

LOOKING NORTH: ASSESSING THE CURRENT THREAT AT THE U.S.-CANADA BORDER

HEARING
BEFORE THE
SUBCOMMITTEE ON
BORDER AND
MARITIME SECURITY
OF THE
COMMITTEE ON HOMELAND SECURITY
HOUSE OF REPRESENTATIVES
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CONTENTS

	Page
STATEMENTS	
The Honorable Martha McSally, a Representative in Congress From the State of Arizona, and Chairwoman, Subcommittee on Border and Maritime Security:	
Oral Statement	1
Prepared Statement	3
The Honorable Filemon Vela, a Representative in Congress From the State of Texas, and Ranking Member, Subcommittee on Border and Maritime Security	4
WITNESSES	
Mr. Michael Dougherty, Assistant Secretary for Border, Immigration, and Trade Policy, Office of Strategy, Policy, and Plans, U.S. Department of Homeland Security:	
Oral Statement	6
Joint Prepared Statement	7
Mr. Scott A. Luck, Acting Deputy Chief, U.S. Border Patrol, U.S. Department of Homeland Security:	
Oral Statement	12
Joint Prepared Statement	7
Mr. Kevin Kelly, Special Agent in Charge, U.S. Immigration and Customs Enforcement, U.S. Department of Homeland Security:	
Oral Statement	14
Joint Prepared Statement	7
Dr. Michael Marchand, Chairman, Colville Business Council, Testifying on Behalf of National Congress of American Indians:	
Oral Statement	15
Prepared Statement	17
APPENDIX	
Questions From Ranking Member Filemon Vela for Michael Dougherty	37
Questions From Ranking Member Filemon Vela for Scott A. Luck	38
Questions From Ranking Member Filemon Vela for Kevin Kelly	41

LOOKING NORTH: ASSESSING THE CURRENT THREAT AT THE U.S.-CANADA BORDER

Tuesday, November 14, 2017

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

The subcommittee met, pursuant to notice, at 10:05 a.m., in room HVC-210, Capitol Visitor Center, Hon. Martha McSally [Chairwoman of the subcommittee] presiding.

Present: Representatives McSally, Barletta, Hurt, Vela, Correa, and Barragán.

Also present: Representatives Katko and Gallagher.

Ms. MCSALLY. The Committee on Homeland Security's Subcommittee on Border and Maritime Security will come to order.

The subcommittee is meeting today to examine the threats along our Nation's Northern Border.

First, I ask unanimous consent that the gentleman from New York, Mr. Katko, a Member of the full committee, be permitted to participate in today's subcommittee hearing.

Without objection, so ordered.

I now recognize myself for an opening statement.

When Congress talks about border security, it is usually in reference to the Southwest Border where my community is. However, we cannot ignore the threats we face along the Northern Border.

At almost 4,000 miles long, including a long, liquid border with the Great Lakes, our shared border with Canada is a situational awareness challenge that requires a much different strategy than that on the Southwest Border. To address these challenges, DHS needs to develop a coherent Northern Border strategy and implementation plan to protect our northern frontier.

Last year, Congressman John Katko led Congressional efforts to pass the Northern Border Threat Analysis Act. This legislation required DHS to focus its attention on National security threats that originate along our Northern Border. The Department finally released a threat analysis this past summer with plans to release the full strategy in January 2018, and an implementation plan to follow that shortly thereafter.

Threats identified in the Northern Border analysis include domestic Canadian terror plots and radicalized individuals attempting to enter the United States illegally. Similar to the Southern Border, transnational criminal organizations that control the bidirectional flow of illicit drugs, such as cocaine, heroin, fentanyl, ecstasy, and marijuana, also pose a threat.

Customs and Border Protection and Immigration and Customs Enforcement are the law enforcement agencies tasked with securing the border and disrupting these transnational criminal networks.

The report highlights the importance of CBP and ICE's law enforcement partnerships with our Canadian counterparts, stressing the need for close cooperation and intelligence sharing to identify, track, prevent, and eventually interdict illicit cross-border activity.

The United States has long maintained a close working relationship with the Canadian Government to fight terrorism. Recently, the Department has taken positive steps to ensure that appropriate National security watch lists, such as the no-fly and selectee lists, are shared with Canadian law enforcement and that reciprocity is in place.

The threat analysis report also identifies significant gaps in our capabilities along the Northern Border, including an insufficient amount of technology and personnel that makes achieving operational control and situational awareness nearly impossible. Personnel shortfalls are no surprise to this subcommittee. We are down almost 2,000 Border Patrol agents Nation-wide and a similar number of CBP officers. On the Northern Border, we are 10 percent below the authorized level, despite the fact that the Northern Border is twice as long.

Surveillance technology shortfalls, coupled with a less-than fully-staffed Border Patrol, leads to a lack of operational control. That is a major vulnerability at our Northern Border.

In fact, a 2010 GAO report found the level of operational control along the Northern Border was at less than 2 percent. That is unacceptable. We can only hope that in the last 7 years, operational control has improved exponentially. If not, this is a huge problem.

Let me be clear. The bidirectional flow of drugs, specifically the opioids like fentanyl and heroin, is one of the greatest threats that we face with the Northern Border. Fentanyl is now a leading cause of overdose deaths in the United States. These drugs and their precursors are being sourced from China and Mexico, and trafficked overland through our international borders and showing up in neighborhoods all over the United States.

The Drug Enforcement Agency attributes the flood of illicit substances to smuggling routes that originate in Canada and pass through the Northern Border. CBP and ICE's priority must be to shut down these illicit pathways.

Drug seizures at and between the ports of entry along the Northern Border are significantly lower than the number of ICE HSI drug seizures within the Northern Border region. The numbers just don't add up, so CBP must acquire the tools and staffing levels necessary to identify and interdict these harmful substances as they are smuggled in the legitimate traffic that crosses the border every single day. TCOs are active along the Northern Border and have the ability and resources to move these drugs southbound into the United States.

A 2015 special investigation published by the *Vancouver Sun* reported that the Hells' Angels motorcycle gang controls many of Canada's largest ports. If true, this is concerning, given the ease with which drugs can be smuggled into Canada bound for the

United States. In order to stem the flow of illicit drugs along our Northern Border, we must work with our partners to defeat these transnational criminal organizations.

While the Northern Border threat analysis is the first step in addressing the threats along the Northern Border, we expect the strategy and implementation plan to not only identify gaps, but also take concrete steps to close them.

Thanks for being here to discuss these threats that we face at our Northern Border.

[The statement of Chairwoman McSally follows:]

STATEMENT OF CHAIRWOMAN MARTHA MCSALLY

NOVEMBER 14, 2017

When Congress talks about border security, it is usually in reference to the Southwest Border. However, we cannot ignore the threats we face along the Northern Border.

At almost 4,000 miles long, and a multitude of different terrains, our shared border with Canada is a situational awareness challenge that requires a much different strategy than that of the Southwest Border.

To address these challenges, DHS needs to develop a coherent Northern Border strategy and implementation plan to protect our northern frontier.

Last year Congressman John Katko led Congressional efforts to pass the Northern Border Threat Analysis Act. This legislation required DHS to focus its attention on National security threats that originate along our Northern Border.

The Department finally released a threat analysis this past summer, with plans to release the full strategy in January 2018, and an implementation plan to follow shortly thereafter.

Threats identified in the Northern border analysis include domestic Canadian terror plots and radicalized individuals attempting to enter the United States illegally. Similar to the Southern Border, transnational criminal organizations that control the bi-directional flow of illicit drugs such as cocaine, heroin, fentanyl, ecstasy, and marijuana also pose a threat.

Customs and Border Protection and Immigration and Customs Enforcement are the law enforcement agencies tasked with securing the border and disrupting transnational criminal networks.

The report highlights the importance of CBP and ICE's law enforcement partnerships with their Canadian counterparts, stressing the need for close cooperation and intelligence sharing to identify, track, prevent, and eventually interdict illicit cross-border activity.

The United States has long maintained a close working relationship with the Canadian government to fight terrorism. Recently, the Department has taken positive steps to ensure that appropriate National security watch lists, such as the no-fly and selectee lists, are shared with Canadian law enforcement and that reciprocity is in place.

The threat analysis report also identifies significant gaps in our capabilities along the Northern Border including insufficient amount of technology, personnel that makes achieving operational control and situational awareness nearly impossible.

Personnel shortfalls are no surprise to this subcommittee. We are down almost 2,000 Border Patrol agents Nation-wide, and a similar number of CBP officers. On the Northern Border we are 10 percent below the authorized level, despite the fact that the Northern Border is twice as long.

Surveillance technology shortfalls coupled with a less-than fully-staffed Border Patrol leads to a lack of operational control that is a major vulnerability at our Northern Border. In fact, a 2010 GAO report found that the level of operational control along the Northern Border was at less than 2 percent.

This is unacceptable.

We can only hope that in the last 7 years, operational control has improved exponentially. If not, this is a huge problem.

Let me be clear, the bi-directional flow of drugs, specifically opioids like fentanyl and heroin, is the one of the greatest threats we face on the Northern Border.

Fentanyl is now the leading cause of overdose deaths in the United States. These drugs, and their precursors, are being sourced from China and Mexico, trafficked over land through our international borders and showing up in neighborhoods all over the United States.

The Drug Enforcement Agency attributes the flood of illicit substances to smuggling routes that originate in Canada and pass through the Northern Border.

CBP and ICE's priority must be to shut down these illicit pathways.

Drug seizures at and between ports of entry along the Northern Border are significantly lower than the number of ICE-HSI drug seizures within the Northern Border region. The numbers just don't add up. CBP must acquire the tools and staffing levels necessary to identify and interdict these harmful substances.

TCOs are active along our Northern Border and have the ability and resources to move these drugs southbound into the United States. Even more concerning, a 2015 Special Investigation published by the *Vancouver Sun* reported that the Hell's Angels motorcycle gang controls many of Canada's largest ports.

If true, this is concerning given the ease in which drugs can be smuggled into Canada bound for the United States.

In order to stem the flow of illicit drugs along our Northern Border, we must work with our partners to defeat transnational criminal organizations.

While the Northern Border Threat Analysis is the first step in addressing the threats along the Northern Border, we expect the strategy and implementation plan to not only identify gaps but also take concrete steps to close them.

Thank you for being here to discuss the threats we face at our Northern Border.

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

Mr. VELA. I thank the Chairwoman for holding today's hearing to examine threats along the Northern Border.

With the launch of the 2011 Beyond the Border initiative, Canada has been a critical partner in assisting the United States in stemming the flow of narcotics through our Northern Border, as well as identifying and keeping out those individuals who pose a security risk. Nonetheless, I am concerned that, over the last decade, resources have been disproportionately focused on the Southern Border at the expense of the Northern Border.

This past June, the Department of Homeland Security issued a mandated report to Congress that assessed and identified emerging threats and capability gaps in the air, land, and maritime domains along our border with Canada. The findings of this report are not unlike what we often see along the Southwest Border. While the scale of the threats is different, the nature of the threats is similar, and the capability gaps identified are concerning.

As with our Southwest Border, the flow of narcotics between and at ports of entry along our Northern Border pose a significant public safety threat to our communities. As with the Southwest Border, transnational criminal organizations move significant amounts of narcotics in commercial cargo containers through ports of entry.

I have mentioned several times in this Congress that Customs and Border Protection staffing shortfalls, such as not keeping an adequate number of CBP officers at our ports of entry or assigning less Border Patrol agents to northern sectors by a ratio of 1 to 9, exacerbate border security threats.

As characterized by this report, the lack of situational and domain awareness due to insufficient investment in technology and infrastructure on our side of the Northern Border is deeply concerning. The capability gaps identified in this DHS report would in no way be acceptable or tolerable had they been found along our Southwest Border.

Last month, this committee marked up and approved a flawed bill that would authorize billions of taxpayer dollars for a border wall along our Southwest Border. If we want DHS to continue to

build up our border security, we have a responsibility to the American taxpayer to ensure that the Department does so in a way that truly and meaningfully maximizes our ability to mitigate risk, especially those risks that are well-known and documented.

I look forward to hearing from our DHS witnesses today about the trends and threats they have seen on the ground and how we can better address and prevent the exploitation of our Northern Border by transnational criminal organizations and others who seek to do us harm.

I am pleased that we are joined today by Dr. Michael Marchand, chairman of the Colville Business Council for Confederated Tribes of the Colville Reservation. I believe that Dr. Marchand's experience and the broader Tribal perspective on challenges along our Northern Border will greatly add to our subcommittee's understanding of what our Tribal partners see as a way forward in terms of border security.

This past summer, the National Congress of American Indians held a day-long summit, and more than 70 participants attended, with representation from 19 Tribal leaders from both the United States and Canada, to discuss concerns at the United States-Canadian border. I look forward to hearing more about this summit and discussing what participants identified as challenges and potential solutions.

Again, I thank the Chairwoman for holding today's hearing to bring attention to this very important topic, and I thank all of our witnesses for joining us today.

I yield back the balance of my time.

Ms. MCSALLY. The gentleman yields back.

I ask unanimous consent the gentleman from Wisconsin, Mr. Gallagher, a Member of the full committee, be permitted to participate in today's subcommittee hearing.

Without objection, so ordered.

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

We are pleased to be joined today by four distinguished witnesses to discuss this important topic. Mr. Michael Dougherty is the assistant secretary for Border, Immigration, and Trade Policy at the Department of Homeland Security. Mr. Dougherty previously served in DHS as the Citizenship and Immigration Services ombudsman, and is a senior policy adviser for immigration with the Border and Transportation Security Directorate. Mr. Dougherty's Federal experience also includes serving as legislative counsel on the personal staff of Senator Jon Kyl—where I was a legislative fellow, by the way, on that staff—and on the staff of Subcommittee on Terrorism, Technology, and Homeland Security within the Senate Judiciary Committee.

Mr. Scott Luck is the acting deputy chief of the U.S. Border Patrol. Mr. Luck was assigned to Douglas, Arizona, in my district, for nearly 13 years before becoming the assistant patrol agent in charge at the Santa Teresa Station within the El Paso sector. In 2011, Mr. Luck returned to the El Paso sector as the chief of the operations division, and 3 years later he was named chief of the operations division for the entire U.S. Border Patrol.

Mr. Kevin Kelly is the special agent in charge of Homeland Security Investigation's Buffalo field office. He has served in Federal law enforcement for 29 years. He supervises agents across 48 counties in New York. Before his position at HSI, special agent in charge of Buffalo, Kelly served as deputy special agent in charge in both Buffalo and Newark, maintaining operational and administrative oversight of our agents and mission support staff.

Dr. Michael Marchand is the chairman of the Colville Business Council, National Congress of American Indians, and has served on the Colville Business Council for 17 years. Dr. Marchand is experienced in reservation planning, managing Tribal business projects, and community development.

The witnesses' full written statements will appear in the record.

The Chair now recognizes Mr. Dougherty for 5 minutes to testify.

STATEMENT OF MICHAEL DOUGHERTY, ASSISTANT SECRETARY FOR BORDER, IMMIGRATION, AND TRADE POLICY, OFFICE OF STRATEGY, POLICY, AND PLANS, U.S. DEPARTMENT OF HOMELAND SECURITY

Mr. DOUGHERTY. Chairwoman McSally, Ranking Member Vela, distinguished Members of the committee, and visiting Members, thank you for the opportunity to appear today to discuss the work that is being performed by the Department of Homeland Security to address current threats along the border of the U.S. and Canada.

As the subcommittee knows, the Northern Border Security Review Act of 2016 required the Department to conduct an analysis of terrorism and criminal threats along the Northern Border, to identify improvements needed along that border to prevent terrorist entry and to diminish crime, to identify gaps in law policy and coordination between governments and law enforcement agencies, and to determine whether preclearance and preinspection operations at our ports of entry can help reduce the threat of terrorism.

In response, the Department delivered the Northern Border Threat Assessment report to Congress in August 2017. It was the product of intensive and thoughtful work by numerous DHS components, including a threat assessment from our Office of Intelligence and Analysis.

In addition to data calls and a literature review, the Department conducted a workshop that gathered information in a structured way from a large number of experts, focusing on those with personal operational experience across the Northern Border in the land, sea, and maritime domains.

The report finds the primary homeland security threats on the U.S.-Canadian border are from transnational criminal organizations and unidentified home-grown violent extremists. However, encounters with individuals associated with transnational crime or terrorism remain infrequent.

Component data indicates that drug smuggling and illegal migration activities remain low along the Northern Border, especially in comparison with the Southern Border. Terrain, weather, and distance are factors that constrain illegal travel in remote areas of the border. However, it needs to be said that mountainous and heavily

forested terrain, heavy snows, and the remote nature of much of the border also pose significant operational challenges for DHS and its partner agencies.

While the Department has made strong progress in securing the border, the report's preliminary capability assessment indicates there are opportunities to enhance collaboration, information sharing, domain awareness, and port-of-entry infrastructure.

While preparing the threat assessment, DHS leadership determined that it would be valuable to update the Department's 2012 Northern Border Strategy. The updated strategy is currently being developed at DHS as a whole-of-DHS effort. It conforms to the Department's new strategic planning guidance, a robust set of standards that allow us to connect strategy development to our resource allocation process. We are on track to complete that strategy in early 2018.

There are three major focus areas for the strategy: To enhance border security operations, to facilitate and safeguard lawful trade and travel, and to promote cross-border resilience. Within each focus area, the strategy will describe prioritized activities critical to achieving our goals on the Northern Border.

Some of those goals include enhancing situational and operational awareness; improving information and intelligence sharing, both inside DHS and with our partners; modernizing our ports of entry, including the expansion of programs and technologies to facilitate rapid processing of trade and travel through the ports; enhancing cross-border response, recovery, and resilience activities and capabilities; and improving DHS's resourcing decisions based upon operational needs and projected threats.

Within 180 days of the strategy's release, an accompanying implementation plan will be developed that identifies the sequence of activities DHS will take to achieve the strategy's goals and objectives for the Northern Border.

These documents will enable DHS to conduct a formal capability assessment and requirements generation process through the Joint Requirements Council at the Department. This effort will guide the Department's approach to making cost-effective investments that will help make the U.S.-Canada border more secure. We will, of course, continue to keep Congress informed as this process moves forward.

I thank you for the opportunity to appear today, and I look forward to taking your questions.

[The joint prepared statement of Mr. Dougherty, Mr. Luck, and Mr. Kelly follows:]

JOINT PREPARED STATEMENT OF MICHAEL DOUGHERTY, SCOTT A. LUCK, AND KEVIN KELLY

NOVEMBER 14, 2017

INTRODUCTION

Chairwoman McSally, Ranking Member Vela, and distinguished Members of the subcommittee, thank you for the opportunity to appear before you today to discuss the Department of Homeland Security's (DHS) assessment of threats on the Northern Border and our efforts to ensure its security.

The U.S.-Canada border separates two friendly nations with a long history of social, cultural, and economic ties, and a high volume of cross-border trade and travel. At 5,525 miles, 1,500 of which are shared by Alaska with British Columbia and the

Yukon Territory in Canada, the border is the longest bilateral land boundary in the world. On average, more than 60 million international travelers and 27 million vehicles are processed at the more than 120 land ports of entry (POEs) and 17 ferry land crossings annually.

DHS has committed significant personnel to securing the Northern Border. More than 2,000 U.S. Border Patrol (USBP) Agents, 4,700 U.S. Customs and Border Protection (CBP) Officers, 310 Agriculture Specialists, 260 CBP Air and Marine (AMO) personnel, 1,300 U.S. Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI) Special Agents, and more than 8,000 United States Coast Guard (USCG) personnel are currently stationed at or near the U.S.-Canada border. The Department also continues to invest in force-multiplying technological capabilities on the Northern Border, including sensor networks, surveillance cameras and aircraft, and non-intrusive inspection systems.

The Department's personnel work every day with their Canadian counterparts and our State, local, Tribal, and Territorial (SLTT) partners to ensure the border is secure. We do so by deploying a multi-layered, risk-based approach to enhance the security of the Northern Border, while facilitating the lawful flow of people and goods entering the United States. This layered approach to security reduces the Department's reliance on any single point or program, and leverages close coordination with U.S. interagency partners and with our Canadian counterparts to increase the security at our mutual border. Close coordination with our partners ensures our zone of security extends outward and that our physical border with Canada is not the first or last line of defense, but one of many.

Northern Border Threat Assessment

In response to the reporting requirements set forth in the *Northern Border Security Review Act* (Pub. L. 114–267), DHS delivered a *Northern Border Threat Assessment* report to Congress in August 2017. To undertake this assessment, DHS convened a broad working group composed of representatives from DHS components with Northern Border-related operational mission responsibilities, as well as DHS support components. This working group, led by the DHS Office of Strategy, Policy, and Plans (PLCY), included representatives from the Office of Intelligence and Analysis (I&A), CBP, ICE, USCG, the Science and Technology Directorate (S&T), the Domestic Nuclear Detection Office (DNDO), the Office of the General Counsel (OGC), the Office of Partnership and Engagement (OPE), and the Office of Legislative Affairs (OLA). The Joint Requirements Council (JRC) participated as an observer.

The working group developed the assessment through four primary methodologies: A formal threat analysis developed by I&A and component intelligence elements; an open-source literature review; a component data call and interviews; and an expert workshop of Departmental subject-matter experts.

The report describes the current threat landscape on the U.S.-Canada border, analyzing National security-related and other threats across the air, land, and maritime domains. The report also provides a high-level description of DHS operational capabilities on the Northern Border, including a preliminary assessment of capability gaps and challenges in legal authorities; cross-component cooperation; coordination between SLTT law enforcement organizations; and intelligence sharing.

COUNTERTERRORISM

The *Northern Border Threat Assessment* indicates that potential terror threats at the Northern Border are primarily from potential home-grown terrorists in Canada who are not watch-listed, and who believe they can enter the United States legally at Northern Border POEs without suspicion. Watch-listed Canadians and third-country nationals who are encountered at POEs may be determined to be inadmissible and refused entry into the United States. Watch-listed U.S. citizens and U.S. Lawful Permanent Residents departing Canada may be subject to additional scrutiny at POEs before their entry into the United States. Canada has been an effective partner in working with the United States to keep foreign terrorist suspects from entering North America, especially with initiatives undertaken as part of the 2011 *U.S.-Canada Beyond the Border* initiative.

Most watch-list encounters on the Northern Border occur at air and land POEs. Apprehensions of individuals entering the United States from Canada between POEs (present without admission from Canada, or PWA-CAN) fluctuate year-to-year, but represent a very small fraction of overall apprehensions in Northern Border sectors. Of the 2,283 individuals apprehended by the USBP in Northern Border sectors in fiscal year 2016, only 558 were PWA-CAN, with most of the remainder having crossed into the United States across the Southern Border with Mexico. Apprehensions of migrants from countries affected by terrorism or conflict who illegally cross the border from Canada to the United States are very rare.

The ICE/HSI National Security Investigations Division, National Security Unit, Counterterrorism Section (NSID/NSU/CTS), acts as the single point of service and coordination for all Joint Terrorism Task Force (JTTF) international terrorism investigations. The NSID/NSU/CTS also acts as the conduit point for threat streams and coordination with Canadian Law Enforcement and Intelligence Agencies in their counterterrorism efforts. ICE/HSI JTTF Special Agents and HSI Special Agents in Canada continue to collaborate with Canadian law enforcement and intelligence services, utilizing ICE/HSI authorities as appropriate and advantageous, in investigations to combat terrorist activities in North America and abroad.

Additionally, as part of the Homeland Security Act of 2002, ICE/HSI conducts comprehensive visa screening, vetting, and investigative activities through the ICE/HSI Visa Security Program (VSP). VSP enhances visa security by providing in-depth screening, vetting, and investigative capabilities with respect to counterterrorism and criminal justice using the formal Department of State (DOS) visa application process. Canadian applicants are subject to this program, as well as third-country nationals present in Canada who apply for visas to the United States. Currently, Canada vets all immigration, visa, and refugee applications, screening applicant fingerprints against DHS biometric holdings. On average, Canada conducts more than 400,000 biometric queries against DHS data. In fiscal year 2018, Canada will increase biometric collection on all applicants, increasing the total number of biometric queries to more than 3 million per year. The United States began sending biometric queries to Canada in August 2016.

The Department works closely with Canada to offer Preclearance screening in Calgary, Edmonton, Halifax, Montreal, Ottawa, Toronto, Vancouver, and Winnipeg. Under the Preclearance operation, air travelers to the United States go through full security screening and vetting, and all inspections and admission checks are conducted before passengers board the aircraft for the United States. These Preclearance operations continue to strengthen our ability to identify terrorists, criminals, and other National security threats prior to encountering them on U.S. soil. Preclearance operations, now in six countries, place the Nation's most effective law enforcement and counterterrorism asset, a trained U.S. law enforcement professional, at foreign points of departure to protect the traveling public.

As part of the Beyond the Border Action Plan with Canada, the United States and Canada are also in the process of implementing a biographic exchange of traveler records that constitutes a biographic exit system on the shared border. Today, traveler records for all lawful permanent residents and non-citizens of the United States and Canada are exchanged in such a manner that land entries into one country serve as exit records from the other. The current match rate of Canadian records for travelers leaving the United States for Canada against U.S. entry records for nonimmigrants is over 98 percent.

COMBATING TRANSNATIONAL CRIMINAL ORGANIZATIONS

As part of the *National Northern Border Counternarcotics Strategy*, DHS works closely with Canadian partners to substantially reduce the flow of illicit drugs and drug proceeds along the Northern Border. The *Northern Border Threat Assessment* indicates that the most common threat to U.S. public safety along the Northern Border continues to be the bi-directional flow of illicit drugs. This flow is often facilitated by transnational criminal organizations (TCOs) operating on both sides of the border, with networks that span beyond the United States and Canada. In fiscal year 2016, CBP's Office of Field Operations reported 2,015 arrests at Northern Border land POEs, and 815 pounds in drug seizures.

Reporting indicates that cocaine and methamphetamine move north into Canada after transiting the United States from Mexico, while smaller quantities of fentanyl, marijuana, and ecstasy flow south from Canada into the United States. While Northern Border POE seizures of methamphetamine and heroin are low, ICE investigative case reporting indicates that trafficking of these drugs are still responsible for significant social harm and public health and safety consequences at the individual and community levels in specific Northern Border communities such as Massena, NY.

To avoid detection by U.S. and Canadian law enforcement, TCOs continually adapt their drug production, smuggling methods, and routes. Illegal drugs are smuggled across the border via a number of modes including personal vehicles, commercial trucks, buses, trains, vessels, all-terrain vehicles, and snowmobiles. TCOs also recruit individuals at and between POEs along the length of the border to carry drugs on their person.

While the primary overland smuggling corridors used by TCOs are areas in the vicinity of Blaine, Washington; Detroit, Michigan; and Champlain and Buffalo, New

York, TCOs have also utilized some Tribal reservation lands adjoining the U.S.-Canada border. One example is the St. Regis (Akwasasne) Mohawk Reservation in New York, which uniquely spans both sides of the border and includes numerous waterways and unguarded land border crossings, making it a potentially appealing point of transit for TCOs to smuggle contraband for further transshipment to major metropolitan areas in the United States. ICE/HSI and CBP are working with local, State, Tribal, and Federal law enforcement agencies to counter this threat, which is complicated by the myriad jurisdictions along the border, unique maritime boundaries, and short transit distances between the United States and Canada.

The topography along mountainous parts of the Northern Border is occasionally exploited by smugglers flying private aircraft at low altitude to evade radar detection, but there are no reports to suggest that the tactic is employed on a large scale. Recently, ICE/HSI successfully investigated Canadian TCOs that were using helicopters capable of landing in remote sections of National forests on both sides of the border to smuggle narcotics, bulk cash, and firearms in both directions.

The unique nature of the maritime boundaries between the United States and Canada presents challenges for law enforcement operations while creating opportunities for TCOs to exploit. High-density recreational boating traffic in waterways with shorelines in both countries, along with myriad jurisdictions along the border, creates a complex detection and enforcement environment. Joint investigations by ICE/HSI and the U.S. Drug Enforcement Administration (DEA) in the Pacific Northwest show numerous drug smuggling groups using maritime routes in the Puget Sound, the Strait of Georgia, and the Strait of Juan de Fuca. Maritime drug seizures have occurred over the past 10 years at numerous locations in the waters between Vancouver, British Columbia, and Washington State. The USCG and Royal Canadian Mounted Police (RCMP) operate the Integrated Cross-Border Maritime Law Enforcement Operation (Shiprider) program, in which personnel from both the United States and Canada jointly patrol shared waterways to detect and prevent criminal activity, including smuggling. Shiprider is active in five locations: Vancouver/Blaine, Windsor/Detroit, Kingston/Alexandria Bay, Victoria/Port Angeles, and Niagara/Buffalo.

The Department maintains personnel on both sides of the Northern Border to address threats posed by the illegal cross-border flow of illegal or illicit goods and controlled dual-use commodities, technology, and software. ICE/HSI has six Special Agent in Charge offices located in Seattle, Denver, St. Paul, Detroit, Buffalo, and Boston that are responsible for overseeing the investigation of criminal activity with a nexus to the Northern Border of the United States. In addition, ICE/HSI has Attaché offices in Ottawa, Vancouver, Toronto, and Montreal to facilitate coordination with our Canadian law enforcement partners.

LEVERAGING TECHNOLOGY

DHS has greatly enhanced its technological capabilities on the Northern Border. Between POEs, USBP has deployed Unattended Ground Sensors and Imaging Unattended Ground Sensors; Persistent Ground Surveillance Systems; Tactical Aerostat Systems; Slash Camera Poles; mobile surveillance systems; remote video surveillance systems; and Mobile Video Surveillance Systems. AMO has stationed 16 fixed-wing aircraft, 24 rotary-wing manned aircraft, and three Unmanned Aircraft Systems along the Northern Border to further support surveillance and domain awareness activities. Collectively, the information gathered from these systems contributes to a greater understanding of border activities and enables more timely and effective responses from border enforcement entities.

At many Northern Border POEs, CBP utilizes Radio Frequency Identification technology, next-generation license plate readers, large-scale and small-scale imaging technologies, as well as a variety of portable and hand-held technologies to assist officers and agents with identifying threats. CBP also deploys approximately 4,565 pieces of non-intrusive inspection and radiation detection equipment to assist officers and agents with identifying threats, including concealed people and narcotics.

PARTNERSHIPS AND COLLABORATION

DHS does not safeguard or operate along the Northern Border alone. The Department has significant, on-going collaborative partnerships with other Federal and SLTT partners, as well as with our Canadian partners. Timely intelligence and law enforcement coordination and information sharing with these partners is critical for successful Northern Border operations.

For example, the Cross Border Law Enforcement Advisory Committee (CBLE-AC) is a coordination effort designed by its members [CBP, the Canada Border Services

Agency (CBSA), ICE, the RCMP, and USCG] to provide executive-level strategic guidance to cross-border law enforcement initiatives involving partnerships between U.S. and Canadian law enforcement agencies. The CBLE-AC working group itself enables those enforcement teams to report back to a body that allows for a de-confliction mechanism. The CBLE-AC provides strategic guidance to Border Enforcement Security Task Forces (BESTs), Integrated Border Enforcement Teams (IBETs), Integrated Cross-Border Maritime Law Enforcement Operations (Shiprider) teams, and other hybrid programs.

With regard to BEST, ICE/HSI maintains five along the Northern Border: Blaine, Washington; Buffalo, New York; Detroit, Michigan; Port Huron, Michigan; and Massena, New York. A key success element of this program is the full-time co-location of U.S. and Canadian law enforcement agencies, including at the Federal State, provincial, Tribal, and local levels.

The BEST program has the authority to cross-designate Canadian law enforcement officers as U.S. customs officers under Title 19 U.S.C. §1401(i), permitting them to enforce the criminal laws of the United States under the direction of ICE/HSI. These Canadian law enforcement officers are provided with ICE/HSI task force officer badges and credentials and, upon successful completion of ICE/HSI-sponsored training, are authorized under the direction of ICE/HSI to carry their agency-issued service weapons in the United States, make arrests, and execute search warrants.

In 2017, USBP operationalized the Northern Border Coordination Center (NBCC) at Selfridge Air National Guard Base, Michigan. The NBCC is the central information repository for the Northern Border to enhance intelligence capabilities and address intelligence gaps along the Northern Border. The NBCC provides analysis of emerging Northern Border threats and disseminates information to all CBP operational and intelligence components, as well as other Federal, Tribal, State, and local law enforcement agencies and our Canadian law enforcement partners, to increase situational awareness and lay down the foundation for a Northern Border common operating and intelligence picture.

Through these and other cooperative programs, such as the IBETs and Shiprider, the United States and Canada continue to enhance cross-border operational effectiveness and facilitate the successful investigation and prosecution of transnational criminal conduct.

CBP is also cooperating with Canada beyond strictly operational discussions. CBP's Office of Human Resources Management (HRM) engages with Canada bilaterally, and through the Border Five construct, to address the most pressing common human resources issues, such as recruitment and hiring, work force well-being, resiliency, and employee engagement strategies. Through this bilateral engagement, CBP/HRM and Canadian Human Resources offices share information, best practices, and lessons learned.

In addition, DHS maintains strong partnerships with several Tribes. CBP and ICE/HSI continue to work with our Tribal partners to secure travel between the United States and Canada by enhancing the security of Tribal identification documents for members of Tribes recognized by the Federal Government in order to strengthen border security while facilitating legitimate travel. Under a memorandum of agreement, each interested U.S. Tribe develops a secure photograph identification document to be issued only to the Tribe's legitimate members who could be either U.S. or Canadian citizens. These documents can be electronically verified by CBP at POEs.

This September, CBP and the Pokagon Band of Potawatomi Indians announced that the Band's Enhanced Tribal Card (ETC) is now an acceptable travel document at land and sea POEs. To date, CBP has signed memoranda of agreement with 18 Tribes: The Kootenai of Idaho, the Pascua Yaqui of Arizona, the Seneca of New York, the Tohono O'odham of Arizona, the Coquille of Oregon, the Hydaburg Cooperative Association of Alaska, the Suquamish, Colville, Puyallup, Swinomish, and Samish Tribes of Washington State, the Fond du Lac of Minnesota, the Turtle Mountain Band of Chippewa Indians of North Dakota, the Pokagon Band of Potawatomi Indians of Michigan, the Kickapoo Traditional Tribe of Texas, the Caddo Nation, Muscogee (Creek) Nation, and the Absentee-Shawnee Tribe of Oklahoma.

DHS also continues to build cooperative law enforcement relationships with several Tribes, and to support Tribal participation in operational task forces. For example, the Akwesasne Mohawk Police Service (AMPS) and the St. Regis Mohawk Tribal Police are robust participants in the ICE/HSI-led BEST program and routinely collaborate and exchange information with our agencies. Sharing information between Tribal police and DHS components facilitates quick responses and a safer, more secure Northern Border.

UPDATING THE DHS “NORTHERN BORDER STRATEGY”

As an outcome of our efforts on the *Northern Border Threat Assessment* report, former DHS Secretary John Kelly directed PLCY to update the Department’s 2012 *Northern Border Strategy*.

The updated strategy is being developed as a whole-of-DHS effort and in accordance with the Department’s *Strategic Planning Guidance*. It will be a risk-informed strategy, structured as a nesting set of goals, objectives, sub-objectives, and outcome statements. Within 180 days of the Strategy’s release, an accompanying implementation plan will be developed, which will be used to ensure that the actions the Department takes to execute the Strategy are achieving our desired end-states in a cost-effective manner.

The updated *Northern Border Strategy* will have three primary focus areas: (1) Enhancing border security operations; (2) facilitating and safeguarding lawful trade and travel; and (3) promoting cross-border resilience.

We expect to publish the updated *Northern Border Strategy* in January 2018.

CONCLUSION

Thank you for the opportunity to testify about the Department’s efforts to chart the way forward for the Northern Border.

We look forward to continuing to collaborate with you as we work to safeguard the Northern Border from the threats our Nation faces while also ensuring we manage the border in a way that facilitates the economic activity critical to our Nation’s prosperity.

We welcome your questions.

Ms. MCSALLY. Thank you, Mr. Dougherty.

The Chair now recognizes Chief Luck for 5 minutes.

STATEMENT OF SCOTT A. LUCK, ACTING DEPUTY CHIEF, U.S. BORDER PATROL, U.S. DEPARTMENT OF HOMELAND SECURITY

Mr. LUCK. Chairwoman McSally, Ranking Member Vela, distinguished Members of the subcommittee, it is a privilege and honor to appear before you today to discuss the role of U.S. Customs and Border Protection in securing our Northern Border.

As America’s front-line border agency, CBP is responsible for securing America’s borders against threats, while facilitating legal travel and trade. To do this, CBP has deployed a multi-layered risk-based approach to enhance the security of our borders, while facilitating the flow of lawful people and goods entering the United States.

This layered approach to security reduces our reliance on any single point or program that could be compromised. It also extends our zone of security outward, ensuring that our physical border is not the first or last line of defense but one of many.

Along the Northern Border, CBP’s efforts to pursue operational control of the international boundary do not solely rely upon a single enforcement tactic, but require a multi-layered approach to border enforcement and security. This strategy encompasses understanding the operating environment through situational awareness, attempting to impede and deny the illegal cross-border activity, and responding to and bringing any incursions to a positive law enforcement resolution, including delivering consequences as appropriate.

The CBP’s pursuit of operational control along the Northern Border uniquely requires a heightened focus on relationships and partnerships with local law enforcement community outreach and liaison efforts to increase situational awareness. This intelligence-driven approach, which requires a whole-of-Government leveraging of

assets and resources, sees CBP accomplishing its border security mission through risk-based and targeted joint operations with local, State, Tribal, and other Federal law enforcement partners, and will require civic engagement in local communities, agile technology, and timely information sharing.

The international boundary with Canada extends over 5,500 miles, across both land and water, including the border of Alaska. It is often described as the longest, common non-militarized border between any two countries. It separates two friendly nations with a long history of social, cultural, and economic ties that have contributed to a high volume of cross-border trade and travel.

Along the Northern Border, there are large expanses of rural and agricultural areas with ready-road access, as well as large, open public spaces. Overall, a solid transportation infrastructure exists which facilitates ease of access to and egress from the border area. These areas present easy border-crossing points. Thickly forested mountainous areas with recreational trail networks also provide avenues and cover for those seeking to cross the border illegally.

CBP has increased partnerships with Federal, State, local, and Tribal law enforcement agencies, as well as in public and private sectors. Coordination and cooperation among all entities that have a stake in our mission has been and continues to be paramount. This information sharing increases understanding of evolving threats and provides the foundation for law enforcement entities to exercise target enforcement in the areas of greatest risk.

As actionable intelligence indicates that there may be a shift in threat in smuggling activity from one geographic area to another, CBP will adapt and shift resources to mitigate the threat. This intelligence-driven approach prioritizes emerging threats, vulnerabilities, and risks, greatly enhancing our border security efforts.

U.S. Border Patrol has permanent positions in Canada that are strategically located throughout the Northern Border to provide the greatest operational benefit. These agents serve as CBP representatives in their respective consulates, and serve as direct liaisons to Canada Border Services Agency and Royal Canadian Mounted Police agencies. The information flow and collaboration with our Canadian counterparts provide CBP operations and our law enforcement and diplomatic partners with a more complete picture of the threats affecting the shared U.S.-Canadian border.

These positions strengthen USBP law enforcement partnerships and operational integration with our Canadian partners and with the Northern Border sectors, benefiting multiple joint operations and supporting multi-agency task forces, like the Border Enforcement Security Task Force and the integrated border enforcement teams.

Thanks to the support of Congress, CBP has greatly enhanced our technological capabilities on the Northern Border at and between our ports of entries. CBP has also committed significant personnel securing the Northern Border, including over 2,000 U.S. Border Patrol agents, 4,700 office of field operations officers, 310 agricultural specialists, and 260 CBP air and marine personnel.

Thank you for the opportunity to testify about CBP's efforts to secure the Northern Border while facilitating the flow of lawful

trade and travel. In closing, I would like to thank the men and women of the U.S. Border Patrol who work tirelessly to keep America safe. I look forward to your questions.

Ms. MCSALLY. Thanks, Chief Luck.

The Chair now recognizes Mr. Kelly for 5 minutes.

**STATEMENT OF KEVIN KELLY, SPECIAL AGENT IN CHARGE,
U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, U.S. DE-
PARTMENT OF HOMELAND SECURITY**

Mr. KELLY. Chairwoman McSally, Ranking Member Vela, and distinguished Members, thank you for the opportunity to appear before you today to discuss ICE Homeland Security Investigations, HSI's efforts to improve security along our Northern Border.

I am Kevin Kelly, the special agent in charge for HSI in Buffalo, New York. I have been in Federal law enforcement for 29 years. I actually grew up in Buffalo and know these communities and the complexities of the Northern Border. I also know the problems encountered by other agencies that police the Northern Border. Previously, I was assigned to the Southwest Border, so I have a unique insight as to how transnational criminal organizations, or TCOs, exploit our Nation's borders.

HSI leverages its broad authority and global footprint to secure our borders. We work in close coordination with our Federal law enforcement partners, U.S. Customs and Border Protection, the U.S. Coast Guard, and with our State, local, Tribal, and international law enforcement partners as a force multiplier.

Recently, I met with the sheriffs from St. Lawrence and Franklin Counties, the chief of the St. Regis Mohawk Tribal Police, and several local police chiefs along the Northern Border and New York State, to coordinate investigative efforts to combat transnational crime and address the emerging public safety concerns. These critical meetings assist HSI in addressing our partners' concerns and forge a unified strategy. HSI has six special-agent-in-charge offices located along the Northern Border that are responsible for overseeing the investigation of criminal activity with a nexus to the Northern Border. In addition, HSI has four attaché offices in Canada to facilitate coordination with our Canadian law enforcement partners.

A key and successful element of HSI's initiatives along the Northern Border is the participation of our U.S. and Canadian partners on the HSI-led Border Enforcement Security Task Force, or BEST. BEST is a mechanism to address cross-border crime. HSI maintains seven BESTs along the Northern Border, which provides a proven and flexible platform to investigate TCOs. BEST task force officers undergo stringent training requirements in U.S. laws and policies.

On the direction of HSI, they are given title 19 Customs authority, issued HSI task force credentials, and are able to enforce U.S. laws. Our Canadian TFOs drive into the United States each day with their issued firearm and enforce both Canadian and U.S. laws.

BESTs are successful because they eliminate the international border as an obstacle. For example, HSI BEST working with Peel Regional Police in Canada and other Canadian partners disrupted

and dismantled a TCO engaged in cocaine smuggling. The investigation resulted in 14 arrests, the seizure of 277 pounds of cocaine, 2 tractor trailers, and 3 handguns. This case represents the largest cocaine conspiracy in the history of the western district of New York.

Another collaborative investigation, Operation Road Soda, targeted a tobacco and cocaine-smuggling TCO that resulted in 56 arrests, 11 international controlled deliveries, 79 executed search warrants, and the seizures of \$1.8 million in Canadian currency and \$758,000 in U.S. currency, as well as a variety of illicit drugs.

HSI's National Security Investigations Division coordinates all JTTF international terrorism investigations and acts as the conduit for threat streams in coordination with Canadian law enforcement and intelligence agencies in their counterterrorism efforts. Additionally, HSI conducts visa applicant screening through the Visa Security Program, or VSP.

VSP enhances visa security by providing in-depth screening, vetting, and investigative capabilities, utilizing counterterrorism and criminal justice records to augment the Department of State's visa application process. Canadian citizens and third-country nationals present in Canada who apply for U.S. visas are subject to VSP. Currently, Canada vets all their immigration visa and refugee applicants' fingerprints against DHS biometric holdings, conducting more than 400,000 queries against DHS data annually.

The Northern Border Threat Assessment indicated that the most frequent threat to U.S. public safety along the Northern Border continues to be bidirectional smuggling of illicit drugs and bulk cash by TCOs.

HSI encounters a variety of distinct TCOs attempting to exploit the Northern Border, from outlaw motorcycle gangs, to East Indian and Asian organized crime syndicates, as well as traditional organized crime.

One disturbing trend is the increasing importation of the potent opioid fentanyl. This dangerous drug is secreted and often mislabeled in small international parcels from China. Once in the United States, the fentanyl is either left in its pure form or mixed with heroin and other drugs and distributed with frequently fatal results.

In closing, HSI is committing to using our unique investigative authorities to secure our Northern Border. The key to this effort is our continued coordination and collaboration with our Federal, State, local, Tribal, and international law enforcement partners.

Thank you for the opportunity to testify and, I welcome your questions.

Ms. MCSALLY. Thank you, Mr. Kelly.

The Chair now recognizes Dr. Marchand for 5 minutes.

**STATEMENT OF MICHAEL MARCHAND, CHAIRMAN, COLVILLE
BUSINESS COUNCIL, TESTIFYING ON BEHALF OF NATIONAL
CONGRESS OF AMERICAN INDIANS**

Mr. MARCHAND. Good morning, Chairwoman McSally, Ranking Member Vela, and Members of the subcommittee. My name is Michael Marchand. I am chairman of the Colville Business Council, the governing body of the Confederated Tribes of the Colville Res-

ervation. I am testifying today on behalf of the National Congress of American Indians, the National Indian organization of which Colville Tribes is a member.

As independent sovereign governments, Tribes have the same responsibilities for public safety and security of their communities as States and local governments. Although now considered a single Indian tribe, the Confederated Tribes of the Colville Reservation is the confederation of 12 aboriginal Tribes and bands from across eastern Washington State and southern British Columbia, Canada.

The present-day Colville Reservation is slightly larger than the State of Delaware, and covers approximately 1.4 million acres in north central Washington State. The northern boundary of the Colville Reservation is approximately 70 miles long and within 30 miles of the U.S.-Canadian border. The North Half of the Colville Reservation, which was opened to non-Indian settlement in the late 1800's, extends northward from the existing boundary to the Canadian border. The Colville Tribes and its Tribal members retain ownership of more than 160 tracts of land in the North Half, the largest of which are either contiguous to or within 5 miles of the Canadian border. The Colville Tribes exercises law enforcement and regulatory jurisdiction over these lands, but is not alone in helping protect the U.S. borders.

Tribes are first responders in many Tribal jurisdictions. Tribal personnel are the only emergency response entity for both the Tribal and non-Tribal community. This includes firefighters, law enforcement, and medical emergency response.

Tribes also protect extensive critical infrastructure. There is significant vital infrastructure located on or near Tribal lands, including National communication network systems, highway and rail lines, and dams, power transmission stations and relays, oil and natural gas pipelines, dams, military defense facilities, and operations.

Tribes protect the border from drug and immigration smuggling. Approximately 40 Tribes are on or near the U.S. international borders and have experienced cross-border drug smuggling, including the Colville Tribes.

Recommendations: At the National Congress of American Indians' 2017 annual conference, NCAI's membership adopted resolution MKE-17-017, which makes several recommendations to improve cross-border issues with Indian communities.

We suggest that the committee direct DHS to do the following: Increase consultation and coordination with Tribal governments. The DHS should work to increase compliance with Executive Order 13175, which requires each agency to consult with Tribal nations. There are dozens of provisions in the various DHS authorizations that mistakenly categorize Tribes as local governments, and therefore set the wrong legal framework for the Federal-Tribal relationship for which Tribal DHS has responsibility.

Directly empower Tribal responders. Currently, Tribes must apply for nearly all DHS-granted programs through State governments. This is unacceptable. Tribal governments should be able to apply directly to and deal directly with DHS. Some of these changes are legislative, but many of them are administrative. DHS has misinterpreted the one grant Tribes have been successful at

ensuring direct access, the SHSGP. The statute requires that at least or a minimum of 0.1 percent be made available for Tribes. DHS, however, has been implementing this as a ceiling with a maximum of 0.1 percent made available.

Create uniformity in DHS's acceptance to Tribal governmental identification. There is no consistent agency-wide recognition of Tribal governmental identification. This oversight can be fixed administratively.

So I appreciate the opportunity to testify on these issues, and I look forward to answering any questions you may have. Thank you.
[The prepared statement of Dr. Marchand follows:]

PREPARED STATEMENT OF MICHAEL MARCHAND

NOVEMBER 14, 2017

Chairwoman McSally, Ranking Member Vela, and Members of the subcommittee, my name is Michael Marchand and I am the chairman of the Colville Business Council, the governing body of the Confederated Tribes of the Colville Reservation ("Colville Tribes" or the "CCT").

BACKGROUND ON NCAI AND THE COLVILLE TRIBES

First, I would like to thank the subcommittee for the opportunity to testify today on behalf of the National Congress of American Indians ("NCAI"), the oldest and largest American Indian organization in the United States, on this critically important topic. Tribal leaders created NCAI in 1944 as a response to Federal termination and assimilation policies that threatened the existence of American Indian and Alaska Native tribes. Since then, NCAI has fought to preserve the treaty rights and sovereign status of Tribal governments, while also ensuring that Native people may fully participate in the political system. As the most representative organization of American Indian tribes, NCAI serves the broad interests of Tribal governments across the Nation.

As independent sovereign governments, Tribes have the same responsibilities for the public safety and security of their communities as States and local governments. Although now considered a single Indian Tribe, the Confederated Tribes of the Colville Reservation is a confederation of 12 aboriginal Tribes and bands from across eastern Washington State and southern British Columbia, Canada. The present-day Colville Reservation is slightly larger than the State of Delaware and covers approximately 1.4 million acres in north-central Washington State.

The northern boundary of the Colville Reservation is approximately 70 miles long and within 30 miles of the U.S.-Canadian border. The North Half of the Colville Reservation, which was opened to non-Indian settlement in the late 1800's, extends northward from the existing boundary to the Canadian border. The Colville Tribes and its Tribal members retain ownership of more than 160 tracts of land in the North Half, the largest of which are either contiguous to or within 5 miles of the Canadian border. The Colville Tribes exercises law enforcement and regulatory jurisdiction over these lands, but is not alone in helping protect the U.S. borders.

Nearly 40 Tribes are located on or near the U.S. international border between Canada and Mexico, and are often the only major governmental presence in rural and isolated locations. For this reason, Tribal governments have broad emergency and first responder responsibilities, as well as extensive border responsibilities with immigration and smuggling implications, all integral aspects of homeland security.

INDIAN TRIBES SERVE A CRITICAL ROLE IN SECURING OUR NATION'S BORDERS

Tribes are First Responders

As touched upon briefly, in many jurisdictions along both borders, Tribal personnel are the first and sole emergency response entity for both Tribal and non-Tribal communities; this includes firefighters, law enforcement, and medical emergency response. Many Tribes have built significant emergency management infrastructure with highly-trained personnel, and have critical contracts and agreements in place to support their non-Native surrounding communities. Several Indian Tribes have their own departments of Homeland Security or Emergency Response.

In addition to preparing for basic first responder duties, Tribes also prepare their communities for incidents such as pandemic outbreaks. Tribal law enforcement

agencies work closely with the Department of Homeland Security (“DHS”), the Federal Bureau of Investigation, the Royal Canadian Mounted Police, and other U.S. and Canadian Federal law enforcement, along with State, local, and provincial police services, to secure their territories. The Blackfeet Nation is a prime example, and this needs to be encouraged and expanded, and of course funded. The fact that Tribal police services are often first responders and at times the only responders along parts of the Northern Border must be recognized.

Tribes Protect Extensive Critical Infrastructure

There is significant vital infrastructure located on and near Tribal lands including National communications network systems, highway and rail lines, dams, power transmission stations and relays, oil and natural gas pipelines, and military defense facilities and operations. The Fort Berthold Indian Reservation has several Minuteman missile launch facilities located within its exterior borders as a strategic element of the homeland security system. Also, the Grand Coulee Dam is the largest electric power producing facility in the United States and is situated on the Colville Indian Reservation, my home.

Tribes Protect the Border from Drug & Immigration Smuggling

As mentioned earlier, approximately 40 Tribes are on or near U.S. international borders; many are in very remote areas of the border. For the past decade, the U.S. Federal border enforcement strategy has resulted in funneling illegal immigration and drug smuggling into more remote areas. Unfortunately, those “remote” areas are often Indian reservations. The substantial increase in the flow of people and drugs, and the subsequent increase in crime and property damage, has been very difficult for Tribal law enforcement and Tribal communities to address with already limited resources. There has also been an irreversible destruction of cultural and religious sites, and adverse environmental impacts to Tribal lands.

The Colville Tribes has dealt and continues to deal with cross-border smuggling activity from Canada. During the mid- to late 2000’s, numerous sightings of unmarked fixed-winged aircraft were reported on or near the Colville Reservation. In one publicized incident, the Colville Tribes’ Natural Resources officers and officers of the Tribe’s police department seized an unmarked float plane from Canada that was attempting to smuggle illegal drugs into the United States. After a long chase, the officers ultimately captured the pilot and handed him over to Federal law enforcement authorities as well as an estimated \$2 million in illegal drugs that had been deposited by the plane. The U.S. Border Patrol honored the Tribe’s officers who participated in that seizure.

Smugglers have found the Colville Reservation an attractive thoroughfare for smuggling activity because of its remote location and because at any given time, the Colville Tribe has a few as six law enforcement officers (three police officers and three Natural Resources Department officers) to patrol the entire 2,275 square-mile Colville Reservation. The Tribe has reason to believe that smugglers exploit our lack of resources by monitoring our radio frequencies and coordinating their activities around our officers’ movements.

NEEDED REFORMS

The need to secure America’s borders was prioritized following the events of September 11, 2001. These efforts, however, have largely failed to consider the Tribal lands and territories that extend beyond the arbitrary borders placed throughout those lands. Despite what is often a cooperative working relationship on law enforcement issues, the DHS, CBP, Canada Border Services Agency, and other U.S.-Canada agencies often disregard the concerns of Tribal communities and citizens located along the Northern Border.

On August 21, 2017, more than 70 participants attended a day-long Summit, with representation from 19 Tribal leaders from both the United States and Canada, to discuss concerns at the United States-Canada border. Tribal leaders shared the difficulties they face when crossing the border, while touching on many contributing factors, such as the unwillingness of border agents to accept Tribal government-issued identification documents; excessive interrogation and harassment; denial of entry for minor offenses; and the improper handling of sacred or cultural items. All in attendance expressed a willingness to continue working cooperatively with U.S. and Canadian border officials toward strengthening border security, and in a manner that recognizes Tribes as equal, sovereign governmental partners.

The Colville Tribes and other Tribes in Washington State can empathize with these concerns. The homelands of the Okanogan and Arrow Lakes bands of the Colville Tribes were on both sides of the U.S.-Canadian border. We have relatives buried on the Canadian side and the CCT recently secured a victory in Canadian

courts that affirmed the rights of Arrow Lakes members to hunt in their traditional territory. Despite this, some of our members are prohibited from entering Canada based on misdemeanor convictions or other minor offenses. Other Tribes, like the Swinomish Indian Tribal Community, have experienced similar difficulties when their members seek to enter Canada for ceremonial purposes.

Tribes in the Northwest have also worked themselves to coordinate on cross-border issues affecting our First Nations relatives. The Coast Salish Gathering, held on September 29, 2017, provided an opportunity for U.S. Tribal leaders and First Nation Chiefs, the U.S. Environmental Protection Agency, and Environment Canada to build a collaborative body for mutual understanding to solve cross-border environmental issues facing our shared homelands.

Also, at its NCAI's 2017 annual conference, NCAI's membership enacted a resolution stating that a coordinated, immediate, and on-going engagement with both the United States and Canadian governments is necessary in the following areas:

1. Improvement of both United States and Canadian (including Alaska) border crossing policies and practices for Tribal citizens;
2. Improvement of both United States and Canadian (including Alaska) border security training and recognition of Tribal identification credentials;
3. Implementation of the Jay Treaty provisions in Canada governing border crossing for all Tribal members and First Nations communities and removal of the 50 percent blood quantum requirement in the United States; and
4. Improvement in education and cultural sensitivity by border agents.

NCAI Resolution MKE-17-017 (Attached). Against this backdrop, NCAI suggests that the committee direct DHS to do the following:

Increase Consultation and Coordination with Tribal Governments

The DHS must work to increase compliance with Executive Order 13175 which requires each Federal agency to consult with Tribal nations. Further, there are dozens of provisions in various DHS authorizations that mistakenly categorize Tribes as "local governments" and therefore set the wrong legal framework for the Federal-Tribal relationship. Instead, such provisions should acknowledge that DHS has a trust relationship with Indian Tribes.

Directly Empower Tribal First Responders

Largely because of the erroneous categorization of Tribal governments as "local" governments in DHS's authorizations, DHS has set up an inappropriate infrastructure whereby Tribes are deemed subsets of State governments for most purposes. Not only is this erroneous, it is ineffective. DHS has essentially delegated homeland security oversight to State governments that have little incentive and no legal responsibility to ensure the security of Tribal communities. Tribes do not want to be a gaping hole in the Nation's homeland security infrastructure.

Currently Tribes must apply for nearly all DHS grants and programs through State governments. This is unacceptable. Tribal governments should be able to apply directly to and deal directly with DHS. Some of these changes are legislative, but many of them are administrative. DHS has misinterpreted the one grant Tribes have been successful at ensuring direct access, the SHSGP. The statute requires that "at least" (or a minimum) 0.1 percent of pertinent funding be made available for Tribes. DHS, however, has implemented this as a ceiling, with a maximum of 0.1 percent made available.

Create Uniformity in DHS's Acceptance of Tribal Governmental Identification

Finally, there is no consistent agency-wide recognition of Tribal governmental identification. TSA accepts Tribal IDs for domestic air travel as long as they have a photo (but they have not yet put this into regulations). The Western Hemisphere Travel Initiative (WHTI) accepts Tribal IDs for international land border crossing purposes, if they have met certain security requirements. DHS has had very inconsistent application of these rules. This oversight can be fixed administratively.

In closing, I appreciate the opportunity to testify on these important issues and look forward to answering any questions you may have.

Ms. MCSALLY. Thank you, Dr. Marchand.

I now recognize myself for 5 minutes for questions.

Chief Luck, I mentioned the 2010 GAO report saying that the Northern Border had less than 2 percent operational control. Do we have a new and updated assessment on the percentage of situational awareness and percentage of operational control at the Northern Border? If so, can you share that with us?

Mr. LUCK. I don't think we have one right yet. We are working on that to fold into the assessment that the DHS was going to provide. We are providing input into that strategy.

Ms. MCSALLY. Great. Generally, can you say, have things improved since 2010? I mean, it is easy to go up from 2 percent, but—hopefully. I mean, have things gotten more challenging? In general, based on what we have done since 2010, have we increased our situational awareness and our operational control? Is that your sense?

Mr. LUCK. Yes, ma'am, that is my sense. We have put more technology on the Northern Border.

Ms. MCSALLY. Can you talk through kind-of what has happened then in order to increase that?

Mr. LUCK. Yes. So we have more RVSS systems in place for—remote video surveillance systems, mainly around the Canadian—around the ports of entry. So we are getting more situational awareness there. We have radars in the Great Lakes in the Buffalo sector where they are pinging off, and we are getting a response out to those pings as they traverse the Great Lakes and into the United States and those waters.

I will say that we do lack manpower, as you have noted and I have noted as well. We are down about 200 positions on the Northern Border, and we are working very feverishly to get the Northern Border back staffed up. Our situational awareness we need to improve, and we need to have a better response capability to our efforts on the Northern Border.

The intelligence sharing that we have going on is very good. We are now building a Northern Border coordination center located in Selfridge Air Force Base in Detroit, Michigan. That is going to be utilized as an intelligence hub of information coming in and intelligence being analyzed by our analytical support teams and then being dispersed back out to the sectors and the command staff that needs that information.

So there has been some—they have agent portable systems. They have some mobile surveillance equipment. We are trying—and in the 5-year plan going forward, we want to add more of what they have, and to include more detection for maritime detection capability, dark—what is the word?—dark aircraft for low-flying aircraft, detection capability out there in those areas where we see that threat, and as well as more detection capability along—and the use of FODs and fiber optics that not only helps with our intrusions in our detection capability, but also with our communications gaps we have.

Ms. MCSALLY. Great. Thank you.

So I want to talk about—I know that your testimony said, both Mr. Dougherty and Chief Luck, that the risk of terrorist organizations or others coming through the Northern Border is not high. But if I am a bad guy and I would like to get into America illegally, and I am a part of a terrorist organization, and I have the choice of the Northern Border or the Southern Border, which one is easier to execute? It would seem to me that perhaps it is a little more geographically challenging and perhaps due to procedures it would be a little tougher to come through the Canada route, but the border is obviously less focused on.

So can you talk about kind-of the vulnerabilities there, north versus south? I think one of the reasons we are having this hearing is to highlight the potential vulnerabilities in the Northern. But, you know, where is it different from the Southern Border? Because we talk a lot about the Southern Border.

Mr. Dougherty, do you want to go first, or Chief Luck?

Mr. DOUGHERTY. Pardon me, ma'am. If I can, I will defer to the operators on this question. Thank you.

Ms. MCSALLY. OK.

Mr. LUCK. I will start by saying that there is a threat on the Northern Border. I will be glad to give you a Classified briefing on what those threats are. We are well aware of those threats.

Threat isn't commensurate with flow, so we have to be cognizant of what those threats are on the Northern Border. We rely heavily on our partnerships with our Canadian counterparts, our HSI partners, and all State, Federal, and Tribal relations that we have.

The intelligence sharing is one of the best that I have seen. I think they do it as good, if not better, than anywhere else in the United States in as far as the relationship with our Canadian counterparts. But we do have a gap that we need to fill as far as that threat stream, and we are working on getting the resources and the technology up there to assist with that.

Ms. MCSALLY. Mr. Kelly, you got anything to add?

Mr. KELLY. Sorry. I will say, you know, having worked both the Northern and Southern Border, it is—there are targeted areas of smuggling routes. They are going to use the same routes that are—specifically have been traditionally successful. To say that one is more so than the other, I don't know if I would say that. But—

Ms. MCSALLY. Well, they are different, for sure.

Mr. KELLY. They are very different, and we do have our Achilles heel on the Northern Border for sure, as well as the Southern Border.

Again, to echo what my colleagues have said, that is why we rely on our BEST task forces, our Border Enforcement Security Task Forces. Quite frankly, HSI can't do that job up there on the Northern Border without our State, Federal, and Tribal partners. It is critical for our mission. I don't think we do a case up there where we don't have a State, local, or Tribal officer working side-by-side with an HSI agent or a CBP officer to try and deter and detect that flow.

Ms. MCSALLY. Great. I am out of my time, so I am going to now recognize Mr. Vela for questions for 5 minutes.

Mr. VELA. Thank you.

Mr. Luck, did I hear you say that the threat is not commensurate with the flow?

Mr. LUCK. Yes, sir.

Mr. VELA. What do you mean by that?

Mr. LUCK. Just because there is a lot of activity on the Southwest Border doesn't mean that that should be the focus for everything that we do. So there is a threat on the Southwest Border and there is a flow issue on the Southwest Border, but there also is on the Northern Border that we cannot turn a blind eye to, that we need to address.

Mr. VELA. Yes. I look forward to that Classified briefing you mentioned, because there are other questions I think I would like to ask, but I will hold off on those.

Dr. Marchand, in October, the National Congress of American Indians adopted a policy resolution expressing its concerns about the DHS's on-going operations along the Northern Border. There was another resolution adopted shortly after the President's Executive Order on immigration enforcement.

Considering many Tribal nations have members on both sides of the border with Canada and many cross regularly for cultural, religious, employment, and other purposes, DHS operations affect these communities. How would you generally grade the government-to-government coordination and consultation between DHS and Tribes on the Northern Border? Can you elaborate on where you think there is room for improvement?

Mr. MARCHAND. I think—my experience has been that it varies over time and different personnel sometimes. But I think, in general, that probably the communication is not good, I wouldn't characterize it as that.

My Tribes, on initiative, we have set up meetings with our local border people. We have been with the Canadian border people. We have been less successful in kind of going higher up the ladder, I guess. We have had requests out, but no responses.

On a kind-of anecdotal basis, I hear stories of Tribal members, in their words, getting harassed at the border for different causes, like bringing their powwow regalia or eagle feathers, things like that. Usually they tell me they are allowed to cross, but they feel like they have been detained and questioned unnecessarily long.

Just at a personal level, I recently crossed the border and was held up for about 25 minutes. They said their computers were down, they weren't working, but there was indication that I had a traffic offense on my own record. They said—and like I was trying to think of what that was, and then they were accusing me of being a liar. I was really trying to search my memory. What did I do, you know? After about 20 minutes, their computers came back up, and he says, aha, we found out what it is. You had a drunk driving offense when you were 18 years old. I said, OK, that was 50 years ago. I forgot about that.

But things like that, you know what I mean, just more like an inconvenience. I wasn't held up permanently, but kind-of mostly that kind-of level of thing, I guess.

Mr. VELA. Don't feel too bad. The mayor of my hometown, that exact same thing just happened to him in the Southern Border.

Mr. MARCHAND. Yes. So—but a probably more serious one is we have cross-border like marriages, things like that. Then if you commit certain offenses in Canada, you can't go into Canada. So we have problems like that where a spouse will have to move to the United States or things like that.

Then it is kind-of complicated, but my Tribe, we have traditional lands on both sides of the border. So we have cemeteries up there. We have hunting rights up there, fishing rights up there. But normal misdemeanor type things will bar them from crossing the border, so then they lose those rights up there.

So it seems like there must be a way to fix that better. We are kind-of working on that. I think we need to meet more with them and kind-of figure out ways to solve these issues, you know.

But right now, they are not solved, especially with hunting, because there is—since 9/11, there is a lot of concern about firearms and guns, of course. But it is kind-of hard to hunt without those, and so those kind of issues are there. We don't want to commit terrorist activities, but we would like to visit our homeland and shoot an elk or deer or moose sometimes. So it is things like that.

Occasionally, we will get—I forget the question now, but we will get other issues of smuggling, but it is not every day. But sometimes there will be helicopters or planes, that sort of thing, or even people.

Mr. VELA. So, Mr. Dougherty, following up on that point, how does the Department address those cross-border cultural issues that are so unique to tribes like Dr. Marchand's?

Mr. DOUGHERTY. Sir, I think those are important to be aware of, both on the Northern and the Southern Border. I will defer to the operators as to the level of engagement that they have.

From a headquarters perspective, the ability to work with Tribes is a recognized fact of life in doing anything that goes on along the border where they are proximate to it. Our instructions to them would be to work cooperatively and in a friendly manner with the Tribes to share information and to have joint operations take place.

I think—I was looking, sir, at an interdiction that occurred on the water back in early September that involved some U.S. citizens who were illegally moving tobacco from one place to another. It was a small boat. It was a ship rider operation for the Coast Guard. But the number of folks, including a local Tribe, that were involved in that apprehension, the cooperation that was required in order to interdict that vessel and to prosecute it properly indicates that we have to be working with all partners, including Tribes.

So while I defer to the operators on the day-to-day, sir, from the Department perspective, they are extremely valuable allies in border control.

Ms. MCSALLY. We can go onto another round if you have got some more questions.

OK. Great. The Chair now recognizes Mr. Barletta from Pennsylvania.

Mr. BARLETTA. Thank you. Thank you all for being here today to discuss the efforts to strengthen our Northern Border.

This is a very important topic, and I am pleased that we now have a partner in the White House who is actively working to ensure the safety of the American people, as President Trump has clearly laid out a series of essential border and National security priorities.

As we are all aware, the United States is experiencing a deadly opioid epidemic that has devastated communities across the country. In Pennsylvania alone, drug overdose deaths rose by approximately 37 percent in 2016, according to the Drug Enforcement Administration. Furthermore, since 2000, more than 300,000 Americans have died from overdoses involving opioids.

On the Comprehensive Addiction and Recovery Act, I worked across the aisle to help find solutions for this National emergency.

In my own district, you know, we hosted opioid forums where members of the community can come together to share personal stories, and law enforcement and the medical community can shed light on the dire situation that we are currently experiencing. I am encouraged by President Trump's recent actions to address this crisis, but there is still much more work to be done here in Congress.

So my question is: Can any of you speak to how the Department of Homeland Security is working to combat the flow of illegal narcotics from Canada, in particular the smuggling of opioids?

Mr. LUCK. I will start, and I can tell you what CBP is doing. We are interdictors, both at the ports and between the ports, so we are enhancing our counternetwork operations as it relates to the networks that are distributing these, and we are enhancing our interdictive efforts.

So we want to disrupt the supply chain of that dangerous chemical coming into the United States. So those are the operational issues that we are focused on. Last, to make sure that if our agents and officers come in contact with this dangerous drug, that they are protected from it and what it does.

So getting them the personal protective equipment as well as the Narcan and the things that are used to bring somebody back from an overdose, getting that in the right hands for our special operations officers, our agents, and the people, and primarily the folks at the checkpoints that will encounter the traveling public more often.

Mr. KELLY. From the HSI's perspective, we are seeing a lot of the fentanyl and carfentanyl and the analogs coming out of China. Now, the Chinese have come to the table to try and stop some of that from leaving their country, but they need to take a more active role as well.

Another thing that we are seeing is these State and local communities are—especially in the north country of New York are hemorrhaging with opioid overdoses. It is really taxing. The social services is taking away from the police services, which is taking away from protecting their communities.

When I met with Sheriff Wells and Sheriff Mulverhill from Franklin and St. Lawrence County, respectively, they echoed that concern, that it is a huge problem and so much so that they have seen a spike in foster care because parents are not allowed—they can't take care of their kids. It is a problem.

As far as bidirectional flow from Canada, what we are seeing is high-grade, hydroponic marijuana coming south into the United States and cocaine going north. Recently, we did a case where we busted up a ring about a week and a half ago out of Syracuse, and they were smuggling—they were going pound for pound for heroin and cocaine. It was very lucrative. So that is what we are seeing going back and forth through those countries.

Mr. BARLETTA. This is for anyone at the Department: How is Homeland Security working with the Postal Service to improve inspection services of packages from Canada?

Mr. DOUGHERTY. So, sir, we are working on that right now. The commission that was run by Governor Christie came out with its report November 1. It had 56 recommendations in there.

One of those recommendations was to ensure that we get advanced electronic data on international shipments coming from high-risk regions to identify suppliers and distributors in the United States. So that effort on our part is underway.

Of the 56 recommendations, of course, they asked that the Department and law enforcement work harder to target drug trafficking organizations, and that CBP and the Postal Service use new detection capabilities for synthetic opioids. So as you know, going into a mail facility with a dog is—you are sort-of hoping, but at the same point what we probably need is an automated system that can detect opioids in transit. But that is an enormous number of packages.

If I may, sir, it seems to me that having gone to some of those meetings on opioids at a fairly high level, the President's interest in ending the opioid crisis is maybe one of the major things that he thinks and talks about. So it is very much a bipartisan effort. He has brought in pharmaceutical companies and asked them, what can you do in terms of creating an acute pain drug that will not essentially create dependency? There is a sort-of a hook on some of these opioids. So how can we remove that so we can get the pain treatment levels that we need for individuals who are undergoing pain, but it doesn't create any neural pathway to dependency. There is a lot of hope in that community that they can do something valuable that would help end the crisis.

So there is a lot of energy and interest on that, that—because as you know, you are not probably going to be able to law-enforcement your way out of this. It is going to be what we do at the front end when we are treating individuals who have acute pain issues.

Mr. BARLETTA. Thank you.

Thank you for calling this hearing.

Ms. MCSALLY. The gentleman yields back.

The Chair now recognizes Mr. Correa from California for 5 minutes.

Mr. CORREA. Thank you, Chair Member McSally and Ranking Member Vela. I thank you both for holding this hearing today to assess the threat situation on the Northern Border, a topic that I have highlighted in committee hearings in the past.

I also want to thank our witnesses for being here today. I look forward to hearing from you where we actually need to focus our resources to protect our country and to assure our dollars, taxpayer dollars are not being wasted on campaign promises.

With that being said, I am hearing your testimony today, and this morning, I picked up the *Washington Post*. I don't know if you picked it up yet. Front page story, "Mexican traffickers making New York City a fentanyl hub." You read into this story, most of the smuggling is with the use of vehicles, folks loading up a truck or a car and driving it through. Here it talks about the Mexican border.

But as I am hearing, Chief Luck, you stated there is a lot of ready-road access across the Northern Border, easy border crossings. As we delve—these committees delve into the issue of smuggling drugs, they are done through ports of entry. If you talk to the folks, Southern Border, it is the ports of entry. It is not folks putting on a backpack and sprinting, you know, or doing marathons.

It is trucks, it is vehicles full of paraphernalia that drive across the borders.

If you talk to the folks at San Ysidro, the biggest border crossing in terms of volume in the world, what they need over there are more personnel, more machines, more dogs, because they don't have enough inspectors, assets. So they do the random checks. At those random checks, they hit big, big shipments.

I am thinking to myself, gentlemen, do you have the resources at the Northern Border to do proper inspections? Again, fentanyl, China, Mexico, God knows where else it will come from. This is essentially an issue where the bad guys are trying to figure out what is the easiest way to score. To me, that Northern Border, it is about 5,000, 6,000 miles, biggest border in the world, versus 2,000 miles in the south. Same terrain, very porous, same challenges.

So my question to all of you is: What resources do you need, of course, to address the issue of more interdiction? Also, somewhere there if you can talk about coordination, because I believe, like Secretary Kelly said here in prior testimony months ago, that if this stuff gets to the border, you have essentially lost.

So how do you coordinate with the Mexicans, the Chinese, Canadians, the Tribes in addressing these issues? I open it up for anybody who wants to answer those questions.

Mr. KELLY. I will take it.

So from my perspective, you are correct. I will tell you what we do up in the Northern Border in Buffalo area. Everything is coordination with our State, local, and Federal partners. Every time we do a fentanyl investigation or we have our State and local—and then the one thing about fentanyl is it is very volatile. If you encounter it, you have to have proper protective gear. You have to have training on how to handle it.

If you are asking me what I need, if you give me more, I can do more, because every incident that impacts the——

Mr. CORREA. So if you have more, you can interdict more on the Northern Border?

Mr. KELLY. I can investigate more. Because what happens is, when these groups exploit our borders, it falls to HSI to do the criminal dismantlement and disruption of that TCO that is exploiting our border.

So right now, my staffing levels are low, but HSI is addressing it. But if you give me more, I can do more to disrupt those organizations that not only disrupt—that only target the Northern Border, but they—what we have seen—and I will give you an example.

Last night, my agents in Buffalo interdicted 513 pounds of marijuana that came up from the Mexican border. Why did it come up? Because the price of the hydroponic marijuana from Canada is getting too high in that area, so now there is a business model where people are going to come in and try to undercut the hydroponic marijuana coming into the western New York area. It is another investigation that we are having.

We are seeing the Southern Border and the Northern Border kind-of struggle with each other. On the Southern Border it is one cartel controlling an area; on the Northern Border you have multiple TCOs coming together and making an excellent business model, coming together, joining forces, and exploiting the Northern

Border. That is our job to combat that. In that is heroin, fentanyl, marijuana, cocaine, and everything going bidirectional.

Mr. CORREA. Mr. Luck, in terms of CBP personnel?

Mr. LUCK. Yes, sir, you are right, CBP officers are down about 1,500 officers. Border Patrol agents are down about 2,000. So we are trying to do whatever we can and to—the first thing that I would say is that we have a good answer as it relates to the Border Patrol with our operational relocation program. That just closed. That announcement just closed, and we should be sending more people up to the Northern Border to get them to staffed to the 2,212 and above that. So that resourcing is underway.

So for the first time we were able to do that and enhance and get more Border Patrol agents from the Southwest Border up to the Northern Border and then backfill those with trainees coming from the Border Patrol Academy. So that is a good news story as far as that goes.

But detection capability and technology is what we need the most on the Northern Border, and more of that would help us become more situationally aware of what is going on.

Mr. CORREA. Thank you, gentlemen.

Go ahead.

Mr. DOUGHERTY. Excuse me, sir, if I could. The strategy that we are putting together, which is going to drive acquisitions eventually, is going to include lots of input from operators, such as the gentleman with us here today, to ensure that we are getting capabilities, that if they work down on the Southern Border to look into vehicles or to look into containers, those things that are going to allow the Department to make more seizures is going to be critical.

So the Joint Requirements Council that exists at the Department of Homeland Security, the way that I like to style it is the operator perspective drives the investment process through transparent activity cross-component identifying gaps and needs. We want to avoid error, we want to avoid delays, and we don't want to waste money on equipment that doesn't work.

So you know, as our investments go into buying that technology, it is going to be a very rigorous activity on the part of the Department to make sure that it is efficacious and it is supported by the operators.

Mr. CORREA. Thank you.

Ms. MCSALLY. The gentleman's time has expired.

The Chair now recognizes Mr. Katko from New York for 5 minutes.

Mr. KATKO. I want to thank my colleagues, both of whom are from the Southern Border, Vela and McSally, for having this hearing. I appreciate very much you shedding light on this issue.

Prior to coming to Congress, I was a Federal prosecutor for 20 years. I started out in El Paso at the Southwest Border Initiative, and I saw first-hand what was going on down there.

But what shocked me after going through Puerto Rico and then—for a couple years, then being up in the Northern Border for 16 years is how much of a sieve the Northern Border is. That is why I asked for the Northern Border threat assessment through legislation, and it confirmed what I knew, that virtually none of the border is secure, very little of it is secure.

Then I hear from Mr. Luck today that they are down 200 positions, but I presume if you got those 200 positions back, that you would be up to where you were before and that is woefully inadequate to secure the Northern Border. Is that right?

Mr. LUCK. That is right. We are still trying to enhance and get our agents back up there to where they need it.

Mr. KATKO. I can tell you from my experiences on the Northern Border that the problem became so acute in the northern district that we had to relocate an office to the Northern Border and staff it with multiple prosecutors just to handle the flow of alien smuggling cases, drug trafficking cases, and cigarette cases.

It is an incredibly acute problem that—it is hard to understand, given what is going on on the Southern Border. But I will remind people that there are an awful lot of terror targets that live in Canada that have very close proximity to the American border and have virtually a free pass to come into the United States as well. Is that fair to say, Mr. Luck?

Mr. LUCK. Yes, sir, that is a threat, and having those large hubs close to the border within 100 miles and a lot of the population nodes is a threat for us. That is why it is important to have people in Canada. Those Border Patrol agents that are assigned to the consulates are doing very good work in relaying information and being at the tip of the spear when it comes to that information sharing.

Mr. KATKO. That is critically important of what we are doing there. We need to continue to do that. It is no indictment on our Canadian counterparts, because we have always worked well with them, and I have too, but it is just a very difficult situation.

Mr. Kelly, you are on the front lines up there in Buffalo, and your sector also includes the northern district of New York where I worked. Is it fair to say that that is still a well-worn smuggling routes throughout the Northern Border and not just the ports of entry?

Mr. KELLY. Absolutely.

Mr. KATKO. OK. Could you give us just the nature of the type of transnational criminal organizations that are up there? I mean, I know from my own experience that Hells Angels controls not just ports of entries, but, for example, the well-worn smuggling routes through the Akwesasne Reservation, which travels both sides of St. Lawrence.

So it is not just ports of entry where they are doing the smuggling. Is that fair to say?

Mr. KELLY. That is absolutely fair to say.

Mr. KATKO. Could you give us some ideas and some examples of that?

Mr. KELLY. So what we are seeing is, is the outlaw motorcycle gangs are traditional organized crime. They insulate and isolate themselves from—and use 1-percenters or associates to kind-of move their stuff up into some of the, for example, the Akwesasne.

But, again, I want to stress, in my office in Messina, I have a representative from the—the Akwesasne stretches both sides. There is the Akwesasne Mohawk Police Service, which services Canada, and then there is the St. Regis Tribal, which services the

United States. Both of them are members of the Border Enforcement Security Task Force.

So we leverage a lot of our partnership with the Tribal to go ahead and get that vulnerability. But it is my Achilles heel and my AOR for smuggling.

Mr. KATKO. Right. Is it fair to say that when St. Lawrence freezes, they simply drive—smugglers will drive across remote areas from Canada into the United States?

Mr. KELLY. Yes. There is an ice bridge, and it is a vulnerability with snowmobiles and even vehicles at times going back and forth in a free-flow direction of going both in and out.

Mr. KATKO. Now, is it fair to say, since the advent of the hydroponic marijuana, which is very high-potent, high-quality marijuana from Canada, gets as much as \$2,500 a pound, and if that is coming from Canada into the United States, is it fair to say that they have now linked up—Hells Angels and others have linked up with Mexican drug cartels to basically exchange the hydroponic marijuana for cocaine?

Mr. KELLY. We have seen an increase in Mexican presence in southern Ontario and in Canada. They are now basically cutting the U.S. transit shipping routes and basically dealing with Canada direct, meaning through either internal conspiracies on airplanes or through the seaports, which, as you know, the outlaw motorcycle gangs have a big stronghold with the ports, the depots.

Mr. KATKO. May I inquire of the Chair, are we going to have another round of questioning?

OK. Great.

One last point this round. One of the last cases I did was a seizure of, I think, 218 kilos of cocaine coming from the Sinaloa cartel up through our district, up into Canada. It was seized near the border. Is that representative of what you are starting to see lately with respect to the drug trafficking?

Mr. KELLY. Absolutely. I mean, that just happened a week and a half ago in Syracuse, you know. We took down about 24 kilos of cocaine that was basically, like I said before, the hydroponic high-grade marijuana coming south from Canada and the cocaine going north.

But what is even more disturbing is you have localized TCOs, so these are guys and gals that kind-of get together, break off, and form their own localized transcriminal organization. They can move a little bit more freely because they are not dependent upon the major TCOs that are running the border.

So it is like a subset of TCOs that is operating in those local communities, as you know, Syracuse, Oswego, and up and down the I-81 corridor in New York State.

Thank you very much. I look forward to a second round.

Ms. MCSALLY. Thanks. We are in the second round. I recognize myself for 5 minutes. I want to pick up on that.

Again, just to be clear, you were talking about flow going in both directions in the Northern Border. So the stuff that is going from the United States to Canada, who is that being run by? Is it primarily Mexican cartels that are present in the United States, or is it some of these other subgroups?

Mr. KELLY. What we are seeing is, there is multiple TCOs in Canada. So in the Buffalo area responsibility, I have Toronto and Montreal, so basically, that accounts for 80 percent of the Canadian populations within my jurisdiction of border.

So there is—after meeting with my Canadian counterparts—there is Mexican presence that are moving cocaine into Canada. There is also—

Ms. MCSALLY. So just to be clear, Mexican cartel presence in the United States in the northern communities moving—

Mr. KELLY. Right. Well, it is in Canada.

Ms. MCSALLY. OK.

Mr. KELLY. So what they have done is essentially cut the United States out of having to transship it through the United States into Canada.

Ms. MCSALLY. OK.

Mr. KELLY. It is like anything. It is a business model. It is supply and demand. They demand is in Canada so they are going to go ahead and get it. Our Southern Border has been, you know, very effective in some parts. So these TCOs need to figure out a way to get their drug up into Canada, and up into their distribution points. They are business models. They are business people. So when they get into Canada, you have different organizations like East Asian—I mean, East Indian, Asian-organized crime that are basically working together, like basic TCOs coming together, like on the Southern Border, the Sinaloa Cartel controls this corridor, and you won't get into that corridor unless you either pay a fee, or you have a battle between struggling cartels. The Northern Border, the TCOs are coming together and forming partnerships because they know it benefits each other, and it is more economically profitable for them.

Ms. MCSALLY. OK. Great. Thank you.

Mr. Dougherty, the Northern Border Threat Assessment Act is what led to this document and the strategy you are doing. I have similar legislation on the Southern Border Threat Assessment Act. Can you speak to whether we could use a similar one on the Southern Border, and are we going through that process as we move our legislation along anyway?

Mr. DOUGHERTY. Can I give you the standard response? We stand by ready to give you technical assistance on any legislation that you would like to bring—

Ms. MCSALLY. But aside from legislative direction for it, are you going through, in the Department, a similar Southern Border threat assessment similar to what you are going through in the Northern Border, or are you waiting for legislation to make that happen?

Mr. DOUGHERTY. I don't know if we are waiting for legislation to make that happen. I think what we have got in front of us is the Northern Border right now, and that is the thing that led us to go to General Kelly and say: You know, sir, this thing is 5 years old. We need to update it. So that it is focused on the Northern Border.

Ms. MCSALLY. Got it. Has it been a valuable process? Sometimes we tell you guys to do things that take up a little time, but it seems that it has been a valuable process for you to go through to come to this, you know, this report and then the follow-on strategy?

Mr. DOUGHERTY. Yes. Yes. It is highly iterative. It gets the Department to focus on things together. It is, as you know, when we go to January and then we have got 180 days, where we are going to be looking at the implementation plan and then we are off, maybe even thinking about the budget in 2020 at that point, it is not as fast as people would like it to be. But I think that iterative process and the use of the joint requirements council—and it is essentially new to the Department per Secretary Johnson when he was here—that slows things down, but I think it brings a level of fidelity and care to acquisitions that is very useful to the Department.

Ms. MCSALLY. OK, thanks.

Chief Luck, what is the biggest technology gap that you have on the Northern Border right now?

Mr. LUCK. I would say domain awareness. That is what we need the most. We need to be able to see what is coming in, be able to detect what is coming in, and then our response capability is second to that.

Ms. MCSALLY. Got it. Do you have any unmanned aerial systems operating up there? If so, how many?

Mr. LUCK. We have do have unmanned aerial vehicles up there. They are giving us some situational awareness as well, and we use them all the time. We have all the Northern Border's sectors, with the exception of two that are getting collected right now. The others should come on-line this fiscal year, and then next fiscal year.

Ms. MCSALLY. OK, great. You mentioned that coming into contact with the Fentanyl can be obviously deadly and dangerous.

I recently talked with some Border Patrol agents in my community who mentioned that the line agents don't have access to the Narcan, that it is only at the supervisor level; whereas, the line agents would be the ones who most likely need it for their safety or the safety of others. Is that something that is being looked at to shift, because that seems like an obvious thing, that they should have it right on them just like first responders.

Mr. LUCK. Yes, ma'am. They do. A lot of them do have the—but there is not enough to go around, and we're purchasing more to give to everyone.

Ms. MCSALLY. Thanks. Ms. Barragán showed up so are you OK with me—

Mr. VELA. Yes.

Ms. MCSALLY. OK. The Chair now recognizes Ms. Barragán from California for 5 minutes.

Ms. BARRAGÁN. Thank you, Madam Chairwoman.

The Northern Border is home to sovereign Tribal lands, and as you mentioned in your testimony, Dr. Marchand, Tribal personnel are the first and sole emergency responders for both the Tribal and non-Tribal communities, along both borders, Tribal law enforcement is struggling to adequately police drug traffickers who use their reservations to cross the border.

Sophisticated traffickers are exploiting lack of Tribal law enforcement resources by monitoring the radio frequencies and coordinating the activities around officers' movements.

Do you feel you are getting the resources necessary to effectively police illicit border activity?

Mr. MARCHAND. Just in general, no, we have very large tracts of land, often it is regularly impassable lands, mountains, and especially in winter. So very small police forces. We have an area, large State, there are times we might only have two officers in the whole entire area. We have a couple dozen—and we do cooperate with local and drug task forces and things, but getting bodies on the ground is real difficult. There is not enough funding or people, I guess.

Ms. BARRAGÁN. Is that posing a security threat in not having enough people there on the Northern Border there?

Mr. MARCHAND. I think it is. I don't know that it is huge volumes of drugs, but we do have reports of like planes and helicopters, and things like that, that did get in. Then even if we knew they were there, it might take an hour for someone to even drive there and/or get there, and by that time, they are gone.

Ms. BARRAGÁN. What resources would you say are needed by the Tribal law enforcement to better combat the drug trafficking on the reservation?

Mr. MARCHAND. More police officers would be one thing. The other thing is there is a lack of communication, infrastructure, and so, we kind-of have a bare skeletal system out there now, but if we get a natural disaster, like forest fires or something, it can wipe out the whole systems in the region for extended periods of time. So it is kind-of across-the-board issues. There is funding and isolation, I guess. A lot of the communities are pretty poor, not just Indian communities, but we are isolated in rural communities so.

Ms. BARRAGÁN. OK. I apologize if this was already asked, but I wanted to go back to, in October, the National Congress of American Indians adopted a policy, resolution expressing, among other issues, its concern about the Department of Homeland Security's on-going operations along the Northern Border, considering many Tribal nations have members on both sides of the border with Canada, and they cross regularly for cultural events, religious events. I am curious on how the DHS operations are affecting the communities. I read about the NCAI resolution adopted last month that made a mention of, "excessive interrogation or harassment, denial of entry for minor offenses, and the improper handling of sacred or cultural items."

Can you describe to the subcommittee what is going on, and how DHS can better address these concerns?

Mr. MARCHAND. I guess I will start off by saying I think things have improved. So I think there are protocols in place, you will be asked specific questions, do you have sacred objects or feathers, and that is kind-of standard statements I will ask when we cross the border. So I think things have gotten better. But also, it gets down to individual personnel, you know, staff turns over and changes. So I think there is always a need to keep constantly retraining people and reintroducing it. It is not something where you do one training and then it is fixed forever. It doesn't work like that, and you need to keep it up, the cultural-sensitivity type things, I guess.

Ms. BARRAGÁN. If there was one thing that you think DHS or that this committee could do to help the situation that you deal with, what would you say that is?

Mr. MARCHAND. One of our pressing issues right now is just ID cards getting across the border. We are in the process of nearing completion of our new Tribal IDs, but those things are kind-of a barrier. Some of our people will get passports, things like that, which I think are the best, but they cost some money, and a lot of our people don't have jobs or money. So even our Tribal ID cards, we are going to be charging some money for the enhanced ones. That is kind-of a barrier. Maybe a few hundred dollars isn't a lot for the average American, but if you are out of work, it can be a lot of money. So those types of things are a problem.

Ms. BARRAGÁN. Thank you. I yield back.

Ms. MCSALLY. The Chair now recognizes Mr. Vela.

Mr. VELA. Yes, this is probably something for Mr. Dougherty or Mr. Kelly to address. I became curious as we were sitting here about the whole idea of terrorist threats in the Southern and the Northern Borders. I really am not in a position to know whether what I am about to read is reliable or not, but I ran into this.

It says "Southern FBI terrorists Screening Center, monthly domestic and counter reports dating from April 2014 to August 2016, detailed a number, type, and location of encounters with known or suspected terrorists across the United States. The encounters are based on information in various watch list databases, and all seven reports the numbers of encounters land border crossings were higher in northern States than in southern States."

Do you care to address that?

Mr. KELLY. I mean, like anything, his, we work with our Joint Terrorism Task Force. I have agents assigned there full-time. There is an information flow. I guess I am not understanding the full context of the question, but can you—

Mr. VELA. Well, it is a report that I ran into on-line, and I was just curious if you had access to that same information?

Mr. KELLY. We do. We have a very good information flow with our Canadian partners, especially on the counterterrorism side. We meet with the FBI monthly. I have intel people that are—the information is flowing back and forth between us and the Canadians. That much I can tell you. It is one of those things that happens, it happens daily up there.

Mr. VELA. Well, maybe this is something that we can best address in that Classified setting.

Mr. KELLY. Right. There is a lot of high-side stuff we can't get into here, but I can assure you it is being done by both us and our Joint Terrorism Task Force partners.

Mr. VELA. Thank you.

Ms. MCSALLY. The Chair will now recognize Mr. Katko for 5 minutes.

Mr. KATKO. Thank you, Chairman. Getting back to a couple of things here.

First of all, Mr. Dougherty, in the Northern Border Threat Assessment, it gives some statistics as to the seizures on the Northern Border. Is that fair to say, without getting into the details?

Mr. DOUGHERTY. I am sorry, sir?

Mr. KATKO. It gives some statistics as to the amount of drug seizures on the Northern Border?

Mr. DOUGHERTY. I believe that is correct. Yes, sir.

Mr. KATKO. Do you know if that takes into account any seizures that happens south of the border in the inland of New York State, for example, or elsewhere, that are attributed to the border seizures?

Mr. DOUGHERTY. I can't answer the question because I don't know. I assume that we are basically just looking at activities that are occurring in the operational area of the border and the POEs.

Mr. KATKO. Thank you.

Now, Mr. Kelly, with respect to the seizures, I take it you have been involved in many cases, as have I, where the vast majority of drug seizures along the Northern Border happened past the border, is that fair to say?

Mr. KELLY. That is fair to say.

Mr. KATKO. Give us some examples. I gave you one of 218 kilos of cocaine. You gave me another one of 34, but how often do seizures that are border-related happen at the border compared to certain ones that happen—

Mr. KELLY. It varies on the kind of investigation that we are doing, but I know our State and local partners are running into it a lot as well.

Like I said before, we work jointly with them, and our job is to kind-of build that conspiracy and build that case against that TCO exploiting it, but it does happen on a fairly regular basis. Again, it is my Achilles Heel, not knowing everything that comes on and off, the Akwesasne at any given point. But, again, we have made some great inroads with our Tribal police. We have made some great inroads with the elders and the Tribals. I met with the subchief and I have recently been invited to Tribal Council to try and foster a better relationship with law enforcement.

Again, I can't do that without my partnerships with the Tribal.

Mr. KATKO. Yes. I appreciate what you are saying about the Akwesasne. Again, it straddles both sides of the Saint Lawrence River, which straddles the Canadian-U.S. border. While the vast majority of people on the Akwesasne are great law-abiding people, there is a significant minority within the Akwesasne that are involved in the drug trafficking, alien smuggling, and the gun running, and every other darn thing up there. I mean, I remember going down rivers on Border Patrol boats and looking at a series of modest homes on the reservations interspersed with multi-million-dollar mansions, which clearly were made with drug trafficking.

To Dr. Marchand's point with jurisdictional issues under American law, usually if the house was built with drug trafficking money, you could seize the home, but you can't on the reservation. You can seize the home but you can't seize the land. So you can't do anything about it.

So it raises unique law enforcement problems for us on the Northern Border that I am not sure like that anywhere else in the country.

Is it fair to say—I want to drill down a little bit farther, on the drug trafficking routes—well on drug trafficking routes on the Akwesasne, but elsewhere on the Northern Border; are they also being exploited by alien traffickers?

Mr. KELLY. Yes.

Mr. KATKO. Can you give us some examples of some of the alien cases? Like I did one, for example, where they seem more ethnically-based than they do on the Southern Border.

Mr. KELLY. Right.

Mr. KATKO. For example, Eastern European folks come in——

Mr. KELLY. We had a Polish smuggling ring in Buffalo——

Mr. KATKO. Right.

Mr. KELLY [continuing]. Exactly the same thing, that was exploiting the openness of the Akwesasne. I know out West they had the same situation in Detroit as well, where they were exploiting some of the open borders to move back and forth to the countries.

Mr. KATKO. Is that a concern to you, the alien smuggling?

Mr. KELLY. It is.

Mr. KATKO. Why?

Mr. KELLY. It is a concern because it is movement of people that we don't know who they are or what they are or why they are coming or why they are going. It is a disturbing trend. In my experience, most alien smugglers will stay to their true tested routes and standards and methods and, you know, they tend to stay the course on their smuggling routes.

Mr. KATKO. Now, with the development of more of the Mexican cartels locating in Canada, is there concern from any of you, Mr. Luck perhaps, or Mr. Dougherty, or any of you, that as we put more pressure on the Southern Border and as they try and secure the Southern Border, that there is going to be more transshipment of drugs and humans through the Northern Border?

Mr. LUCK. Yes, it is. We see more and more links now from the Southwest Border to the Northern Border. So, there is connections there. We run cases with his on those ones that are transporting criminal aliens and narcotics from the Southwest Border into those areas close to the Canadian border, and have hubs designated for that purpose.

It is important that we share that information. That is the reason why we are starting up that Northern Border Coordination Center, to link all of those things together so that as this keeps going forward and we get more and more of this traffic connected to the Southwest Border, we can exploit that, and we can address it.

Mr. KATKO. The last question that I will ask—and I appreciate your indulgence, Chairman—obviously, lack of adequate personnel on the Northern Border, to me, pretty acute, and I saw it for years. Wave a wand. This is your moment to give your ask. What is your ask for the Northern Border as far as personnel and equipment and surveillance, and what have you?

Mr. LUCK. I would like to get more——

Mr. KATKO. Don't tell me build a wall.

Mr. LUCK. You won't hear that from us.

Mr. KATKO. OK. All right.

Mr. LUCK. We would like to get more technology up there. We would also, and I would be remiss if I didn't say, we have facility issues on the Northern Border.

There is facilities that have been woefully neglected over the past 10 years. Niagara Falls in your district, Niagara Falls, and Champlain stations, they are in vast need of repair and new facilities.

So those are the things that go first. To give the agents somewhere to go to to work out of is important, and to have the systems that they can run checks with. In those areas, they are bursting at the seams in some of those areas, and they are not adequate for what we need. So that, personnel, and technology is what we need on the Northern Border.

Mr. KATKO. Anyone want to add anything else?

Mr. KELLY. Like anything, sir, I could use more investigative groups, more appropriations, and direct line funding for us to get equipment. Like, for example, TruNarc is a system we use to identify drugs without having to touch it. You know, those run anywhere from \$50,000 to \$75,000 just for one unit. What that does is it stores all the analogs and it is a PPE, it is an officer safety thing. So like anything, and I keep echoing this, if you give me more, his can definitely do more.

Mr. KATKO. OK. Thank you. Of course, you could use more prosecutors, right? Right?

Mr. KELLY. That is the back end of it, sir, is we have to, you know, and you know better than anybody, we have to prosecute the people that we arrest.

Mr. KATKO. Yes.

Mr. KELLY. That is another issue.

Mr. KATKO. Well, I appreciate the Chairwoman's indulgence. This is an issue that I have seen for front line for a long time and it is not going away. As we put more pressure on the Southern Border, I think the Northern Border is going to be more of an issue. Let's not forget the Millennium bomber came through Canada, Vancouver, into the United States, and there have been many other threats on our Northern Border. There is the CSX train that was targeted from Montreal to down to New York City for a terrorist act not too long ago, and many, many others. So we have to recognize that the Northern Border is a threat just like the Southern Border is. I would argue, in some respects, because of its lack of attention, it is more of a threat. With that, I yield back.

Ms. MCSALLY. The gentleman's time is well expired.

I want to thank the witnesses for their valuable testimony, and the Members for their questions.

Members of the committee may have some additional questions for the witness, and we will ask you respond to these in writing. Pursuant to committee rule VII(D), the hearing record will be held open for 10 days.

Without objection, the committee stands adjourned.

[Whereupon, at 11:24 a.m., the subcommittee was adjourned.]

APPENDIX

QUESTIONS FROM RANKING MEMBER FILEMON VELA FOR MICHAEL DOUGHERTY

Question 1a. As you know, section 102(c) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (“IIRIRA”), as amended, gave the Secretary of Homeland Security authority to waive laws to expedite the construction of a border wall.

Is it the Department’s judgment that the Secretary continues to have authority to waive all laws to build a border wall? Does this authority extend to sovereign Tribal lands as well?

Question 1b. Does the Department intend to do so? Please explain.

Answer. Section 102(a) of IIRIRA remains in effect and authorizes the Secretary to construct “physical barriers and roads (including the removal of obstacles to detection of illegal entrants) in the vicinity of the United States border to deter illegal crossings in areas of high illegal entry into the United States.” Section 102 does not specifically exclude any land, including Tribal land, from coverage, provided such land is “in the vicinity of the United States border.”

Section 102(c) of the IIRIRA also remains in effect and authorizes the Secretary to “waive all legal requirements [the] Secretary, in [the] Secretary’s sole discretion, determines necessary to ensure expeditious construction” Thus, the Department does believe that the Secretary has the necessary authority. The President has requested funding for construction of additional barriers and roads in the vicinity of the border. If Congress provides such funding, the Department will assess whether expeditious construction of those barriers or roads warrants requesting the Secretary to issue waivers of legal requirements as authorized by section 102(c).

Question 2a. The legislation that mandated the Northern Border Threat Analysis requires the Secretary to examine in its report to Congress, among other factors, the technology needs and challenges as well as the personnel needs and challenges along the Northern Border. However, the report does not provide specifics as to what kind of technology is needed on the Northern Border or how many additional CBP officers are needed at our Northern Border ports of entry.

Why were these requirements not included in the report? Do you believe the report fulfills the statutory mandate?

Answer. The report notes that technology that improves domain and situational awareness is a general capability need for the Northern Border. The report also describes personnel challenges on the Northern Border. However, to make fiscally sound investment decisions that improve security on the Northern Border, the Department elected to first update our Northern Border Strategy and write an implementation plan. As part of that process, DHS intends to conduct an analysis to identify gaps to achieving the Strategy’s defined end-states and recommend specific actions needed to fill them. Recommendations may include additional personnel, new technology, doctrine changes, or other measures.

Question 2b. How many additional CBP officers are needed to fully staff CBP ports of entry on the Northern Border?

Answer. As of December 9, 2017, 97 percent of the authorized CBP officer positions on the Northern Border were filled. This equates to only 130 unfilled CBP officer positions across the entire Northern Border. However, there are key ports and stations, especially in Maine, Minnesota, Montana, North Dakota, and Vermont that have faced staffing challenges.

In an effort to fill staffing gaps along the Northern Border, recruitment incentives have been approved for the following Northern Border locations: Jackman/Coburn Gore and Houlton, Maine; Grand Portage, Minnesota; Sweetgrass and Raymond, Montana; Massena, New York; Pembina and Portal, North Dakota; Beecher Falls and Norton, Vermont; and Oroville, Washington. Relocation incentives can technically be used for positions anywhere, but they have primarily been used for positions at Northern Border locations with staffing challenges.

Question 3. The report states that an updated Northern Border Strategy will be delivered 180 days from the issuance of the June report. Will the strategy be delivered on time?

Answer. As DHS leadership has indicated in previous testimonies to Congress, DHS intends to have a final version of the Northern Border Strategy completed in January 2018. However, public release of the document may take longer, depending on clearance processes. Upon request, DHS will offer Congressional briefings once the strategy is complete.

QUESTIONS FROM RANKING MEMBER FILEMON VELA FOR SCOTT A. LUCK

Question 1a. The Northern Border Threat Analysis details some of the same challenges facing agents in the Southern Border, such as terrain, weather, and remoteness. There are also communications issues and greater gaps in domain awareness due to limited surveillance capabilities across the vast Northern Border. These gaps are largely due to a lack of personnel, technology, and infrastructure on the Northern Border as compared to the Southern Border, where we have invested billions of dollars in cameras, sensors, radar system, physical barriers, and additional agents in recent years.

With TCOs and other adversaries constantly evolving, at what point does it make sense to stop dedicating virtually all our border security resources to the Southern Border and begin addressing Northern Border vulnerabilities?

Answer. The U.S. Border Patrol (USBP) evaluates all threats to the borders and prioritizes the deployment of available resources to areas of highest risk, not to a specific geographic area such as Northern versus Southern Border. Because the frequency and severity of cross-border illicit activity along the U.S.-Canadian border is very low compared to cross-border illicit activity along the U.S.-Mexico border, resources deployed to the Northern Border are focused more on increasing our situational awareness and detection capability through investments in surveillance, sensors, and geospatial capabilities than on impedance and denial and enforcement assets between ports of entry.

The USBP continues to invest in Northern Border operations albeit to a lesser extent than the Southern Border; it is commensurate with what we know to be the threat today. We have expanded strategic partnerships with State, local, and foreign law enforcement agencies. This includes establishing and staffing the Northern Border Coordination Center (NBCC). USBP has increased domain awareness technology such as radar and cameras and will continue to assess and better understand the Northern Border's potential for risk, based on identified vulnerabilities and associated threats. Should threat profiles change, or exigent circumstance exist, the USBP retains the ability to surge into areas where and when needed through increased investment in impedance and denial and enforcement resources.

Question 1b. Have you considered fencing, walls, or any physical barriers for the Northern Border?

Answer. CBP is considering all options, including fencing, walls, and physical barriers for use on the Northern Border. Note that any physical barrier constructed along the U.S.-Canada land border must not interfere with the 6 meter (20 foot) clear vista maintained under treaty by the International Boundary Commission.

Question 1c. Why or why not?

Answer. The demonstrated effectiveness of walls or wall systems along the Southern Border makes them a potential solution for any part of the border where impeding or denying illicit cross-border activity is an operational requirement. When assessing the need for barriers at or along the Northern Border, the USBP will apply the same level of analysis and rigor as it did along the Southern Border, and deploy barrier solutions at those locations where they make sense. Similarly, we must assess the ability of other solutions (e.g., technology, signage, and improved communications) to improve border security as well. Typically, we have found that there is no single solution to border security. Border security requires an array of capabilities provided by an appropriate mix of technology, infrastructure, and personnel. However, risk-based approaches to deploying resources are essential, and the resources must first be directed to areas of the border where threat, risk, and activity levels are most immediate. While this focus is not intended to diminish the nature of the threat we face on the Northern Border, the relatively high levels of activity on the Southern Border, combined with resource limitations, continue to require a focus on the Southwest Border.

Question 2a. One significant difference along our Northern Border is the partnership U.S. law enforcement has with Canadian counterparts, including the Royal Canadian Mounted Police (RCMP) and Canada Border Services Agency (CBSA).

How would you characterize Border Patrol's relationship with the RCMP, CBSA, provincial police, and other Canadian counterparts?

Answer. The USBP maintains close collaborative relationships with RCMP, CBSA, provincial police, and other Canadian law enforcement counterparts.

The USBP employs regional representatives in Canada to enhance existing efforts to close and mitigate information and intelligence gaps along the shared international border. USBP regional representatives coordinate bilateral law enforcement efforts through U.S. consulates and the U.S. embassy and engage with Canadian agencies on securing the shared border.

The Cross Border Law Enforcement Advisory Committee (CBLEAC) further enhances bi-national cooperation. The CBLEAC provides executive-level guidance to cross-border law enforcement initiatives involving partnerships between United States and Canadian law enforcement agencies along our shared border. The core partners of the CBLEAC are CBP/USBP, U.S. Immigration and Customs Enforcement-Homeland Security Investigations, U.S. Coast Guard, RCMP, and CBSA.

Question 2b. Can you describe what the day-to-day interaction is in the field between Border Patrol's Northern Border sectors and law enforcement on the Canadian side?

Answer. The Border Patrol's area of operation (AOR) along the Northern Border is divided into eight sectors that encompass the States along the Northern Border and Great Lakes: Blaine, Spokane, Havre, Grand Forks, Swanton, Detroit, Buffalo, and Houlton Sectors.

Through liaison activities and intelligence sharing, USBP sectors have worked closely with Canadian law enforcement agencies for decades. Relationships were forged through years of working closely together along the shared border between the United States and Canada. The USBP sectors work in conjunction with our CBP regional representatives in Canada to establish, develop, and maintain open communications and mutual respect between foreign and domestic law enforcement counterparts.

USBP sectors are also integral members of the Integrated Border Enforcement Teams (IBET) along the Northern Border. The IBET mission is "to enhance border integrity and security at our shared border between the ports of entry by identifying, investigating, and interdicting persons and organizations that pose a threat to national security or are engaged in other organized criminal activity."

IBETs are multi-disciplinary, multi-agency intelligence-driven enforcement teams. They work in land, air, and marine environments "between the ports of entry" along the Canada/United States border while respecting the laws and jurisdiction of each nation. While the focus is "between the ports" they work closely with Canada Border Services Agency (CBSA) personnel at the ports of entry".

Question 2c. How is your current information sharing and cooperation with Canadian counterparts?

Answer. Information sharing and cooperation with Canadian counterparts is robust and strong, but the United States and Canada are continuously working to make improvements where they are needed. The Department of Homeland Security (DHS) regularly coordinates with its Canadian partners to share information, including information on those who pose a threat to either country. The United States and Canada are working toward full implementation of the third phase of the Entry/Exit program, which exchanges biographic entry data on travelers in the land environment so that documented entry into one country serves as an exit record from the other country. While the program currently applies only to all third-country nationals at the U.S.-Canada land border, it will be expanded to include U.S. and Canadian citizens once the necessary legislation is passed in Canada. In addition, pursuant to the Visa and Immigration Information Sharing Treaty, the two countries share biometric and biographic visa and immigration information on third-country nationals. Canada queries all asylum, refugee, and visa applicants against U.S. biometric information, thereby providing a greater amount of information with which to make a decision.

The U.S. Border Patrol (USBP) leverages U.S. Customs and Border Protection (CBP) representatives in Canada to enhance existing efforts to close and mitigate information and intelligence gaps along our shared land border. Currently, there are six Border Patrol agents posted as CBP representatives in Canada (Toronto, Winnipeg, Vancouver, Montreal, and Ottawa). USBP agents are embedded with the Royal Canadian Mounted Police (RCMP) and Canada Border Services Agency (CBSA) as they represent CBP during engagements with Canadian agencies related to the shared land border between designated Ports of Entry (POEs). Other agencies, including United States Citizenship and Immigration Services (USCIS) and U.S. Coast Guard, also have employees embedded within Immigration, Refugees, and Citizenship Canada and the Royal Canadian Mounted Police respectively.

U.S. Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI) maintains four offices within Canada (Ottawa, Toronto, Montreal, and Vancouver) with a current presence of 17 total positions (including Special Agents and support staff). These offices regularly liaise with Canadian Federal, provincial, and local agencies to support ICE HSI domestic investigations with ties to Canada, as well as to promote joint bilateral investigations with a goal to disrupt, dismantle, and deter illicit trade, travel, and finance perpetrated by transnational criminal organizations and/or individuals that threaten the National security and economic integrity of both countries. Within Canada's national capital of Ottawa, ICE HSI is currently the only U.S. law enforcement agency that maintains a part-time liaison position assigned to the RCMP's National Child Exploitation Coordination Centre, and ICE HSI also maintains a part-time presence within the RCMP's Border Integrity Unit along with representatives from USBP and U.S. Coast Guard (USCG). In addition to regular interaction with Canadian partners, all four ICE HSI offices are actively involved in several task forces, working groups, and integrated teams established within their respective regional areas of responsibility that exist to prioritize and target significant threats such as the fentanyl/opioid epidemic, the on-line exploitation of minors, and transnational organized crime groups.

ICE HSI in Canada will also at times serve as a liaison between ICE Enforcement and Removal Operations (ERO) and CBSA pursuant to the facilitation of individuals being removed from the United States to Canada following the completion of removal proceedings in the United States. ICE ERO and CBSA will often exchange information in regards to changes to detention/removal policies and procedures, inland enforcement statistics, as well as challenges and best practices when engaging with recalcitrant countries for removals.

The United States and Canada are working to expand joint law enforcement initiatives along the border. To this end, a Cross-Border Law Enforcement Advisory Committee (CBLEAC) was created in 2015 and continues to meet bi-annually, to provide executive-level guidance to all cross-border law enforcement initiatives involving partnerships between United States and Canadian law enforcement agencies along our shared border. CBLEAC is designed to allow flexibility and unity of effort in a resource-constrained environment. CBLEAC services all cross-border law enforcement groups, task forces, teams, and units that are created by joint partnerships between the core agencies (CBP, U.S. Immigration and Customs Enforcement (ICE), U.S. Coast Guard (USCG), RCMP, and CBSA) and other stakeholders in the law enforcement community, including other Federal, State, provincial, Tribal, local, and municipal agencies.

ICE HSI also deploys numerous Border Enforcement Security Task Forces (BESTs) to land, seaport, and airport POEs. Created by ICE HSI in 2005, BESTs use a collaborative approach to identify, disrupt, and dismantle transnational criminal organizations by co-locating and cross-designating investigative assets of Federal, State, local, Tribal, and international law enforcement partners at key locations on the border. There are 57 BESTs Nation-wide, comprised of over 1,200 members from over 150 law enforcement agencies. Currently, ICE HSI has 5 BESTs along the Northern Border in Blaine, Washington; Buffalo, New York; Massena, New York; Detroit, Michigan; and Port Huron, Michigan. These 5 BESTs consist of over 100 participants. In addition to Federal, State, local, and Tribal agencies, each of these BESTs includes Canadian law enforcement partners.

Additionally, there are 12 Integrated Border Enforcement Team (IBET) regions operating along the Northern Border. IBETs, comprised of both U.S. and Canadian personnel, enhance shared border integrity and security between designated POEs by providing a mobile and integrated interdiction response capability. Each IBET enhances border security by identifying, investigating, and interdicting individuals and organizations that pose a threat to National security or are engaged in other organized criminal activity, such as drug trafficking. IBETs are comprised of representatives from five core agencies with law enforcement responsibilities at the shared border: ICE, CBP, USCG, RCMP, and CBSA. IBETs are an interdiction-based, coordination mechanism where the member agencies meet frequently to de-conflict targets, plan joint operations, conduct joint training, and interact. They can also activate mirror patrols for interdiction as deemed appropriate or required.

In addition to these efforts, the USCG and RCMP collaborate under the Integrated Cross-border Maritime Law Enforcement Operations program, otherwise known as Shiprider. This program enables the RCMP and USCG to become designated "shipriders" who can then conduct patrols on each other's vessels within the territorial waters of both countries. Used along with intelligence and investigative-driven operations, it provides a seamless law enforcement process that is less taxing on personnel and resources while providing more efficient and effective response to criminal activity in territorial waters. The Shiprider program diminishes the ability

of drug traffickers to use the international border as a way to evade pursuit by either U.S. or Canadian law enforcement officers. As of May 2016, there are Shiprider operations in Vancouver, BC/Blaine, WA; Windsor, ON/Detroit, MI; Kingston, ON/Alexandria Bay, NY; and Victoria, BC/Port Angeles, WA.

In 2017, USBP stood up a Northern Border Coordination Center (NBCC) in Detroit, Michigan at the Selfridge Air National Guard Base. The NBCC was established to collaboratively strengthen risk-informed and intelligence-driven law enforcement efforts that enhance operational integration with domestic and international partners. The NBCC provides a common threat picture to enhance CBP's bi-national approach to developing timely, relevant, predictive, and actionable intelligence. The NBCC intends to connect with the RCMP, CBSA, and other Canadian law enforcement partners to better share information and collaborate on shared threats and targets.

Question 2d. Where is there room for improvement?

Answer. Through international treaties, bilateral Memorandums of Understanding (MOUs), and other agreements and arrangements, the United States and Canada have developed an efficient and effective joint border enforcement posture to enhance the security of both our countries. This posture includes efforts within, at, and away from our borders. However, some legal obstacles remain that, if addressed through Canadian legislation, could enhance U.S. security at the perimeter and along the Northern Border. The lack of agreed-upon privileges and immunities for some U.S. law enforcement officials, including U.S. Border Patrol and ICE HSI agents, has hindered efforts to commence joint patrols and coordinated joint investigations with Canadian authorities in the land environment in Canada. Addressing this issue could also enable preventative joint patrols and coordinated joint investigations with Canadian authorities in Canada, enhancing the ability of U.S. law enforcement officials to interdict malicious actors or illicit goods at the earliest possible point.

QUESTIONS FROM RANKING MEMBER FILEMON VELA FOR KEVIN KELLY

Question 1. There are six ICE HSI Special Agents in Charge offices with areas of responsibility along the Northern Border. The Northern Border Threat Analysis report states there are insufficient resources to cover the expansive Northern Border. Some might argue we are planning to build multi-billion dollar border walls while failing to provide basic security resources to the Northern Border.

Can you talk about the inadequate facilities and the out-of-date interoperable hand-held and vehicle communications systems your folks have to struggle with? How does this impact joint agency operations given the number of jurisdictions at play to the north?

Answer. The Northern Border poses unique challenges for effective tactical radio communications and supporting infrastructure. The U.S. land border with Canada is approximately 3,100 miles long, generally sparsely populated, and with a topography that includes mountain ranges and the Great Lakes. In general, law enforcement radio communications must take place in a direct line of sight between two radios, across a maximum distance of about 7 miles. To communicate over greater distances, the signal must be relayed between a series of repeater stations, each covering an area of about 2,800 square miles, or a 30-mile radius from the tower. Networks of such repeaters are the framework of U.S. Immigration and Customs Enforcement's (ICE) communications infrastructure. ICE Homeland Security Investigations (HSI) does have some capability through HSI Mobile Command Centers to provide limited communications support in such areas with adequate lead time.

ICE HSI has obtained frequencies to use near the Northern Border; however, these frequencies must be coordinated with and approved by the Canadian Government. In addition, these same frequencies only address some of the current gaps along the border. Without additional funding, the entire border cannot be covered. Federal agencies must obtain approval from the National Telecommunications and Information Administration and the Canadian Government in order to obtain frequencies assigned for use along the Canadian Border. This results in significant delays in obtaining new radio channels necessary to get systems up and running. The coordination often results in the requirement that program radios operate at lower power levels than are typically used by ICE HSI, which reduces the range of the radios.

ICE HSI currently has very high frequency (VHF) radios that are Project 25-compliant (compliant with current standards for public safety multiband radio communications) and provide interoperability with other Federal agencies within DHS. ICE HSI's radios are also compatible with those of almost all Federal agencies outside of DHS, with the exception of U.S. Drug Enforcement Administration, which oper-

ates in the ultra-high frequency (UHF) band. Communications capabilities of State and local agencies in both the United States and in Canada vary; and making systems interoperable would require ICE to purchase multi-band radios capable of operation in the VHF, UHF, and 800 megahertz bands. These radios cost approximately \$6,500 each.

Question 2. Even with insufficient resources, ICE made 5,009 criminal arrests, 665 administrative arrests, 103 human smuggling arrests, and 509 human trafficking arrests along the Northern Border in fiscal year 2016. ICE Homeland Security Investigations (HSI) seized 369 pounds of cocaine, 400 pounds of heroin, 424 pounds of marijuana, 392 pounds of methamphetamines, 1,618 weapons, and \$20,717.73 in the same year.

To the extent you can in this setting, could you talk about any recent trends regarding criminal activity on the Northern Border, in particular the rise of outlaw motorcycle gangs?

Answer. A persistent threat to U.S. public safety continues to be the bi-directional flow of drugs. Transnational criminal organizations (TCOs) continually adapt their drug production, smuggling methods, and routes to avoid detection by U.S. and Canadian law enforcement and to meet consumer demands in both countries.

One such adaptation is the suspected alignment of traditional organized crime groups (e.g. La Cosa Nostra, Mexican Cartels, etc.) with outlaw motorcycle gangs (OMGs) in Southern Ontario. The OMGs have been infiltrating the workforces at Canadian seaports and airports in order to facilitate the smuggling of contraband through these critical infrastructures with minimal exposure to their criminal organization. U.S. Immigration and Customs Enforcement Homeland Security Investigations Buffalo has encountered OMGs operating as TCOs, and moving their contraband through the Northern Border. The OMGs in Southern Ontario have suspected business relationships with Mexican drug trafficking organizations.

The topography along mountainous parts of the Northern Border is occasionally exploited by smugglers flying private aircraft at low altitude to evade radar detection. There are numerous small airports, unmanned airstrips, and lakes throughout these rural areas that provide smugglers the opportunity to make short-duration, low-altitude flights through sparsely-populated areas, thereby further reducing their chances of detection. While the region remains vulnerable to tactics that use general aviation aircraft to transport illicit cargo to or from Canada, there are no reports indicating that the tactics are employed on a large scale.

The unique nature of the maritime boundaries between the United States and Canada create a conducive environment for TCOs to traffic drugs, people, and other contraband. High-density recreational boating traffic, short transit distances between countries, and close proximity to Tribal reservation lands create a complex problem set for law enforcement.

