

DEPARTMENT OF HOMELAND SECURITY  
APPROPRIATIONS FOR 2019

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HEARINGS  
BEFORE A  
SUBCOMMITTEE OF THE  
COMMITTEE ON APPROPRIATIONS  
HOUSE OF REPRESENTATIVES  
ONE HUNDRED FIFTEENTH CONGRESS  
SECOND SESSION

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**PART 2A**

**DEPARTMENT OF HOMELAND SECURITY**

**Answers to Submitted Questions for the Record**

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**Technology to Combat Gang Violence**

QUESTIONS FOR THE RECORD SUBMITTED BY

**THE HONORABLE John R. Carter**

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**Commissioner**  
**U. S. Customs and Border Protection**

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Committee on Appropriations  
Subcommittee on Homeland Security  
*CBP/ICE FY 19 Budget Request*  
April 12, 2018

**Technology to Combat Gang Violence**

➤ ***Question:*** **What technologies have Department of Homeland Security (DHS) and Immigration & Customs Enforcement (ICE) developed and utilized to combat MS-13 gang violence?**

***Response:*** The Department of Homeland Security (DHS) and components such as U.S. Immigration and Customs Enforcement (ICE) utilize the existing Falcon database as its analytical platform to capture MS-13 data and intelligence. The platform receives information from a variety of sources, including immigration, trade, and financial data, which ICE Homeland Security Investigations (HSI) utilizes to identify, exploit, and disrupt MS-13's global criminal and financial networks in the United States and its command and control structure in Central America. ICE has developed a mobile biometric identification solution that allows ICE HSI Special Agents and ICE

Enforcement and Removal Operations (ERO) Officers to positively identify individuals detained during a law enforcement encounter by electronically obtaining fingerprints in the field and checking them for derogatory immigration information and outstanding criminal warrants within the National Crime Information Center. Given the transitory nature of MS-13 members in the United States and their propensity to flee jurisdictions after committing criminal acts, ICE HSI Special Agents have used these devices with great success. Unfortunately, due to resource limitations, not every Special Agent or ERO Officer is issued a device.

ICE HSI International Operations has developed and deployed the Biometric Identification Transnational Migration Alert Program (BITMAP). The program offers the capability to search, enroll, and identify known or suspected terrorists, violent international gang members, and other individuals of interest by leveraging the three primary U.S. databases with host government coordination in order to identify and mitigate threats to the United States and its foreign partners. The program—which relies on foreign counterparts to collect biometric data using BITMAP machines—also serves to build capacity for partner nations to collect biometric information and synchronizes biometric collection efforts with other U.S. Government entities operating in the overseas environment.

➤ **Question: What, if any cloud-based, Law Enforcement technology is ICE currently leveraging to provide situational awareness of transnational gang activity to its federal, state and local partners?**

**Response:** HSI does not use any cloud-based technology to provide situational awareness of transnational gang activity to its federal, state, and local partners at this time. However, the ICE HSI National Gang Unit (NGU) is working with the Department’s Homeland Security Information Network (HSIN) to develop an online MS-13 site within their secure network, where law enforcement partners can map MS-13 activity, track trends in MS-13 activity, retrieve MS-13 intelligence bulletins, and exchange intelligence. HSIN is a secure, free, and trusted network for homeland security mission operations to share Sensitive But Unclassified information.

HSIN provides law enforcement officials at every level of government with a means to collaborate securely with partners across geographic and jurisdictional boundaries. For example, law enforcement organizations commonly use HSIN during operations focused on weapons smuggling, narcotics trafficking, and gang mitigation. Additionally, ICE HSI NGU operates a national “listserv” (email list) that regularly disseminates MS-13 alerts and intelligence bulletins to

approximately 500 ICE HSI Special Agents and Task Force Officers (TFOs) investigating transnational criminal street gangs, which can also be disseminated to their federal, state, and local law enforcement partners.

➤ **Question: Does this capability exist, and if so, does it also deliver content to mobile devices?**

**Response:** Through the collaboration between ICE and HSIN, the capability to provide situational awareness of transnational gang activity to its federal, state, and local partners is possible. HSIN Exchange allows authorized users the ability to create, send, and receive emergency notifications called Flash Alerts. Flash Alerts are notifications that HSIN Exchange users can receive via text message to their mobile phones. The goal of the Flash Alerts notifications is to remove the burden of maintaining contact information for other groups in an emergency situation and to assist operators working during quickly-evolving events. When an incident (e.g., terrorist attack, earthquake) occurs that requires a Flash Alert to be sent to a certain group or combination of groups (e.g., Fusion Centers in a region of the United States), Flash Alerts leverages the contact information provided in HSIN Exchange to inform individual users across many different groups or a whole stakeholder set that the incident has occurred.

➤ **Question: Does ICE leverage mobile image and facial recognition technology to identify and validate gang members, tattoos, and graffiti?**

**Response:** ICE does not currently deploy mobile image and facial recognition tools. Through our mobile biometric identification solution, ICE is currently deploying scanners that capture and check fingerprints to determine matches of MS-13 gang members for derogatory immigration information and outstanding criminal warrants. Falcon has a mobile application that allows ICE HSI Special Agents and TFO's to remotely access our investigative databases to do keyword and name searches and view images associated to potential matches.

➤ **Question: How many ICE systems or databases store transnational gang names?**

**Response:** ICE uses Falcon as the primary database for this purpose. Falcon ingests data from all ICE databases and provides ICE HSI Special Agents and TFO's with the ability to effectively and efficiently investigate, disrupt, and dismantle identified transnational gang networks.

➤ **Question: Is there a consolidated list of names used by each system?**

**Response:** There is not a consolidated list.

➤ **Question: Does ICE have the capability to disseminate alerts and warnings collected by mobile devices in the field to a centralized situational awareness tool?**

**Response:** ICE is working with HSIN to develop an online, centralized situational awareness tool. The mobile collection capabilities have not yet been discussed.

QUESTIONS FOR THE RECORD SUBMITTED BY

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Commissioner**

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Committee on Appropriations  
Subcommittee on Homeland Security  
*CBP/ICE FY 19 Budget Request*  
April 12, 2018

**Detention of Pregnant Women**

- **Question:** Isn't pregnancy itself a special consideration that should be taken into account when making a custody determination?

**Response:** The current ICE Directive on, *Identification and Monitoring of Pregnant Detainees*, allows for the exercise of discretion to be made on a case-by-case basis and in a manner that no longer exempts a category of aliens from enforcement of the Nation's immigration laws. As such, it is important to note that pregnancy will be taken into consideration when making a custody determination and that not all pregnant aliens will be detained, but only those whose detention is necessary to effectuate removal, or who are deemed a flight risk or danger to the community.

- **Question:** Has ICE issued any guidance, verbal or written, beyond the recently released directive to its field offices concerning the detention or release of pregnant women?

**Response:** Many policies, such as the revised Directive, are self-explanatory and do not require additional formal training, though supervisory staff are available to answer questions and provide guidance as needed.

- **Question:** Isn't the Alternatives to Detention program almost always a more appropriate option for pregnant women than detention? Should there be a presumption that a pregnant women will be placed on ATD instead of in detention?

**Response:** As noted above, the current Directive allows for the exercise of discretion to be made on a case-by-case basis, and that only those whose detention is necessary to effectuate removal, or those deemed a flight risk or danger to the community, will be detained.

- **Question:** Are there any reporting requirements in place to ensure that the ICE Director stays aware of any rise in the incidence of negative outcomes for pregnant women and their unborn children, such as miscarriage, other pregnancy complications, or mental health challenges related to detention?

**Response:** The revised Directive specifically tasks ICE Health Service Corps (IHSC) with monitoring the condition of pregnant detainees, including the general health of the detainee and the medical condition of the fetus, and communicating any specific risk factors to the ICE Enforcement and Removal Operations (ERO) Field Office Director. Additionally, pursuant to ICE's most updated detention standards, the Performance Based National Detention Standards (PBNDS) 2011, Field Office Directors are notified as soon as practicable—but no later than 72 hours after—any detainee is determined to have a serious physical or mental illness, be pregnant, or have medical complications related to advanced age. The written notification becomes part of the detainee's health record file. There are similar reporting requirements in the PBNDS 2008 and National Detention Standards 2000. Although there are no specific reporting requirements to the ICE Director, as with other areas of ICE activity, specific concerns or issues would be elevated to the ICE Director. The ICE Director is regularly briefed on significant issues and individual cases by leadership from ICE program offices.

### Catch and Release

**Background:** “Catch and Release” was first used many years ago to refer to a practice of releasing recent border crossers on their own recognizance, pending an immigration hearing, because of a lack of detention space.

- **Question:** How does DHS define “catch and release” now, and is the term being used differently today than in the past?

**Response:** The Department of Homeland Security follows policies set forth within Executive Order (EO) 13767, *Border Security and Immigration Enforcement Improvements*, issued on January 25, 2017, and former Secretary of Homeland Security John F. Kelly’s implementing memorandum issued on February 20, 2017, regarding the appropriate and consistent use of lawful detention authority under the Immigration and Nationality Act, including the termination of “catch and release,” defined within EO 13767.

- **Question:** Is anyone ever released on their own recognizance anymore?

**Response:** Yes, individuals are still released by ICE on their own recognizance. ICE does not have sufficient detention capacity to detain everyone encountered in the country illegally.

- **Question:** What are the various conditions of release, and how does ICE decide which to use and when to use them?

**Response:** Factors that contribute to release decisions are often complex, and case-specific. As part of ICE’s custody determination, immigration status, criminal history, and factors such as flight risk and danger to the community are taken into account. Individuals can be detained or released on bond, parole, an order of recognizance, or an order of supervision. ICE can also require as part of an individual’s release that he or she participate in the Alternative to Detention (ATD) program with various requirements from scheduled calls to GPS monitoring.

**Background:** It is my understanding that ICE has significantly reduced the practice of releasing asylum seekers – those who have received a positive credible fear determination.

- **Question:** Rather than continuing to detain asylum seekers, could ICE instead further expand its Alternatives to Detention program, which is cheaper, and work with the Immigration Courts to make sure the fair adjudication of those asylum cases are still prioritized?

**Response:** ICE is already placing asylum seekers on its ATD program, when appropriate, and will continue to do so. ICE continues to work with Department of Justice Executive Office for Immigration Review to ensure that cases are adjudicated as promptly as possible.

### **ICE Detention Standards**

**Background:** The FY19 budget justification materials repeat a proposal from the FY18 budget to establish a new set of detention standards for certain non-dedicated detention facilities.

- **Question:** What is the status of moving forward with that proposal? And what will be the process if it moves forward?

**Response:** ICE is considering an update to its National Detention Standards (NDS) issued in 2000. These standards are currently applicable at most of ICE's smaller facilities, which are mostly county jails or facilities used through a rider on a U.S. Marshals Service (USMS) contract. ICE has initiated a revision of the NDS to streamline and update the standards to current ICE policy and legal requirements.

- **Question:** Are there any plans to conduct outreach to stakeholders to better inform the process? I think such outreach could lend credibility to this kind of effort.

**Response:** Yes, as directed in the Fiscal Year (FY) 2018 Omnibus appropriation bill, ICE will work with external stakeholders to receive feedback on the revised NDS in a manner consistent with prior agency engagement on the Performance Based National Detention Standards (PBNDS) 2008 and PBNDS 2011.

**Background:** ICE has indicated that requiring the higher, 2011 standards at some facilities would require things like additional staffing for training and mental health

care, and infrastructure changes to provide more recreation space. A recent report from ICE to this Committee indicated, however, that a particular facility with which ICE is entering into a contract at the lower standards could in fact meet the higher, 2011 standards if only ICE had been given more funding for detention operations by Congress for FY18.

- **Question:** Even if the 2011 standards may not be achievable at all non-dedicated detention facilities, what is ICE's estimate of how many of the existing facilities could meet the new standards if ICE had funding to pay a higher rate per bed?

**Response:** ICE cannot speak to the exact number of facilities that could meet the PBNDS 2011. Some local jails are simply not interested in making significant changes to their local operations under any circumstances, regardless of how much they are reimbursed. Other facilities may ask for significant rate increases, longer term commitments, and/or guaranteed population levels. It should also be noted that as part of any PBNDS 2011 negotiations, ICE typically requires enhancements to medical staffing plans which significantly impact costs. With sufficient funding it is possible ICE could transition some additional facilities to PBNDS 2011; however, the exact number would depend on the facility's willingness and affordability.

- **Question:** For those facilities with contracts up for renewal in fiscal year 2019 that could potentially achieve the 2011 standards, can ICE estimate the funding requirement for bringing those facilities up to the 2011 standards?

**Response:** ICE cannot accurately estimate this cost. Changing standards at a detention facility requires extensive, individual site-specific negotiations. Changes in per-diem rates may range from \$2-3 to well over \$15 per bed/per day depending on the facility. Beyond funding, such facilities would also have to be willing to adopt and use PBNDS 2011, which may also impact operations and costs for other co-located detained populations.

- **Question:** Should we be relying less on local and county facilities if they are unable to adhere to detention standards most appropriate for ICE detainees? And if so, what are ICE's plans and schedule for moving in that direction?

**Response:** ICE intends to increase the use of dedicated facilities where ICE has the greatest amount of direct oversight and involvement and reduce its reliance on local and county jails for long-term detention. As mentioned above, ICE is streamlining and updating the NDS. ICE believes these changes will significantly increase collaboration opportunities with state and local partners, further supporting ICE's overall enforcement mission, and will improve protections for detainees. The changes focus requirements for non-dedicated facilities on items that directly impact ICE detainees.

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Committee on Appropriations  
Subcommittee on Homeland Security  
*CBP/ICE FY 19 Budget Request*  
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**Prosecutorial Discretion/Deportation Enforcement**

**Background:** ICE Director Homan told our Subcommittee last year that "if you're in this country illegally, and you committed a crime by entering this country, you should be uncomfortable. You should look over your shoulder." Yet it is true that discretion is inevitable in ICE's operations.

➤ **Question:** How is ICE exercising discretion when it comes to deportation enforcement?

**Response:** Prosecutorial discretion in civil immigration enforcement matters is held by the ICE Director who in turn has delegated the authority to the Enforcement and Removal Operations Field Office Directors. Prosecutorial discretion encompasses a broad range of enforcement decisions including, but not limited to, stays of deportation or removal. Prosecutorial discretion decisions are made on a case-by-case basis, after considering the totality of the circumstances, both positive and negative. However, as former Secretary Kelly has made clear, ICE will not exempt classes or categories of removable aliens from potential enforcement. All of those in violation of the immigration laws may be subject to immigration arrest, detention and, if found removable by final order, removed from the United States.

➤ **Question:** What are the current guiding criteria in the administrative exercise of discretion?

**Response:** ICE remains committed to the goal of protecting the security of the United States, while also providing deserving applicants the opportunity to seek deferred action, a stay of removal, or immigration benefits through the use of the secretarial discretionary exemption authority. When determining whether to exercise prosecutorial discretion, consideration is given to the alien's criminal and immigration history, as well as humanitarian factors. ICE staff are provided full training with respect to exercising prosecutorial discretion.

➤ **Question:** What is ICE's order of removal strategy?

**Response:** ICE enforces the immigration laws of the United States consistent with federal law. In accordance with President Donald J. Trump's January 25, 2017 Executive Order entitled *Enhancing Public Safety in the Interior of the United States*, and former Homeland Security Secretary John F. Kelly's February 20, 2017 implementation memorandum entitled *Enforcement of the Immigration Laws to Serve the National Interest*, ICE is prioritizing its immigration enforcement resources on removable aliens who: (1) have been convicted of any criminal offense; (2) have been charged with any criminal offense that has not been resolved; (3) have committed acts which constitute a chargeable criminal offense; (4) have engaged in fraud or willful misrepresentation in connection with any official matter before a governmental agency; (5) have abused any program related to receipt of public benefits; (6) are subject to a final order of removal but have not complied with their legal

obligation to depart the United States; or (7) in the judgment of an immigration officer, otherwise pose a risk to public safety or national security.

➤ **Question:** Is every undocumented person a priority for deportation? How does this work with ICE's limited resources?

**Response:** Under the President's Executive Orders and pursuant to Departmental guidance, except in certain limited circumstances, ICE does not exempt classes or categories of removable aliens from potential enforcement. Therefore, regardless of criminal history, those in violation of immigration laws are subject to arrest, detention, and if subject to a final order, removal from the United States. ICE focuses its enforcement resources on individuals who pose a threat to national security, public safety, and border security.

### Sanctuary Cities

**Background:** Under current law, state and local jurisdictions cannot prohibit their law enforcement officers from communicating with ICE about the immigration status of individuals in their custody. The FY18 budget proposes to significantly broaden current law surrounding "sanctuary jurisdictions."

➤ **Question:** What exactly does the Department have in mind in its proposed Budget language?

**Response:** Unfortunately, some critical missions are impeded by jurisdictions which refuse to cooperate in the enforcement of federal law. This makes it more dangerous for federal agents and officers to do their jobs. It creates a greater threat to public safety, and results in greater expense to American taxpayers. The Department of Homeland Security (DHS) seeks to work with Congress to help make sure jurisdictions around the country do not harbor criminal aliens or place law enforcement officers at risk while they are doing their jobs to protect the public.

➤ **Question:** Is it ICE's intent that local jurisdictions should have to share "nationality, citizenship, removability, scheduled release data and time, home address, work address, and/or contact information" of someone picked up for a broken headlight?

**Response:** U.S. Immigration and Customs Enforcement (ICE) seeks a cooperative relationship with federal, state, and local law enforcement to fulfill its public safety mission. Information sharing among law enforcement serves common public safety interests. If law enforcement officers encounter an individual for what may be perceived as a lesser offense, the same individual may also have committed, or been convicted of, a more serious crime, have an outstanding warrant, or have violated immigration laws. Jurisdictions should share nationality, citizenship, removability, scheduled release date and time, home address, work address, contact information, and/or any other available information that would lead to the apprehension or transfer into ICE custody of removable aliens arrested by a local jurisdiction.

➤ **Question:** How far will the Department go to deny grant funding to so-called sanctuary cities?

**Response:** The provision proposed in the Fiscal Year (FY) 2019 budget would clarify that DHS has the authority to condition grants and cooperative agreements on requirements that recipients agree to cooperate with specific federal immigration enforcement activities and requests. The subsection would specifically authorize DHS to require grant recipients to take certain active steps to cooperate with DHS, such as honoring lawful requests to communicate certain information related to immigration enforcement, or honoring lawful DHS requests to maintain custody of an alien or to provide notice to DHS prior to release of a particular alien. Those grants and cooperative agreements that may be conditioned under the proposed provision are those awards with a purpose related to immigration, national security, law enforcement, or preventing, preparing for, and protecting against, or responding to, acts of terrorism. The proposed provision would also authorize DHS to require that grant and cooperative agreement applicants certify that they will comply with the requirements outlined in the provision, if the applicant receives an award. A certification requirement also would provide applicants with clear notice of this requirement. DHS would take appropriate enforcement action for recipients that did not comply with the condition, or improperly certified compliance, as it would for a recipient that violated any certification or term of their DHS grant award. Such enforcement action, depending on the circumstances, could include suspension or termination of the award, or disallowance of costs.

➤ **Question:** What will the guiding criteria be to determine a sanctuary city?

**Response:** The proposed provision does not use the term “sanctuary city,” or require DHS to designate jurisdictions as “sanctuary cities.” The proposed

provision authorizes DHS to condition grants related to immigration, national security, law enforcement, or preventing, preparing for, and protecting against, or responding to, acts of terrorism on the recipient's agreement to take certain active steps to cooperate with DHS. Such steps may include honoring lawful requests to communicate certain immigration- enforcement-related information, honoring lawful DHS requests to maintain custody of an alien, or to provide notice to DHS prior to release of a particular alien. The specific actions recipients would need to take are outlined in the proposed statutory language. Enforcement action would only be taken against grant recipients who did not comply with the specific conditions authorized by the proposed provision.

### **287(g) Agreements**

**Background:** I am aware that DHS has significantly expanded the number of jurisdictions that have a memorandum of understanding under the 287(g) program. Past analyses of 287(g) have found that the program was not targeting serious criminal offenders: half of all detainees issued through the program were for people who had committed misdemeanors and traffic offenses. In North Carolina, a study found that 287(g) agreements were primarily used to target offenders who posed no threat to public safety and individuals with no criminal record. Nationwide, the DOJ has found that 287(g) programs can result in widespread racial profiling.

➤ **Question:** How do 287(g) entities define who is dangerous enough to report to ICE?

**Response:** Section 287(g) of the Immigration and Nationality Act (INA) authorizes the Department of Homeland Security (DHS) to delegate to state and local law enforcement officers the authority to enforce federal immigration law under the supervision and direction of U.S. Immigration and Customs Enforcement (ICE), pursuant to a signed Memorandum of Agreement (MOA). The MOA between DHS and the law enforcement agency (LEA) further outlines ICE's priorities, the purpose of the 287(g) program, and requires the LEA to agree to implement DHS's immigration enforcement priorities; there is no additional or specific set of priorities of "dangerousness" criteria employed by personnel exercising 287(g) delegated authority. Based on the delegation of authority and the MOA, 287(g) programs screen and process all removable aliens encountered in local custody.

➤ **Question:** What kind of oversight and accountability standards are being levied on each 287(g) agreement?

**Response:** Partnering agencies are inspected by the ICE Office of Professional Responsibility (OPR) every two years to ensure compliance with ICE policies, procedures, and directives. They also receive continual oversight from the ICE Enforcement and Removal Operations (ERO) Headquarters 287(g) Unit and the respective ICE ERO field office.

➤ **Question:** How is ICE ensuring that civil rights violations, such as racial profiling, are being avoided?

**Response:** DHS takes allegations of racial profiling very seriously. ICE has strong 287(g) headquarters and field oversight and accountability mechanisms in place to ensure the 287(g) program protects civil rights and civil liberties and does not become a conduit for racial profiling. Prior to any LEA becoming a 287(g) partner, the LEA is reviewed by the 287(g) Program Advisory Board, which is comprised of DHS and ICE stakeholders, including the DHS Office for Civil Rights and Civil Liberties and ICE OPR, in order to assess and recommend whether ICE should partner with the LEA. The ICE OPR 287(g) Inspections Unit conducts routine inspections to ensure compliance with program policies and MOA requirements by ICE and the LEA partners, as well the effectiveness of ICE's supervision. Additionally, ICE provides operational support, guidance, and oversight to the partnering LEAs. Finally, all Designated Immigration Officers (DIOs) are subject to a background investigation and must pass a four-week training program, including training on the Department of Justice "Guidance for Federal Law Enforcement Agencies Regarding the Use of Race, Ethnicity, Gender, National Origin, Religion, Sexual Orientation, or Gender Identity," dated December 2014 (DOJ Guidance), prior to becoming certified to perform delegated immigration enforcement functions. Once certified, DIOs are bound by all Federal civil rights laws, regulations, and guidance relating to non-discrimination, including the DOJ Guidance and Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000 et seq., which prohibits discrimination based on race, color, or national origin (including limited English proficiency) in any program or activity receiving Federal financial assistance.

➤ **Question:** Do you believe that ICE is now placing a higher priority on catchment than keeping community policing alive in our communities?

**Response:** Cooperation from state and local law enforcement agencies is vital to the ICE mission. Every day ICE officers and agents work cooperatively to

keep communities safe through the identification, arrest, detention, and removal of those who have been arrested for criminal activity, and who are in this country illegally. Partnerships between ICE and state, local, tribal, and territorial law enforcement have mutually beneficial public safety implications, particularly with regards to the transfer of criminal aliens from local to federal custody.

➤ **Question:** Is ICE taking any steps to safeguard the trust and respect that must exist between law enforcement and the community they protect?

**Response:** ICE engages with state and local partners who have determined that the 287(g) program's delegation of limited immigration officer authority to their law enforcement officers complements their efforts to provide public safety. Immigration enforcement serves national security, public safety, and border security, and upholds the national immigration system meant to serve all American communities. ICE takes seriously violations of congressionally enacted immigration laws meant to protect this country and its immigration system. The 287(g) Jail Enforcement Model program enhances the safety and security of communities by focusing resources on identifying and processing for removal aliens encountered within state and local prisons and jails who have already been arrested for crimes. Therefore, the 287(g) program assists state and local partners in protecting members of their community, including law abiding citizens, immigrants, and visitors.

QUESTIONS FOR THE RECORD SUBMITTED BY

**THE HONORABLE Lucille Roybal-Allard**

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Committee on Appropriations  
Subcommittee on Homeland Security  
*CBP/ICE FY 19 Budget Request*  
April 12, 2018

**Parental Interests Directive**

- **Question:** How does ICE make sure all of its personnel and all contract detention staff are aware of parental rights, and how does ICE provide oversight to ensure those rights are, in fact, protected?

**Answer:** U.S. Immigration and Customs Enforcement (ICE) is responsible for ensuring all facets of ICE Policy No. 11064.2, *Detention and Removal of Alien Parents or Legal Guardians* (Aug. 29, 2017) are being implemented. This Directive provides guidance regarding the detention and removal of alien parents and legal guardians of minor child(ren), to include those who have a direct interest in family court or child welfare proceedings in the United States. It is intended to complement ICE detention standards and policies that govern the intake, detention, and removal of alien parents or legal guardians. Under the Directive, each Field Office Director is responsible for designating a coordinator at the supervisory level

in his or her Field Office to serve as the field point of contact (POC) to ensure implementation of the Directive in his/her area of responsibility. ICE headquarters staff also delivers training to senior field leadership on effective implementation of the Directive and holds monthly calls with field POCs on relevant policies and procedures that relate to detained alien parents or legal guardians.

- **Question:** Does ICE have a policy on allowing parents and primary caregivers to make a phone call at the time of arrest to make childcare arrangements? How soon after arrest are parents and primary caregivers allowed to make phone calls or take other action to ensure that children will not be left alone or uncared for? Please provide for the record a copy of any relevant ICE policies on phone calls.

**Answer:** Section 5.1(2) of the Directive states that “[a]bsent indications of child abuse or neglect, ICE personnel should accommodate, to the extent practicable, an alien parent or legal guardian’s efforts to make alternative care arrangements for his or her minor child(ren)” when children are encountered during enforcement actions.

- **Question:** How many times has DHS granted humanitarian parole to a parent or primary caregiver for the purpose of participating in a termination of parental rights hearing for each year since the beginning of fiscal year 2013?

**Answer:** ICE is unable to statistically report on the requested information as ICE does not track humanitarian parole data based on parental or primary caregiver status.

### E-Verify

- **Question:** Does USCIS communicate employer or employee data obtained through an employer’s use of E-Verify to ICE? If so, how does this communication occur? And what are the grounds for the sharing of this information?

**Answer:** USCIS does communicate employer or employee data obtained through an employer's use of E-Verify to ICE. USCIS and ICE maintain a Memorandum of Agreement (MOA) regarding sharing of E-Verify information in appropriate cases. Under the MOA, ICE may submit a request for information for purposes of an investigation of potential violations of law relating to the integrity or operation of E-Verify to USCIS. Any request to use that information for another purpose must be forwarded for separate consideration. USCIS similarly may refer suspected employer or employee misuse, abuse and fraudulent use of E-Verify to ICE for investigative consideration.

- **Question:** For fiscal year 2017 and fiscal year 2018 to-date, how many employers have been the subject of HSI worksite enforcement actions who are participants in the E-Verify program or the IMAGE program?

**Answer:** In fiscal year 2017 and fiscal year 2018 to date, ICE HSI has initiated 409 investigations related to worksite enforcement involving employers who participate in the E-Verify program. In fiscal year 2017 and fiscal year 2018 to date, HSI has conducted employment eligibility verification audits on 34 employers who are participants in the ICE IMAGE program or are seeking to become participants in the IMAGE program.

### **Worksite Enforcement**

**Background:** In his oral testimony, Executive Associate Director Benner stated that HSI frequently relies on tips for purposes of targeting HSI enforcement actions.

- **Question:** Does HSI continue to follow its internal guidance regarding ICE worksite enforcement and labor disputes as stated in *Guidance on Civil Inspections of the Employment Eligibility Verification Form (Form I-9) During Labor Disputes*?

**Answer:** Yes, U.S. Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI) continues to follow the internal guidance provided in

the document “Guidance on Civil Inspections of the Employment Eligibility Verification Form (Form I-9) During Labor Disputes.”

- **Question:** Does HSI provide training on this guidance to its field personnel? If so, what is the content of the training (please attach training materials)?

**Answer:** The guidance mentioned above was disseminated to all affected HSI personnel in 2016. HSI Headquarters provides periodic reminders to field offices regarding adherence to this policy.

QUESTIONS FOR THE RECORD SUBMITTED BY

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Committee on Appropriations  
Subcommittee on Homeland Security  
*CBP/ICE FY 19 Budget Request*  
April 12, 2018

**Border Patrol Interior Enforcement**

**Background:** Under federal law, the Border Patrol can operate within a reasonable distance of the border, which has generally been interpreted as being within 100 miles. Concerns have been raised over the last several months, however, that the Border Patrol is becoming increasingly more active in the interior of the United States.

**Question:** Is there a dividing line between CBP's jurisdiction and ICE's, and if so, where does CBP draw that line?

**Answer:** There is no geographic dividing line between the jurisdiction of U.S. Customs and Border Protection (CBP) and U.S. Immigration and Customs Enforcement (ICE). Both operate under statutory authority within 100 air miles of the border and to enforce immigration law anywhere in the United States. Both organizations conduct targeted operations at the border, as well as in a defense-in-depth layered posturing with ICE leading operations against targets beyond 100 miles.

**Question:** If Congress were to fund additional Border Patrol agents in Fiscal Year 2019, how much of the increased personnel strength would target interior enforcement?

**Answer:** U.S. Border Patrol (USBP) does not conduct interior enforcement operations beyond 100 miles from the border. USBP does participate with various Federal, State, and local agency task force teams that fall beyond 100 miles from the border. These task force operations target many Foreign and Domestic Terrorist Organizations, as well as Drug, Alien, and Criminal Enterprise Organizations with a nexus to the border areas. They focus on many targets with that conduct narcotics and human smuggling operations.

**Question:** Does the Border Patrol follow a sensitive locations policy? And if so, what is it?

**Answer:** Policy set forth in the January 18, 2013 U.S. CBP memorandum, *U.S. Customs and Border Protection Enforcement Actions at or Near Certain Community Locations* addresses enforcement actions at or focused on sensitive locations such as schools, places of worship, and hospitals. By policy, enforcement actions at or near these sensitive locations require careful consideration and planning, are generally avoided, and such actions only take place either when prior approval is obtained from an appropriate supervisory official or when there are exigent circumstances necessitating immediate action without supervisory approval.

### **Operational Control and Border Barriers**

**Background:** Section 4 of Executive Order 13767 directs the Department to “obtain complete operational control” of the southern border – defined as preventing “all unlawful entries into the United States” – and to “immediately plan, design, and construct a physical wall along the southern border.” In the past, CBP has testified that “operational control” is an unrealistic standard that cannot be met.

**Question:** Is it possible to achieve “100 percent operational control of the southern border?”

**Answer:** Operational Control is an aspirational end state and an overarching goal of success that USBP will continually strive toward. In accordance with Executive Order 13767 and the *Secure Fence Act*, Operational Control (OPCON) is defined as “the prevention of all unlawful entries into the United States, including entries by terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband.” In order to operationalize this vision, the USBP makes a distinction between *border security* and *OPCON*.

*Border security* is the larger whole-of-government approach that includes lawful trade and travel, the issuance of visas, and interior enforcement. *OPCON* is specific to physical security at the immediate border between the ports of entry. The USBP seeks to direct strategy and operations in a manner that allows us to have high standards in three key elements: (1) understanding and predicting the operating environment (Awareness); (2) preventing and deterring unlawful entries (Impedance and Denial); and (3) interdicting any cross-border illicit activity (Response and Resolution). Acquiring and employing the appropriate mix of the three elements supports operational control for the U.S. southern border.

**Background:** The budget proposes \$1.6 billion for an additional 65 miles of “Border Wall System” in the Rio Grande Valley sector.

**Question:** If funds were appropriated to CBP at the fiscal year 2019 request level, would CBP prioritize the unfunded segments from the FY18 request? Or have there been changes in CBP's priority order for fence construction?

**Answer:** USBP developed the impedance and denial prioritization tool to ensure operational needs are identified and addressed in priority order. The Fiscal Year (FY) 2018 Consolidated Appropriations Act funded only a portion of those highest priority needs in the Rio Grande Valley (RGV) Sector. Should additional funds be provided, CBP would prioritize the unfunded segments from the FY 2018 President's Budget first to remain consistent with our priorities and address the most pressing operational needs. To date, there is no change in USBP's priority order for border wall segments. USBP plans to update the prioritization annually to ensure alignment with the latest threats and trends.

**Background:** The FY18 omnibus prohibited the construction of border barriers in the Santa Ana National Wildlife Refuge because of concerns about the serious impacts it would have on the refuge.

**Question:** How will the Border Patrol be approaching its border security mission there? We want to preserve the refuge, but we don't want it to become a haven for smugglers.

**Answer:** USBP recognizes the importance and value of the critical habitat that is protected and preserved by Santa Ana National Wildlife Refuge. USBP will continue to leverage and foster collaborative relationships with the Department of Interior's U.S. Fish and Wildlife Management and law enforcement, as it has in the past. USBP will continue to assess the risk and threat in the refuge and deploy agents as it has in the past by deploying Agents on bike or foot patrols. However, this area lacks the infrastructure and technology to assist USBP in gaining operational control in this area. The protected status of these lands prevents the USBP from operating freely and establishing infrastructure and roads to detect and interdict illicit activities. Adversaries are aware of these areas of constraint and leverage the vulnerability to facilitate their illicit smuggling activities in this area. The high activity in this area combined with the lack of infrastructure and technology will enable Transnational Criminal Organizations to continue to exploit vulnerabilities in this area and pose a risk to the visiting public, refuge staff, and Border Patrol Agents present in the area.

**Background:** The Secretary has the authority under Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to waive legal requirements in order to expedite the construction of border barriers and roads.

**Question:** Are there any environmental mitigation or remediation efforts CBP is nevertheless planning as it builds additional miles of border infrastructure?

**Answer:** CBP is committed to responsible environmental stewardship for construction, operation, and maintenance of its border security infrastructure. CBP's standard environmental planning process includes performing environmental surveys of project areas to identify the presence of biological, cultural, and natural resources. In addition, CBP consults with all appropriate stakeholders including other federal, state, local, and tribal government agencies and other interested groups to fully understand the potential environmental impacts from the execution of a border security project and to develop solutions to avoid or minimize impacts to

resources. Where avoidance is not possible, CBP considers recommendations from stakeholders for appropriate mitigation projects as practicable and within available funding.

QUESTIONS FOR THE RECORD SUBMITTED BY

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Committee on Appropriations

Subcommittee on Homeland Security

*CBP/ICE FY 19 Budget Request*

April 12, 2018

**Asylum Seekers**

**Background:** Under the law, CBP agents are supposed to registered asylum requests, take the individual into custody, and then direct them to an asylum officer to assess the validity of their claim. I have read that asylum seekers are instead told to sign documents stating that they aren't admissible to our country before being turned away without receiving a credible-fear screening.

**Question:** Have CBP agents been properly trained to comply with our laws to ensure the timely and humane processing of all asylum-seekers?

**Answer:** CBP carries out its mission of border security while adhering to U.S. and international obligations for the protection of vulnerable and persecuted persons. The laws of the United States, as well as international treaties to which we are a party, allow people to seek asylum on the grounds that they fear being persecuted outside of the United States because of their race, religion, nationality, membership in a particular social group, or political opinion. CBP

understands the importance of complying with these laws, and has designed policies and procedures in order to protect vulnerable and persecuted persons in accordance with these legal obligations. CBP further recognizes the importance of thoroughly training our frontline officers and agents. BPAs and CBPOs receive training on the proper processing, treatment, and referral of aliens who express a fear of return. This training begins with CBP Basic Training at the USBP and Field Operations Academies, and is reinforced through Post Academy training and the periodic issuance of memoranda and policy reminders.

**Question:** Can you please clarify what is happening to individuals who seek asylum along our nation's southern border?

**Answer:**

- CBP carries out its mission of border security while adhering to U.S. and legal international obligations for the protection of vulnerable and persecuted persons.
  - The laws of the United States, as well as international treaties to which we are a party, allow people to seek asylum on the grounds that they are fear being persecuted outside of the United States because of their race, religion, nationality, membership in a particular social group, or political opinion.
  - CBP understands the importance of complying with these laws, and takes its legal obligations seriously.
  - Accordingly, CBP has designed policies and procedures based on these legal standards, in order to protect vulnerable and persecuted persons in accordance with these legal obligations.
- CBP further recognizes the importance of thoroughly training our frontline officers. Customs and Border Protection Officers (CBPOs) receive training on the proper processing, treatment, and referral of aliens who express a fear of return.
  - This training begins with CBP Field Operations Academy, and is reinforced through Post Academy training and the periodic issuance of memoranda and policy reminders/musters.
- If an individual arriving in the United States at a port of entry (POE) appears to be inadmissible to the United States, and the individual expresses a fear of return to his or her country of origin, his or her case is referred to an USCIS asylum officer and must be detained until the credible fear interview as part of case processing under Section 235(b)(1) of the Immigration and Nationality Act (INA).
  - CBP also has the discretion to refer a case to an Immigration Judge for proceedings under Section 240 of the INA; and this individual is also subject to mandatory detention under Section 235(b)(2)(A) of the INA.
- CBP processes all aliens who arrive at a port of entry.
  - After CBP has processed individuals that appear to be inadmissible, the individuals are generally transferred into the custody of ICE ERO for detention and further disposition.
  - All administrative admissibility processing is separate from any criminal prosecution.
- CBP closely monitors the processing of cases to ensure that cases are processed expeditiously in accordance with the applicable law.

- When CBP completes its administrative processing, the aliens are referred for custody with ICE ERO to wait further interviews with USCIS and/or hearings before an Immigration Judge.
- CBP closely monitors its operational capabilities:
  - To be clear, CBP processes travelers for admission to the United States and CBP refers travelers who seek protection to appropriate officials for claims to be heard.
  - CBP is committed to our national security mission which includes the safe, secure, and orderly processing of all travelers as expeditiously as possible without compromising safety or security of the Homeland.
  - Due to our operational capabilities, we are temporarily limiting entry into our facility.
  - The number of inadmissible travelers CBP is operationally capable to process varies depending on overall port volume and enforcement actions.
  - The port will resume processing as soon as operational capabilities allow.
  - We are acutely aware of the challenges that all travelers face and we will continue to treat all applicants with dignity and respect throughout the CBP process.

**Question:** Of the increased border crossings that DHS reported in March, how many were people who voluntarily turned themselves in to seek humanitarian relief?

**Answer:** CBP does not track subjects who voluntarily turn themselves in compared to those who are apprehended and then request relief. CBP total southwest border encounters in March 2018 were 37 percent higher than February 2018. Of the total CBP apprehensions and inadmissible aliens for March 2018 (50,308) along the southwest border, 74 percent were apprehended by USBP between the Ports of Entry (POEs) and 26 percent were encountered at the POEs. March 2018 total CBP apprehensions and inadmissible aliens were about three times higher (or 203 percent higher) than March 2017, and about 9 percent higher than March 2016.

During the first two quarters of FY 2018, 67,561 inadmissible aliens presented at the POEs along the southwest border, of which 14,975 (22 percent) requested fear-based protection.

During the first two quarters of FY 2018, USBP apprehended 173,595 subjects between the POEs on the southwest border, of which 22,274 (12.83 percent) claimed credible fear.

### **National Guard**

**Background:** On April 4, 2018, Secretary Nielsen announced that she would work with border governors to send National Guard to support Customs and Border Patrol.

**Question:** What will the specific duties of the National Guard be?

**Answer:** The Department of Defense (DoD) is providing border security support utilizing the National Guard under the command and control of the respective state governors. The National Guard are assisting CBP by providing much needed air, infrastructure, operational, and

surveillance support. It is important to note that National Guard members are not conducting law enforcement activities as part of the support operations.

**Question:** Will you incorporate the input of local law enforcement and local elected officials when determining whether to place National Guard troops in these border areas?

**Answer:** Governors from border states played a key role in determining the level and type of support the National Guard provides to CBP. CBP remains committed to working with local law enforcement and elected officials. However, in this specific instance, CBP did not consult other local law enforcement or local elected officials concerning National Guard deployments since the soldiers are not performing law enforcement duties.

### **Office of Field Operations (OFO)**

**Background:** The Office of Field Operations (OFO) oversees the flow of commerce and immigrants at ports of entry, but it has a staffing shortage of approximately 2,516 officers and 721 agricultural specialists. While the President's budget did call for hiring these positions, it suggested financing them by raising U.S. Customs and Immigration user fees. This is a non-starter both with our Committee, and through Ways and Means.

**Question:** Will you commit to prioritizing the hiring of CBP officers at our ports of entry in FY19?

**Answer:** Maintaining appropriate levels of workforce staffing – both along the border and at all ports of entry – is critical to CBP's law enforcement capabilities and is CBP's top mission support priority. As operational demands continue to grow, CBP remains committed to ensuring that frontline components are staffed to operational requirements and can effectively adapt to the changing needs of the country. CBP's frontline and mission support personnel are the most critical investments the agency makes towards fulfilling its mission.

In the last two years, more than 40 enhancements to CBP's hiring process have resulted in recruitment and hiring gains, despite record low unemployment and intense competition for highly-qualified, mission-inspired people. With support from Congress, CBP is making investments in our capability and capacity to hire across all frontline positions, focusing on efforts to attract qualified candidates and expedite their progress through the CBP hiring process. As a result of these enhancements, the total number of CBP officer applicants increased by 89 percent between FY 2015 and FY 2017, including a 45 percent increase from FY 2016 to FY 2017. This led to a 21 percent increase in CBP officer hiring totals between FY 2016 and FY 2017.

CBP recently added three additional CBP officer basic training classes to the FY 2018 and FY 2019 training schedule to accommodate the increased number of trainees entering on duty. In addition, CBP continues to utilize multiple group incentives (including retention incentives for all CBP officers eligible to retire in the next year) as well as recruitment incentives for several hard-to-fill locations, including Raymond, Montana; Jackman/Coburn Gore, Maine; and many locations across Texas, Arizona, North Dakota, and southern California. Recently, the Office of

Personnel Management approved CBP's request to increase the recruitment incentive from 25 percent to 33 percent for a three-year service period for the land POEs in Arizona and at Calexico, CA. It is expected that more applicants will accept these locations, thereby closing the staffing gap at a number of key southern border ports. Lastly, CBP is further focusing recruitment efforts on key airports, such as Los Angeles International (LAX), John F. Kennedy International (JFK), and San Fernando (SFR). Although staffing levels remain at over 90 percent of the authorized positions filled, CBP continues to work to close the staffing gap.

**Question:** Will you work with us to find additional funds in the FY19 budget to meet staffing needs, without having to increase user fees?

**Answer:** CBP is committed to continued cooperation with the Congress in order to assess CBP Officer (CBPO) hiring projections, funding sources, and staffing costs in FY 2019. With the support of Congress, CBP strives to allocate its resources as efficiently as possible to best enable mission success at the POEs. CBP also remains committed to working with Congress to sustain funding in FY 2019 for the 328 additional CBPO positions originally funded in the FY 2018 Consolidated Appropriations Act.

CBP would like to continue to partner with Congress, local governments, business groups, and the trade and travel industry to develop creative and effective funding strategies to address CBP staffing needs. For example, CBP hopes that its Reimbursable Services Program continues to expand in FY 2019. Pursuant to Section 559 of the FY 2014 Consolidated Appropriations Act, CBP is authorized to enter into partnerships with private sector and government entities to provide new or expanded services on a reimbursable basis. Reimbursable services include customs and agricultural processing, border security, support, and immigration inspection-related matters at ports of entry. CBP's Reimbursable Services Program currently has agreements with 80 stakeholders across 71 POEs. Since the program began in December 2013, CBP has provided over 392,000 hours of service at the request of its partners—accounting for the processing of more than 8.5 million travelers and 1.2 million personal and commercial vehicles. The program continues to expand as new agreements are signed every year.

QUESTIONS FOR THE RECORD SUBMITTED BY

**THE HONORABLE DAVID E. PRICE**

**The Honorable Brock Long, Administrator  
Federal Emergency Management Agency**

Committee on Appropriations

Subcommittee on Homeland Security

*FY19 Federal Emergency Management Agency*

April 13, 2018

**National Service**

***Background:*** Volunteers are a crucial part of immediate and long-term recovery efforts in communities impacted by natural disasters. CNCS (including FEMA Corps) was an integral part of the federal government's coordinated, multi-agency response to Hurricanes Harvey, Irma, and Maria.

***Question 1:*** Do you find that these volunteers maximize the reach of emergency relief and help ensure the long-term recovery of communities impacted by disasters?

***Answer 1:*** Yes. FEMA Corps plays a role in response and recovery operations. During 2017 Hurricane Season, 63 FEMA Corps teams comprised of 403 members were deployed to respond to Hurricanes Harvey, Irma and Maria. All teams reached the field in 21 days of the first storm making landfall. FEMA Corps is a part of the Disaster Survivor Assistance (DSA) mission workforce; during the 2017 hurricane season, 70 percent of FEMA Corps teams carried out DSA missions during deployments. FEMA Corps also supports other FEMA program areas such as Individual Assistance, Public Assistance, Mitigation, Logistics and Planning. Currently, 17 teams remain deployed to active disasters.

***Question 2:*** Were you involved in any conversations with OMB and CNCS about the proposed elimination of CNCS in the President's FY19 budget? How will the end of FEMA Corps affect disaster response efforts?

***Answer 2:*** The reduction in team numbers could affect the number of personnel deployable during hurricane season. During the past two hurricane seasons, all

FEMA Corps teams worked in disaster response, operated at a disaster site, supported distribution center activities, or mobilized personnel efforts.

**Question 3:** Are there any other barriers (outside of the proposed elimination of the CNCS budget) that Congress must address?

**Answer 3:** Congress could extend term limits for AmeriCorps NCCC team leaders to 15 months. In Winter FY 2019, the FEMA Corps program will move to a 12-month term of service for Corps members to reduce gaps in coverage and increase member conversion to FEMA employment by allowing them to achieve the 52 weeks of specialized experience required by many job postings.

Under current law, in order for team leaders to continue to receive approximately three weeks of specialized leadership, supervision, and other key skills training before corps members arrive, either team leaders will be required to end service before their corps members or must be allowed to serve terms longer than one year. An extension to 15 months would address this issue.

### **Coastal Resilience Center**

**Background:** The FY19 budget proposes elimination of the Coastal Resilience Center of Excellence located at the University of North Carolina at Chapel Hill. The Center's mission is to conduct research and education to enhance the resilience of the nation's people, infrastructure, economies, and the natural environment to the impacts of coastal hazards such as floods and hurricanes. Using their research, the Center creates predictive modeling for storm surge and flood events, plans mitigation responses, helps communities make resilience choices, and administers a graduate certificate program in Natural Hazards Resilience.

Within DHS, the Coastal Resilience Center is closely aligned with FEMA, the Coast Guard, and NPPD. It is my understanding that the Center's storm surge modeling forecasts played a large role in FEMA and the Coast Guard's decisions about where to place people and assets during Hurricanes Harvey and Irma last summer.

**Question 4:** Can you please detail FEMA's relationship with the Coastal Resilience Center during last summer's hurricanes?

**Answer 4:** During last season's hurricanes, FEMA worked closely with the Coastal Emergency Risk Assessment (CERA) group of the Coastal Resilience Center in order to evaluate potential storm surge scenarios upon the release of each

Advisory issued by the National Hurricane Center. Due to the value provided during last summer's hurricane season, FEMA has continued discussions with the CERA group through engagements with the Coastal Resilience Center (CRC). FEMA leverages the research, products and tools that CRC generates via their DHS S&T Center of Excellence cooperative agreement funding. At the invitation of DHS S&T, FEMA regularly reviews the cooperative agreements that are awarded and engages with CRC to try to ensure that their products offer value to our mission.

In addition, in FY18-FY19 the DHS Coastal Resilience Center of Excellence is conducting research and analysis with FEMA/FIMA to examine tools, resources, and best practices for compliance with local floodplain management regulations in the post-disaster environment, particularly implementing the substantial improvement/substantial damage (SI/SD) provisions of their regulations. The Coastal Resilience Center will be determining:

- Keys to success for communities enforcing their local floodplain management regulations and how FEMA can best direct its existing resources to support communities in the post-disaster environment through training, technical assistance, working with elected officials, and other methods.
- New actions FEMA should take that would effectively support communities in the post-disaster environment with floodplain management and SI/SD, includes hazard mitigation planning analyses that may enable communities to better assess and manage substantial damage claims; policy or procedural adjustments that may speed community access to assistance; and training that builds community capacity to handle substantial damages in a way that maximizes long-term risk reduction and speeds recovery.
- Actions FEMA should take, and recommended strategies to ensure floodplain management regulation compliance. An analysis of whether existing enforcement authorities could be utilized more effectively, as well as consideration of new pathways to compliance should be performed.

Through DHS S&T, FEMA is funding the CRC to help research more effective ways to deliver substantial damage/substantial improvement efforts in the areas affected by Hurricane Harvey. FEMA has an interagency agreement in place with DHS S&T to use the CRC Center of Excellence.

**Question 5:** Can you please explain the importance of the Coastal Resilience Center's work to FEMA before, during, and after a natural disaster?

**Answer 5:** CERA provides a detailed, potential storm surge scenario in real-time with the advisories from the National Hurricane Center that can be leveraged as the storm evolves. The potential storm surge scenarios enable FEMA to understand potential population impacts and inform local, state and federal decisions regarding evacuations. The work at CERA also enables the National Flood Insurance Program (NFIP) to project potential insurance losses, claims, and damages.

After a disaster, CERA's work helps FEMA predict where damages most likely occurred in order to facilitate more efficient and effective response to survivors. FEMA can also evaluate the storm surge predictions in order to find ways to improve our nation's ability to predict storm surge and to improve the efficiency and effectiveness of such predictions. Outside of hurricane season, FEMA routinely evaluates the work done by the CRC and engages with them on how their work can enhance FEMA's ability to meet our mission.

**Question 6:** Do you believe that the predictive storm surge modeling done by the Coastal Resilience Center is duplicative and unnecessary?

**Answer 6:** No. As with most areas of scientific research, there is value in exploring challenges like predictive storm surge modeling using different techniques. CERA, through the CRC, leverages FEMA derived Advanced Circulation and Storm Surge (ADCIRC) models in order to publicly share (<https://cera.coastalrisk.live/>) storm surge predictions upon each Advisory issued by the National Hurricane Center. NOAA and the NHC utilize the Sea, Lake and Overland Surges from Hurricanes (SLOSH) model to issue their predictions.

FEMA and the Federal family benefit from having multiple sources for predicting storm surge as a hurricane approaches in order to better understand the range of possible outcomes. After landfall, competing predictions enable us to compare the different approaches to observed storm surge in order to evaluate which predictive model tends to perform better and where.

Thus far, FEMA has found that ADCIRC performs better in certain geographies while SLOSH performs better in others. Leveraging the detailed ADCIRC models developed by FEMA, CERA has been able to perform well in geographies with complex shorelines, such as estuaries, providing the finer resolution necessary for evaluating where severe impacts may occur during storm surge events. This was

highlighted during Hurricane Irma, where CERA was able to predict the draining of the Tampa Bay prior to the storm surge arriving. CERA also includes wave components in its modeling, where SLOSH does not, which allows CERA to provide a refined view of the water level, including wave set-up, an increase in the height of the water column due to the presence of breaking waves. SLOSH is able to provide predictive storm surge information for larger regions that may experience surges providing insight needed for evacuation orders and products that are easily communicated to the general public. Both tools provide important insight into the potential surge hazards from hurricanes.

**Question 7:** Did you consult with OMB and the Secretary of DHS regarding the elimination of federal funding for the Coastal Resilience Center?

**Answer 7:** Funding for the Coastal Resilience Center is appropriated through the Science and Technology Directorate as one of its current Centers of Excellence. As such, FEMA does not discuss another Component's resourcing decisions with OMB or the Secretary.

### **Pre-Disaster Mitigation Program**

**Background:** Pre-disaster mitigation helps forward-thinking communities reduce their risk before a disaster, and Congress has come to the consensus that this should be a government focus. The President's FY19 budget proposes to cut funding for the pre-disaster mitigation grant program by sixty percent. This comes after multiple natural disasters last summer cost the federal government over \$140 billion. And studies on the benefit of mitigation have shown savings of \$4 for every \$1 invested in mitigation, thanks to reduced future costs to the Disaster Relief Fund and the National Flood Insurance Program.

**Question 8:** Given that mitigation is so beneficial and cost-effective, why have you proposed a sixty percent cut to the pre-disaster mitigation grant program?

**Answer 8:** The Pre-Disaster Mitigation Program (PDM) supports the Department's goal of strengthening capacity at all levels of society to withstand threats and hazards. PDM accomplishes this by providing Federal funding to states, local, tribal, and U.S. territorial communities (SLTT) for eligible planning and project activities. PDM supports the development of hazard mitigation planning and/or

project applications that implement physical measures to avoid and/or reduce damage associated with natural disasters.

FEMA's implementation of a \$39 million PDM program in FY 2019 would largely consist of satisfying the statutory allocations (1% of the appropriation, or \$360,000 per state/territory) totaling about \$24 million, plus a 10% Tribal set aside for Tribes to receive the same allocation amount. This would leave about \$11 million for a national competition. Additionally, FEMA has approximately \$32 million in recovered PDM funding. This funding is left over funding from the closeout of awarded grants. FEMA will use this recovered funding to make additional awards.

Pre-disaster mitigation—preparing in advance for future disasters—better assures that hazardous events will have shorter-lived and more manageable outcomes. Over time, pre-disaster mitigation also reduces the need for recovery dollars. The more mitigation completed before disaster strikes, the less money needs to be obligated for future recovery activities in the long term.

### **Flood Hazard Mapping Program (Risk MAP)**

**Background:** Risk MAP's mission is to deliver high-quality flood risk data to communities that increases public awareness about potential hazards and allows subsequent actions to be taken to reduce flood risk to life and property in the future. Risk MAP also supports the National Flood Insurance Program.

While flooding is one of the most common and costly disasters, studies have shown that almost 90% of flood risk reduction funding comes after a big flood.

**Question 9:** The President's FY19 budget proposes cutting the flood-hazard mapping program by 61.9%. Can you please explain the rationale for this drastic cut?

**Answer 9:** Given limited resources and the backlog of flood mapping needs despite regular federal investment, the Budget proposes to reduce flood map funding to preserve resources for the Department of Homeland Security's core missions. Over the next year, the Administration will work to improve efficiency in the flood mapping program, including incentivizing increased State and local government investments in updating flood maps to inform land use decisions and reduce risk.

The Risk MAP program's yearly budget includes both appropriated and discretionary funds collected from policy fees. On an ongoing basis FEMA assesses the flood map inventory based on physical, climatological, and engineering factors to evaluate the depiction of the flood risk presented on the FIRM. The reporting of New, Valid, or Updated Engineering (NVUE) statistics are used to measure data quality by ensuring that flood hazard data are new, have been updated, or are deemed to be still valid through a continuous review and update process. FEMA has a target of progressing toward a full maintenance phase of its inventory, where the map inventory is assessed within a 5-year cycle and 80% of the miles are identified as Valid. The timeframe to achieve this target is dependent on the level of annual funding that the program receives. The level of funding identified in the FY 2019 President's budget is our best estimate of the level of funding necessary to reach NVUE of 80% by 2021.

## QUESTIONS FOR THE RECORD SUBMITTED BY

**THE HONORABLE Steven M. Palazzo****The Honorable Brock Long, Administrator  
Federal Emergency Management Agency**

Committee on Appropriations

Subcommittee on Homeland Security

*FY19 Federal Emergency Management Agency*

April 13, 2018

**[FEMA, State Coordination for Disaster Prep]**

**Question 10:** Given your experience in response efforts following the 2017 hurricane season and your experience in emergency management, I would like to hear your feedback on how you believe our vulnerable regions can mitigate and protect against disasters. Specifically, my congressional district is located on the Gulf Coast of Mississippi and was heavily impacted by flooding and storm surge associated with hurricane Katrina. Following the hurricane, many base flood elevation levels were set as a reactive measure in preventing future flood loss. These base flood elevations that are still in place today have stunted economic and business development along the Mississippi Gulf Coast.

- Can you provide me with your agency's plan to work with states to promote preparation for major disasters?

**Answer 10:** The most successful way to achieve disaster resiliency is to create a culture of preparedness across America. A culture of preparedness is a national effort to be ready for the worst disasters at the federal, state, local, tribal, territorial, community, family, and individual levels. People who are prepared will be able to act quickly and decisively in the face of disasters, thereby preventing death and injuries, minimizing loss of property, and allowing for a more rapid and efficient recovery.

FEMA's role is to build relationships with our emergency management partners, ideally before disasters occur, so that the Agency can understand their unique conditions and needs. The Federal Insurance and Mitigation Administration

(FIMA) supports these efforts through the Hazard Mitigation Planning program, the Building Science Branch; FIMA's three Hazard Mitigation Assistance (HMA) programs: Pre-Disaster Mitigation (PDM), Flood Mitigation Assistance (FMA) and Hazard Mitigation Grant Program (HMGP); the National Flood Insurance Program (NFIP); and the Mitigation Framework Leadership Group (MitFLG).

FEMA requires State, tribal, and local governments to develop and adopt hazard mitigation plans as a condition for receiving non-emergency disaster assistance under the Stafford Act and flood mitigation assistance under the National Flood Insurance Act. The purpose of mitigation planning for SLTT partner governments is to identify their vulnerabilities to natural hazards and identify actions and activities to reduce potential losses from those hazards. In March 2015, FEMA released the State Mitigation Plan Review Guide, which provides guidance to states on requirements for approval of state mitigation plans. The Guide calls for a commitment to inclusive mitigation planning processes that better reduce risk and enhance resilience, and introduces the annual mitigation program consultation. FEMA will work with each state to collaboratively design a mitigation program consultation process that reflects the state's needs and priorities while also satisfying the annual consultation requirement. A well-designed mitigation program consultation process is expected to deliver the following benefits, among others:

- Improve coordination and management of HMA grants and other mitigation programs;
- Create regular opportunities to exchange the best available data, analysis, and tools;
- Support implementation of the state's mitigation plan;
- Decrease state mitigation plan revision cycles during the plan review period; and
- Strengthen coordination efforts already in place and identify future opportunities to increase collaboration.

FEMA works directly with SLTT and non-governmental partners to advocate for the adoption and enforcement of modern building and property codes. Disaster resilience starts with building codes, because they enhance public safety and

property protection. Furthermore, FEMA encourages robust code enforcement, providing education and training when needed to help convey the value of standardized, up-to-date building codes. In addition, FEMA is actively engaged in efforts to develop and promote the use of disaster resistant codes (also known as consensus codes) developed by the International Code Council (ICC) consistently across FEMA programs. Disaster resistant building codes help to create resilient communities through stronger buildings that resist the effects of natural hazards. For a variety of mitigation projects, utilization of these codes and standards are made a condition of funding to state and local grant recipients under FEMA's HMA programs and Public Assistance (PA) programs.

FEMA also plays a critical role in enabling and incentivizing investments that reduce risk and increase pre-disaster mitigation. Experience has shown repeatedly that individuals, communities, and businesses that manage risk through insurance recover faster and more fully after a disaster. FEMA encourages communities to promote the sale of flood insurance to increase community resilience. The PDM and FMA programs are designed to assist states, U.S. territories, federally-recognized tribes, and local communities in implementing a sustained pre-disaster natural and flood hazard mitigation programs. The goal is to reduce overall risk to the population and structures from future hazard events, while also reducing reliance on Federal funding in future disasters. Additionally, FEMA provides grants post-disaster under HMGP to help communities implement hazard mitigation measures that reduce the risk of loss of life and property from future disasters. These programs award planning and project grants and provides opportunities for raising public awareness about reducing future losses before disaster strikes. FEMA works with private and public stakeholders across the country to construct and develop strategies within state and local jurisdictions that encourage pre-disaster mitigation and investment. FEMA has a Loss Avoidance Study from Hancock, Harrison, and Jackson Counties in Mississippi that identifies the return on investment for 92 flood and wind mitigation projects completed in the study area after Hurricane Katrina: [https://www.fema.gov/media-library-data/1492193978575-8b228ed3251229b6a86dac730e56e925/FEMA\\_Factsheet\\_Mississippi\\_LAS\\_508.pdf](https://www.fema.gov/media-library-data/1492193978575-8b228ed3251229b6a86dac730e56e925/FEMA_Factsheet_Mississippi_LAS_508.pdf). In 2018, an independent study by the National Institute of Building Sciences, co-funded by FEMA, found that for every \$1 that the Federal Government invests in mitigation saves taxpayers an average of \$6 in future spending.

Beyond promoting whole community preparedness through appropriate insurance, FEMA provides flood hazard insurance through the NFIP. FEMA is focused on expanding the number of properties covered by flood insurance. After a disaster,

FEMA's focus is on working with communities on a resilient recovery and protecting the federal investment going forward, which may inform advisory flood information. Additionally, FEMA's Public Assistance, or Infrastructure, program grants funding for mitigation (406 mitigation). This program is managed by the State under funding provided for in the Stafford Act. The 406 funding provides discretionary authority to fund mitigation measures in conjunction with the repair of the disaster-damaged facilities, so funding is limited to declared counties and eligible damaged facilities. Finally, FEMA, through the MitFLG, is developing a National Mitigation Investment Strategy that encourages coordinated pre- and post-disaster mitigation investment toward the outcome of reducing future disaster risk. FEMA will continue to leverage these partnerships and our own disaster assistance programs to drive mitigation investments.

Beyond mitigation activities, FEMA provides preparedness grants to States, Territories and Tribes. The Emergency Management Performance Grant provides funding to assist state, local, territorial, and tribal governments for the purpose of providing a system of emergency preparedness for the protection of life and property in the United States from all hazards and to vest responsibility for emergency preparedness jointly in the Federal Government and the states and their political subdivisions. The State Homeland Security Program assists state, local, territorial, and tribal governments in preventing, preparing for, protecting against, and responding to acts of terrorism. The Urban Area Security Initiative provides funding to assist high-risk Urban Areas in preventing, preparing for, protecting against, and responding to acts of terrorism. Finally, the Tribal Homeland Security Grant Program assists directly eligible tribes to support the building, sustainment, and delivery of core capabilities to enable tribes to strengthen their capacity to prevent, protect against, mitigate, respond to, and recover from potential terrorist attacks.

### **IPAWS**

***Background:*** During an emergency, federal, state and local officials need to provide the public with life-saving information quickly. IPAWS provides public safety officials with an effective way to alert and warn the public about serious emergencies using the Emergency Alert System to disseminate recorded information. This Committee has supported that effort. However, new communication technologies exist which integrate telephone, mobile, and web communication to form an enhanced communication platform that engages live audiences directly. This technology can be used to more effectively partner with

State, local, tribal, and territorial governments by more efficiently engaging the affected population and supporting the disaster workforce to prepare for, and respond to, all possible hazards and natural disasters.

***Question 11:***

- What is FEMA doing to ensure it can engage first responders, the disaster workforce, and the affected population simultaneously and in a live environment?

***Answer 11:*** The Integrated Public Alert & Warning System (IPAWS) provides public safety officials with an effective way to alert and warn the public about serious emergencies via emergency broadcasts on radio and television and by emergency text messages broadcast to all cell phones in a geographic area. IPAWS leverages private sector radio, television, and cable stations and wireless carrier networks to disseminate and broadcast emergency messages to people. As of April 19, 2018, over one thousand agencies are able to use the IPAWS. FEMA continuously engages SLTT authorities to inform about them of IPAWS assist in improving their readiness and effectiveness to alert and warn the public. FEMA conducts outreach and stakeholder engagement programs to educate and inform alerting authorities including presentations and participation at state and regional conferences. FEMA also engages with private sector vendors to ensure compatibility with IPAWS and sponsors an online alerting authority community sharing environment on best practices. IPAWS courses are offered in the FEMA Emergency Management Institute training curriculum and assists in local training and testing via the IPAWS Lab.

***Question 12:***

- Does FEMA have the ability to provide real-time information and solicit current and up-to-date feedback from those impacted by a disaster?

***Answer 12:*** IPAWS provides alerting authorities with the ability to send emergency information in real-time to any persons in a geographic area by broadcasting text messages to all cellular phones and by emergency radio and television broadcasts. IPAWS does not include a feedback channel for people to respond to or interact with officials. However, authorities can use IPAWS messages to solicit feedback by sending a message directing the public to disaster response telephone numbers, websites, and/or a specific address/location where feedback can be submitted.

**Question 13:**

- Does the IPAWS system enable two-way conversations between FEMA and the affected population? During, before and after a storm, will crisis-stricken residents be able to ask public safety officials questions directly through FEMA's existing communications systems?

**Answer 13:** No, IPAWS provides one-way broadcast of emergency messages from authorities to people in an area. However, authorities can use IPAWS messages to direct the public to disaster response telephone numbers, websites, and/or a specific address/location where residents can interact with public safety officials and submit feedback.

### **Federal Flood Risk Management Standard**

**Background:** Last August, President Trump revoked Executive Order 13690, the Federal Flood Risk Management Standard ("FFRMS"), because it simply did not answer these fundamental "how" and "where" questions and was largely driven by our former President's Climate-Informed Science. I supported President Trump's decision and was one of 42 Members of the House and Senate to send a letter urging him to revoke this executive order in June last year.

The FFRMS:

- Did not quantify benefits and costs;
- Was not justified by established scientific data;
- Did not promote predictability or regulatory certainty;
- Applied to Federal and state, local and private activities through Federal permitting authorities; and
- Was not accompanied by requisite flood mapping capabilities.

The establishment of a top-down, arbitrary standard leapt over the hard work of government to explore and determine the benefits and costs of various alternatives for a given location.

The FFRMS failed to rely on a portfolio of tools that could accommodate diverse local flood circumstances by the right level of government and according to the principles of cost-benefit analysis. The FFRMS was an unwieldy, government-wide regulatory mess built on fragmented and obsolete data.

Former White House Homeland Security advisor Tom Bossert said last September: “We shouldn’t use Federal money to rebuild in ways that don’t anticipate future flood risk. We need to build back smarter and stronger.” Mr. Long, I fully agree with this statement.

**Question 14:**

- Instead of mandating fixed, arbitrary elevation standards from Washington, do you believe it would be better to allocate limited Federal construction dollars by using an expedited, project-specific cost-benefit analysis?

**Answer 14:** FEMA is already required by statute, regulation, and guidance to fund only cost effective mitigation projects. A benefit cost analysis is submitted by the applicant and reviewed by FEMA prior to project approval. In order to build back smarter and stronger, FEMA programs require applicants to incorporate the project design requirements of existing voluntary consensus standards for projects involving new construction, substantial improvement, and to fix substantial damage to structures (buildings). By incorporating existing resiliency standards into program requirements, FEMA leverages their familiarity and acceptance amongst stakeholders and avoids the time and expense of developing an independent standard. This approach has proven successful at increasing the resilience to flood risk of federally-funded projects involving structures, and FEMA is exploring options to similarly increase the resilience of infrastructure project types for which voluntary consensus standards do not currently exist.

**Flood Mapping**

**Background:** In the absence of a nationwide flood map, I am sure you are well aware that there are many areas still following flood maps from the 80’s and 90’s. Following hurricane Katrina, the Mississippi Gulf Coast was proactive in working with FEMA to update our flood maps, which has had costly impacts on home and property owners that live along the Gulf Coast who rely on flood insurance to help insure their homes from flooding. I’d like to ask a couple of questions related to mapping.

**Question 15:**

- How does your agency prioritize what areas get mapped first?

**Answer 15:** Flood zone designations may be established or revised when new and more accurate information becomes available because of a FEMA-contracted

restudy or because the community makes the information available to FEMA. To determine the need for a restudy, FEMA ranks and prioritizes flood study update needs and then determines which needs to address in the current fiscal year. Several factors influence the frequency with which the designation of an area may be revised; such as the extent of new development, availability of topographic data needed to do analysis, identification of streams as being “unverified” or “unknown” through our five-year review cycles, the completion of flood-control projects, local data availability and/or strong local partnerships.

***Question 16:***

- Do you plan to bring in a new NFIP Director that will be committed to working with states that have outdated flood maps?

***Answer 16:*** The NFIP is committed to updating maps with high quality elevation data and the most accurate industry standard engineering methodologies. To this end FEMA has set aside \$93 million in FY 2018 alone to capture new high quality elevation data which positions the program to be able to make progress on this goal. FEMA anticipates that a new Deputy Associate Administrator for Insurance and Mitigation would also be committed to these concepts.

***Question 17:***

- Will you work to ensure the new director utilizes the requested amount in your budget set aside for floodplain management and floodplain mapping in bringing those maps into the 21<sup>st</sup> century?

***Answer 17:*** FEMA anticipates that a new Deputy Associate Administrator for Insurance and Mitigation would be committed to these outcomes.



QUESTIONS FOR THE RECORD SUBMITTED BY

**THE HONORABLE John R. Carter**

**Admiral Paul F. Zukunft, Commandant  
US Coast Guard**

Committee on Appropriations  
Subcommittee on Homeland Security  
*FY19 Coast Guard Budget Request*  
April 17, 2018

**EQUIPMENT RECAPITALIZATION PLAN**

**Background:** Coast Guard has now been funded for 11 NSCs - the Coast Guard only planned for eight (8). The FY 2018 bill included an additional \$1.175 billion for the construction and of the 10th and 11th NSCs. With the retirement of Senator Cochran, it is unclear whether the Senate will seek production funding for a twelfth (12th) NSC in the 2019 budget.

**Question:**

- The performance of the National Security Cutter has been outstanding but can you tell me how you will fund the operational costs of the new cutters and balance those costs with your other mission requirements?

**Answer:**

National Security Cutters (NSC) continue to remove record numbers of drugs at sea. The two additional NSCs funded in the FY 2018 appropriations bill will be fully employed and provide exceptional value toward keeping our country safe.

The Coast Guard will continue to balance affordably recapitalizing our fleets while also sustaining critical front-line operations, including allocating resources to operate and maintain new assets as they are delivered via our acquisition programs. The Coast Guard appreciates Congress's support of our follow-on requests to fund the people, support infrastructure, and the operations and maintenance of our new vessels. This continued support will be critical as new vessels, including the 10th and 11th NSCs, are delivered.

Similar to the other DOD military Services, the Coast Guard faces readiness challenges: aging assets with increasing maintenance costs; lost purchasing power due to lack of non-pay inflation; and deferred maintenance across all asset portfolios and shore infrastructure; while at the same time facing increasing mission demands. In order to adequately fund new assets and balance those costs with other mission requirements, the Coast Guard requires growth within our operations and maintenance accounts.

- For the last several years Congress has provided funds for an HC-130J aircraft. Although your program of record calls for 8 more of these aircraft, none were proposed in the fiscal year 2019 budget. What would be the impact to your modernization plan if an additional aircraft was not included in fiscal year 2019?

- **Answer:**

The Coast Guard appreciates Congress's support of our aviation recapitalization requirements, including our transition from the legacy HC-130H aircraft to the significantly more capable HC-130J aircraft. Unfortunately, the Coast Guard has been unable to include funding to acquire HC-130J aircraft in our budget requests in the past due to fiscal constraints and the many competing demands placed on the Service.

Although the Coast Guard did not request funding for HC-130J aircraft recapitalization in our FY 2019 President's Budget request, funding for another HC-130J aircraft in the FY 2019 appropriations bill can be sequenced into the Coast Guard's ongoing HC-130J recapitalization efforts and help avoid increasing out year sustainment costs associated with the aging HC-130H fleet.

Transitioning our fleet from HC-130H aircraft to HC-130J aircraft is a priority for the Coast Guard. The HC-130J is a more efficient aircraft to operate and maintain, provides increased range and lift capacity, and includes an updated mission system that will improve the Coast Guard's surveillance capabilities. In addition, completion of the HC-130J transition enables the Coast Guard to standardize training for a single platform and realize efficiencies by maintaining commonality with DOD assets.

## **OFFSHORE PATROL CUTTER**

**Background:** Coast Guard plans to acquire 25 cutters to replace the aging Medium Endurance Cutters. A production contract was awarded to Eastern Shipbuilding in September 2016. The FY2018 bill included \$500 million for the production of the first OPC and procurement of long lead materials for the second. The FY2019 budget submission requests \$400 million to construct the second OPC and procure long lead materials for the third OPC. And, the FY2019 Budget Overview states that the OPC will be the cornerstone of the Coast Guard's future surface fleet and will make up 70% of the service's offshore presence.

### ***Question:***

➤ How does the OPC stack up in the Coast Guard's priority for recapitalization?

○ ***Answer:***

The OPC and Polar Icebreaker are the Coast Guard's highest priority acquisitions. As a replacement for the aging medium endurance cutters, the OPC will be the foundation of our offshore fleet and will ensure the Coast Guard can address current and evolving maritime threats including dramatic increases in drug and human trafficking and competition for natural resources.

➤ Where does the process stand today and how confident are you that the contractor will meet the acquisition schedule?

○ ***Answer:***

Since the award of the Detail Design and Construction (DD&C) option, the OPC Program has successfully completed the following:

- Established a Project Resident Office (PRO) at the shipbuilder's facility,
- Completed 19 months of detail design including completion of the Initial Critical Design Review (ICDR),
- Successful execution of the Early Operational Assessment (EOA), and

- Exercised the Long Lead Time Material (LLTM) option for the first OPC.
- The contractor building the OPC offered a unit cost that was significantly below all other offerors. Now that you are about to begin production of the first OPC, are you confident that price will hold?
- **Answer:**  
Yes, the USCG is confident in the contractor's ability to produce the OPC at the proposed unit cost. Additionally, the OPC contract is structured so that the contractor shares any cost over-runs on a 50/50 proportion up to the ceiling price; any costs incurred above the ceiling price are the responsibility of the contractor. This contract structure helps to ensure a balanced amount of risk between the government and contractor to incentivize their performance to meet quality and cost targets.

### **POLAR ICE BREAKERS**

**Background:** The Coast Guard is on record stating three heavy and three medium ice breakers are required to properly execute its arctic missions. The CG's budget request includes \$750 million to fund this construction. Going forward, it is unclear what the Department's procurement funding strategy will be and whether or not the Coast Guard or this Administration will pursue additional ice breakers.

**Question:** The Coast Guard's arctic strategy calls for 3 heavy and 3 medium polar ice breakers and the budget request includes funding for the construction of the United States' first new heavy ice breaker in 40 years. However, that ice breaker will not be delivered until late in fiscal year 2023. Until then, we have only one operational heavy ice breaker – the Polar Star, which you intend to keep operational for two years beyond that (2025) so that the Coast Guard remains mission ready while completing sea trials on the new vessel.

- What is the Department doing to extend the life of the Polar Star?

- **Answer:**

The Coast Guard is committed to keeping POLAR STAR operational until at least delivery of the second new heavy polar icebreaker. We conducted a comprehensive engineering analysis on POLAR STAR, which identified critical systems that must be recapitalized to ensure continued operations until delivery of the second heavy polar icebreaker. With this information, we will be conducting a phased Service Life Extension (SLEP) (executed between annual deployments) to replace these systems, which will ensure we continue to meet the Nation's needs in the remote polar regions while our new icebreakers are under construction.

- It is great that we are finally building a new heavy ice breaker but what is the strategy going forward to address the need for two more heavy and three medium polar ice breakers?

- **Answer:**

On 21 February 2018, the DHS Acquisition Review Board approved the Coast Guard Heavy Polar Icebreaker (HPIB) program to enter the Obtain phase of the acquisition life cycle and approved a Low Rate Initial Production quantity of three HPIBs. The Detailed Design and Construction contract Request for Proposal was released on 02 March 2018 (nearly four weeks early) which, when awarded, provides options to construct up to three heavy polar icebreakers. To protect national interests in the remote polar regions and assure unimpeded year-round access, the Coast Guard needs new polar icebreakers and our first step toward this requirement is to construct and deliver three new heavy polar icebreakers; the first to the Nation in more than 40 years. Looking beyond this initial installment, we have begun to develop and refine preliminary requirements for the next phase of the polar icebreaker program to ensure continued performance of these vital missions. We are as close as we have been in over 40 years to recapitalizing our icebreaking fleet and continued investment will ensure we maintain America's relevance and legitimate claims in the rapidly evolving and dynamic polar regions.

- How will you balance the need for the modernization and recapitalization of the remainder of the Coast Guard's vessel and aircraft fleet against the requirement for additional polar ice breakers?

- *Answer:*

- Older, legacy cutters and aircraft are increasingly expensive to maintain as systems become obsolete. New assets with configuration management and modern maintenance programs allow predictable lifecycle costs and ensure high operational availability. The Coast Guard prioritizes replacement of cutters and aircraft that possess the highest risk of mission failure due to lost days for maintenance and obsolescence. This approach allows for an affordable capital investment plan that phases funding to the most critical major asset classes.

### **FAST RESPONSE CUTTERS**

***Background:*** In support of the CENTCOM Commander, the Coast Guard has 6 Sentinel Class (110') Cutters providing security for ports and naval operations in Southwest Asia. These Cutters are nearing the end of their operational lives and will have to be replaced with Fast Response Cutters starting in 2020. The Coast Guard's acquisition strategy to acquire 58 FRCs did not account for the CENTCOM mission. For FY 2018, the Coast Guard requested \$240 million for four (4) Fast Response Cutters (\$240 million); the Committee added \$100 million to procure a total of six FRC's, designating the additional two as initial replacements for the Sentinel Cutters in Southwest Asia.

***Question:***

- The Fast Response Cutter has proven to be a capable and reliable workhorse for the Coast Guard. Your plan calls for a fleet of 58 Fast Response Cutters. Given the fact that you will have to replace the 110' Cutters in Southwest Asia in the not too distant future, how many FRCs do you need to meet all of your known and anticipated mission requirements?

- **Answer:**

U.S. Central Command (CENTCOM) requests six USCG Island Class Patrol Boats be deployed annually with no forecasted end date. In order to source this request beyond 2022, a replacement for the Island Class Patrol Boats will be required. A logical solution would be to follow our CONUS strategy of replacing the Island Class Patrol Boats with Fast Response Cutters (FRCs). Assuming the current level of patrol boat capacity is satisfactory beyond 2022, a total of six FRCs would be sufficient to meet CENTCOM's requirements.

- The FY18 bill funds the construction of the first Offshore Patrol Cutter and the 10<sup>th</sup> and 11<sup>th</sup> National Security Cutters. What will be the relationship between the FRC, OPC and NSC?

- **Answer:**

The relationship between the FRC, OPC, and NSC is to complement each platforms' capabilities to perform the Coast Guard's statutory missions and meet DHS' goals and objectives.

The FRC is the Coast Guard's patrol craft well suited for operating near shore out to the Economic Exclusive Zone for rapid response and efficient mission execution in various operational maritime areas.

The NSC is the Coast Guard's premier major cutter designed for sustained operations in demanding global environments. It contains an advanced Command and Control suite for complex law enforcement and national security missions involving multiple Coast Guard and partner agency assets. The OPC will replace the aging medium endurance cutters, provide the majority of offshore presence, and will provide a capability bridge between the NSC, and the FRC.

## **HURRICANE SUPPLEMENTAL**

**Background:** The response to the 2017 hurricane season required the Coast Guard to deploy 3,000 first responders and over 200 vessels and aircraft, ultimately saving 12,000 American lives. The *Bipartisan Budget Act of 2018* (P.L. 115-123) passed in February included \$28.6 billion in supplemental funding for DHS, of which \$718.9 million was included for Coast Guard's Acquisition, Construction, and Improvements related to Hurricanes Harvey, Irma, Maria, and Matthew to remain available until FY 2022, provided that the Coast Guard submit an expenditure report to the Committee within 60 days of enactment (approx. April 10, 2018). This funding was provided to not only repair facilities damaged by these hurricanes, but also to improve the resiliency of the Coast Guard by rebuilding many facilities to modern standards to withstand future storms for years to come.

### ***Question:***

- That expenditure plan is due this month. Can you provide a status on that plan?
  - **Answer:**  
The Hurricane Expenditure Plan is currently under final review within the Administration.
  
- The Supplemental provided the Coast Guard with \$36 million for the conversion of three (3) MH-60 helicopters – can you describe how this funding impacts your FY 2019 request for MH-60T Sustainment (\$25M)?
  - **Answer:**  
The Supplemental funding does not impact the FY 2019 request for MH-60T Sustainment. The FY 2019 request will be used to complete analyze/select phase activities which include engineering studies, material and labor to perform proof of concept production activities, purchase of long lead time fixtures/tooling, program management, and non-recurring engineering. The Hurricane Supplemental funds were

provided for conversion of Navy “sundowner” hulls into operational Coast Guard MH-60T helicopters to restore rotary-wing capacity gaps.

➤ Additionally what, if anything, is Coast Guard doing to plan for another potentially busy 2018 Atlantic Hurricane season?

○ ***Answer:***

In Fiscal Year 2018, the Coast Guard plans to lead or participate in nearly 800 drills and exercises across all contingencies to strengthen preparedness throughout the Service and enhance interoperability with Federal, state, local and private industry partners. These exercises provide opportunities for Coast Guard units to continue to hone their emergency management skills, identify areas for improvement in contingency plans, build resiliency within local communities, and ensure we are better prepared to respond.

Additionally, the Coast Guard is taking action now from lessons learned from the historic 2017 hurricane season to ensure the best possible response in the future. For example, the Coast Guard is changing internal procedures to better facilitate the surge of Coast Guard forces to the area they are most needed as quickly and efficiently as possible.

## QUESTIONS FOR THE RECORD SUBMITTED BY

**THE HONORABLE DAVID E. PRICE**

**Admiral Paul F. Zukunft, Commandant**  
**US Coast Guard**  
Committee on Appropriations  
Subcommittee on Homeland Security  
*FY19 Coast Guard Budget Request*  
April 17, 2018

**Border Wall**

**Background:** In FY19, the President has asked for \$1.6 billion for 65 miles of border wall in the Rio Grande Valley Sector. After Congress appropriated funds for approximately 670 miles of pedestrian and vehicular fencing from FY07 – FY09, the Coast Guard briefed this Subcommittee extensively on the resulting increase in migrants and smugglers who came to the United States by sea when they could no longer come by Mexico.

**Question:** What are your analyst’s projections on the operational impact to the Coast Guard of President Trump’s border wall?

- **Answer:**  
Securing our borders requires a comprehensive approach and one that includes both the terrestrial and maritime domains.

In terms of Transnational Criminal Organization (TCO) activity, the Southwest Border really starts about 1,500 miles south—and the Coast Guard is uniquely able to push our Nation’s borders out in a layered security strategy approach.

The Coast Guard is the offense in DHS’ comprehensive border security strategy, disrupting the networks of TCOs long before they reach our shores and where they are most vulnerable—at sea. The Coast Guard once again set an annual record for cocaine removal in the maritime domain, interdicting over 490,000 pounds of cocaine in 2017. These

interdictions take profits away from TCOs and help re-stabilize our partner nations in the Western Hemisphere.

- Will you see an increased number of migrant and drug traffic at sea?
  - *Answer:*  
As the land border becomes hardened, TCOs will likely continue to exploit available vulnerabilities in the border system and shift operations to continue smuggling people and illicit drugs.
- If this happens, how much of an increase in resources do you imagine you would need from Congress to protect our maritime borders?
  - *Answer:*  
The Coast Guard leverages its unique authorities, capabilities, and domestic and international partnerships to support a comprehensive approach to border security. The Service works to efficiently allocate its limited resources to most effectively deter, disrupt, and dismantle threats, including drug smuggling and illegal immigration, to our Nation as far from our shores as possible.

To bolster a layered border security strategy, the Coast Guard must continue to recapitalize an aging fleet of vessels and aircraft, while also making critical investments in shore infrastructure and information technology. Modernized assets, like the Offshore Patrol Cutter (OPC), Fast Response Cutter (FRC), and HC-130J aircraft, as well as ensuring our rotary-wing fleet will be able to continue operations until recapitalization in conjunction with DOD's future vertical lift program in the mid-2030s, will provide the Coast Guard with the capabilities and capacity to address increasing mission demands in the southern maritime transit zone.

### **Port and Waterway Security**

**Background:** More than \$4.6 trillion of our nation’s economic activity occurs on our waterways on an annual basis. I understand that our “maritime highway” is being led by a fleet of 35 Cutters that collectively average over 55 years in age. Many are not equipped with capabilities for a mixed-gender crew, and the threat of lead and asbestos is high. Congress and the Coast Guard have been successful at major vessel recapitalization in the past few years, but less attention has been paid to the waterway fleet.

**Question:** Can you please detail your plan to recapitalize the waterway fleet?

○ **Answer:**

The Coast Guard’s program to recapitalize the service’s aging inland fleet is currently in the “Analyze/Select” phase of the DHS Acquisition Lifecycle Framework. During this phase, the program will engage with industry and other stakeholders to find efficiencies that can provide opportunities for additional acceleration. With the funding provided in FY 2018 the program is working to accomplish the following:

- Accelerating design studies and leveraging existing work with external agencies (i.e., Army Corps, etc.),
- Advance the completion of critical acquisition milestones and Alternatives Analysis studies,
- Hire necessary personnel to work toward an accelerated acquisition timeline, and

Engage with industry to leverage their collective knowledge and support to maximize the use of available state of the market equipment, designs, and best practices.

➤ What additional resources do you need from Congress to fulfill this mission?

○ **Answer:**

The program’s current future years funding profile is constructed to allow for some acceleration while balancing necessary acquisition rigor. With continued congressional support the program can deliver new assets as soon as practical and in the most efficient and effective way possible.

**Question:** Investigating all of the cargo entering our nation is an impossible task. How can you improve your strategic decision-making for investigations?

○ **Answer:**

Customs and Border Protection is the primary Federal agency for screening and approving cargo entry into the United States. The Coast Guard's limited authority for cargo inspections derives from the Federal Hazardous Materials Transportation Law and the International Safe Container Act of 1977. Pursuant to these laws, the Coast Guard conducts safety inspections of containerized cargo for compliance with hazardous materials stowage and segregation regulations. Following a series of marine casualties involving undeclared containerized hazardous materials improperly loaded aboard ships, the Coast Guard began inspecting randomly-selected general cargo containers to ensure they did not contain misdeclared or undeclared hazardous materials. These actions have led to an increase in shippers' compliance with containerized hazardous materials regulations and ultimately, marine safety.

### **C4ISR**

**Background:** I understand that you are lacking "eyes in the sky" surveillance platforms to complement the current Coast Guard cutters and manned aircraft squadron.

**Question:** With your current ISR assets, are you finding it difficult to interdict threats before they reach the United States?

○ **Answer:**

Current C4ISR assets and capabilities across the Coast Guard's fleet of cutters, aircraft, and shore facilities play an integral role in the collection, fusion, analysis and prioritization of maritime threats. While the Coast Guard has strengthened interdiction capacity, capabilities and partnerships, addressing the gap in persistent surveillance coverage remains a high organizational priority to secure the maritime border. Specifically, the lack of persistent surveillance platforms (e.g. Maritime Patrol Aircraft (MPA) or Unmanned Aircraft Systems (UAS)) can be

linked to challenges with surface assets conducting drug interdiction operations in the Western Hemisphere Transit Zone (WHTZ).

**Question:** In your vision for the future of the Coast Guard ISR, how do you plan to acquire and incorporate land-based, unmanned, or remotely piloted systems into your intelligence and surveillance strategy?

○ **Answer:**

The Coast Guard's Research and Development Center is conducting a 3-year effort to explore long range/ultra-long endurance (LR/U-LE) UAS capabilities. Lessons learned from the LR/U-LE initiative will be used to inform any potential future acquisition of long-range UAS. Concurrently, the Coast Guard continues to explore avenues to leverage the DHS's UAS Joint Program Office with CBP including Coast Guard operation of the MQ-9 UAS since 2008. Moreover, the Coast Guard will continue to work with DHS S&T and private industry to identify solutions to known C4ISR capability gaps.

### **Migrants**

**Background:** I understand that Coast Guard District 7 cutters are regularly ferrying rescued migrants/detainees to shore. This detracts from other search and rescue activities, as well as other interdictions. Many of the cutters aren't equipped to hold such large amounts of migrants on board during these transitions.

**Question:** How are you addressing this problem?

○ **Answer:**

The Coast Guard routinely interdicts migrants attempting to make illegal entry into the United States and repatriates those interdicted to their country of origin or lands them in the United States based on bilateral agreements and standing interagency concurrences. Migrant interdiction operations is one of the eleven Coast Guard statutory missions; the Coast Guard's Operational Commanders analyze the current and predicted flow of migrants and balances this against other mission priorities such as:

counter-drug operations, search and rescue, living marine resources, marine safety, and other law enforcement activities. In cases where indicators and warnings are identified of a potential surge in migrant activity, the Coast Guard has mechanisms in place to prevent, deter, prepare for, respond to, and recover from an actual or potential maritime mass migration.

QUESTIONS FOR THE RECORD SUBMITTED BY

**THE HONORABLE C.A. Dutch Ruppersberger**

**Admiral Paul F. Zukunft, Commandant**

**US Coast Guard**

Committee on Appropriations

Subcommittee on Homeland Security

*FY19 Coast Guard Budget Request*

April 17, 2018

**Drug Interdiction**

***Background:*** There is an increasing amount of drugs moving into this country through our seaports and over 12,000 miles of continental coastline. I know the Coast Guard has had tremendous success intercepting cocaine and marijuana since their inception. However, new drugs, such as fentanyl, are quickly becoming the substance of choice for young adults.

Customs and Border Patrol is diverting opiates from official ports of entry and the postal service at an alarming level – nearly 1,000 pounds last year.

***Question:***

- Is the Coast Guard encountering more opiates in their drug interdiction operations as well? If so, in what Area of Responsibility (AOR) are you seeing an increase?

○ **Answer:**

While the Coast Guard observed a record amount of cocaine being smuggled in the maritime environment, the amount of opioids the Coast Guard encountered during drug interdiction operations remains steady, and encompasses approximately 2% of Coast Guard drug seizures over the past three years. To date there have been no cases where the Coast Guard has seized fentanyl.

- Fentanyl is so potent that a couple of first responders in my district were hospitalized after being exposed to trace residue while searching a home. Is the Coast Guard capable of safely identifying opiate analogs when boarding pangas and other suspicious vessels to avoid accidental exposure?

○ **Answer:**

In 2017, the Coast Guard implemented service-wide policy to address the safety of Coast Guard operators when encountering suspected opioids or opioid analogues. This policy reinforces existing Coast Guard policy and procedures that address the identification, testing, and required personal protective equipment when encountering all types of narcotics during operations. To maximize the safety of operators, the Coast Guard purchased over 3,000 doses of Naloxone (in the form of Narcan nasal spray) for distribution to field units to supplement those doses already available throughout the fleet. Additionally, the USCG implemented a robust training program to align with DHS Office of Health Affairs' procedures. This initiative was to ensure officer safety and reinforce the presence of a much-needed tool to aid in the reversal of a suspected opioid overdose to potentially save lives during Coast Guard operations.

