee Environmental Services, LLC	Amesbury	MA
J.A. Donuts, Inc.	Springfield	MA

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Agawam Donuts, Inc.	Agawam	MA
Amex, Inc.	East Boston	MA
Mayflower Communications Company, Inc.	Burlington	MA
Polcari Enterprises, Inc.	Saugus	MA
Tandoori Nights	Gaithersburg	MD
Federal Parking, Inc	Garett Park	MD
Federal Valet Car Parking	Garett Park	MD
Antenna Research Associates	Beltsville	MD
Axion Protective Services	Landover Hills	MD
Bettinger West Interiors	Elkridge	MD
Dynaflow Incorporated	Jessup	MD
FOAAB Corp	Baltimore	MD
LSF Inc	Woodlawn	MD
Page Technologies	Baltimore	MD
Pallet Guy	Baltimore	MD
Quantum Leap	Woodlawn	MD
Structural Systems	Thurmont	MD
Modu-Tech	Baltimore	MD
Fox Industries Inc	Baltimore	MD
Algenol Biofuels Inc	Baltimore	MD
Chesapeake Bank of Maryland	Baltimore	MD
Rittenhouse Fuel Co	Baltimore	MD
Hospital Support Services Inc	Baltimore	MD
Transmed Food Inc	Baltimore	MD
Harbor Bank of Maryland	Baltimore	MD
OK Food Corporation	Baltimore	MD
NSCSA (America) Inc	Baltimore	MD
Duty Free Americas Inc	BWI Airport	MD
Majestic Distilling	Lansdowne	MD
Pireaus International Corp	Baltimore	MD
Baltimore International Warehouse	Baltimore	MD
Pacorini Metals USA	Baltimore	MD
Signature Flight Support	BWI Airport	MD
World Class Packaging	Baltimore	MD
Total Engineering Inc	Lanham	MD
CES Hospitality	Baltimore	MD
PCM Construction	Beltsville	MD
McDonogh Industries	Millersville	MD
Outside Unlimited	Hampstead	MD
Maine International Labor, Inc.	W. Gardiner	ME
Allen's Blueberry Freezer, Inc.	Ellsworth	ME
ISF Trading Company	Lubec	ME
KenKev II (dba Platinum Plus or PT's Stripclub)	Portland	ME
Builders Insulation of Maine, Inc. Dba Superior Insulation Service, LLC Dba Builders Installed Products	Brewer	ME

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Ray, Lawrence & Drucilla Dba Lawrence Ray Fishing Industries Dba Cherry Point Products, Inc.	Milbridge	ME
Portland Pipe Line Corporation	South Portland	ME
Aviation Safeguards Dba Command Security	Portland	ME
Tangs Chinese Cuisine	Houlton	ME
Chopsticks	Presque Isle	ME
Deering Donuts LLC dba Dunkin Donuts	Portland	ME
Broadway Donuts LLC dba Dunkin Donuts	South Portland	ME
Scarborough Donuts LLC dba Dunkin Donuts	Scarborough	ME
Payne Road Donuts LLC dba Dunkin Donuts	Scarborough	ME
Maine Mall Donuts LLC dba Dunkin Donuts	South Portland	ME
George Donuts LLC dba Dunkin Donuts	Saco	ME
BTB- "BIG TIME BURRITOS"	Ann Arbor	MI
SAWYER NURSERY	Hudsonville	MI
SEMCO ENERGY	Port Huron	MI
DTE ENERGY CORP	Detroit	MI
MICHIGAN PALLET	Charlotte	MI
VIDOSH LANDSCAPE CENTRE EAST INC.	Charlevoix	MI
GREAT LAKES TRIM	Williamsburg	MI
BATA PLASTICS INC.	Byron Center	MI
CHAMPIONS AUTO FERRY	Harsens Island	MI
ANCHOR BAY PACKAGING CORP.	New Baltimore	MI
SOLID SURFACES UNLIMITED	Sterling Heights	MI
CRAIN COMMUNICATIONS INC.	Detroit	MI
BETTER MADE SNACK FOODS	Detroit	MI
FAYGO BEVERAGES	Detroit	MI
DUDEK FOODS INC.	Detroit	MI
PETERSON FARMS INC.	Shelby	MI
EL RANCHO MEXICAN RESTAURANT	Gaylord	MI
EDISON SAULT ELECTRIC COMPANY	Sault Ste. Marie	MI
SAULT STE. MARIE WATER TREATMENT PLANT	Sault Ste. Marie	MI
ENTERGY NUCLEAR OPERATIONS INC.	Covert	MI
NORTHERN AIR	Grand Rapids	MI
L3 COMMUNICATIONS	Grand Rapids	MI
CONSUMERS ENERGY	Ludington	MI
AMERICAN ELECTRIC POWER	Buchannan	MI
TRANS OVERSEAS CORPORATION	Romulus	MI
ANN ARBOR TORTILLA FACTORY	Ann Arbor	MI

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GATE GOURMET	Romulus	MI
ABSOPURE WATER COMPANY	Plymouth	MI
LOCKHART CHEMICAL COMPANY	Flint	MI
SPRING MOUNTAIN WATER COMPANY	Flint	MI
MIDMICHIGAN FAMILY CREDIT UNION	Saginaw	MI
GRANGER WOOD STREET LANDFILL	Lansing	MI
CIELO WATER COMPANY	Rochester	MI
CITIZEN'S DISPOSAL INC	Grand Blanc	MI
AMERICAN AQUA INC	Saline	MI
BLUE WATER FEDERAL CREDIT UNION	Port Huron	MI
GENERAL CHEMICAL CORPORATION	Detroit	MI
COPOCO COMMUNITY CREDIT UNION	Bay City	MI
SMITHS CREEK LANDFILL	Smiths Creek	MI
WHITEFEATHER LANDFILL	Pinconning	MI
VALLEY STATE EMPLOYEES CREDIT UNION	Saginaw	MI
VDS FARMS	Scotts	MI
COUNTRY FRESH, INC	Grand Rapids	MI
APPLIED PLASTIC PRODUCTS	Macomb	MI
Global Employment Solutions	Rochester	MN
Single-Ply Systems, Inc.	Eagan	MN
Magic Touch Siding LLC	Eagan	MN
Noah's Ark Processors, LLC	Dawson	MN
Stio Roofing and Construction LLC	Blaine	MN
Spectrum Custom Designs, Inc.	Minnetonka	MN
Panda Buffet	Cloquet	MN
New China Restaurant	Virginia	MN
Albert Lea Select Foods Inc.	Albert Lea	MN
Ellison Meat Company	Pipestone	MN
Canterbury Park	Shakopee	MN
Cirrus Aircraft	Duluth	MN
Best Brands Corp	Minnetonka	MN
Metropolitan Council Wastewater Metro Treatment Plant	St. Paul	MN
S.J. Louis Construction, Inc.	Rockville	MN
Seacole-CRC	Plymouth	MN
Sky Food Catering, Inc.	Mendota Heights	MN
Xcel Energy - Monticello Nuclear Plant	Monticello	MN
Monnig Industries	Marshall	MO
Chevy's Fresh Mex	St. Charles	MO
El Morelia Supermercado	Bridgeton	MO
El Maguey	St. Louis	MO
Brake Landscaping & Lawncare	St. Louis	MO
Maria's Mexican Restaurant	Platte City	MO
Taqueria Mexico Rest.	Kansas City	MO
AE Solutions, INC	Springfield	MO
Progressive Plumbing	Springfield	MO
PenMac-Carthage, MO	Carthage	MO
Prestige Maintenance	Maryland Heights	MO

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Seyer Industries, Inc.	St. Peters	MO
Ram International, Inc.	St. Louis	MO
Colt Safety, Inc.	St. Louis	MO
Essex Cryogenics of Missouri, Inc.	St. Louis	MO
Hi Gene's Janitorial	N. Kansas City	MO
Freidel's Lawn and Landscaping	St. Joseph	MO
Copper Coyote Mexican Restaurant	Warrensburg	MO
Ruth's Chris Steakhouse	Kansas City	MO
RidgeHill Contractors	Nixa	MO
MidWest Concrete	Springfield	MO
Ozark Foam Insealators	Ozark	MO
Willard Asphalt	Lebanon	MO
Hillhouse Services	Verona	MO
SUSHI BISTRO MASA	Dublin	MP
Dixie Rubber and Belting	Jackson, MS	MS
Edwards Electric Service	Meridian	MS
Gulf Coast Doors, LLC	Biloxi	MS
John B. Painting	Biloxi	MS
Phillips Pest Control Incorporated	Kiln	MS
Quality Insulation	Gulfport	MS
Superior Asphalt	Jackson	MS
Tractor Tree and Turf	Ocean Springs	MS
Yates Construction/Heavy Division	Philadelphia	MS
Tackett & Tackett Farms Schlater, MS	Schlater, MS	MS
Wolfe Pizza, LLC	Flowood, MS	MS
JJH Landscaping	Brandon, MS	MS
Randall Roofing and Metal	Bentonia, MS	MS
Techincal Marine Maintenance Services	Pascagoula	MS
American Eurocopter	Columbus	MS
Howard Industries	Laurel, MS	MS
Oftedal Construction	Miles City	MT
Kalispell Truss Center	Kalispell	MT
Northwestern Truss Inc.	Kalispell	MT
St. Peter's Hospital	Helena	MT
City of Kalispell Water	Kalispell	MT
Ahmed Enterprises of North Carolina, Inc.	Asheville	NC
Khalid Corporation	Asheville	NC
Subway of Arden, Inc.	Asheville	NC
Subway of Asheville Mall, Inc.	Asheville	NC
Subway of Battery Park, Inc.	Asheville	NC
Subway of Clyde, Inc.	Asheville	NC
Subway of Fairview, Inc.	Asheville	NC
Subway of Hendersonville Road, Inc.	Asheville	NC
Subway of Long Shoals, Inc.	Asheville	NC
Subway of Mars Hills, Inc.	Asheville	NC
Subway of Mills Gap, Inc.	Asheville	NC
Subway of Regent Park, Inc.	Asheville	NC
Subway of Swannanoa, Inc.	Asheville	NC

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Subway of Sweeten Creek, Inc.	Asheville	NC
Subway of Waynesville, Inc.	Asheville	NC
Suwain Management and Development Corporation	Asheville	NC
Snack Attack Deli, Inc. dba Subway #3718	Fayetteville	NC
Bhavprit Enterprises dba Subway #4849	Fayetteville	NC
Teelah Corporation dba Subway #15952	Fayetteville	NC
Rakan Inc. dba Subway #16589	Fayetteville	NC
Nour Inc. dba Subway #16706	Fayetteville	NC
HOR - Raeford	Raeford	NC
HOR - Rose Hill	Rose Hill	NC
Mandarin Malay Rest	Winston-Salem	NC
NC License Plate Agcy	Winston-Salem	NC
ADVANCED METAL ROOFING	Wilmington	NC
MAYFLOWER SEAFOOD RESTAURANT	Washington	NC
HERITAGE FARMS of NC LLC	Warsaw	NC
HERNANDEZ DRYWALL OF WILMINGTON INC	Leland	NC
Inland Seafood, Inc.	Charlotte	NC
Coatings 2000, Inc.	Charlotte	NC
AEP Industries, Inc.	Matthews	NC
GMRI, Inc./Red Lobster Restaurant	Pineville	NC
Dong Da, Inc. dba Number One China Buffet	Mooresville	NC
Brinkley Enterprises	Kings Mountain	NC
Suwan Subway, LLC	Asheville	NC
Mountain Creamery & Coffee House, LLC	Asheville	NC
Patton Avenue Subway, LLC	Asheville	NC
Subway of Asheville #7, LLC	Asheville	NC
Subway of Merrimon Avenue, Inc.	Asheville	NC
Subway of Canton, Inc.	Asheville	NC
SITAR INDIAN CUISINE, INC.	Durham	NC
HOR - Maxton	Maxton	NC
HOR - Wallace	Teachey	NC
ART Maintenance LLC	Greensboro	NC
TAA Flight Training LLC	Greensboro	NC
HARRIS STEEL ERECTORS, INC	Wilmington	NC
FOUR SEASONS EARTHWORKS, INC	Wilmington	NC
QUALITY ROOFING AND GUTTERING INC	Wilmington	NC
AC Control Company, Inc.	Charlotte	NC
Advanced Equipment Company	Charlotte	NC
Catawba Industrial Rubber Co., Inc.	Charlotte	NC
Cydecor, Inc.	Charlotte	NC
Gantt Huberman Architects, PLL	Charlotte	NC
American Dry Cleaners	Charlotte	NC
City of Asheville Water Resources Dept	Asheville	NC
Progress Energy	New Hill	NC
North American Bison Cooperative	New Rockford	ND
NoDak Electrical Cooperative	Grand Forks	ND
Westcon Industries	Bismark	ND

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Swanson Farms	Hoople	ND
A-1 Fiberglass	Hastings	NE
Aesthetics Dental Laboratory	North Platte	NE
Yano's Nursery	Omaha	NE
Prima 140	Omaha	NE
Castronics, Inc.	Kimball	NE
Deffenbaugh Industries	Omaha	NE
Fremont Beef	Fremont	NE
Platte Generating Station/City of Grand Island	Grand Island	NE
UniFirst Corporation	Nashua	NH
MicroTech Staffing Group, Inc. (dba J.L. Longo Staffing)	Londonderry	NH
Flightspares, LLC	Portsmouth	NH
CFS Complete Floor Service	Litchfield	NH
Air Quality Experts, Inc	Atkinson	NH
H. G. Construction	Litchfield	NH
Life Cell Corporation	Branchburg	NJ
Ethnic International Holding, Inc.	Cranbury	NJ
Keyword Express, Inc.	Carlstadt	NJ
Bismark Construction Corporation	Newark	NJ
AM-MAC Inc.	Fairfield	NJ
Rudy's Inflight Services	Teterboro	NJ
Garden State Groundskeepers	Long Valley	NJ
H-Mart/Marlton, NJ	Cherry Hill	NJ
Shanrache Construction, Inc.	Brown Mills	NJ
Don Pepe Steakhhouse	Pine Brook	NJ
Green Landscaping	Westwood	NJ
Posh Nosh Imports Inc.	Kearny	NJ
Pezao II Brazilian Buffet & Bakery Inc.	Long Branch	NJ
Bellezza Pura, LLC	Long Branch	NJ
Sousas Grill	Long Branch	NJ
Sabor Brasil	Long Branch	NJ
Barton & Cooney, LLC	Burlington	NJ
Environmental Climate Control	Wallington	NJ
Boz Electrical Contactors, Inc.	Vernon	NJ
Eagle Nutritionals	Carlstadt	NJ
Lotito Foods Inc	Edison	NJ
ENA Meat Packing, Inc	Paterson	NJ
C&A Contracting LLC.	Cedar Grove	NJ
Hoboken Fancy Food, LLC	Hoboken	NJ
Kari-Out Co	Totowa	NJ
Bethel Industries Inc.	Jersey City	NJ
D&S Consultants, Inc.	Eatontown	NJ
C-Pyramid Enterprises Inc.	Columbus	NJ
Fratelli Cosulich USA Inc	Avenel	NJ
Baramidze Corporation	Avenel	NJ

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AMF Trucking and Warehousing	Edison	NJ
Sambe Construction, Inc.	Pennsauken	NJ
Triman Industries	West Berlin	NJ
Sbrocco International Incorporated	Voorhees	NJ
Fowler Equipment Co., Inc.	Union	NJ
Caseth Logistics, Inc.	Elizabeth	NJ
Electrospec Inc.	Dover	NJ
Alliance USA Ltd.	Denville	NJ
New Jersey Microsystems, Inc.	Newark	NJ
Spencer Industries, Inc.	Belleville	NJ
Swiss Technology Inc.	Clifton	NJ
AAA M Essex Inc.	Newark	NJ
NVE Pharmaceuticals	Andover	NJ
J & C ICE Technologies, Inc.	Flanders	NJ
Sigma-Netics Inc.	Riverdale	NJ
Wide Band Systems Inc.	Rockaway	NJ
Power Hawk Technologies Inc.	Rockaway	NJ
Specialty Systems Inc.	Toms River	NJ
MTG Services, Inc.	Lakehurst	NJ
Longfield Gardens LLC	Lakewood	NJ
Technology Program Services Associates, Inc.	Manchester Township	NJ
Bailey Refrigeration Co, Inc.	Avenel	NJ
Bellville Rodair International	Carteret	NJ
Star Bright Cleaning Services, Inc.	Rahway	NJ
Utility Development Corporation	Livingston	NJ
GE Aviation Systems LLC	Whippany	NJ
Herley CTI Incorporated	Whippany	NJ
Transtechnology Corporation, Breeze-Eastern Division	Union	NJ
Just Rugelach	Kearney	NJ
Ross Equipment Inc.	Elizabeth	NJ
Scafar Construction Inc.	Newark	NJ
All-Ways Advertising	Bloomfield	NJ
Little Anita's New Mexican Foods	Albuquerque	NM
Azuma Sushi & Teppan	Albuquerque	NM
Solitaire Homes	Deming	NM
Rio Bend Construction	Silver City	NM
Aldershot, Inc.	Las Cruces	NM
Touch of Class Cleaning	Tijeras	NM
Fresquez Concessions	Albuquerque	NM
Aircraft Service International Group	Albuquerque	NM
Primeflight Aviation Services	Albuquerque	NM
Worldwide Securities Associates	Albuquerque	NM
Amigo's Mexican Food Inc	Deming	NM
Outback Inc.	Silver City	NM

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AMERICOM AUTOMATION SERVICES ET AL	Las Cruces	NM
R&B Trucking	Sunland Park	NM
One Source Federal Credit Union	Las Cruces	NM
Vital Systems Corp.	Reno	NV
Int.Game Technology	Reno	NV
D'Alessio Contracting	Las Vegas	NV
Component West LLC	Las Vegas	NV
George M. Raymond Company	Las Vegas	NV
Keenan, Hopkins, Suder & Stowell	Las Vegas	NV
ABC Industrial Laundry, dba Universal Laundries & Linen Supply	Las Vegas	NV
Pinnacle Drywall & Stucco	Reno	NV
Olive Garden	Reno	NV
Qdoba Mexican Grill	Reno	NV
Dragon Ridge Country Club	Las Vegas	NV
Silver Dollar Recycling	Las Vegas	NV
Jack in the Box	Reno	NV
Cobblestone Construction	Creech AFB	NV
Prestige Maintenance	Hoover Dam, NV.	NV
Delphi	Las Vegas	NV
LSG Sky Chefs	Las Vegas	NV
Battlesapce	Creech AFB	NV
Delta Global Services	Las Vegas	NV
Clark County Water	Las Vegas	NV
Gen Atomic Aero Sys	Las Vegas	NV
Saguaro Power Company	Henderson	NV
C&S Waste Solutions	Pahrump	NV
Same as case name	Reno	NV
Same as case name	Reno	NV
Same as case name	Reno	NV
Bechtel SAIC Company	Creech AFB	NV
CP Buckner Steel	Maspeth	NY
Power Pallet	Amsterdam	NY
Black & Blue Rochester	Rochester	NY
KRAVET FABRICS INC	BETHPAGE	NY
Champlain Stone, LTD.	Warrensburg	NY
Plainville Farms	Plainville	NY
Davey Tree	Rochester	NY
Schaller's Meat Market	Bridgewater	NY
Latham 76 Diner	Latham	NY
Scipar, Inc	Williamsville	NY
El Azteca	Dunkirk	NY
Black & Blue	Williamsville	NY
Amherst Systems	Williamsville	NY
Severson Environmental	Niagara Falls	NY
LVI Environmental	New York	NY
625 Fulton Associates LLC	Brooklyn, NY	NY
A & D Iron Works Inc	Brooklyn, NY	NY
Ben Elias Industries Corporation	Inwood, NY	NY

Beverly's Home Health Care Inc	Rego Park, NY	NY
BIG MIKE'S PIZZA AND PASTA	Monroe	NY
Bra Smyth Inc	New York, NY	NY
Chelsea Art	New York City	NY
Chelsea Moving	New York, NY	NY
E G Bedding	Bklyn NY	NY
Elite Car Rental Inc	Brooklyn, NY	NY
French Connection	Hollis, NY	NY
GMD Shipyard	Brooklyn, NY	NY
Grand BK Corp	Maspeth, NY	NY
HMS HOST FOODS	RONKONKOMA	NY
House of Asia	Woodside, NY	NY
Imagine Early Learning Centers	Bronx, NY	NY
M & S Bargain Hunter I Corp.	Brooklyn, NY	NY
MAINTECH CORP	RONKONKOMA	NY
Makkos of Brooklyn, Ltd.	Brooklyn, NY	NY
PMI MEDICAL MANAGEMENT	Mount Kisco	NY
Pomegranate	Brooklyn, NY	NY
PRIMIZIA FOODS	Ardsley	NY
Ramdeens Elec	Queens, NY	NY
RODNEY BREWER LANDSCAPING	Newburgh	NY
S & R Finishing Corp	Brooklyn, NY	NY
Shoe Servive	Queens, NY	NY
Thrift Land USA of Westchester Inc.	Yonkers, NY	NY
Trio Asbestos Removal Corp	College Point, NY	NY
Twin Brothers Electrical Supply Inc	Long Island City, NY	NY
U.S. INFORMATION SYSTEMS	Pearl River	NY
US AIRWAYS EXPRESS	RONKONKOMA	NY
Y & K Fashion Inc.	New York NY	NY
Merrill Farms	Wolcott	NY
Mighty Taco	Amherst	NY
Trunk Outlet	Rochester	NY
High Tread	Lockport	NY
Turek Farms	King Ferry	NY
DUNKIN DONUTS	NORTHPORT	NY
THE NANZ COMPANY	DEER PARK	NY
Taste of India	Amherst	NY
India Gate Restaurant	Buffalo	NY
Lake Ontario Fruit	Albion	NY
Precious Plate, Inc.	Niagara Falls	NY
Modern Disposal Services, Inc.	Model City	NY
New Buffalo Shirt Factory Inc	Clarence	NY
Perry's Ice Cream Co., Inc.	Akron	NY
Twin City Ambulance Corp	No Tonawanda	NY
Niagara Falls Water Board	Niagara Falls	NY
Medisca, Inc	Plattsburgh	NY
Kason and Keller, Inc	Fonda	NY
Prior Aviation Service, Inc	Buffalo	NY

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VanDeMark Chemical, Inc	Lockport	NY
We Care Transportation	Buffalo	NY
Horizon Health Services	Buffalo	NY
Grand Island Transit	Lockport	NY
Niagara Falls Bridge Commission	Niagara Falls	NY
Western NY Energy	Medina	NY
Monroe County Water Authority	Rochester	NY
Noble Environment Power	Churubusco	NY
Petri Baking Products	Silver Creek	NY
Granny's Kitchen	Frankfort	NY
Fisher Bus Services	Hamburg	NY
A & L Cesspool Service Corp.	Long Island	NY
A & L Sheet Metal Fabrication Corp.	Bronx	NY
Accurate Chemical & Scientific Corporation	Westbury	NY
Ace Surgical Supply	Brooklyn	NY
Act Ambulette	Staten Island	NY
Ahava Ambulette Service	Brooklyn	NY
Aircraft Protective Services	Westbury	NY
Allied Central Ambulette	Brooklyn	NY
Altronix	Brooklyn	NY
American Aerospace Controls	Farmingdale	NY
AMERICAN BUILDING MAINTANCE (ABM)	Hawthorne	NY
American Medical Supply	Brooklyn	NY
Antenna & Radome Research	Bay Shore	NY
Apex Airtronix, Inc.	Brooklyn	NY
Arc Systems, Inc.	Hauppauge	NY
Arkwin Industries, Inc.	Westbury	NY
Atlas Fuel Oil Corp.	Bronx	NY
C & C Cartering Corp.	Brooklyn	NY
Call A Head Corp.	Far Rockaway	NY
Cascade Linen Supply Co.	Brooklyn	NY
Chemclean	Jamaica	NY
Precision Mechanisms Corp.	Westbury	NY
Servo Corporation of America	Westbury	NY
Spectronics Corporation	Westbury	NY
Citicoach	New York	NY
Clean Water of New York	Staten Island	NY
CONSOLIDATED BULK CARRIERS	Medford	NY
DICARLO FOOD SERVICE	Holtsville	NY
EMPIRE BULK CARRIER	Riverhead	NY
Long Island Precast	Brookhaven	NY
CROSS TOWN FERRY SERVICES INC	ORIENT	NY
Dataware Systems Lease Inc.	Staten Island	NY
Davidson Pipe Supply	Brooklyn	NY
Danishta, Inc.	Kew Gardens	NY
Eastern Communications	Long Island	NY
Esystems, Inc.	New York	NY
EUROMED	Orangeburg	NY

Exclusive Ambulance	Brooklyn	NY
FedEx Shipping Express Center	Hicksville	NY
Gaeta Interior Demolition, Inc.	Staten Island	NY
Gold Protective Service	Brooklyn	NY
Grand Ambulette Services, Inc.	Maspeth	NY
HAMPTON JITNEY INC	SOUTHAMPTON	NY
HUDSON MACHINE WORKS INCORPORATED	Brewster	NY
Hunda Glass Corp.	New York	NY
IET Labs, Inc.	Westbury	NY
Leisure Pro LTD	New York	NY
Magiq Technologies	New York	NY
Maiday Mayday Cleaning Services Inc.	Brooklyn	NY
May Ship Repair	Staten Island	NY
Medford Hamlet	Holtsville	NY
Metro Fuel Oil Corp.	Brooklyn	NY
Midwood Ambulance Service	Brooklyn	NY
Mr. T Catering Corp.	Ridgewood	NY
New York Blood Center	New York	NY
NORTHEASTERN LANDSCAPE & LAWN CARE	Stony Point	NY
Perrigo	Bronx	NY
PORT JEFFERSON STEAMBOAT COMPANY	PORT JEFFERSON	NY
Primary Colors Painting Corp.	Bronx	NY
Propper Manufacturing Company, Inc.	Long Island	NY
Reservoir Labs	New York	NY
Rosco, Inc.	Jamaica	NY
Scientific Components	Brooklyn	NY
SeniorCare	Bronx	NY
SKYTOP RESTAURANT	White Plains	NY
Bank of Smithtown	Hauppaugue	NY
STEELWAYS, INC	Newburgh	NY
Stidd Systems, Inc.	Greenport	NY
Suff. Cnty National Bank	Riverhead	NY
Suffolk County Water Authority	Oakdale	NY
Sunshine Environmental	Brooklyn	NY
VERDE ELECTRIC CORPORATION	Mount Vernon	NY
VISTA ELECTRICAL CONTRACTORS, INC.	West Nyack	NY
WDF INC.	Mount Vernon	NY
WE TRANSPORT/TOWNE BUS CORP	PLAINVIEW	NY
Westbury Water District	Westbury	NY
WESTCHESTER EMS	Mount Kisco	NY
US Tires	Queens, NY	NY
ABERCROMBIE & FITCH	Columbus	OH
E-MEK TECHNOLOGIES	Dayton	OH
MR. LEE'S FINE DINING RESTAURANT	Dayton	OH
JDS SERVICE COMPANY INC	Cincinnati	OH
COMPLETE STAFFING	Loveland	OH
GERBER POULTRY INC	Kidron	OH

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BARLEY'S SMOKEHOUSE & BREWPUB/ALE HOUSE #2	Columbus	OH
KAHIKI FOODS INC.	Gahanna	OH
LIBERTY TIRE AND PRONTO STAFFING	Worthington	OH
CHINA CITY BUFFET	Mason	OH
FOXTAIL FOODS	Fairfield	OH
HARWICK STANDARD DIST. CORP.	Akron	OH
GREAT LAKES WATER TREATMENT	Cleveland	OH
LORAIN NATIONAL BANK	Lorain	OH
DAVIS-BESSE NUCLEAR POWER	Toledo	OH
DAIRYMEN'S	Cleveland	OH
DONALD MARTENS & SONS MEDICAL	Middleburg Hts.	OH
FRESH MARK INC.	Massillon	OH
FARO LOGISTICS SOLUTIONS INC.	Columbus	OH
KOCH FOODS	Fairfield	OH
QUINTANA CONSTRUCTION	Grove City	OH
THE RUSTY BUCKET CORNER TAVERN	Columbus	OH
COLUMBUS STEEL CASTINGS	Columbus	OH
A&J Fabricators	Minco	OK
L3 Enterprise It Solutions	Oklahoma City	OK
Gw Utility Construction	Oklahoma City	OK
Accord Human Resources	Oklahoma City	OK
Balon Corporation	Oklahoma City	OK
Oregon Pallet	Salem	OR
Kershaw Knives	Tualatin	OR
Tillamook Country Smoker	Tillamook	OR
Astoria Flight Service	Warrenton	OR
U.S. Agencies Credit Union	Portland	OR
Multnomah County Bridge Section	Portland	OR
New Oxford Foods	New Oxford	PA
Bahama Breeze	Township	PA
JML Landscaping	Indianola	PA
Mito Insulation Incorp	New Kensington	PA
De Santis Landscape	Norristown	PA
RW Hartnett Company	Philadelphia	PA
CJC Contract Packaging	Dunmore	PA
Memphis Flats	Philadelphia	PA
William Penn Restaurant	Gwynedd	PA
Ben & Irv Deli Restaurant	Philadelphia	PA
18th Street Grocery	Philadelphia	PA
Ready Management Services	Philadelphia	PA
BC Bundt	Taylor	PA
P & H Temp Services	Philadelphia	PA
Microtel	Philadelphia	PA
Eagle Employment Agency	Philadelphia	PA
Express Staffing Services	Philadelphia	PA
SUPERIOR NURSING	Upper Darby	PA
LIBRANDI, INC.,	Middletown	PA

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SODEXO	Haverford	PA
International Bedding Company	Barnesville	PA
HONG KONG KING'S BUFFET RESTAURANT	Feasterville	PA
Sci-Tek Consulting Inc	Pittsburgh	PA
Tokyo Sushi Buffet	Pittsburgh	PA
El Campesino	Monroeville	PA
Istanbul Grill	Pittsburgh	PA
Thai Me Up	Pittsburgh	PA
Greenwich Terminals, LLC	Philadelphia	PA
Penn Warehousing & Distribution, Inc.	Philadelphia	PA
Smart Park, Inc.	Essington	PA
Spirit of Philadelphia	Philadelphia	PA
Chickie & Pete's	Philadelphia	PA
20th Century Refuse Removal Company	Philadelphia	PA
Ambrose Moving Inc	Montgomeryville	PA
Jim Miller Roofing and Sheet Metal Inc.	Lansdowne	PA
R & W Contractors Inc	Newtown	PA
Ruby's Diner	Ardmore	PA
Akul & Akool/Sellersville Store	East Greenville	PA
Samuels and Son Seafood Company	Philadelphia	PA
American Breadcrumb Company	Levittown	PA
Chick-Fil-A	Norristown	PA
Maggios Famous Pizza & Ribs	Hampton	PA
Ruby Tuesday	Pottstown	PA
Asplundh Tree Expert Co.	Willow Grove	PA
Tradicion Francesa, Inc.	San Juan	PR
El Pollito, Bayamon PR	Bayamon	PR
LA Bomboshay, ST USVI	St. Thomas, USVI	PR
Motel El Eden, Ponce PR	Ponce	PR
Lopez Homes, Inc. Guayama PR	Guayama	PR
Ferreteria Las Dolores	Rio Grande	PR
Leatherneck Security, San Juan PR	San Juan	PR
Genesis Security	Carolina	PR
Margaritas Restaurant, San Juan PR	San Juan	PR
Cemex de Puerto Rico, Ponce PR	Ponce	PR
Vasallo Industries, Ponce PR	Ponce	PR
Holsum Inc.	Toa Baja	PR
First Medical Health Plan, Guaynabo PR	Guaynabo	PR
Casa Mayorca Bakeries	San Juan	PR
Agua La Montaña	Trujillo Alto	PR
Puerto Rico Coffee Roasters/Café Rico Inc.	Caguas	PR
Damiano Cataldi Maintenance Service Corp.	Carolina	PR
Carreras Trucking Co. Inc.	Cataño	PR
Dueñas Trailers	San Juan	PR
E C Waste Inc.	Caguas	PR
Caribbean Communications Solution	Cataño	PR
C E L Fire Extinguisher Distribuitor	Bayamon	PR
City Garbage Disposal Corp.	Trujillo Alto	PR

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Suarez Gas	Ceiba	PR
EA Industries	San Lorenzo	PR
City of Humacao	Humacao	PR
Fraticelli Trucking	Penuelas	PR
BFI of Ponce, PR	Ponce	PR
Hospital Episcopal San Lucas, Ponce, PR	Ponce	PR
Equa Industries	Mayaguez	PR
Doormatic Corporation	Aguadilla	PR
Abreu's Air Conditioning	Mayaguez	PR
Daniele International, Inc.	Pascoag	RI
Emery's Catering Service	Warwick	RI
Allied Fuel Company	Providence	RI
Edwards Telecommunications, Inc.	Columbia	SC
Innovative Food Technologies	Greenville	SC
Global Aeronautica	North Charleston	SC
Dillon Furniture	Dillon	SC
Detyens Shipyards	North Charleston	SC
Screen Tight	Georgetown	SC
West Columbia Farms	West Columbia	SC
Columbia Farms, Nesmith	Nesmith	SC
Columbia Farms, Inc.	Greenville	SC
Steris Isomedix Services	Spartanburg	SC
Charleston Executive Airport	Charleston	SC
Lowcountry Walterboro Airport	Walterboro	SC
Berkeley County Airport	Moncks Corner	SC
Summerville Airport	Summerville	SC
Jacobs Applied Technology, Inc.	Goose Creek	SC
M & S Construction	Quinn	SD
ECONO LODGE NORTH	Sioux Falls	SD
ALLSTATE CLEANING, LLC	Sioux Falls	SD
Rapid City Regional Airport	Rapid City	SD
Allen Steel	Flandieune	SD
The Wakefield Corporation	Knoxville	TN
Vincit Group	Chattanooga	TN
TCS, Inc.	Chattanooga	TN
Aqua Z, Inc.	Chattanooga	TN
Numark Inc.	Chattanooga	TN
ZGO, Inc.	Chattanooga	TN
ZECO, Inc	Chattanooga	TN
Pro Logistics, Inc.	Chattanooga	TN
QSI, Inc.	Chattanooga	TN
Stellar Management, Inc.	Chattanooga	TN
Zee Company	Chattanooga	TN
F-90	Chattanooga	TN
ITG LLC	Chattanooga	TN
Standard Candy Company	Nashville	TN
Asian Therapeutic Message Center	Knoxville	TN
Turner Dairy	Memphis	TN

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Adenus Technologies LLC	Smyrna	TN
CBT MFG Co INC	Chattanooga	TN
East Tennessee Zinc Co LLC	Strawberry Plains	TN
Bristol Motor Speedway	Bristol	TN
Valero Memphis Refinery	Memphis	TN
Hermitage Explosives Corp.	Nashville	TN
Cinram	LaVergne	TN
United Drywall	Knoxville	TN
FIBER GLASS SYSTEMS, LP	San Antonio	TX
Little Rock Quarry	El Paso	TX
Flores Rock Quarry	El Paso	TX
Nuco Rockwall	El Paso	TX
Con-Real Support Group	Arlington	TX
THE GREENER SIDE, LP	Round Rock	TX
F.N.G. SECURITY AND INVESTIGATIONS	San Antonio	TX
Teriyaki Bowl	El Paso	TX
Cici's Pizza	El Paso	TX
SAN ANTONIO STAFFING INC	San Antonio	TX
R L CHAPA PAINTING	San Antonio	TX
Bonny's Café	El Paso	TX
Hoy Fox Toyota	El Paso	TX
Gourmet Burrito	El Paso	TX
JD JOVA	Boerne	TX
Lee Roy Westbrook	Dallas	TX
RRR STAFF LEASING DBA NATIONWIDE	San Antonio	TX
Mission Chevrolet	El Paso	TX
FOUR B PAVING, INC.	Spring Branch	TX
Taylor Farms	Dallas	TX
Westwood Contractors, Inc	Fort Worth	TX
Smith Personnel Solutions	Dallas	TX
Mexican Inn	Fort Worth	TX
Qualty Fabrication And Engineering Inc	Coppell	TX
K Post Company	Dallas	TX
Rebcon	Dallas	TX
Excel Steel Corp	Dallas	TX
United Bearing	Dallas	TX
ABM Janitorial Services	Dallas	TX
The Cleaners	El Paso	TX
Comfort Keepers	El Paso	TX
Coronado Cleaners	El Paso	TX
The El Paso Club	El Paso	TX
Charlotte's Fine Furniture	El Paso	TX
Barnett Harley Davidson	El Paso	TX
Collectibles	El Paso	TX
Gorman Distributing	El Paso	TX
Ice Castles Too Learning Center & Child Care Inc.	El Paso	TX
Hecho en Mexico Inc.	El Paso	TX
Professional Cleaning Services	El Paso	TX

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Martin Tire Co.	El Paso	TX
J.A. Tony Marquez D.D.S	El Paso	TX
Vanco Insulation Abatement	Midland	TX
Westex Well Service	Midland	TX
Plateau TruckStop	Van Horn	TX
Consolidated Concepts Inc.	Houston	TX
CAPITOL ENVIRONMENTAL INC	Austin	TX
5-D SYSTEMS, INC.	Round Rock	TX
KIKI'S RESTAURANT	Brownsville	TX
FEMS INVESTMENTS, LLC	Edinburg	TX
DIAMOND JEWELER'S	Brownsville	TX
RBL, Inc.	Edinburg	TX
WESLACO MOTORS	Weslaco	TX
ECOLOGICAL SERVICES INTERNATIONAL INCORPORATED	Bayview	TX
SHALLOW SPORT OF Texas, INC	Los Fresnos	TX
DE ALBA TORTILLA FACTORY AND BAKERY	Mission	TX
UNION RAGS	Brownsville	TX
RUBEN RAMIREZ DBA FMC RAMIREZ HARVESTING	Raymondville	TX
JL PADRE LLC	South Padre Island	TX
ESCO MARINE, INC.	Port of Brownsville	TX
JUST STRINGZ	San Antonio	TX
DE LA GARZA FENCE COMPANY	San Antonio	TX
GRATR LANDSCAPES LTD	San Antonio	TX
TWIN TILE COMPANY	San Antonio	TX
BOSQUEZ ELECTRIC LLC	San Antonio	TX
PATRIOT ERECTORS	Dripping Springs	TX
A.J. MONIER, INC.	San Antonio	TX
PAPE DAWSON ENGINEERS INC.	San Antonio	TX
ALAMO CITY GOLF CARS	San Antonio	TX
KALMAR RT CENTER LLC	Cibolo	TX
TERRACON	San Antonio	TX
GILBANE BUILDING	San Antonio	TX
Z BAR TRANSPORT, INC	San Antonio	TX
GIRARD SIGN CO. INC.	San Antonio	TX
RICHARDS REBAR PLACING	San Antonio	TX
A V QUALITY CLEANING	Cedar Park	TX
ALAMO ALL CLEANING	San Antonio	TX
C&C Snack Distributing	El Paso	TX
Experian	Allen	TX
Claudia's Flower Shop	El Paso	TX
Yucca Distributing	El Paso	TX
Team Sheetmetal	Carrollton	TX
Rodman Construction	Frisco	TX
Prestige Maintance Usa	Dallas	TX
Galvan Drywall	Irving	TX
Driver Pipeline	Irving	TX
PRONTO SANDBLASTING AND COATING AND OIL-FIELD	San Antonio	TX

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SERVICE COMPANY, INC.		
ARCHITECTURAL INTERIORS	San Antonio	TX
Associated Couriers	Grapevine	TX
Avila Tours	Grapevine	TX
Iware	Grapevine	TX
Integrated Airlines Services	Grapevine	TX
Mercury Air Freight	Grapevine	TX
El Expresso	Dallas	TX
Petra Chemical Company	Dallas	TX
Jet Taxi	Dallas	TX
Cowboy Taxi	Dallas	TX
Alll American Taxi	Dallas	TX
Menzies Aviation	Grapevine	TX
Expeditor International	Grapevine	TX
Cavalier	Grapevine	TX
Concordia Intrenational Forwarding	Grapevine	TX
Nnr Air Cargo Services, Inc	Grapevine	TX
Pilot Air Freight	Grapevine	TX
Schenker International Inc	Grapevine	TX
Tex Air Delivery Inc	Grapevine	TX
I.C.E. Company	Grapevine	TX
Air Tiger Express	Grapevine	TX
Executive Taxi	Dallas	TX
Ruiz Protective Services	Dallas	TX
Alon Usa	Big Springs	TX
Pinkerton Government Services	Amarillo	TX
Josie'S Restaurant	Lubbock	TX
Absolute Transport	Lubbock	TX
Conner Steel	San Angelo	TX
Tom Thorpe Transports, Inc	Mertzon	TX
First National Bank Of Eldorado	Eldorado	TX
Ace Cleaning Services Inc.	El Paso	TX
Neal Technologies Corp.	El Paso	TX
Life Ambulance Service Inc.	El Paso	TX
Southwest Urgent Care	El Paso	TX
Upper Valley Urgent Care Center	El Paso	TX
Valcent Manufacturing Ltd.	El Paso	TX
C&R Distributing Inc.	El Paso	TX
First Light Federal Credit Union	El Paso	TX
Postal Annex	El Paso	TX
Sun Country Medical Equipment	El Paso	TX
Bank of the West	El Paso	TX
Henry Trujillo Inc.	El Paso	TX
El Paso Crushers Inc.	El Paso	TX
Mimbela Construction Inc.	El Paso	TX
JOBE Concrete Procucts	El Paso	TX
Corona Research Clinical Studies	El Paso	TX
Thomas Medical Associates	El Paso	TX

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Ft. Bliss Water Services Co.	El Paso	TX
Border Trucking Compliance	El Paso	TX
EZ Auto Title Registration	El Paso	TX
Gary S. Grindstaff DPM.	El Paso	TX
Tri-Star Auto Title inc.	El Paso	TX
El Paso Auto Registration & Title	El Paso	TX
El Paso Aero Inc. DBA Avionics Associates	El Paso	TX
Lone Star Title Company of El Paso	El Paso	TX
Big Bend Telephone Co.	Alpine	TX
SW Municipal Gas Corp	Alpine	TX
Agri-Empresa, Inc.	Midland	TX
Waste Control Specialists	Andrews	TX
Helena Chemical Co.	Stanton	TX
Acosta's Enterprise	Presidio	TX
Bullet Transportation Services	Presidio	TX
AUSTIN RESEARCH ASSOCIATES	Austin	TX
LCRA - THOMAS C. FERGUSON POWER PLANT	Austin	TX
INTERNATIONAL SECURITY SOLUTIONS-SYNRDYNE SOLUTIONS	Austin	TX
TOM MILLER DAM	Austin	TX
WILSON 5 SERVICE COMPANY, INC	Austin	TX
LCRA MANSFIELD DAM	Austin	TX
AEONCLAD COATINGS	Austin	TX
APS FREEFLIGHT SYSTEMS	Waco	TX
LCRA ALVIN WIRTZ DAM	Austin	TX
LCRA MAX STARKE DAM	Austin	TX
NEW CHINA BUFFET	Del Rio	TX
UNION PACIFIC RAILROAD DEPOT	Eagle Pass	TX
MAVERICK COUNTY WATER WORKS	Eagle Pass	TX
TropicPak	McAllen	TX
Brandt Produce, Inc.	Edinburg	TX
Four Season Produce	Hidalgo	TX
Warren Produce Inc	Edinburg	TX
Palmita Pallet, Inc.	Edinburg	TX
New World Postal & Shipping	McAllen	TX
Zimco Marine	Port Isabel	TX
Texas Pack Inc.	Port Isabel	TX
South Texas Shrimp Processors	San Benito	TX
El Jardin Water Supply Corp	Brownsville	TX
Olmito Water Supply Corp	Olmito	TX
Sharyland Water Supply Corp	Mission	TX
IOC Company	Edinburg	TX
Amigos Aviation	Harlingen	TX
Vera's King O'Meats	Edinburg	TX
Cabello Produce	Hidalgo	TX
Harlingen Shrimp Farms LTD	Los Fresnos	TX
Federal Petroleum Co. Inc.	Weslaco	TX
Michael Shrimp Farm Co.	Rio Hondo	TX
Shrimp Outlet	Brownsville	TX

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TEXDOOR, LTD.	San Antonio	TX
INDUSTRIAL FORMS	San Antonio	TX
SAN-COAT, INC.	Elmendorf	TX
ALAMO INTEGRATED SYSTEMS, INC.	San Antonio	TX
RUDD & ADAMS MASONRY	Boerne	TX
RICK STONE MASONRY, INC.	Helotes	TX
MASONRY VENTURES, INC.	Marion	TX
CENTER FOR DISEASE DETECTION, LLC	San Antonio	TX
SAMUELS GLASS COMPANY	San Antonio	TX
BEXAR METROPOLITAN WATER DISTRICT PUBLIC FACILITY CORPORATION	San Antonio	TX
SMITH LEGACY, LLC ET. AL.	San Antonio	TX
SOUTHWEST ELECTRICAL CONTRACTING LTD	Converse	TX
CFS FORMING STRUCTURE COMPANY	San Antonio	TX
AMERICAN ROOFING & METAL COMPANY, INC.	San Antonio	TX
ALAMO INTERIORS, INC.	San Antonio	TX
HARDROCK CONCRETE PLACE AND FINISH, INC.	San Antonio	TX
PKD, INC.	Boerne	TX
HODELL WINDOW COVERING, INC.	New Braunfels	TX
MCNIEL ROOFING SHEET METAL, INC.	San Antonio	TX
TORTILLERIA LA TRADICIONAL	San Antonio	TX
MUSTANG GENERAL CONTRACTING, INC.	San Antonio	TX
CRITERION CORPORATION	Del Rio	TX
MURPHY TOMATOES	San Antonio	TX
SUPERIOR JANITORIAL SERVICES	San Antonio	TX
Potato King	McAllen	TX
El Expreso Bus Company	Brownsville	TX
LUCA RISTORANTE ENOTECA, LLC	San Antonio	TX
Viracon	St. George	UT
American Linen	Salt Lake City	UT
Ace Fab & Welding Inc	Ogden	UT
Sycamore Family Bakery	Salt Lake City	UT
Mojave Floors	La Verkin	UT
Omega Metals	Ogden	UT
Chinese Gourmet Express	West Valley City	UT
Ocean Star International	Snowville	UT
Arrow Disposal	Ogden	UT
Protech Coatings Inc	Sandy	UT
The UPS Store #5683	Salt Lake City	UT
Moog Aircraft Group	Salt Lake City	UT
Utah Transit Authority	Salt Lake City	UT
Center for Clinical and Translation Sciences	Salt Lake City	UT
Mountain States Steel Inc	Lindon	UT
Shining Image Inc	St. George	UT
The Pollo Factory	Sterling	VA
Merrifield Garden Center	Merrifield	VA
METRO MACHINE CORPORATION	Norfolk	VA
Industrial Concrete	Fredericksburg	VA
Pizza Gourmet	Woodbridge	VA

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Good For You Inc./ Good Fortune Restaurant	Arlington	VA
Angelico Pizzeria	Alexandria	VA
BAE SYSTEMS NORFOLK SHIP REPAIR, INC.	Norfolk	VA
REFCON SERVICES INC.	Chesapeake	VA
PRESTIGE CONSTRUCTION GROUP	Richmond	VA
COASTAL SUPPLY COMPANY, INC.	Richmond	VA
Bestway	Herndon	VA
Clark	Ft. Belvoir	VA
Consolidated Mailing Services	Sterling	VA
Health First	Falls Church	VA
Human Touch Home Health Care Agency	Falls Church	VA
Iliff Nursing and Rehabilitation Center	Dunn Loring	VA
Simpson Unlimited, Inc	Manassas	VA
Thesis Painting	Springfield	VA
Virginia Paving Co	Alexandria	VA
Metropolitan Healthcare Services	Vienna	VA
Paintworx	Sterling	VA
Rema Construction	Chantilly	VA
LYON SHIPYARD	Norfolk	VA
MACE, INCORPORATED	Virginia Beach	VA
HILL & ASSOCIATES, INC.	Virginia Beach	VA
EAST COAST REPAIR & FABRICATION	Norfolk	VA
TECNICO CORPORATION	Chesapeake	VA
EARL INDUSTRIES	Portsmouth	VA
DAVIS BOAT WORKS	Newport News	VA
QED SYSTEMS, INC.	Virginia Beach	VA
Khan Refrigeration	Alexandria	VA
L.B. Technolgies	Frederickburg	VA
Amebol	Falls Church	VA
Frenchman's Reef Marriot Hotel	St. Thomas	VI
Magens Point Resort, ST USVI	St. Thomas	VI
The West Indian Company Ltd.	St. Thomas	VI
Innovative Telephone	St. Thomas	VI
Bunkers of St. Croix	St. Croix	VI
VI Regulated Waste, Inc.	St. Croix	VI
CASCADIAN BUILDING MAINTENANCE	Newcastle	WA
Winsome Trading	Woodinville	WA
Trugreen Landcare	Multiple Locations	WA
El-Dec	Lynnwood	WA
Blue Sky Landscape Services	Puyallup	WA
AIP Ventures Inc.	Seattle	WA
Assoicated Painters Inc.	Everett	WA
AZTECA	Federal Way	WA
ESTRADA ENTERPRISES, INC.	Tukwila	WA
Associated Petroleum	Tacoma	WA
Talking Rain	Seattle	WA
Tytan International	Kalama	WA
Hartley's NW Seafoods LLC	Woodland	WA

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Fibrex Corporation	Bellingham	WA
J & J Custodial Service, Inc	Bellingham	WA
Northwest Health Care Linen	Bellingham	WA
Bellingham Aero Aviation & Fuel Services	Bellingham	WA
Associated Aviation Enterprises	Gig Harbor	WA
Puget Sound Energy	Bellevue	WA
Farwest Tax	Seattle	WA
Sky Chefs Inc.	Seattle	WA
Kenmore Air Express	Kenmore	WA
Chemithon Corporation	Seattle	WA
Everett Transit	Everett	WA
TAPCO	Tacoma	WA
AEGIS OF BOTHELL	Bothell	WA
AEGIS OF EDMONDS	Edmonds	WA
AEGIS OF ISSAQUAH	Issaquah	WA
AEGIS OF KENT	Kent	WA
AEGIS OF TOTEM LAKE	Totem Lake	WA
AEGIS OF KIRKLAND	Kirkland	WA
AEGIS OF LYNNWOOD	Lynnwood	WA
AEGIS OF REDMOND	Redmond	WA
AEGIS AT NORTHGATE	Seattle	WA
AEGIS OF SHORELINE	Shoreline	WA
Advanced H2O	Burlington	WA
Pacific Utility Contractors	Tacoma	WA
Shannon Ambulance	Issaquah	WA
Tacoma Rail	Tacoma	WA
Cascade Federal Credit Union	Vancouver	WA
Wilcox and Flegel Oil Company	Longview	WA
Samson Rope Technologies	Bellingham	WA
Aluminum Chamber Boats	Bellingham	WA
Trilogy Crabpots	Bellingham	WA
Mt. Baker Vineyard	Bellingham	WA
Masco/Gale	Arlington	WA
Maggianos	Bellevue	WA
National Foods	Arlington	WA
Midwest Industries, Inc.	Waukesha	WI
Thomas J. Krenz CHB	Cudahy	WI
PLS Customhouse Broker, Inc.	Cudahy	WI
Great Lakes Kraut Company, LLC	Bear Creek	WI
La Roca Mexican Restaurant	Nitro	WV
Appalachian Power Company	Winfield	WV
West Tenampa	Huntington	WV
Flapjacks Tenampa	Huntington	WV
East Tenampa	Milton	WV
South Tenampa	Lavalette	WV
Freund Construction	Gillette	WY
Frontier Oil Refinery	Cheyenne	WY
TIC-The Industrial Company-Wyoming, Inc.	Casper	WY

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THUMB ELECTRIC	•	•
Basil Inc. (dba Red Basil Thai Cuisine)	Stowe	VT
Hana Hibachi Steak House (dba Hana Hibachi Steak House Sushi and Martini Bar)	Stowe	VT
HP Roofing, LLC	WRJ	VT
Gray Farm	Holland	VT
Nelson Farms, Inc. Dba Cowtown Holsteins	Derby	VT
Gervais Family Farm, Inc.	Enosburg Falls	VT
Machia Farm	Sheldon	VT
Leach Farms, Inc.	Enosburg Falls	VT
Sparta Farms		
Able Clean-Up Tech.	Spokane	WA
Kennewick Irrigation	Kennewick	WA
Pacific Aerospace	Kennewick	WA
Spraycool Inc. Ben-Franklin Transit Ctr	Kennewick	WA WA

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56497.157

SUBMISSIONS FOR THE RECORD

COMMITTEE ON INDIAN AFFAIRS

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

RANKING MEMBER
SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION AND INTERNATIONAL SECURITY

United States Senate

Senator Tom Coburn, MD
Russell Senate Office Building, Room 172
Washington, DC 20510-3604
Phone: 202-224-5754
Fax: 202-224-6008

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

COMMITTEE ON THE JUDICIARY

RANKING MEMBER
SUBCOMMITTEE ON HUMAN RIGHTS AND THE LAW

September 28, 2009

The Honorable Janet Napolitano
Secretary
Department of Homeland Security
301 7th Street SW, Mail Stop 0501
Washington, DC 20528,

Dear Secretary Napolitano:

Thank you for your efforts to streamline the Department of Homeland Security (DHS) through the Efficiency Review Initiative. I agree with you that this initiative is a vital step to ensuring that DHS is a good steward of tax payer dollars and effective in carrying out its mission. I applaud your efforts.

I am, however, concerned that DHS may be encountering extreme and unnecessary obstacles in ensuring our homeland security along our southwestern border.

As you know, an important part of DHS' mission is securing the borders of our great country. Congress has sought to address numerous border security concerns by appropriating additional federal funds for law enforcement and security infrastructure recently.

By passing the Secure Fence Act of 2006 (Public Law 109-367), Congress wanted to ensure that you were able to take actions necessary and appropriate to achieve and maintain operational control over the entire international land and maritime borders of the United States

As you also know, more than 42 percent of our Southwestern border consists of lands managed by the Department of Interior (DOI) and the U.S. Forest Service (USFS).

According to various reports, these lands, many of which are considered national treasures, have become major thoroughfares for illegal human and drug smuggling. In the process, these public lands have also experienced extensive damages.

In an effort to more fully understand the current situation, I am requesting the following documents:

1. All memorandums of understanding and agreements between DHS and DOI, and DHS and USFS regarding border security efforts on public lands from 2006 to present;
2. All correspondence between these agencies regarding the ability for DHS to conduct border patrols or construct and operate border security infrastructure (including surveillance and communication equipment) from 2006 to present;

3310 MID-CONTINENT TOWER
401 SOUTH BOSTON
TULSA, OK 74103-4007
PHONE: 918-581-7651

100 NORTH BROADWAY
SUITE 1920
OKLAHOMA CITY, OK 73102
PHONE: 405-231-4941

711 SW D AVENUE
SUITE 202
LAWTON, OK 73501
PHONE: 580-357-9878

www.coburn.senate.gov

3. All mitigation funds transferred from DHS to DOI or to USFS as a result of DHS border security activities on public lands from 2006 to present;
4. All internal documents, reports, or communications related to deaths, apprehensions, criminal activity, rescues, or security issues that have occurred on federal lands from 2006 to present; and
5. All documents, reports or communications related to difficulties, concerns, or obstacles to achieving operational control of our borders DHS has encountered on federal lands from 2006 to present.

Congress has made it clear that it does not intend to prohibit or severely restrict DHS border security efforts from taking place on our public lands. In addition to legislation described above, Congress passed legislation in both the Senate and in the House of Representatives last week that would prohibit DHS from being prohibited or restrained from conducting activities to maintain operational control of our borders on public lands. These requested documents will be helpful in ensuring that Congressional intent has been honored.

I would appreciate your response by October 29, 2009. Thank you for your service to our great country. If there is anything I can do to help you do your job more effectively, please do not hesitate to let me know.

Sincerely,

Tom Coburn

Tom A. Coburn, M.D.
U.S. Senator

56497.159

Statement of

The Honorable Patrick Leahy

United States Senator
Vermont
December 9, 2009

Statement Of Senator Patrick Leahy (D-Vt.),
Chairman, Senate Judiciary Committee,
Oversight Of The Department Of Homeland Security
December 9, 2009

I welcome Secretary Napolitano back to the Committee for her second oversight hearing since her confirmation in January. In the first several months of the Secretary's tenure at the Department of Homeland Security, we have witnessed marked changes in the way that immigration enforcement and domestic security are conducted, reflecting a new approach that will serve us well as we consider broader immigration reform legislation in the new year.

We often hear that we cannot begin comprehensive reform of our immigration laws until we have won control of our borders. Since the Senate last considered immigration reform, most of the enforcement benchmarks and triggers included in prior legislation have been substantially met. Indications are that illegal immigration has receded. We should commend you and men and women of the Border Patrol for their extraordinary efforts.

The Department is also now acting more pragmatically and effectively to deter employers from hiring immigrants who are not authorized to work in the United States by conducting targeted audits, and where appropriate, laying the groundwork for meaningful prosecution of employers that flout the law. While the prior administration launched large-scale worksite immigration raids, disrupting business operations and often depriving arrested workers of due process, Secretary Napolitano has adopted a sensible approach to immigration enforcement.
Sensible enforcement of current law will not by itself solve our Nation's immigration problems, however. We need reform, comprehensive reform. The immigration system is broken.
An example from my home state of Vermont demonstrates how badly we need broad-based reform of our immigration laws. Three weeks ago, at least four Vermont dairy farms were visited by Immigration and Customs Enforcement agents as part of a nationwide workplace immigration audit. Vermont dairy farmers want to respect the law and hire lawful workers, but they struggle to find American workers and — unlike other agricultural businesses — are not eligible to hire temporary foreign workers under the H-2A visa program. The result is that many dairy farmers are forced to choose between their livelihood and adhering faithfully to our immigration laws. I have urged the Department of Labor to modify the H-2A program in its current rulemaking process, and I continue to fight for enactment of the AgJOBS legislation. I urge Secretary Napolitano to support these efforts.

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Another example from Vermont demonstrates how we can use our immigration laws to promote job creation and foreign investment in the United States. At a hearing in July, we saw, again, how the investor program known as EB-5 Regional Center Program is bringing millions of dollars of foreign investment into the state of Vermont and helping create jobs in places like Jay Peak Resort. I want to thank the Secretary for the Department's recent approval of an expansion of the EB-5 Regional Center program in Vermont. I have advocated making this a permanent program, and so far we have been able to extend the EB-5 investor program another three years. This is a program that works across the country in Alabama, Iowa, New York, Maryland, Oklahoma, California, Illinois, Pennsylvania, South Carolina, Vermont, and Wisconsin among others. It helps stimulate the economy and creates jobs.

In addition to being enforceable, our immigration laws must be fair, humane and reflect our American heritage. On that score, I appreciate the steps Secretary Napolitano has taken to begin to reform the shameful condition of our immigration detention system. I urge adoption of systemic reform, including enforceable standards of detention conditions, internal and independent oversight, broader use of secure and humane alternatives to detention, and expanded access to legal counsel for the detained.

I have long pressed for America to live up to its ideals in welcoming and protecting asylum seekers and refugees. The Department has made progress in resolving the harm to genuine refugees caused by the overly broad definition of material support to terrorist organizations in the immigration statute. More still needs to be done, however, as I have explained repeatedly in correspondence and meetings with the Secretary. I also urge the Secretary to act swiftly to issue regulations on severe gender-based persecution as a basis for asylum claims. The landmark case in this area, Matter of R-A-, has now been pending for 14 years. That case is finally near resolution, but we need regulations in place to protect other victims.
Finally, I want to commend the Secretary for working in a constructive manner to address the impending December 31 REAL ID compliance deadline. The residents of states that are not materially compliant with REAL ID may otherwise be denied access to airplanes and Federal buildings. The National Governors Association stated last month that as many as 36 states may fail to comply by December 31. Senator Akaka introduced, and I cosponsored, a bill called PASS ID, that makes reasonable modifications to REAL ID. The bipartisan National Governors Association supports this bill. The PASS ID bill awaits action by the Senate floor, but that action is being prevented by a hold. I urge that hold be lifted so that we can make progress before the busy holiday travel season.

We welcome the Secretary and look forward to working with her on these and other critical issues.
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The Honorable Janet Napolitano

Secretary
United States Department of Homeland Security

Testimony on
"Oversight of the Department of Homeland Security"

Before the
United States Senate
Committee on the Judiciary

December 9, 2009

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I. INTRODUCTION

Thank you, Chairman Leahy, and members of the committee for the opportunity to give an update on the Department of Homeland Security's (DHS) efforts to secure our country and protect the American people from the range of threats we face – from terrorism and natural disasters to cyber attacks and infectious diseases like H1N1.

In my previous appearance before the committee, I discussed the critical issue of immigration. Today I would like to again highlight the Department's work in this important area and the progress we have achieved over the past year.

Securing our borders, enforcing our nation's immigration laws, and providing timely and effective immigration benefits and services to millions of lawful immigrants each year remains one of the Department's most important missions.

It is a mission that our more than 230,000 employees contribute to every day with tremendous dedication and skill. It is a mission that impacts our national security, our national sovereignty, and the health of our economy. And it is a mission that goes to the core of our national identity as both a nation of immigrants and also a nation of laws.

Much has been accomplished to meet our border security and immigration-related responsibilities since I first appeared before this Committee in May, 2009.

For example, partially as a result of our Southwest Border Initiative and increased enforcement, seizures of illegal drugs, cash, and weapons have increased, while apprehensions of illegal aliens at the border have dropped to their lowest levels in decades, signaling reduced traffic flows and fewer attempts to illegally enter the United States.

Similarly, in the interior of the country, deportations are at historic highs, the result of a stronger focus on identifying and removing dangerous criminal aliens, fugitives, and gang members; and developing stronger partnerships with federal, state, local, tribal, and international law enforcement, who serve as vital force multipliers to our efforts.

We also have worked to streamline our legal immigration procedures and benefits, reducing name check backlogs for those seeking to live or work in the United States, and launching a much improved, customer-friendly website for U.S. Citizenship and Immigration Services (USCIS) that provides e-mail and text message alerts to individuals seeking updates on their case status. And we have continued to provide enhanced tools to the nation's employers, including the web-based E-Verify system, to help them maintain a legal workforce.

In addition, we have taken action to improve management and oversight of detention facilities that house illegal aliens, launching a major overhaul of the immigration

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detention system to prioritize risk, strengthen oversight, increase efficiency, and ensure consistent treatment, standards, and care for those in federal custody.

These changes reflect a more focused, strategic, and common-sense approach to all aspects of immigration, from illegal entry at the border to enforcement in the interior to the procedures for legal immigration. As we have implemented these improvements, we have continued to ensure that lawful trade and travel move freely across our borders by strengthening travel document security requirements, enhancing our biometrics collection, and working with states to develop secure forms of identification.

Our commitment to securing our country and enforcing the law has never been stronger. This is what the American people expect of the Department and it is the duty we have sworn to uphold.

In my time today, I would like to discuss these important objectives and the Department's work to meet them over the past year, as well as what the Obama Administration considers to be the necessary and equally important path forward: developing a set of reforms that will address long-standing structural problems with our nation's immigration system and the laws and policies that govern it.

We can no longer perpetuate a status quo that is unacceptable for workers, employers, law enforcement, faith leaders, and America as a whole. We must seize this moment to build a truly effective immigration system that deters illegal immigration, provides effective and enduring enforcement tools, protects workers from exploitation and retaliation, and creates a tough but fair path to legalization for the millions of illegal immigrants already here.

I am committed to working with this Committee to realize this goal and create a 21st century immigration system that works for everyone, including the men and women of the Department of Homeland Security who are charged with protecting our borders and enforcing our immigration laws.

II. SECURING OUR BORDERS

Let me be clear: an effective immigration system begins with secure borders. In May, 2009, the Obama Administration launched the Southwest Border Initiative to strengthen security along our southwest border, prevent illegal entry and the movement of contraband, and assist Mexico in its efforts to combat rising drug-cartel violence. Over the past year, we also launched important new initiatives to strengthen security on our northern border, and at our land, air, and sea ports of entry.

For example, under the Southwest Border Initiative, we have deployed additional technology, manpower, and resources to the border; strengthened partnerships with state and local law enforcement; and created a more robust partnership with Mexico to break apart the criminal infrastructure supporting the drug cartels and prevent similar violence on the U.S. side of the border.

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Border Enforcement Security Task Forces (BESTs)

A major part of this effort has included the expansion of multi-agency Border Enforcement Security Task Force (BEST) teams, which work to address border-related crime, including arms trafficking and human, bulk cash, and narcotics smuggling.

The BEST model has proven extremely effective. BESTs incorporate personnel from U.S. Immigration and Customs Enforcement (ICE); U.S. Customs and Border Protection (CBP); the U.S. Coast Guard (USCG); the Drug Enforcement Administration (DEA); the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF); the Federal Bureau of Investigation (FBI); U.S. Attorney's Offices; and federal, state, local, tribal and foreign law enforcement agencies.

ICE, which leads the BEST teams, has established new BESTs in Las Cruces and Deming, New Mexico, and Mexico City, resulting in a total of 17 BESTs covering high-threat smuggling corridors, including along our northern border. Furthering this collaboration, the Mexican government has agreed to provide representatives to every BEST team on the southwest border, in addition to supporting the new BEST in Mexico City.

Since the launch of the Southwest Border Initiative, BESTs have seized over 1,809 pounds of cocaine, 45,889 pounds of marijuana, 571 pounds of methamphetamine, 45 pounds of crystal methamphetamine, 251 pounds of ecstasy, and 17 pounds of heroin. BESTs also have seized 1,361 weapons, 277 vehicles, and $8.2 million in U.S. currency and monetary instruments. All of these seizures represent an increase over the same reporting period from 2008.

Armas Cruzadas and Other Efforts

In addition to this effort, ICE has continued to support Operation Armas Cruzadas, a collaborative, intelligence-driven initiative with the Mexican government to identify, disrupt, and dismantle criminal networks that illicitly transport arms across the border.

Since the launch of the Southwest Border Initiative, Armas Cruzadas operations have accounted for the seizure of 361 firearms, 38,878 rounds of ammunition, and criminal arrests of 107 individuals. Overall, since its creation in 2008, Armas Cruzadas has resulted in the seizure of 1,890 weapons, 206,412 rounds of ammunition, criminal arrests of 257 individuals, and more than $7.9 million.

Under the Southwest Border Initiative, DHS also has implemented for the first time 100 percent southbound rail screening to prevent illegal guns and cash from entering Mexico. CBP also has assigned 100 Border Patrol agents to conduct outbound operations at ports of entry; deployed additional non-intrusive inspection imaging systems to increase scanning of vehicles; assigned 13 additional currency and firearms canine teams to

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southwest border land ports; and deployed six Mobile Response Team special operations and other assets to support surge operations against drug trafficking organizations.

This comes in addition to the deployment of additional ICE attaches to Mexico City and an increase in ICE Border Liaison Officers to work with their Mexican counterparts.

Collaboration with Mexico

We also have continued to further our collaboration with the Government of Mexico. In addition to the increases in staffing support and joint law enforcement that I noted earlier, we have implemented new Border Violence Protocols with Mexico to foster greater bi-national coordination when incidents of border violence occur.

CBP also has coordinated multiple bi-national border operations with Mexico to conduct enhanced outbound inspections on the U.S side of the border and enhanced inbound operations at nearby port crossings on the Mexico side of the border.

Under the Illegal Drug Project, ICE, CBP, and the Department of Justice (DOJ) also are collaborating with the Mexican Office of the Attorney General to prosecute narcotics seizures that occur at the Nogales, Arizona, port of entry that the U.S. Attorney's office declines to prosecute. The program increases pressure on drug trafficking organizations operating in the area by giving Mexico the necessary information to prosecute these cases.

In addition, we have continued to provide technical support and capacity building to Mexico under the Merida Initiative, a multi-year program to provide assistance to Mexico and Central America to better equip law enforcement agencies to complete their missions. For example, ICE has deployed 24 Special Agents to Mexico to teach Basic Criminal Investigative Methods to approximately 2,000 Ministry of Public Security investigators.

The Merida Initiative also encompasses non-intrusive inspection equipment training, canine enforcement training, upgrades to automated systems, assistance in transitioning the Mexican Customs from a revenue-based institution to a law enforcement-based institution, and improvements in immigration control programs. At the end of Fiscal Year 2009, CBP received funding through an interagency agreement with the Department of State to provide training for 44 canines for Mexico Customs and training for Mexico's Secretariats of Public Security (SSP) on five x-ray vans. Training is anticipated to begin in late winter or early spring of 2010.

On December 7th, I also signed a new Declaration of Principles and Bilateral Strategic Plan with Mexican Secretary of Finance and Public Credit Agustín Carstens to create a framework for increased, intensified interaction and engagement between our nations. Under these updated and enhanced agreements, we will identify new joint initiatives and long-term programs to augment information sharing, coordinate our border management

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efforts, improve the efficiency of border operations, and strengthen law enforcement cooperation.

Federal, State, Tribal, and Local Partnerships

Beyond this collaboration, we have improved coordination and strengthened joint activities with our federal, state, tribal, and local government partners.

With the Department of Justice, the Office of National Drug Control Policy, our Office of Counternarcotics Enforcement, and other federal agencies, we have issued a new Southwest Border Counternarcotics Strategy which identifies the key elements needed to effectively combat drug trafficking organizations, and provides the roadmap for additional supporting actions in the areas of interdictions, investigations, technology, and international cooperation, while also improving counternarcotics coordination.

In June, ICE also reached new formal interagency agreements with DEA and ATF to improve coordination, increase partnerships, and expand information sharing. The agreement with DEA enhances the ability of ICE agents to investigate drug cases. It also increases the number of agents targeting international drug traffickers, improves and enhances information and intelligence sharing, and promotes effective coordination between agencies. ICE's updated agreement with the ATF furthers joint efforts to investigate international firearms trafficking and possession of firearms by illegal aliens.

ICE also has continued its partnership with the Tohono O'odham Nation to enlist the support of the Shadow Wolves, an elite unit of Native American Patrol Officers that work with ICE and CBP to help identify and track smugglers.

Our support to state and local communities through Operation Stonegarden also has continued. In Fiscal Year 2009, southwest border communities received $75 million in Stonegarden grants to help them respond to border-related crime, and we expect to provide an additional $60 million in Fiscal Year 2010.

As noted later in my testimony, the Department also has strengthened and expanded partnerships with state and local authorities through the Secure Communities and 287(g) programs, two important initiatives that leverage the support of state and local authorities to enforce immigration laws and identify and arrest criminal aliens booked in U.S. jails.

Technology Investments

Technology remains a critical element in our overall border security strategy. In addition to the technology deployments noted earlier as part of the Southwest Border Initiative, we have continued to deploy technology under the SBInet program to increase our awareness of the border environment and improve the Border Patrol's ability to identify and respond to border incursions.

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CBP is now conducting its first deployment of Tucson 1, a system of nine sensor towers and eight communications relay towers across 23 miles of the border near Sasabe, Arizona. This system will replace the prototype Project 28 system, which already has assisted the Border Patrol in making nearly 5,500 apprehensions and seizing nearly 15,900 pounds of marijuana. The Border Patrol expects to conduct operational testing of this new system early next year.

While this testing is underway, CBP will begin deployment of Ajo 1, a second technology system that will cover 30 miles of border near Ajo, Arizona. Both systems, once fully operational, will enhance the Border Patrol's ability to protect the border and leverage technology to more quickly and effectively identify and resolve illegal entries.

CBP also has deployed 41 mobile surveillance systems to provide radar and camera coverage along the southwest border, and it continues to operate five Predator B Unmanned Aircraft Systems, including two on the northern border.

Complementing this technology, CBP has successfully completed work on over 640 miles of fencing along the southwest border, and it has increased the ranks of the Border Patrol to more than 20,110 agents.

Northern Border

In addition to southwest border technology improvements, CBP began construction this year of Remote Video Surveillance Systems along the northern border at 11 sites in the Detroit Sector and 5 sites in the Buffalo Sector. CBP also deployed three Mobile Surveillance Systems in the Detroit and Swanton Sectors in 2009.

These deployments are part of a broader *National Northern Border Strategy* under development that seeks to improve intelligence and information sharing, enhance bi-lateral partnerships, expedite lawful travel and commerce, increase personnel and infrastructure, and enhance investigations of transnational crime. CBP expects to complete a draft of this strategy by mid-2010.

In the interim, CBP has continued to increase its Border Patrol presence on the northern Border to nearly 2,000 agents. This year, CBP also opened a new Unmanned Aerial System Operations Center in North Dakota, which provided critical support during the Red River Valley Floods by mapping flooded areas in North Dakota and Minnesota. As part of Operation Empire Shield, CBP also performed aerial surveillance operations along the maritime border of Lake Ontario and St. Lawrence Seaway, and the land border of New York and Ontario. In addition, ICE stood up a new BEST team in Detroit, complementing existing BEST teams on the northern border in Buffalo, NY and Blaine, WA.

The Integrated Border Enforcement Teams (IBETs), comprising U.S. and Canadian federal, state, provincial, and local law enforcement personnel, also have continued to conduct intelligence-driven operations along the northern border. By incorporating

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integrated mobile response capability (air, land, marine), the IBETs provide participating law enforcement agencies with a force multiplier, maximizing our border enforcement efforts. There are twenty-four IBETs in fifteen IBET Regions along the Northern Border. Each of these IBETs actively shares information and participates in bi-national enforcement operations.

Deputy Secretary Jane Holl Lute and I have met numerous times with our Canadian counterparts over the past year to solidify new agreements to improve security coordination. This includes formalizing the Shiprider Program to conduct joint maritime law enforcement operations and signing new agreements to improve sharing of biometric records to prevent immigration fraud and maintain the integrity of our immigration system, harmonize trusted shipper programs, share information on currency seizures, and improve coordination during emergencies.

We will continue to work with our friends and allies in Canada to ensure effective security of the northern border, especially as we approach the 2010 Vancouver Olympic Games. In fact, DHS will have a presence at the interagency Joint Operations Center in Vancouver led by the State Department, as well as at the DHS-operated interagency Olympic Coordination Center in Bellingham, WA.

Impact and Results

Our efforts are achieving their desired results at the border. This year, CBP and ICE seized a combined 911,800 kilos of narcotics along the southwest border – an increase of 36 percent. Outbound currency seizures nationwide also increased 74 percent – totaling more than $57.9 million. From late March to November 2009, CBP seized $22.1 million in southbound currency at land border ports of entry – an increase of nearly 300 percent over the previous year.

In Fiscal Year 2009, CBP also apprehended just over 556,000 individuals attempting to illegally enter the United States – a decline of 23 percent over the previous year, and more than half the total from the busiest years of the past decade. Specific Border Patrol sectors experienced even further declines. Most notably, the El Paso Sector saw a 51 percent reduction in apprehensions, the Tucson Sector a 24 percent reduction, and the Rio Grande Valley Sector a 19 percent reduction. All these statistics indicate fewer attempts to illegally enter the United States.

In short, the security of our southwest border has been transformed. While work still remains, our efforts have made a real difference in communities from Texas to California.

III. ENFORCING IMMIGRATION LAWS

We also have made significant strides in enforcing the law in the interior of the United States, with a specific focus on identifying and removing criminal aliens that pose a threat to the American people.

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Targeting Criminal Aliens

Over the past year, we significantly expanded the Secure Communities program, which identifies illegal aliens booked into local jails by checking their biometric fingerprints against DHS immigration databases. In its first year, the 95 jurisdictions that participate in Secure Communities helped us identify more than 111,000 criminal aliens in custody – allowing ICE to take appropriate action to ensure that criminal aliens are not released back into communities.

Since its inception in October 2008, Secure Communities has identified more than 11,000 aliens charged or convicted with Level 1 crimes, such as murder, rape and kidnapping, as well as more than 100,000 aliens convicted of Level 2 and 3 crimes, including burglary and serious property crimes.

In addition to Secure Communities, ICE has continued to support Operation Community Shield, an anti-gang initiative that seeks to identify, investigate, and remove illegal alien gang members from the United States. Since its inception in 2005, ICE and its partners have arrested more than 15,000 gang members and associates, almost 6,000 of whom have had violent criminal histories.

ICE's Criminal Alien Program also has helped to identify and arrest criminal aliens incarcerated within federal, state, and local prisons and jails. The Criminal Alien Program ensures that dangerous individuals are not released back into their communities by securing a final order of removal prior to the termination of their sentence. In Fiscal Year 2009, the program resulted in more than 341,000 interviews of incarcerated foreign-born nationals, and issued over 232,000 charging documents.

Through the National Fugitive Operations Program, ICE is also targeting aliens who have failed to depart the United States after receiving a final order of removal, deportation, or exclusion, or who failed to report to authorities after receiving a notice to do so. ICE currently has 104 fugitive operations teams deployed throughout the country. In Fiscal Year 2009, ICE successfully reduced the fugitive alien population by over 20,000 individuals.

287(g) Authority

In July, we also revised and standardized a new Memorandum of Agreement (MOA) with state and local law enforcement under 287(g) authority to ensure that participating law enforcement agencies serve as effective force-multipliers in our efforts to identify and remove criminal aliens.

This new MOA aligns 287(g) local operations with major ICE enforcement priorities – specifically, the identification and removal of criminal aliens. It also defines the objectives of the 287(g) program, outlines the immigration enforcement authorities granted by the agreement, and provides guidelines for ICE's supervision of local agency

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officer operations, information reporting and tracking, complaint procedures, and implementation measures.

To address concerns that individuals may be arrested for minor offenses as a guise to initiate removal proceedings, the new agreement also explains that participating local law enforcement agencies are required to pursue all criminal charges that originally caused the offender to be taken into custody.

To date, ICE has trained more than 1,000 officers operating under 66 local 287(g) agreements between DHS and law enforcement agencies nationwide. Since January 2006, these officers have identified more than 120,000 individuals, predominantly in jails, who are suspected of being in the country illegally.

Worksite Enforcement

Furthermore, we have transformed worksite enforcement to address the demand side of illegal immigration. This year, ICE released new field guidance that formalizes procedures for arrest and removal of illegal workers identified during enforcement actions.

This new guidance increases our use of administrative tools such as Form 1-9 audits, criminal prosecutions, seizure of assets, civil fines, and debarment. It also promotes workplace compliance through the use of tools such as E-Verify, training, and best practices through ICE's Mutual Agreement between Government and Employers (IMAGE) program. The IMAGE program provides participating employers with education and training on proper hiring procedures, fraudulent document detection, use of E-Verify, and anti-discrimination procedures.

ICE is also auditing the books of thousands of employers suspected of relying on illegal labor to achieve an unfair advantage in the marketplace. Indeed, in a single day this past July, ICE audited more employers suspected of hiring illegal labor than had been audited in all of last year, reviewing more than 85,000 Form I-9s and identifying more than 14,000 suspect documents. Last month, ICE announced an additional 1,000 workplace audits.

ICE prioritizes its worksite enforcement operations by targeting the most egregious violators, which include those who abuse and exploit their workers, aid in the smuggling or trafficking of aliens into the United States, create false identity documents or facilitate document fraud, or create an entire business model using an unauthorized workforce.

E-Verify

We continue to encourage workplace compliance by expanding and improving E-Verify–our web-based system that allows participating employers to electronically verify the employment eligibility of employees. For most employers, the use of E-Verify is voluntary and limited to determining the employment eligibility of new hires only.

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Over 175,000 employers representing more than 660,000 worksites are currently enrolled in E-Verify, with an average of 1,000 new employers enrolling weekly. Since the start of Fiscal Year 2010, employers have run over 2 million queries through E-Verify.

As this participation has expanded, USCIS has increased public education and employer training for E-Verify. In Fiscal Year 2009, USCIS held 125 live presentations, attended 15 conferences, and conducted 140 live Webinars. We remain committed to working closely with non-profits and worker advocacy organizations as we improve E-Verify to ensure it is a positive tool in increasing workplace compliance.

We also have continued to enhance and expand the system's capabilities. In February, USCIS added U.S. passport data to the system to help reduce mismatches for foreign-born U.S. citizens. Access to this passport data confirmed the work eligibility for an additional 15,000 employees last year.

Next year we plan to include passport and visa photos to further increase the system's effectiveness. We also plan to improve system navigation and offer some important features, such as an automated reminder for employers when work authorization documents expire, an enhanced case management system, and improved text and instructions to help employers avoid data entry errors.

USCIS also has launched a Compliance Tracking Management System, which serves as an electronic file cabinet to manage monitoring reports and the tracking of compliance cases. In November, USCIS also opened the Buffalo Verification Operations Center to perform immigration status verification checks and conduct monitoring and compliance for E-Verify.

In September, the amendment to the Federal Acquisition Regulation (FAR) implemented the E-Verify federal contractor rule, which requires covered federal contractors and subcontractors, including those who receive American Recovery and Reinvestment Act funds, to participate in E-Verify.

Employers with federal contracts or subcontracts that contain the FAR E-Verify clause are required to use E-Verify to determine the employment eligibility of employees performing direct, substantial work under those federal contracts, and new hires organization-wide regardless of whether they are working on a federal contract. A federal contractor or subcontractor who has a contract with the FAR E-Verify clause also has the option to verify the company's entire workforce. To date, over 20,000 Federal Contractors have enrolled in E-Verify, generating more than 525,000 queries.

We will continue to increase the system's ability to automatically verify work eligible employees – currently 96.9 percent of all queries – and decrease the percentage of employees who need to follow up with the government to update their records.

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Detention Reform

In August, ICE announced a major overhaul of the immigration detention system.

Under this plan, ICE has created an Office of Detention Policy and Planning to lead the design of this new system, and appointed experts in healthcare administration and detention management to the office. ICE also has established an Office of Detention Oversight to improve current access to facilities and to investigate detainee complaints, and it has formed two advisory groups of local and national organizations to provide input and feedback on general policies, practices and detainee healthcare.

Building on these reforms, Assistant Secretary for ICE John Morton and I announced additional initiatives on October 6th and a set of core principles that will guide this effort going forward.

Among these core principles, we will reduce detention costs, minimize the length of stays and ensure fair proceedings throughout the removal process; detain aliens in settings commensurate with their risk of flight or danger; be fiscally prudent in carrying out detention reform; provide sound medical care; and ensure that Alternatives to Detention are cost effective and promote a high rate of compliance for those with orders for removal or to appear in court.

Additional detention reforms include centralizing all of ICE's active contracts for detainee supervision under ICE headquarters rather than through disparate field offices and developing a new assessment tool to identify aliens suitable for alternatives to detention and classify detainees by their level of risk so that they can be placed in appropriate facilities. ICE also will develop a medical classification system to improve awareness of medical and mental health conditions of its detainees.

Moreover, ICE will more than double its on-site personnel from 23 to more than 50 to place federal employees in the facilities where more than 80 percent of ICE detainees are housed, strengthening day-to-day oversight at these facilities.

We expect these reforms to be budget neutral or result in cost savings. To ensure that this effort moves forward swiftly, I have established a set of one-year benchmarks to be met by the end of Fiscal Year 2010 that include reviewing all contracts for detention facilities, revising detention standards to reflect appropriate conditions for detainee populations; and issuing two competitive bids for detention facilities that reflect our core principles.

Ultimately, we believe these actions will meet ICE's detention needs, improve federal oversight, ensure appropriate custodial conditions and timely health care services for detainees, address special population needs, and ensure accountability.

IV. IMPROVING THE LEGAL IMMIGRATION PROCESS

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America is and will always be a nation of immigrants. The immigrant story is part of our national character, and immigration remains a source of great strength for our country and our economy.

We must ensure our nation's legal immigration policies and procedures are every bit as effective as our enforcement mechanisms against illegal immigration.

Over the past year we have focused on improving the systems that provide benefits and services to legal immigrants who live or work in the United States to make these systems more effective, responsive, and fair.

For example, working with the FBI, we ended the backlog for background checks on applicants for green cards and naturalization. We also expanded the opportunity for widows to gain legal status in the United States following the untimely death of their U.S. citizen spouses.

We also have launched a new interactive website at USCIS that allows people to receive information about the status of their immigration cases by e-mail or text message, and we have reduced the time it takes to process those cases. Content on the website also has been rewritten into clear, accessible language that meets the informational needs of legal immigrants and, for the first time ever, is available in Spanish.

Since August 2009, USCIS also has led a national education and outreach initiative to raise public awareness about the naturalization process and provide education on the rights and responsibilities of U.S. citizenship. To date, USCIS has held over 40 naturalization information sessions that have drawn nearly 4,000 participants. As part of its Citizenship Grant Program, USCIS also is providing $1.2 million in competitive grants to support citizenship preparation programs for legal permanent residents. And in October, USCIS fully implemented its new Naturalization Test, which emphasizes fundamental concepts of democracy, U.S. history, and the rights and responsibilities of citizenship.

Additionally, through the expanded use of biometrics, USCIS is now better able to identify people committing immigration fraud, either by using someone else's documents or by forging documents to escape detection for a past crime or immigration violation. And we have enhanced our capacity to exclude those suspected of supporting terrorism or other serious international crimes before they enter our country.

V. STRENGTHENING IDENTITY MANAGEMENT, TRADE, AND TRAVEL

In Fiscal Year 2009, CBP processed more than 361 million pedestrians and passengers at our ports of entry, and 110 million conveyances. In addition, CBP initiated more than 18,000 trade enforcement seizures at the ports of entry valued at more than $300 million, including intellectual property rights violations worth over $260 million.

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We recognize the need to facilitate lawful trade and travel across the border in a safe and secure manner, while barring unlawful merchandise or travelers from entry into the United States. This is a balance we strive for every day, and I believe our programs and policies reflect this commitment.

Western Hemisphere Travel Initiative

On June 1st, 2009, CBP successfully implemented the land and sea requirements for the Western Hemisphere Travel Initiative (WHTI), fulfilling the 9/11 Commission recommendation and subsequent Congressional mandate to strengthen travel document security at our ports of entry.

Under WHTI, citizens of the United States, Canada, Mexico, and Bermuda are required to have a passport or other accepted document that establishes their identity and nationality to enter or depart the United States from within the Western Hemisphere.

Travel document compliance rates for WHTI continue to remain very high for U.S. and Canadian citizens. We are currently experiencing a 95 percent national compliance rate, with 98 percent compliance along the northern border and 93 percent compliance along the southern border. To date, there has been no discernable negative impact to our border operations.

We also have successfully installed Radio Frequency Identification (RFID) technology at 39 major entry points along our borders with Canada and Mexico representing 95 percent of traffic volume at our land ports of entry. RFID technology, which is now available in 354 vehicle lanes, enables swifter processing at border crossings for travelers using new state-of-the-art travel documents.

There are currently more than 3.5 million RFID-enabled documents in the hands of U.S. and Canadian travelers, including 2 million U.S. passport cards; 670,000 Trusted Traveler Program (NEXUS, SENTRI and FAST) cards; and more than 450,000 enhanced driver licenses issued by four states (Washington, Michigan, New York and Vermont) and four Canadian provinces (Quebec, Manitoba, British Columbia and Ontario).

We also continue to engage Native American tribes in discussions on the development of enhanced tribal cards. To this end, we have signed Memoranda of Understanding with four tribes (Kootenai of Idaho; Pasqua Yaqui of Arizona; Seneca of New York; and the Tohono O'odham Nation).

US-VISIT

One of our most important tools for preventing terrorists, criminals, and illegal aliens from entering or remaining in the United States is our ability to capture biometric data from foreign nationals through US-VISIT.

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US-VISIT enables CBP to deny admission to those ineligible to enter the country; analyzes entry records to help ICE apprehend those who remain illegally in the United States; assists USCIS in denying immigration benefits to applicants who have violated the terms of their admission; and assists the Department of State in denying visas to those who may have previously overstayed but who are no longer in the United States. Since September 2004, US-VISIT also has provided immigration and border management officials with records of the entries and exits of individual foreign nationals.

We have continued to enhance US-VISIT's capabilities by implementing 10-fingerprint processing. Ten-fingerprint scanners have now been deployed to all major ports of entry, providing the capability to capture 10 fingerprints from travelers. This has improved accuracy of identification, enhanced interoperability with the FBI and the Department of State, as well as with state, local, and tribal governments, and increased our ability to conduct full searches against latent fingerprint databases.

We also have continued to test US-VISIT biometric exit procedures for travelers departing U.S. airports and seaports. From May to June, 2009, US-VISIT conducted two air exit pilots at the Detroit Wayne Country Metropolitan Airport and Hartsfield-Jackson Atlanta International Airport. In October, we provided an evaluation of these pilot tests to Congress and the Government Accountability Office.

Currently, we are reviewing public comments from the Notice of Proposed Rule Making the Department published in the Federal Register in April, 2009 proposing an exit system for airports. We will continue to work with Congress and industry partners to weigh our options and develop an effective system that meets our security objectives while facilitating lawful travel.

Secure Identification

The 9/11 Commission Report made clear the need for secure identification – noting that for terrorists, travel documents are as important as weapons. Law enforcement must have confidence that an ID holder is the person he or she claims to be. For this reason, we remain focused on assisting states in improving the security of driver's licenses, consistent with the recommendations of the 9/11 Commission.

However, under REAL ID, attempts to establish federal standards for secure identification have not been successful. States have rejected REAL ID due to their concern about exorbitant costs, unrealistic timelines, and impractical requirements.

Indeed, 13 states are prohibited by state statute from implementing REAL ID. Based on information provided by the states, only nine of 56 jurisdictions have indicated that they have achieved all 18 benchmarks necessary to demonstrate material compliance by the December 31, 2009 deadline. According to the REAL ID regulations, driver's licenses may not be accepted for federal purposes – such as boarding an aircraft – from states that cannot achieve material compliance by this deadline.

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As desirable as the goals of REAL ID may be, the reality is that we will never have national standards for secure identification as long as states refuse to participate. Congressional action is required to break this impasse and allow the Department to move forward in conjunction with the states.

For this reason, the Department continues to support the approach outlined in the current PASS ID legislation before Congress, which addresses many of the major problems with REAL ID while keeping its best elements. It is a bipartisan bill that is supported by the National Governors Association and by law enforcement and privacy groups alike.

PASS ID keeps the strong security standards of REAL ID but gives states flexibility in achieving them. It requires states to ensure the physical security of driver's license production process, including the ability to secure the physical premises and document materials, background checks on employees dealing with driver's licenses, and fraudulent document identification training for employees. It also requires states to validate the legitimacy of underlying "source" documents, such as birth certificates, and requires electronic verification of Social Security numbers and lawful immigration status. It also retains requirements to ensure that federal agencies may only accept PASS IDs for official purposes, such as accessing sensitive federal facilities or boarding commercial airplanes.

These security enhancements – which all agree upon – are in jeopardy, because states will not implement REAL ID and Congress has not yet enacted PASS ID. As such, I encourage Congress to act quickly to enact PASS ID to help get our nation back on track to implement these important security mandates.

Should Congress not act before it adjourns this year, we have planned for contingencies related to REAL ID implementation to minimize the impact to U.S. citizens. Any of these steps, however, would represent a temporary approach that does not advance our collective security interests over the long-term.

VI. THE NEED FOR IMMIGRATION REFORM

Over the past year, the Department of Homeland Security, in conjunction with other federal agencies, has taken major actions to secure our borders and implemented significant reforms to our immigration system within our current legal framework.

When it comes to immigration, everybody recognizes that our current system is not working and our laws need to change. American businesses, workers, and faith-based organizations have called for reform. Law enforcement and government at every level also have called for reform.

As the President has said, if we are truly going to fix this broken system, Congress will need to act. Immigration reform must consist of a "three-legged stool" that includes a commitment to serious and effective enforcement, improved legal flows for families and workers, and a firm but fair way to deal with those who are already here. And as I have

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always said, we must demand responsibility and accountability from everyone involved: immigrants, employers, and the government.

What might reform offer on the security side? I believe reform legislation should provide lasting and dedicated resources at our borders and critical legal tools that we do not currently have at our disposal.

For example, we need tougher anti-smuggling laws in dealing with the aggravated crimes smugglers commit – including assaulting law enforcement officers, endangering children, threatening relatives, and abandoning people in the desert. We also need to update laws that don't cover some of the new means by which criminals conduct their business.

We need improvements to the current law when it comes to interior and worksite enforcement. Dishonest businesses often ignore the civil fines for illegal employment now on the books because they are too low. In addition, it is difficult to prosecute worksite violations as felonies because of elaborate intent requirements built into current statutes.

But as the White House has made clear in their call for Congress to act: we will never have fully effective law enforcement or national security as long as so many millions remain in the shadows. We need legislation that creates the foundation for requiring illegal immigrants already in this country to register, supply biometric data, pass a criminal background check, pay requisite penalties, pay their taxes, and learn English in order to legalize their status. This approach recognizes that our laws have been violated by requiring illegal immigrants to meet numerous stringent penalties and requirements.

The immigration system must also work to support American families, businesses, and workers. I believe our system must be strong enough to prevent illegal entry and get criminal aliens off our streets and out of the country. But it must also be smart enough to reward the hard work and entrepreneurial spirit that immigrants have always brought to America – traits that have built our Nation. In that spirit, DHS supports including certain students with long-standing roots in our country who attended our nation's schools within the coverage of comprehensive immigration reform.

Today, we have a system where America educates many of the brightest individuals from around the world, and then tells them to leave the country when many would rather start their own ventures, strengthen businesses, and employ people right here in America. Going forward, our visa policies must work for every sector of our economy, and across the income scale.

We need carefully crafted programs that allow American businesses to hire needed foreign workers while protecting the labor and health-and-safety rights of all workers. In my meetings with leaders in agriculture, service industries and other fields, they have told me that current visa policies are hindering the growth of businesses looking to expand.

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We also have the benefit of knowing what didn't work in the past and there is widespread agreement on why prior attempts at reform did not succeed. Those efforts failed to address the underlying reason why most individuals are willing to either enter our country illegally or overstay a visa – jobs. A robust employment eligibility verification program is critical to effectively address the primary draw of illegal immigration.

In addition, our immigration system is outdated where families are concerned, and we need to modernize and streamline the laws governing this process. No one should have to wait in a line for years in order to reunite with a spouse or a young child.

At the end of the day, people need to be able to trust the system. Americans need to know that their government is committed to enforcing the law and securing the border – and that it takes this responsibility seriously. Law enforcement needs to have better legal tools and the necessary resources to deal with border-related and immigration-related crime. Businesses must be able find the workers they need here in America, rather than having to move overseas. And immigrants need to know that once we reform the laws and have a system that works, the contours of our immigration laws will endure.

I look forward to working with this Committee to define the path ahead. I appreciate your past support for the Department, your continued partnership, and your future collaboration.

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United States Senate

WASHINGTON, DC 20510-3802
specter.senate.gov

December 4, 2009

The Honorable Alejandro (Ali) Mayorkas
Director
U.S. Citizenship and Immigration Services
20 Massachusetts Ave., N.W.
Washington, D.C. 20529-2150

Dear Director Mayorkas:

I write today regarding the EB-5 immigrant investor visa program, and in particular on the topic of unclear guidelines on this program's implementation.

It is my understanding that according to the U.S. Citizenship and Immigration Service (USCIS) guidance issued June 17, 2009, *"circumstances may change after an alien secures admission to the United States"* after an I-526 petition approval, and that the USCIS should demonstrate *"flexibility"* in determining whether the petitioning alien *"has created or can be expected to create within a reasonable time"* the required jobs. I request that the USCIS promptly draft generally applicable guidelines regarding the implementation of its June 17, 2009 policy pronouncement permitting alternative EB-5 investments to ensure that the job creation requirements of the program are satisfied by each investor. In fairness, I hold the view that such guidelines should generally apply retroactively where the requisite jobs were created.

It is also important to note that the two Pennsylvania regional centers are the most successful programs in the nation under the EB-5 Program, having raised more than $450 million and facilitated the creation of more than 11,000 new jobs. Unfortunately, as outlined above, the problems with the alternative investment guidelines have placed some immigrant investors in a precarious position.

According to my constituents, the immigrant investors were unable to create the projected jobs, and instead, invested their funds in alternate investments, which successfully created the required jobs for their I-829 petitions. I am told that their approved I-526 petitions and accompanying business plans specifically provided for alternate investments by a unanimous vote of the limited partners and should not have required a renewed USCIS approval, particularly where no formal procedure even existed for such an approval of any alternate investment. Nonetheless, as a result of the USCIS denials, some immigrant investors and their families now have no legal status in the U.S. and are subject to deportation. This is just one example of the need to clarify the aforementioned guidelines.

Thank you for your attention to this important matter.

This program is especially needed now at a time of economic downturn.

Sincerely,

Arlen Specter

Arlen Specter