
NOMINATION OF W. RALPH BASHAM

HEARING

BEFORE THE

COMMITTEE ON FINANCE

UNITED STATES SENATE

ONE HUNDRED NINTH CONGRESS

SECOND SESSION

ON THE

NOMINATION OF

W. RALPH BASHAM, TO BE COMMISSIONER OF CUSTOMS,
DEPARTMENT OF HOMELAND SECURITY

APRIL 5, 2006



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**NOMINATION OF W. RALPH BASHAM, TO BE
COMMISSIONER OF CUSTOMS, DEPART-
MENT OF HOMELAND SECURITY**

WEDNESDAY, APRIL 5, 2006

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC.

The hearing was convened, pursuant to notice, at 10:10 a.m., in room SD-215, Dirksen Senate Office Building, Hon. Charles E. Grassley (chairman of the committee) presiding.

Also present: Senators Hatch, Thomas, Baucus, and Schumer.

**OPENING STATEMENT OF HON. CHARLES E. GRASSLEY, A U.S.
SENATOR FROM IOWA, CHAIRMAN, COMMITTEE ON FINANCE**

The CHAIRMAN. Good morning, everybody. It is my pleasure to welcome Ralph Basham to the Finance Committee today. We are here to consider the President's nomination of this person to be Commissioner of Customs in the Department of Homeland Security.

We congratulate the nominee. We welcome his wife, Judy, and the rest of the family, and any friends who are present. You can introduce those at the time you speak.

The President has nominated what we consider an outstanding person to be Commissioner of Customs. Mr. Basham has currently been Director of the Secret Service, and is a 29-year veteran of that service. He also served as Chief of Staff for the Transportation Security Administration, and as Director of the Law Enforcement Training Center in Georgia.

The breadth of his experience will be a very important asset as he assumes his new responsibilities. Today's hearing continues 190 years of oversight by this committee, the Finance Committee, over U.S. Customs.

As a result of the Homeland Security Act of 2002, the Department of Homeland Security exercises certain Customs authorities by delegation from the Department of the Treasury. This committee retains jurisdiction over the Customs revenue and commercial functions exercised by the Department of Homeland Security.

The Commissioner of Customs serves in a critical and demanding role. The Commissioner of Customs must ensure that the dual demands of securing our borders, and also facilitating the smooth flow of international trade, are each fully met. And, of course, those are demands that have to be balanced.

We could require 100 percent physical inspection of all cargo entering the United States, but that would likely reduce trade to a crawl and adversely affect the economy.

So, maintaining a proper balance between trade security and trade facilitation means putting in place the most appropriate data collection systems that we can have. Data collection lies at the heart of the Customs commercial function. It is the currency by which goods are allowed to enter our country.

As well, our security depends upon the output of data collection systems. So our security is a direct function of the reliability of the data that is being collected.

Now, I want to show some concern that, in our zeal to collect import data, we are not doing enough to ensure the integrity of the data. I intend to explore my concerns further as this committee prepares to reauthorize the Customs functions exercised by the Department of Homeland Security. I look forward to working together with my colleagues and the nominee as that effort progresses.

More broadly, the Commissioner of Customs heads a bureau of over 40,000 employees. Those government employees are on the front line for enforcing laws of over 40 agencies. At the same time, they process \$1.7 trillion worth of imports and collect about \$28 billion of duties and fees.

This trade, of course, is critical to our economy. For example, the 10-day strike at the Port of Long Beach a few years ago is estimated to have cost our economy between \$1 billion and \$2 billion each day that that strike went on.

That illustrates why maintaining the proper balance between trade security and trade facilitation is so important, and that is why this committee's oversight of that balance is such a priority for all of us.

I also want to touch upon the recent transaction involving Dubai Ports World. I remain concerned that the transaction was not properly vetted. Going forward, I want to ensure that the right questions are asked and answers given if a similar transaction is submitted for review by the Committee on Foreign Investments in the United States.

I understand that it is the Assistant Secretary for Policy who takes the lead in the Department of Homeland Security in those reviews. Regardless, I think it is up to the Commissioner of Customs to ask the right questions and to insist on answers if another transaction involving U.S. ports would come up in the future. We will return to that point during my questioning.

So I thank you again for being here, accepting this public service, and working with our committee.

I will call on Senator Baucus, and then I want to call on Senator Hatch, who had a short statement that he wanted to make.

**OPENING STATEMENT OF HON. MAX BAUCUS,
A U.S. SENATOR FROM MONTANA**

Senator BAUCUS. Thank you, Mr. Chairman.

Welcome to the Finance Committee, Director Basham. You have a long and distinguished career in public service. For that, we are very grateful. I think a lot of Americans thank you for that. More

people should be more concerned and more interested in service, and you certainly are one. Again, thank you very much.

If you are confirmed by the Senate to be Commissioner of Customs and Border Protection, we will be working very closely together in many respects, particularly as this committee prepares to consider Customs reauthorization legislation.

When the Department of Homeland Security was created nearly 4 years ago, Customs' primary focus was on trade facilitation and on compliance. After Congress folded Customs into the new Bureau of Customs and Border Protection, the Commissioner of CBP took on a dual mission: facilitating legitimate trade while also securing our borders.

Though CBP moved into the new Department of Homeland Security, the Finance Committee retained oversight over the revenue, commercial, and trade facilitation functions. The Finance Committee has always had jurisdiction over Customs. It is a trade issue. It has had jurisdiction ever since the first Congress authorized the collection of duties on imported goods more than 200 years ago. In those early years, duties were the primary source of government revenue, as you will recall. A lot has changed since then, but that was the case then.

Customs was created literally to stand at the border and collect revenues for the U.S. Treasury. Customs was placed under the jurisdiction of the Senate committee responsible for raising money for the government, the Finance Committee.

Over the years, we have turned to other sources of government revenue and lowered our tariffs to an average duty of just 4 percent, but jurisdiction over international trade and Customs has remained firmly within the Finance Committee.

In response to the horrific events of 9/11, the United States has taken a variety of measures to increase the security of the cargo coming into our country. The responsibility for implementing many of these measures fell to CBP.

That leaves, in the hands of the Commissioner, a difficult task. The Commissioner must discharge Customs' historic responsibility to facilitate the smooth flow of international commerce which drives our economic growth.

At the same time, the Commissioner must also ensure the safety of the cargo that arrives on our shores. This is a difficult balancing act. The two interests are inherently in tension.

My number-one concern, Director Basham, is that the Commissioner know how to strike that balance without sacrificing either interest. The easiest thing to do to make certain that no dangerous cargo arrives in our country is to ban all imports. Of course, that would be disaster.

Fifty years ago, trade accounted for about one-tenth of our economic growth; today it accounts for about one-quarter. Trade has pumped over \$1 trillion into our economy and the equivalent of \$10,000 for every American household.

Consider also for a moment the astonishing trend in containerized trade. Last year, more than 11 million containers came into our country. This year, we expect nearly 10 percent more. By the year 2010, container traffic into our country is expected to double, just a few years from now.

Are we prepared to manage that increase? How can we secure the increased flow of cargo coming into our country without bringing trade to a grinding halt? Do we have the means? Do we have the resilience to keep the trade flowing when any one box among millions could be deadly?

I asked these questions at a forum I convened on Monday on international trade security, and I learned that any container can be a Trojan horse. I learned that it is impossible to know what is inside the tens of millions of boxes arriving in ports around the world every day without having a layered approach to cargo security.

A layered approach has to involve people, technology, intelligence, and, most critically, partnering with the private stakeholders who move the cargo.

I respect you, Director Basham. You are obviously an accomplished, intelligent man and trusted with the enormous responsibility of protecting the President of the United States. I, for one, feel safer just being in the room with you.

But I am concerned that your long and distinguished career in Federal law enforcement may affect your instincts in striking the delicate balance between trade and security.

As Commissioner, your job would be to speed the tens of thousands of boxes arriving in the United States every day through to their final destination, while assuring that no Trojan horse ever arrives. Just-in-time supply chains drive the global economy. It is very important. It has reduced inventory by about \$1 trillion a year, the just-in-time concept. Customs must be very quick, but not be hasty.

What I am hoping to hear from you today is why you are the nominee who can thread this needle. We cannot afford to have a system of global trade shut down because we were not prepared or because we did not strike the right balance.

Thank you, Mr. Chairman.

The CHAIRMAN. Yes. Thank you.

Now, Senator Hatch?

**OPENING STATEMENT OF HON. ORRIN G. HATCH,
A U.S. SENATOR FROM UTAH**

Senator HATCH. I would just like to weigh in and express my regard, high regard, for Director Basham. He has been a terrific leader for the Secret Service, and has been a terrific leader throughout his Service career. He has been a long-time public servant who has really made a difference in this world, and I just wanted to be here to make sure everybody knows how strongly I support you.

I do not know of a more important position than Secret Service Director, unless it is the Director of U.S. Customs, Border Protection, and Homeland Security. A lot of people are very concerned about how we handle these problems, and I do not know of a better person to be able to handle those problems than you.

Mr. BASHAM. Thank you, sir.

Senator HATCH. So I just wanted to come for a few minutes and express my regard for you, and how strongly I support you, and wish you well in this new position. Hopefully this committee will get you up and out and confirmed on the floor as quickly as pos-

sible. I know these two leaders will do everything in their power to do that.

I want to compliment you, and above all your family, for supporting you in this very, very difficult set of jobs that you have had over the years. Just know you have a friend here, and I will be glad to help in any way I can.

Mr. BASHAM. Thank you, Senator.

Senator HATCH. Thanks, Mr. Chairman.

The CHAIRMAN. Thank you.

Now we turn to the nominee. If you have a long statement, it will be put in the record. We offer you an opportunity to summarize and say what you want to say to the committee now. We would also invite you to introduce any family, friends, and supporters you have here because that is the custom of this committee to do that.

I would also say something about a process, because sometimes I forget to say it. A lot of the members will not be here because of obligations elsewhere, so you may get some questions for answer in writing.

I am sure that between you and people in the administration, they can help you get that done very quickly, because I would like to make sure that the members get their questions answered one way or the other.

Then about the only thing that I ever run into when a nominee is on the floor, is sometimes the same thing. If your nominee is being held up because of questions not being answered, particularly from my committee, I try to cooperate with the members of the committee. So, I would ask you to honor those requests as well. It is just something that should be done.

Mr. BASHAM. Yes, sir, Mr. Chairman.

The CHAIRMAN. Then, now you can introduce people and speak.

STATEMENT OF W. RALPH BASHAM, NOMINATED TO BE COMMISSIONER OF CUSTOMS, DEPARTMENT OF HOMELAND SECURITY, WASHINGTON, DC

Mr. BASHAM. Thank you, Mr. Chairman.

Chairman Grassley and Senator Baucus, I am pleased to be here today before you as the President's nominee to be the Commissioner of the U.S. Customs and Border Protection.

I want to begin by thanking President Bush for nominating me as the lead to head this agency of such strategic importance to the security of our Nation. I thank Secretary Chertoff and Deputy Secretary Jackson for their support and confidence as well.

I especially want to thank my wife, Judy, who is with me here today, and my daughter, Paige.

The CHAIRMAN. So we know who you are, would you stand up, or raise your hand, or something?

Mr. BASHAM. My daughter, Paige.

The CHAIRMAN. All right.

Mr. BASHAM. Dee Anderson, my special assistant.

The CHAIRMAN. All right.

Mr. BASHAM. My very good friends, Richard and Phyllis Heideman, who I might say, Mr. Chairman, just became new grandparents this past Friday, so they are happy to be here.

But I do want to thank them for all the support that they have given me throughout my public service career, and especially over the last few months.

Finally, Mr. Chairman, I appreciate the support and guidance that you, the members of this committee, and your staffs have given me during this confirmation process. It is, indeed, an honor to be before you today.

People have asked me in this process why I would leave what many might consider to be one of the best jobs in Washington, the Director of the U.S. Secret Service. And, although the emotions of the decision are complicated, my answer is simple and two-fold: duty and a desire to contribute.

Having spent over three decades in career public service, when the President asks you to take on an assignment, I feel there comes a need to serve.

The second part of my answer is that I believe CBP plays a key role in maintaining the national security, and I can help guide it through this critical period. CBP keeps our Nation strong by guarding our borders, securing trade and our economy, collecting revenue and enforcing trade laws, protecting our food supply, and preventing illegal drugs from reaching our streets.

I firmly believe that I can make a real and positive difference by continuing to serve this Nation in the challenging role of CBP Commissioner.

Calling the next Commissioner's job "challenging" is an understatement. But if I am fortunate enough to be given the opportunity, I firmly believe that the law enforcement experiences and leadership roles of my career have prepared me to lead the men and women of Customs and Border Protection.

In many ways, my experiences in government as the Director of the Federal Law Enforcement Training Center, helping to start up the Transportation Security Administration, and particularly my 3 decades with the Secret Service have given me the right combination of skills and background to take on this new responsibility.

CBP's most critical mission and greatest challenge is preventing terrorists and terrorist weapons from getting into the country, but doing so while still allowing legitimate trade and travel to flow freely.

It is a constant balancing act of protection and facilitation and it is a mission that depends upon our partnerships with others. The challenges CBP faces are not unlike what the Secret Service encounters in protecting the President and the White House on a daily basis.

The potential consequences of either agency being wrong on security even one time is terrible and sobering. While security is utmost in our minds, we recognize that every day the President must conduct the people's business.

Staff and visitors with legitimate purposes must flow in and out of the perimeters we set. Food, supplies, and White House domestic staff must enter and leave at all hours. And when the President travels, we must rely upon the cooperation of other law enforcement in the private sector, and we have developed and maintained strong partnerships with them.

We do so for one important reason: necessity. Both CBP and the Secret Service must deal with the constant tension of maintaining a balance between security and facilitation.

If the Secret Service lets security become its one and only concern, then the President and his staff could not go about their jobs. Likewise, if CBP focuses solely on securing trade and travel at the expense of free movement, our liberty and our economy will suffer.

I recognize that this committee, Congress, and the trade and travel communities will be very focused on whether the next Commissioner is finding the appropriate balance. I also know that they will be quick to advise if CBP is not.

If confirmed, I am fortunate to follow in the footsteps of former Commissioner Rob Bonner, a visionary leader who, along with the men and women of CBP, laid a solid foundation for Customs and Border Protection.

The next Commissioner must be prepared to build on that legacy and move the agency forward. As a fellow agency head within the Department of Homeland Security, I have worked with, and closely observed, CBP and its first and only Commissioner. The broad course and vision that Commissioner Bonner set for the agency are, in my view, the right ones.

While many challenges remain to implement that vision, I see no need for a dramatic change in course for CBP. Rather, as many of you have told me, the next Commissioner will have to stay the course, but urgently move the agency forward, and I agree.

If confirmed, I hope I can bring the steady and experienced leadership and the ability to foster relationships within the Department and the administration to guide CBP beyond its formative years.

If confirmed, I also look forward to working closely with this committee and the Congress so we can meet these present and future challenges together. In this century threatened by terrorism, we are called upon to confront the challenges head on and to accept the responsibility of one of the most important jobs in America today: securing and protecting our homeland and the American people.

The next few years will be monumentally important to the future of CBP and to our Nation. What we do or what we fail to do to secure our Nation and protect our economy will make a profound difference to future generations.

Years from now when we look back on the opportunities we had to build and grow something as important as American's front-line agency, we want to look back with pride and not regret on the choices we made.

Thank you again, Mr. Chairman, for scheduling this hearing today. I would be pleased to try to answer your questions or those of the committee.

The CHAIRMAN. Yes. There are three questions that we ask every nominee, and I would ask you to answer them separately.

The first question. Is there anything that you are aware of in your background that might present a conflict of interest with the duties of the office to which you have been nominated?

Mr. BASHAM. No.

The CHAIRMAN. Do you know of any reason, personal or otherwise, that would in any way prevent you from fully and honorably discharging the responsibilities of the office to which you have been nominated?

Mr. BASHAM. No.

The CHAIRMAN. And, last, do you agree, without reservation, to respond to any reasonable summons to appear and testify before any duly constituted committee of Congress, if you are confirmed?

Mr. BASHAM. I will.

The CHAIRMAN. Yes. And in regard to the last point, you do not have to comment on this, but I make this point to almost every nominee. Whenever we send letters to any agency—not just yours, any agency—it seems like we never get timely answers.

It seems like we always have to follow up with additional letters. Just getting information is like pulling teeth. We cannot do our job of Congressional oversight if we do not get the information we need.

Since everything that goes on in the executive branch of government, except maybe national security, ought to be the public's business, the public's business ought to be public. And some of the ways of making the public's business public is when we do our oversight work.

I will go to my first question. In my opening statement, I indicated that I think it is up to the Commissioner of Customs to ask the right questions and insist on answers if another transaction involving U.S. ports is submitted for review by the Committee on Foreign Investments in the United States.

Do you agree with that statement? If not, you can say you do not agree, and why. But if you do agree, how will you make sure that that happens, if you are confirmed?

Mr. BASHAM. Mr. Chairman, I do agree that the Commissioner of Customs has a responsibility to address those issues that may impact upon the security of those ports. I feel strongly that, in the particular case that you are referring to, that I believe CBP did, in fact, participate in that. I am not familiar with all of the facts or issues there, but I believe that they did, and I would continue to support them.

The CHAIRMAN. And probably one of the major problems is, if Congress had been informed and it had been more public in the initial stage, there may have been a lot of problems that arose that would not have otherwise arisen. So, there is another case to be made for the public's business being made public.

On the issue that I brought up in my opening comment about trade security versus trade facilitation, I would like to make clear that I view data collection and the clearance of imports for entry into the United States as being an inherently commercial function.

I say so, notwithstanding the fact that the output of data collection programs may be used for security purposes. That includes programs such as the Container Security Initiative and the Customs Trade Partnership Against Terrorism.

I want to secure a commitment from you that, if confirmed, you will work with this committee to develop these and other similar programs to meet the commercial needs of the U.S. trading community, as well as our collective security needs.

Mr. BASHAM. Mr. Chairman, as I said in my statement, I feel that the layered approach that former Commissioner Bonner put into place, whether it is the advanced information, whether it is the Container Security initiative, or the Customs and Trade Partnership Against Terrorism, it is the proper approach. Also, including technology, both in foreign and in our own ports.

But I do believe that the key, as you say, is collecting the data that is necessary to determine whether or not those containers present a risk to this country. But it has to be the right data. I feel strongly that just to request data, without a purpose, becomes onerous on the trade community. So, I want to make sure that the data we collect is the proper data.

The CHAIRMAN. All right.

Tell the committee how you intend to ensure an appropriate balance between the trade security functions performed by the Bureau of Customs and Border Protection versus trade facilitation functions. That includes ensuring an appropriate allocation of resources between these two functions.

Mr. BASHAM. I am clearly familiar with this committee's concern about the allocation of resources and balancing trade facilitation enforcement and revenue collection over security.

I cannot say that I am familiar with the exact level of resource commitment in each of those areas, but I do recognize that it is extremely important that it be a balanced approach.

One of the first things that I intend to do, if I am confirmed, is to look at those resource allocations and make sure that they are, in fact, being applied in an equitable, balanced way.

The CHAIRMAN. In my opening statement, I said that our security depends on the quality of import data. I am concerned that we may not be doing enough to ensure the validity of data. I think we need to apply the auditing expertise within the agency, including forensic accounting, to the import data we collect.

Would you agree with that statement? If so, what steps would you take to ensure that the data we collect is properly audited?

Mr. BASHAM. Mr. Chairman, I cannot say that I am totally conversant on the type of data that is, in fact, being collected and then what it is being used for, but I do certainly recognize that it does have to be validated in order for it to be beneficial for the purpose of risk assessment.

So that is an issue that I think is the cornerstone to the entire Customs and Trade Partnership Against Terrorism for it to be an effective means of ensuring that we are not allowing either weapons or products that should not be getting into the country illegally.

The CHAIRMAN. Senator Baucus? Then after Senator Baucus, I will call on Senator Thomas.

Senator BAUCUS. Thank you, Mr. Chairman.

Mr. Basham, this may be personal here, but it just kind of struck me, this next question. Why were you selected? Why you? You do not have a deep background in trade or commerce.

Mr. BASHAM. I do not.

Senator BAUCUS. It is more law enforcement. So why were you selected?

Mr. BASHAM. Well, I would have to refer you to Secretary Chertoff or Deputy Secretary Jackson, perhaps, on that issue. But I do feel strongly that I do bring a background of leadership, of leading large agencies, understanding the requirements for a balanced approach to security and facilitation.

Whether it was with the Secret Service, or when I was with the Transportation Security Administration, I certainly was exposed to the need to apply a balanced approach. So I feel that I have the background to lead this agency and make a contribution. I only hope that I am accurate in that assessment.

Senator BAUCUS. All right.

What are some of the impediments today to U.S. commerce going through our ports?

Mr. BASHAM. What are the impediments?

Senator BAUCUS. Yes. In terms of commerce, putting security aside for a moment.

Mr. BASHAM. Putting the security aside?

Senator BAUCUS. Yes.

Mr. BASHAM. Well, obviously I think there is a need to improve the facilities in order to facilitate flow of commerce.

Senator BAUCUS. Where is the greatest need?

Mr. BASHAM. The greatest need?

Senator BAUCUS. Yes.

Mr. BASHAM. I think the greatest need—again, from my limited knowledge, as you have already expressed, in this area—is an approach that is layered in terms of technology and infrastructure, and the proper level of human resources. I think you have to strike a balance there. One of those is not the total solution to ensuring the proper flow of commerce.

Senator BAUCUS. I ask, in part, because the world is getting more competitive, more globalized, as you know as well as anybody. Other countries are spending enormous sums of money to improve their infrastructure and their port facilities.

Have you been to Shanghai?

Mr. BASHAM. I have not, no.

Senator BAUCUS. I encourage you, go to Shanghai. Just to divert here a little bit, Mr. Chairman, I am very concerned about our country's competitiveness. Other countries are doing so much. We are a great, strong country, but other countries are going like gangbusters.

I have often, myself, tried to find some concept to kind of galvanize America into rallying, getting more scientists and students and start building more products in the United States, as we did when Sputnik went up. We went to the moon. Sputnik galvanized America. We all know where we were when Sputnik was first sent up. That galvanized us to put a man on the moon. It was a great rallying cry.

I have talked to several businessmen. What concept do we have in America? What can our rallying cry be? Where is our Sputnik? Because it is hard to find something like Sputnik. The current challenge is more of a stealth challenge, not like Sputnik. So I have been trying to figure all this out.

I was talking to some businessmen. One of the fellows said, "Senator, I have seen Sputnik." I said, "What do you mean?" "It is

Shanghai Harbor.” He is the CEO of a major U.S. railroad, and he is stunned at the Shanghai Harbor. I am, too. I have been there. And it is not just Shanghai, it is many other countries that are doing the same.

India. Right now, India’s main goal is to develop its infrastructure, their ports. You know Hong Kong has a very advanced port structure.

If the United States is going to do very well in facilitating commerce, we have to have major forward-looking plans to develop our ports, our infrastructure so that we can facilitate commerce dramatically. Commerce is increasing at such a rapid rate.

So that is why I ask the question, what are our needs, what are the impediments, what do we have to do here? I would hope that, as Commissioner, you would be a real advocate in the administration and get tough.

I do not know this, I do not know your personality at all, but you strike me as being a nice, reasonable guy. You cannot be nice and reasonable on this subject. You have to pound the tables.

You have to just be very insistent to fight for Customs and a very efficient Customs operation. You know as well as I, this country is run by, the squeaky wheel gets the grease, in many respects, in this town. I would just encourage you to be very, very tough in that respect.

I have more questions. I will wait until my next round. But my time has expired.

The CHAIRMAN. Senator Thomas? Then I will go to Senator Schumer.

Senator THOMAS. Thank you. Thank you very much. It is nice to have you here. I do not discourage you from being nice, by the way. [Laughter.]

Senator BAUCUS. That is because he is a real nice guy. [Laughter.]

Senator THOMAS. Well, it is very important, certainly. Customs is something that has a lot to do with our economy. It is not only ports. We do not have any ports in Wyoming, as a matter of fact. [Laughter.] But we do have Customs interests. I want to mention that, last year, I successfully designated Natrona County International Airport as a permanent port of entry.

As a matter of fact, it is the only entry point in the State of Wyoming. It has a great deal to do with our economy. There is, for instance, a great deal of activity from Canada in the energy business. They come through that airport.

I am concerned that, though it has been designated an entry point, we have not been able to move very much on getting the office implemented. It is still a part-time office, even though we have pretty heavy traffic. It is a local issue but important.

We need to understand that these kinds of places have more to do than just with the major ports, and Customs and that sort of thing is very important.

So I appreciate your willingness to take on this task. Your background in law enforcement, and so on, will be useful. I really urge you to take a look at making sure that there are facilities available in Casper. I realize you cannot have them everywhere, but certainly there ought to be at least one entry point in every State to

go through the Customs process, and that is one of the problems that we have. I would just urge you to take a look at that, please. So, good luck.

Mr. BASHAM. Thank you, Senator.

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

The CHAIRMAN. Thank you.

Now, Senator Schumer?

Senator SCHUMER. Thank you, Mr. Chairman.

First, Director, congratulations on your nomination. You are going to have a huge impact on a job that, after 9/11, has become much, much more important. As a New Yorker, representing both the northern border with Canada, including the second-busiest transfer point between Buffalo and Ontario, as well as New York City, we are going to be talking a lot, as I did talk to your predecessor over the last while. I am glad you have a strong background in security. I think that is very important.

But, of course, as Customs chief you have to balance security and commerce. It is one of the big discussions around here, the Dubai Ports World, for instance.

I saw the ports just 2 weeks ago that Senator Baucus mentioned in Shanghai and Hong Kong, and they are amazing. They have both security and commerce. Max is right, we have to get with it here. They tower above anything we have done in the United States.

I have four questions, all New York-related, for you, and I would like to get your views. They are important. I have let your folks know in advance that I was going to ask these so you might be able to become a little familiar with them.

The first is the Customs House. As you know, downtown Manhattan has been a center of Customs House, I think, since the days of Herman Melville, who I think—I might have this wrong—was the Customs Commissioner.

Senator BAUCUS. He was. That is right.

Senator SCHUMER. All right.

After 9/11, obviously, the building was destroyed. I have been working for a very long time to get a commitment from Customs to come back in full force to downtown. Now Customs is scattered. Some is in Newark, Port Newark, some is in mid-town. I have talked to your predecessor.

Customs has expressed a desire to do it, but it has not been very specific. So I now understand GSA and Customs are in serious talks with the Port Authority as to how that return would take place, and how much of it would take place.

I would like to see all of it back downtown where it was before. You had Customs brokers. You had a whole little industry there that, when we want to rebuild lower Manhattan, is very, very important, both financially, but also symbolically.

So I would like to ask for your commitment to do everything you can as Customs Commissioner to bring back the lion's share of Customs offices. In fact, I would like to see all of them that were there before go back to lower Manhattan, hopefully to the Freedom Tower, which would make a great deal of sense in many ways.

So could you comment on what you will do to help achieve this goal?

Mr. BASHAM. First of all, Senator, I do appreciate the significance and the symbolism of the Customs House and its 200 years of history in New York. I am in receipt of your letter on this subject, and I sent it on to CBP to ask them for a response to you on that.

I do not know exactly where all of the resources are currently and where they were dispersed to following 9/11, but I do intend, if I am confirmed, to take a look at exactly where they are and, from an operational perspective, where they should be.

Senator SCHUMER. Do you agree, though, that it would be ideal to bring as much as possible back to downtown?

Mr. BASHAM. I agree, it would be an ideal situation. Again, looking at the operational requirements of CBP, yes, I agree with that.

Senator SCHUMER. Good. And even if it cost a little money to do, do you think that would be worth it? I am not saying tens of billions of dollars, or anything like that.

Mr. BASHAM. I know how important this issue is to you.

Senator SCHUMER. And to all of New York. Yes.

Mr. BASHAM. And I will look forward to working with you and your staff to see what we can do.

Senator SCHUMER. Great.

The next question. Mr. Chairman, I have three more questions.

The CHAIRMAN. Go ahead. We only have Senator Baucus to ask more questions.

Senator SCHUMER. All right.

The CHAIRMAN. Then we will adjourn. But go ahead.

Senator SCHUMER. Thank you, Mr. Chairman.

The second is on shared border management. Here, we have had a really great deal of success with Customs. It took a while to get Customs to understand the importance of this. This is at the other end of my State, in Buffalo. We need to build a new bridge, a Peace Bridge.

One of the problems we have had is that the only real way to build a bridge is to have the Customs facilities located on the Canadian side of the bridge. There is just no room on the American side. A treaty would take us through countless different kinds of problems.

Our government, led by Customs—Ms. Elaine Duzinsky has been very helpful under Secretary Chertoff's watch—and the Canadian government have really made progress on this. We need to do it. We just have no choice. We just cannot delay any longer.

Frankly, shared border management is the last hold-up. The money is there for the bridge, the plans are being voted for the bridge, but we have to get this done. There was a slow-down because of the new Canadian elections that were about to be held. But now I have met with some of the representatives of the new government, and they are just as committed to making this happen.

We reached an agreement to do a pilot project under the reciprocity model, which we think meets the constitutional needs of both countries, and a second bridge, which is the Thousand Islands Bridge at Alexandria Bay, probably about 350 miles to the northeast, maybe 300, has been selected where the Canadian operations would move to the U.S. side.

So it makes sense there to have them on our side, and it makes sense in Buffalo to have them on the other side. The President announced it as a pilot project, as part of the joint U.S.-Canadian Security and Prosperity Partnership. So we have made progress, but there are still significant issues to work out.

It is going to take a lot of hard work, determination, and focus to work out the agreement with the Canadians. If we do not, it is really going to put a crimp on the economy in Buffalo and western New York, which have had their difficult times.

I have met with your staff at Customs and, as I said, the new Canadian government. Both sides believe they can get a deal done and have shown me a willingness to work out the differences.

I would like to ask you how you would approach this issue, and would you be willing to commit staff, resources, and your own time to getting this critical project done?

Mr. BASHAM. I am familiar, on a surface level, with the issue. It is my understanding that there is work under way to try to cut through all of the issues that are impeding the progress on this. I can assure you that, if I am confirmed, it will be an issue that I will personally get involved in.

Senator SCHUMER. Great.

Mr. BASHAM. I will try to help as much as I can to cut through whatever those lingering issues are that need to be dealt with.

Senator SCHUMER. Good. And you understand the importance of this to both countries. We have MPs from the Canadian side every bit as eager as we are on the U.S. side. Good. All right.

Next one. This is a checkpoint on I-87. It is a small issue, maybe. It seems like a small issue, but it is important to the people in the north country, which is our northern region in the Adirondacks.

Customs is currently discussing plans to discuss a permanent second checkpoint on I-87, which is the main road that goes from New York City up to Montreal and goes through Albany.

The second checkpoint would be 90 miles south of the big, huge checkpoint we are building. The money has been allocated for that. It has been a high priority of everyone. The trucks would back up for five hours at Champlain-LaColle, which is right north of Plattsburgh.

We are spending \$100 million to construct a new Port of Excellence. It is going to have nine dedicated truck lanes, two dedicated bus lanes in addition to the cars, so everyone gets sort of put in their right place and things move quickly.

Now, this second checkpoint is going to have many fewer lanes, and there are two concerns. One is, it is going to slow commerce. Two, is safety. Traffic tie-ups will cause accidents. When they did it temporarily, there were real problems. That is going to far outweigh the efficiencies that we are spending \$100 million to gain in the new Port of Excellence.

There are alternatives. You do not have to put the checkpoint right on I-87. So I guess what I would like to know is how you will approach that issue, and would you be willing to look at alternative locations for the checkpoint? One of the main reasons they say they need it down there is there is an Indian reservation, I would say, about 30, 40 miles—I may have the number wrong—to the west on

the northern border, and there is a road that cuts down there and they want the checkpoint below where the road meets I-87. But they could easily put a checkpoint right on that road as opposed to I-87, which is a much less-traveled road, causing less back-up.

Would you be willing to explore alternative locations for the checkpoint, including some along the main feeder roads?

Mr. BASHAM. Senator, I have been studying issues at CBP, but I have to admit, this is not one that I am familiar with. Obviously it is one that is of great importance to you. I will fully commit to you that if it is feasible and practical and it makes sense, then I am for it.

Senator SCHUMER. Good.

Mr. BASHAM. But I do not know all the complications that may be involved here. But, yes, I will certainly direct—

Senator SCHUMER. I mean, it is sort of, people scratch their heads about the government when they say you are spending \$100 million to speed up the traffic right at the Canadian-U.S. border by Plattsburgh 30 miles south of Montreal, and then you are going to undo all those efficiencies by putting a checkpoint 90 miles to the south. Nobody quite gets it. So, good. I am glad you will look at that.

A final one. This one, I think other members of the committee might share with me, I know North Dakota, Senator Conrad, some of the other folks along the Canadian border.

This is the Western Hemisphere Travel Initiative. That is of great concern to border communities from Washington State to Maine, and certainly of great concern to our border with Canada.

As I said, commerce with Canada, and particularly that Ontario region, which is sort of the heart of Canadian industrial strength, is very important to us. So as head of Customs, you, probably more than anyone else at the Department, need to have a strong sense of balance on issues, as I said, where security and Commerce intersect.

The initial proposal for passports created an outcry from one end of the 3,000 mile border with Canada to the other. The reason is very simple. This is not like traveling from Chicago to Munich, which is how they seem to look at it. We have people who go across this border daily, and some of them do it on a whim.

Someone in Canada may decide to go to a Buffalo Sabers game. It is a hockey team. It is doing a little better. They were doing great, now they are doing a little better, so there may be even more Canadians who want to come. People in the United States go to dinner on the Canadian shore, people in the Buffalo region, Lake Ontario.

Same thing further east in the north country. And to say you need a passport, first to tell a family of four that they each have to get a passport, takes weeks in advance, is going to chill commerce and have a real problem. It is hard to believe that we cannot find a better solution than that that both preserves our security and keeps commerce going.

So I guess my general question is, how are you going to approach this issue as Customs chief? I have had talks with Secretary Chertoff on this, and so have many other members of the New York and other delegations.

Specifically, are you open to the idea of a day pass for visitors who do not have a passport, who just want to get in, particularly if they are American or Canadian citizens, with no problems?

Do you think children should have a passport in addition to the parents having a passport? That is an expensive document to get. And as someone with a strong security background and less of a background in commerce—that is what Senator Baucus was mentioning—would you be willing to travel to some of these border communities yourself so you can first-hand see?

Crossing the Niagara River, which is an international border, is not much different than crossing the Hudson River in terms of how often people do it, where they do it, and all of that.

Give me some of your thoughts on this. Would you be willing to come up to Buffalo, to Plattsburgh, to Watertown, or places like this that are very much affected and take a look?

Mr. BASHAM. In answer to your last question, yes. In fact, I intend to visit a number of those communities on the northern border.

Senator SCHUMER. Good.

Mr. BASHAM. I am familiar with the Western Hemisphere Travel Initiative. I recognize that there is a balance that must be struck here between the ability for travel, as well as security. I recognize it has to be practical and has to be applicable to the circumstances. So, recognizing that it is a huge, important issue across that expansive border, yes, I am clearly going to—

Senator SCHUMER. And you understand that just saying “passports” the way we do it when you travel to Munich or to Shanghai or somewhere does not quite work in these situations, whether it is Vancouver, Seattle, Winnipeg.

The CHAIRMAN. Senator Schumer, Senator Baucus has to ask his questions because he has another commitment.

Senator BAUCUS. I am sure he was about through.

Senator SCHUMER. I was.

The CHAIRMAN. All right.

Senator SCHUMER. So do you understand that passports would not quite work? That will be my last question.

Mr. BASHAM. Again, Senator, it is an issue of balance, proper balance, facilitation of travel and security, recognizing we must obviously deal with both of those issues. But it has to be on a practical level. So, that is something that I know the entire Department, and in particular CBP, is very aware of and very interested in.

Senator SCHUMER. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Senator Baucus?

Senator SCHUMER. Thank you, Senator Baucus, for waiting.

Senator BAUCUS. Thank you.

The CHAIRMAN. I am going to submit my questions. I had a couple more for answer in writing. Then so when Senator Baucus is done, we will adjourn then.

[The questions appear in the appendix.]

Senator BAUCUS. Mr. Basham, I have just a couple of questions about inspecting containers. I understand that Hong Kong has a 100-percent scanning system. It is gamma rays, radioactivity, everything under the sun.

I have a couple of questions in that regard. One, does that make sense with respect to the security of containers coming into the United States, and also facilitating commerce into the United States?

Mr. BASHAM. Inspecting all the containers coming in?

Senator BAUCUS. Not all hand-inspected, but all scanned.

Mr. BASHAM. Scanned?

Senator BAUCUS. Scanned.

Mr. BASHAM. X-ray, gamma ray and radiation.

Senator BAUCUS. All that. Correct.

Mr. BASHAM. Ideally, it would be the way to move forward. I am not sure practically right now, from my understanding, that it could be accomplished. But it is certainly something that—

Senator BAUCUS. I am just curious why not. Hong Kong is doing it. Why can we not encourage other countries? The goal, clearly, is to have containers scanned before they come to the United States.

Mr. BASHAM. I think perhaps your reference earlier to the infrastructure of the ports may be at issue in terms of trying to facilitate that. Again, I am not familiar enough at this point with all of the challenges of the 316 ports around the country that we receive cargo from, which I intend to get a lot smarter about.

But I think the layered approach that is being worked on now with respect to container security, the CSI initiative, CT PAT, is a way of approaching inspection or identification of, based on a risk-based analysis, those containers that need to be looked at.

Senator BAUCUS. Right. I would just encourage you to get out and look at this very closely and be very aggressive. That really gets to the point of facilitating commerce in the United States, too. The more secure it is, the more efficient commerce will be in coming into the United States.

I also hear from people who I think know that a lot of that information is canned, then it goes into a data bank and nobody looks at it. For example, it certainly does not come to the United States. I mean, satellites could send that information on a random basis or on a risk basis to key people in the United States, but that is not being done, as I understand. Is that correct?

Mr. BASHAM. I do not know whether that is exactly accurate. I understand that 100 percent of those are not being perhaps reviewed. But I know that the Department has an initiative under way, the Secure Freight Initiative, which I think is trying to deal with that issue and to be able to capture that information.

Senator BAUCUS. I get my information from port directors, U.S. port directors. That is what they tell me, and they are very concerned that nothing is being done. I know from previous government experience with Federal agencies, often most of the information that they got, it went into a file, nobody looked at it, no one knew it was there.

Mr. BASHAM. Senator, I am absolutely in total agreement with you to request data and put requirements on the private sector, on the trade community for information, or request them to provide details, and then have it not be used in a manner that is going to facilitate not only security, but also trade—

Senator BAUCUS. Again, I encourage you to just really dig into that question.

Mr. BASHAM. I will. I absolutely will.

Senator BAUCUS. I also understand there is virtually no resilience in the U.S. plan. That is, if a container were to arrive, say, in Arizona or in different parts of the country with some bad stuff in it, the basic plan is, the whole system, worldwide, would be shut down because we do not know where that container came from, we do not know what happened, which would be devastating, underlining "obviously," to this country.

I mean, there is no effort to say, oh, gee, it came from this part of the world or from that part of the world, because we just do not know. Just think what a terrorist could do. I mean, 9/11 was bad enough, with thousands of lives lost, just incalculable destruction and loss.

But economic damage if a lot of ports were shut down, commerce shut down, ships diverted other places in the world because we do not have a triage system, we do not have a resilience system, we do not have systems that can decide what we allow and do not allow.

Mr. BASHAM. Well, I believe, going back to the Chairman's comments earlier about the collection of data and verification of that data and making sure that we understand where that container is coming from, who stuffed it, who shipped it, who has had security over it, and whatever information we can obtain that tells us what is in that—

Senator BAUCUS. I am just sending a warning shot across your bow. You are the guy who is going to be fixing all that. You are in on the team to fix it.

Mr. BASHAM. I am familiar with it.

Senator BAUCUS. I am also concerned about the reduction, frankly, in personnel with respect to our trade and commerce duties. For example, Section 412(b) of the Homeland Security Act basically states that the Secretary may not consolidate, discontinue, or diminish CBP's trade functions, reduce staffing level, or reduce the resources attributable to trade enforcement functions performed by the former Customs Service, now Customs and Border Protection. Well, there has been a decline. In a 2005 letter to Congress, Commissioner Bonner stated that the government is not being compliant. For example, CBP employed 1,000 non-supervisor Import Specialists in fiscal 2001, but only 948, a reduction of over 100, in March of 2005. The most recent data shows that there are only 892 full-time, plus 200 part-time. So, again, it is a reduction, contrary to what the statute says. Obviously, I am just concerned that we are not getting enough Trade Specialists or Customs Specialists.

Mr. BASHAM. I am familiar with the Homeland Security Act requirements on staffing levels. I do not know at this point exactly what those levels are. But clearly, if I am confirmed as the Commissioner, one of the first issues that will have to be addressed is meeting the requirements of the Homeland Security Act and making sure that we are, in fact, providing the resources to the trade facilitation, revenue collection, and those other areas that are addressed in that act, and I will work to try to get those numbers to the appropriate level.

Senator BAUCUS. I appreciate that. I appreciate that.

Finally, I am just concerned that, with all the obvious and proper attention and resources to security, particularly in the wake of 9/11, that States like mine, Montana, are given short shrift in the sense that we do not have the personnel, the Customs personnel.

They tend to go to other parts of the country, along the southern border, to our ports, the coasts, and so forth. There is a lot of commerce between the United States and Canada, but the fact of the matter is, it is our largest trading partner.

Canada is our largest trading partner. I hear complaints often from people at home doing business in Canada and the United States, particularly Canada and Montana, who have a hard time finding Customs officials, finding it very hard to clear Customs at the various airports in Montana. I just urge you to look at that very, very closely. I will be sending you some information on that, because we need help, frankly, very much.

Mr. BASHAM. I will.

Senator BAUCUS. That is all I have, Mr. Chairman. I might also say, however, I guess, one more item here. If you could, Mr. Basham, look to ensure that we have enough staff on what we call the highline, that is northern Montana, and that we also stand up an air base we are trying to get in terms of enforcement along the border. I'm looking at that for Montana as well.

Mr. BASHAM. Again, I am familiar with that, and I will be looking at that and making sure that we are deploying the proper resources.

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

The CHAIRMAN. Yes. We thank you. I said all the caveats I have to about moving your nomination along, and most of them are responding to questions that members ask. Thank you very much.

Mr. BASHAM. Mr. Chairman, thank you.

The CHAIRMAN. And congratulations, too.

Mr. BASHAM. Thank you, Mr. Chairman.

[Whereupon, at 11:12 a.m., the hearing was concluded.]

A P P E N D I X

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

Remarks by W. Ralph Basham

Chairman Grassley, Senator Baucus and Members of the Committee, I am pleased to appear before you today as the President's nominee for Commissioner of United States Customs and Border Protection.

I want to begin by thanking President Bush for nominating me to lead an agency of such strategic importance to the security of our nation.

And, I thank Secretary Chertoff and Deputy Secretary Jackson for their support and confidence.

I especially want to thank my wife, Judy—and my children—who are here with me today. They have supported me through my years of public service—and in particular, over the last few months. I would not be here without them.

Finally, Mr. Chairman, I appreciate the support and guidance you and the Members of this Committee—and your staffs—have given to me during this confirmation process. It is indeed an honor to come before you today.

People have asked me, in this process, why I'd leave what many may consider to be one of the best jobs in Washington—Director of the United States Secret Service.

Although the emotions of the decision are complicated, my answer is simple and two-fold—duty and a desire to contribute. Having spent over three decades in career public service, when the President asks you to take on an assignment, I feel there is a duty to serve. The second part of my answer is that I believe CBP plays a key role in maintaining our national security—and I can help guide it at a critical time.

CBP keeps our nation strong by guarding our borders, securing trade and our economy, collecting revenue and enforcing trade laws, protecting our food supply, and preventing illegal drugs from reaching our streets. And, I firmly believe that I can make a real and positive difference by continuing to serve our nation in the challenging role of CBP Commissioner.

Calling the role of the next Commissioner “challenging” is an understatement. But I firmly believe the law enforcement experiences and leadership roles of my career have prepared me to lead the men and women of Customs and Border Protection, if I am fortunate enough to be given that opportunity.

In many ways, my experiences in government—as the head of the Federal Law Enforcement Training Center, helping to start up the Transportation Security Administration, and particularly my three decades with the Secret Service—have given me the right combination of skills and background to take on this new responsibility.

CBP's most critical mission—and greatest challenge—is preventing terrorists and terrorist weapons from getting into the country, but doing so while still allowing legitimate trade and travel to flow freely.

It is a constant balancing act of protection and facilitation. And, it is a mission that depends on our partnerships with others.

The challenges CBP faces are not unlike what the Secret Service encounters in protecting the President and the White House on a daily basis. The potential consequences of either agency being wrong on security, even one time, are terrible and sobering.

While security is uppermost in our minds, we recognize that every day the President must conduct the people's business. Staff and visitors, with legitimate purposes, must flow in and out of the perimeters we set. Food, supplies, and the White House domestic staff must enter and leave at all hours. And, when the President travels, we must rely on the cooperation of other law enforcement agencies and the private sector, and we have developed and maintain strong partnerships with them. We do so for one important reason—"necessity."

Both CBP and the Secret Service must deal with the constant tension of maintaining a balance between security and facilitation. If the Secret Service let security become its one and only concern, then the President and his staff would not be able to do their jobs. Likewise, if CBP focuses solely on securing trade and travel at the expense of free movement, our liberty and economy will suffer.

I recognize that this Committee, Congress, and the trade and travel communities will be very focused on whether the next Commissioner is finding that appropriate balance. I also know they will be quick to advise if CBP is not.

If confirmed, I am fortunate to follow in the footsteps of former Commissioner Rob Bonner, a visionary leader who, along with the men and women of CBP, laid a solid foundation for Customs and Border Protection. The next Commissioner must be prepared to build on that legacy and move the agency forward.

As a fellow agency head within the Department of Homeland Security, I have worked with—and closely observed—CBP and its first and only Commissioner.

The broad course and vision that Commissioner Bonner set for the agency is, in my view, the right one:

- partnering with other nations to push our borders out;
- using a layered and risk-based approach against terrorism;
- partnering with the private sector and global trade community;
- unifying disparate functions and people into a single frontline agency;
- gaining operational control of our borders; and
- balancing the security and facilitation of trade and travel.

While many challenges to implement that vision remain, I see no need for a dramatic change in course for CBP. Rather, as many of you have told me, the next Commissioner will have to stay the course, but urgently move the agency forward—and I agree.

If confirmed, I hope that I can bring the steady and experienced leadership, and the ability to foster relationships within the Department and the Administration, to guide CBP beyond its formative years.

If confirmed, I also look forward to working closely with this Committee and the Congress, so that we can meet the present and future goals together.

In this new century threatened by terrorism, we are called upon to confront the challenges we face head on and to accept the responsibility of one of the most important jobs in America today—securing and protecting our homeland and the American people.

The next few years will be monumentally important to the history of CBP—and to our nation. What we do—or fail to do—to secure our nation and protect our economy will make a profound difference to future generations.

Years from now, when we look back on the opportunities we had to build and grow something as important as America's frontline agency, we all want to look back with pride, and not regret, on the choices we made.

Thank you again, Mr. Chairman, for scheduling this hearing today, and I look forward to answering any questions from you or Members of the Committee at this time.

**SENATE FINANCE COMMITTEE
STATEMENT OF INFORMATION REQUESTED OF NOMINEE**

A. BIOGRAPHICAL INFORMATION

1. Name: (Include any former names used.)
William Ralph Basham
2. Position to which nominated:
Commissioner, Customs and Border Protection
3. Date of nomination:
January 30, 2006
4. Address: (List current residence, office, and mailing addresses.)
Residence: 4654 No. 34th Street, Arlington, VA 22207
Office: 950 H. St., NW, Suite 8000, Washington, DC 20223
5. Date and place of birth:
11/17/43, Owensboro, KY
6. Marital status: (Include maiden name of wife or husband's name.)
Married to Judith Arlene Basham; Maiden: Judith Arlene O'Bryan
7. Names and ages of children:
William R. Basham, III – 2/28/63
Paige A. Pinson – 10/22/66
Craig Michael Basham – 4/6/70

8. Education: (List secondary and higher education institutions, dates attended, degree received, and date degree granted.)

Southeastern University, 9/63 to 5/70
Degree: BSBA, 5/19/70

Brescia College, 9/61 to 5/63, Degree: NA
Owensboro Catholic High School, 9/58 to 6/61, HS Diploma, 6/61

9. Employment record: (List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment.)

Director, United States Secret Service
950 H. St., NW, Washington, DC 20223, 1/03 to present

Chief of Staff, Transportation Security Administration
400 7th St., SW, Washington, DC 20590, 1/02 to 1/03

Director, Federal Law Enforcement Training Center (FLETC),
1131 Chapel Crossing Road, Glynco, GA 31524, 2/98 to 1/03

Assistant Director Administration, United States Secret Service,
1800 G., St., NW, Washington, DC 20223, 3/20/94

Deputy Assistant Director, Training, United States Secret Service,
1111 Vermont Avenue, NW, Washington, DC 20001, 5/2/93

Special Agent in Charge (SAIC), United States Secret Service, Vice Presidential
Protective Division, OEOB, Washington, DC 20502, 4/5/92

Special Agent in Charge (SAIC), Washington Field Office, United States Secret
Service, Connecticut & L. Sts. NW, Washington, DC 20223, 10/14/90

Special Agent in Charge (SAIC) Dignitary Protective Division, United States
Secret Service, 1310 L. St., NW, Washington, DC 20223, 10/29/89

Deputy Special Agent in Charge, Vice Presidential Protective Division, OEOB,
Washington, DC, 20502, 7/17/88

Deputy Special Agent in Charge, Office of Protective Operations, Vice
Presidential Protective Division, Washington, DC 20502, 6/21/87

Supervisory Criminal Investigator, (Assistant Special Agent in Charge (ASAIC), Office of Protective Operations, Vice Presidential Protective Division, Washington, DC 20502, 3/15/87

Supervisory Criminal Investigator (SAIC), Office of Investigations, Cleveland Field Office, United States Secret Service, Cleveland, OH 44131, 1/5/86

Criminal Investigator (Inspector), Office of Inspection, United States Secret Service, 1310 L. St., NW, Washington, DC 20223, 2/17/85

Criminal Investigator, (Detail) Office of Investigations, Washington Field Office, Washington, DC 20223, 1/2/85

Supervisory Criminal Investigator (Deputy Financial Manager), Office of Administration, Financial Management Division, United States Secret Service, 1800 G. St., NW, Washington, DC 20223, 2/83

Criminal Investigator (Assistant to SAIC), Office of Protective Operations, Vice Presidential Protective Division, OEOB, United States Secret Service, Washington, DC 20502, 9/9/79

Criminal Investigator (Special Agent), Office of Investigations, Louisville Field Office, Louisville, KY, 40202, 1/18/76

Criminal Investigator (Special Agent), Office of Protective Forces, Protective Support Division, United States Secret Service, 1310 L. St., NW, Washington, DC 20223, 4/28/74

Criminal Investigator (Special Agent) Office of Investigations, Washington Field Office, Washington, DC 20223, 8/10/70

10. Government experience: (List any advisory, consultative, honorary, or other part-time service or positions with Federal, State or local governments, other than those listed above.) None.
11. Business relationships: (List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, other business enterprise, or educational or other institution.) None.
12. Memberships: (List all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable, and other organizations.)

Association of former agents, United States Secret Service, 1998 - Present
Rotary Club of Brunswick, GA, 1998 - 2002
Coastal Georgia Community College Foundation, Brunswick, GA, 2000 - 2002
Sea Island Golf Club, Sea Island, GA, 1998 - 2002

13. Political affiliations and activities:
- a. List all public offices for which you have been a candidate. None.
 - b. List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years. None.
 - c. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$50 or more for the past 10 years. None.
14. Honors and Awards: (List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognitions for outstanding service or achievement.)
- Presidential Meritorius Rank - 1992, Presidential Meritorious Rank - 2002
Numerous performance cash awards while in Federal service.
15. Published writings: (List the titles, publishers, and dates of all books, articles, reports, or other published materials you have written.) None.
16. Speeches: (List all formal speeches you have delivered during the past five years which are on topics relevant to the position for which you have been nominated. Provide the Committee with **two** copies of each formal speech.)
None.
17. Qualifications: (State what, in your opinion, qualifies you to serve in the position to which you have been nominated.)

My background, management and leadership in Federal Law Enforcement agencies and related agencies for approximately 35-years, closely working with Customs, Border Patrol, and other agencies in my capacity as Director of the Federal Law Enforcement Training Center (FLETC).

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, associations, or organizations if you are confirmed by the Senate? If not, provide details.

Present Employer: U.S. Government, Department of Homeland Security, United States Secret Service.

Future Employer: U.S. Government, Department of Homeland Security, Customs and Border Protection.

2. Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, provide details. No.
3. Has any person or entity made a commitment or agreement to employ your services in any capacity after you leave government service? If so, provide details. No.
4. If you are confirmed by the Senate, do you expect to serve out your full term or until the next Presidential election, whichever is applicable? If not, explain. Yes.

C. POTENTIAL CONFLICTS OF INTEREST

1. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated. None.
2. Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated. None.
3. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy. Activities performed as an employee of the Federal government need not be listed. None.
4. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Provide the Committee with two copies of any trust or other agreements.) N/A.

5. **Two** copies of written opinions should be provided directly to the Committee by the designated agency ethics officer of the agency to which you have been nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position. Yes.
6. The following information is to be provided only by nominees to the positions of United States Trade Representative and Deputy United States Trade Representative:

Have you ever represented, advised, or otherwise aided a foreign government or a foreign political organization with respect to any international trade matter? If so, provide the name of the foreign entity, a description of the work performed (including any work you supervised), the time frame of the work (e.g., March to December 1995), and the number of hours spent on the representation.

D. LEGAL AND OTHER MATTERS

1. Have you ever been the subject of a complaint or been investigated, disciplined, or otherwise cited for a breach of ethics for unprofessional conduct before any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details. None.
2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority for a violation of any Federal, State, county or municipal law, regulation, or ordinance, other than a minor traffic offense? If so, provide details. No.
3. Have you ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

In my capacity as Assistant Director and Director, United States Secret Service, I have been named as a defendant in several filings against the U.S. Government regarding issues of race and civil liberties, all of which have been either dismissed or are still in litigation. The U.S. Secret Service, Office of Chief Counsel, would have the details regarding these actions. (see attached).

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, provide details. No.
5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination. None.

8:03-cv-01657-TGW Elend, et al v. Sun Dome, Inc., et al
Thomas G. Wilson, presiding
Date filed: 08/05/2003 Date of last filing: 12/23/2005

Case Summary

*is the director named?
-> yes in initial case (complaint)*

Office: Tampa Filed: 08/05/2003
Jury Demand: Both Demand: \$0
Nature of Suit: 440 Cause: 42:1983 Civil Rights Act
Jurisdiction: Federal Question Disposition:
County: Hillsborough Terminated:
Origin: 1 Reopened:
Lead Case: None
Related Case: None Other Court Case: None
Def Custody Status:
Flags: CLOSED, MAGTRL, TGW

Plaintiff Adam Elend	represented by	Ann Allison	Phone: 813/348-6363 Email: kathy@redner.com
Plaintiff Adam Elend	represented by	Thomas Clayton Little	Phone: 727/443-5773 Fax: 727/441-2394 Email: janet@thomasclittle.com
Plaintiff Jeff Marks	represented by	Ann Allison	Phone: 813/348-6363 Email: kathy@redner.com
Plaintiff Jeff Marks	represented by	Thomas Clayton Little	Phone: 727/443-5773 Fax: 727/441-2394 Email: janet@thomasclittle.com
Plaintiff Joe Redner	represented by	Ann Allison	Phone: 813/348-6363 Email: kathy@redner.com
Plaintiff Joe Redner	represented by	Thomas Clayton Little	Phone: 727/443-5773 Fax: 727/441-2394 Email: janet@thomasclittle.com
Defendant Sun Dome, Inc.	represented by	Rachel E. Fugate	Phone: 813/227-6559 Fax: 813/229-0134 Email: Rachel.Fugate@hkklaw.com
Defendant Sun Dome, Inc.	represented by	Michael Rubinstein	Phone: 813/274-6000 Email: michael.rubinstein@usdoj.gov
Defendant Sun Dome, Inc.	represented by	Gregg Darrow Thomas	Phone: 813/227-8500 Fax: 813/229-0134 Email: Gregg.Thomas@hkklaw.com
Defendant University of South Florida Board of Trustees	represented by	Rachel E. Fugate	Phone: 813/227-6559 Fax: 813/229-0134 Email: Rachel.Fugate@hkklaw.com
Defendant University of South Florida Board of Trustees	represented by	Gregg Darrow Thomas	Phone: 813/227-8500 Fax: 813/229-0134 Email: Gregg.Thomas@hkklaw.com

You are not listed in the case history as a defendant but you were initially listed as a defendant in the complaint.

PACER Service Center
Transaction Receipt

Litigation Database

View Record

Date: **8/21/2003 12:00 AM**

Lawsuit Name: **Adam Elend, Jeff Marks, and Joe Redner v. USSS**

Lawsuit Type: **Constitutional**

Lawsuit Notes

Court: **USDC Middle District of Florida**

CA#: **8:03-CV-1657-T-23TGW**

Attorney: **Rowland**

Status: **Open**

Date Closed:

1:04-cv-00251-RMC CHEEK v. BASHAM
 Rosemary M. Collyer, presiding
 Date filed: 02/17/2004 Date of last filing: 12/13/2005

Case Summary

Office: Washington, DC
 Jury Demand: Plaintiff
 Nature of Suit: 442
 Jurisdiction: U.S. Government
 Defendant
 County: 88888
 Origin: 1
 Lead Case:
 Related Case:

Filed: 02/17/2004
 Demand: \$300000
 Cause: 42:2000e Job Discrimination
 (Employment)
 Disposition:
 Terminated:
 Reopened:
 None
 None

Other Court Case:
 None

Def Custody Status:
 Flags: JURY, TYPE-H

Plaintiff TERRY LYNN CHEEK represented by Stephen G. DeNigris
 Phone: (703) 416-1036
 Fax: (703) 416-1037
 Email: sgd853@aol.com

Defendant W. RALPH BASHAM represented by Stratton Christopher Strand
 Phone: (202) 514-7236
 Fax: (202) 514-8780
 Email: stratton.strand@usdoj.gov

PACER Service Center			
Transaction Receipt			
12/27/2005 15:18:46			
PACER Login:	us6211	Client Code:	
Description:	Case Summary	Search Criteria:	1:04-cv-00251-RMC
Billable Pages:	1	Cost:	0.08

You are incorrectly listed as the defendant in this case. The AUSA is supposed to be substituting Chertoff.

Litigation Database

Report View

Updated By: **lewilliams**
Updated Datetime: **3/4/2004 8:19 AM**
Created By: **lewilliams**
Id: **792**
Created Datetime: **3/1/2004 4:47 PM**
Date: **3/1/2004 12:00 AM**
Lawsuit Name: **Terry Lynn Cheek v. W. Ralph Basham**
Lawsuit Type: **EEO**
Lawsuit Notes
Court: **USDC of DC**
CA#: **1:04CV00251**
Attorney: **Deluca**
Status: **Open**
Date Closed:

1:05-cv-00071-PLF A.N.S.W.E.R. et al v. NORTON et al
 Paul L. Friedman, presiding
 Date filed: 01/14/2005 Date of last filing: 12/20/2005

Case Summary

Office: Washington, DC	Filed: 01/14/2005	
Jury Demand: None	Demand:	
Nature of Suit: 440	Cause: 28:1331 Fed. Question	
Jurisdiction: U.S. Government Defendant	Disposition:	
County: 11001	Terminated:	
Origin: 1	Reopened:	
Lead Case:	None	
Related Case:	1:01-cv-00072-GK	Other Court Case: None
Def Custody Status:		
Flag: TYPE-D		

Plaintiff A.N.S.W.E.R.	represented by	Carl L. Messineo	Phone:(202) 530-5630 Fax: (202) 530-5634 Email: cm@JusticeOnline.org
Plaintiff A.N.S.W.E.R.	represented by	Carol A. Sobel	Phone:(310) 393-3055
Plaintiff A.N.S.W.E.R.	represented by	Mara E. Verheyden-Hilliard	Phone:(202) 530-5630 Fax: (202) 530-5634 Email: pcj@JusticeOnline.org
Plaintiff GRAYLAN S. HAGLER	represented by	Carl L. Messineo	Phone:(202) 530-5630 Fax: (202) 530-5634 Email: cm@JusticeOnline.org
Plaintiff GRAYLAN S. HAGLER	represented by	Carol A. Sobel	Phone:(310) 393-3055
Plaintiff GRAYLAN S. HAGLER	represented by	Mara E. Verheyden-Hilliard	Phone:(202) 530-5630 Fax: (202) 530-5634 Email: pcj@JusticeOnline.org
Plaintiff MUSLIM AMERICAN SOCIETY FREEDOM FOUNDATION	represented by	Carl L. Messineo	Phone:(202) 530-5630 Fax: (202) 530-5634 Email: cm@JusticeOnline.org
Plaintiff MUSLIM AMERICAN SOCIETY FREEDOM FOUNDATION	represented by	Carol A. Sobel	Phone:(310) 393-3055
Plaintiff MUSLIM AMERICAN SOCIETY FREEDOM FOUNDATION	represented by	Mara E. Verheyden-Hilliard	Phone:(202) 530-5630 Fax: (202) 530-5634 Email: pcj@JusticeOnline.org
Plaintiff NATIONAL COUNCIL OF ARAB AMERICANS	represented by	Carl L. Messineo	Phone:(202) 530-5630 Fax: (202) 530-5634 Email: cm@JusticeOnline.org
Plaintiff NATIONAL COUNCIL OF ARAB AMERICANS	represented by	Carol A. Sobel	Phone:(310) 393-3055
Plaintiff NATIONAL COUNCIL OF ARAB AMERICANS	represented by	Mara E. Verheyden-Hilliard	Phone:(202) 530-5630 Fax: (202) 530-5634 Email: pcj@JusticeOnline.org
Defendant GALE A. NORTON	represented by	Marina Utgoff Braswell	Phone:(202) 514-7226 Fax: (202) 514-8780

Defendant **FRAN MAINELLA** represented by **Marina Utgoff Braswell** **Email: Marina.Braswell@usdoj.gov**
Phone:(202) 514-7226
Fax: (202) 514-8780

Defendant **W. RALPH BASHAM** represented by **Marina Utgoff Braswell** **Email: Marina.Braswell@usdoj.gov**
Phone:(202) 514-7226
Fax: (202) 514-8780
Email: Marina.Braswell@usdoj.gov

PACER Service Center			
Transaction Receipt			
12/27/2005 15:16:02			
PACER Login:	us6211	Client Code:	
Description:	Case Summary	Search Criteria:	1:05-cv-00071-PLF
Billable Pages:	1	Cost:	0.08

Litigation Database

[View Record](#)

Date: **1/21/2005 12:00 AM**
Lawsuit Name: **A.N.S.W.E.R. (Act Now to Stop War Coalition and End Racism) v. Gale Norton (Secretary of the Interior) and Fran Mainella (Director of the National Park Services, et al.**
Lawsuit Type: **Constitutional**
Lawsuit Notes
Court: **US District Court of DC**
CA#:
Attorney: **Rowland**
Status: **Open**
Date Closed:

1:04-cv-01578-GK MIRANDA v. ASHCROFT et al
 Gladys Kessler, presiding
 Date filed: 09/10/2004
 Date terminated: 02/24/2005 Date of last filing: 09/19/2005

Case Summary

Office: Washington, DC	Filed: 09/10/2004	
Jury Demand: None	Demand:	
Nature of Suit: 440	Cause: 28:1331 Fed. Question	
Jurisdiction: U.S. Government Defendant	Disposition: Judgment - Motion Before Trial	
County: 11001	Terminated: 02/24/2005	
Origin: 1	Reopened:	
Lead Case:	None	
Related Case:	None	Other Court Case:
		None

Def Custody Status:
 Flag: TYPE-D

Plaintiff MANUEL A. MIRANDA	represented by	Adam Augustine Carter	Phone: (202) 261-2803 Fax: (202) 261-2835 Email: acarter@acarterlaw.com
Defendant JOHN D. ASHCROFT	represented by	Neil M. Corwin	Phone: (212) 637-2707 Fax: (212) 637-2730 Email: neil.corwin@usdoj.gov
Defendant W. RALPH BASHAM	represented by	Neil M. Corwin	Phone: (212) 637-2707 Fax: (212) 637-2730 Email: neil.corwin@usdoj.gov

PACER Service Center			
Transaction Receipt			
12/27/2005 15:20:11			
PACER Login:	us6211	Client Code:	
Description:	Case Summary	Search Criteria:	1:04-cv-01578-GK
Billable Pages:	1	Cost:	0.08

Updated By: **ksease**
Updated Datetime: **9/19/2005 7:26 AM**
Created By: **dholt**
Id: **812**
Created Datetime: **9/29/2004 3:11 PM**
Date: **9/10/2004 12:00 AM**
Lawsuit Name: **Manuel A. Miranda v. The Honorable John D. Ashcroft and The Honorable W. Ralph Basham**
Lawsuit Type: **Constitutional**
Lawsuit Notes
Court: **U.S. District Court - District of Columbia**
CA#: **1:04 CV01578**
Attorney: **Rowland**
Status: **Close**
Date Closed: **9/19/2005 12:00 AM**

1:05-cv-00073-LRR McCabe et al v. United States Secret Service et al
 Linda R Reade, presiding
 John A Jarvey, referral
Date filed: 04/19/2005 Date of last filing: 12/22/2005

Case Summary

Office: Cedar Rapids	Filed: 04/19/2005	
Jury Demand: Plaintiff	Demand:	
Nature of Suit: 440	Cause: 42:1983 Civil Rights Act	
Jurisdiction: U.S. Government Defendant	Disposition:	
County: Linn	Terminated:	
Origin: 1	Reopened:	
Lead Case:	None	
Related Case:	None	Other Court Case: None
Def Custody Status:		
Flag: JURY		
Plaintiff Alice McCabe	represented by David A O'Brien	Phone: 319 390 5555 Fax: 378 1413 Email: dobrien@willeylaw.com
Plaintiff Christine Nelson	represented by David A O'Brien	Phone: 319 390 5555 Fax: 378 1413 Email: dobrien@willeylaw.com
Defendant Kevin Walsh		
Defendant Michael Parker		
Defendant Jane Doe Secret Service Agent #3		
Defendant Iowa State Patrol	represented by Jeffrey C Peterzalek	Phone: 515 281 4213 Fax: 281 7551 Email: jpeterz@ag.state.ia.us
Defendant Troy Bailey	represented by Jeffrey C Peterzalek	Phone: 515 281 4213 Fax: 281 7551 Email: jpeterz@ag.state.ia.us
Defendant Rich Busch	represented by Jeffrey C Peterzalek	Phone: 515 281 4213 Fax: 281 7551 Email: jpeterz@ag.state.ia.us
Defendant Linn County	represented by Todd Davis Tripp	Phone: 319 892 6340 Fax: 892 6389 Email: todd.tripp@linncounty.org
Defendant W. Ralph Basham		
Defendant Tom Ridge		

PACER Service Center
Transaction Receipt

Litigation Database

[View Record](#)

Date: **5/2/2005 12:00 AM**
Lawsuit Name: **Alice McCabe and Christine Nelson vs. USSS, John Doe Secret Service Agent No. 1, John Doe Secret Service Agent No. 2, Jane Doe Secret Service Agent No. 3, Iowa State Patrol, Troy Bailey, Rick Busch and Linn County**
Lawsuit Type: **Constitutional**
Lawsuit Notes
Court: **USDC Northern District of Iowa Cedar Rapids Div.**
CA#: **C05-73 LRR**
Attorney: **Rowland**
Status: **Open**
Date Closed:

E. TESTIFYING BEFORE CONGRESS

1. If you are confirmed by the Senate, are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so? Yes.
2. If you are confirmed by the Senate, are you willing to provide such information as is requested by such committees? Yes.

QUESTIONS FOR THE RECORD FOR
MR. W. RALPH BASHAM
APRIL, 2006

From Senator Grassley:

1. Stemming from my concerns over the quality of the information we collect is what we do with that information. The Government Accountability Office (GAO) recently released an assessment of the Automated Targeting System used by the Bureau of Customs and Border Protection (CBP). GAO concluded that "CBP does not yet have key internal controls in place to be reasonably confident that the Automated Targeting System is providing the best information to allocate resources for targeting and inspecting containers that are the highest risk and not overlook inspecting containers that pose a threat to the nation.

Are you aware of this concern? If confirmed, how do you plan to address this important concern quickly?

Yes, CBP is very aware of this concern and the GAO report and I have been made aware of some of the concerns myself.

Targeting, based on applying sophisticated computer tools to advance information, is the foundation for much of what CBP does to prevent the entry of terrorists and terrorist weapons. If confirmed, the GAO recommendations and overall continued improvement of the Automated Targeting System will continue to be a very high priority for me, and the necessary resources will be allocated to ensure that the resulting internal controls are delivered in a timely manner. I am informed that CBP is already making progress on each of the key internal controls identified by the GAO, including:

- (1) CBP is working to develop and implement performance measures related to the targeting of cargo containers. CBP has developed and is currently evaluating and refining a formal methodology in which the performance of ATS rules targeting cargo shipments can be assessed.
- (2) CBP is planning to compare the results of its random inspections with its ATS inspection results. CBP is reviewing significant seizure results and critical, positive exam results to validate or adjust targeting rules as appropriate on a case-by-case basis. Also, CBP is reviewing certain Compliance Measurement positive findings and recommending appropriate ATS rule adjustments, specifically focusing on significant findings (i.e. restricted/prohibited and narcotics).
- (3) CBP is working to develop and implement a testing and simulation environment. CBP has established the infrastructure for a simulation environment and is currently programming the system interfaces. This environment will facilitate research and development of new targeting methodologies, and improve testing and evaluation of current rule performance.
- (4) CBP is addressing recommendations contained in a 2005 peer review of ATS.

2. Following the enactment of the Homeland Security Act of 2002, criminal investigators were removed from the Bureau of Customs and Border Protection, and placed in the Bureau of Immigration and Customs Enforcement. I'm concerned that as a result of this redeployment, there may be insufficient focus on criminal trade enforcement investigations. Do you have a sense of whether that's the case, and if so, what can be done to ensure sufficient focus on criminal trade enforcement investigations?

I do not have a sense yet of whether there is any problem with investigatory follow up and coordination in criminal trade enforcement cases between CBP and ICE. If I am confirmed, CBP will continue to do its utmost to coordinate criminal trade enforcement investigations with ICE and I intend to reinforce the need for close working relationships with our sister agency as essential to success in this and other critical areas. As a fellow component agency head in the Department I already have a strong relationship myself with Assistant Secretary Myers of ICE and will continue to foster that relationship at CBP to improve our combined trade enforcement efforts.

3. Our current initiatives to ensure the security of supply chains depend upon a partnership between government and industry. Do you believe that's the right approach, and if so, what should government be doing and what should industry be doing, respectively?

I believe that voluntary partnership between government and industry to ensure the security of international supply chains remains the right approach, indeed it is the only workable approach. Some aspects of extending security deep into the international supply chain require voluntary commitments by the trade community, since the U.S. government cannot regulate or mandate activities which occur at foreign locations. In programs like the Customs-Trade Partnership Against Terrorism (C-TPAT) program, government and industry have worked together to develop minimum-security criteria for Importers, Sea Carriers and Highway Carriers – and soon for Air and Rail carriers too. Not only is cooperation and partnership with the private sector important, but so too are CBP and U.S. Government partnerships with other nations through efforts like the Container Security Initiative (CSI) and the World Customs Organization (WCO) Framework of Standards to Secure and Facilitate World Trade wherein we work with other countries to provide greater security for cargo bound for the United States. There may be adjustments from where we are at present in areas such as whether the government or a private entity collects and manages certain data, but the division of responsibilities we have today is fundamentally the right one. The simple facts are that many parts of the global supply chain are in the hands of private, international entities – and the job of securing that supply chain is bigger than just one agency. If confirmed I intend to build upon CBP's cooperative efforts and partnerships with industry and other nations to better secure the global supply chain.

4a. What steps will you take to ensure each port develops and practices an adequate incident management plan?

If confirmed I will ensure that Customs and Border Protection (CBP) continues to remain in compliance with Presidential Decision Directive 67 (PDD 67) and Federal Preparedness Circular 65 policy, both of which mandate that all federal agencies develop, implement, and maintain Continuity of Operations Plan (COOP) plans. The Commissioner, in compliance with the above mentioned policies directs the establishment of internal policies, plans, and programs to ensure continuity of operations during a national security crisis or emergency situations affecting individual CBP office locations. Incident management comprises a significant portion of continuity planning. Additionally, CBP Headquarters has organized an Emergency Preparedness Program with functional oversight of field continuity planning.

Currently all CBP office locations have a COOP on file which is to be implemented in the event of a natural or man-made disaster affecting a CBP office. The COOP is reviewed annually and updated as necessary, and tabletop exercises occur annually. In addition, the individual in charge of an office location (e.g., DFO, Port Director, etc.) is responsible for ensuring the development of their COOP, testing of the COOP, formation of a Mission Critical Team, the delegation of duties to each team member, and the activation of their COOP as necessary.

4b: How will you ensure that these plans integrate the efforts of other agencies that have adjoining responsibilities, such as the Coast Guard?

DHS and other law enforcement agencies continue to work toward implementing a coordinated and consistent approach for contingency efforts. The United States Coast Guard (USCG) is designated as the lead federal agency responsible for ports, facilities and vessel security as required under the Maritime Transportation Security Act (MTSA). Supporting the U.S. Coast Guard with MTSA regulated port security vulnerability assessments, U.S. Customs and Border Protection Field Offices have designated representatives assigned to local Area Maritime Security Coordinator committees to work with the Captains of the Ports in addressing cargo security issues and incidents that disrupt port operations. This type of coordinated cross-agency effort is one of undeniable benefits of bringing historically different parts of government together under the Department of Homeland Security. If confirmed, I will continue to build upon these efforts to ensure an effective and seamless response.

Obviously, of great concern is that the immediate reaction to a major terrorism incident in the maritime environment could include a partial or full stoppage of vessel traffic into the United States. The Department is very aware of this concern and the need for steps to both prevent further attacks and reestablish the supply chain post-incident. I know that CBP has collaborated with the U.S. Coast Guard in the development of a National Response Options Matrix (NROM) to assist the CBP Commissioner and USCG Commandant with a decision making tool in the 0-48 hours following a Transportation Security Incident (TSI). I

believe the NROM provides senior CBP and USCG leadership with pre-planned agreed upon responses for immediate use following a TSI in one or more of our ports, waterways, or coastal approaches. The NROM as I understand it is intended as a coordinated reference guide or decision aid for use by senior Department leadership. But the facts of whatever incident occurs will be what really determines the appropriate response, and even with strong response plans and guidelines in place the judgment of CBP and Department leaders at the national and local level will be even more important after such an incident. If confirmed, I will want to be assured that CBP and the Department have adequate plans and training in place for a major disruptive event in the maritime supply chain. We cannot afford to wait to think about "what ifs" until an event has already happened.

5. The development of the Automated Commercial Environment is critical to clearing increasing volumes of imports into the United States. It will need to accommodate over 750,000 importers filing approximately 30 million entry documents covering imports worth over \$1.7 trillion dollars. Do you have a sense for how well the development of the Automated Commercial Environment is progressing? Do you have any thoughts on how to improve that development?

I have received an initial briefing on the Automated Commercial Environment (ACE) and I am aware of the volume of transactions currently processed by the existing Automated Commercial System (ACS). Clearly, the volume of imports arriving in the United States is growing and it is imperative that our Information Technology capabilities grow as well. Thus, the development and sustained progression of ACE would remain one of the agency's top priorities if I am confirmed. I believe that continued involvement by the trade community, other Federal agencies, the Department, and the Hill will ensure continued success in the ACE development effort.

6. The International Trade Data System (ITDS) is a critical element of the Automated Commercial Environment. But I'm concerned that there's insufficient buy-in from all the agencies that should be participating in the ITDS. Do you have a sense of whether that's the case, and if so, what can we do to improve the development and deployment of the ITDS?

The initial briefing that I received on the Automated Commercial Environment (ACE) indicated that there are currently 26 agencies participating in the International Trade Data System (ITDS) effort. As ACE is further developed and deployed, the mission needs of these agencies are included through constant communication and discussion. The continued strong support from Congress for the ITDS process is critical to achieving success. If confirmed, I intend to review the ITDS process in detail to determine whether anything is needed to improve participation and development.

7. The United States has entered into several free trade agreements during the past few years. If confirmed, what steps will you take to ensure that the U.S. Customs and Border Protection implements these and other new free trade agreements in an orderly manner that minimizes any disruption to trade?

I know that U.S. Customs and Border Protection (CBP) actively participates in free trade agreement (FTA) negotiations to ensure security and operational concerns are incorporated into final agreements. The responsibility of CBP is to ensure that the mission of the Department of Homeland Security is not compromised, that the FTA can effectively be enforced, and the flow of trade is not disrupted. CBP's participation also allows for adequate preparation prior to implementation. CBP has implemented four new FTAs in the past two years. Upon implementation, CBP issues instructions to the trade community on the procedures for making a claim and the requirements as set forth by the FTA. CBP ensures that this process is transparent by posting instructions on the CBP website, including the points of contact.

If confirmed, I assure you that continued participation in negotiation of free trade agreements and the implementation and enforcement of current and future FTA's will be a commercial priority for CBP.

8. In establishing guidelines for setting continuous bond amounts, the Bureau of Customs and Border Protection should strive to ensure that bonding requirements reflect actual risk and do not unduly impede the flow of trade. Do you agree, and if so, what steps will you take to ensure that this objective is met if you are confirmed?

While I am not familiar with all the details of CBP's current continuous bond guidelines, I agree generally with the principle that bonding requirements should reflect actual risks and should not unduly impede the flow of trade. As the Senate Finance Committee knows, CBP also has a statutory responsibility to protect the revenue and in order to do so uses bonds as one important means to ensure the money owed to the Treasury can be collected from those who might otherwise avoid collection. If confirmed, I will work to ensure that these higher bonds are directly related to the risk of non-collection of the revenue that is posed and do not unduly impede the free flow of trade.

9. The incidence of international trade in counterfeit and pirated goods appears to be growing substantially. What steps will you take, if confirmed, to address this problem?

I know how important protection of American intellectual property rights is to our economic competitiveness. The interception of counterfeit and pirated goods has increased dramatically; the number of seizures by the Department of Homeland Security has increased 125 percent in the last five years. CBP continues to implement new initiatives that improve upon the intellectual property rights (IPR) risk assessment process, focus on entities involved in IPR fraud, and identify business practices linked to counterfeiting and piracy. I also know that CBP is a key participant in the Interagency Strategy Targeting Organized Piracy (STOP) initiative and I believe such coordinated government wide efforts are a key to our success rather than individual piecemeal approaches. If confirmed, I would seek to continue CBP and DHS efforts to enhance risk modeling and targeting capabilities for IPR fraud, improve information sharing with our international counterparts, streamline the recordation process and perform audits to target illicit IPR business practices.

From Senator Snow:**Container Security Initiative**

In an effort to increase security at U.S. ports, the Department of Homeland Security has instituted numerous programs, including the Transportation Worker ID Card, or TWIC, program and the Container Security Initiative, or CSI. While the intentions of the CSI program are ambitious, and necessary, the actual implementation seems to be lagging. Like so many other Homeland Security programs, this vital initiative has not lived up to promised deadlines and have not met benchmarks involving the scope of the program. A recent GAO report indicated that of those assets being stationed overseas as part of the CSI program, they are screening a mere 1% of the containers being shipped out of the participating foreign ports.

Some of the containers being shipped out of those same ports are tagged as being "high risk". Such cargo presents a significant potential threat to the U.S. How many of those containers are being screened? One would hope all of them. But according to this same report, less than 20% of those containers are being screened. Less than 1/5 of the 'high risk' containers are being screened.

1. I have no doubt that, to push out our borders and thus make them more secure, the concept of the CSI program is a good one. Yet it is clear from this report that serious shortcomings exist. How do you account for such low percentages in terms of overall screening, and particularly, in those containers specifically designated 'high risk'?

All containers destined to the United States are reviewed for risk by Customs and Border Protection's existing protocols. When it was begun, the Container Security Initiative added an additional layer of review and enforcement at a point earlier in the supply chain – at foreign seaports. This added review and security capability is only possible through the cooperation of foreign governments in allowing a U.S. Government law enforcement presence on their soil. The inspection rates at different CSI ports vary. In practice a CSI port entails U.S. CBP officers working with host government officials to designate and request further examination of containers that are identified as possibly posing an imminent high risk for terrorism purposes. In turn, host government officials may either find out more information about or inspect these containers to negate any potential risk. The GAO report may be somewhat misleading because it does not explain how the host government gaining additional information can often mitigate the initial "high risk" assessment without actual inspection. It is important to note that these same containers from a CSI port are then subjected to additional reviews and possible additional exams as warranted upon arrival in the United States. This CSI activity does not diminish and or negate any previous existing enforcement protocols with regard to container security. I believe strongly in the Container Security Initiative and the capability it provides to CBP and America, and if confirmed I will work with the agency and our international partners to further enhance that capability and address any shortcomings.

Follow Up 1: Is the shortfall primarily the fault of the lack of staff, a lack of funding, or a reluctance by foreign port operators to participate?

Follow Up 2: Can the CSI program be continued with such glaring gaps in security? Or must we start over and replace it with more advance technologies, such as the radiological detection devices employed in Hong Kong?

Thanks to the support of Congress I believe CSI is adequately funded and staffed. CSI is a program that partners with host government customs officials. The program does not dictate or oversee activities of foreign port operators. It is not simply a question of resources or personnel since CBP and the United States must negotiate our presence with the host government.

As an enforcement initiative, I believe CSI adds to the U.S government's array of activities that significantly mitigates the vulnerabilities of a post 9/11 environment. But it is also important to not that It is but one system within the "system of systems" that must be looked at holistically and complements other programs in the Department's multi-faceted layered approach to cargo security such as:

- The 24 Hour rule – advance manifest information
- CBP National Targeting Center/Automated Targeting System
- Utilization of Non-Intrusive Inspection (NII) and Radiation Portal Monitor (RPM) technologies
- Customs-Trade Partnership Against Terrorism (C-TPAT)
- Coast Guard 96-Hour Advanced Notice of Arrival
- International Port Security Program
- Port Security Grant Program
- Transportation Worker Identification Credential
- Intelligence generated by Immigration and Customs Enforcement (ICE), FBI, CIA, DOD and others

If confirmed, I will ensure that all of these layers of security under CBP are adequately resourced.

DHS and CBP continue to evaluate emerging technologies and concepts that can increase our effectiveness in cargo security. CBP is currently evaluating the data produced by the Integrated Container Inspection System (ICIS) in Hong Kong set up by a group of foreign terminal operators. I am told, contrary to what some may erroneously believe, that the ICIS system is in a very limited pilot phase, does not "scan a 100% of all containers" and currently neither triggers a response for alarms nor has people examining images – in short it is not an operational container security system. However, CBP is working with the system developers to evaluate the ICIS technology's potential utility in future supply chain security. If confirmed I will look into that evaluation of ICIS personally.

Unfair Trade Practices and Enforcement

1. What will you do to ensure that our nation's laws are enforced so that our businesses, including our manufacturing sector, receive fair treatment under our current agreements and those future trade agreements that our country plans to engage in?

As I noted in my remarks to the Committee, I believe the traditional trade enforcement mission and balancing that with our security responsibilities is important. U.S. Customs and Border Protection's trade-related activities include protecting American businesses and the manufacturing sector from intellectual property rights violations and other unfair trading practices. CBP is responsible for enforcing trade laws concerning the collection of antidumping and countervailing duties, admissibility, the collection of appropriate revenue, and the protection of agricultural products from harmful pests and disease. I know that CBP has established a National Trade Strategy to ensure that resources are focused on priority trade issues that pose a significant risk. If confirmed I look forward to working with you to ensure CBP is properly enforcing our trade laws.

2. What additional resources will you require to enable more aggressive enforcement of trade laws?

I cannot speak to what additional resources, if any, may be required specifically for enforcement of the trade laws. I am pleased that the President has proposed a nearly 10 percent increase in CBP's Fiscal 2007 budget and I believe the agency can continue aggressive enforcement of trade laws as well as effective facilitation of legitimate trade within the President's budget. I do believe that with the right strategic approach to addressing trade risks and smart use of resources, CBP can successfully facilitate legitimate trade, carry out its trade security mission, and effectively protect the American public and economy through enforcement of the trade laws.

CBP maintains this balance through its National Trade Strategy, which provides solutions to both trade enforcement and trade facilitation challenges. This multi-disciplinary trade strategy directs actions and resources around priority trade issues posing significant risk. Such priority trade issues include intellectual property rights, revenue, antidumping and countervailing duties, textiles, agriculture, and penalties. If confirmed, I will look at the resources devoted to our trade enforcement mission to find out if there are any additional requirements.

China – Countervailing Duties

1. U.S. industries can compete against the best in the world, but they cannot compete against nations that provide huge subsidies and other unfair advantages to their producers. Our nation's trade remedy laws are not designed to "protect" U.S. industries; they are designed to ensure that trading nations abide by fair playing rules in the marketplace. Are there legislative remedies that can help level the playing field so you can more effectively enforce trade laws? If so, please describe those remedies.

I cannot speak to any specific legislative recommendations to “level the playing field” in international trade, and that is probably a question best answered by other trade policy makers. U.S. Customs and Border Protection is responsible for enforcing trade laws but trade policy is largely made by other U.S. Government actors such as the United States Trade Representative, the Department of Commerce, and the Congress. Certainly, I agree with you that U.S. industries should not have to compete against unfair advantages. If confirmed, I will seek to ensure that U.S. Customs and Border Protection has all of the authorities necessary to administer and enforce those trade laws that “level the field” to the greatest possible effect.

China – Customs agents

The U.S. Homeland Security Secretary Michael Chertoff is currently lobbying China to allow more U.S. customs officials to be stationed at Chinese ports. More containers are originating from China and the U.S. plans to screen and inspect those containers in China, giving them a green light to pass through U. S. ports without having to be inspected in the U.S. This is not surprising considering that in 2005, Chinese imports to the United States totaled \$243.5 billion, a 24 percent increase from 2004, and up 528 percent over the last eleven years.

1. Increasing U.S. customs officials in China ultimately benefits not only our security in the U.S. but China’s ports it also gives China more of a competitive advantage for shipping goods. What type of security measures will be provided at these Chinese ports to ensure that goods entering the U.S. are safe? Does this in any way compromise U. S. Homeland Security?

I agree with the Secretary that we want a greater capability in China to screen containers bound for the United States before they are shipped – and that may mean more participating Chinese ports, more CBP personnel, deployment of technology or increasing inspection/resolution rates. As I stated previously in response to another question, when it was begun, the Container Security Initiative added an additional layer of review and enforcement at a point earlier in the supply chain – at foreign seaports. This added review and security capability is only possible through the cooperation of foreign governments in allowing a U.S. Government law enforcement presence on their soil. In practice a CSI port entails U.S. CBP officers working with host government officials to designate and request further examination of containers that are identified as possibly posing an imminent high risk for terrorism purposes. In turn, host government officials may either find out more information about or inspect these containers to negate any potential risk. It is important to note that these same containers from a CSI port are then subjected to additional reviews and possible additional exams as warranted upon arrival in the United States – merely because a container passes through a CSI port is not a “green light” or “EZ pass” into the United States. This CSI activity does not diminish and or negate any previous existing enforcement protocols with regard to container security. I believe strongly in the Container Security Initiative and the capability it provides to CBP and America, and if confirmed I will work with the agency and our international partners to further enhance that capability and address any shortcomings.

Number of Border Patrol Agents

1. Can you provide us a better understanding of the DHS' position – why should DHS oppose an increase in the number of Border Patrol agents when everything we hear indicated that the number of agents is insufficient to the task of protecting our borders?

DHS does not oppose an increase in Border Patrol agents. In fact, the President's 2007 budget would fund 1,500 new positions on our northern and southern borders. CBP is also pleased that the Congress provided additional funding for agent hires in Fiscal 2006 and is recruiting, hiring, and training those new Border Patrol Agents. However, at the same time, we must be clear that there are limits to how many new agents can be brought on board in relatively short time frames. We cannot sacrifice quality for quantity or undermine organizational integrity, and securing our borders is about much more than simply additional "boots on the ground." I am therefore pleased that CBP, working closely with FLETC and as part of the Department's SBI initiative, is considering issues such as:

—how many agents can be recruited and fully trained per year without diminishing standards?

—how many new agents can be assimilated into the existing workforce without compromising proper supervision or force integrity?

—how fast can facilities, vehicles, and equipment be upgraded, procured, or built to accommodate new staffing?

—what is the proper mix of agents, technology, sensors, and other tools such as air support?

Certainly we will continue to need more agents and officers, but if confirmed I will also be cognizant of the challenges of rapidly expanding a law enforcement work force.

Barriers on the Border

1. Can you describe for us what you believe would be the appropriate mix of personnel, technology and infrastructure to gain control of the border?

I would refer to the National CBP Border Patrol Strategy and the Department's Secure Border Initiative (SBI) which emphasizes a deliberate deployment of the right combination of personnel, technology, and infrastructure. Because these components are interdependent, each is critical to the mission success. For example, infrastructure and technology deployments act as force multipliers, significantly enhancing enforcement capabilities; however, a system with the technological ability to predict, detect, and identify illegal entries or criminal activity cannot complete the enforcement mission without the human capacity for an appropriate response. Similarly, enforcement personnel with inadequate information, poor technological support, inadequate border access, or a lack of equipment necessary to conduct enforcement activities are less likely to be effective in today's dynamic border environment.

The appropriate mix of personnel, infrastructure, and technology varies, because of the diversity of border environments and enforcement challenges. CBP

Border Patrol operates in three basic geographical environments: urban, rural, and remote. Each of these environments requires a different mix of resources.

In urban environments, such as San Diego, CA; El Paso, TX; and Detroit, MI; with large, dense populations on both sides of the border, enforcement personnel generally have only minutes, or sometimes simply seconds, to recognize that an illegal entry has occurred, respond to the event and bring it to a successful, law enforcement conclusion. This is a result of dense, urban population centers with houses, businesses, stores, parks and streets, combined with pedestrian and vehicle traffic located directly on or very near the border all of which facilitate the illegal entry permitting entrants to escape detection and/or apprehension by quickly blending in with the community, moments after entry.

In rural environments, the time from entry to when an illegal entrant can blend into the community is greater – several minutes to hours, exposing him/her to law enforcement for a longer period of time and allowing for a more calculated enforcement response.

In remote or inaccessible environments, such as a vast deserts of the southwestern United States or the some of the mountains of Montana or the woods of Northern Maine, the time and distance between an illegal entry and when an illegal entrant can blend into the community or get to a road that will allow assimilation, may be much longer and responses can be more deliberate.

The Department's SBInet initiative will further examine and offer a comprehensive solution to what is needed for the right mix of personnel, infrastructure, and technology in these various areas of the border in order to gain operational control. I am also pleased to note that the Request for Proposal (RFP) for the SBInet "integrator" who will provide an independent assessment to DHS and CBP on that proper mix was issued April 12th and I look forward to reviewing recommendations that come from that process if confirmed.

Follow up: How would such a virtual barrier differ between the southern border and the northern border?

I do not think there is any stretch of border in the United States that can be considered completely inaccessible or lacking in the potential to provide an entry point for a terrorist or terrorist weapon. Stretches of border that in the past were thought to be impenetrable, or at least highly unlikely locations for entry into the United States, have in recent years, become active illegal entry corridors as other routes have been made less accessible to smugglers. This vulnerability of all of the Nation's borders must be included when determining future infrastructure requirements – however I do not think that means we ought to be thinking about actual barriers everywhere but rather where it makes sense and in many places what makes sense a "virtual barrier" that makes detection and deterrence or interception possible.

Even in that "virtual" capability the requirements might vary greatly between the northern and southern borders and between different terrain types within each border environment. For instance, the northern border has fewer urban environments immediately adjacent to the border, there are differences in

terrain elevation, vegetation, temperature extremes, vehicle accessibility and water versus land boundaries that all affect the appropriate type of physical barriers and detection and interception capabilities needed. I think the integrator selected under the Department's SBInet initiative, working with the experts at CBP will be looking at all these challenges and helping DHS formulate the proper type of virtual or actual barriers in the differing border environments necessary to gain operational control. If confirmed, I look forward to seeing that the vision of this capability becomes a reality.

From Senator Baucus:

1. Much has been made of pre-departure scanning technology being used at two Hong Kong container terminals. All containers loaded at these terminals go through radiation, gamma ray and optical scan. Please elaborate on how this sort of pre-departure scanning technology could strengthen Customs' initiatives for data collection and security, such as CSI and C-TPAT.

The Integrated Container Inspection System (ICIS) screens containers with an imaging device, radiation detector and also takes an image of the container number. These devices generate a radiography image and a radioactive profile, which are linked to the container number. These data can be used locally to detect and interdict suspect materials at the discretion of the host government officials. If shared with U.S. officials, data could possibly be used to target high-risk containers. I am told, contrary to what some may erroneously believe, that the ICIS system is in a very limited pilot phase. Currently, host government officials do not regularly monitor the ICIS. ICIS also scans a limited number of containers transiting through the port of Hong Kong. It does not "scan a 100% of all containers" and currently neither triggers a response for alarms nor has people examining images – in short it is not an operational container security system but a concept.

I am aware that CBP, Department of Energy and the DHS Domestic Nuclear Detection Office are currently evaluating ICIS to determine the possible application to the existing US government protocols for supply chain security. If confirmed I will look into that evaluation of ICIS personally.

2. With the staffing resources it has today, how many more primary non-intrusive container inspections could Customs conduct if it had access to reliable pre-departure radiation, gamma ray, and optical scans, as compared with the 6% that Customs targets as high risk and either opens or scans today.

I know that CBP is currently evaluating the possible application of pre-departure radiation and imaging scans relative to its overall security protocols. However, the issue of increasing the overall percentage scanned is more than a matter of staffing or equipment, it is also limited in some places by the physical layout of ports and the foot print and cooperation necessary to increase pre-departure scans would have to be negotiated with the host governments.

3. How reliable is the radiation scan technology being used by Customs in U.S. ports around the country? (Please report all statistics requested on ports by a) maritime ports, and b) all ports, including maritime.) How effective are handheld radiation detectors as compared with portal radiation detectors? What percent of CBP port facilities uses handheld versus portal radiation detectors? What percent of U.S. CBP port facilities use gamma ray or similar scanning to view the contents of a container? What challenges to calibration - to eliminate false alarms - exist with today's radiation scanning technology? What methods does CBP currently use to mitigate against false alarms?

I know that Radiation Portal Monitors are CBP's most reliable and robust radiation detection device - they are essentially 100 percent reliable if set properly. However, I am informed that in the event that an RPM does occasionally fail there are plans for rerouting traffic to a functioning RPM. CBP's response time to repair a malfunctioning RPM is 24 hours. In addition to RPMs, handheld Radiation Isotope Identifier Devices (RIIDS) are also available 100 percent of the time.

I am told that one hundred percent of CBP ports of entry currently use handheld radiation detection devices to include RIIDs and Personal Radiation Detectors (PRDs). Current policy is to provide PRDs to provide 100 percent coverage for officers on primary at our nation's ports of entry. Radiation Portal Monitors are currently being deployed to our nation's ports of entry. The goal of CBP is to screen 100 percent of arriving incoming mail/express, cars, trucks and people with radiation detection technology.

Currently, I am advised that CBP screens 100 percent of mail and express consignment packages, 90 percent of cargo conveyances and 80 percent of private vehicles on the northern and southern borders, and 51 percent of all sea containers for radiation. In addition, CBP has large-scale Gamma-ray or X-ray imaging systems deployed to the top 25 seaports, representing over 99% of the sea container volume arriving in the United States annually. Current policy is that 100 percent of all high-risk containerized cargo is currently scanned with large-scale NII technology and screened for radiation with a RIID.

I am told that radiation sensitivity is related to detector size and that a handheld radiation detector incorporates a sensor that has a sensitive area much smaller than the radiation portal monitors. Experts inform me it would take roughly several hundred handheld radiation detectors operating as a single detector to approach the sensitivity of the RPM, however an RPM also does not obviously have the mobility or versatility of a handheld device. Thus, there is really no comparison between the two technologies. The handheld detectors and the RPMs are used by CBP in a layered approach to maximize the use of both technologies.

As far as challenges of calibration for today's radiation scanning technology, I do know generally that there is a delicate balance between the sensitivity of the equipment versus the ability to resolve nuisance alarms because of naturally occurring radiation with this type of equipment. I am told that such alarms are very frequent and account for the majority of observed alarms at ports of entry.

I am not sure if that type of nuisance alarm is what you mean by false alarms or if you are talking instead about actual equipment malfunctions. I believe the equipment is very reliable as I noted above but even when set properly naturally occurring radiation will trigger alarms. I know that the Department and CBP are looking for the next generation of radiation detection equipment including "Advanced Spectroscopic Portals" to improve our future capabilities and that CBP has implemented steps to reduce the impact of naturally occurring radiation. Certainly if confirmed as Commissioner, I will want the best radiation detection equipment available to us at the nation's ports of entry that is sensitive enough to detect all threats but which can allow false alarms to be resolved quickly.

4. What percent of foreign maritime ports use radiation scanning for their inspections? What percentage of foreign maritime ports use radiation scanning considered to be as reliable as the equipment we use now? Which maritime ports have radiation equipment considered to be as reliable or more reliable than the U.S. technology? What scanning equipment do CSI ports have and is there a minimum standard for CSI ports' scanning equipment?

There are currently 44 CSI operational ports. At 19 of those locations, upon request by U.S. CSI officers, host government officials use Radiation Portal Monitors to scan containers being exported to the United States. In addition, CBP has deployed Radiation Isotope Identifier Devices (RIIDS) and Personal Radiation Detectors (PRDs) to all CSI operational teams, subject to host nation approval. These hand held devices are used to augment host government equipment.

The CSI program does not certify host nation large scale imaging devices. However, host government equipment meets standards as measured against the World Customs Organization's guidelines for deployment of large-scale equipment.

5. NUMBER 5 WAS SKIPPED IN ORIGINAL DOCUMENT THEREFORE NO #5 RESPONSE

6. How many ports are currently in CSI, and how much of the cargo coming into the United States comes through a CSI port? How does Customs verify that these ports are complying with the security standards set out by their enrollment in CSI? How many requests for inspections (physical or non-intrusive) have U.S. Customs teams in CSI ports made, and how many have been honored? What improvements do you believe Customs can make to the CSI program?

There are forty-four (44) ports currently participating in the CSI program. Over 75% of containerized cargo coming into the United States goes through these 44 participating CSI ports. I am told all CSI ports undergo a thorough capacity assessment and must meet minimum requirements prior to their enrollment in the CSI program. Once enrolled, Customs and Border Protection verifies that CSI ports remain in compliance with the minimum standards required to participate in CSI by conducting evaluations every six-months. CBP statistics show that as of April 1, 2006, CSI has cumulatively requested 91,854 exams. Of the 91,854 exams requested, 80,857 exams, approximately 88% have been honored. CBP

maintains that they continuously evaluate the program to formulate ways to improve the CSI operation.

7. Please provide the staffing levels – by position – that CBP currently has for data and revenue collection functions, including those personnel who audit, validate, inspect, analyze trade data or otherwise deal with commercial cargos bound for the United States, entries or other information input into the Automated Commercial Environment, the Integrated Trade Data System, the Container Security Initiative or the Customs-Trade Partnership Against Terrorism.

I am not yet familiar with those details myself by position, and I am informed by CBP that it is difficult to give exact numbers of personnel the way you have phrased the question because so many employees may at least part of the time perform what could be considered data and revenue collection functions or “otherwise deal with commercial cargos” or “information input into ACE” or deal with CSI or CTPAT at least part of the time. CBP has provided some good faith ballpark estimates to me answer your question but I understand some of these may be based on man hour estimates rather than actual positions.

As I understand it many segments of CBP's workforce, which totals over 42,000 employees, including CBP Officers, agriculture specialists, analysts and targeting personnel at the National Targeting Center, import specialists, entry specialists, account managers, auditors, international trade specialists and others, are involved in handling commercial cargo through inspections, analyses, audits, verifications, and data collection processes. CBP estimates that over 9,000 work years (including CBP Officers and other positions named above) are spent on the commercial cargo and revenue related functions that are the subject of your question. I am informed that CBP staff would be pleased to brief you and your staff further on this issue if you desire to provide a more detailed explanation and context and I would be happy to help arrange that if you wish.

8. As I pointed out during your confirmation hearing, Section 412 (b) of the Homeland Security Act states that the Department of Homeland Security “may not consolidate, discontinue, or diminish” Customs’ trade functions, nor reduce staffing levels, or reduce the resources attributable to these functions. I noted, however, that CBP has fewer import specialists today than in 2001. What are your plans to bring CBP into compliance with this law?

As I answered at the hearing, if confirmed I intend to review the overall resources devoted to trade functions to ensure they are appropriate and the agency is in compliance with the law. I know that CBP remains committed to the critical trade functions that it performs and I intend to maintain that strong commitment. But I also understand that improvements in automation systems have allowed CBP to maintain or increase its overall level of effectiveness, therefore I may want to continue discussions with you and the Committee as to whether a statutory floor on numbers of personnel in a particular job series is the best measure of the agency's overall effectiveness.

9. The President's 2007 budget proposal includes just a slight increase for trade facilitation and security at ports of entry. At the same time, container traffic into the United States alone is expected to increase by nearly 10% from last year to

this year, and to double by 2010. Given these trends in trade, it does not seem sufficient to me to have fewer Customs personnel facilitating the entry of cargo bound for the United States than we did five years ago. Nor does it seem sufficient to maintain essentially the same budget for these functions at CBP from last year to this year. How will you ensure that Customs can manage these growing volumes of cargo into the United States with fewer resources?

If confirmed, I will ensure that CBP continues to focus on the priority mission of protecting our nation's borders against the importation of contraband, including weapons of mass effect, while simultaneously facilitating the flow of legitimate commerce.

CBP has developed a multi-layered process to target and examine high-risk shipments while simultaneously facilitating legitimate trade and cargo. As part of its multi-layered enforcement strategy, CBP screens the data and information for all cargo containers arriving in the United States each year; and closely scrutinizes and examines all shipments identified as high risk. Our multi-layered approach consists of: advanced information, targeting, Non-Intrusive Inspection (NII) Technology and partnerships. These systems are key force multipliers that increase CBP's capacity to provide security and facilitation in ways that may not require as large an increase in staffing. Certainly as the size and volume of traffic grows, the agency must take steps to match it with the appropriate resources.

10. U.S. Customs' efforts to collect data on importers' entire supply chains through the C-TPAT program are a step in the right direction. I note, however, that Customs was giving C-TPAT applicants and "certified" participants (whose self-reported data has been examined by Customs personnel) a lower risk score before actually validating the participants' supply chains. I understand that Customs has stopped giving benefits prior to validation. How many C-TPAT applicants are currently awaiting certification, and how many C-TPAT participants are currently awaiting validation? How many personnel are assigned to these certifications, and how many are assigned to these validations? How many validations were done in 2005, and how many have been done so far in 2006? What was the average wait time for validations in 2005, and what is the current validation wait time for 2006? How has CBP recalibrated its validation process in order to speed up validation?

As I understand it, currently C-TPAT benefits risk score benefits are only applied to the Importer sector. These benefits are applied to those members whose security profile has been reviewed and found sufficient according to the minimum-security criteria. Once certified, the company will receive the first tier of benefits until validated. Upon validation, it will be determined whether the company meets the minimum security criteria, as stated in their security profile and validated by the CBP C-TPAT validation team, or they have exceeded the minimum security criteria. The greatest risk score benefit is given to those importers who exceed the minimum security criteria and employ best practices.

Currently 1,787 validations have been completed. In 2003 there were 133 validations completed, in 2004, 287 validations and in 2005 1,080 validations completed. From January 2006 through April 11, 2006, we have conducted 287

validations. There are 509 applicants currently awaiting certification and 6,070 awaiting validation. I am told CBP is on target to have 100% validations completed by the end of 2007. Currently CBP has 120 Supply Chain Security Specialists (SCSS) who are assigned to reviewing, certifying and validating the security profiles. By this summer CBP has testified that it will have 156 Supply Chain Security Specialists and 19 retired CBP employees contracted to the C-TPAT office who will be assisting in validations. Training for the 59 retired CBP employees and 40 recently hired SCSS will be conducted in May 2006.

One of the ways I am told CBP has improved its validation methodology is by conducting country specific blitzes. Previously, C-TPAT conducted validations on a 'one to one' basis. A C-TPAT member was selected for validation and the team traveled to that specific company's supply chain for validation. Today C-TPAT is concentrating more on a 'one to many' strategy. This strategy allows C-TPAT to select a country and identify a number of manufacturers who supply products to the United States and subsequently the C-TPAT importers associated with the manufacturers. C-TPAT teams are able to validate multiple partners in a country and this also allows C-TPAT to concentrate on geographical areas of high risk. For this reason, it is difficult to determine an average amount of wait time to become validated. CBP believes it more important to validate on a risk basis than a time basis.

11. The private sector has a stake in securing its own supply chain in an efficient, effective manner. But it can be easier for large companies to invest in security solutions than it is for small companies. How is customs working with small importers to ensure that their shipments are not unnecessarily penalized or disadvantaged (i.e., targeted more than other importers of similar products) due to their small size and resources?

I am told that CBP has worked with the industry partners to develop the minimum security criteria. Developing the supply chain minimum standards while maintaining flexibility has been critical to the C-TPAT strategy since "one size does not fit all". CBP continually works with companies of all sizes and recognizes the uniqueness of each one. C-TPAT remains committed to working alongside each one to help design the security measures necessary to address the risk, exceed minimum security standards and thus enable the Importer to achieve Tier Three standing and receive the greatest benefits afforded by CBP. CBP has developed a Best Practice Catalog, which recognizes the diverse sizes and financial abilities of its membership, and attempts to provide examples of not only advance security technologies but of lower costs security practices as well, both of which may help achieve the same security goal. The company's security is evaluated as appropriate for their size within the minimum-security criteria.

12. Does CBP have any plans to change the Import Specialist staffing model, and/or job description and/or job duties?

I know that CBP utilizes the exceptional skills and expertise of Import Specialists to maximize the highest levels of trade compliance with laws governing importations into the U.S., while fostering the flow of lawful international trade and enhancing homeland security. I also understand that the work of Import Specialists is linked to many phases of the mission of Customs and Border Protection at the ports of entry. Their history and

past practices make Import Specialists technically proficient in identifying anomalies that might also be of concern in CBP's anti-terrorism mission. The knowledge and expertise import specialists employ traditionally to detect commercial fraud and revenue related concerns, is also being considered for appropriate application for other violations now facing CBP in its AT mission in areas such as dual use commodities or proceeds of fraud that could be used to finance terrorist activity. I look forward to studying this more to determine if this is an appropriate expectation and one that does not detract from their essential traditional mission of protecting the revenue and economy of the United States.

I am told that in support of optimal utilization of import specialists and as technological enhancements emerge, CBP has been analyzing and examining its trade operations in order to continue to enhance the efficiency and effectiveness of its workforce. This is the prudent thing to do and is an act of good government. Towards that end, CBP has apparently been in the process of evaluating the current functions of Import Specialists and the potential for enhancing the roles that Import Specialists may perform in the future.

In terms of status, I am told any proposed changes are still in the internal review process in CBP. If confirmed, I will certainly review such plans and work to ensure they are consistent with the Homeland Security Act of 2002.

13. With the introduction of the STOP! Initiative, the administration has recognized the importance to the U.S. economy of protecting Intellectual Property Rights (IPR). However, there has also been a post-9/11 decrease in Customs IPR staff at ports around the United States. What will you do to re-emphasize CBP's focus and resources on the detection and enforcement of IPR?

First, let me assure you I appreciate the importance of intellectual property rights protection and CBP's critical role in that. If confirmed I will reinforce this importance. I know that CBP already works closely with rights holders themselves to ensure that CBP officers are properly trained and can spot violations. In addition, each CBP priority trade issue, which includes intellectual property rights, has its own results-oriented strategy with measurable objectives. These objectives include continual improvements to target efficiency and performing IPR audits. Lastly, I know CBP works closely with its international partners in the fight against counterfeit and pirated goods, which CBP pursues through the World Customs Organization, the G8, and the European Union. These cooperative efforts include sharing best practices for IPR enforcement, exchanging information on emerging threats and risks, and developing joint initiatives to combat the importation of infringing goods and we must build further upon them.

14. In the past few years, the number of recordations of copyright and trademark registrations with Customs have increased dramatically. Has there been a corresponding increase in the resources or assignment of the IPR branch in Washington?

I was made aware that the number of copyright and trademark recordations with CBP have increased dramatically. I know CBP has made process improvements within the IPR Branch to better utilize existing resources to meet increasing demands. For example, the IPR Branch has instituted the

new Intellectual Property Rights e-Recordation ("IPRR") system. IPRR is an online application tool for trademark and copyright owners to record their rights with CBP. The web-based system allows rights holders to apply for recordation and pay recordation fees electronically. The system also allows CBP to approve the applications electronically, thereby reducing paperwork. If confirmed, I would plan to review the adequacy of the staffing and resources of all offices supporting CBP's efforts to enforce protection of intellectual property rights at our borders.

15. The importance of dealing with in-bond/in-transit shipments has been emphasized by the U.S. government in its efforts to improve international IPR enforcement by foreign customs agencies. What emphasis does CBP place on dealing with that issue in U.S. ports, as a means of preventing the re-exportation and trans-shipment of counterfeit and piratical goods from the U.S. to foreign countries?

I think CBP's approach on treatment of in-bond shipments is the right one. At U.S. ports, in-bond shipments of counterfeit and pirated goods are treated as imports, which prevents re-exportation and stops transshipment of these goods to other countries. In dealing with these shipments, CBP's officers enforce the same laws against counterfeiting and piracy as they do in dealing with goods entering the commerce of the United States. Imported counterfeit and pirated works, which include in-bond shipments, are seized by CBP's officers, forfeited to the government, and usually destroyed. I would continue this approach.

16. How much emphasis does CBP place on initiating IPR investigations, whether as a result of internally-generated or industry-provided intelligence on possible IPR violations? Please quantify.

CBP's priority mission is securing U.S. borders from terrorists and terrorist weapons while facilitating legitimate trade and travel. CBP's challenge is to protect and enforce IPR while performing its security mission.

The Administration's Strategy Targeting Organized Piracy (STOP!) is a multi-agency effort to improve protection and enforcement of intellectual property rights. As the primary U.S. border enforcement agency, CBP is a key player in STOP!, working to stop counterfeiters and pirates from bringing fake goods across U.S. borders. In fiscal year 2005, CBP and U.S. Immigration and Customs Enforcement, the agency responsible for criminal investigations into counterfeiting and piracy at the border, seized over 8,000 shipments of counterfeit and pirated goods, an increase of almost 125% in the last five years. These seizures resulted from both internally generated and industry-provided intelligence.

Under STOP, I know CBP has begun implementing a new risk assessment model that uses several sources of data, including this historical seizure information, to target high-risk shipments while facilitating the flow of legitimate goods. CBP is issuing penalties on imports of counterfeit goods uncovered during IPR audits, and is working with businesses to develop internal control systems to prevent imports of counterfeit and pirated goods. CBP must work closely with and rely upon ICE to ensure that investigations are initiated to follow

up on these CBP efforts. If confirmed, I will do my utmost to further foster cooperation with ICE to ensure that these investigations go forward.

17. I understand that Customs is now proposing to revise the drawback program, seeking to automate the process of calculating a refund. Some are worried that they could lose drawback duties owed to them if they cannot take their claim to a Customs Duty Drawback Specialist. I would be very concerned if refunds were denied to those who deserve them due to Customs not being able to calculate the drawback accurately. Please elaborate on the advantages and disadvantages of this proposed system. Can you assure me that the accurate calculation of drawback for all goods will be possible under this new system?

I am not aware of the details of the drawback issue or any such proposal. I am told that CBP and members of the importing community have been working together over the past three years through the Trade Support Network, the public-private partnership group that coordinates requirements for the Automated Commercial Environment (ACE), to simplify the drawback statute and align it with the laws applicable to imports. If confirmed I will look into the drawback changes proposed and the relative advantages and disadvantages and the calculation accuracy issues.

18. I understand that Customs has yet to promulgate a final rule concerning the importation of copyright materials. A draft regulation that would modify the current regime to provide greater flexibility in the recordation of certain categories of copyright materials – in particular sound recording and audio-visual works. I understand that current regulations establish recordation procedures that are not conducive to establishing effective and timely controls against the importation of pirate sound recordings and audio-visual works, and that the new regulation would address this. Achieving strong protection at our borders against the importation of piratical goods is obviously critical. Can you please advise the Committee when we are likely to see the final regulation?

I agree that providing a better method of recording and protecting copyrights is extremely critical. I believe that concern is precisely why CBP undertook the task of revising the copyright regulations in an effort to streamline the recordation of sound recordings and audio-visual works, among other things. As I understand it CBP even proposes to allow for protection of a copyright in instances where the underlying registration is still pending at the Copyright Office. I am told the regulatory package is in the final part of the clearance process and that CBP expects – barring any major changes by DHS or Treasury – that the final rule on recordation will be published in the Federal Register within the next three to four months.

19 I was troubled to see the front page of USA Today earlier this year which had the headline “Fewer Terror Assets Frozen.” As you know, the Senate Finance Committee has raised questions about the anti-terrorism financing effort by the administration.

The story quotes Jimmy Gurule, a former Treasury Department undersecretary for enforcement, saying there is a “lack of urgency” in the anti-terrorism financing

effort. He notes that after 9/11 \$68 million in terrorist assets were frozen over the course of 4 months. Yet the total amount frozen for 2005 was only \$4.9 million.

I continue to worry about who in this administration is leading the anti-terrorism financing effort. At one point it was led by the Treasury Department, but now it appears that the National Security Council is in the lead. Many question whether the NSC is really coordinating the effort in an effective way. Finally, we are concerned about whether the Administration has the resources it needs to track down terrorist funds.

You have unique perspective as Director of the U.S. Secret Service – a key asset in the anti-terrorism financing effort. Please give me your view of how effective the Secret Service has been in this effort, how would you use U.S. Customs personnel to shut down terrorist financing, and give me your judgment on whether the administration has been successful in coordinating the nineteen agencies and departments that work on terrorism financing?

The United States Secret Service, in its role supporting the FBI and Department of Treasury has been effective and I think we have appropriate resources necessary. I would note that from my perspective as Director of Secret Service that the FBI is the lead investigative agency on terrorist financing, and that Secret Service and other government law enforcement entities like ICE and CBP coordinate and support their investigative efforts directly with the FBI and through the Joint Terrorism Task Force (JTTF). Nonetheless, the Secret Service has been a key contributor to some of the successes in this area. I cannot really comment on whether government wide the appropriate level of resources have been devoted to this nor about your point on Treasury or NSC being the overall lead since from my perspective they have different but complimentary roles.

In broad terms, since September 11th, I believe the U.S. Government wide effort on terrorist financing has achieved unprecedented results and coordination in this area that represents a significant change from the pre-9/11 focus and activities. Can we always do better in terms of results and coordination, and should we always strive for that? Absolutely and you are right to ask these questions and want answers. But, with respect to the premise of the article mentioned, as in other law enforcement and investigative areas I also think we should be careful not to let the early successes overshadow the ongoing efforts and look exclusively at comparing amounts of assets frozen then and now as the sole measure of progress. It is natural that in light of early success against some bigger identified terrorist financing networks, and with an adaptive enemy, that we are now dealing with smaller, harder to find targets using new tactics -- and the amount of frozen assets will reflect that. But I believe the goal is not frozen assets but disruption of terrorist financing and rendering the enemy less effective, and I have no doubt we have done that. If confirmed, I will ensure that CBP is doing all it can to support operations and intelligence gathering aimed at shutting down terrorist financing and that our efforts are coordinated with other government entities including ICE and the FBI.

20: I am concerned that the states on the northern border do not get the resources they need to secure the border. Montana has a more than 500-mile long border with Canada, much which is difficult to patrol. Would-be terrorists, human smugglers and drug runners know this, and they know that the United States turns most of its attention to the Southern border. Montana needs the right

combination of technology, equipment and personnel to effectively protect against these threats. Please indicate how Montana's Border Patrol staffing levels have changed over the past 5 years. While I understand that law enforcement data can be sensitive, I would like to at least know the percent change from year to year. I also would like your assurance that Montana will get the air assets it needs, including for the Border Patrol and for the planned air base I have worked hard to bring to Montana. I tried to stand up that base nearly two years ago, because I thought we couldn't afford to wait. Can I have your assurance that you and your staff will work with me to ensure Montana has the resources it needs?

I appreciate your question Senator, and while the Southwest Border gets a lot of attention I realize that the northern border is a significant vulnerability and so does CBP. The U.S.–Canada border consists of approximately 4,000 – 5,000 miles of border, much of which is water boundary and includes the Great Lakes area and surrounding waterways. Over ninety percent of Canada's population lives within one hundred miles of the U.S.–Canada border. The U.S. and Canada enjoy an extremely cooperative relationship. However, intelligence indicates that there are some individuals and organizations in Canada, residing near the border, that represent a possible risk to U.S. national security. In addition, there are well-organized smuggling organizations on the northern border, which can potentially support the movement of terrorists and their weapons. These facts do require that the strategy deployed on the northern border be, to some extent, different from the strategy deployed on the southern border.

The number of actual illegal border crossings along the U.S.–Canada border is small in comparison to the daily illegal border crossings on the southern border. However, in light of the threats identified above, Border Patrol resources on the northern border have been significantly increased since 9/11. The agent staffing on the northern border has increased from 340 agents prior to 9/11 to a current force of 960 agents. The number of agents assigned to stations in the state of Montana has increased from 31 prior to 9/11 to a current force of 101 agents, triple the number prior to 9/11.

To further identify specific northern border threats, the Border Patrol has fortified its partnerships with Canadian law enforcement and intelligence officials, and with officials from other federal, state, local, and tribal organizations by leveraging information and increasing communication and cooperation. These partnerships include the Integrated Border Enforcement, Maritime, and Intelligence Teams, which the Border Patrol will continue to strengthen under its National Strategy. However, even with these efforts and personnel increases I understand that Border Patrol's ability to detect, respond to, and interdict illegal crossings on the northern border remains limited. To counteract this, the testing, acquisition, and deployment of sensing and monitoring platforms continues, now as part of the Department's Secure Border Initiative and this will be instrumental to the CBP's ability to successfully address the northern border threat situation. I know that CBP is already committed to the deployment of the right combination of technology, infrastructure, equipment and personnel to protect against possible threats along the northern border, and so am I.

I am told that in FY 2003 CBP Office of Air and Marine (formerly AMO) received congressional authorization and funding to open the first of five Northern border air wing locations. The five proposed locations were strategically placed along the Northern border in areas designed to provide for a one hour minimum response time to a border penetration. These five proposed locations are Plattsburgh, New York, Detroit, Michigan, Grand Forks, North Dakota, Great Falls, Montana and Bellingham, Washington. Bellingham was the first to be opened on August 20, 2004, followed by Plattsburgh 18 days later on October 8, 2004.

I understand that the FY 2006 appropriation provided over \$17 million (including \$5.5 million for salaries and expenses) to CBP to stand-up the Montana air wing. I am informed that efforts are underway to secure hangar and maintenance facilities, relocate needed air assets, and reassign or hire the required personnel. And CBP plans site activation of the air wing in Great Falls by the end of this fiscal year.

If confirmed, I look forward to working with you, the Committee, and the Congress on these Northern Border Air Wing issues and deployments. In the interim, I understand that General Michael Kostelnik, the Assistant Commissioner in charge of CBP's air program is aware of your questions, and I feel certain he will be available to provide you and your staff a more complete status briefing.

From Senator Schumer:

1. Last week, I introduced S.5069, a bill that would require the Department of Homeland Security to comply with Section 412 (b) of the Homeland Security Act (P.L. 107-296), that states that the Homeland Security Secretary may not "reduce the staffing level, or reduce the resources attributable" to trade enforcement functions performed by the former Customs Service, now Customs and Border Protection (CBP). When CBP was created, it was given a dual mission of not only safeguarding our nation's borders and ports from terrorist attacks, but also the mission of regulating and facilitating international trade, collecting import duties, and enforcing U.S. trade laws. In 2005, CBP processed 29 million trade entries and collected \$31.4 billion in revenue. It has come to my attention that DHS is non-compliant with Section 412(b) of the Homeland Security Act. According to then-CBP Commissioner Bonner in a June 16, 2005 letter to Congress, CBP employed 1,080 non-supervisory import specialists in FY 2001 and 948 as of March 2005. CBP's most recent data shows 892 full time, plus 21 part time Import Specialists—913 total employed by CBP.

Mr. Basham, I'd like to know what does the CBP's Import Specialist staff shortage means in terms of revenue loss to the U.S. Treasury? And second, I'd like to know if CBP plans to become compliant with Section 412 (b) and what is its timeline to become compliant?

I don't think the current staffing level of Import Specialists negatively impacts CBP's revenue collection responsibilities. I believe CBP collected a record

amount in fees, duties, and tariffs in 2005 – a 10% increase over 2004. CBP has directed its trade staff to focus on the highest areas of revenue risk, including antidumping and textiles. These two issues far and away represent the greatest potential for loss in revenue collection. CBP has developed comprehensive strategies specifically to address the antidumping and textile risk areas and how CBP can maximize revenue collection. By focusing on these and other critical areas rather than devoting staff to issues with little revenue or enforcement concern, CBP is best able to leverage its trade resources. If confirmed I intend to review the overall resources devoted to trade functions to ensure they are appropriate and the agency is in compliance with the law. I know that CBP remains committed to the critical trade functions that it performs and I intend to maintain that strong commitment. But I also understand that improvements in automation systems have allowed CBP to maintain or increase its overall level of effectiveness, therefore I may want to continue discussions with you and the Committee as to whether a statutory floor on numbers of personnel in a particular job series is the best measure of the agency's overall effectiveness.

2. It has come to my attention that Acting Commissioner Spero is in the process of reviewing the Import Specialist Redesign Model. It is my understanding this Import Specialist Redesign Model proposes to change the day-to-day operations of Import Specialists by migrating the physical verification of cargo from CBPOs to import specialists. As part of this redesign process, Human Resources personnel will be at the Port of Los Angeles and Long Beach next week on April 14 to interview certain personnel regarding the import specialist job description. In my oversight of port security, I know that there is a staff shortage of frontline armed, uniformed Customs and Border Protection Officers (CBPOs) at the ports of entry. Is CBP contemplating transferring some of the CBPO's inspection duties to non-security, commercial operations Import Specialists?

What is the timeline for CBP's development of the Import Specialist Redesign Model? As the CBP Commissioner, how will you ensure that this redesign plan is in compliance with Section 412 (b) of the Homeland Security Act that prohibits the Secretary from consolidating, discontinuing or diminishing trade functions or reducing the staffing level, or resources attributable to such function?

I know that CBP utilizes the exceptional skills and expertise of Import Specialists to maximize the highest levels of trade compliance with laws governing importations into the U.S., while fostering the flow of lawful international trade and enhancing homeland security. I also understand that the work of Import Specialists is linked to many phases of the mission of Customs and Border Protection at the ports of entry. Their history and past practices make Import Specialists technically proficient in identifying anomalies that might also be of concern in CBP's anti-terrorism mission. The knowledge and expertise import specialists employ traditionally to detect commercial fraud and revenue related concerns, is also being considered for appropriate application for other violations now facing CBP in its AT mission in areas such as dual use commodities or proceeds of fraud that could be used to finance terrorist activity. I look forward to studying this more to determine if this is an appropriate expectation and one that does not detract from their essential traditional mission of protecting the revenue and economy of the United States.

I am told that in support of optimal utilization of import specialists and as technological enhancements emerge, CBP has been analyzing and examining its trade operations in order to continue to enhance the efficiency and effectiveness of its workforce. This is the prudent thing to do and is an act of good government. Towards that end, CBP has apparently been in the process of evaluating the current functions of Import Specialists and the potential for enhancing the roles that Import Specialists may perform in the future.

In terms of status, I am told any proposed changes are still in the internal review process in CBP. If confirmed, I will certainly review such plans and work to ensure they are consistent with the Homeland Security Act of 2002.

3: The President's FY 2007 budget request for salaries and expenses for Border Security, Inspection and Trade Facilitation at the 317 Ports of Entry (POEs) includes an increase of \$32million, or enough to pay for 21 full-time equivalent positions. According to the GAO, as of June 2003, CBP has not increased staffing levels at the POEs and CBP does not systematically assess the number of staff required to accomplish its mission at ports and airports nationwide, and they do not plan to do so given the budget climate.

With international travel and trade growing dramatically every year since 9/11, how can CBP adequately fulfill its dual national security and trade facilitation mission with no increase in staff resources since 2003 at the ports of entry? How is congress supposed to perform its authorization, oversight and appropriations functions if CBP does not identify optimal staffing levels or assess overall staffing needs at ports and airports?

Customs and Border Protection monitors and tracks the ever-evolving staffing needs at our nation's ports of entry and facilities to ensure there are sufficient resources to accomplish its mission. Since the inception of CBP in 2003, Officer staffing levels have increased by approximately nine percent. In addition, separations and attrition have been continually back-filled to keep a steady workforce.

On a quarterly basis, the Office of Field Operations (OFO) in charge of all ports of entry, already solicits quarterly submissions from each field office to ensure Officer resources are being allocated to the right locations. Analysis of the needs encompasses workload, complexity and risk along with insight from local management. This gives all field offices an opportunity to give headquarters feedback on additional resource needs that may not be known. These submissions are compiled into a database for future allocations. If confirmed I will make sure we have the best models and information available to make allocation decisions for existing resources and requests for additional resources as needed – but management flexibility is key.



Committee On Finance

Max Baucus, Ranking Member

NEWS RELEASE

<http://finance.senate.gov>

For Immediate Release
Wednesday, April 5, 2006

Contact: Carol Guthrie
202-224-4515

**Opening Statement of U.S. Senator Max Baucus (D-Mont.)
Nomination of Mr. Ralph Basham
Hearing Before the Senate Finance Committee**

Welcome to the Finance Committee, Director Basham. You have a long and distinguished career in public service, and you have served your country admirably.

If you are confirmed by the Senate to be the Commissioner of Customs and Border Protection, we will be working very closely together, particularly as this Committee prepares to consider Customs reauthorization legislation this spring.

When the Department of Homeland Security was created nearly four years ago, Customs' primary focus was on trade facilitation and compliance. After Congress folded Customs into the new Bureau of Customs and Border Protection, the Commissioner of CBP took on a dual mission – facilitating legitimate trade while also securing our borders.

Though CBP moved into the new Department of Homeland Security, the Finance Committee retained oversight over the revenue, commercial and trade facilitation functions of CBP.

Finance has always had jurisdiction over Customs, since the First Congress authorized the collection of duties on imported goods more than two hundred years ago. In those early years, duties were the primary source of government revenue.

Customs was created literally to stand at the border and collect revenues for the U.S. Treasury. And Customs was placed under the jurisdiction of the Senate Committee responsible for raising money for the government – the Finance Committee.

Over the years, we have turned to other sources of government revenue and lowered our tariffs to an average duty of just four percent. But jurisdiction over international trade and Customs has remained firmly with the Finance Committee.

--2 more--

In response to the horrific events on September 11, the United States has taken a variety of measures to increase the security of the cargo coming into our country. The responsibility for implementing many of these measures fell to CBP.

That leaves in the hands of the Commissioner of CBP a difficult task.

The Commissioner must discharge Customs' historic responsibility to facilitate the smooth flow of international commerce, which drives our economic growth. But at the same time, the Commissioner at the same time must also ensure the safety of the cargo that arrives on American shores.

This is a difficult balancing act. The two interests are inherently in tension.

My number one concern, Director Basham, is that the Commissioner of CBP knows how to strike that balance without sacrificing either interest.

The easiest thing to do to make certain that no dangerous cargo arrives in the United States is to ban all imports. But that, of course, would be disastrous to our economy.

Fifty years ago, trade accounted for about one tenth of our economic growth; today, it accounts for one quarter. Trade has pumped over one trillion dollars into our economy, and the equivalent of \$10,000 for every American household.

Consider also, for a moment, the astonishing trend in containerized trade. Last year, more than 11 million containers came into the United States.

This year we expect nearly ten percent more containers. And by the year 2010, container traffic into the United States is expected to double.

Are we prepared to manage that increase in trade? How can we secure the increased flow of cargo coming into the United States without bringing trade to a grinding halt? Do we have the means – do we have the resilience – to keep the trade flowing when any one box among millions could be deadly?

I asked these questions at a forum I convened on Monday on International Trade and Security. I learned that any container can be a Trojan horse.

I learned that it is impossible know what is inside the tens of millions of boxes arriving in ports around the world every day, without having a layered approach to cargo security. A layered approach has to involve people, technology, intelligence, and, most critically, partnering with the private stakeholders who move the cargo.

--1 more--

I respect you, Director Basham. You are obviously an accomplished, intelligent man, entrusted with the enormous responsibility of protecting the President of the United States.

I, for one, feel safer just being in the room with you.

But I am concerned that your long and distinguished career in federal law enforcement may affect your instincts in striking the delicate balance between trade and security.

As Commissioner, your job would be to speed the tens of thousands of boxes arriving into the United States every day through to their final destination while ensuring that no Trojan horse ever does. Just-in-time supply chains drive the global economy. Customs must be very quick, but it must not be hasty.

What I am hoping to hear from you today is why you are the nominee who can thread this needle. We cannot afford to have the system of global trade shut down because we were not prepared, or because we did not strike the right balance.

I look forward to hearing from you.

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U.S. SENATE COMMITTEE ON

Finance

SENATOR CHUCK GRASSLEY, OF IOWA - CHAIRMAN

<http://finance.senate.gov>

Opening Statement of Sen. Chuck Grassley
Chairman of the Committee on Finance
Nominations Hearing
Wednesday, April 5, 2006

It's my pleasure to welcome Ralph Basham to the Finance Committee today. We're here to consider the President's nomination of Director Basham to be Commissioner of Customs in the Department of Homeland Security. I want to congratulate the nominee and welcome his wife, Judy, and the rest of his family and friends who are present here today. Please take a moment to introduce everyone who's here with you, Director Basham.

The President has nominated an outstanding individual to be Commissioner of Customs. Ralph Basham is currently Director of the Secret Service and is a 29 year veteran of the Secret Service. He's also served as Chief of Staff for the Transportation Security Administration and as Director of the Law Enforcement Training Center in Glynco, Georgia. The breadth of his experiences will be an important asset as he assumes his new responsibilities.

Today's hearing continues 190 years of oversight by the Finance Committee over U.S. customs. As a result of the Homeland Security Act of 2002, the Department of Homeland Security exercises certain customs authorities by delegation from the Department of the Treasury. This committee retains jurisdiction over the customs revenue and commercial functions exercised by the Department of Homeland Security.

The Commissioner of Customs serves in a critical and demanding role. The Commissioner of Customs must ensure that the dual demands of securing our borders and facilitating the smooth flow of international trade are each fully met. And those demands must be balanced. We could require 100 percent physical inspection of all cargo entering the United States. But that would likely reduce trade to a crawl and adversely impact our economy. So maintaining a proper balance between trade security and trade facilitation means putting in place the most appropriate data collection systems we can. Data collection lies at the heart of the customs commercial function. It's the currency by which goods are allowed to enter our country.

As well, our security depends upon the output of our data collection systems. So our security is a direct function of the reliability of the data that's being collected. I'm concerned that in our zeal to collect import data we're not doing enough to ensure the integrity of that data. I intend to explore my concerns further as this committee prepares to reauthorize the customs functions exercised by the Department of Homeland Security. I look forward to working together with my colleagues and the nominee as that effort progresses.

More broadly, the Commissioner of Customs heads a bureau of over 40,000 employees.

Those government employees are on the front line for enforcing laws related to over 40 agencies. At the same time, they process \$1.7 trillion worth of imports and collect about \$28 billion in duties and fees. This trade is critical to our economy. For example, the 10-day strike at the port of Long Beach a few years ago is estimated to have cost our economy between \$1 billion to \$2 billion each day. That illustrates why maintaining the proper balance between trade security and trade facilitation is so important. And that's why this committee's oversight of that balance is such a priority.

I also want to touch upon the recent transaction involving Dubai Ports World. I remain concerned that the transaction wasn't properly vetted. Going forward, I want to ensure that the right questions are asked and answered if a similar transaction is submitted for review by the Committee on Foreign Investments in the United States. I understand that it's the Assistant Secretary for Policy who takes the lead for the Department of Homeland Security in those reviews. Regardless, I think it's up to the Commissioner of Customs to ask the right questions and insist on answers if another transaction involving U.S. ports comes up in the future. I'll return to this last point in my questioning. Thank you again for being here today, Director Basham. I hope your nomination moves through the Senate quickly.

**Senator Olympia J. Snowe
Senate Finance Committee
The Nomination of Mr. W. Ralph Basham
to be
Commissioner, Bureau of Customs and Border Protection
April 6, 2006**

Opening Statement

Good morning and thank you, Mr. Chairman, for holding this hearing to discuss the nomination of Mr. W. Ralph Basham to be the Commissioner of the Bureau of Customs in the Department of Homeland Security. Mr. Basham has a long and distinguished career in the service of our Nation. Thank you, Mr. Basham, for your service, and congratulations on your nomination.

As it performs its official missions, CBP maintains two overarching and sometimes conflicting goals: increasing security, while facilitating legitimate trade and travel. It is the second issue of enforcing our trade laws that I would like to focus on this morning, because of the ramifications it has for the businesses, large and small, that are the engine of America's economy.

I have grave concerns about the current international trade environment and its effects on our domestic economy. With the United States involved in an unprecedented number of free trade negotiations, finding itself progressing slower than expected on the WTO's Doha Round and under threat from nations who do not abide by their trade commitments, we must continue to assist producers under threat from foreign competition, while also working harder than ever to assist U.S. industries in being more competitive.

Mr. Chairman, our Nation's 25 million small businesses and small manufacturers have revitalized our economy, yet continue to suffer from unfair trade practices. The U.S. must seek potential trading partners in a manner that serves our foreign and economic policy interests and then hold them to the commitments they make. Our government must be committed to upholding our trade laws to ensure that jobs are added to our economy and businesses are not forced to cut back or outsource valuable American jobs.

I look forward to hearing from our witness today regarding his ideas on how we can more effectively enforce the trade legislation that is designed to help American business be competitive against those nations who subsidize their products.

Finally, we are presently engaged in a vital debate about the reform of immigration laws in this country. There can be no doubt that the securing of our borders

must be the focus of this debate. One of the issues we face, that has received little fanfare during this discussion, is the implementation of the Western Hemisphere Travel Initiative. While, conceptually, it is a positive approach to hardening our borders by reducing the number of acceptable pieces of documentation to enter this country, including birth certificates and driver's licenses, from the thousands to a manageable number, we must also be certain it is not too heavy-handed and potentially harmful to the cross-border economy shared with our northern neighbors.

In my home State of Maine many families are comprised of U.S. citizens and legally entered and documented Canadian citizens. With literally thousands of families in this category in Maine alone, a visit to Canada is a weekly occurrence for many. These visits by Mainers into Canada are made for endless reasons: Sunday dinners with grandparents, church services, weddings, funerals, and medical emergencies. In fact, 85 percent of northern cross-border traffic is non-commercial in nature.

I am deeply concerned about the implementation of the Western Hemisphere Travel Initiative and its impact on this very essential shared connection with Canada. Just last year, President Bush declared that the Travel Initiative would "disrupt the honest flow of traffic" and declared that "there must be a better way." I agree. The current prohibitive costs of purchasing passports for families, the complications of obtaining passports for children under the age of 14 who require both parents to sign passport applications, and the emergency situations that arise with family issues which require expedited fees are all issues that affect the day-to-day lives of those along our northern border. The Dorgan amendment seeks to address these burdensome and negative impacts of the Initiative.

That is why I have joined with my colleagues, Senator Dorgan and Senator Burns, to allow for the purchase of a simple pass that will cost no more than \$20 for 10 years and will exempt the requirement to have a pass for minors in the company of adults. Such alterations will allow families to continue to share experiences with relatives on either side of the border, without imposing a litany of additional costs and hassles to law-abiding citizens who are simply continuing the sort of daily routines that we all take for granted.

I look forward to hearing from you, Mr. Basham, about your plans to approach the difficult task of securing our borders and enforcing our trade laws with a common-sense approach that does not penalize those law-abiding citizens who live along our border.

Thank you.

COMMUNICATION

**NATIONAL ASSOCIATION OF
FOREIGN-TRADE ZONES**



April 3, 2006

The Honorable Charles Grassley, Chairman
Committee on Finance

The Honorable Max Baucus, Ranking Member
Committee on Finance

U.S. Senate
219 Dirksen Senate Office Building
Washington DC 20510

Dear Mr. Chairman and Ranking Member:

On behalf of the National Association of Foreign Trade Zones (NAFTZ), I write to offer comments as you consider the nomination of Mr. W. Ralph Basham to be Commissioner of Customs and Border Protection, U.S. Department of Homeland Security.

The NAFTZ is a non-profit trade association representing over 800 members comprised of state and local government agencies, public entities, corporations and individuals involved in the Foreign-Trade Zones program. The NAFTZ plays an important role in facilitating international trade and US competitiveness through the promotion and support of the Foreign-Trade Zones program.

Foreign-Trade Zones (FTZs) were created in the United States to promote economic development by placing U.S.-based companies on a more level playing field with foreign competitors. The FTZ program results in a significant public benefit and a positive economic effect measured by U.S. jobs, investment and exports.

The combined value of shipments into U.S. foreign trade zones (both general-purpose zones and subzones) totaled \$298 billion in FY '04. This volume of activity represents a 21.6% increase over the \$245 billion in zone receipts reported by the Foreign-Trade Zones Board for FY '03. In addition, in FY '04 the jobs of 328,015 persons were directly associated with zone activities. Furthermore, there were 2,531 firms actively engaged in zone activities in during FY '04. This figure represents an increase of 10% over the number of actively engaged firms (2,298) reported for FY '03.

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In order to preserve the important economic benefits that are generated by use of the FTZ program through U.S.-based companies' participation in international trade, the NAFTAZ encourages the government to continue to maintain the critical balance between security and enforcement activities and trade facilitation of legitimate cargo moving to and from the United States. Policies, procedures and funding for Customs and Border Protection trade functions must be prioritized equally with investments and improvements for security and enforcement functions. This recognition and support for the dual mandate of Customs must be integrated into Customs leadership from the top down with equal zeal and enthusiasm.

In June 2004, Commissioner Robert Bonner, in testimony before the Subcommittee on Trade of the House Committee on Ways and Means stated, "The priority mission of CBP is to prevent terrorists and terrorist weapons from entering the United States, while at the same time allowing the expeditious flow of legitimate trade. We must do this while continuing to perform our traditional missions well. These missions include [...] regulating and facilitating international trade, collecting import duties, and enforcing U.S. trade laws." He continued, stating "In other words, we have 'twin goals': Building more secure and more efficient borders."

Commissioner Bonner's statements correctly reflect the mission of Customs and Border Protection -- anti-terrorism and facilitating legitimate trade and travel. We recognize and support Customs and Border Protection's vitally important mission in the protection of America as including the protection of our economy, which is heavily reliant on trade.

The FTZ program is founded upon principles of public-private partnership between local, state and federal public entities and the private companies that generate economic development in FTZs. FTZ operators and users voluntarily undertake heightened security measures to protect merchandise as well as the national interest. The FTZ program facilitates transparency in the movement of goods and provides Customs the opportunity to exercise a higher degree of knowledge and oversight over shipments as compared to normal imports. This partnership has grown naturally based on mutual benefit and connects FTZs with Customs policy initiatives at a Headquarters level, as well as locally throughout the Customs ports of entry nationwide. The FTZ program has enjoyed a high level of cooperation with Customs and Border Protection, especially over the last several years, on programs such as electronic FTZ admissions, joint CBP/FTZ training, FTZ Manual development and weekly entry. The NAFTAZ hopes that this cooperative environment will continue as it has been clearly demonstrated to benefit public and private interests

With this information in mind, the NAFTAZ urges the committee to carefully evaluate the importance of maintaining a balance between the security and trade facilitation functions of Customs as you consider new leadership for Customs and Border Protection. It is imperative that legitimate trade be allowed to proceed with appropriate but manageable restrictions by Customs and Border Protection, and that the trade communities' interests are not relegated to a second-class position in relation to anti-terrorism, security and law enforcement. Please keep these matters foremost in your deliberations understanding the important role trade plays in protecting our national economy.

Thank you for your consideration and the opportunity to offer comments. Please contact us if you have any questions regarding these comments or the NAFTAZ.

Sincerely,



Ray Shaw
President