

# **BORDER SECURITY, COMMERCE, AND TRAVEL: COMMISSIONER MCALEENAN'S VISION FOR THE FUTURE OF CBP**

HEARING  
BEFORE THE  
SUBCOMMITTEE ON  
BORDER AND  
MARITIME SECURITY  
OF THE  
COMMITTEE ON HOMELAND SECURITY  
HOUSE OF REPRESENTATIVES  
ONE HUNDRED FIFTEENTH CONGRESS

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## **BORDER SECURITY, COMMERCE, AND TRAVEL: COMMISSIONER MC ALEENAN'S VISION FOR THE FUTURE OF CBP**

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**Wednesday, April 25, 2018**

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

The subcommittee met, pursuant to notice, at 2:16 p.m., in room HVC-210, Capitol Visitor Center, Hon. Martha McSally [Chairwoman of the subcommittee] presiding.

Present: Representatives McSally, Rogers, Bacon, Thompson, and Vela.

Also present: Representatives McCaul, Barragán, Correa, Demings, and Richmond.

Ms. MCSALLY. The Committee on Homeland Security, Subcommittee on Border and Maritime Security will come to order. The subcommittee is meeting today to examine Commissioner McAleenan's vision for the future of Customs and Border Protection. I now recognize myself for an opening statement.

I would like to start by welcoming the newly-confirmed U.S. Customs and Border Protection commissioner, Kevin McAleenan, to testify before our committee today. Congratulate him on your Senate confirmation last month. The Commissioner and CBP have been and will continue to be the focal point for many of the Trump administration's border security priorities.

The Nation is fortunate that the Commissioner is a seasoned veteran, a consummate professional who knows the agency and its issues well having been with CBP since the early days of its creation.

CBP is a massive law enforcement agency created from the fusion of several legacy agencies established in 2003. In fact, today it is the largest law enforcement organization in the Federal Government. But up until 2015 it was not even authorized in statute, a situation that was finally addressed by the work of this subcommittee.

The 19 codified duties of the commissioner are some of the most important responsibilities that Congress has given any single official: Securing the border, facilitating legitimate travel and commerce, and administering important National security programs that prevent bad actors from gaining access to the country. With any organization this large, there are significant challenges.

Staffing shortages at both the ports of entry and in the Border Patrol exacerbated both by a hiring process that takes far too long and retention challenges that have persisted for years with no signs of abatement, CBP is critically understaffed and remains well below its Congressionally-mandated staffing levels by more than 1,000 CBP officers and 1,900 Border Patrol agents.

Combined with the growing crisis along the Southwest Border, this shortage has the potential to put our Nation's National security at risk. The number of illegal border crossings during this month of March show an urgent need to address the on-going situation. We witnessed a 203 percent increase from March 2017 to March 2018 and a 37 percent increase from last month to this month, the largest increase in month-to-month since 2011.

Before 2013, approximately 1 out of every 100 arriving aliens claimed credible fear or asylum. Today more than 1 out of 10 do. Saying the words, "credible fear", just as many aliens are coached by the drug cartels and mules to do, often permits them to be released into the country regardless of the merit of such claims to await for a court date years in the future that many do not even show up for.

We also continue to see our system plagued by increased levels of fraud among individuals crossing the border, which then makes it more difficult to help those who need it the most. In the past, over 90 percent of arriving aliens were single adult males; today 40 percent are families and children. The traffickers and smugglers know that if you arrive with a family you have got a better chance of being released into the United States, with most families only able to be detained for less than 20 days due to court rulings.

We have seen smuggling organizations advertise this as an enticement and we have seen traffickers use children as leverage to gain entry into the country. Since the beginning of this fiscal year, almost 22,000 unaccompanied minors and 40,000 families arrived at the border under these policies that enrich the cartels.

In other words, because of the insanity of the loopholes in our current law, the next generation of DACA-like people are crossing the border and disappearing into the community.

We are a Nation of immigrants and we welcome about a million legal immigrants into our country each year, but we are being taken advantage of, and it needs to stop.

In addition to the border wall, we also need a policy wall, as well, which is why I have been calling for these border security loopholes to be closed.

We must change our immigration policy to enable the agencies charged with protecting our border to do their job and quickly remove dangerous public safety risks from our communities.

Thankfully, in response to these troubling border security trends, the President has called for the deployment of thousands of National Guard troops to support the effort of the men and women of CBP.

National Guard personnel have supported border security operations several times in recent years. They have built fences and roads, conducted ground surveillance along the border, flown aviation support missions, monitored camera feeds, and provided intelligence support.

They are truly a force multiplier that can provide unique skills to boost our border security. I would like to thank Arizona Governor Doug Ducey and other Governors along the border who have answered the call to partner with the Federal Government to deploy these border security reinforcements and support the CBP mission.

The additional men and women deployed on our border will reduce threats posed by violent drug cartels and other bad actors that threaten border communities, and the Nation as a whole.

In addition to the deployment of the Guard, Congress has also recently provided CBP with billions of dollars to invest in technology, wall replacement, and new wall construction that will serve as a powerful deterrent to illegal entry.

We look forward to hearing an update on the status of wall construction and a concrete—no pun intended—time line for its completion.

I called this hearing today to allow the commissioner an opportunity to present to our subcommittee, which has principal oversight responsibility of the agency, what his vision is for CBP.

I look forward to his testimony, followed by a thoughtful discussion.

[The statement of Chairwoman McSally follows:]

STATEMENT OF CHAIRWOMAN MARTHA MCSALLY

APRIL 25, 2018

I would like to start by welcoming the newly-confirmed U.S. Customs and Border Protection Commissioner Kevin McAleenan to testify before our committee today, and congratulate him on his Senate confirmation last month.

The Commissioner and CBP have been, and will continue to be, the focal point for many of the Trump administration's border security priorities. The Nation is fortunate that the commissioner is a seasoned veteran—a consummate professional who knows the agency and its issues well, having been with CBP since the early days of its creation.

CBP is a massive law enforcement agency, created from the fusion of several legacy agencies and established in 2003. In fact, today it is the largest law enforcement organization in the Federal Government, but up until 2015 it was not even authorized in statute—a situation that was finally addressed by the work of this subcommittee.

The 19 codified duties of the Commissioner are some of the most important responsibilities that Congress has given to any single official—securing the border, facilitating legitimate travel and commerce, and administering important National security programs that prevent bad actors from gaining access to the country.

With any organization this large, there are significant challenges.

Staffing shortages at both the ports of entry and in the Border Patrol, exacerbated by both a hiring process that takes far too long and retention challenges that have persisted for years, with no signs of abatement.

CBP is critically understaffed and remains well below its Congressionally-mandated staffing levels by more than 1,000 CBP officers and 1,900 Border Patrol agents.

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We witnessed a 203 percent increase from March 2017 compared to March 2018 and a 37 percent increase from last month to this month—the largest increase from month to month since 2011.

Before 2013, approximately 1 out of every 100 arriving aliens claimed credible fear, or asylum. Today, more than 1 out of 10 do so.

Saying the words “credible fear,” just as many aliens are coached by the drug cartels to do, often permits aliens to be released into the country, regardless of the

merit of such claims to await a court date years into the future, that many do not even show up to.

We also continue to see our system plagued by increased levels of fraud among individuals crossing the border which then makes it more difficult to help those who need it the most.

In the past, over 90 percent of arriving aliens were single adult males. Today 40 percent are families and children.

The traffickers and smugglers know that if you arrive with a family, you have a better chance of being released into the United States with most families only able to be detained for less than 20 days due to court rulings.

We have seen smuggling organizations advertise this as an enticement and we have seen traffickers use children as leverage to gain entry into our country.

Just since January, almost 22,000 unaccompanied minors and 40,000 families arrived at the border under these policies that enrich the cartels.

In other words, because of the insanity of loopholes in current law, the next generation of DACA-like people are crossing the border and disappearing into our communities.

We are a Nation of immigrants and we welcome about a million legal immigrants into our country each year, but we are being taken advantage of and it needs to stop.

In addition to a border wall, we also need a policy wall as well, which is why I have been calling for these border security loopholes to be closed.

We must change our immigration policy to enable the agencies charged with protecting our border to do their job and quickly remove dangerous public safety risks from our communities.

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In addition to the deployment of the Guard, Congress has also recently provided CBP with billions of dollars to invest in technology, wall replacement, and new wall construction that will serve as a powerful deterrent to illicit entry.

We will look forward to hearing an update on the status of wall construction and a concrete, no pun intended, time line for its completion.

I called this hearing today to allow the Commissioner an opportunity to present our subcommittee, which has principal oversight responsibility over the agency, with his vision for CBP which has an outsized role in our National security. I look forward to his testimony, followed by a thoughtful discussion.

**Ms. MCSALLY.** The Chair now recognizes the Ranking Member of the subcommittee, the gentleman from Texas, Mr. Vela, for a statement he may have.

**Mr. VELA.** Thank you, Chairwoman McSally, for holding today's hearing and thank you, Chairman McCaul, Ranking Member Thompson, for your leadership on the Homeland Security Committee, as well.

Commissioner McAleenan, congratulations on your recent confirmation and thank you for joining us today. I know you have been at CBP for more than a decade now and that you are very familiar with the Office of Field Operations side of CBP.

My office and I receive daily notifications and press releases from CBP about the volume and value of the narcotics that are seized, coming through our ports of entry. For example, CBP officers at the

Pharr port of entry seized 45 pounds of cocaine, valued at more than \$347,000, earlier this month.

At the Progreso International Bridge, CBP officers seized nearly 20 pounds of crystal meth, valued at more than \$381,000, in early April, as well. CBP publishes its enforcement statistics monthly, and I have noted that, over the past several years, more drugs are seized, on average, by the Office of Field Operations than Border Patrol. The only exception to that is marijuana, which Border Patrol interdicts at a much higher rate.

In addition to keeping people and contraband from entering illegally, CBP is also responsible for facilitating legitimate trade and travel, both of which are major drivers for economic growth.

This means CBP officers inspect \$6.5 billion worth of cargo on a daily basis. CBP officers are also responsible for screening and vetting foreign and U.S. citizen travelers headed to the United States and at our international airports, cruise terminals, or land ports of entry.

The fact that CBP continues to rely on temporary duty assignments and back-to-back shifts to make up for its officer shortage remains a major concern. I have stated on multiple occasions that CBP's officer staffing shortage and difficulty in retaining professional Border Patrol agents are self-inflicted vulnerabilities.

These CBP staffing issues are critical to border security, yet the administration continues to avoid these problems. Commissioner, I introduced the Border and Port Security Act to give you the ability to hire more officers and agriculture specialists, but we need your commitment to address the internal problems that are making it difficult to keep new personnel on board.

I am glad that my bill has bipartisan support, and I know that Chairwoman McSally has her own proposal to address CBP's officer staffing shortage. My hope is that we can work on this issue in a bipartisan way, much like we did with the Public-Private Partnership Authority granted to CBP to address infrastructure need at our ports of entry.

The city of Donna and CBP have been working to establish the model port concept or the new way to streamline cargo and passenger vehicle inspections through the Donation Acceptance Program.

This project is an example of the many ways investments in our port infrastructure effects positive change along the border. I hope that your confirmation gives you a greater ability to ensure that the administration uses the facts when considering changes to border security.

Madam Chairwoman, I ask for unanimous consent to enter statements from NTEU and the Electronic Privacy Information Center into the record.

Ms. MCSALLY. Without objection.  
[The information follows:]

STATEMENT OF ANTHONY M. REARDON, NATIONAL PRESIDENT, NATIONAL TREASURY EMPLOYEES UNION

APRIL 26, 2018

Chairwoman McSally, Ranking Member Vela, distinguished Members of the subcommittee, thank you for the opportunity to provide this testimony on the vision for

the future of CBP. As president of the National Treasury Employees Union (NTEU), I have the honor of leading a union that represents over 25,000 Customs and Border Protection (CBP) Officers and trade enforcement specialists stationed at 328 land, sea, and air ports of entry across the United States and 16 PreClearance stations.

Any vision of CBP's future must include the hiring of new personnel at the ports of entry. CBP Office of Field Operations (OFO) is the largest component of CBP responsible for border security—including anti-terrorism, immigration, anti-smuggling, trade compliance, and agriculture protection—while simultaneously facilitating lawful trade and travel at U.S. ports of entry that are critical to our Nation's economy. CBP OFO has a current need to hire 2,516 additional CBP officers and 721 agriculture specialists to achieve the staffing target as stipulated in CBP's own fiscal year 2018 Workload Staff Model (WSM) and Agriculture Resource Allocation Model (AgRAM.) As of February 3, 2018, CBP OFO has 23,002 CBP officers onboard at the ports of entry—1,145 short of its fiscal year 2018 target of 24,147.

Trade and travel volume continue to increase every year, but CBP OFO staffing is not keeping pace with this increase. New and expanded Federal inspection facilities are being built at the air, sea, and land ports, yet CBP OFO staffing is not expanding. For example, in June, a new Federal inspection terminal will open at the San Diego Airport. Inspection volume will increase from 300 air passengers an hour to 1,000 air passengers an hour. Currently, there are a total of 53 front-line officers split between the airport and seaport. CBP needs to hire and assign an additional 38 officers to the airport alone to staff this new inspection facility. At the San Ysidro land port, 12 new pedestrian lanes, and 8 new vehicle lanes come on line in June. There are no new CBP officers assigned to this port and beginning on April 1, 2018, 150 CBP officers have been sent from other short-staffed ports to the seriously short-staffed ports of Nogales and San Ysidro for 90-day temporary duty assignments (TDYs).

To address CBP OFO staffing shortages and to address the ever-increasing volume of trade through the ports of entry in the future, Ranking Member Vela and others recently introduced H.R. 4940, the Border and Port Security Act, stand-alone, bipartisan legislation that would authorize the hiring of 500 additional CBP officers, 100 agriculture specialists, and additional OFO trade operations staff annually until the staffing gaps in CBP's various Workload Staffing Models are met. NTEU strongly supports this CBP officer and agriculture specialist—only staffing authorization bill and urges every Member of Congress to support this bill.

NTEU also asks Homeland Security Committee Members to request from the House Appropriations Committee up to \$100 million in fiscal year 2019 direct appropriations for the hiring of 500 CBP officers, 100 CBP agriculture specialists, and needed non-uniformed trade operations and support staff.

The President's fiscal year 2019 budget request does support the hiring of new CBP officers to meet the current staffing need of 2,516, but seeks to fund these new positions by increasing user fees. The President's budget proposal only provides appropriated funding to hire 60 new CBP officer positions at the National Targeting Center. The President's request seeks no appropriated funding to address the current CBP officer staffing shortage of 2,516 additional CBP officers as stipulated by CBP's own fiscal year 2018 WSM or to fund the additional 721 CBP agriculture specialists as stipulated by CBP's own fiscal year 2008 AgRAM.

*User Fees.*—As in the past, the administration's budget proposes significant realignment of user fees collected by CBP. Currently, 33 percent of a CBP officer's compensation is funded with a combination of user fees, reimbursable service agreements, and trust funds. The fiscal year 2019 budget proposes to reduce OFO appropriated funding by realigning and redirecting user fees, including redirecting the Electronic System for Travel Authorization (ESTA) fee that would require a statutory change. The fiscal year 2019 budget proposal would redirect approximately \$160 million in ESTA fees from Brand USA to CBP. Rather than redirecting the ESTA fees to fund the additional 2,516 CBP officer new hires needed to fully staff CBP officer positions in fiscal year 2019 and beyond, as stipulated by CBP's WSM, the budget would in fact reduce CBP's appropriated funding by \$160 million. Therefore, while the budget proposes to increase the number of CBP officer positions funded by ESTA user fees by 1,093, it decreases appropriated funding by \$160 million, and reduces the number of CBP officer positions funded by appropriations by 1,093 positions.

Once again, the President's budget includes CBP officer staffing numbers that are dependent on Congress first enacting changes to statutes that determine the amounts and disbursement of these user fee collections. To accomplish the ESTA fee change in the President's budget, Congress must amend the Travel Promotion Act of 2009 (Pub. L. 111-145). The President's request also proposes fee increases to the Immigration and Consolidated Omnibus Budget Reconciliation Act of 1985

(COBRA) user fees, not a direct up-front appropriation, to fund CBP officer new hires as stipulated by the WSM. However, Immigration and COBRA user fees cannot be increased without Congress first enacting legislation. A proposal to increase user fees has been part of the administration's annual budget submission since fiscal year 2014 to fund the hiring of new CBP officers. These user fee increase proposals are again in the fiscal year 2019 budget request, even though the committees with jurisdiction have never shown any interest or even held a hearing to discuss this long-standing legislative proposal and the administration has not pressed upon these committee Chairs to do so.

*Opioid Interdiction.*—CBP OFO plays a major role in addressing the Nation's opioid epidemic—a crisis that is getting worse. The smuggling of fentanyl and other opioids has increased markedly from 2.4 pounds in fiscal year 2013 to 71,195 pounds seized in fiscal year 2017 by CBP OFO. The scourge of synthetic opioid addiction is felt in every State and is a threat to the Nation's economic security and well-being. The majority of fentanyl is manufactured in other countries such as China, and is smuggled primarily through the international mail and express consignment carrier facilities (e.g. FedEx and UPS) and through ports of entry along the Southwest Border. According to CBP, over the last 3 years, there were 181 CBP employees assigned to the 5 Postal Service International Service Centers and 208 CBP employees assigned to the Private Express Carrier Facilities.

Due to the on-going OFO staffing shortages, 208 CBP employees at express consignment hubs is an extremely low number. In the past year, the FedEx hub in Memphis processed 38 million imports and 48 million exports—equaling 86 million in total package volume. There are approximately 24 CBP officers in total screening all 86 million shipments, and on average, about 15 CBP officers are working the main overnight FedEx “sort” shift. Considering the volume at the FedEx hub, NTEU has been told that the port requires a minimum of 60 CBP officers to facilitate the flow of legitimate freight and ensure successful interdiction of these synthetic chemicals. NTEU's CBP OFO appropriation request supports this critical need at international postal and express consignment hubs.

*Agriculture Specialist Staffing.*—Despite CBP's release of its risk-based AgRAM that documents an on-going shortage of CBP agriculture specialists—by 721—at the ports of entry, the budget request includes no direct appropriation to hire these critical positions needed to fulfill CBP's agriculture quarantine inspection (AQI) mission of pest exclusion and safeguarding U.S. agriculture and natural resources from the risks associated with the entry, establishment or spread of animal, plant pests, and pathogens. NTEU's appropriations request includes a direct appropriation to begin to hire the 721 agriculture specialists as stipulated in their fiscal year 2018 AgRAM.

*CBP Trade Operations Staffing.*—CBP has a dual mission of safeguarding our Nation's borders and ports as well as regulating and facilitating international trade. CBP employees at the ports of entry are the second-largest source of revenue collection for the U.S. Government. In 2017, CBP processed more than \$2 trillion in imports and collected approximately \$40 billion in duties, taxes, and other fees. Since CBP was established in March 2003, however, there has been no increase in non-uniformed CBP trade enforcement and compliance personnel even though inbound trade volume grew by more than 24 percent between fiscal year 2010 and fiscal year 2014. Additionally, CBP trade operations staffing has fallen below the statutory floor set forth in the Homeland Security Act of 2002 and stipulated in the fiscal year 2017 CBP Resource Optimization Model for Trade Positions. NTEU strongly supports the funding through direct appropriations of 140 additional positions at the CBP Office of Trade to support implementation of Trade Enhancement and Facilitation Act (Pub. L. 114–125) requirements.

Increasing CBP officer staffing at the ports-of-entry is an economic driver for the U.S. economy. According to the Joint Economic Committee (JEC), “every day 1.1 million people and \$5.9 billion in goods legally enter and exit through the ports of entry” and finds that border delays cost the U.S. economy upwards of \$5 billion each year. CBP estimates that the annual hiring of an additional 500 CBP officers at the ports of entry would increase yearly economic activity by \$1 billion and result in an additional 16,600 jobs per year to the U.S. economy.

Thank you for the opportunity to submit this request on behalf of the men and women represented by NTEU at the Nation's ports of entry. NTEU asks that the Homeland Security Committee Members seek up to \$100 million from the House Appropriations Committee for direct appropriated funding for new CBP officers, agriculture specialists, and support staff to build on the CBP OFO staffing advances made in the fiscal year 2018 omnibus measure.

## LETTER FROM THE ELECTRONIC PRIVACY INFORMATION CENTER

APRIL 24, 2018.

The Honorable MARTHA MCSALLY, Chairwoman,  
 The Honorable FILEMON VELA, Ranking Member,  
*U.S. House Committee on Homeland Security, Subcommittee on Border and Maritime Security, H2-176 Ford House Office Building, Washington, DC 20515.*

DEAR CHAIRWOMAN MCSALLY AND RANKING MEMBER VELA: We write to you regarding the hearing on “Border Security, Commerce and Travel: Commissioner McAleenan’s Vision for the Future of CBP.”<sup>1</sup> EPIC welcomes your continued leadership on CBP oversight and looks forward to opportunities to work with you and your staff.

The Electronic Privacy Information Center (“EPIC”) is a public interest research center established in 1994 to focus public attention on emerging privacy and civil liberties issues.<sup>2</sup> EPIC is focused on the protection of individual privacy rights, and we are particularly interested in the privacy problems associated with surveillance.<sup>3</sup> EPIC also manages one of the most extensive open Government litigation programs in the United States.<sup>4</sup>

EPIC understands that enhanced surveillance techniques will be part of the discussion over border security.<sup>5</sup> EPIC writes to warn that enhanced surveillance at the border will almost certainly sweep up the personal data of U.S. citizens. Before there is any increased deployment of surveillance systems at the U.S. border, an assessment of the privacy implications should be conducted. Additionally, deployment of surveillance technology should be accompanied by new policy and procedures and independent oversight to protect citizens’ rights. And any law enforcement agency that uses surveillance tools should be prepared to comply with all current laws, including all open government obligations. The privacy assessments, policies and procedures, and oversight mechanisms should all be made public. Most critically, if the CBP chooses to create or expand a system of records that contains personal information which is retrievable by name, it must comply with all of the requirements of the Privacy Act, including publishing a System of Records Notice and a Notice of Proposed Rulemaking so that the public is able to comment on a record system established by a Federal agency.<sup>6</sup>

## BIOMETRIC ENTRY/EXIT TRACKING SYSTEM

Recently, new privacy risks have arisen with the deployment of facial recognition technology at U.S. airports. An Executive Order recommends that agencies “expedite the completion and implementation of biometric entry exit tracking system,”<sup>7</sup> and Customs and Border Protection (“CBP”) has deployed facial recognition technology at several U.S. airports.<sup>8</sup> But corresponding privacy safeguards have not yet been established.

<sup>1</sup> *Border Security, Commerce and Travel: Commissioner McAleenan’s Vision for the Future of CBP*, 115th Cong. (2018), H. Comm. on Homeland Security, Subcomm. on Border and Maritime Security, <https://homeland.house.gov/hearing/border-security-commerce-and-travel-commissioner-mcaleenans-vision-for-the-future-of-cbp/> (Apr. 25, 2018).

<sup>2</sup> See *About EPIC*, EPIC.org, <https://epic.org/epic/about.html>.

<sup>3</sup> EPIC, EPIC Domestic Surveillance Project, <https://epic.org/privacy/surveillance/>; Statement of EPIC, *Unmanned Aircraft Systems: Innovation, Successes, and Challenges*, Hearing Before S. Comm. on Commerce, Science, and Transportation, U.S. Senate, Mar. 13, 2017, <https://epic.org/testimony/congress/EPIC-SCOM-Drones-Mar2017.pdf>; *The Future of Drones in America: Law Enforcement and Privacy Considerations*: Hearing Before the S. Judiciary Comm., 113th Cong. (2013) (Statement of Amie Stepanovich, EPIC Director of the Domestic Surveillance Project), available at <https://epic.org/privacy/testimony/EPIC-Drone-Testimony-3-13-Stepanovich.pdf>; Comments of EPIC to DHS, Docket No. DHS-2007-0076 *CCTV: Developing Privacy Best Practices* (2008), available at [https://epic.org/privacy/surveillance/epic\\_cctv\\_011508.pdf](https://epic.org/privacy/surveillance/epic_cctv_011508.pdf).

<sup>4</sup> EPIC FOIA Cases, EPIC, <https://epic.org/foia/>; Marc Rotenberg et al, *The Open Government Clinic: Teaching the Basics of Lawyering*, 48 IND. L. REV. 149 (2014); EPIC, *Litigation Under the Federal Open Government Laws 2010* (2010).

<sup>5</sup> Samantha Schmidt, *Border wall with Mexico won’t be built ‘from sea to shining sea,’ DHS secretary says*, Washington Post, April 6, 2017, <https://www.washingtonpost.com/news/morning-mix/wp/2017/04/06/border-wall-with-mexico-wont-be-built-from-sea-to-shining-sea-dhs-secretary-says/>.

<sup>6</sup> 5 U.S.C.A. § 552a(e)(4).

<sup>7</sup> Exec. Order No. 13,780 § 8.

<sup>8</sup> U.S. Customs and Border Protection, *CBP Deploys Facial Recognition Biometric Technology at 1 TSA Checkpoint at JFK Airport* (Oct. 11, 2017), <https://www.cbp.gov/newsroom/national-media-release/cbp-deploys-facial-recognition-biometric-technology-1-tsa-checkpoint>.

EPIC would like to remind the committee that in 2009, Verified Identity Pass, Inc., a corporate participant in the Transportation Security Administration's ("TSA") Registered Traveler program ceased operations after declaring bankruptcy, following a massive data breach concerning personal data, including biometric identifiers.<sup>9</sup> Verified Identity Pass, Inc. operated "Clear," a TSA recognized Registered Traveler program. Clear was the largest Registered Traveler program in the Nation operating out of 20 airports with about 200,000 members.

EPIC had warned this committee back in 2005 of the risks of the Registered Traveler program.<sup>10</sup> We explained that without ensuring compliance with Federal Privacy Act obligations, the agency was placing at risk the privacy and security of the American public. We said:

"The Privacy Act creates critical and necessary safeguards not simply to protect privacy, but also to ensure accuracy and accountability. Any government-approved security system that keeps personal information on individuals should meet the Privacy Act requirements for necessity, relevance, and openness, including individual access and correction. It should be made clear that these requirements apply whether the information originates with the agency or with information provided by the individual."

Facial recognition continues to pose significant threats to privacy and civil liberties. Facial recognition techniques can be deployed covertly, remotely, and on a mass scale. Additionally, there is a lack of well-defined Federal regulations controlling the collection, use, dissemination, and retention of biometric identifiers. Ubiquitous identification by Government agencies eliminates the individual's ability to control the disclosure of their identities, creates new opportunities for tracking and monitoring, and poses a specific risk to the First Amendment rights of free association and free expression.

Transparency about these biometric surveillance programs is essential, particularly because their accuracy is questionable. In December 2017, a Freedom of Information Act lawsuit pursued by EPIC produced the public release of a CBP report on iris imaging and facial recognition scans for border control. The "Southwest Border Pedestrian Field Test" revealed that the CBP does not perform operational matching at a "satisfactory" level.<sup>11</sup> In a related FOIA lawsuit, EPIC obtained documents from the FBI concerning the Next Generation Identification database which contains facial scans, fingerprints, and other biometrics of millions of Americans.<sup>12</sup> The documents obtained by EPIC revealed that biometric identification is often inaccurate.<sup>13</sup>

The use of facial recognition at the border has real consequences for U.S. citizens as well as non-U.S. citizens. All people entering the United States, including U.S. passport holders, could be subject to this intrusive screening technique. EPIC has filed a FOIA lawsuit to obtain documents to determine if there are proper privacy safeguards in place for the collection of biometric information at U.S. airports.<sup>14</sup>

There is also a new study from the MIT Media Lab which found that facial recognition is less accurate for persons of color. The MIT study found that the error rate in face recognition software for dark-skinned females was 20.8 percent—34.7 percent, while the error rate for light-skinned males was 0.0 percent—0.3 percent.<sup>15</sup> As the *New York Times* explained, "[t]hese disparate results, calculated by Joy Buolamwini, a researcher at the M.I.T. Media Lab, show how some of the biases in the real world can seep into artificial intelligence, the computer systems that in-

<sup>9</sup>EPIC, *Bankruptcy of Verified Identity Pass and the Privacy of Clear Registered Traveler Data*, <https://www.epic.org/privacy/airtravel/clear/>.

<sup>10</sup>The Future of Registered Traveler, 109th Cong. (2005), H. Comm. on Homeland Security, Subcomm. on Economic Security, Infrastructure Protection, and Cybersecurity (testimony of Marc Rotenberg), available at [http://epic.org/privacy/airtravel/rt\\_test\\_110305.pdf](http://epic.org/privacy/airtravel/rt_test_110305.pdf).

<sup>11</sup>U.S. Customs and Border Protection, *Southern Border Pedestrian Field Test Summary Report*, <https://epic.org/foia/dhs/cbp/biometric-entry-exit/Southern-Border-Pedestrian-Field-Test-Report.pdf> (December 2016).

<sup>12</sup>EPIC v. FBI—Next Generation Identification, EPIC, <https://epic.org/foia/fbi/ngi/>.

<sup>13</sup>DEPT. OF JUSTICE, FEDERAL BUREAU OF INVESTIGATION, NEXT GENERATION IDENTIFICATION (NGI) SYSTEM REQUIREMENTS DOCUMENT VERSION 4.4 at 244 (Oct. 1, 2010), <https://epic.org/foia/fbi/ngi/NGI-System-Requirements.pdf>.

<sup>14</sup>EPIC v. CBP (Biometric Entry/Exit Program), EPIC, <https://epic.org/foia/dhs/cbp/biometric-entry-exit/>.

<sup>15</sup>Joy Buolamwini and Timnit Gebru, *Gender Shades: Intersectional Accuracy Disparities in Commercial Gender Classification*, Proceedings of Machine Learning Research (2018) at 11, available at <http://proceedings.mlr.press/v87/buolamwini18a/buolamwini18a.pdf>.

form facial recognition.”<sup>16</sup> If it is correct that that facial recognition as a form of identification discriminates against persons of color in ways that other forms of identification do not, there is a substantial civil rights concern that the committee should investigate.

The involvement of private companies raises additional concerns. CBP has enlisted airlines such as JetBlue and Delta to implement face recognition technology in U.S. airports.<sup>17</sup> JetBlue is running a self-boarding program using facial recognition in lieu of checking boarding passes. Delta aims to use facial recognition as part of baggage drop off.<sup>18</sup> It is unclear whether access to biometric identifiers by JetBlue and Delta will lead to non-security uses of biometric identifiers.

These airlines are promoting facial recognition as a convenience, but it's clearly part of a larger effort by the government to implement biometric surveillance program that will capture the facial images of all air travelers. And travelers do not understand how this system, once in place at airports, could be deployed in other settings.

The CBP and the TSA now plan to deploy facial recognition technology at TSA checkpoints—further expanding the use of a privacy-invasive technology without regulations in place to provide proper protections.

Commissioner McAleenan should be asked the following questions:

- Has the CBP conducted the necessary Privacy Impact Assessments prior to deployments?
- Are there plans to increase the use of facial recognition?
- Has CBP detected racial bias in the deployment of its facial recognition systems?
- What safeguards are currently in place to protect facial scans from hacking or breaches?
- What restrictions on the use of biometric identifiers by private companies have been established?

#### DRONES AT THE BORDER

Customs and Border Protection (CBP) is already deploying aerial drones with facial recognition technology at the border.<sup>19</sup> In 2013, records obtained by EPIC under the Freedom of Information Act showed that the CBP is operating drones in the United States capable of intercepting electronic communications.<sup>20</sup> The records obtained by EPIC also indicate that the ten Predator B drones operated by the agency have the capacity to recognize and identify a person on the ground.<sup>21</sup> The documents were provided in response to a request from EPIC for information about the Bureau's use of drones across the country. The agency has made the Predator drones available to other Federal, State, and local agencies. The records obtained by EPIC raise questions about the agency's compliance with Federal privacy laws and the scope of domestic surveillance.

Following the revelations about drone surveillance at the border, EPIC, joined by 30 organizations and more than a thousand individuals, petitioned CBP to suspend the domestic drone surveillance program, pending the establishment of concrete privacy regulations.<sup>22</sup> The petition stated that “the use of drones for border surveillance presents substantial privacy and civil liberties concerns for millions of Americans across the country.” Any authorization granted to CBP to conduct surveillance

<sup>16</sup> Steve Lohr, *Facial Recognition Is Accurate, if You're a White Guy*, *New York Times*, Feb. 9, 2018, <https://www.nytimes.com/2018/02/09/technology/facial-recognition-race-artificial-intelligence.html>.

<sup>17</sup> Asma Khalid, *Facial Recognition May Boost Airport Security But Raises Privacy Worries*, *NPR*, June 26, 2017, <https://www.npr.org/sections/alla/2017/06/26/534131967/facial-recognition-may-boost-airport-security-but-raises-privacy-worries>.

<sup>18</sup> Ben Mutzabaugh, *Delta to test facial-recognition tech on new self-service bag drop*, *USA TODAY*, May 15, 2017, <https://www.usatoday.com/story/travel/flights/todayinthesky/2017/05/15/delta-test-facial-recognition-tech-new-self-service-bag-drops/101703956/>.

<sup>19</sup> Russel Brandom, *The US Border Patrol is trying to build face-reading drones*, *The Verge*, Apr. 6, 2017, <http://www.theverge.com/2017/4/6/15208820/customs-border-patrol-drone-facial-recognition-silicon-valley-dhs>; Dept. of Homeland Security, *Other Transaction Solicitation (OTS) HSHQDC-16-R-00114 Project: Small Unmanned Aircraft Systems (sUAS) Capabilities*, Jul. 15, 2016, <https://www.fbo.gov/spg/DHS/OCPO/DHS-OCPO/HSHQDC-0916-R-00114/listing.html>.

<sup>20</sup> EPIC, *EPIC FOIA—US Drones Intercept Electronic Communications and Identify Human Targets*, Feb. 28, 2013, <https://epic.org/2013/02/epic-foia-us-drones-intercep.html> (record received available at <https://epic.org/privacy/drones/EPIC-2010-Performance-Specs-1.pdf>)

<sup>21</sup> *Performance Spec for CBP UAV System*, Bureau of Customs and Border Patrol, <https://epic.org/privacy/drones/EPIC-2005-Performance-Specs-2.pdf>.

<sup>22</sup> EPIC, *Domestic Drones Petition*, [https://epic.org/drones\\_petition/](https://epic.org/drones_petition/).

at the border must require compliance with Federal privacy laws and regulations for surveillance tools, including drones.

Much of this surveillance technology could, in theory, be deployed on manned vehicles. However, drones present a unique threat to privacy. Drones are designed to maintain a constant, persistent eye on the public to a degree that former methods of surveillance were unable to achieve. The technical and economic limitations to aerial surveillance change dramatically with the advancement of drone technology. Small, unmanned drones are already inexpensive; the surveillance capabilities of drones are rapidly advancing; and cheap storage is readily available to maintain repositories of surveillance data.<sup>23</sup> Drones “represent an efficient and cost-effective alternative to helicopters and airplanes,” but their use implicates significant privacy interests.<sup>24</sup> As the price of drones “continues to drop and their capabilities increase, they will become a very powerful surveillance tool.”<sup>25</sup> The use of drones in border security will place U.S. citizens living on the border under ceaseless surveillance by the government.

The Supreme Court has not yet considered the limits of drone surveillance under the Fourth Amendment, though the Court held 20 years ago that law enforcement may conduct manned aerial surveillance operations from as low as 400 feet without a warrant.<sup>26</sup> No Federal statute currently provides adequate safeguards to protect privacy against increased drone use in the United States. However, some border States do limit warrantless aerial surveillance. In 2015, the Supreme Court of New Mexico held that the Fourth Amendment prohibits the warrantless aerial surveillance of, and interference with, a person’s private property.<sup>27</sup> Accordingly, there are substantial legal and Constitutional issues involved in the deployment of aerial drones by law enforcement and State and Federal agencies that need to be addressed.

A 2015 Presidential Memorandum on drones and privacy required that all Federal agencies to establish and publish drone privacy procedures by February 2016.<sup>28</sup> Emphasizing the “privacy, civil rights, and civil liberties concerns” raised by the technology,<sup>29</sup> President Obama ordered agencies to ensure that any use of drones by the Federal Government in U.S. airspace comply with “the Constitution, Federal law, and other applicable regulations and policies.”<sup>30</sup>

However, the DHS has failed to produce reports required by the 2015 Presidential Memorandum. EPIC has submitted a FOIA request for DHS’s policies and reports required under the Presidential Memorandum, but the DHS has failed to respond.

Commissioner McAleenan should be asked:

- How will CBP comply with State laws prohibiting warrantless aerial surveillance when deploying drones?
- When will CBP publish the drone privacy procedures report required by the 2015 Presidential Memorandum?

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<sup>23</sup> See generally EPIC, *Drones: Eyes in the Sky, Spotlight on Surveillance* (2014), <https://www.epic.org/privacy/surveillance/spotlight/1014/drones.html>.

<sup>24</sup> M. Ryan Calo, *The Drone as Privacy Catalyst*, 64 Stan. L. Rev. Online 29, 30 (Dec. 12, 2011); See also Jeffrey Rosen, *Symposium Keynote Address*, 65 Rutgers L. Rev. 965, 966 (2013) (“[A]s police departments increasingly begin to use drone technologies to track individual suspects 24/7, or to put areas of the country under permanent surveillance, this possibility of 24/7 tracking will become increasingly real.”).

<sup>25</sup> Bruce Schneier, *Surveillance And the Internet of Things*, Schneier on Security (May 21, 2013), [https://www.schneier.com/blog/archives/2013/05/the\\_eyes\\_and\\_ea.html](https://www.schneier.com/blog/archives/2013/05/the_eyes_and_ea.html).

<sup>26</sup> See *Florida v. Riley*, 488 U.S. 445 (1989) (holding that a police helicopter flying more than 400 feet above private property is not a search).

<sup>27</sup> *State v. Davis*, 360 P.3d 1161 (N.M. 2015); see Brief of Amicus Curiae EPIC, id., available at <https://epic.org/amicus/drones/new-mexico/davis/State-v-Davis-Opinion.pdf>.

<sup>28</sup> President Barack Obama, *Presidential Memorandum: Promoting Economic Competitiveness While Safeguarding Privacy, Civil Rights, and Civil Liberties in Domestic Use of Unmanned Aircraft Systems* (Feb. 15, 2015), <https://obamawhitehouse.archives.gov/the-press-office/2015/02/15/presidential-memorandum-promoting-economic-competitiveness-while-safegua>.

<sup>29</sup> Id. at § 1(e).

<sup>30</sup> Id. at § 1.

We ask that this letter be entered in the hearing record. EPIC looks forward to working with the subcommittee on these issues of vital importance to the American public.

Sincerely,

MARC ROTENBERG,  
*EPIC President.*

CAITRIONA FITZGERALD,  
*EPIC Policy Director.*

JERAMIE SCOTT,  
*EPIC National Security Counsel.*

CHRISTINE BONNAN,  
*EPIC Policy Fellow.*

Mr. VELA. I yield back the balance of my time.  
[The statement of Ranking Member Vela follows:]

STATEMENT OF RANKING MEMBER FILEMON VELA

APRIL 25, 2018

My office and I receive daily notifications and press releases from CBP about the volume and value of the narcotics that are seized coming through our ports of entry. For example, CBP officers at the Pharr Port of Entry seized 45 pounds of cocaine valued at more than \$347,000 earlier this month. At the Progreso International Bridge, CBP officers seized nearly 20 pounds of crystal methamphetamine valued at more than \$381,000 in early April as well.

CBP publishes its enforcement statistics monthly, and I have noted that, over the past several years, more drugs are seized on average by the Office of Field Operations than Border Patrol. The only exception to that is marijuana, which Border Patrol interdicts at a much higher rate.

In addition to keeping people and contraband from entering illegally, CBP is also responsible for facilitating legitimate trade and travel—both of which are major drivers for economic growth. This means CBP officers inspect \$6.5 billion worth of cargo on a daily basis.

CBP officers are also responsible for screening and vetting foreign and U.S. citizen travelers headed to the United States, and at our international airports, cruise terminals, or land ports of entry. However, the fact that CBP continues to rely on temporary duty assignments and back-to-back shifts to make up for its officer shortage remains a major concern of mine.

I have stated on multiple occasions that CBP's officer staffing shortage and difficulty in retaining professional Border Patrol agents are self-inflicted vulnerabilities. These CBP staffing issues are critical to border security, yet the administration continues to ignore these problems.

Commissioner, I introduced the Border and Port Security Act to give you the ability to hire more officers and agriculture specialists, but we need your commitment to address the internal problems that are making it difficult to on-board new personnel and keep them.

I am glad that my bill has bipartisan support, and I know that Chairwoman McSally has her own proposal to address CBP's officer staffing shortage.

My hope is that we can work on this issue in a bipartisan way, much like we did with the public-private partnership authority granted to CBP to address infrastructure needs at ports.

In my district, the city of Donna and CBP have been working to establish the Model Port concept, or the new way to streamline cargo and passenger vehicle inspections, through the Donation Acceptance Program. This project is an example of the many ways investments in our port infrastructure affects positive change along the border.

I hope that your confirmation gives you a greater ability to ensure the administration uses the facts when considering changes to border security.

Ms. MCSALLY. The gentleman yields back.

The Chair now recognizes the Chairman of the full committee, the gentleman from Texas, Mr. McCaul.

Mr. McCaul. Thank you, Chairwoman McSally and Ranking Member Vela, for having this hearing. First, I would like to congratulate you, sir, Commissioner McAleenan on your Senate con-

firmation last month. Well done. I am glad the Senate finally got that accomplished. They have a lot more to do in my judgment, but that is another point of view.

Our country, though, is fortunate, I think, that you were willing to answer the President's call and serve as commissioner of this very vital, important agency. CBP has a broad and important mission from securing our border to facilitating legitimate trade to ensuring those who enter our country do so legally.

Commissioner, you have a lot on your plate. I am confident, though, that you are up to the task. Despite this historic drop that we saw in apprehensions last year, more must be done to secure the border. As you know and know very well, during the last few months we observed a troubling spike in illegal immigration, over 200 percent more crossings this year than last.

Many who are apprehended at the border are not looking to even evade capture, but rather they simply turn themselves in to the nearest Border Patrol agent or CBP officer and claim a fear of persecution and an asylum claim for persecution in their country. That is what the drug cartels have coached them to say, and that is what they do.

Unfortunately, the cartels understand the weakness of our immigration laws all too well. They have marketed the use of immigration loopholes to entice illicit migrants. I support Secretary Nielsen's call to close these legal loopholes.

We need to change the law that treats unaccompanied minors from Mexico and Central America differently. We must also reform our asylum policies and ensure the prompt removal of anyone who crosses the border illegally, regardless of where they come from.

In response to the recent surge, mainly in south Texas, the President deployed thousands of National Guard troops to support the efforts of men and women of CBP. I applaud this effort, but sending the National Guard to the border is nothing really new. Guard troops helped build the fence in Operation Jump Start under President Bush and provided much-needed aviation support to supplement CBP's air and marine operations under Operation Phalanx during the Obama administration.

I also want to thank my Governor, Governor Abbott, for his leadership on border security. My home State of Texas, I believe, has been leading the way when it comes to securing the border. For years we have used the National Guard on our border at our State's expense, to help ensure the safety of Texans, despite years of inaction by previous administrations.

Congress has recently provided CBP with billions of dollars to invest in technology, barrier replacement, new levee wall construction in the Rio Grande Valley sector. I believe all of this is desperately needed down there.

I believe this will serve as a powerful deterrent to illegal entry as well as provide flood protection against the Rio Grande Valley from the river. So this is a very important issue and I look forward to an update on how CBP prepares to—as this caravan, they call it, prepares to come up north into the United States and other threats, as well.

Madam Chair, with that, I yield back.

[The statement of Chairman McCaul follows:]

## STATEMENT OF CHAIRMAN MICHAEL T. McCAUL

APRIL 25, 2018

First, I would also like to congratulate Commissioner McAleenan on his Senate confirmation last month.

Our country is fortunate that you were willing to answer the President's call and serve as the commissioner of this agency.

CBP has a broad and important mission—from securing our border and facilitating legitimate trade, to ensuring those who enter our country do so legally.

Commissioner McAleenan, you have a lot on your plate. But I am confident you are up to the task.

Despite the historic drop in apprehensions last year, more must be done to secure the border.

During the last few months, we observed a troubling spike in illegal immigration—over 200 percent more crossings this year than last.

Many who are apprehended at the border are not looking to evade capture. They simply turn themselves in to the nearest Border Patrol agent, or CBP officer and claim a fear of persecution in their country.

This is what the cartels have coached them to do.

Unfortunately, the cartels understand the weakness of our immigration laws all too well.

They have marketed the use of immigration loopholes to entice illicit migrants.

I support Secretary Nielsen's call to close these loopholes.

We need to change the law that treats unaccompanied minors from Mexico and Central America differently.

We must also reform our asylum policies and ensure the prompt removal of anyone who crosses the border illegally.

In response to the recent surge, mainly in South Texas, the President deployed thousands of National Guard troops to support the effort of the men and women of CBP.

Sending the National Guard to the border is not new.

Guard troops helped build the fence in Operation Jump Start and provided much-needed aviation support to supplement CBP's Air and Marine Operations under Operational Phalanx.

I would like to thank Governor Abbott for his leadership on border security. My home State of Texas has been leading the way.

For years we have used the National Guard on the border—at our State's expense—to help ensure the safety of Texans, despite years of inaction by the previous administration.

Congress has recently provided CBP with billions of dollars to invest in technology, barrier replacement, and new levy wall construction in the Rio Grande Valley Sector.

This will serve as a powerful deterrent to illegal entry as well as provide flood protection against the Rio Grande River.

This is a very important issue and I look forward to hearing an update on CBP's progress in South Texas.

I yield the balance of my time.

Ms. MCSALLY. The Chairman yields back. The Chair now recognizes the Ranking Member for the full committee, gentleman from Mississippi, Mr. Thompson.

Mr. THOMPSON. Thank you very much, Chairwoman McSally and Ranking Member Vela, for holding today's hearing. Commissioner, good seeing you again. It is always nice to have a permanent title after your nomination.

You officially have been head of CBP, for only a month, but your many years in leadership positions within CBP will, no doubt, serve you well in this new position. I encourage you to use your deep knowledge of CBP to meaningfully inform the Department's approach to border security.

Our border security challenges are more nuanced than simply building a wall. At a time when the Department's own data show that illegal entries are at the lowest level they have been since the 1970's, it makes little sense as to why we should heavily rely on

building walls for the foreseeable future or deploy National Guard's troops to the Southern Border.

During last month's subcommittee hearing, the Government Accountability Office witness testified that U.S. Customs and Border Protection still does not have the metrics to measure how a wall contributes to border security, in general. I urge you to correct this immediately.

Given that CBP has received more than \$1 billion for barriers and requested another \$1 billion for the upcoming fiscal year, I am concerned that we are bound to repeat many mistakes if we do not know what we are getting in return.

I also echo Ranking Member Vela's frustration that the Trump administration continues to overlook critical staffing problems within CBP, and particularly the shortage of officers manning our ports of entry. Both Border Patrol and the Office of Field Operations are losing trained, experienced agents and officers at a faster rate than CBP is able to replace them. This is another problem that I urge you to address quickly.

Additionally, I am concerned by the policy proposals and practices CBP and other components within DHS are using to deter illegal immigration. In February, all 12 of the Democrats on this committee and 63 other Democratic colleagues sent a letter to Secretary Nielsen asking her to halt the practice of separating migrant parents from their children when they are apprehended at the border or in immigration detention in cases that do not warrant it.

The practice is inhumane, excessively punitive, and can deliberately interfere with their legal right to request asylum. I reiterate my opposition to this practice and I caution CBP from pursuing other such practices that do not honor our values as a Nation of immigrants.

In your testimony, you commit to enhancing internal integrity programs, transparency, and professionalism measures. I take this to mean that misconduct and lack of professionalism by errant agents and offices will be swiftly addressed.

A number of videos have circulated in recent months that show CBP personnel acting in ways that do not seem to comply with this policy. We know that the overwhelming majority of CBP personnel work hard, conduct themselves professionally, and are a credit to their agency. I hope that you are investigating these incidents to ensure that they are not indicative of a problem within CBP's ranks.

Last, Mr. Commissioner, I hope you are able to share with us how your priorities for CBP align with the administration's. As we have seen on multiple occasions, experts at CBP and DHS are neither informing, nor even being notified in advance of major policy changes to border security operation. The rollout of the first travel ban Executive Order last year and the recent National Guard deployment announcement come to mind as examples.

I hope that your first-hand knowledge that more than walls are required is well utilized.

I thank you for agreeing to testify before us today and look forward to your testimony and yield back.

[The statement of Ranking Member Thompson follows:]

## STATEMENT OF RANKING MEMBER BENNIE G. THOMPSON

APRIL 25, 2018

Our border security challenges are more nuanced than simply building a wall.

At a time when the Department's own data show that illegal entries are at the lowest levels they have been since the 1970's, it makes little sense why we should heavily rely on building walls for the foreseeable future or deploy National Guard troops to the Southern Border.

During last month's subcommittee, the Government Accountability Office testified that U.S. Customs and Border Protection still does not have metrics to measure how a wall or even land-based technology contribute to border security in general.

I urge you to correct this immediately.

Given that CBP has received more than \$1 billion for barriers and requested another \$1 billion for the upcoming fiscal year, I am concerned that we are bound to repeat many mistakes if we do not know what we are getting in return.

I also echo Ranking Member Vela's frustration that the Trump administration continues to overlook critical staffing problems within CBP, in particular the shortage of officers manning our ports of entry.

Both Border Patrol and the Office of Field Operations are losing trained, experienced agents and officers at a faster rate than CBP is able to replace them.

This is another problem I urge you to address quickly.

Last, I am concerned by the policy proposals and practice CBP and other components within DHS are using to deter illegal migration.

In February, all 12 of Democrats on this committee and 63 other Democratic colleagues sent a letter to Secretary Nielsen asking her to halt the practice of separating migrant parents from their children when they are apprehended at the border or in immigration detention in cases that do not warrant it.

The practice is inhumane, excessively punitive, and can deliberatively interfere with their legal right to request asylum.

I reiterate my opposition to this practice, and I caution CBP from pursuing other such policies that do not honor our values as a Nation of immigrants.

In your testimony, you commit to enhancing "internal integrity programs," transparency, and "professionalism measures."

I take this to mean that misconduct and lack of professionalism by errant agents and officers will be swiftly addressed.

A number of videos have circulated in recent months that show CBP personnel acting in ways that do not seem to comply with policy.

We know that the overwhelming majority of CBP personnel work hard, conduct themselves professionally, and are a credit to their agency.

I hope you are investigating these incidents to ensure they are not indicative of a problem within CBP's ranks.

Ms. MCSALLY. The gentleman yields back.

Other Members of the committee are reminded that opening statements may be submitted for the record.

[The statement of Mr. Barletta follows:]

## STATEMENT OF HONORABLE LOU BARLETTA

Thank you commissioner for coming before this committee today to discuss the importance of securing our borders, and for your service to this country.

We have immigration laws for two reasons, to ensure the National security of the United States, and to protect American jobs. I am pleased that the American people finally have a partner in the White House whose main priority is representing their interests.

There are many victims of illegal immigration; I do not need an expert to explain the issue to me because I have lived it. When I was the Mayor of Hazleton, Pennsylvania, we had a massive illegal immigration problem, as our population grew by 50 percent, but our tax revenue stayed the same.

Hospitals and schools were overcrowded, our police force was overwhelmed by the increased crime, and resources were stretched thin and diverted from tax-paying Americans and legal immigrants.

We are a compassionate Nation, one with a proud and diverse history. However, too often I am told we must have compassion for the illegal alien who broke the law to enter our country. But I have sat at the tables of Pennsylvanians who have lost loved ones to the violent acts of illegal aliens, and it is those people for whom I have compassion.

We as a Congress have failed by not enforcing the laws of our land and refusing to put the safety and well-being of the American people first.

For example, in Philadelphia, multiple child molesters have been released back onto the streets because of the city's sanctuary policy.

Deadly narcotics like fentanyl continue to flood across our borders. In Pennsylvania alone, drug overdose deaths rose by 37 percent in 2016 according to the Drug Enforcement Administration.

It is time to secure our borders, enforce our Federal laws, and put America first.

**Ms. MCSALLY.** We are pleased to have Commissioner Kevin McAleenan before us today to discuss a wide range of issues facing CBP. Commissioner McAleenan was sworn in on March 20, 2018, as the fifth commissioner of U.S. Customs and Border Protection.

Prior to his confirmation, Mr. McAleenan served as the acting commissioner since the beginning of this administration. As the agency's chief executive, Mr. McAleenan oversees 60,000 employees, manages a budget of over \$13 billion, and ensures the effective operations of CBP's mission to protect National security while promoting economic prosperity. The witness's full written statement will appear in the record.

The Chair now recognizes Commissioner McAleenan for 5 minutes.

**STATEMENT OF KEVIN K. MC ALEENAN, COMMISSIONER, U.S. CUSTOMS AND BORDER PROTECTION, U.S. DEPARTMENT OF HOMELAND SECURITY**

**Mr. McAleenan.** Thank you, Chairwoman McSally, Ranking Member Vela. It was nice to see the full committee Chairman McCaul as well as Ranking Member Thompson here and Members of the subcommittee.

Thank you for the opportunity to appear before you today. It is a privilege to speak to you about my priorities as commissioner and to represent the nearly 60,000 strong men and women of U.S. Customs and Border Protection.

The opportunity to lead and work alongside these men and women is the biggest privilege of my professional life. CBP is central to many priorities for the American people and the administration, from countering terrorism, to enhancing border security, to securing and facilitating trade and travel.

Our dedicated officers and agents, specialists, pilots, and support personnel are relentlessly pursuing a more secure and economically competitive Nation. My vision for CBP is that we aspire to become the most effective, most innovative, and most trusted and transparent law enforcement agency in the United States while remaining the premier border security and management agency in the world.

During my tenure as CBP commissioner, I have committed to five overarching priorities: Attracting, retaining, and developing the most qualified and resilient workforce to serve our Nation and meet tomorrow's challenges; accelerating the adoption of innovative technologies to keep America and our people safe; building and strengthening partnerships across Government and with international counterparts; transforming the ways that our stakeholders interact with CBP and our operations; and investing in our culture through Unity of Effort initiatives that further develop a common

purpose and a mission commitment across all CBP's operational and support components.

My written testimony submitted to the committee further elaborate CBP's on-going efforts to enhance our security and strengthen our organization, keeping our Nation safe my priority strategies for continuing to improve.

With the support of Congress to provide the resources, authorities, and legislative changes we need, I believe that CBP will continue to make great strides across our core missions and in every area of our operations.

We will also enhance her internal integrity programs and pursue transparency and professionalism measures that will help us increase and maintain the trust of the public we are sworn to serve.

But even as we continue to enhance border security at and between ports of entry, increasing our effectiveness at identifying and interdicting threats, apprehensions of those crossing our borders illegally or who are determined to be inadmissible at ports of entry continue to rise.

Seizures of illicit hard narcotics are also increasing across all categories, both at and between ports of entry, especially methamphetamine and synthetic opioids like fentanyl. As we strengthen our screening and vetting across multiple agencies to identify potential threats before they enter the United States, we continue to face a multifaceted and dispersed terrorist adversary.

We need to continue to invest in and deploy critical capabilities to prevent and interdict illegal crossings between ports of entry: A modern border wall system, situational awareness sensors, airborne mobile and fixed, access and mobility and mission readiness, our virtual agents, pilots, and air interdiction agents and support personnel.

At our ports of entry, we need enhanced nonintrusive inspection equipment to detect deep concealment of drugs and CBP officers and agriculture specialists, for trade enforcement mission will augment our dedicated an expert team with additional specialists, auditors and attorneys, and we need to continue to build our world-leading capabilities at the National target center and develop the new National vetting center as well as supporting increase capacity for international partners.

But CBP is ultimately only one part of a much larger system, one that neither begins or ends at our borders. To address threats of illegal immigration and human smuggling, narcotics trafficking and terrorism, we need to close legal loopholes in our immigration enforcement system, expand our investigative and interdiction reach, and strengthen international partnerships and policy alignment.

Illegal and irregular immigration will continue at increasing levels unless a systemic vulnerabilities in our statutory regime are addressed. If only a small percentage of those border crossings apprehended by the Border Patrol in certain categories are effectively repatriated, others drawn by strong economy, the prospect of family reunification, and the promise of a successful crossing will continue to follow.

These loopholes create a powerful magnet, draining energy and youth from Central America even as we work to invest and partner in the security and prosperity of the neighboring region.

They put children at risk of violence and assault, they enriched transnational criminal organizations, and they threaten the security of our international neighbors and our domestic neighborhoods.

The administration's legislative priorities on the unaccompanied children family units, asylum and credible fear, along with the requested investments in Central America and elsewhere would help address these issues.

I urge Congress to act on these priorities and I look forward to working with Members on both sides of the aisle to address these challenges. Border security is National security; it is a nonpartisan issue.

With the on-going support of Congress, CBP will continue to secure our Nation's borders while facilitating international trade and travel. Our dedicated front-line workforce and our supporting team will ensure it.

Thank you for the opportunity to appear before you today. I look forward to answering your questions.

[The prepared statement of Mr. McAleenan follows:]

PREPARED STATEMENT OF KEVIN K. MCALLEANAN

APRIL 25, 2018

INTRODUCTION

Chairwoman McSally, Ranking Member Vela, and distinguished Members of the subcommittee, thank you for the opportunity to appear before you today on behalf of U.S. Customs and Border Protection (CBP). I was deeply honored to be confirmed by the Senate, and sworn in by the Secretary on March 20, as the fifth commissioner of CBP. It is a privilege to continue working alongside some of the finest professionals in Government service to tackle the most compelling mission set in law enforcement.

CBP is central to so many priorities for the American people and the administration, from countering terrorism, to enhancing border security, to securing and facilitating trade and travel. In our relentless pursuit of a more secure and economically competitive Nation, we aspire to be the most innovative and trusted law enforcement agency in the world. During my tenure as CBP commissioner, I am committed to streamlining CBP efforts and focusing on Unity of Effort through a "One CBP" culture; to attracting and retaining the best workforce to serve our Nation and meet tomorrow's challenges; to accelerating the adoption of innovative technology to keep America and our workforce safe; to building and strengthening partnerships across Government and with our international counterparts; and to transforming the ways our stakeholders interact with CBP.

My testimony today discusses CBP's on-going efforts to keep our Nation safe and my priority strategies for enhancing those efforts. I also appreciate the important oversight responsibility of this committee and pledge to continue working with you to ensure we carry out our missions in a manner consistent with the law.

With the support of Congress to provide us the resources, authorities, and legislative changes we need, I believe that CBP will make strides across our core missions and in every area of our operations, from border security, counterterrorism, agriculture protection, and travel and trade facilitation to trade enforcement. We will also enhance our internal integrity programs and pursue transparency and professionalism measures that will help us increase and maintain the trust of the public we are sworn to serve.

My vision for the organization is that CBP become the most effective, most innovative, and most trusted and transparent law enforcement agency in the United States, while remaining the premier border security and management agency in the world. Investing and focusing on developing our culture, supporting and building our workforce and its resiliency, and capitalizing on emerging technologies will help

us deepen partnerships and enhance how we engage our stakeholders, for the traveling public and trade communities and others that we regulate or interact with.

#### CBP UNITY OF EFFORT AND “ONE CBP”

As America’s unified border agency, CBP protects the United States from terrorist threats and prevents the illegal entry of inadmissible persons and contraband, while facilitating lawful travel and trade. Before the creation of the Department of Homeland Security (DHS) and CBP, border security, trade and travel compliance, and the facilitation of international travel and trade were conducted by multiple agencies. After September 11, 2001 I was extraordinarily fortunate to have the opportunity to help lead the new focus on counterterrorism within the United States Customs Service and then support the transition to our unified border security agency as U.S. Customs and Border Protection. On March 1, 2003, CBP became the Nation’s first comprehensive border security agency with a focus on maintaining the integrity of the Nation’s boundaries and POEs. The consolidation of these roles and responsibilities allowed CBP to develop seamless security procedures while ensuring compliance with the Nation’s immigration, health, and international trade laws and regulations.

Because of the work of CBP employees, the Nation’s borders and the American communities around them have never been more secure. But there is much more to be done. As CBP progresses into its second decade, the Nation will see a fully integrated approach to international security, trade, and travel that makes the world safer, facilitates international travel and trade, and pushes forward the continuous improvement of CBP’s operations. I am honored to lead these efforts.

#### ATTRACT AND RETAIN A WORLD-CLASS WORKFORCE

CBP’s U.S. Border Patrol (USBP) and Air and Marine Operations (AMO) agents patrol our Nation’s borders, maritime approaches, and associated airspace to prevent the illegal entry of people and goods into the United States. CBP officers and agriculture specialists are multi-disciplined and perform the full range of inspection, intelligence analysis, examination, and law enforcement activities relating to the arrival and departure of persons, conveyances, and merchandise at air, land, and sea POEs. The people of CBP do the critical, sometimes dangerous work of keeping Americans safe, often in remote locations and in all kinds of environmental conditions. I am proud of their dedication, integrity, and commitment, and it is a privilege to work for and alongside each and every one of them.

CBP has faced challenges in the past to meet our hiring goals. However, we have taken decisive action, while recognizing that much work remains to be done to ensure we have enough officers and agents to meet our needs well into the future. In the last 2 years, more than 40 individual improvements to CBP’s hiring process have resulted in significant recruitment and hiring gains—despite record low unemployment around the United States and intense competition for highly-qualified, mission-inspired people. With support from Congress, we are making investments in our capability and capacity to hire across all front-line positions. CBP is focusing on efforts to attract qualified candidates and expedite their progress through the CBP hiring process.

In the last 2 years, CBP has undertaken a comprehensive effort to look across all of our recruitment and hiring process areas. We implemented process changes that have resulted in significant recruitment and hiring gains. We embraced the use of social media, and are working to more effectively identify the best return on investment in digital media. We have also introduced a mobile app for applicants in our hiring pipeline to keep them engaged during the process. We are going to introduce an “applicant care” component whereby we assign a dedicated employee to an applicant to help them navigate the process. We are also leveraging private-sector expertise and experience in recruiting and human resources to provide additional capacity.

CBP’s streamlined front-line hiring process has led to significant reductions in the average time-to-hire. In the last 12 months close to 70 percent of new USBP agents and 60 percent of new CBP officers on-boarded in 313 days or fewer, with 17 percent of each occupation on-boarding within 92 days. While work remains to be done to improve the process, this is a significant improvement from the 469-day overall baseline established in January 2016. This streamlined process has helped us to grow our workforce by reducing the number of qualified candidates who drop out due to process fatigue or accepting more timely job offers elsewhere. CBP’s background investigation time is approximately 90 days for a Tier 5 level investigation, which is required for all of CBP’s law enforcement officer applicants and 90 percent of CBP applicants overall. This is considerably faster than the Government average

for the same level investigation. CBP is also recognized as having a best practice quality assurance program, which other agencies regularly visit CBP to learn about.

As a result of these improvements, CBP's fiscal year 2017 hiring totals surpassed fiscal year 2016 totals, including increases of 21 percent for CBP officers, 4 percent for USBP agents, and 91 percent for AMO air interdiction agents. In fiscal year 2017, CBP reached the highest number of USBP agent hires since fiscal year 2013, and the highest number of air interdiction agents and marine interdiction agent hires since fiscal year 2014. The total number of front-line applicants increased by 73 percent between fiscal year 2015 and fiscal year 2017, including a 41 percent increase from fiscal year 2016 to fiscal year 2017.

CBP is also actively working to minimize attrition and fill positions in "hard-to-fill" locations that are often remote and offer very limited amenities compared to metropolitan locations. A stable relocation program will help meet USBP operational requirements and alleviate the workforce's concerns about lack of mobility, which is significantly contributing to increased attrition. CBP is thankful for the continued dedication of Members of Congress to working collaboratively with CBP to find a variety of targeted solutions to address our complex hiring challenges.

Consistent with the Explanatory Statement accompanying the fiscal year 2017 Consolidated Appropriations Act concerning the alternative polygraph exam format, CBP conducted a 6-month pilot program that allowed the agency to compare data points from applicants tested with the new, alternative format against applicants tested with the previous format. CBP developed this pilot in collaboration with the National Center for Credibility Assessment, which governs all Federal polygraph programs. Before making any determination on whether to continue with the piloted test or return to the previous test, CBP is carefully evaluating these metrics and measures to maintain CBP's high standard of integrity for future applicants, and we ensure on-going communication with Congress on this area of interest. While its format may change, the exam retains all of the critical test topics of the previous exam and maintains CBP's commitment to high integrity standards for its personnel.

Additionally, DHS supports the Anti-Border Corruption Reauthorization Act of 2017, which was ordered as H.R. 2213 in the House of Representatives and S. 595 in the Senate. The House passed H.R. 2213 on June 7, 2017, thanks to the strong support of this subcommittee and the co-sponsorship of Chairwoman McSally, and the bill is currently pending vote by the Senate. This pending legislation grants the Commissioner authority to waive the polygraph requirement for three groups of applicants who have a demonstrated, long-standing history of public trust and meet specific criteria: Current, full-time State and local law enforcement officers; current, full-time Federal law enforcement officers; and veterans, active-duty service members, and reservists. We thank the Members of Congress for your continued support as we seek to hire the men and women who will fulfill CBP's complex and crucial mission in the months and years to come.

#### EMPOWER WITH INNOVATIVE TECHNOLOGY

Technology enhances CBP's operational capabilities by increasing our ability to detect and apprehend individuals illegally crossing the border, to detect dangerous goods and materials concealed in cargo and vehicles, and to detect and interdict illegal activity in the air and maritime domains. Advanced detection and surveillance technology is a critical element of CBP's multi-layered border security strategy to deploy the right mix of personnel, technology, and tactical infrastructure to enable us to meet the everyday challenges of a dynamic border threat environment. For CBP, the use of technology in the border environment is an invaluable force multiplier that increases situational awareness. It allows us to more quickly deter, and more safely detect illegal activity, including unauthorized border-crossers, and interdict illicit materials, including illicit narcotics, and those who attempt to smuggle them.

#### *Border Security*

President Trump has directed CBP toward a new standard of border security between the POEs, and defined operational control as the ability to prevent or interdict all illegal border crossings. To make progress toward this standard, CBP will need substantial investments in impedance and denial capabilities, surveillance technology, access and mobility, and mission readiness and personnel. For impedance and denial, a modern border wall system will significantly enhance CBP's efforts to attain operational control of the border between the POEs. Border barrier systems are comprehensive solutions. A wall system that integrates sensors, cameras, lighting, and access and patrol roads, has the support of our USBP agents working our borders and is the direct result of an in-depth analysis of existing capa-

bility gaps. Between the POEs, tactical infrastructure, including physical barriers, has long been a critical component of CBP's multi-layered and risk-based approach to securing our Southwest Border. It is undeniable that border barriers have enhanced—and will continue to enhance—CBP's operational capabilities by creating persistent impedance and facilitating the deterrence and prevention of illegal entries of people and contraband.

Constructing and improving CBP's physical infrastructure is also essential to keeping Americans safe. CBP is investing in modernizing our land POEs along the Northern and Southern Borders to ensure that CBP's physical infrastructure is operationally viable for front-line and mission support functions. Thanks to the funding provided in the fiscal year 2018 Omnibus, CBP is working with the General Services Administration (GSA) to ensure that our priority requirements in locations including Otay Mesa, CA, and Alexandria Bay, NY receive much-needed updates. We look forward to working with GSA and Congress to ensure that our physical infrastructure meets CBP's needs now and in the future.<sup>1</sup>

CBP is actively engaging with our Nation's best minds in and outside of Government to find innovative solutions to the challenges facing our country. For example, groundbreaking software developed by the Johns Hopkins University Applied Physics Laboratory is giving AMO agents the edge in combating international smugglers intent on evading law enforcement. Minotaur, as the software is called, links sensors, cameras, radar, and communications equipment into a single, automated system, allowing operators to more efficiently identify and track any suspicious or illegal activity on both land and sea. This technology, when coupled with robust space-based satellite links, allows AMO to increase the situational awareness of its law enforcement partners by sharing video and radar track data real-time. As the Minotaur system evolves, it will allow multiple aircraft to share information from multiple sources, providing a never-before-seen level of air, land, and maritime domain awareness for a larger number of users.

CBP is also partnering with DHS Science and Technology to access emerging technologies and tools from startups and others. From innovative surveillance approaches that can provide multi-sensor data direct to our agents, to tools to protect our canines, to analyzing data feeds, to empowering our agents on the ground with portable small unmanned aircraft systems capability, CBP will continue to push for more efficient and effective ways to support our personnel and carry out our mission.

But CBP is part of a system which neither begins nor ends at our borders, and which innovative technologies and enhanced interdiction capabilities alone cannot prevent illegal crossings. The administration seeks support from Congress to amend current law to facilitate the expeditious return of Unaccompanied Alien Children (UACs) and family units who are ineligible for relief. The administration supports correcting the systemic deficiencies that created the asylum backlog, and supports providing additional resources to reduce the immigration court backlog and ensure the swift return of illegal border crossers. I look forward to working with Congress on the legislation needed to enhance the security of our country, ensure effective immigration and enforcement, and protect American workers and taxpayers. These legislative needs have a direct impact on CBP and our ability to perform our mission.

#### *Narcotics Interdiction*

As America's unified border agency, CBP plays a critical role in preventing dangerous drugs, including opioids, from reaching the American public. CBP uses advanced detection equipment and technology, including Non-Intrusive Inspection (NII) equipment and radiation detection technologies, to maintain robust cargo, commercial conveyance, and vehicle inspection regimes at our POEs. NII technologies deployed to our Nation's land, sea, and air POEs include large-scale X-ray and gamma-ray imaging systems, as well as a variety of portable and hand-held technologies. NII systems enable CBP officers to examine cargo conveyances such as shipping containers, commercial trucks, and rail cars, as well as privately-owned vehicles, for the presence of contraband without physically opening or unloading them. CBP is establishing the Model Port concept as the guiding framework to streamline the cargo and passenger vehicle inspection process to increase the volume of vehicles examined. We anticipate completing testing and evaluation of drive-through X-ray system pilots this year. Additionally, we anticipate completing the technical architectural framework that will be used within the design for the Donna, Texas land

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<sup>1</sup> Alexandria Bay, NY, Lewiston Bridge, NY, San Luis I, AZ, Otay Mesa, CA, Blaine, WA, and Calexico West, CA have been identified as priority requirements in the President's fiscal year 2019 budget.

POE through the Donations Acceptance Program. We will continue to adapt our deployment of NII systems so that we can work smarter and faster in detecting contraband, while expediting legitimate trade and travel. Additionally, Operations Support's Laboratories and Scientific Services Directorate plays a critical role in the detection of opioids and in identifying the chemical screening devices that will help CBP target new designer drugs, including opioids.

All told, in fiscal year 2017 CBP officers and agents seized or disrupted over 1.9 million pounds of narcotics across the country, including over 60,000 pounds of methamphetamine, over 330,000 pounds of cocaine, over 4,800 pounds of heroin, and approximately 1,476 pounds of illicit fentanyl.<sup>2</sup> More than 790 pounds of illicit fentanyl have already been seized in fiscal year 2018.

CBP, with the support of Congress, has made significant investments in and improvements to our drug detection and interdiction technology and targeting capabilities at and in between our POEs, including in the international mail and express consignment carrier (ECC) environments. The United States Postal Service (USPS) receives international mail from more than 180 countries, the vast majority of which arrives via commercial air or surface transportation. An increasing number of foreign postal operators provide advance electronic data (AED) to USPS, which is then passed on to CBP.

CBP and the USPS are currently conducting an AED pilot on express mail and e-packets from select countries at five of our main International Mail Facilities (IMFs) to target high-risk shipments, with plans for further expansion. USPS is responsible for locating the shipments and delivering them to CBP for examination. Thus far in fiscal year 2018, CBP has interdicted 186 shipments of fentanyl at the John F. Kennedy International Airport IMF, a participant in the AED pilot program. One hundred and twenty-five of those interdictions can be attributed to AED targeting. We support efforts to expand the ability of USPS to collect fees to help offset the additional cost associated with building the capacity of foreign postal operators to implement AED collection, to develop new scanning technology, and to greatly increase the availability of AED for international mail.

Recent agreements between USPS and foreign postal operators regarding AED have increased CBP's ability to target high-risk shipments. Currently in the international mail environment CBP receives AED on over 40 percent of all international mail shipments with goods. The volume of mail and the potentially hazardous nature of various types of illicit drugs presents challenges to CBP's interdiction efforts in the international mail environment. CBP will continue to work with USPS and the U.S. Department of State (DOS) to address the issue of AED and, through its participation on U.S. delegations to meetings of the Universal Postal Union (UPU), is working to expand the use of AED globally in ways consistent with the United States' international obligations as a member of the UPU.

#### BUILD AND DEVELOP PARTNERSHIPS

CBP is committed to fulfilling our complex missions and to do that, we are working with our partners across the country and around the world. I am actively seeking to deepen our partnerships across all levels of government and with our international counterparts to ensure that information is shared quickly, resources are spent where they are most needed, and that the American people and economy are kept safe.

#### *Counter-Terrorism*

Since September 11, the U.S. Government has improved information sharing regarding known or suspected terrorists (KSTs), including by creating the Terrorist Screening Center (TSC). The TSC is a multi-agency organization administered by the Federal Bureau of Investigation (FBI), and is responsible for managing and sharing the Terrorist Screening Database (TSDB) which contains identity information on international and domestic KSTs. We have also worked closely with our foreign partners to deepen bilateral and international information sharing to enhance the depth and quality of our information holdings.

For example, CBP offers its automated targeting system-global (ATS-G) software, along with technical assistance, to potential international partners. ATS-G is similar to the software used at the National Targeting Center (NTC) and evolved from decades of experience designing and operating passenger and cargo targeting systems. The software can vastly improve how travelers flying in and out of a country are vetted.

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<sup>2</sup>[https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics-fy\\_2017](https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics-fy_2017).

CBP also created the global travel assessment system (GTAS). GTAS permits foreign countries to independently perform vetting activities without the collaboration involved with ATS-G. Launched in 2016, GTAS is free and designed for rapid use. The software is easily downloaded from a special CBP website and ready to use. It can also be used to improve an existing vetting system because the coding allows nations to customize the software or just download the portions that meet their needs.

GTAS is comparable to ATS-G because GTAS also automatically evaluates passenger manifests in real time to identify suspicious travelers or crew members who may pose a National security risk and require a closer assessment. Using GTAS, governments can screen suspects before they enter or leave that nation. Since the software is new, CBP is working with the World Customs Organization in Brussels, a group that promotes trade and supply chain security, to promote this software. In an interconnected world, it is more important than ever that countries conduct these risk assessments, and CBP is helping advance global security through ATS-G, GTAS, and the expertise of the NTC.

#### *National Targeting Center (NTC)*

At CBP's NTC, advance data and access to law enforcement and intelligence records converge to facilitate the targeting of travelers and cargo that pose the highest risk to our security in all modes of inbound transportation. The NTC takes in large amounts of data and uses sophisticated targeting tools and subject-matter expertise to analyze, assess, and segment risk at every stage in the cargo/shipment and travel life cycles. As the focal point of that strategy, the NTC leverages classified, law enforcement, commercial, and open-source information in unique, proactive ways to identify high-risk travelers and shipments at the earliest possible point prior to arrival in the United States.

To bolster its targeting mission, the dedicated men and women of the NTC collaborate with critical partners on a daily basis, including ICE Homeland Security Investigations (ICE-HSI), the Drug Enforcement Administration (DEA), the FBI, members of the intelligence community (IC), and the U.S. Postal Inspection Service (USPIS). ICE-HSI and USPIS investigative case data is fused with CBP targeting information to bolster investigations targeting illicit narcotics smuggling and trafficking organizations. Moreover, NTC works in close coordination with several pertinent task forces, including the Organized Crime Drug Enforcement Task Forces (OCDETF), the High Intensity Drug Trafficking Areas, the Joint Interagency Task Force—West (JIATF-W), the HS Joint Task Force—West (JTF-W), and DHS Joint Task Force—Investigations (JTF-I).

#### *National Vetting Center*

On February 6, 2018, President Trump ordered the establishment of a National Vetting Center (NVC), to be managed by DHS under the guidance of a newly-established National Vetting Governance Board. CBP will be a key component helping lead the implementation of the NVC. The NVC will be co-located with the NTC to leverage its existing capabilities, workforce, system capabilities, network connections, and interagency presence. The NVC will provide front-line Government personnel with the information they need to keep terrorists, criminals, and other threats out of the country. Consistent with applicable law and policy, it will ensure that international travelers and visa and immigration benefit applicants are vetted against all appropriate U.S. Government information to identify National security and public safety threats.

#### *Border Security*

The number of individuals apprehended while trying to enter the country illegally in between established POEs, and in those presenting themselves for entry without proper documentation along our Southwest Border, increased by 37 percent from February to March 2018. When compared to March 2017, the increase is an extraordinary 203 percent.<sup>3</sup> CBP is committed to working with our domestic and international Government partners to secure our border and anticipate—and even prevent—increases in apprehensions.

To enhance CBP's capability in Southwest Border sectors the U.S. Department of Defense (DOD), in conjunction with border State Governors, has begun deploying the National Guard to assist in stopping the flow of deadly drugs and other contraband, gang members and other criminals, and illegal aliens into this country. Initial forces are already on the ground. The National Guard will assist CBP by providing logistical and administrative support, operating detection systems, providing mobile

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<sup>3</sup><https://www.cbp.gov/newsroom/stats/sw-border-migration>.

communications, augmenting border-related intelligence analysis efforts, and repairing border infrastructure. National Guard members will provide added surveillance, engineering, administrative, and mechanical support to our agents on the front line to allow them to focus on their primary responsibility of securing our border. National Guard personnel will not conduct law enforcement activities, will not be assigned responsibilities that require direct contact with migrants, and will not be assigned missions that require them to be armed. This deployment will allow CBP to send front-line personnel back to the border and raise our interdiction and efficiency rates. CBP is working with DHS and DOD to ensure a seamless coordination of efforts.

Throughout Central America, CBP leverages its Attaché and Advisor network to engage local immigration, border management, and police authorities, as well as our Federal partners such as the DOS International Narcotics and Law Enforcement (INL), U.S. Agency for International Development (USAID), and ICE to enhance security and promote prosperity in the region. CBP efforts in the region include training, mentoring, and sharing best practices with local law enforcement; making customs processes more efficient and transparent to enhance trade facilitation; and build the capacity of law enforcement in each country to counter drug smuggling activities, monitor, track, and deter the illicit migration of third-country nationals, and facilitate cross-border coordination.

CBP hosts monthly briefings/teleconferences with Federal, State, and local partners regarding the current state of the border—both Northern and Southern—to monitor emerging trends and threats and provide a cross-component, multi-agency venue for discussing trends and threats. The monthly briefings focus on drugs, weapons, and currency interdictions and alien apprehensions both at and between the POEs. These briefings/teleconferences currently include participants from: The Government of Canada, the Government of Mexico, the Government of Australia, ICE, U.S. Coast Guard (USCG), DEA, FBI, DOD's U.S. Northern Command, U.S. Central Command, U.S. European Command, and U.S. Southern Command, Joint Interagency Task Force—South (JIATF-S), the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), U.S. Attorneys' Offices (USAOs), Naval Investigative Command, State and Major Urban Area Fusion Centers, and other international, Federal, State, and local law enforcement as appropriate.

The Office of Intelligence (OI) hosts a bi-weekly fusion forum to facilitate an open discussion with CBP's Federal, State, local, and international partners on emerging trends and patterns, specific problem sets confronted by each organization, and each organization's attempts to address them. Additionally, OI personnel take part in a variety of weekly or monthly conference calls related to a variety of issues affecting CBP's mission including narcotics, terrorism, trade, and migration.

CBP is enhancing our collaboration with other DHS components to leverage the unique resources, authorities, and capabilities of each agency to more effectively and efficiently execute our border security missions against drug trafficking organizations, transnational criminal organizations, and other threats and challenges. Under the Department's Unity of Effort initiative the JTF-W, JTF-East, and JTF-I operations also increase information sharing with Federal, State, and local law enforcement agencies, improve border-wide criminal intelligence-led interdiction operations, and address transnational threats.

#### *Extended Border: Source and Transit Zone Operations*

AMO's significant contribution of aerial support to the JIATF-S mission<sup>4</sup> to detect and monitor aerial and maritime transit of illegal drugs into the United States has been critical to JIATF-S's continued success. AMO's P-3s fixed-wing aircraft are an integral part of the successful counter-narcotic missions with the JIATF-S. P-3s patrol a 42 million-square-mile area that includes more than 41 nations, the Pacific Ocean, Gulf of Mexico, Caribbean Sea, and seaboard approaches to the United States. Already in fiscal year 2018, AMO involvement in the JIATF-S mission has resulted in the seizure of 52,839 pounds of cocaine, with a wholesale value of \$711 million.

#### *International Trade Coordination and Facilitation*

On March 26, 2018, I was in Mexico City to sign a memorandum of cooperation with Osvaldo Santin, Chief of Mexico's Tax Administration Service, to help our two countries better cooperate on trade and customs compliance, as well as combat illicit activities. Issues covered under this memorandum include anti-dumping duties, counterfeit merchandise, and substandard pharmaceuticals.

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<sup>4</sup>Title 10 U.S.C. § 124 statutory obligatory.

Additionally, CBP and the Mexican tax service signed a memorandum of understanding on a cargo pre-inspection program and Unified Cargo Processing (UCP). UCP currently operates at seven ports of entry along the U.S.-Mexico border, with the memorandum merging two more cargo pre-inspection sites into UCP. UCP eliminates duplicative inspection efforts while reducing border wait times and costs for the private sector. The new agreement looks to expand the process to possibly more than a dozen locations. CBP and the National Service for Agro-Alimentary Public Health, Safety, and Quality—Mexico's agency responsible for inspecting incoming goods for pests and diseases—also signed an agreement to enable collaboration between the two agencies on agriculture safeguarding, agriculture quarantine inspections at ports of entry, and information sharing. The memorandum promotes cooperation and information sharing to enable the United States to handle legitimate and safe shipments quickly while addressing those that pose a risk.

*Collaboration with our Trade Partners in the Private Sector*

CBP is actively engaging with our trade partners in the private sector. The Trade Facilitation and Trade Enforcement Act of 2015 (TFTEA) empowered CBP to collaborate with our partners in new ways, and CBP remains committed to enforcing trade law in accordance with the mandates of TFTEA and in close collaboration with our partners across Government and the private sector while facilitating legitimate trade.

The Commercial Customs Operations Advisory Committee (COAC) advises the Secretaries of the U.S. Department of the Treasury and DHS on all matters involving the commercial operations of CBP, including advising on significant proposed changes to regulations, policies, or practices. The trade environment is changing rapidly. Most notably, CBP has seen a nearly 50 percent increase in express consignment and international mail shipments over the past 5 years. In fiscal year 2013, CBP processed over 76 million express bills and, in fiscal year 2017, CBP processed approximately 110 million bills. In fiscal year 2013, CBP and the USPS processed approximately 150 million international mail shipments. By fiscal year 2017, the number of international mail shipments had swelled to over 400 million.

As new e-commerce participants may not know they are importers, or understand the responsibilities of being an importer, COAC identified the need for a mechanism to educate the public. COAC also identified the need for better data collection, automation, and a legal framework for sharing data. The working group also identified education and outreach as a need. As a follow-up to recent meetings, the working group developed recommendations that CBP is working to implement.

TRANSFORMING CBP

As international trade and travel grow, so too does CBP's workload and the expectations on our people and systems. I am committed to ensuring that we meet those expectations, and the new and changing demands placed on CBP, with the utmost professionalism in keeping with the CBP vision: To serve as the premier law enforcement agency enhancing the Nation's safety, security, and prosperity through collaboration, innovation, and integration.

*Biometric Exit*

Since fiscal year 2013, CBP has led the entry/exit mission, including research and development of biometric exit programs. A comprehensive entry/exit system that leverages both biographic and biometric data is key to supporting DHS's mission. Adding biometrics provides greater assurance of the information already collected by CBP and will allow for future facilitated processing upon both entry and exit. CBP will use a traveler's face as the primary way of identifying the traveler to facilitate entry and exit from the United States, while simultaneously leveraging fingerprint records from most foreign visitors, such as are collected during entry processing, to check derogatory holdings and perform other law enforcement checks. This innovative structure will make it possible to confirm the identity of travelers at any point in their travel, while at the same time establishing a comprehensive biometric air exit system.

Using the Traveler Verification Service (TVS), CBP has re-architected data flows and data systems to pre-stage biometric data throughout the travel process. TVS, a robust cloud-based service, serves as the backbone to verify traveler identity across the air, land, and sea travel modes of operation. TVS uses biometric data to retrieve all associated traveler facial images from DHS holdings and segregate them into smaller, more manageable data sets, for example, by flight, by cruise, or by frequent border crossers. It fuses biometric and biographic information, enabling the biometric data to be the key to verifying traveler identity with the advance data.

CBP has demonstrated the capabilities of TVS at airports across the United States<sup>5</sup> as well as in the sea environment and plans to pilot the capability at land POEs in 2018.

CBP is continuing to discuss with additional airlines how they can be incorporated into the program, and we are ready to partner with any airline or airport that wishes to use biometrics to expedite the travel process for its customers. One of our biometric exit partners has told us that the new process allows it to board an A380, the largest passenger plane in wide operation in the world, in less than 20 minutes.

In the land border environment CBP will conduct a technology demonstration for “at speed” facial biometric capture camera technology on vehicle inbound and outbound travelers at our land POEs. CBP will utilize operational facilities at the Anzalduas, Texas, POE to evaluate performance of “at-speed” facial technology including determining optimal equipment placement, number of cameras necessary to capture photos beyond the driver, and establish performance baselines.

Comparative analysis will be performed on facial recognition matching algorithms being developed by academia and industry on images captured during the technology demonstration against traveler photos on file in Government holdings. CBP will create a gallery of expected border crossers and validate the concept of “face as a token” and close the arrival departure reporting gap in the vehicle environment. The technology demonstration will begin in 2018.

#### *Simplified Arrival*

Our new simplified arrival process quickly and reliably uses the traveler’s face to biometrically verify identity and retrieve traveler records from our systems. This eliminates manual, time-consuming steps for most travelers, such as document scans and fingerprint captures, which speeds up the inspection process. Simplified Arrival is the first step in re-envisioning the entirety of how travelers arrive in the United States. With a faster clearance process, airlines, airports, and travelers benefit from shorter connection times and standardized arrival procedures. Our initial pilot programs in Miami have shown that arriving passengers can clear the immigration and customs area 35 percent faster using the new biometric process.

CBP is committed to working with our travel industry partners to transform the international travel process and enhance the passenger experience. CBP’s goal is to integrate best practices into existing processes and infrastructure to ensure a seamless, secure travel experience for everyone.

#### *Web-based service*

We are committed to making sure that travel is secure and straightforward. For example, in January 2018, CBP launched two new traveler compliance initiatives to make it easier for Visa Waiver Program (VWP) travelers to check the status of their stay in the United States and remain in compliance with the terms of their admission. A new feature added to the I-94 website under the “View Compliance” tab allows VWP travelers to check the status of their admission to the United States. This check will inform travelers of the number of days remaining on their lawful admission or the number of days they have remained past their admitted until date. In addition, CBP will now send an email notification to VWP travelers who are still in the United States 10 days prior to the expiration of their lawful admission period. CBP has taken these proactive steps to help inform and remind travelers of the terms of their admission and to prevent travelers from overstaying.

#### *Automated Commercial Environment (ACE)*

With the strong support of Congress, CBP reached an historic milestone on February 24, 2018, deploying the last of the major scheduled core trade processing capabilities in the Automated Commercial Environment (ACE). ACE is the “Single Window” through which all import and export data are reported by industry to more than 47 partner Government agencies, automating 269 different forms and streamlining trade processes. Built on a modernized platform, ACE has resulted in a 44 percent reduction in wait times for truck processing at land POEs and the 68 times faster processing of bonds.

Looking ahead, CBP will focus on sustaining all deployed ACE capabilities and ensuring ACE operates as a highly available, reliable system. There is an on-going

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<sup>5</sup> Washington Dulles International Airport (June 2017); Atlanta Hartsfield-Jackson International Airport (June 2017 upgrade demonstration capability; original pilot in 2016); Houston George Bush Intercontinental Airport (June 2017); Chicago O’Hare International Airport (July 2017); Las Vegas McCarran International Airport (July 2017); Houston William P. Hobby Airport (August 2017); John F. Kennedy International Airport (August 2017); Miami International Airport (October 2017)

demand for additional and enhanced ACE capabilities, and CBP will continue to collaborate with the trade community, partner Government agencies, and stakeholders to implement automated solutions that advance secure shipments, streamline trade processes and support the strong enforcement of trade laws. This includes increased focus on the rise of e-commerce and high-volume, low value shipments, an aspect of the U.S. economy that presents enforcement and trade facilitation challenges. System enhancements to enable *de minimis* functionality will provide CBP access to previously unavailable admissibility data for low-value shipments, resulting in improved cargo processing and use of enforcement resources.

#### *Transparency and Accountability*

As commissioner, I am committed to ensuring transparency and employee accountability regarding the use of force. The CBP National Use of Force Review Board (NUFRB) is a review committee established to review all significant use of force incidents—those that result in serious bodily injury or death and those that involve the discharge of a firearm,<sup>6</sup> regardless of the outcome. The NUFRB is comprised of senior officials from across CBP, as well as officials from DHS and DOJ. As of October 2017, there have been 11 meetings of the board. These meetings have reviewed 36 significant use of force incidents. CBP recently completed a web-based tracking system for recommendations made by the NUFRB.

Local Use of Force Review Boards (LUFRBs) were established to conduct an objective review of the use of less-lethal devices not addressed by the NUFRB. The LUFRBs provide CBP senior leadership with an objective assessment of less-lethal force incidents from a regional committee of leadership from components within CBP. CBP recently initiated the development of a web-based tracking system for cases that come before the LUFRB. This system will track the consideration and disposition of cases heard by the LUFRBs. These systems will help us hold one another accountable to the public—and to ourselves.

As part of CBP's continued emphasis on transparency and accountability, CBP is also beginning to implement Incident-Driven Video Recording Systems (IDVRS). CBP is first conducting a thorough field evaluation (March–September 2018) and analysis to provide more thorough information concerning the expansion of audio and video recording capabilities through the incorporation of IDVRS. In an effort to maintain a high level of transparency, CBP recently conducted a Privacy Impact Assessment (PIA). The goal of the evaluation was to determine the effectiveness of fixed, vehicle, and body-worn camera technology to provide an accurate representation of law enforcement encounters, while allowing CBP officers and agents to safely perform their duties. CBP published the PIA to evaluate the privacy concerns associated with CBP's use of incident-driven video recording technology at and between POEs and to inform the public of potential privacy concerns associated with the deployment of body-worn cameras and other audio/video recording devices, as well as CBP's planned efforts to mitigate those potential privacy concerns. The PIA is now available on the DHS website.<sup>7</sup>

Body-worn cameras alone may not be the proper solution. CBP seeks to determine the most effective and efficient solution to an IDVRS strategy, including a comprehensive incorporation of body-worn, vehicle-mounted, and permanently-fixed camera systems, to help CBP further fulfill our commitment to transparency and accountability. We will continue to pursue initiatives that advance our integrity and transparency.

#### CONCLUSION

The border environment in which CBP works is dynamic and requires continual adaptation to respond to emerging threats and rapidly changing conditions. I am proud of CBP's dedicated workforce, who continue to meet these challenges with integrity and commitment. The challenges facing our Nation are considerable. However, with the talents and energy of the people of CBP, along with the support of the administration and Congress, we will continue to make great strides in the months and years ahead.

Thank you for the opportunity to appear before you today. I look forward to working with you and your colleagues in Congress, and I look forward to your questions.

Ms. MCSALLY. Thank you, Commissioner, and I recognize myself for 5 minutes for questions.

<sup>6</sup>Excluding the euthanasia of an animal and AMO vessel disabling fire or warning shots.

<sup>7</sup><https://www.dhs.gov/publication/dhscbpia-052-incident-driven-video-recording-systems-idvrs-evaluation>.

We have been working on closing these legal loopholes for a while, and I want to recognize that my bill, along the Chairman McCaul and Goodlatte and Labrador, we address these issues, but for the public out there, the layman, our constituents, maybe they don't understand what we are talking about, right?

We are talking about how even if you have the will and the desire in order to secure the border and with your CBP personnel and your Border Patrol agents, if you catch someone, you are able to swiftly be able to send them back and then that deters others from coming and then it also stops the profits of the cartels, that these loopholes do not allow that to happen and we referenced it today. But can you paint it in layman's terms what the issue is and how it is being exploited by these cartels?

This caravan has gotten a lot of attention where there is a large group of people coming here. Many of them will also exploit this loophole, but it is happening every single day in the communities along the border. So can you—give you an opportunity to just talk through those and why it is so important that we in Congress close these loopholes so that you can do your job.

Mr. McAleenan. Sure. Thank you, Chairwoman. I would be happy to talk through the loopholes.

What we are facing at the border—and our sector chief and Rio Grande Valley, which is seeing about 50 percent of our apprehensions Nationally, has invented a new term to address the increasing traffic.

You highlighted some of it in your opening statement. As opposed to 90 percent adults in a migrant workforce that we saw in the past, we are now seeing 40 percent kids and families crossing the border. He is taking the calling of these populations nonimpactables, meaning that there is no consequence, there is no response to an illegal entry for these groups.

For unaccompanied children, I think you need only look at the disparity between Mexican nationals and children from Central America and further away. About 96 percent of Mexican unaccompanied children are returned within 3 years. That number drops to 3 percent for people from other countries.

Essentially, once a Border Patrol agent apprehends them, and usually they are actually looking for a Border Patrol agent once they cross the border, they are taken into custody, processed, and quickly turned over via our partners at Immigration and Customs Enforcement to Health and Human Services where they can be properly cared for.

They then have their sponsor vetted and they are turned over by Health and Human Services to someone living in the United States, possibly illegally. So that is the process for an unaccompanied child.

For a member of the family unit, if they are apprehended, and again, they are not always seeking to evade Border Patrol agents. Sometimes they are picked up relatively routinely right at the border line. They are turned over to ICE. ICE takes them to a family residential facility where they are processed and detained, generally for less than 20 days. That is the expected standard due to court decisions in the Ninth Circuit.

They are then released pending a court hearing, which could happen many years out, and in the mean time they are living here with authorization to be employed. This is a real challenge, because that first threshold of determining whether somebody may have a fear of returning to their country is very low, so a very high percentage gets that. But the ultimate court decision doesn't come for many years, so it creates a significant pull factor for others.

Then the third category is adults that claim fear, that also go through that asylum process and spend time here in between that initial determination of fear and that ultimate court decision, which could be many years out due to the significant backlog in our immigration courts.

So, for a Border Patrol agent on the border, they want to protect the American people from threats. They don't want to interdict and process people that are coming to claim asylum between ports of entry. It is not a good process. The status quo is not acceptable.

Ms. MCSALLY. Thank you. I appreciate you expanding on that. I mean, the thing that is—the insanity is that essentially the message is to any transnational criminal organization or really anybody, just get yourself, get your kid, just get to the border, look for someone, turn yourself in, say the right words, and then you can disappear into the interior of the United States with a very small percentage showing up for their court date in the future. Correct?

Mr. MCALEENAN. That is correct. That is exactly right. The transnational criminal organizations are preying on these individuals. They are charging them \$5,000 to \$10,000 to smuggle them to the border and allow them to use their area of the border to cross. That enriches organizations that are threatening the security and safety of Mexican citizens. It puts those children at risk of assault and violence in the process.

Ms. MCSALLY. Thank you. So can you talk about the caravan then? Then I will yield back and we will do another round, but can you talk about the caravan and how this is impacting—everyone is sort of watching this all happen with this big caravan, but this is happening every day in smaller numbers.

Mr. MCALEENAN. Right. I think the caravan highlights the challenge that the loopholes present. If we don't have alignment in migration policy between countries, destination and transit countries, if we don't have a statutory regime that has loopholes closed, this invites groups like this to try to come to our border and come into the United States in this irregular fashion.

So we are going to enforce the immigration law. We are going to absolutely treat claims of fear and protection fairly as we encounter this group. But it presents a challenge and I just think is highlighting publicly the issues that we are facing in the statutory regime.

Ms. MCSALLY. Thank you, and I yield back. The Chair now recognizes Mr. Vela.

Mr. VELA. Thank you, Chairwoman McSally. After we passed—after the House passed the spending bill, the House Democratic leader issued this statement. Democrats want explicit language restricting border construction to the same see-through fencing that was already authorized under current law.

What I am wondering if that is true or not, because when we take a look at the provision for \$445 million in primary pedestrian levee fencing, that comes out to \$17 million a mile. Can you elaborate on that? Because \$17 million a mile doesn't sound like it is just see-through fencing.

Mr. McALEENAN. So I think we are maybe covering a couple different topics together. The 2017 appropriated funding is for a replacement wall in El Paso sector, in El Centro sector, and San Diego—

Mr. VELA. Yes, 2017. I am talking 2018.

Mr. McALEENAN. Two-thousand eighteen, there is specific appropriations for Rio Grande Valley levee wall in Hidalgo County. That is a similar wall to what we built in 2008. That is actually not see-through, because it is a concrete wall that helps protect the levee. It is a hydraulic wall. That is consistent with the appropriations language, and it is something that we are working on planning and designing right now to build.

Mr. VELA. Yes, and that was precisely my question, because the statement seemed to be untrue, because that money is for a concrete levee wall, right?

Mr. McALEENAN. Yes, the language restricted to previous and similar designs, to previous efforts, and that concrete wall is very similar.

Mr. VELA. Now, in anticipation of our hearing today, I had some constituents actually e-mail, because representing the Rio Grande Valley sector, you can imagine there are people watching what we do. But I had one question from a constituent. In its end of year report, CBP reported a 45 percent increase in assaults over fiscal year 2016, over 847 assaults in fiscal year 2017.

Assaults against law enforcement personnel were led by U.S. Border Patrol, accounting for 93 percent of overall assaults and—reporting 6 percent of total assaults. I understand that the method for counting and tracking assaults on CBP personal changed a few years ago. Can you describe how these types of incidents are counted and if the methodology changed or not?

Mr. McALEENAN. Sure. First, I am very proud of the men and women who secure our border and face dangers every day on behalf of the American people. They are often subject to assault and violence in carrying out their duties.

We are talking about violent transnational criminal organizations that are often heavily armed that are prepared for encounters with law enforcement, and I am very proud of how they conduct themselves.

One of the areas where we have taken steps to increase our transparency is publishing a lot of data on our enforcement encounters, both in terms of our use of force by our agents and officers but also on the force that they face as they are patrolling the border.

So for our agents, we published two different sets of data simultaneously, the number of incidents of assault and the number of assaults, which could include the number of people mounting an assault, the number of agents that are impacted, or the weapons that are used in an assault.

So those two numbers are both transparently reported. We did see a spike, an increase last year in the assaults. I think that is a testament to the intensity of those incidents. We think it is appropriate to report both numbers to inform the public what our officers and agents are facing.

Mr. VELA. I know you and I are going to meet afterwards, so I will go into some of this other stuff later. Let me ask about this. With respect to infrastructure, can you tell us how much funding is needed to fully modernize land ports of entry? Is the donation authority program sufficient to make up this funding shortage?

Mr. MCALLENAN. So, you know, that is a great question, Congressmen. Our land ports of entry are critical to the economy of the United States, to the legitimate flow of trade and travel. You are absolutely right, there is a deficit in investment in ports of entry that is decades-long that we need to continue to work with Congress to fund.

CBP has developed a prioritized list in partnership with GSA, the Department of Transportation, the Department of Commerce, and our cross-border international partners where we need port of entry investment. Each year, we work to fit as much of that as we can in concert with GSA within the annual budget caps.

But really, we have about a \$4 billion deficit in ports of entry. So the donation acceptance program which allows us to work with private-sector entities, with cities and State and local governments like you referenced in South Texas, meet some of that need and provides flexibility where there is a return on investment.

But we are going to continue to need appropriated support for those gateways of international commerce that support all 50 States.

Mr. VELA. Well, thank you.

Ms. MCSALLY. Gentleman yields back. Chair now recognizes Mr. Rogers from Alabama.

Mr. ROGERS. Thank you, Madam Chairman. It was obvious from your first remarks in your opening statement that you recognize that the most valuable component of your border security system are people. We will talk about that more in a minute. But aside from that, when you look at border infrastructure, what do you think is the most critical component that you have to have to secure that border, the Southwest Border?

Mr. MCALLENAN. For security? So it is not coming from me. It is coming from our agents and our chiefs on the ground, who through a process every year called the capabilities gap analysis—that is then analyzed by our headquarters operations team—tell us what they need to secure that border.

They have consistently identified four master capabilities. The first is impedance and denial. That is the ability to stop someone from easily crossing and disappearing—we call it vanishing time—into the United States, into infrastructure and U.S. side.

The second is situational awareness, being able to see what is happening on that border through technology.

Third is access and mobility, the ability to reach that border and move laterally along it so that they can affect interdictions.

Last is mission readiness. That is our people and the communications equipment they carry with them to get to those spots.

Mr. ROGERS. The No. 1 ability to impede is a wall or barrier, correct?

Mr. McALEENAN. Border barrier is a proven technique. We have got 654 miles of it. It has been effective where we have applied it, reducing crossings 90 percent and more in key areas of San Diego, Yuma, El Paso, Nogales. It is a critical capability.

Mr. ROGERS. You just talked with the Ranking Member about the funds that you have had to work with. Do you have enough to be able to meet that challenge on that first component of border security?

Mr. McALEENAN. So, first of all, we appreciate the President's request, listening to agents on the ground and what they need to secure the border between ports of entry. This is a significant investment in 2017 and 2018 in border wall. Almost \$2 billion combined. That will help us get started.

It is certainly a significant replacement wall. The RGV wall that Congressman Vela alluded to, both a levee wall, which we are working on 25 miles of levee wall in Hidalgo County as well as 8 miles now in Starr County are important investments in our highest traffic sector that we are working hard to get built.

Mr. ROGERS. Well, it was obvious from your outline of your priorities that border security is a system. It is not any one thing. One of the things that you have listed—I think it was your No. 3 item—was technology. When it comes to procuring technology, can you describe for us your process for what you decide you need next and how you pursue that?

Mr. McALEENAN. Sure. Actually, we have had a lot of innovation in that side of our process lately by working with DHS science and technology to try to access more innovative technologies that are being developed by start-ups and provide a much faster cycle from identifying a capability that we could use in the hands of our agents and officers and then a contracting with a start-up to start piloting it and ultimately apply it.

We are doing that in multiple areas. A situational awareness system for our Border Patrol agents where they can have right there on a smartphone the picture from all the sensors in their area. They can know where their fellow agents are. For our trade professionals that are working on identifying threats, intellectual property rights, or supply chain elements that are by forced labor.

We have a contract on big data to help us analyze all the trade information flowing at us. For our canine teams that are working in 120 degree heat, say, in Calexico, California, we are looking at wearable technology to keep them safe and really trying to keep it that cutting-edge.

So it is really two things. It is the long-term planning on things that our integrated fixed towers where we have an on-going year-over-year contract with capable major systems integrators, but also trying to access that emerging technology and apply it more quickly and get it in the hands of our agents. They don't want to show up at work and put their smartphone on the dashboard. They want to be able to take that with them and apply its capabilities as they patrol.

Mr. ROGERS. Well, speaking of that, in March, the Acting Deputy Commissioner Vitiello told the subcommittee that fiber optic detec-

tion was something they wanted to incorporate. Is that something you still plan to do into your security systems?

Mr. MCALLENAN. Absolutely. That is a core component of what we are calling a border wall system. I didn't answer that part of Congressman's Vela question fully. The difference in cost of what we are proposing now from what we built in 2006 or 2008 is that instead of just building a physical structure, we are integrating the entire system, the sensors, the lighting, the cameras and the access and control roads that we need to make it effective. So it is a total cost, and for the property acquisition, it is a total cost, not just one piece of it.

Mr. ROGERS. Well, I hope you have success, because I have been trying to do that for the 16 years I have been here. It has never been a challenge that was met. Last, I hope you have success on trying to deal with your retention problems. It is hard to keep those folks on that border when they can make so much more money in a big urban area.

It is such a difficult environment to work in, but I hope you are successful. With that, I am sorry, my time is expired. I yield back.

Ms. MCSALLY. Gentleman yields back. The Chair now recognizes Mr. Correa from California for 5 minutes.

Mr. CORREA. Thank you, Madam Chairperson McSally and of course Chairman McCaul for your time and Ranking Member Thompson and Ranking Member Vela and of course Commissioner McAleenan for being here today.

I come from the State of California. Today we are probably the fifth or sixth largest economy in the world, and we are probably looking at becoming the No. 4 economy in the world since we passed up Great Britain. Unemployment right now in my county is less than 3 percent.

Big ag industry in my State, my farmers keep talking about the need for more workers. I think we can all agree that our immigration laws are broken in this country. Maybe not. But one thing we can all agree on is the issue of drug addiction, opioids, heroin, and the challenges it presents to our country. It is my understanding that addiction deaths up about 500 percent in this country right now, all over the country so the issue of illegal drugs is a major one for all of us and I think all of us can agree on that.

As we talk about those precious taxpayer dollars we have in this country, I wish we would have a matrix to measure what is effective and what is not in terms of, as we call it, addressing the border. Thirty years ago, the major port of entry for a lot of our drugs was Miami and as we tightened down on Miami the shift in drugs went from the seas to inland going through Mexico. Results were Mexico was effectively destabilized because of all the drugs running through Mexico, as well as the money, as well as the arms.

As we began to squeeze in that area, we will probably find Canada to be a major port of entry. Just where you are sitting Commissioner a few months ago, we had the commandant of the Coast Guard speaking. His testimony 2016, 580 ships that he knew were carrying drugs could not be stopped because they didn't have the assets in the Coast Guard to interject those ships as they were coming in from Latin America; 580 ships with drugs could not be stopped that we knew were heading to our shores.

So as we are looking at the effectiveness of a wall, in your words, it is an effective, proven tool. How does that compare to, for example, additional border agents at our ports of entry? I have gone to San Ysidro, California, the biggest entry, the biggest port, the biggest crossed border port in the world, and I have talked to those agents. What they have told me is give us more dogs, give us more X-ray machines, give us more trained personnel we can do better job.

As I talk to those agents, you can see them smiling from one end of their face to the other when I asked them about, tell me, how is it that you were able to spot that big shipment of drugs coming through? It wasn't about a wall. It was about trained agents being able to spot something irregular in that vehicle coming across the border.

So as we look at the American taxpayer, looking at how much we need to spend and we need to spend more on interjecting drugs, where would you say our priority is in terms of investment, on a wall, X-ray machines, trained personnel, trained dogs? I know you are going to say all of it is good, but if you had a buck, what would you spend it on first?

Mr. MCALLENAN. Thank you, Congressman, for that question. You predicted accurately that I was going to tell you it is a balanced package of all of that.

Mr. CORREA. Sir, I know it is balanced, but if I had to prioritize, where would you place your money first?

Mr. MCALLENAN. Well, Congress is helping prioritize by investing in our personnel.

Mr. CORREA. Sir, how would you prioritize that investment?

Mr. MCALLENAN. I would prioritize it in an even posture, because—

Mr. CORREA. So you say all of the above.

Mr. MCALLENAN [continuing]. Because we can't put it all in one area and not the other.

Mr. CORREA. Dogs, trained agents, X-ray machines, a wall, they are all equally—

Mr. MCALLENAN. Right.

Mr. CORREA [continuing]. Effective at the border in stopping drugs.

Mr. MCALLENAN. The fiscal year 2018 budget, which we appreciate greatly, has a nice balanced investment in all of those things. It is—nonintrusive inspection—

Mr. CORREA. But, sir, in your opinion as a professional, where do you think those dollars are the most effectively invested? I know what those border agents told me in San Ysidro. In your opinion, where are they most effectively invested?

Mr. MCALLENAN. So, at the ports of entry, there are two things. It is nonintrusive inspection technology, which includes the X-rays so we can get more vehicles through them. These are deep concealants that challenge our officers, more canines—

Mr. CORREA. I am running out of time, so let ask you—

Mr. MCALLENAN. And more CBP officers.

Mr. CORREA. Compared to that border, it is not one, it is the whole border, where is that money most effectively invested to interdict drug shipments?

Mr. McALEENAN. For hard narcotics, it is nonintrusive inspection technology. That is the most important.

Mr. CORREA. Madam Chair, I am out of time.

Ms. MCSALLY. The gentleman yields back. The Chair now recognizes Ms. Demings from Florida for 5 minutes.

Mrs. DEMINGS. Thank you so much, Madam Chairwoman, and to the Ranking Member, as well. Commissioner, it is good to see you. Congratulations on your confirmation.

Since 2009, the Orlando International Airport has seen its international passenger arrivals increase by 89 percent, yet the number of Custom and Border Patrol officers have stayed relatively flat.

As a former law enforcement officer, I was assigned out at OIA for a good number of years and so I know the critical role that your agency serves. The airport authority has invested millions of dollars in automatic passport control kiosks and other technology. But in 2007, Customs and Border Patrol officers serving at Orlando International Airport were notified that some of the officers would be redeployed for about 90 days to the Southwest Border crossings.

These temporary assignments would definitely—would continue indefinitely. At the time, CBP official also made statements—or officials also made statements that these assignments are beneficial to both the temporary duty locations as well as to their permanently assigned place because they had gained broader experience.

Could you please tell me, how does CBP determine which ports of entry will temporarily deploy officers to the Southwest Border? More broadly, how are you prioritizing personnel and resources for the ports of entry? I understand the—I guess I would say marching orders to—to the border but we are also extremely concerned about our ports of entry, as well.

Mr. McALEENAN. Sure. Thank you for that question. First of all, we have tremendous relationship with Orlando International Airport. Recently we have been piloting facial recognition technology with Orlando, and they are so impressed by the effectiveness that they are looking at expanding that partnership with us.

You are absolutely right. They have invested through a similar program to the donation acceptance program that we were talking about earlier by partnering with us to facilitate that travel, so that 89 percent growth in 2013 and 2014 were actually able to reduce wait times. We have been able to stay on top of that, through that partnership and through applying enhanced technology, increased global entry membership, and I think facial recognition is going to take us to the next level on facilitating those entries.

I am also glad you asked about staffing at ports of entry more broadly—

Mrs. DEMINGS. Yes, how do you prioritize which ports you are going to take from—

Mr. McALEENAN. Sure.

Mrs. DEMINGS [continuing]. To deploy somewhere else? Because that certainly concerns me.

Mr. McALEENAN. Understood. Just I guess the first point is, our Southwest Border ports of entry, some of the biggest, San Ysidro is represented as Correa mentioned as well as Calexico, Nogales, Laredo. These are some of the toughest places we have in terms of staffing and the traffic at the land border is relentless, and that

panoply of threats that we face at that border provides a tremendous experience for our officers.

So we try to pull in a balanced way, from ports of entry when we do these temporary TDYs to augment our abilities at the Southern Border port of entry. So Orlando was probably asked for staff at the same time that ports along the Eastern Seaboard, in the Midwest, even the West Coast for seaports and airports were asked to support those TDYs. So that is a rolling basis. It is based on who is closest to their capacity for staffing, and who needs help the most. So, that will continue to be a future as we increase our hiring.

That said, we have hired 850 officers in the last 3 years. We hired 200, a net 200 last year. We are expecting significant progress this year thanks to the funding for 328 additional officers. That continues to be a hiring priority for us.

I think it is maybe misunderstood that we are not asking for officers. We actually are. We are sending a workload staffing model to Congress every year.

Mrs. DEMINGS. Let me ask you about that.

Mr. McALEENAN. Yes.

Mrs. DEMINGS. Particularly about attrition, you know, I agree that you having worked along with your officers and agents that they are fine men and women who do a great job. But what are you doing to deal with attrition? What steps are you taking to hold on to your current staff? I don't know what is going on with the attrition rate, because it is high. What are you doing to attract additional persons into the profession?

Mr. McALEENAN. So first and foremost, the hiring is going to be the best way to hold on to our current staff, as well, because it is going to balance that workload out. There was a reference to the overtime hours, to double shifts. We want to limit that as much as we can. So that is one key piece.

Two, we are clarifying our career paths and offering mobility—predictable mobility for our officers and agents. One of the No. 1 reasons we see people leaving the CBP is that they feel like they can't move to other locations. Maybe they have taken a job on the border. They have been excited about the opportunity to serve, but then they would like to move back to a major metropolitan area, or go back home. They haven't had the mobility within our system to do that. We now have a web-enabled predictable process where we are supporting moves, thanks to Congress.

This year, we are going to have almost 1,200 moves for front-line personnel between our officers and agents through multiple opportunities. So we think that mobility is going to be key.

Then we are investing in workforce resilience. We have created a National resiliency task force. We are trying to look at the whole person, and not just the individual, but their family. We are trying to address suicide prevention. We are trying to address issues with stress, and provide that support in that environment that shows our professionals that we care about them and we care about their career progression.

Mrs. DEMINGS. Thank you, Commissioner. I yield back.

Ms. MCSALLY. The gentlewoman yields back. The Chair now recognizes Ms. Barragán from California for 5 minutes.

Ms. BARRAGÁN. Thank you, Madame Chairwoman, and our Ranking Member. Commissioner, thank you for being here today.

I want to follow up a little on the questions of my colleague, Mr. Correa from California. I also have concerns about staffing levels at the ports of entry. I happen to represent the port of Los Angeles. It is a—as you know, a very busy port. We call it America's port.

I want to start by thanking you and CBP for the terrific personnel that is down there and the partnership with the port of Los Angeles. So I think the use of the ACE program has been very helpful, the Automated Commercial and Environment program, to help efficiency and the supply chain there.

But I remain concerned about the adequate staffing at major points of entry, especially in our seaports and our airports, where I happen to believe is the larger target of a terror threat.

I know you alluded to this a little bit, but how do you decide, when you are balancing CBP officers, between something like the seaports, the airport, and then the border wall, the Southwest Border?

Mr. McALEENAN. Sure. So I mentioned the workload staffing model. This is where we submit to Congress, every year, based on a number of workload factors and threat vectors, how many personnel we need in each area of our operations. It is actually granular down to the specific port of entry.

So we have requested another 2,500 officers Nation-wide on a prioritized basis. We have provided recommended fee proposal for Congress to consider that would allow us to hire that staffing, and the Port of Los Angeles is included.

We do appreciate—by the way, I had the leadership of the Port of Los Angeles visit, I think, about a month ago. Tremendous partnership there, and that communication and dialog is, I think, critical.

The other way we try to balance that staffing is recognizing the impact of our innovation. You mentioned the Automated Commercial Environment single window, which is providing significant capability, but we have also done several things to help make us more efficient.

Our Radiation Portal Monitors, which we have at every exit to the terminal at the Port of Los Angeles—those are now more finely tuned so that they detect threats, but they don't trigger on so many naturally occurring materials that are backing up trucks.

Ms. BARRAGÁN. Right. You mentioned the 2,500 additional officers. Is that from—I think I saw a most recent CBP Office of Field Workload Staffing Model—is that where that comes from?

Mr. McALEENAN. Correct.

Ms. BARRAGÁN. I have been reading and looking, and I have seen the administration put request in for more border agents, but I haven't seen a request—rather, I haven't seen a request from the administration for any of those 2,500 additional CBP officers that you identify are needed.

Have you heard back on whether that is going to be coming down the pipeline anytime soon on this administration making that a priority?

Mr. McALEENAN. It was actually in the President's 2018 budget as a fee request, and we sent that legislative proposal forward the

last 4 consecutive years to Congress. So there was a formal request for officers against that requirement.

Ms. BARRAGÁN. OK. It is also my understanding that there is a shortage of front-line CBP officers at the L.A. Long Beach port complex, and that is also concerning to me. Is CBP forecasting increased staffing at the seaports down in Los Angeles and Long Beach?

Mr. MCALLENAN. So it is an important point. We have to not only work on the land border ports of entry, which have that present crush of traffic every day, but we have to support our seaports, as well.

So, in that 2,500 that we have requested, a significant number would go to seaports, including the Port of Los Angeles Long Beach.

Ms. BARRAGÁN. So do you have a forecast at all on increasing staffing down at those two ports? Do you have any idea—like, are we talking about 6 months, a year? Do you have any idea?

Mr. MCALLENAN. Well, it is dependent on increased funding for us to hire new staff. If the workload balance changes in a way that L.A.-Long Beach seaport needs staff more than another port of entry, then we rebalance within that year and are able to reassign through that mobility program that I referenced.

Ms. BARRAGÁN. Got it. Thank you.

I have heard from the Pacific Merchant Shipping Association—the PMSA—about a new policy to charge terminals for scanning operations outside of normal hours, which go from 8 o'clock a.m. to 3 o'clock—outside the hours of 8 o'clock a.m. to 3 o'clock a.m.

Many of the terminals work outside of those hours, either to build trains or have trucks lined up by 7 o'clock a.m. so they are ready to leave once 8 o'clock a.m. hits. Now, they have to pay by the hour for those operations which is—and these costs, as I am hearing, are becoming unpredictable at times. Are you committed, at all, to working with the PMSA—will you commit to working with them to see what can be done to reduce some of the impact and the cost?

Mr. MCALLENAN. I would be happy to work on that issue with the PMSA.

Ms. BARRAGÁN. Great, thank you. I yield back.

Ms. MCSALLY. The gentlelady yields back. We are going to do another round here. So, fully support the deployment of the National Guard to the border. We have—representing a border community myself, it is just taking too long to get the political will for Washington, DC, to be able to meet the President's intent to secure our border.

So I fully support it. Can you talk about the status of the deployment, what the National Guard troops are doing and should we see additional National Guardsmen and women deployed, as well, for the mission?

Mr. MCALLENAN. CBP—we very much the opportunity to work with the Guard again. As you noted, we did it in 2006. We did it in 2010 and had on-going air surveillance support through 2016. So to have them back in significant numbers is going to be a huge augmentation to our capabilities.

We have got 600 already on the ground with us, doing missions like surveillance, operational support, everything from helping us on the radio side, to intelligence analysts, to the motor pool and then infrastructure. We have got to maintain all of these roads, these access roads to the border. They have capable units that are dedicated to these areas.

So they are going to extend our capability in a number of different areas. To your point, Chairwoman, to enhance our ability to secure that border as we continue to invest in the resources necessary and the personnel to do so.

Ms. MCSALLY. Great. So, how many are deployed right now?

Mr. MCALLENAN. Six hundred and seven as of this morning.

Ms. MCSALLY. Is there any plan to deploy more?

Mr. MCALLENAN. There is, of course. We have a set of missions that we have sent through the National Guard Bureau at main Department of Defense, chopped out to the States. The adjutants general are then the responding entities under the command of the Governors, under Title 32, including Governor Ducey who has been very supportive.

Then we are going to be applying those assets through our sector command leadership to the specific mission we need. We are also hoping to have support for our cargo and our counternarcotics missions at ports of entry and for aviation surveillance, as well, in the coming weeks.

Ms. MCSALLY. Great, thanks. So this frees up the Border Patrol agents to be able to be patrolling the border and intercepting the illegal activity while you the Guardsmen doing, many times within their core competencies in the military, right, to provide some of those support functions, but also concerned about the Border Patrol agents that we have really being focused on the border.

There were some media reports on one station in particular, I think had 700 agents assigned, and on any—or on one snapshot, had only about 12 percent available out patrolling the border. I always use my military analogies, right?

I commanded a fighter squadron, we had a small number of fighter pilots and then we had other people that were trained in all the other support functions, but if you want us to be doing all the support functions, we probably won't do a good job, No. 1. But we are the ones trained to be the fighter pilots.

So, when you have got Border Patrol agents, highly-trained law enforcement officers that are doing things like fleet management and other admin—really other people should be trained to do in other positions. How do we—you know, what is the issue there? Because 12 percent is not adequate. We need to make sure that these highly-trained agents are out there patrolling the border.

What else can we do to partner with you to free them up to do that job, while having less trained people or more specified trained people, doing these other support functions, what we call in the military, sometimes, some of the admin things and the paperwork—I won't tell you what we call it, but anyways—we are on the record here. But, you know, it is really an important part of the mission, but you don't want the agents doing all of that because it takes them away from the main mission.

Mr. McALEENAN. I could not agree more with you, Chairwoman, that we want our highly-trained professionals out on the border, doing their core law enforcement work and patrolling. One of the areas that you highlighted, not just the mission support side, but also processing. This goes back to the loopholes.

Ms. MCSALLY. Right.

Mr. McALEENAN. The time it takes to properly process and care for family units and kids is much more extensive than other groups. The station that you cited is in Rio Grande Valley sector where we see the most crossings of this type.

During that time we had about 60 percent of our agents doing patrol work, sector-wide. So we understand the scrutiny. We want to make sure those agents are out on the line; that is where we need them. But that processing issue, supporting them by—with remote processing, closing the loopholes, and then, looking at, maybe, a more balanced workforce investment.

I know it is very important to invest in our very highly-trained law enforcement professionals, but we need to support them with a variety of occupations, that might be able to hire to more quickly, to really free them up to do their work.

As you noted, we are going to realize a number of agents back to the border from having the National Guard support us in operational and mission support functions. But I think we can do the same on a sustained basis, with a more balanced staffing profile.

Ms. MCSALLY. Because you don't need to be an agent to do the processing, right? That could be a GS-7 who is doing that, who is trained specifically for that? Or do you have to be an agent?

Mr. McALEENAN. That is an immigration officer function.

Ms. MCSALLY. OK.

Mr. McALEENAN. So—but we are doing things like remote processing for stations that are not as busy in other sectors. They are doing the interviews and processing via VTC, via Skype, if you will. That has been helpful because we are trying to alleviate those high-traffic sectors so they can get out on the border doing their mission.

Ms. MCSALLY. OK, thanks. I am out of time, so, gentleman from Texas, Mr. Vela.

Mr. VELA. Are we using Department of Defense dollars or Department of Homeland Security dollars to pay for the National Guard deployment?

Mr. McALEENAN. The National Guard deployment is funded by the Department of Defense.

Mr. VELA. With respect to the issue of hiring, I mentioned this to Chief Vitiello, I think. You know, we passed that polygraph bill out of the House. But even then, even if we were able to get that through the Senate and signed by the President, you know, given the shortfall—and I appreciate the numbers you were throwing out, with respect to 800 hires over 3 years and—but even then, that is still really well short of the goals.

I am not really suggesting it is anybody's fault, but it just seems to me that we need to take a really new look at the way we are addressing that, right? What I have—and ever since I brought this up with Chief Vitiello, back home, I talked to one of our sheriffs just last week.

It seems to me that one of the things we might want to really take a look at is, you know, focusing on hiring people that are closer to the location of wherever they are going to be sent.

Because what I am hearing from law enforcement personnel on the ground, not necessarily who are in Border Patrol, but who handle—you know, who supervise municipal police and sheriff's deputies is that—one of the things is, you know, if you live in the city of—if you live in the Rio Grande Valley, which is Brownsville and McAllen, and you are not sure that you are going to be able to be stationed within a 30- or 45-mile radius of where you live, you know, even being stationed at the checkpoint in Kingsville, for example, which doesn't look like that far, but if that means you are going to commute an hour-and-a-half back and forth each day or move your family to Kingsville.

That appears to be one of the major challenges, I think, we are confronting, at least from what I am hearing on ground.

Mr. McALEENAN. So, that is an important policy that we have for our Border Patrol agents, for their initial duty station, to not be right there at home. We want to make sure that that is an integrity and anti-corruption measure, to ensure that they are not in a cycle with neighbors who might be involved in cross-border criminal activity and be susceptible to that.

So we want to start them off in the agency in a location that is a little bit further away. But there is a mobility factor later in the career, and that is something that we are trying to emphasize.

But to your point, taking a fresh look at every aspect of our hiring cycle is my top mission support priority. It was my first statement in what my vision is for CBP. Even though we have made 40 separate process improvements, we have reduced the time to hire, we have partnered with DOD on veteran hiring, all of that is helping, but it is not enough.

We need to do more. That includes accessing the expertise of the private sector, doing digital recruiting and marketing in a more precise and targeted way, increasing our capacity at different choke points in the hiring cycle, and then to your point, effective administration of the polygraph, and ideally a limited waiver for those that we can trust based on their military and law enforcement service in other capacities.

Mr. VELA. Yes, I don't know. I think it sounds to me like we probably ought to take a fresh look at that original policy you mentioned, because it seems—it just seems from what I am hearing is, is that every time I ask people that are on the ground that appears to be the major challenge.

I think we ought to have a little bit more faith, you know, in the system that we set up and in the agents that we hire. Because I think if we are able to—I think our best chance at being able to fulfill that shortage is going to be to address the location issues. So you know, maybe that is something that we can work on further.

I also—and we can talk about this when we are done, but I submitted a letter, I think, requesting details on plans and, you know, for what, when, and where with respect to the border wall. I don't know if you have had a chance to respond to that in writing, or when we might be able to get that.

Mr. MCALLENAN. I have a signed copy to deliver to you in our meeting.

Mr. VELA. Thank you very much.

Mr. MCALLENAN. OK.

Ms. MCSALLY. The Chair will now recognize Mr. Correa from California for 5 minutes.

Mr. CORREA. Thank you, Madam Chair.

Commissioner, just there was a lot of discussion in this committee and other places that the polygraph test was being a major issue, in terms of your hiring goals. What is the latest on that issue?

Mr. MCALLENAN. So we have been working to streamline our administration of the polygraph and also to ensure that we have the right polygraph protocol for a pre-employment test at an agency of our size and scope.

So over the last 10 months, we have been piloting an alternative, Federally-certified protocol for our pre-employment polygraph. It is showing very good results.

It has reduced the time of the exam. It has maintained the disqualification numbers that we had before. So we are still identifying those people that haven't disclosed something in their background that would be disqualifying, because we have very stringent background standards.

But we are not seeing a physiological response in as many cases that creates an inconclusive. So our pass rates have increased using this protocol.

We are in the process of completing our pilot analysis and certifying it and looking at it as something we are going to use going forward. So we have really tried to improve our polygraph administration on multiple levels.

Mr. CORREA. Thank you. Shifting gears a little bit, talking about National defense, terrorism. Folks that have been where you are at right now have stated that if any terrorists or drugs reach our borders, we have essentially lost the war. So what we have got to do is really interdict the terrorist bad folks as far as can from our border, as well as drugs.

Any thoughts, any comments on the progress or what we need to do to help you with your cooperation with other countries, other agencies, other attorney generals around the world that may help us identify those bad folks before they get here?

Mr. MCALLENAN. Thank you for that comment, Congressman. I could not agree more with you that addressing the threats as early as possible in a travel cycle toward the United States is the best way to secure our border.

We are doing that through our National Targeting Center. Last year, over 2,800 individuals who turned out to be known or suspected terrorists were prevented from even getting permission to travel to the United States through a visa—through an electronic system for travel authorization. Another 900 in the air environment were denied boarding before they could fly to the United States.

Working with our allies around the world through PreClearance programs so that we can clear travelers heading to the United States before they even board a flight is another method that is

critical, and really just building the capacity of our international partners.

We have had two U.N. Security Council resolutions that highlight the importance of collecting data, from analyzing it, from sharing watch list information, and from partnering across borders so that we can protect this global travel cycle, has been a very positive development.

CBP has been spearheading efforts to help allies around the world, in the Western Hemisphere, in Europe, in Asia to develop and utilize this capability, because we think it is critical to our security going forward.

So Congress's support to those programs which were authorized in our—in the Trade Facilitation and Trade Enforcement Act of 2015 has been very helpful. We intend to continue those advances.

Mr. CORREA. Anything else we can do to help you build those relationships overseas?

Mr. MCALLENAN. On the relationships overseas, I think the—we need to tackle this challenge on being able to protect privacy between—and the sharing of data between countries, while still addressing the threats.

We think with advanced technology, the ability to check data in an anonymized way, and only see and share the hits, that we have a process to do that. So being able to invest and demonstrate that technology capability will enhance our sharing.

Mr. CORREA. So you do have some protocol for sharing certain information with foreign governments that may be of interest—mutual interest to all involved, so to speak, for National securities purposes?

Mr. MCALLENAN. We absolutely do, both at CBP and with our partners in the Federal law enforcement and intelligence communities.

Mr. CORREA. Would those consider Mexico, Colombia, and some of those other Latin American countries?

Mr. MCALLENAN. Absolutely. Our partnership with Mexico is about as active as any global partnership in the world, including sharing information on trade violations, on potential security threats, on immigration issues.

I just signed three agreements in Mexico City last month on trade enforcement collaboration and information sharing. It is a critical partnership.

Mr. CORREA. I would like to get more information on those agreements. Thank you very much, sir, for again, to your service, and to your personnel for the good job they do.

Mr. MCALLENAN. Thank you.

Mr. CORREA. Madam Chair, I yield.

Ms. MCSALLY. Gentleman yields back. I have a few more questions.

Mr. MCALLENAN. Right.

Ms. MCSALLY. The first is on land ports of entry. These are so critical for both economic opportunity and increasing cross-border commerce, which is going to provide economic development and jobs in America, but also for security.

The potential for additional hard drugs—we have seen the vast majority of drugs are coming through the ports of entry, as you

mentioned, plus other contraband and things that could make it through the ports of entry.

So this is the—these ports of entries, they are a part of border security, but they are also a part of economic development and opportunity. They are—many of them are woefully inadequate, like the Douglas Port of Entry in my district.

Built in 1933, this needs to be replaced. We have been advocating for it since I have been here. Glad to see that it is—there is a feasibility study going on now. There is an opportunity for it to be funded in the future.

Have you been to the Douglas Port of Entry? Can you talk about the importance to upgrade ports of entry like this, both for economic opportunity and for security and counterterrorism mission?

Mr. McALEENAN. Absolutely. I have been to the Douglas point of entry multiple times, a challenging facility to say the least especially given the growth in traffic since the 1930's.

Ms. MCSALLY. Yes.

Mr. McALEENAN. The change in our mission, the change in our agency composition, it wasn't designed for where we are today. So the imperative to invest both in the physical infrastructure to accommodate the flow but also the security technology, the offices, the detention areas, all of that is critical so we can facilitate that cross-border trade and travel.

So we have initiated a feasibility study on the Port of Douglas. That is going to tell us both the planning factors for additional cargo flow, as well as the regular travel. We are going to need to then put a budget wedge against that study to see if we can modernize the port itself and we have in our planning but also in what is the right structure for the future of the port.

That is an area that we need to invest in across the board on the border as well as in partnership with Mexico and Canada, because if we don't align our investments and our priorities we can create real challenges.

Ms. MCSALLY. I agree. Can you tell me where the Douglas Port fits in your priorities right now on the list?

Mr. McALEENAN. The modernization of the Douglas Port of entry is a top 10 priority that we have budgeted in the out years.

Ms. MCSALLY. OK. Top ten, but I mean we—just usually only get 0 to 2 it seems over the last few years. So it was in the 5-year plan. Top 10 doesn't sound as high as I would like it to be.

Mr. McALEENAN. I believe it is a 2019 or 2020. I will get back to you, Chairwoman, on exactly where—

Ms. MCSALLY. OK. In fiscal year 2019 or fiscal year 2020, you mean—

Mr. McALEENAN. Yes.

Ms. MCSALLY [continuing]. As working through—OK, great, thank you. The other element that has been talked about already is the opioid crisis, fentanyl specifically, coming through the ports of entry. Do you have the adequate technology to detect it—it can be deadly to our agents, as well—and the training that they need in order to identify and be able to respond quickly should they be exposed to it?

Mr. McALEENAN. So middle of last year, I commissioned a counter-opioid strategy at CBP. It is attacking everything from the

advanced data for instance in the international mail environment to the technology we need to detect small vials of fentanyl, which is extraordinarily potent, as you referenced.

The ability to test it, not only for the safety of our officers and ICE specialists and canines, but also give us the quick reaction so that we can do with an investigator partner a controlled delivery and address the network that is bringing that into the country, and not just make that individual seizure.

So we have benefited from support from Congress to invest in testing technology both in 2017 and now in 2018. We are getting that out to all of the key ports of entry that need it, and we are also buying naloxone, so that if there is an accidental exposure that creates a health hazard for our personnel, that they have naloxone on-site to address that quickly, and it works also for our canines, as well.

Ms. MCSALLY. You said you are buying naloxone. Is it not available right now at all ports of entry?

Mr. MCALLENAN. It is available at all ports of entry, but we want to deploy more, so it is more readily accessible—

Ms. MCSALLY. OK.

Mr. MCALLENAN. Because of how quickly and how potent this drug acts.

Ms. MCSALLY. Great. Thank you. All right.

Mr. Correa, do you have any more questions?

OK, I want to thank our witness for your valuable testimony and Members for the questions.

The Members of the committee may have some additional questions for the witness. I ask you respond to those in writing. Pursuant to committee Rule VII(D), the hearing record will be held open for 10 days. Without objection, the committee stands adjourned.

[Whereupon, at 3:31 p.m., the subcommittee was adjourned.]

## A P P E N D I X

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### QUESTIONS FROM CHAIRWOMAN MARTHA MCSALLY FOR KEVIN K. MCALLEANAN

*Question 1a.* Commissioner McAleenan, we have heard that U.S. Customs and Border Protection is interested in joining the intelligence community. This sub-committee firmly believes that Congress needs to be consulted before any steps are taken.

From CBP's standpoint, where is the breakdown between CBP and the IC happening that would warrant CBP gaining membership to the IC? Can you provide specific examples?

Answer. CBP continues to work with its partners, including the IC, to facilitate the sharing of data and information, as appropriate. Later this month, senior CBP and DHS leadership will meet with the principal deputy director of National Intelligence (PDDNI) to discuss potential options to further strengthen the sharing of data and information, especially in exigent and rapidly-evolving situations.

*Question 1b.* Are there specific reforms that can be made within the intelligence community or the DHS Office of Intelligence and Analysis that could fix some of these problems without restructuring the IC?

Answer. We are working very closely with the Office of Intelligence and Analysis (I&A) to increase CBP's ability to deliver on the President's objectives on border security, trade enforcement, and countering transnational organized crime. I&A leadership has implemented important changes to manage and integrate intelligence across the DHS intelligence enterprise, and CBP and I&A continue to work together to facilitate the sharing of data and information, as appropriate.

*Question 2.* Commissioner McAleenan, the fiscal year 2018 enacted budget includes \$196 million for border security technology acquisition and deployment. Can you provide us with a breakdown of each technology line item that this \$196 million will fund?

Answer. The \$196 million in the fiscal year 2018 enacted budget refers to the additional funds provided for border security technology acquisition and deployment. The table below identifies the allocation of those funds by line item. The paragraphs below the table describe the use of all funds enacted in fiscal year 2018 for border security technology acquisition and deployment.

Technology (\$ in Thousands)	Fiscal Year 2018 Request	Fiscal Year 2018 Plus Up	Fiscal Year 2018 Enacted
Integrated Fixed Towers .....	\$27,238	\$12,000	\$39,238
Remote Video Surveillance System (RVSS) .....	46,193	41,000	87,193
Northern Border (NB) RVSS .....	0	7,000	7,000
Mobile Video Surveillance System (MVSS) .....	4,838	42,000	46,838
Innovative Towers .....	0	10,000	10,000
Cross Border Tunnel Threat (CBTT) .....	11,955	30,000	41,955
Agent Portable Surveillance System (APSS) .....	0	16,000	16,000
Linear Ground Detection System (LGDS) .....	0	16,000	16,000
Small Unmanned Aircraft System (sUAS) .....	0	10,000	10,000
Maritime Detection Project (MDP) .....	0	9,000	9,000
Android Team Awareness Kit (ATAK) .....	0	3,000	3,000
<b>Total Technology .....</b>	<b>90,224</b>	<b>204,000</b>	<b>294,224</b>

IFT: Fiscal year PC&I enacted of \$39.2 million funds partial deployment of the IFT system in Tohono O'odham Nation, including 7 surveillance towers in Casa Grande and one in Ajo-2, the associated Command and Control Center in the Tohono O'odham Nation in Tucson Sector, and Program Planning and Control

(PP&C) requirements, completes two towers of the final IFT system in the Tohono O'odham Nation, and funds some of the IFT Deferred ORD/Sensor Fusion/TSM Integration requirements.

**RVSS:** Fiscal year PC&I enacted funds the design and construction of 43 RVSS Upgrade Sensor & Relay towers for Brownsville, Falfurrias, Ft. Brown, Harlingen, Kingsville and Weslaco USBP Station Areas of Responsibility (AORs) and the design, construction, and deployment of approximately 30 Relocatable towers, surveillance/communication technology, and 3 Modular Command and Control (C2) centers in Rio Grande Valley Sector.

**NBRVSS:** Fiscal year PC&I enacted of \$7.0 million funds approximately 4 NB RVSS towers in Swanton Sector.

**MVSS:** Fiscal year PC&I enacted of \$46.8 million funds Program Planning and Control (PP&C) to develop documentation for a follow-on MVSS contract and completes the procurement and deployment of approximately 49 MVSS systems to El Paso Sector and planning for additional units in other sectors.

**Innovative Towers:** Fiscal year enacted of \$10 million funds acquisition of additional towers if they pass T&E, additional test and evaluation, and transition planning.

**CBTT:** Fiscal year PC&I enacted of \$42.0 million funds CBTT system procurement, including test and evaluation, IT security, and engineering change proposals, alternative analyses, technology demonstrations, test bed, and approximately 10.7 miles of persistent tunnel detection technology.

**APSS:** Fiscal year PC&I enacted of \$16.0 million funds approximately 39 systems that will be deployed on the Northern and Southern Border based on USBP priorities.

**LGDS:** Fiscal year PC&I enacted of \$16.0 million funds approximately 60 miles of LGDS technology deployed in conjunction with the Wall System in RGV.

**sUAS:** Fiscal year PC&I enacted of \$10.0 million funds approximately 9 SUAS suites in RGV sector and 2 SUAS suites in Big Bend sector. 1 SUAS Suite consists of 1 fixed wing sUAS, 1 Vertical takeoff and landing sUAS and 1 Hybrid sUAS.

**MDP:** Fiscal year PC&I enacted of \$9.0 million funds approximately 5 MDP towers in Buffalo Sector.

**ATAK:** Fiscal year PC&I enacted of \$3.0 million funds planning, servers, phone acquisition, user training, and dedicated TAK development team.

*Question 3a.* Commissioner McAleenan, Chief Scott Luck testified before this subcommittee last July about border security technology. He noted that the Border Patrol was testing small unmanned aerial systems in Arizona, Texas, and Vermont to help fill domain awareness gaps.

Can you update us on that status and results of that testing?

Answer. USBP conducted field demonstrations of small unmanned aircraft systems (SUAS) September 2017 to March 2018. These demonstrations helped familiarize USBP with SUAS in their operational environment, demonstrate the effectiveness and suitability of SUAS, and help refine operational and acquisition documentation supporting a Program of Record. SUAS deployments will supplement current fixed-wing technology and manned aircraft thereby reducing surveillance and situational awareness gaps. Further, ease of mobility and portability enable SUAS to be moved to high-risk areas, allowing agents to adapt to changing threats.

*Question 3b.* CBP has requested \$300 million for small UAS, what exactly will that money go toward?

Answer. The SUAS funding will be used to procure and maintain SUAS, and train BP agents. Doing so will meet the USBP's Full Operational Capability (FOC) requirement for SUAS based on a documented 245k fiscal year flight-hour capability gap.

*Question 3c.* Is there a specific time line or plan for a small UAS strategy in the works?

Answer. Yes, the plan for SUAS is to award a contract(s) in fiscal year 2019. The procurement of commercially available, high technology-readiness systems will help to accelerate the procurement and deliver capability to the field in an expedited manner.

*Question 4a.* Commissioner McAleenan, we have non-intrusive inspection equipment and other innovative force multiplying technologies deployed at our ports of entry, however, drugs are still pouring in through these ports.

Do we have the technology but not the volume needed or are there technical capabilities we are missing?

Answer. As threats and hazards evolve and trade volume increases, smugglers will continue to seek ways to exploit the border environment. To address this area with NII, CBP is actively working to integrate our NII technology across operations, with an objective of reducing processing time to examine a greater portion of convey-

ances, or redirect officers to other high-priority operations. The key limitations to achieve this objective include stand-alone NII technology and the lack of pre-primary/primary NII imaging capability/capacity.

Currently, NII systems are stand-alone systems, in that they do not integrate with other hardware systems or transmit data across the CBP Network. The lack of interoperability results in increased processing time as officers and agents must complete manual, and often redundant, data entry/data transfer activities. Additionally, NII scanning is largely a secondary inspection process largely due to the size of the technology and footprint of the port.

To address these areas, CBP is assessing technologies and operational concepts that place NII in pre-primary or primary inspection operations. Within this concept, CBP is assessing the ability to transmit NII data to CBP IT systems and local command center operations, and to perform remote health monitoring to support system maintenance. Collectively, this would allow CBP to increase the volume of conveyances examined without negative impact to facilitating lawful trade and travel.

*Question 4b. Why don't we have multi-lane scanning capabilities at our land ports of entry?*

Answer. CBP is actively exploring concepts that include placing drive-through NII systems, inclusive of multi-lane scanning systems, in pre-primary or primary operations. This would allow CBP to process both commercial trucks and passenger vehicles.

CBP, together with DHS Science and Technology (S&T) and technology vendors, are planning to initiate operational assessments of drive-through passenger and cargo vehicle X-ray imaging systems along the Southwest Border. The assessments will be used to determine the feasibility of conducting pre-primary and primary NII scanning using commercially available drive-through X-ray imaging technologies in a new concept of operations. As commercial trucks and passenger vehicles arrive at the port of entry, they will drive through the NII system; a license plate reader will package the plate with the scan and send the package into a command center, secondary, and/or to the primary officer. As part of the assessment, CBP will evaluate how and where the image is transmitted for officer review. The assessment will consider the dynamic operational tempos and resources across ports, so CBP can employ a flexible and adaptable concept to support the varying environments. For example, one port may transmit to a Command Center and another port may transmit to primary or secondary operations.

*Question 5a. Commissioner McAleenan, this subcommittee believes that the border security technology acquisition process needs serious improvement.*

Does CBP utilize the DHS Silicon Valley Innovation Program, which reaches out to innovation communities across the Nation and around the world to harness the commercial R&D ecosystem for technologies with Government applications?

Answer. CBP has utilized the DHS Silicon Valley Innovation Program (SVIP) since its inception as a way to identify commercially available, innovative technology which can be rapidly developed, piloted, and brought into CBP operations. These technologies can directly support CBP by allowing front-line agents and officers to carry out our mission more safely and effectively. We now have a portfolio of 13 commercial start-ups piloting innovative technologies such as near-autonomous small UAS, low-cost/high-performing sensors, travel technologies, and machine learning capabilities. CBP views SVIP as a strategic partner and a key mechanism for bringing innovative technology into the CBP ecosystem.

*Question 5b. What efforts are being made by CBP to work with the private sector on technology innovation?*

Answer. CBP has established the Commercial Technology Innovation Program (CTIP) in order to identify, pilot, and deliver cutting-edge commercial technology that makes our front-line personnel safer and more effective. Through strategic partnerships such as the DHS Silicon Valley Innovation Program, In-Q-Tel, and others, CBP is pursuing innovation in three key capability areas: (1) Autonomous capabilities, (2) advanced analytics and artificial intelligence, and (3) communications, sensors, and data. As an example, CBP is piloting 4 fully autonomous, low-cost surveillance towers in the San Diego Border Patrol Sector. The towers require no external power source and have the ability to autonomously detect, identify, classify, and track targets through a novel combination of radar and machine vision. Due to their autonomy, the towers have enhanced situational awareness without requiring additional personnel to operate them.

*Question 5c. Is there a mechanism in place for the private sector to initiate a proposal for scaling current border security technology or to submit ideas for improving port of entry functions, or are all CBP technology considerations Department initiated?*

Answer. Response was not received at the time of publication.

*Question 6.* Commissioner McAleenan, the Interdict Act was signed into law in January of this year, authorizing and providing CBP the appropriation of \$9 million for new opioid and other illicit substance screening devices, laboratory equipment, facilities, and personnel for support during all operational hours to expedite the testing of suspected opioids seized at our borders and ports of entry. Has CBP begun the procurement and hiring process for any of these appropriations?

Answer. CBP thanks Congress for its support contained in the INTERDICT Act authorizing language. The language will improve our ability to interdict fentanyl, synthetic opioids, and other narcotics and psychoactive substances illegally imported into the United States. CBP assumes the enactment of this Bill drove some of the decisions in the Appropriations Committees to appropriate the one-time \$30.5 million for Opioid Detection and Labs and the additional Non-Intrusive Inspection acquisition funding. CBP's Office of Field Operations (OFO) and Laboratories and Scientific Services (LSS) have partnered in anticipation of receipt of funds by building a spend plan. The funding was allocated to OFO and LSS during the week of May 14, 2018, and acquisitions are under way. There is no hiring process possible with these appropriations as the funding appropriated was non-pay and only available for 1 year.

*Question 7.* Commissioner McAleenan, there are independent companies in existence that can test, verify, and evaluate solutions to ensure that all border security technology products and services are performing to their defined capabilities. Is CBP looking at utilizing independent verification and validation in its technology acquisition programs? Why or why not?

Answer. Yes, CBP is utilizing independent verification and validation (IV&V) in its technology acquisition programs in accordance with DHS IV&V Annex to the DHS Systems Engineering Life Cycle (SEL) Guidebook.

*Question 8a.* During our hearing on April 25, 2018, Commissioner McAleenan indicated that fiber optic detection would be integrated into a "Border Wall System."

What are CBP's near-term plans to test and evaluate potential fiber optic intrusion detection solutions? Please provide the committee with a time line for LGDS testing and evaluation.

Answer. CBP anticipates testing and evaluating potential fiber optic intrusion detection solutions as part of source selection, and after contract award in fiscal year 2019.

*Question 8b.* Has CBP established testing criteria, evaluation considerations, and key performance parameters? If so, can this information be shared with the committee?

Answer. As part of the normal acquisition and procurement process, CBP is developing test criteria, evaluation considerations, and key performance parameters. The information will be documented in the solicitation which will be released by Q1 fiscal year 2019.

*Question 8c.* Will the fiber optic detection be deployed along the Northern Border or just the Southwest Border?

Answer. Yes, the fiber optic detection system will be deployed along the Northern Border and Southwest Border.

*Question 9a.* Commissioner McAleenan, in the past, CBP has outlined the need for hiring an additional 5,000 Border Patrol agents, 540 AMO agents and over 2,500 CBP officers in order to secure the borders. In order to meet these new mandates, CBP is faced with the necessary task of bringing on more than 750 additional mission support personnel. It is my understanding that you have signed a contract with Accenture to help the agency fill these positions.

Can you give us a ballpark estimate on how long it will take to meet these ambitious staffing goals?

Answer. The Accenture contract allows CBP to front-line (BPAs, CBPOs, and AMO agents) surge hiring requirements over the next 5 years, while also allowing CBP to benefit from any innovation and efficiencies Accenture brings to the recruiting and hiring process. The contractor will help CBP hire 5,000 BPAs, 2000 CBPOs, and 500 AMO agents only. CBP HRM resources will maintain focus on addressing front-line attrition and non-front-line hiring needs to support the agency mission.

While this contract is specific to CBP's 5-year hiring goals, CBP strives to constantly evolve to support its operational needs, understanding that what worked just a few years ago quickly becomes obsolete as technology advances, how we think about the workforce environment advances, and the very nature of CBP's mission changes. CBP's hiring demands are complex, interdependent, and driven by National security objectives, Executive-level policies, Congressional mandates, and component-specific operational requirements. There are always opportunities to improve, and we're committed to continuously reassessing and refining our organizational structure to maximize effectiveness and process efficiency, as well as keep

pace with evolving demands. Our focus continues to be on front-line hiring and ensuring CBP reaches Executive Order-mandated hiring targets for front-line personnel, while at the same time providing the highest possible level of support to our current employees.

While providing an estimated time frame for achieving all of our hiring goals is difficult and subject to many variables, we believe that leveraging Accenture's expertise, in addition to recent refinements to our recruitment and hiring processes, responds to the unique hiring challenges we face today. We are committed to ensuring that our front-line staffing effort remains focused but agile, centralized but precisely calibrated to the various, changing threat environments across the border and through the ports.

*Question 9b.* Can you give us an overview of how that contract is going so far? Have you seen progress in the speed and quality of the hiring process?

Answer. The Contract had a 120-day start-up and transition period for the Contractor to learn the CBP process, hire staff, and get them cleared to work at CBP and process applicants. The Contractor began marketing and recruiting in February and initial processing in March 2018, and the first EODs are scheduled in late fiscal year 2018. The contractor currently has over 1,700 applicants in process.

The Contractor is using advanced data analytics to try new recruiting methods and will also be developing innovative technology solutions that will be leveraged by CBP. Some of their processing and technology expertise has already been adopted into the CBP hiring process.

*Question 10.* Commissioner McAleenan, there have been recent media reports that state in certain Border Patrol sectors only about 13 percent of agents are patrolling along the border. What is the actual percentage of agents that patrol the line each day per Border Patrol sector on the Southwest Border?

Answer. The Southern Border sectors have, on average, 69 percent of the agents on duty operating in border enforcement activities, at or within the immediate border environment. Due to certain terrain challenges and accessibility issues, our border enforcement posture will not always be at the immediate border, but within a reasonable distance where the U.S. Border Patrol can perform their law enforcement/interdiction duties.

The other 31 percent of agents, on duty, not assigned to patrol the border are tasked to a myriad of other activities such as performing, processing/prosecutorial functions, intelligence-gathering operations, collaborative operations with partner agencies, strategic planning duties, and performing other necessary functions such as serving as command and control staff. These numbers vary by sector and by area of operation, but USBP's recognizes and adheres to the border security mission through a proper, forward-deployed, methodology to deter, identify, and mitigate incursions within the closest proximity to the border as possible. The USBP recognizes that the ability to mitigate incursions at the earliest identified point will greatly improve our enforcement posture and deterrence capabilities.

*Question 11a.* Commissioner McAleenan, the workforce attrition rate among agents in the Border Patrol has been an issue since the early 2000's. The Border Patrol has implemented mobility programs and opportunities before, but here we are today still talking about attrition.

What programs or incentives have worked to curb attrition in the Border Patrol?

Answer. U.S. Border Patrol (USBP) has a systemic need to stabilize the workforce and improve retention of employees with mission-essential competencies. Our 3-year average attrition rate of 4.8 percent continues to outpace the annualized 3-year hiring average of 2.3 percent; highlighting the immediacy of our need for retention incentives.

Based on both internal and external surveys, Border Patrol agents cite the primary reason for leaving is a lack of mobility. Mid-career BPAs feel there is no opportunity to either relocate to a more desirable location or advance from their current position, leading to decisions to leave U.S. Border Patrol. The Federal Employee Viewpoint Survey (FEVS), HRM surveys, and the USBP Human Capital Study show a strong correlation between a lack of agent mobility and lower morale and higher attrition rates. Analysis of CBP's hiring and attrition challenges revealed that USBP needed a program that improved operational response capabilities with the flexibility to address continually changing threats, and improve retention. The Operational Mobility Program meets both criteria; additionally, it resolved the No. 1 reason for agent attrition—lack of mobility.

USBP's Operational Mobility Program provides a stable relocation program for the USBP workforce to address declining morale and attrition. To achieve needed mobility, CBP implemented an incremental mobility program in fiscal year (+\$25 million above \$14 million in baseline funding), with the goals of achieving a 12 percent workforce mobility target by fiscal year 2000.

*Question 11b.* You talk about mobility programs, but what specific programs do you plan to implement in the future to address the high attrition rates?

Answer. CBP will continue to use its operational mobility program to address attrition, and will continue to look for new approaches to improve attrition rates for mission-essential competencies. CBP is also working to make improvements to its hiring process so that attrition of seasoned agents is less of an issue than it is currently.

*Question 12a.* Commissioner McAleenan, deploying the National Guard to the Southwest Border is not a permanent solution to address CBP's manpower shortage. While efforts to improve hiring and retention at CBP have not proven to be successful so far, it's time to look at the full range of options available. Particularly, in terms of tasks that do not require the skill set that our agents and officers have, contracting out that work might make sense.

Has CBP considered contracting out work that does not require a law enforcement skill set, such carrying out day-to-day scanning and screening functions, and image analysis, to the private sector?

Answer. CBP is interested in further exploring the ability of having a cadre of personnel that are focused on image analysis and manifest reconciliation, specifically as CBP continues to evaluate the ability of pre-primary/primary NII Scanning with command center operations. CBP has discussed utilizing image analyst personnel, either contractor or non-law enforcement personnel (CBP technicians), to reconcile the CONSIST manifest information and review the X-ray image for the presence of anomalies. If an anomaly were discovered during the image analysis, the analyst would notify an on-site CBP officer for final adjudication. A CBP officer would always be on-hand to provide supervision and/or guidance to the analysts. This concept would optimize the role of the CBP officer by allowing them to focus on other high-priority law enforcement duties.

CBP has implemented several business transformation initiatives to optimize CBP officer resources and increase efficiency. Initiatives such as Automated Passport Control (APC), Mobile Passport Control (MPC), Vehicle and Pedestrian Ready Lanes, Trusted Traveler Programs, and the CBP Mobile Program continue to result in significant savings. From fiscal year 2012 through fiscal year 2016, CBP saved over 1.4 million inspectional hours through business transformation. It is estimated that through fiscal year 2019 CBP will save an additional 523,000 hours. Overall savings estimates from fiscal year 2012–fiscal year 2019 equate to \$52 million in salaries and expenses.

*Question 12b.* What are the logical next steps for CBP to make this a reality?

Answer. The most logical next steps would be to develop analysis as to the benefits and issues associated with this approach. Fortunately, the Office of Field Operations is developing a data-driven staffing model that analyzes mission and operational support positions, activities, and functions in an effort to alleviate some of the administrative burden of CBP officers and CBP agriculture specialists. Some of the activities that we are considering within the context of the Mission and Operational Support Resource Allocation Model (MOSRAM) is operator support to Non-Intrusive Inspection (NII) equipment such as Z-portals, fixed and mobile X-ray systems. While actual review and adjudication of scanned images must be performed by a CBP officer or CBP agriculture specialist there are other roles that could be performed by a CBP technician.

*Question 13a.* Commissioner McAleenan, CBP deploys a variety of personnel at its 15 PreClearance locations with different skill sets, ranging from front-line officers to agricultural specialists.

For PreClearance locations, how do you determine the number and type of personnel needed?

Answer. The deployment of CBP officers and agriculture specialists to our PreClearance locations serves an important role in the CBP mission of strengthening our ability to identify terrorists, criminals, and other National security threats prior to encountering them on U.S. soil. PreClearance operations places a trained law enforcement professional at foreign points of departure to enforce our country's laws and to protect the traveling public destined for the United States. These law enforcement professionals already have many years of service and experience prior to their potential selection for a PreClearance location. They are required to apply for the position and be selected through consideration of these skillsets and experience.

CBP works closely with foreign stakeholders, airlines, and agency partners to provide and accommodate the appropriate number of personnel at our PreClearance locations. These continual and on-going discussions address any potential fluctuations due to economy, weather, and industry, regionally or nationally, which could impact the staffing overseas.

*Question 13b.* What is the average cost associated with deploying one front-line CBP officer abroad? One support specialist?

Answer. The average cost of a CBP PreClearance employee abroad in fiscal year was approximately \$275,000 dollars. However, the cost of stationing a PreClearance employee abroad can cost upwards of \$400,000 dollars or more depending on a number of variables specific to each individual deployment (e.g. relocation costs due to family size/housing/location, Department of State allowances, and support costs at a particular post, etc.). These numbers take into account any cost reimbursement that CBP gets at certain PreClearance locations. It should also be noted these costs do not include any State-side “overhead” support costs.

At this time, CBP PreClearance has limited support positions overseas. However, CBP PreClearance is exploring the possibility of increasing the number of mission support specialists and CBP technicians overseas allowing officers and agriculture specialists to be relieved of administrative duties that they are currently required to complete. CBP PreClearance believes the average cost for a support position would be around \$225,000 dollars per year but could be higher depending on the variables listed above.

*Question 13c.* How long is it currently taking to deploy a front-line officer abroad to PreClearance locations?

Answer. The deployment of a front-line officer takes anywhere from 6–9 months, starting with extending the job offer and finishing with the employee entering on duty in PreClearance. The time frame depends on how soon the employee completes the pre-employment process, which entails obtaining medical clearances and diplomatic passports for the employee and their dependents from the Department of State, completing all mandatory training, and obtaining a security clearance, if applicable (required for supervisory positions).

*Question 14a.* Commissioner McAleenan, CBP is currently using a risk-based approach to scan “high-risk” containers which amounts to scanning 3–4 percent of all U.S.-bound cargo. There is a large gap between the requirement in the law of scanning 100 percent of all cargo containers before they are bound for the United States and the current practice of scanning relatively few containers once they arrive on shore.

Could you reasonably scan more containers, using a risk-based approach?

Answer. As previously reported, DHS implemented both full-scale and limited-capacity deployments of integrated scanning systems in foreign ports under its Secure Freight Initiative (SFI). Due to challenges identified during the initiative’s pilot program, all operations, with the exception of Port Qasim, Pakistan, have reverted from the 100 percent scanning model to the risk-based targeting approach of the Container Security Initiative (CSI) program to optimize results through advanced analysis of manifest data and identification of high-risk cargo.

As noted in 20 previous reports titled *Update on Integrated Scanning System Pilot*,<sup>1</sup> initial SFI operations at pilot locations afforded DHS the opportunity to test possible solutions to the complex challenges posed by scanning 100 percent of U.S.-bound maritime containers, particularly at transshipment and high-volume ports. It was determined that while scan data can be useful, operational costs are significant even in limited environments. DHS documented numerous challenges associated with implementing 100 percent scanning, including diplomatic and operational challenges, port reconfiguration issues, the potential for reciprocal requirements on United States ports, and the lack of available technology to efficiently scan transshipped cargo.

The DHS recognizes the need to proceed with container security programs in a responsible, practical manner that maximizes the security of maritime cargo, as well as facilitating its movement and enhancing global supply chain resilience.

CBP is committed to a risk-based approach to cargo security. In fiscal year 2017 less than one-half of 1 percent of maritime containerized cargo was determined to be high-risk using the Automated Targeting System (ATS). CBP scans all containers identified as high-risk and also scans a significant number at random. Scanning more containers would put an undue burden on CBP and foreign government resources without adding any additional security.

CBP continues to refine and improve its targeting for potentially high-risk cargo in all modes of transportation. As part of this process, in May 2017, CBP introduced a new risk assessment methodology for maritime cargo. The risk assessment methodology is based on the latest available intelligence and incorporates scenarios and

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<sup>1</sup> Update on Integrated Scanning System Pilot—Reported to Congress: May 29, 2008; June 12, 2008; January 4, 2010; July 15, 2010; January 24, 2011; May 20, 2011; February 29, 2012; October 3, 2012; March 11, 2013; July 29, 2013; April 8, 2014; July 7, 2014; December 15, 2014; April 14, 2015; December 17, 2015; June 30, 2016; March 2, 2017; February 9, 2018.

anomaly detection capabilities. All available advance data, including manifest, importer security filing, and entry, are assessed for risk through ATS, which is one of the most advanced targeting systems in the world.

With the implementation of the new methodology, there has been a reduction in the number of high-risk shipments identified, but an increase in overall confidence that CBP is targeting the right shipments for further scrutiny.

The maritime shipping environment is large, complex, and includes a host of private and public sector stakeholders. To be successful, we will need to continue to seek models for scanning and other supply chain resilience solutions that make sense for industry stakeholders to incorporate into their business processes, and from which other governments can also realize value.

*Question 14b.* Of the 3–4 percent of containers that you do scan, how often do you find contraband like illicit drugs or weapons?

Answer. As part of CBP's Container Security Initiative, CBP officers are stationed in foreign seaports to work together with their host counterparts to share information, develop investigative leads on potential threats, and identify and examine high-risk shipments. During fiscal year 2017, collaborative targeting efforts between Container Security Initiative CBP officers and their foreign counterparts resulted in the detection and seizure of approximately 15,200 kilograms (16.75 tons) of cocaine, \$41.5 million in undeclared merchandise, 18 stolen vehicles, \$96,000 in undeclared currency, and 11 arrests.

CBP officers in overseas locations do not seize prohibited items, but rather the host country authorities make a determination on the disposition of illicit goods. CBP officers in foreign locations have been instrumental in assisting their counterparts in disrupting and dismantling Transnational Criminal Organizations and effecting controlled deliveries, which have led to arrests of those involved in illicit activity.

*Question 14c.* Through partnerships, such as the Container Security Initiative, what percentage of high-risk cargo is scanned overseas?

Answer. Approximately 82 percent of all high-risk cargo passes through a CSI port. One hundred percent of that cargo is reviewed, researched, and either mitigated or examined (scanned or physical examination) by CBP officers in conjunction with foreign counterparts.

CBP has a dedicated team of CBP officers at the National Targeting Center (NTC) that reviews the approximately 18 percent of high-risk cargo that does not originate in a CSI port prior to that cargo leaving the foreign port. The team will further research all potentially high-risk cargo and either mitigate the risk or explore other avenues to have the cargo examined.

*Question 15a.* Commissioner McAleenan, there are currently 61 Container Security Initiative (CSI) ports in 35 countries. For a port to be considered part of CSI, CBP officers do not necessarily have to be present at that port.

Is CBP considering adding more CSI ports? If so, will they have CBP personnel on-site, or utilize a regional model of cooperation, like in Italy, where one CBP officer has relationships with multiple ports in the country?

Answer. CSI is always exploring opportunities to expand to additional locations. When considering any possible expansion, some of the factors which are considered are: Potential risk from certain locations, political will of the host government, regular recurring container volume to the United States, the type of technology utilized by the host government (such as non-intrusive inspection equipment), and/or their ability to procure such.

When expanding into a new location, CSI would, at least initially, have CSI staff on-site in order to develop and enhance the working relationship with host counterparts. At such a time when CSI feels a level of confidence in the commitment, relationship, and responsiveness of the host counterparts, CSI could then explore the feasibility of adapting the operational model to a remote or regional targeting model.

*Question 15b.* How does CBP vet foreign customs officers tasked with scanning containers that are cause for concern?

Answer. CBP is prohibited from vetting foreign customs officers with whom they work in foreign locations due to sovereignty concerns. In the vast majority of CSI ports, CBP officers do, however, actively participate in the scanning and examination process in conjunction with the host country counterparts. This close cooperative working relationship allows CBP officers to identify any potential anomalies during the scanning process.

CBP has provided and continues to provide training to foreign counterparts in areas such as anomaly detection to increase capability of the foreign counterparts.

*Question 15c.* Have there been instances of corruption in foreign work forces at CSI ports?

Answer. CBP is unaware of any instance of corruption in foreign work forces at CSI ports. The port authorities, local law enforcement, and the terminal operators with whom CSI engages have steps in place to mitigate or thwart potential corruption in the seaport environment. Such steps include access controls, vetting of personnel with port access, CCTV camera systems CSI personnel can access, roving patrols, and the use of GPS devices on vehicles entering port facilities.

*Question 16a.* Commissioner McAleenan, we are currently giving suppliers expedited screening privileges when they can prove they take steps to secure their supply chain under CBP's C-TPAT program.

What percentage of U.S.-bound cargo originates from a C-TPAT member?

Answer. Twelve different entity types are eligible for C-TPAT certification. These entity types include, among others; importers, exporters, highway carriers, sea carriers, and U.S. Customs brokers. Of these 12 entities, U.S. importers are the largest entity, accounting for 4,139 of the 11,562 certified members. The importers represent 54.1 percent of all cargo imported into the United States.

*Question 16b.* Has CBP had incidents where C-TPAT suppliers falsify information or abuse the system? What are the consequences for doing so?

Answer. The C-TPAT program was codified into law by the Security and Accountability for Every (SAFE) Port Act of 2006. This law imposed strict oversight requirements, including requiring C-TPAT to suspend or remove program benefits/membership from any Partner that fails to meet program requirements. Reasons for suspending/removing a partner include, but are not limited to, the following: Failure to meet the minimum security criteria; failure to meet eligibility requirements; failure to comply with other rules, laws, and regulations; and security breaches resulting in an enforcement action.

Typically, each suspension, removal, or determination of ineligibility is preceded by extensive outreach efforts in order to provide Partners with the opportunity to demonstrate compliance with program requirements. In 2017, CTPAT suspended 32 partners and removed 118, for a total of 135 suspension and removal actions. In addition, subsequent to suspending/removing a partner, additional outreach efforts are conducted to help the Partner address the gaps, vulnerabilities, or weaknesses that led to the suspension, removal, or ineligibility determination. These efforts aim to help the Partner move toward reinstatement. However, in accordance with the SAFE Port Act of 2006, cases involving a potential threat to National security, or situations involving false/misleading information, may require immediate action to suspend or remove a Partner.

*Question 16c.* A common concern from industry, is that they often do not perceive tangible benefits from participation in the C-TPAT program. Are you considering any additional benefits that can be applied to members of the program?

Answer. CBP affords tangible trade facilitation benefits to C-TPAT members to recognize their demonstrated commitment to adopt stronger security practices throughout their international supply chains. C-TPAT membership has value that exceeds dollars and cents. The benefits of program membership includes risk avoidance, a communal approach to a safer supply chain, and the advantage of the credibility that C-TPAT membership brings. The C-TPAT benefits package has increased over the years, and the program continues to explore additional benefits with the trade community.

The program is also focusing on executing the Trusted Trader strategy, which was developed in cooperation with the Commercial Customs Operations Advisory Committee (COAC). Under the strategy, C-TPAT is working to transition the current Importer Self-Assessment (ISA) Program into CTPAT Trade Compliance by the end of fiscal year 2018. This transition will create the United States' equivalent of an Authorized Economic Operator (AEO) that addresses both security and Customs trade compliance. As part of this effort, C-TPAT is working with Trusted Trader stakeholders to test over 30 benefits and measure their impact. The ultimate goal is for members to be able to document their return on investment and quantify the value for their participation in the program.

Additionally, in an effort to combat Importer Identification (ID) theft and provide a new benefit to C-TPAT importers, the National Targeting Center's (NTC) Tactical Trade Targeting Unit (T3U), Cargo and Conveyance Security (CCS), and the CTPAT program have developed a multilevel approach to protect C-TPAT participants from exploitation of ID theft. They have created a notification and verification system within CBP's automated system. The identification of anomalies can represent a legitimate business change or vulnerability within the importer's supply chain and serve as an "ID monitoring" tool.

CBP is also in the process of fully implementing the Advanced Qualified Unloading Approval Lane pilot, or AQUA lane, at most major U.S. seaports. AQUA Lane is an effort to cut down on costs for the trade and better manage the CBP workforce

by focusing resources on high-risk sea carriers. Currently, AQUA Lane is in a pilot phase at 20 U.S. seaports.

C-TPAT has signed 11 mutual recognition arrangements (MRA) with the following countries/AEO programs: New Zealand, Canada, Singapore, Mexico, Dominican Republic, European Union (EU), Japan, Korea, Israel, Jordan, and Taiwan. C-TPAT is also expanding its MRAs to include incentives for C-TPAT members exporting to those nations. Currently, benefits are afforded to CTPAT members exporting to Canada, Mexico, Singapore, Israel, the European Union, and Japan.

C-TPAT is currently working with South Korea and New Zealand to incorporate export incentives through the MRA and will be looking to do the same, in the future, with the remaining MRA partners, Taiwan, Dominican Republic, and Jordan.

*Question 17.* Commissioner McAleenan, the House passed H.R. 3551, the C-TPAT Reauthorization Act of 2017 back in October. The bill reauthorizes the cargo pre-vetting program for the first time in 11 years to ensure that the program is ready to meet the dynamic threats currently facing the global supply chain and that C-TPAT participants receive tangible benefits for their partnership with CBP. Knowing you cannot officially endorse, would you say CBP generally supports the measures within and intent of this bill?

Answer. C-TPAT has been an integral part of the CBP mission for over 15 years. The program is currently undertaking major efforts to modernize its approach so as to best respond to the threats facing the current trade landscape. The measures within the bill and the intent of the bill will allow C-TPAT to evolve into the program it needs to be today and CBP generally supports both the measures within and intent of this bill.

*Question 18a.* Commissioner McAleenan, 10 + 2 data and cargo manifests are currently transmitted to the National Targeting Center for vetting by CBP officers before cargo is bound for the United States. Through that information, CBP determines if a shipment is considered high-risk.

Can you discuss what triggers a container being designated as “high-risk”?

Answer. The National Targeting Center (NTC) is an integral part of CBP's layered security strategy and works closely with Container Security Initiative (CSI) targeters stationed overseas as well as domestic-based targeters located at our many ports of entry (POE) to identify and mitigate high-risk cargo and conveyances prior to its arrival in the United States. The strategy is highly reliant on advance electronic data (AED) and CBP's Automated Targeting System.

In the maritime environment, CBP receives manifests and importer security filings 24 hours prior to loading of U.S.-bound vessels. CBP also receives container status messages within 24 hours of creation, or receipt, within a carrier's tracking system, and vessel stow plans either 48 hours after departure of the last foreign port, or any time prior to arrival for short hauls. The data is fed into ATS where it is automatically risk-assessed and made available for additional targeting by thousands of users throughout CBP as well as the broader DHS community.

As part of the automatic risk-assessment process, the NTC has developed a set of targeting models that judge conditional risk factors based on current intelligence on smuggling pathways. The data is periodically updated and methodology refreshed to ensure a robust, up-to-date, well-sourced approach to identify high-risk shipments. An analyst can modify and deploy risk factors into the targeting modules as intelligence is received to rapidly address and target changing threats.

ATS also compares containers declared on vessel stow plans to containers that have been declared on manifests in order to identify arriving containers that are not manifested. Each year, CBP identifies thousands of these potentially unmanifested containers prior to arrival, which gives CBP time to contact the carrier and mitigate the issue.

*Question 18b.* Have there been instances of shippers falsifying 10+2 data or using vague information to mask a shipment's true contents? And if so, how many?

Answer. There is no doubt that this occurs, since falsifying customs and other supply chain documentation is a time-honored tradition amongst smugglers. However, the NTC is not aware of any entity or system within CBP that regularly records these type of metrics in a way that can be easily retrieved and analyzed. Please see the additional background information provided below.

The targeting, examination, and seizure process is very transactional and the focus is on the merchandise and violation itself (e.g., “smuggling” or “counterfeit goods”), rather than recording the precise underlying reason a shipment was targeted (e.g., the consignee on the importer security filing did not match the consignee on the manifest). While the official seizure narrative may provide more details regarding why a shipment was targeted, these underlying reasons are often listed in the text field in the Seized Asset and Case Tracking System (SEACATS), which makes retrieving the exact metrics extremely burdensome and time-consuming.

*Question 18c.* Are there any other data points you think CBP should include in 10+2 data collection?

Answer. As technology continues to progress, CBP may want to incentivize the supply chain community to provide scanned copies of their purchase orders, invoices, packing lists, and even digital pictures of their merchandise and the smallest external packing materials as early as practicable. This would allow CBP officials to conduct a “virtual examination” before goods are placed on a U.S.-bound vessel.

CBP has requested that the carrier community provide the following data on a voluntary basis in order to perform targeting and compliance operations more efficiently and effectively:

- Each carrier's global container status message (CSM) feed. (Will help with coast-wide and outbound targeting and tracking)
- Each carrier's global vessel stow plans (BAPLIE)<sup>2</sup> feed. (Will help with coast-wide and outbound targeting and tracking)
- Electronic copies of all vessel documentation to include:
  - Registry/Certificate of Nationality
  - Tonnage Certificate
  - Certificate of Financial Responsibility
  - Certificate of Financial Responsibility (Alternate)
  - Continuous Synopsis Record
  - Safety Construction Certificate
  - Safety Equipment Certificate
  - Radio Certificate
  - Dangerous Goods Compliance
  - Ship Security
  - Safety Management Certificate
  - Load Line Certificate

*Question 18d.* How does CBP measure the effectiveness of its algorithm that determines whether a shipment is “high-risk” or not?

Answer. The NTC reviews results from enforcement operations and current intelligence to judge efficacy. With rapidly-changing threat streams, CBP leverages both domestic and international partners to rapidly deploy targeting rules and models that address current threats. Feedback from the field, the trade community, law enforcement agencies, and data analytics are also considered. The research is shared throughout the CBP Intelligence Enterprise and reviewed for validation against Classified materials.

*Question 19a.* Commissioner McAleenan, a viable biometric exit system to track visa overstays has been a statutory mandate for over a decade. What is the current time line for the implementation of a full biometric exit system at all U.S. international airports?

Answer. Since receiving the mission in 2013, U.S. Customs and Border Protection (CBP) advanced an entry/exit strategy by conducting a series of pilot programs and technical demonstrations, which resulted in CBP developing a realistic and achievable biometric exit plan. CBP has:

- Deployed demonstrations to 8 airports across the Nation;
- Facilitated pilot programs with 3 airlines and 1 airport to integrate biometrics with the airline boarding process;
- Transformed the entry process for certain flights at 7 airports, including PreClearance locations;
- Facilitated a pilot program with one cruise line for biometric disembarkation;
- Launched a facial matching pilot with the Transportation Security Administration (TSA) at a security checkpoint as a proof of concept for enhancing the travel experience;
- Enabled mobile devices to collect biometrics; and
- Solidified plans to deploy facial recognition technology in the land border vehicle and pedestrian environments.

These tests have assisted in defining the technical architecture for the end-state solution. CBP's Traveler Verification System (TVS) uses biographic data from the passenger manifest and previously-collected photos contained in Government databases to perform facial matching on-site to verify a traveler's identity. In early 2018, CBP completed the TVS and remains committed to partnerships with all airlines and airports across the United States. CBP is working toward full implementation of biometric exit in the air environment within the next 4 years to account for over 97 percent of departing commercial air travelers from the United States.

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<sup>2</sup>BAPLIE is a widely used UN/EDIFACT message in the shipping industry. It is used by and between various parties to advise the exact stowage positions of cargo on an ocean vessel.

CBP is leveraging advances in technology from the biometric exit solution to transform the entry process by using facial photographs to identify travelers. This innovative approach uses the traveler's face to unlock their electronic travel record, in turn providing an immediate facilitative benefit, while at the same time leveraging previously-collected fingerprints to run applicable law enforcement checks in the background. CBP is piloting this concept at 7 airports, to demonstrate that facial recognition technology facilitates frictionless travel by reducing inspection time and creating an improved customer experience for the traveling public.

*Question 19b.* Is biometric exit finally something that is going to be accomplished?

Answer. CBP's partnership with stakeholders is critical to accomplish implementation of a biometric entry/exit system. CBP is committed to a process that meets the needs of all stakeholders to fulfil the biometric entry-exit mandate. CBP's primary responsibility is to facilitate legitimate trade and travel. CBP employees are working diligently to ensure stakeholders—travelers, airline authorities, air carriers, and other industry partners—are able to navigate these changes seamlessly and with the least amount of disruption to our economy.

If CBP were to deploy a Government-only solution, without stakeholder input and support, cumbersome layers would be added to existing travel processes which, in turn, would have adverse effects on travel as a whole. Travelers would spend additional time going through security and/or boarding processes. Additionally, significant enhancements and modifications would be necessary to manage the expected increase in air travel.

CBP is cognizant of limitations posed by existing infrastructure. As a whole, operationally, there are significant differences between the air, land, and sea environments. Each environment will require a different strategy and method of implementation. CBP is currently conducting field tests in the land and sea environments to validate technology and operational processes to inform strategy and planning activities going forward.

Enactment of the fiscal year Consolidated Appropriations Act authorizes funding for a biometric exit program of up to \$1 billion to be collected in fees on H-1B and L-1 applications over a period of up to 10 years. Based on actual collections in fiscal year 2016, fiscal year 2017, and fiscal year 2018, the current 10-year projection for fee fund collections is \$585 million. CBP continues to closely monitor fee collections to ensure that there are adequate resources to meet this mandate.

*Question 20.* Commissioner McAleenan, CBP recently enacted a process to allocate and prioritize AMO flight hours across various operational needs within CBP and DHS. There is a significant gap between funded hours of about 95,000 compared to the Border Patrol requirement of about 220,000. Do you support the use of contractual air support to fill this gap?

Answer. CBP is exploring a number of potential opportunities to increase its situational awareness, close the gap in air support, and increase law enforcement presence. We believe the 52 initiatives contained within the Border Security Improvement Plan address these gaps through additional investments in U.S. Customs and Border Protection infrastructure and personnel.

#### QUESTIONS FROM RANKING MEMBER FILEMON VELA FOR KEVIN K. MCALLEANAN

*Question 1.* During the hearing you stated that CBP has a prioritized list of port of entry infrastructure improvements developed in partnership with GSA, the Department of Transportation, the Department of Commerce, and international partners. Please provide the committee with this prioritized list.

Answer. Response was not received at the time of publication.

*Question 2.* Attrition is a significant problem for CBP as a whole and given that the component has not been able to meet the minimum staffing level for CBPOs over several years, I am concerned that CBP may not be doing enough to keep the workforce it currently has. Please explain what is driving OFO's attrition rate.

Answer. The CBP officer (CBPO) attrition rate is based on retirements, separations, and series losses. It counts CBPOs who leave CBP or leave the 1895 series and therefore represents true attrition to the CBPO population. The CBPO attrition rates have historically been in the range of 3 percent to 3.5 percent. This attrition rate is considered low.

For fiscal year Year-to-date (pay period ending April 28, 2018), we have seen the attrition rate for CBPOs increase to 4.2 percent from the 3.3 percent seen through the same pay period in fiscal year 2017. This is largely attributed to a spike in retirements. OFO has experienced 35 percent more retirements this year compared to the same time frame last year. CBP monitors attrition rates throughout the fiscal year and strives to close the staffing gap between our onboard and our authorized

staffing levels regardless of whether the gap is new, positions yet to be filled, or backfills due to attrition.

*Question 3.* In recent years, Border Patrol has lost hundreds more agents each year than it has been able to hire. What steps is CBP taking to increase its retention of qualified Border Patrol agents?

Answer. CBP's Office of Human Resources Management (HRM) is engaged with U.S. Border Patrol and other CBP operational components to advise and inform decision makers of appropriate attrition mitigation strategies. CBP is assessing funding requirements and prioritizing incentives that will have the greatest impact in retaining the workforce.

Engaging in open conversation with employees and their families will enable CBP to identify factors leading to job satisfaction, quality of life, and other issues influencing attrition. We are also developing a CBP-wide Exit Survey. The exit survey results will allow the agency to better understand the causes of attrition with the goal of improving retention.

Last, CBP established the Workforce Resilience and Engagement Division within HRM, which is dedicated to identifying and promoting programs and initiatives to enhance work-life balance for employees and their families, and to address issues like affordable and available child care in remote locations, employee and family health and wellness, and the impact of working in high-stress environments.

#### QUESTIONS FROM HONORABLE MIKE ROGERS FOR KEVIN K. MCLEENAN

*Question 1.* Since April 2017 apprehensions on the Southwest Border have been on a steady rise. What new operations or policies, if any, have you put in place to try to deter or address the rise in apprehensions and illegal crossings?

Answer. The U.S. Border Patrol has initiated several operations in an effort to decrease the flow of illegal entries into the United States via the Southern Border with Mexico. These initiatives and operations include planning aimed at returning agents to border security missions, enhancing situational awareness reporting, and decreasing "pull factors" for those entering the United States from countries other than Mexico. These initiatives and operations are the Zero Tolerance Prosecution, Operation Guardian Support, and Operation Department of Interior Support.

Zero Tolerance is an initiative aimed at criminally prosecuting 100 percent of those entering the United States illegally between the ports of entry. USBP is working with the Assistant U.S. Attorneys across the Southwest Border to successfully implement this initiative.

The Zero Tolerance Prosecution Initiative continues to be implemented in accordance with the President's June 20, 2018 Executive Order titled *Affording Congress an Opportunity to Address Family Separation*. The Executive Order clearly directs USBP to enforce this and other criminal provisions of the Immigration and Nationality Act until and unless Congress directs otherwise. It also directs USBP to maintain family unity, including by detaining alien families together where appropriate and consistent with law and available resources.

Operation Guardian Support is an initiative to use National Guard personnel for support in non-enforcement operations to increase the numbers of agents working border security operations. This effort places qualified National Guard troops in duties as camera operators, mechanics, construction efforts, and in helicopters to increase enforcement efficiency. National Guard troops will not be used in any enforcement activities.

Operation Department of Interior Support is a collaborative effort where additional Law Enforcement Officers from the Fish and Wildlife Service, National Park Service, and Bureau of Land Management are working routine enforcement activities in Federal Lands that fall within the border areas aimed to improve overall border security. Yuma, Tucson, El Paso, Del Rio, and Rio Grande Valley Sectors are closely coordinating with DOI for this operation. This increase in DOI enforcement support also enhances USBP situational awareness reporting capabilities.

*Question 2a.* On April 5, 2018, The Washington Times published an article regarding how the Border Patrol is deploying its manpower resources on the Southwest Border, specifically at the McAllen, Texas Station. (<https://m.washingtontimes.com/news/2018/apr/5/border-patrol-agents-stuck-desk-duty-amid-trump-ca/>)

What is the percentage of agents, out of those that are on duty, that are actually assigned to patrol the border on a daily basis in a "zone" that is along the border (broken down by station and sector)?

Answer. The percentage of agents assigned to patrol the border on a daily basis are broken down by stations with border zones in the Rio Grande Valley Sector are stated below. As stated in the response to question No. 10, the lower percentages in certain zones is due to certain terrain challenges and accessibility issues. Our

border enforcement posture will not always be at the immediate border, but within a reasonable distance where the Border Patrol can perform its law enforcement/interdiction duties.

- Brownsville-63 percent
- Fort Brown-68 percent
- Harlingen-32 percent
- McAllen-69 percent
- Rio Grande City-79 percent
- Weslaco-64 percent

*Question 2b.* Additionally, what was the percentage of agents, out of those that were on duty, that were actually assigned to patrol the border on a daily basis in a “zone” that is along the border for the month of March 2018, including on the date in question in *The Washington Times* story (also broken down by station and sector)?

Answer. The percentage of agents assigned to patrol border duties on a daily basis for the month of March broken down by stations with border zones in the Rio Grande Valley Sector are stated below.

- Brownsville-63 percent
- Fort Brown-68 percent
- Harlingen-32 percent
- McAllen-69 percent
- Rio Grande City-79 percent
- Weslaco-64 percent

On March 18, 2018 agents assigned to patrol border duties broken down by stations with border zones in the Rio Grande Valley Sector are stated below.

- Brownsville-82 percent
- Fort Brown-82 percent
- Harlingen-44 percent
- McAllen-62 percent
- Rio Grande City-77 percent
- Weslaco-71 percent

*Question 3.* As the deputy commissioner, acting commissioner, and now commissioner, you've overseen a workforce attrition rate among agents in the Border Patrol greater than any other since the early 2000's. What steps have you taken or do you intend to take, besides the operational mobility program, to address this significant problem?

Answer. CBP will continue to use its operational mobility program to address attrition, and will continue to look for new approaches to improve attrition rates for mission essential competencies. CBP is also working to make improvements to its hiring process so that attrition of seasoned agents is less of an issue than it is currently.

#### QUESTIONS FROM HONORABLE LOU BARLETTA FOR KEVIN K. MCALLEANAN

*Question 1.* Commissioner MacAleenan, the CBP is requesting \$33.25 billion in funding, approximately \$18 billion of which would be allocated for 722 miles of border wall, 316 of which is new.

Can you detail the problems with our current border infrastructure, and explain why replacing, expanding, and enhancing it is vital to the National security of the United States?

Answer. In certain areas of the border, the border barrier has been in place for many years and the effects of aging, along with numerous incidents of breaching and patching, have diminished their effectiveness over time. Barriers are integral to achieving the requisite level of impedance and denial needed to establish operational control of the border and operational control is an essential element of a safe and secure border. Replacing, expanding, and enhancing border barrier will increase the Border Patrol's ability to impede and deny illegal activity at the border, effect a proper law enforcement response, and bring border incursions to an appropriate resolution. These activities are essential to both the border and National security of the United States.

*Question 2a.* While I support the President's plan of building a wall along our Southern Border, I also recognize this alone will not stop illegal immigration. Approximately 40 percent of illegal aliens in the United States are here because they overstayed their visa.

How close are we to fully putting in place a biometric entry/exit system as outlined in the 9/11 commission report?

Answer. Since receiving the mission in 2013, U.S. Customs and Border Protection (CBP) advanced an entry/exit strategy by conducting a series of pilot programs and

technical demonstrations, which resulted in CBP developing a realistic and achievable biometric exit plan. CBP has:

- Deployed demonstrations to 8 airports across the Nation;
- Facilitated pilot programs with 3 airlines and 1 airport to integrate biometrics with the airline boarding process;
- Transformed the entry process for certain flights at 11 airports, including PreClearance locations;
- Facilitated a pilot program with one cruise line for biometric disembarkation;
- Launched a facial matching pilot with the Transportation Security Administration at a security checkpoint as a proof of concept for enhancing the travel experience;
- Enabled mobile devices to collect biometrics; and
- Solidified plans and began deploying handheld mobile devices to collect biometrics and verify identity in the land border vehicle and pedestrian environments.

These tests have assisted in defining the technical architecture for the end-state solution. CBP's Traveler Verification System (TVS) uses biographic data from the passenger manifest and previously collected photos contained in Government databases to perform facial matching on-site to verify a traveler's identity. In early 2018, CBP completed the TVS and remains committed to partnerships with all airlines and airports across the United States. CBP is working toward full implementation of biometric exit in the air environment within the next 4 years to account for over 97 percent of departing commercial air travelers from the United States.

CBP is leveraging advances in technology from the biometric exit solution to transform the entry process by using facial photographs to identify travelers. This new innovative approach uses the traveler's face to unlock their electronic travel record, in turn providing an immediate facilitative benefit, while at the same time leveraging previously collected fingerprints to run applicable law enforcement checks in the background. CBP is piloting this concept at 7 airports to demonstrate that facial recognition technology facilitates frictionless travel by reducing inspection time and creating an improved customer experience for the traveling public.

*Question 2b.* Can you explain what obstacles we are facing that have delayed its implementation?

Answer. CBP's partnership with stakeholders is critical to accomplish implementation of a biometric entry/exit system. CBP is committed to a process that meets the needs of all stakeholders to fulfill the biometric entry-exit mandate. CBP's primary responsibility is to facilitate legitimate trade and travel. CBP employees are working diligently to ensure stakeholders—travelers, airline authorities, air carriers, and other industry partners—are able to navigate these changes seamlessly and with the least amount of disruption to our economy.

If CBP were to deploy a Government-only solution, without stakeholder input and support, cumbersome layers would be added to existing travel processes which, in turn, would have an adverse effect on travel as a whole. Travelers would spend additional time going through security and/or boarding processes. Additionally, significant enhancements and modifications would be necessary to manage the expected increase in air travel. CBP is cognizant of limitations posed by existing infrastructure. As a whole, operationally, there are significant differences among the air, land, and sea environments. Each will require a different strategy and method of implementation. CBP is currently conducting field tests in the land and sea environments to validate the technology and operational processes to inform strategy and planning activities going forward.

The Fiscal Year 2016 Consolidated Appropriations Act authorizes funding for a biometric exit program of up to \$1 billion to be collected through fee surcharges over a period of up to 10 years. Based on actual collections in fiscal year 2016, fiscal year 2017, and fiscal year 2018, the current 10-year projection for fee fund collections is \$585 million. CBP continues to closely monitor fee collections to ensure that there are adequate resources to meet this mandate.

*Question 3a.* Commissioner, can you explain how the current hiring process for Border Patrol agents prevents CBP from being properly staffed?

Answer. All BPAs undergo a rigorous, multi-step pre-employment process that evaluates them for a range of distinct qualities and skills. Finding the right people, the most trustworthy and capable of American citizens, to join us on the front line is one of the most crucial functions of the agency and one of our greatest challenges. CBP's rigorous process ensures only the best qualified applicants are hired, and includes an entrance exam, interview, medical test, polygraph examination, background investigation and physical fitness test. Because CBP's recruiting and hiring processes are complex, they require significant investment to meet the agency's hiring goals.

*Question 3b.* What are the biggest challenges you face in the hiring process and what do you think must be changed?

Answer. CBP is committed to improving its pre-employment hiring process through continuous evaluation, analysis, and refinement of its practices. While many modifications to CBP's hiring process are considered, we carefully weigh all risks and risk mitigation measures to ensure the agency's high standards of integrity remain uncompromised.

In the last 2 years, numerous refinements have streamlined CBP's front-line hiring process and led to reductions in the average time-to-hire. This has directly contributed to reducing the number of otherwise qualified candidates who drop from the hiring process due to process fatigue or accept more timely job offers elsewhere. In January 2016, CBP required approximately 195 applicants for one BPA to enter on duty. Today, CBP only requires on average 52 applicants for every one BPA hire.

CBP continues to develop and implement initiatives designed to attract applicants suited to the unique CBP mission demands, expedite the pre-employment time line, and refine the hiring process. Of the 11 steps in CBP's hiring process, the polygraph phase continues to see the highest combined failure and discontinuation rates. CBP is actively focusing on increasing capacity in this area.

CBP supports the Anti-Border Corruption Reauthorization Act of 2017 (H.R. 2213 in the House of Representatives and S. 595 in the Senate). The House passed H.R. 2213 on June 7, 2017, thanks to the strong support of this subcommittee and the co-sponsorship of Chairwoman McSally. This legislation would grant CBP authority to waive the polygraph requirement for three groups of applicants who demonstrated long-standing histories of public trust and meet specific criteria: Current, full-time State and local law enforcement officers; current, full-time Federal law enforcement officers; and veterans, active-duty service members, and reservists. CBP thanks Members of Congress for your continued support as we seek to hire women and men to fulfill CBP's complex and crucial missions in the months and years to come.

*Question 4a.* A great deal of media coverage has been centered on the "caravan" of men, women, and children approaching the Southern Border in hopes of entering the United States from Honduras. Most of these individuals would likely try to enter the country by seeking asylum, the backlog of which is extensive and susceptible to fraud.

Do you believe that our asylum process, specifically, the credible fear standard has to be improved?

Answer. Under section 235(b)(1)(B)(v) of the Immigration and Nationality Act, the term "credible fear of persecution" means that there is a "significant possibility" that the alien could establish eligibility for asylum. In assessing whether this standard has been met, an officer must take into account the credibility of the statements made by the alien in support of the alien's claim and such other facts as are known to the officer. The standard is lower than the standard required for asylum itself; the latter requires proof of either "past persecution" or "well-founded fear of persecution." Currently, between 80 and 90 percent of applicants are found to have a credible fear of persecution or torture.

In its list of Immigration Principles and Policies released last year, the White House stated that, as part of its push for asylum reform, it sought to "[e]levate the threshold standard of proof in credible fear interviews." The Department acknowledges the importance such a proposal would have in deterring fraud in the asylum process and is supportive of the measure.

*Question 4b.* What additional resources, such as immigration judges, are necessary to be able to quickly and efficiently process these individuals when they arrive at the border?

Answer. A greater presence on the part of asylum officer staff is also necessary, given the challenges we currently face in the asylum process. In fact, in response to the President's Executive Order 13767 entitled "Border Security and Immigration Enforcement Improvements," the Department has already increased USCIS asylum-officer deployments to a larger number of Southwest Border detention facilities. Up to 60 asylum officers are currently deployed at 10 detention centers along the border. Regarding additional immigration judges, DHS defers to the Department of Justice.

Additional prosecutorial resources are also needed. The Department recently announced it would begin referring more cases where individuals have entered illegally between Ports of Entry for prosecution by the Justice Department. The cooperative effort is one the Department completely supports as an important deterrent against frivolous asylum cases.

Further, the Department has returned to a "last in, first out" interview schedule, which will allow USCIS to focus quickly on those applications that should be ap-

proved while also identifying frivolous, fraudulent, or otherwise non-meritorious asylum claims earlier and quickly place those individuals into removal proceedings. Last in/first out asylum-application processing was first established by the asylum reforms of 1995 and was used for 20 years until 2014. The aim then, as now, was to deter those who might try to use a backlog as a means to obtain employment authorization and build equities in the United States.

*Question 5a.* When was the assessment completed that identified deployment of the National Guard as necessary?

Answer. On April 4, 2018, the President of the United States sent a mission directive to DoD specifying that DoD would assist DHS with operational support personnel and air support. At this time, DHS began to coordinate with DoD on mission directives that could assist the overall mission of CBP in securing our borders.

*Question 5b.* What factors or criteria were used to determine this approach would be the most effective and cost-efficient alternative?

Answer. As soon as the Presidential Directive was given to Department of Defense, the Border Patrol began its planning process by referencing its fiscal year capabilities gap assessment document and its list of air requirements that Air and Marine Operations was unable to meet in fiscal year 2018. These areas were identified as support missions that the Department of Defense and National Guard could immediately fill given the limited scope of the Operation Guardian Support.

*Question 5c.* Did you recommend such a deployment and were you aware of the President's plan regarding the National Guard prior to his announcement earlier this month?

Answer. While the United States Border Patrol has a long working relationship with the National Guard and Department of Defense, this specific Operation was not pre-coordinated prior to April 4, 2018. The Border Patrol was not aware of the President's plan until he made his proclamation on April 4, 2018.

*Question 7.* How does this deployment impact the U.S. Border Patrol's overall border security strategy?

Answer. CBP has identified operational support positions where National Guard Personnel can assist that will allow Border Patrol agents to return to border enforcement activities between the ports of entries. This will allow CBP personnel to return to their primary roles as law enforcement officers.

As more agents return to the border along with the additional 12,000 hours of air support, CBP will gain a greater amount of situational awareness along the Southwest Border. This will enhance the Border Patrol's ability to impede and deny illegal border crossing and apply the appropriate law enforcement response between the ports of entries.

The increased situational awareness, impedance, denial, and appropriate law enforcement resolution are all elements of the Operational Control model for the U.S. Border Patrol. The readiness of personnel and equipment allows Border Patrol to execute the elements of Operational Control.

*Question 6a.* Acting Deputy Commissioner Vitiello has mentioned the possibility of using National Guard personnel at ports of entry, specifically to assist with cargo inspections.

Can you please tell us under what authority this would be allowed?

Answer. National Guard personnel are authorized under title 32 of the U.S. Code, by request of the President of the United States, to conduct operations in support of Department of Homeland Security Southern Border security missions.

*Question 6b.* Have National Guard personnel been assigned to ports of entry in the past?

Answer. National Guard personnel have been assigned to ports of entry in the past, assisting with cargo operations and dismantling activities. Operation Jump Start, 2006–2010, and Operation Phalanx, 2012–2013, provided National Guard to assist at the ports of entry. For example, National Guard personnel assisted in pre-primary inspections of vehicles on the land border, using portable contraband detectors (busters) and fiber optic scopes. They assisted in secondary inspections in the passenger and cargo environment in the land border, including cab checks. They searched vehicles, trucks, aircraft, and vessels. They unloaded, landed, and searched cargo shipments under the supervision of CBP officers in the air, land, and sea environment. They performed traffic control in seaport and land borders. They performed landed quantity verifications in the sea environment. They dismantled vehicles or cargo suspected or found to contain narcotics, and retrieved the packages of illegal substances under CBP officer supervision. They participated in narcotic transport activities. They performed counter-drug surveillance operations. The National Guard assistance was a valuable force-multiplier, allowing CBP personnel to inspect more and intercept more illegal shipments.

*Question 6c.* How they interact with general public and what guidance will be required to govern that interaction?

Answer. Their duties will not bring National Guard members in contact with illegal immigrants/detainees, or persons presenting themselves for entry. National Guard members will have limited contact with the public related to their duties, e.g., GSA vehicle vendors/dealers, maintenance garages, and parts vendors. National Guard personnel will have limited contact with vehicle drivers for the purpose of ground guidance and directional movement of vehicles in designated controlled areas.

*Question 8a.* Given that CBP does not have metrics in place to accurately measure the contributions of existing fencing and surveillance technology, how did CBP determine that it needs to heavily rely on its “impedance and denial” capabilities, seemingly at the expense of other capabilities?

Answer. Since the construction of barriers, USBP has made significant operational gains in border security. Illicit drug and human smuggling activity have decreased in those areas where barrier is deployed, but illicit cross-border traffic has also shifted to areas with limited or no border barrier. This reduction and shift in traffic demonstrates the effectiveness of deploying physical barriers along the border as well as the need for more I&D infrastructure.

Today's border wall is a part of an integrated system that will deter and prevent illegal entries. The physical barriers are the backbone of an integrated Border Wall System that will include all-weather roads and lighting, as well as enforcement cameras and sensors and detection technology as well as adequately staffed agents to support that infrastructure. Future investments in Border Wall Systems, while rooted in I&D, will also include the integration of additional capabilities such as domain awareness and access & mobility to increase certainty of arrest, agent safety, and overall public safety.

*Question 8b.* How, if at all, have the plans for the construction of the wall system affected plans for deployments of surveillance technologies along the Southwest Border?

Answer. Both the Linear Ground Detection System (LGDS) and Remote Video Surveillance System (RVSS) Programs are part of the Border Wall System Program (BWSP) Integrated Product Team (IPT) to ensure efficient and effective deployment of surveillance technology as each wall segment is constructed. In addition, relocatable RVSS surveillance technology will be installed in certain areas where wall will be constructed instead of the planned fixed RVSS surveillance technology to provide current domain awareness capability in these locations and avoid costly relocation of fixed infrastructure if the exact location of fixed RVSS surveillance technology does not match the BWSP needs as each wall segment is designed. When each wall segment is constructed and fixed RVSS surveillance technology installed, the relocatable RVSS surveillance technology will be redeployed to another location.

*Question 9a.* The border wall prototypes in San Diego have undergone a long period of testing and evaluation. What is the status of the results of this evaluation period?

Answer. CBP constructed 8 border wall prototypes in San Diego County: 4 segments constructed of reinforced concrete and 4 segments constructed of alternate materials. The purpose of the prototypes was to explore additional border wall design attributes. CBP began testing the border wall prototypes in late November 2017 and completed testing and evaluation in March 2018. Two of the most important testing criteria were how easily the wall can be scaled and how easily the wall can be breached. During the evaluation and assessment phase, CBP identified attributes from the prototypes that support Border Patrol's operational criteria for possible addition to the existing border wall design toolkit.

*Question 9b.* What are CBP's anticipated next steps for this project?

Answer. CBP has identified attributes from the prototypes and is currently working with a design firm to incorporate those attributes into the existing border wall design toolkit.

*Question 9c.* How do you anticipate using these prototypes?

Answer. The current plan is for the prototypes to remain in place along the current eastern terminus of the San Diego Secondary Wall. As the prototype location is part of the site of the fiscal year 2018 San Diego Secondary Wall, the long-term plan for the prototypes is still being determined. Once the design for the San Diego Secondary Wall is complete, CBP will be better-positioned to provide more information on the future of the prototypes.

*Question 10a.* How has DHS estimated the costs associated with planned barrier segments?

Answer. When CBP constructs border infrastructure and associated cost estimates, CBP evaluates each segment of the physical border against CBP border bar-

rier requirements. CBP carefully considers the unique operational requirements and terrain associated with each border segment to identify the border barrier solutions and supporting technology necessary to maximize effectiveness and provide situational awareness for the Border Patrol. CBP continues to refine cost estimates for the border wall program based on site-specific characteristics, including the environment, land acquisition, and terrain factors, as well as lessons learned from previous border wall construction.

*Question 10b.* To what extent has DHS factored in the costs of land acquisition and terrain into those estimates?

Answer. CBP continues to refine cost estimates for the border wall program based upon the terrain and land acquisition for each specific site. Each segment of the wall construction has varying requirements and associated real estate costs. CBP cannot yet determine the anticipated total costs to survey, appraise, and acquire any necessary real estate until rights of entry have been obtained, which will allow the Government and its contractors to go enter privately-owned property to conduct necessary pre-acquisition activities.

*Question 11.* Border Patrol staffing nearly doubled between fiscal year 2004 and fiscal year 2014 but staffing at ports of entry increased less than 25 percent during this same time period and has continued to lag. How are you prioritizing personnel and resources for the ports of entry?

Answer. By effectively using targeted, monthly, port-specific, entry-level vacancy announcements, CBP has closed, or nearly closed, staffing gaps along the Southern and Northern Borders. Major Southern Border ports such as El Paso, San Ysidro, Brownsville, Hidalgo, and Eagle Pass either are at their authorized staffing level, or are projected to be within the next month. The Port of Laredo is over 93 percent staffed and has 18 trainees scheduled to enter on duty in the month of June. Additionally, the Port of Otay Mesa, CA, was recently included on the May CBP officer vacancy announcement to help close their staffing gaps.

The Arizona border ports and the Port of Calexico, CA, have proven to be exceptionally difficult locations for hiring. Therefore, CBP requested, and received approval, to increase the recruitment incentive for these ports from 25 percent to 33 percent of an employee's basic pay plus locality for a 3-year service period. Although it is too early to see the long-term impact of this increase in recruitment incentive, it is expected that the focused recruiting initiative and increased recruitment incentive will result in increased staffing in these difficult-to-hire ports.

Since the Office of Personnel Management approved an increase to the recruitment incentive for the Arizona border ports and the Port of Calexico, CA from 25 percent to 33 percent of an employee's basic pay plus locality, 77 applicants have accepted CBP officer job offers with the 33 percent incentive. In comparison, in the 2 prior years combined, 150 applicants accepted the 25 percent incentive for the AZ border ports and the Port of Calexico. Therefore, in 3 short months, CBP has experienced a marked increase in applicants accepting CBP officer job offers to these ports. The average increase in incentive pay is approximately \$3,500 per applicant, per year of a 3-year service agreement. Over a 3-year service period, the increased incentive for these applicants is expected to cost approximately \$810,000. Attrition has yet to fully stabilize in these ports, however, the Port of Nogales has experienced a net increase in staffing of 6.5 percent since the recruitment incentive was first offered in February 2016.

Key ports along the Northern Border in Maine, Vermont, Washington, and Montana have reached their authorized staffing levels. The Port of Portal, ND, which has proven to be very difficult to staff, is over 91 percent staffed as of the beginning of July 2018.

The Port of San Francisco has had 16 applicants accept CBP officer job offers since the recruitment incentive was approved in May 2018. The average incentive is \$12,611 each year for a 3-year service period. The port's attrition has yet to stabilize, but increased numbers of applicants are clearing pre-employment and accepting job offers. It is expected that in the coming months that the port will experience a net gain in staffing. The airports in Seattle and Boston recently received additional CBP officer positions. Both airports have applicants scheduled to enter on duty in the coming months, and applicants in pre-employment, which is expected to satisfy the hiring requirements. For John F. Kennedy Airport, there are nearly 600 applicants in the pre-employment process with 49 applicants scheduled to enter on duty over the coming months.

For the monthly CBP officer vacancy announcement for May 2018, posted vacancies included the following airports: Dulles International Airport (IAD), Los Angeles International Airport (LAX), and San Francisco International Airport (SFO). Collectively, these locations received nearly 1,500 applications in just 15 days.

Dulles International Airport received over 1,200 applications in May 2018. Of those, nearly 500 applicants are in the pre-employment process with 21 applicants scheduled to enter on duty in the coming months. Los Angeles International Airport received nearly 2,000 applications in May 2018. Of those, nearly 700 applicants are in the pre-employment process with 11 applicants scheduled to enter on duty in the coming months.

*Question 12a.* CBP has the authority to provide additional inspection services to private stakeholders through the Reimbursable Services Program.

How many of these agreements does CBP have in place now?

Answer. As of May 14, 2018, CBP has signed Reimbursable Services Agreements with 100 stakeholders.

*Question 12b.* How does CBP help its partners estimate the costs for entering these kinds of agreements?

Answer. CBP emphasizes that partners are subject to the actual costs linked to the salaries and benefits of the specific CBP employees that process requests for services made by program partners. As a general estimate, CBP will provide interested parties with tables that include a variety of possible annual and hourly base salary and overtime rates to represent the range of grade levels that might perform the work under reimbursable services agreements. Estimates include benefit rates to reflect Government contributions which are required for employees earning overtime under the Customs Officer Pay Reform Act (COPRA):

Rate (Percent)	Type	Calculation Basis
1.45 .....	Medicare .....	Applied to all COPRA overtime earnings.
6.20 .....	FICA .....	Applied to all COPRA overtime earnings.
1.00 .....	FERS One Percent .....	Applied to the first \$22,500 of COPRA overtime earnings.
4.00 .....	FERS Matching* .....	Applied to the first \$22,500 of COPRA overtime earnings.
28.8 .....	FERS Annuity .....	Applied to the first \$22,500 of COPRA overtime earnings.

\* [Sic.]

Also included are summaries of laws related to overhead, overtime, and premium pay regulations that could be applicable contingent upon the nature of the partner's request for reimbursable services. As partners begin to request services, CBP provides points of contact to address any questions tied to billing.

*Question 12c.* How do you determine which officers are assigned to fulfill these agreements?

Answer. CBP uses the assignment procedures set forth in Article 35 of the National Collective Bargaining Agreement (NCBA) between CBP and the National Treasury Employees Union (NTEU) for the assignment of all overtime including assignments filled under the auspices of the Reimbursable Services Program. Overtime assignments are made on least-cost, low-earner principles; and in accordance with a call-out order found in the NCBA.

*Question 13a.* Has CBP been successful in getting Congress to increase Customs user fees to fund CBP officer new hires since the initial request in the fiscal year 2014 budget proposal?

Answer. On December 4, 2015, the Fixing America's Surface Transportation Act (FAST Act, Pub. L. 114-94) was signed into law. Section 32201 of the FAST Act amended section 13031 of the Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1985 (19 U.S.C. 58c) by requiring certain COBRA user fees and corresponding limitations be adjusted to reflect certain increases in inflation. While this ability to adjust COBRA fees for inflation was formally requested by CBP, the FAST Act does not allow CBP to retain the fees collected as a result of the inflationary adjustments. Congress has not granted approval on recent legislative proposals to increase user fees to support increased CBP officer hiring.

*Question 13b.* If not, can you please explain why CBP has chosen to not request dedicated appropriations to hire the more than 3,500 officers needed to address OFO's staffing shortage?

Answer. CBP is committed to continued cooperation with the Congress in order to assess the optimal resource solutions to support additional CBP officer hiring efforts. Consistent with CBP's fiscal year 2017 Resource Optimization Strategy and prior budget requests, CBP has submitted user fee increase legislative proposals to support additional CBP officers. The proposed increases to the Immigration User Fee (IUF) and COBRA User Fee would help CBP keep pace with travel volumes and

meet the requirements identified by CBP's Workload Staffing Model. These fees are an important source of revenue for CBP field operations, but have not kept pace with the rising cost of providing inspection services or with rising inflation. Adjusting these fees will allow CBP to recover more of its costs through user fees, rather than annual appropriations, providing a funding source more closely aligned with trends in travel demand. Fee increases for these programs allow DHS to dedicate discretionary funding to programs for which user fees are not authorized.

*Question 14a.* CBP has previously committed to fully implementing biometric exit by the end of 2018. In your written testimony, you describe this effort as the Traveler Verification Service, but you do not mention a time line for full deployment. Is CBP on track to meet the original 2018 deadline?

Answer. Since receiving the mission in 2013, U.S. Customs and Border Protection (CBP) advanced an entry/exit strategy by conducting a series of pilot programs and technical demonstrations, which resulted in CBP developing a realistic and achievable biometric exit plan. CBP has:

- Deployed demonstrations to 8 airports across the Nation;
- Facilitated pilot programs with 3 airlines and 1 airport to integrate biometrics with the airline boarding process;
- Transformed the entry process for certain flights at 7 airports, including PreClearance locations;
- Facilitated a pilot program with one cruise line for biometric disembarkation;
- Launched a facial matching pilot with the Transportation Security Administration at a security checkpoint as a proof of concept for enhancing the travel experience;
- Enabled mobile devices to collect biometrics; and
- Solidified plans and began deploying handheld mobile devices to collect biometrics and verify in the land border vehicle and pedestrian environments.

These tests have assisted in defining the technical architecture for the end-state solution. CBP's Traveler Verification Service (TVS) uses biographic data from the passenger manifest and previously collected photos contained in Government databases to perform facial matching on-site to verify a traveler's identity. In early 2018, CBP completed the TVS and remains committed to partnerships with all airlines and airports across the United States. CBP is working toward full implementation of biometric exit in the air environment within the next 4 years to account for over 97 percent of departing commercial air travelers from the United States.

CBP is leveraging advances in technology from the biometric exit solution to transform the entry process by using facial photographs to identify travelers. This innovative approach uses the traveler's face to unlock their electronic traveler record, in turn providing an immediate facilitative benefit, while at the same time leveraging previously collected fingerprints to run applicable law enforcement checks in the background. CBP is piloting this concept at 7 airports, further demonstrating that facial recognition technology facilitates frictionless travel by reducing inspection time and creating an improved customer experience for the traveling public.

*Question 14b.* What remains to be addressed?

Answer. In order to fully implement biometric exit, CBP must continue making progress in three key areas: Funding, stakeholder engagement, and expansion to additional modes of travel.

First, while CBP received initial funding for the biometric exit program through the fiscal year 2016 Consolidated Appropriations Act, CBP must continue to closely monitor fee collections to ensure that there are adequate resources to meet this mandate. The Act authorizes funding for a biometric exit program of up to \$1 billion to be collected through fee surcharges over a period of up to 10 years. Based on actual collections in fiscal year 2016, fiscal year 2017, and fiscal year 2018, the current 10-year projection for fee fund collections is \$585 million. It is imperative that CBP monitor the funding forecast in order to inform the time line of the biometric implementation strategy (in all modes of travel) and future planned activities, to include field tests, demonstrations, and partnerships with travel industry stakeholders.

Second, CBP's partnership with stakeholders is critical to accomplish implementation of a biometric entry/exit system. CBP is committed to a process that meets and the needs of all stakeholders to fulfill the biometric entry-exit mandate. CBP's primary responsibility is to facilitate legitimate trade and travel. CBP employees are working diligently to ensure stakeholders—travelers, airline authorities, air carriers, and other industry partners—are able to navigate these changes seamlessly and with the least amount of disruption to our economy. While CBP has already begun collaborating with certain airlines and airports to implement biometric entry

and exit operations, CBP must continue to support these on-going partnerships, while also expanding our collaborative relationship to other industry partners.

If CBP were to deploy a Government-only solution, without stakeholder input and support, cumbersome layers would be added to existing travel processes which, in turn, would have adverse effects on the travel as a whole. Travelers would spend additional time going through security and/or boarding processes. Additionally, significant enhancements and modifications would be necessary to manage the expected increase in air travel.

Third, while CBP has made substantial progress in implementing biometric exit in the air environment, due to limitations posed by existing infrastructure, a different strategy and method of implementation will be required for other modes of travel. Operationally, there are significant differences among the air, land, and sea environments. CBP is working to finalize a comprehensive biometric land and sea strategies. In order to do so, CBP will be conducting field tests in the land and sea environments to validate technology and operational processes to inform strategy and planning activities going forward.

*Question 15a.* In your testimony you mention that CBP is working with airlines about incorporating the Traveler Verification Service in their operations. What are some of the concerns airlines have about this program?

Answer. The airlines are primarily concerned about integration costs (e.g. equipment) associated with the Traveler Verification Service (TVS). However, CBP's long-term vision for seamless travel is the use of facial recognition technology for identity verification. The passive application of this technology has the potential to replace manual identity checks and boarding pass scans from curb to gate. This will reduce friction points and save time for travelers, airlines, and airports, without requiring new governmental processes that add complexity to travel. CBP will utilize TVS to implement CBP's next generation processing system for arriving travelers. This will allow CBP to use facial recognition to match arriving passengers to the flight manifest, reducing the need for passports to be opened, fingerprints to be taken, and will streamline the entry process. The vision and path forward provides airlines with the assurance that the system is both financially viable and identifies the return on investment.

*Question 15b.* How are roles and responsibilities being determined?

*Question 15c.* Do they vary by airline or is there a standard set of responsibilities that all airline partners will need to assume?

Answer. CBP is working with industry partners to standardize our policies, requirements, and arrangements that outline all respective responsibilities. Generally, the set of responsibilities is as follows:

Using APIS data, CBP creates a temporary gallery of photographs and Unique Identifiers (UIDs) for passengers on all departing and arriving U.S. flights. These photos and UIDs are securely pushed to a cloud-based matching service. CBP provides TVS web services and a secure gateway for partner airlines and airports to submit traveler photos through an internet Application Program Interface (API). Partners can verify traveler identity using TVS throughout the travel process by simply capturing a live traveler photo. The captured photo is compared against the TVS photo gallery in real-time. TVS responds with identity verification match results, eliminating manual and time-consuming processing such as document checks or the use of boarding passes. CBP currently does not require, but recommends that its partners also delete: (1) Matching results within 14 days and (2) newly-captured photos as soon as they are no longer needed for business purposes. Airlines and airport authorities that do not require short-term retention for business purposes will not use or retain the photos.

*Question 15d.* How are costs for operating this program going to be shared?

Answer. CBP invested heavily in robust infrastructure and built a matching service, the Traveler Verification Service (TVS), to support the end-to-end vision for seamless air travel that meets the biometric exit mandate. CBP will offer this service to all stakeholders. However, because airlines and airports are responsible for many of the passenger interactions, it is imperative they collaborate with CBP to co-create a process to meet business, traveler, and security needs. As the TVS is a device-agnostic biometric service, airline and airport partners have flexibility when selecting and purchasing front-end cameras to capture traveler photos to ensure the matching service aligns with their business model and customer service experience.

*Question 16a.* We understand that certain groups have expressed concerns about passenger privacy in this program. What are CBP and its airline partners doing to inform the public about their privacy rights?

Answer. CBP takes its privacy obligations very seriously. CBP provides general notification of the biometric exit program and its various pilots through airport signage as well as through Privacy Impact Assessments (PIAs), published on

[www.dhs.gov/privacy](http://www.dhs.gov/privacy), and through program information, such as Frequently Asked Questions, readily available on [www.cbp.gov](http://www.cbp.gov). The PIAs account for the purpose of the information collection in relation to the DHS mission and address individual participation, security, data quality and integrity, and the sharing of data, including its minimization and use limitation, as well as auditing and accountability transparency.

CBP works with airline and airport partners to incorporate notifications and processes into their current business models (i.e. signage, gate announcements).

*Question 16b.* How are you engaging with groups concerned about privacy and civil liberties?

Answer. CBP complies with all Privacy Act requirements and Departmental policies that govern the collection, use, and maintenance of personally identifiable information. DHS has published 5 PIAs, available at [www.dhs.gov/privacy](http://www.dhs.gov/privacy), related to the biometric matching system that supports biometric exit. As each pilot phase has commenced, CBP has updated the required privacy documentation. CBP has also published PIAs for the various biometric exit pilots. CBP has also published information concerning biometric exit on its website, which contains Frequently Asked Questions, links to privacy documentation and exemplars of the signage that is posted at each boarding gate where photographs are being collected.

In addition, CBP has met with privacy advocates twice regarding biometric exit and has engaged in privacy discussions through DHS's Data Privacy and Integrity Advisory Committee (DPIAC). The meetings with privacy advocates occurred in August 2017 in Washington, DC and January 2018 in San Francisco, California. Each meeting included a lengthy Q&A session. Discussions included review of current pilots, retention policies, future biometric vision, and alternative screening procedures. CBP briefed the DPIAC in September 2017 and again in May 2018, where CBP provided programmatic updates.

*Question 17.* Under the previous administration, CBP was aggressively moving forward with negotiating and selecting new sites for PreClearance, and this committee worked on a bipartisan basis to help improve these efforts. What is the status of PreClearance today?

Answer. Today, CBP has law enforcement officers and agriculture specialists stationed at 15 aviation PreClearance locations in 6 countries.<sup>1</sup> In fiscal year 2017, CBP personnel stationed abroad precleared more than 19 million travelers, representing over 15 percent of all commercial air travelers to the United States.

CBP has hosted two open periods to-date, during which foreign airports were invited to submit letters expressing their interest in PreClearance operations. These airports underwent an evaluation by DHS and the U.S. Department of State in collaboration with stakeholders across the Government and with the aviation industry.

Prior to beginning PreClearance operations, the United States and the host government must sign and enter into a PreClearance Agreement granting CBP personnel the authority to inspect U.S.-bound travelers, goods, and aircrafts.

In late 2016 the United States signed agreements to implement PreClearance operations at Stockholm Arlanda Airport in Sweden and Punta Cana International Airport in the Dominican Republic. Implementation efforts currently await ratification and/or approval by our international partners. CBP also continues to engage with several of the host governments of other prioritized locations.

*Question 18a.* Now that you are Commissioner, how do you envision using PreClearance?

Answer. CBP firmly believes that establishing PreClearance operations in strategic locations will assist our efforts in identifying terrorists, criminals, and other National security threats prior to their boarding aircraft bound for the United States and this is a critical step in CBP's continued efforts to enhance National security and facilitate growing international travel and commerce. The aviation security benefits of PreClearance are substantial because a uniformed U.S. law enforcement officer interviews the precleared passenger before he or she boards the plane. This added security layer provides an additional opportunity to detect and stop threats as early in the process as possible.

In addition to enhancing security, PreClearance has the potential to increase capacity and growth opportunities for airports and air carriers in the United States and abroad, while improving the passenger experience. PreClearance generates the potential for significant economic benefits for the United States and our international partners by facilitating travel through all gateways creating an overall increase in clearance capacity, and maximizing aircraft and gate utilization.

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<sup>1</sup> Current PreClearance locations include: Dublin and Shannon in Ireland; Aruba; Freeport and Nassau in The Bahamas; Bermuda; Abu Dhabi, United Arab Emirates; and Calgary, Toronto, Edmonton, Halifax, Ottawa, Vancouver, and Winnipeg in Canada.

PreClearance can lead to faster connections and provides passengers with the ability to exit the airport immediately upon landing the United States.

*Question 18b. Do you have plans to expand the program further?*

Answer. Building upon the success of existing PreClearance operations, CBP continues to work to expand the PreClearance program.

*Question 18c. Or will you focus on developing what the previous Commissioner negotiated?*

Answer. CBP firmly believes in establishing PreClearance operations in additional strategic locations. CBP is currently negotiating with several countries prioritized during the open periods of expansion while simultaneously working to support efforts by the governments of Sweden and the Dominican Republic to bring the two agreements concluded in 2016 into force.

*Question 19. CBP awarded Accenture with a nearly \$300 million contract to assist in recruiting additional CBP law enforcement personnel. That translates to about \$40,000 per new hire going to the contractor. I understand that funding was reprogrammed from a salaries account that was not being used given the lack of hires this fiscal year. Did CBP consider using that funding for retention incentives instead? If not, why not?*

Answer. CBP's staffing challenges are complex and require a multi-pronged strategy that cuts across several lines of effort. These range from developing our recruitment and hiring capacity, which includes leveraging Accenture's expertise in Federal staffing, to reducing the attrition rate of the existing workforce. Funding has been utilized for our successful Operational Mobility Program for BPAs. Nearly 400 BPAs accepted relocations during the program's first cycle, more than 100 of whom received relocation incentives. CBP is currently exploring other ways to curb attrition, including multiple employee engagement initiatives and the expanded use of incentives.

*Question 20. We understand the Accenture contract is ramping up. What are CBP's plans for monitoring the contractor and ensuring that the law enforcement personnel it recruits and hires meet CBP's standards?*

Answer. CBP has stood up a robust Program Management Office dedicated to this contract to monitor Accenture's work through regular touch points and oversight meetings. The contract imposes numerous reporting and metrics development requirements upon Accenture, and senior leadership meets regularly with the Program Manager and the contractor to review status. CBP has already seen improvements in applicant interest based on Contractor marketing, and applicants will enter on duty through the same rigorous process currently used by CBP HRM. There are also several inherently Governmental steps in the hiring process where Government personnel will review contractor work. Final suitability determinations will only be made by CBP employees with expertise in the hiring process.

*Question 21. Several advocacy groups have noted that CBP personnel are behaving in ways that do not seem to align with policy. For example, Border Patrol agents have been filmed boarding passenger trains and buses without a warrant. They have also been filmed improperly transferring custody of a migrant to Mexican officials based on the person's appearance only. Please describe how you intend to enhance CBP's internal integrity program.*

Answer. U.S. Border Patrol agents are committed, and have demonstrated that commitment daily, to treating everyone with professionalism, dignity, and respect while enforcing the laws of the United States.

U.S. Border Patrol agents routinely engage in enforcement operations at transportation hubs that fall within the border areas (up to 100 miles from a U.S. border), and along points of ingress into the U.S. Border Patrol agents conduct numerous immigration inspections on buses to identify passengers who are in the United States illegally. Many times those determined to be in the United States illegally are found to have recently crossed, have overstayed their visa, or have violated the terms of their legal entry and are thus amenable to removal, and/or have active warrants for their arrest. Inspections conducted in transportation check operations are part of a layered approach to prevent illegal aliens from traveling further into the interior of the United States. Inspections are conducted at strategic locations that serve as conduits for both human and narcotic smuggling, and as a result, disrupt criminal organizations from further exploiting certain modes of transportation. Enforcement operations at transportation hubs will continue to play a vital role in the U.S. Border Patrol's National security efforts.

U.S. Border Patrol agents perform their duties with great professionalism in the face of an often hostile public. They regularly ignore taunts from passengers recording their lawful actions, and treat all individuals questioned with courtesy and respect. The Border Patrol does not condone or permit "profiling" based on appearances. The Border Patrol regularly apprehends illegal aliens and smugglers of all

nationalities and ethnicities. There is no prototypical subject to whom Border Patrol agents look for to the exclusion of others. While CBP always strives to maintain the utmost level of professionalism during each encounter with the public, it remains CBP's foremost responsibility to ensure that Border Patrol agents conduct a thorough examination of every person questioned and to do so free of bias, racial profiling, and within the authorities granted to them by law.

The public is entitled to fair, impartial, and courteous treatment. The U.S. Border Patrol does not tolerate unprofessional or demeaning behavior by its agents. CBP makes every effort to ensure that our operations treat all members of the public in both a professional and fair manner and inconvenience them as little as possible.

The incident captured in the March 27, 2017 video was an isolated incident. El Centro Sector Border Patrol leadership resolved the situation quickly and satisfactorily with the Mexican Consulate, reaffirming the daily cooperation and coordination between the two nations. On that date, U.S. Border Patrol agents encountered an individual with mental health issues. This individual's mental state complicated an often straightforward repatriation process. In the video, our actions were not consistent with established operational procedures. Corrective action was taken to ensure all Border Patrol agents understand their obligations to following established processes, practices, and policies. In this incident, like many others taking place every day, the U.S. Border Patrol worked with their Mexican Consulate counterparts who identified the individual as a Mexican national who entered the United States illegally. That individual was properly repatriated in coordination with Mexican immigration officials.

While the video of this incident was not available at the time (it was seen after the fact by CBP/USBP), the agency immediately followed proper protocol and referred this particular incident to the CBP Office of Professional Responsibility, as per policy. Additionally, the U.S. Border Patrol used this case as an educational scenario with the CBP Integrity Advisory Committee. The Integrity Advisory Committee educates and trains CBP personnel on integrity issues to improve.

CBP has a workforce of dedicated men and women who are among the finest civil servants in the world, who carry out their duties with the utmost professionalism and efficiency. We are proud of the fact that our work is defined by the core values of vigilance, service, and integrity. The vast majority of CBP's agents and officers embody our core values, perform their duties with integrity and are dedicated to our mission of securing the American people and our borders while facilitating legitimate trade and travel. The men and women of CBP perform their duties professionally and treat those with whom they come in contact with dignity and respect.

DHS and CBP take allegations of employee misconduct seriously. Under a uniform system, allegations of misconduct are documented and referred to the DHS Office of Inspector General (OIG) for independent review and assessment. Some cases are retained by the OIG for investigation while others are referred back to the component for appropriate handling. If misconduct is substantiated, appropriate corrective action will be initiated.

*Question 22a.* Though apprehensions are at historic levels, migrant deaths continue to be high. As enforcement operations drive more migrants to remote areas, Border Patrol agents have also been found to have destroyed water supplies left in the desert by humanitarian groups. Can you please explain why and how CBP changed the methodology for counting migrant deaths?

Answer. USBP reports any deaths that their employees come across in the course of their duties.

*Question 22b.* Are you investigating these allegations of Border Patrol agents purposefully destroying water left for people stranded in the desert?

Answer. U.S. Border Patrol takes all allegations seriously. The actions depicted in the 2010–2013 videos re-released by the group No More Deaths, were investigated by the CBP Office of Professional Responsibility and the U.S. Border Patrol. As a result of the investigation, disciplinary action was taken against the identified agents involved and USBP reinforced guidance was issued to prevent incidents like this from happening again.

*Question 23a.* Can you please explain why CBP changed its methodology for counting assaults on CBP personnel?

Answer. Law Enforcement Safety Compliance (LESC) began collecting and reporting assault and use of force data on February 5, 2016. In May 2017, the Office of Public Affairs began publishing the number of use of force and assault incidents, in addition to the singular counts. The inclusion of incidents provided additional context to the uses of force and assaults, as there may be multiple actions—assaults and/or uses of force—during a single incident. Presenting these actions within the framework of incidents depicts the circumstances more clearly and reduces the variability created by the singular counts in the month-to-month statistics.

*Question 23b.* Does the year-to-year comparison that noted a 45 percent increase from 2016 to 2017 take into account this new methodology?

Answer. The 45 percent increase in singular assaults from fiscal year 2016 to fiscal year 2017 was driven in large part by incidents which included multiple assailants using multiple weapon types to assault USBP agents. Statistics are derived from counting weapon/assault types, subjects, and officers/agents. Singular uses of force and singular assaults are both calculated using the same method: [number of officers/agents] x [number of subjects] x [number of weapon types involved]. Incidents are counted once for each type of activity they include. An assault incident is counted once regardless of the number of singular assaults involved; likewise for uses of force. An incident involving both assaults and uses of force generates one assault incident and one use of force incident.

*Question 23c.* Please describe how this methodology is different from previous ones.

Answer. There has been no change to the assault counting methodology. The *Intercept* article titled, “How the Border Patrol Faked Statistics Showing a 73 Percent Rise in Assaults Against Agents,” states that, “A review of the LEOKA (Law Enforcement Officers Killed and Assaulted) data shows that for years, the number of assaults on Border Patrol agents reported to the FBI exactly matched the figure published by CBP.” The phrase “for years” is somewhat selective, as it matched for only 3 years (2012, 2013, and 2014). The FBI publishes LEOKA each year to provide information about officers who were killed, feloniously or accidentally, and officers who were assaulted while performing their duties. The FBI does not independently track assaults on law enforcement officers; agencies report their own numbers to the FBI. The LEOKA report publishes calendar year numbers of officers assaulted and assailants, while CBP publishes fiscal year incidents and singular assaults. The *Intercept* article’s chart titled, “The Border Patrol’s False Assaults Data,” erroneously displays both CBP and LEOKA statistics as being fiscal year on its axis.

The table below displays the numbers of assaults reported from 2009 through 2017:

## YEAR (FISCAL YEAR FOR CBP, CALENDAR YEAR FOR LEOKA)\*

	2009	2010	2011	2012	2013	2014	2015	2016	2017
USBP Assaults									
LEOKA USBP Agents Assaulted .....	1,073	1,061	675	555	468	373	378	454	786
LEOKA USBP Agents Assaulted .....	1,167	888	699	555	468	373	349	397	432

\*(2016 and forward reported by LESC; pre-2016 reported by USBP.)

*Question 24.* Which recommendations from the Homeland Security Advisory Committee's CBP Integrity Advisory Panel's reports issued in 2015 and 2016 has CBP implemented?

Answer. The Homeland Security Advisory Committee's CBP Integrity Advisory Panel made 53 recommendations (14 in the 2015 Interim report and 39 in the 2016 final report) related to Integrity/Transparency, Use of Force, and Discipline. To date, CBP has implemented/completed 42 of the recommendations. A few notable ones are as follows:

- Under the direction of the CBP Commissioner, should develop and implement a comprehensive, proactive strategy for preventing, deterring, identifying, and promptly investigating potential corruption and acceptance of bribes by CBP personnel. CBP's Integrity and Personal Accountability Strategy is predicated on the concepts of corruption prevention, detection, investigation, and response, along with cross-cutting initiatives of organizational integration and integrity awareness.
- Adequately staff CBP's Office of Internal Affairs (now Office of Professional Responsibility) with sufficient and experienced 1,811 criminal investigators to timely and effectively investigate allegations of corruption and use of excessive force involving CBP personnel. Allocate and budget for 550 Full-Time Equivalent (FTE) 1,811 criminal investigators in OPR, for net increase of 350 FTE. CBP has expanded its cadre of 1,811 criminal investigators in order to improve quality, timeliness, and capacity to investigate allegations of misconduct and corruption. Additionally, CBP is expanding its specialty investigative units such as Cyber, Technical Operations, and the Corruption Research Investigative Unit to increase use of complex investigative techniques and increase proactive efforts.
- Establish clear goals and time lines for each step of the discipline process to achieve agency-wide deterrence as well as no action/closing of investigations as promptly as possible, to include competent, appropriately prioritized and timely investigations of all misconduct allegations, speedy and thorough investigations, and prompt and appropriate discipline and/or closure.

The Human Resources Management (HRM) Enterprise Dashboard was launched in December 2016, and is available for senior leadership review. HRM utilizes this data on a continuing basis to identify potential opportunities for improvements to the discipline process and other efficiencies. HRM will then leverage the data collected from the case tracking system, via the Enterprise Dashboard, and validate whether the metrics and goals are appropriate or need revision.

- Acknowledge all complaints received from the public by CBP. If the complaint amounts to allegations of misconduct potentially warranting discipline, CBP should acknowledge with a letter or other documented communication to the complainant, verifying receipt of the complaint and assuring a fair and objective investigation.

The CBP Information Center (CIC) serves as the primary intake and triage for the processing of all complaints, compliments, and allegations. The CIC manages all public complaints through its Compliments and Complaints Management System (CCMS). For complaints received via the website or over the phone, CCMS sends immediate notifications to the complaints with their incident number for tracking purposes. For complaints received via regular mail, CIC mails a letter of acknowledgment to the complainant. Status updates are provided throughout the complaint process, until the final status of "closed" is achieved once it has been resolved. The response reaffirms that CBP takes employee misconduct seriously and such complaints are fully investigated.

Certain allegations of misconduct however, require review by the OPR, DHS Office for Civil Rights and Civil Liberties, or another CBP/DHS office (i.e. discrimination or malfeasance). For those types of complaints, the CIC transfers the complaint to the appropriate office. These complaints are recorded by the Joint Intake Center (JIC) through the Joint Integrated Case Management System (JICMS). OPR maintains JICMS; however, DHS OIG holds the right of first refusal to investigate such cases.

- Require all CBP law enforcement personnel to immediately self-report misconduct whether or not it leads to arrest. OPR developed a new directive, for reporting allegations of misconduct, including a requirement to immediately report allegations of misconduct that result in arrest and/or jeopardize the agency's mission that has been signed by the Commissioner and issued to employees.

- Develop local/regional Use of Force Incident Team (UFIT); expand the role of the Use of Force Review Board (UFRB); pilot mandated use of body armor in operational assignments.

CBP has implemented the UFIT and the local UFRB. As detailed in the Use of Force Incident Guide, both the National and Local UFRBs consist of representatives from all operational and training components, as well as legal counsel to ensure consistent and comprehensive incident reviews. The National UFRB will analyze each incident and make observations and recommendations concerning the application of deadly force, training and tactical issues, policy, equipment, and any potential misconduct arising from the incident.

- Consider making these use of force policies openly available for public inspection; policies on the use of force should clearly state what types of information will be released, when, and in what situation to maintain transparency.

The CBP Use of Force Policy, Guidelines, and Procedures Handbook is publicly available on [cbp.gov](http://cbp.gov). Moreover, on April 8, 2016, the UFCE (now LESC) and Office of Public Affairs (OPA) collaborated to release 2015 and 2016 YTD use of force and assault against agent/officer statistics on [CBP.gov](http://CBP.gov). LESC submits updated statistics to OPA on the 8th day of each month reflecting the previous month's numbers. OPA posts the updated statistics to [cbp.gov](http://cbp.gov) after vetting with the appropriate DHS and CBP entities.

#### QUESTIONS FROM HONORABLE NANETTE DIAZ BARRAGÁN FOR KEVIN K. MCALLEANAN

*Question 1a.* DHS officials have said that families are being separated to protect the interests of minor children because CBP is unable to verify the parental relationship or otherwise believe that the child is in danger.

How many cases have been confirmed as false presentation as a family unit?

Answer. Based on existing Federal law, including the Homeland Security Act of 2002 and the Trafficking Victims Protection Reauthorization Act of 2008, DHS policy states that a family unit is an alien parent or legal guardian and alien children. Therefore, if a child arrives with a non-parent or legal guardian adult relative, such as an aunt, uncle, grandparent, or adult sibling, the child is treated as an Unaccompanied Alien Child (UAC).

In addition, there have been instances of human traffickers and aliens smugglers using minor children to pose as a family unit to receive favorable discretion regarding DHS custody pending processing in accordance with either credible fear interviews with USCIS and/or placement into INA Section 240 removal proceedings before an Immigration Judge. In fiscal year 2018 from October 1 to April 30, there were 148 fraudulent family units encountered between the ports of entry along the Southwest Border.

CBP policy (Transportation, Escort, Detention, and Search (TEDS)) states in part that, CBP will maintain family unity to the greatest extent operationally feasible, absent a legal requirement or an articulable safety or security concern that requires separation. In accordance with this policy, CBP strives to maintain the family units of illegal aliens in our custody. However, there are numerous situations that would require the separation of family units, such as: (1) The criminal or immigration history of an adult in the family unit; (2) evidence of abuse that would indicate that the child's safety is at risk; and (3) questionable familial relationships (fraud).

*Question 1b.* What, if any, specific procedures have been put in place to determine the validity of a bona-fide family relationship?

Answer. CBP treats all individuals with dignity and respect, and complies with all relevant legal and policy requirements, including the requirements of the Flores Settlement Agreement (FSA).

In addition to adhering to the requirements of the FSA, CBP's National Standards on TEDS, states in section 1.9 that "CBP will maintain family unity to the greatest extent operationally feasible, absent a legal requirement or an articulable safety or security concern that requires separation."

In accordance with this policy, CBP strives to maintain the family unity of aliens in custody to the greatest extent operationally feasible, and that any operational decision to separate a family unit is not made without taking the well-being of the child into account.

During the processing of a purported family unit, CBP agents and officers review all available forms of identification, such as birth certificates and passports, and all available electronic records to determine the relationship between various members. CBP will also contact the respective consulate to verify the documentation presented to ascertain if a family relationship exists. CBP will observe and document the interaction between the travelers to learn whether a familial relationship exists. Additionally, if agents/officers suspect the claimed familial relationship is false, agents'/

officers may separate the adult and juvenile parties and interview them individually to verify statements and detect deception.

*Question 2a.* CBP has acknowledged that one main indicator CBP uses when deciding to separate a family is based on interviews with children.

Is a child welfare professional present when the CBP officer is conducting such questioning?

Answer. As a Federal Government agency, CBP does not operate as part of State-managed child welfare systems. Nonetheless, CBP is committed to ensuring child welfare when conducting interviews with minors. CBP officers are trained to question children in an “age-appropriate” manner to elicit responses. In addition, CBP officers are trained in observational techniques and observe the interaction between the adult and children to determine whether the relationship is bona-fide.

In October 2015, CBP published National Standards on Transport, Escort, Detention, and Search (TEDS) that set forth Nation-wide standards governing CBP’s interactions with detained individual including provisions related to sexual abuse and assault prevention and response. The TEDS standards have been implemented in all CBP facilities. TEDS reinforces/reiterates the need to consider the best interest of children and mandates adherence to established protocols to protect at-risk populations to include transporting, detaining, and caring for children.

U.S. Border Patrol agents routinely question children while in custody. The majority of the time those questions are referenced to their immediate needs such as water, food, blankets, showers, etc. USBP facilities are short-term holding facilities and as such are not staffed with child welfare personnel. A child welfare professional may be brought into our facilities once USBP has determined that a child is a UAC, after which placement under HHS/ORR oversight begins and CBP transfers custody of the child to their staff to facilitate placement.

All Unaccompanied Alien Children are screened for potential risks to being victims of human trafficking. This is captured on CBP form 93 Unaccompanied Alien Child Screening Addendum.

*Question 2b.* Is there a training guide or protocol that CBP officers use to interview children coming across the border to determine whether the parent/child relationship is bona-fide?

Answer. CBP officers receive training on interviewing techniques to determine relationships amongst travelers. In addition, CBP officers observe the interaction between the adult and child to assess whether the relationship is bona-fide.

*Question 2c.* Are children of all ages questioned about family ties to the individual they enter the United States with?

Answer. The decision to question children is made on an individualized basis, based on the observation of CBP officers and supervisors.

*Question 3.* The Ports of Los Angeles and Long Beach operate more hours than any other cargo gateway in the country because they are processing cargo every day of the year. These ports handle over 17 million TEUs a year, which involves processing over 35,000 truck moves a day, and over 100 trains a week with cargo destined for major cities throughout the country. Container volumes are forecasted to grow approximately 5 percent this year. In order for cargo to flow efficiently, CBP needs to operate the radiation portal monitors for a minimum of two shifts a day. Is CBP forecasting increased staffing at the seaports of Los Angeles and Long Beach for the radiation portal monitors to they can handle the increased volume?

Answer. The Los Angeles Field Office operates the Nation’s largest, and the world’s 10th largest, sea port of entry. Recognizing the forecasted trends, CBP is taking active measures to ensure scanning operations are adequately staffed with the current workforce, and implementing projects to enable efficiencies across radiation scanning operations.

In February 2017, CBP expanded the Reimbursable Services Program (RSP) to the seaport environment. CBP Leadership and port personnel at Los Angeles/Long Beach have since conducted a number of outreach and engagements with port and terminal stakeholders.

CBP, the Pacific Merchant Shipping Association (PMSA), and other terminal operators, have collectively agreed to utilize a phased approach to implement the RSP at the Port, beginning June 10, 2018.

- *Phase 1.*—June 10–July 7: Any time before 0730 shift start time;
- *Phase 2.*—July 8–September 30, 2018: Saturday evening (1500–0300); and,
- *Phase 3.*—Dates TBD: Full implementation for all coverage outside of core hours.

Another key efficiency we are working to address this forecasted demand is implementation of Radiation Portal Monitoring (RPM) Remote Operations, including a Command Center, which will also reduce resource issues related to RPM monitoring and adjudication.

CBP is committed and has agreed to remain in close communications with PMSA, and all Marine Terminals, to promote and gain efficiencies to minimize the impact and costs to stakeholders.

