

# RESOURCES AND AUTHORITIES NEEDED TO PROTECT AND SECURE THE HOMELAND

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## HEARING

BEFORE THE

COMMITTEE ON  
HOMELAND SECURITY AND  
GOVERNMENTAL AFFAIRS  
UNITED STATES SENATE  
ONE HUNDRED SIXTEENTH CONGRESS

SECOND SESSION

MARCH 4, 2020

Available via the World Wide Web: <http://www.govinfo.gov>

Printed for the use of the  
Committee on Homeland Security and Governmental Affairs



U.S. GOVERNMENT PUBLISHING OFFICE

40-973 PDF

WASHINGTON : 2021

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## RESOURCES AND AUTHORITIES NEEDED TO PROTECT AND SECURE THE HOMELAND

WEDNESDAY, MARCH 4, 2020

U.S. SENATE,  
COMMITTEE ON HOMELAND SECURITY  
AND GOVERNMENTAL AFFAIRS,  
*Washington, DC.*

The Committee met, pursuant to notice, at 2:34 p.m., in room SD-342, Dirksen Senate Office Building, Hon. Ron Johnson, Chairman of the Committee, presiding.

Present: Senators Johnson, Portman, Romney, Scott, Hawley, Peters, Carper, Hassan, Harris, Sinema, and Rosen.

### OPENING STATEMENT OF CHAIRMAN JOHNSON

Chairman JOHNSON. Good afternoon. This hearing will come to order.

I want to thank Acting Secretary Wolf for his appearance, for his testimony, and in advance for his answers to our questions.

I would ask that my written statement be entered into the record.<sup>1</sup> I kind of want to hop right into this thing.

I have a chart.<sup>2</sup> This does not surprise the Committee much. I know you are pretty well shocked. But being a bean counter myself, this is a budget hearing—and, by the way, I just want to make sure that all the Committee Members are aware that we will have a hearing tomorrow with representatives from the Department of Homeland Security (DHS) and the Department of Health and Human Services (HHS) on the coronavirus disease (COVID-19). Now, I am sure Acting Secretary Wolf will answer questions that are posed to him as it relates to DHS, but a lot of these questions that we may have right now are probably better directed to HHS. So to the extent that we can really kind of focus on the budget, I would appreciate it.

Just real quick, I just kind of laid out so I really understand what all does DHS spend money on, and Customs and Border Protection (CBP), about \$18 billion a year; U.S. Coast Guard (USCG), 12; U.S. Immigration and Customs Enforcement (ICE), 10; Federal Emergency Management Agency (FEMA), 14; Transportation Security Administration (TSA), 8, Cybersecurity and Infrastructure Security Agency (CISA), 1.8; and then other discretionary, about \$18 billion. You also have about \$26 billion of offsetting fees. So gross

<sup>1</sup> The prepared statement of Senator Johnson appears in the Appendix on page 39.

<sup>2</sup> The chart referenced by Senator Johnson appears in the Appendix on page 50.

expenditures, about \$76 billion, offset by \$26 billion of fees, so net spending is about \$50 billion.

I will want to ask the Acting Secretary, in terms of FEMA major disasters, in 2019 we budgeted \$12 billion; last year, we allocated and enacted \$17 billion; and you are only budgeting about 5.1. So we will be asking that question.

When you take a look at what we all spend on border security—the next chart<sup>1</sup>—between CBP and ICE, almost \$30 billion. So that is a big chunk, not quite 50 percent of the budget. But this is why we are spending it. You see my charts on this. We are revising a little bit. What you have right now here is a bar chart that shows—the first one is unaccompanied alien children (UAC) and family units, the weekly monthly average, if that makes sense. So by month, what is the weekly average by month of people being apprehended at the border. It dates back to 2012. What I have tried to do is I have tried to put relevant government actions that we can relate to the numbers. And so you see, when we did not have much of a problem, Deferred Action for Childhood Arrivals (DACA) was announced, and it built to the point in 2014 where President Obama declared a humanitarian crisis and began detaining families together. And you can see the effect that that policy had of family detention, again, children and their parents being detained together.

Unfortunately, that policy was challenged in court. *Flores* was reinterpreted; you cannot even detain children with their parents. And so the crisis just continued to explode to where we saw it in May 2019, I think it is over 4,600 apprehensions per day. Per day. Now, that is a caravan a day that CBP had to handle. You can see the President just tenaciously acting without help from the courts, without help from Congress, policies that people may agree or disagree with, but one thing I think you have to agree with. These policies have been effective, and we have brought these numbers down. But we are still a long way from solving this problem.

We will go to the next chart,<sup>2</sup> which includes single adults, and you can see that the numbers are down slightly in terms of single adults, but that has been pretty consistent. That is just a persistent problem we have of illegal immigration, and I am not really combining the two, but in light of the fact that we have coronavirus, certainly CBP officers have in the past dealt with all kinds of different diseases, drug-resistant strains of tuberculosis, scabies. We have been down to the border. We have seen the areas where we try and contain people so those things do not spread. That represents another risk that faces this Nation.

So, again, I am looking forward to Acting Secretary Wolf's testimony here. DHS is a massive Department with massive responsibilities. I do not truthfully envy your task. I appreciate anybody who is willing to serve in this capacity and certainly anybody who is willing to come and testify before our Committee as well. So I intend to treat you with real respect; I hope everybody else does as well. With that, Senator Peters.

<sup>1</sup> The chart referenced by Senator Johnson appears in the Appendix on page 51.

<sup>2</sup> The chart referenced by Senator Johnson appears in the Appendix on page 52.

### **OPENING STATEMENT OF SENATOR PETERS<sup>1</sup>**

Senator PETERS. Thank you, Mr. Chairman, and thank you, Secretary Wolf, for being here today and for your service to the Nation.

Every year, the Homeland Security Secretary comes before this Committee to discuss tough choices that were made to arrive at these final budgetary numbers, but we often do not hear how those decisions were made. The numbers in this budget represent decisions that will have a real impact on the safety of the American people, choices that I hope were made after extensive deliberation and thoughtful consideration.

It is our duty to carefully consider your proposal and to thoroughly evaluate the process that led you to these conclusions. If we went through this proposal line by line, we would likely find any number of areas on which we disagree. But we share the common goal of keeping Americans safe.

At the same time, your mission to secure the homeland and protect the American people must co-exist with a diverse set of responsibilities: to facilitate lawful trade and travel, to uphold basic civil rights and liberties, to protect the integrity of our elections, and to assist communities around the country recovering from disasters. It is my hope that this budget and our discussion here today will reflect that broad scope of very challenging responsibilities.

Secretary Wolf, I look forward to hearing your testimony today.

Chairman JOHNSON. Thank you, Senator Peters.

It is the tradition of this Committee to swear in witnesses, so if you will please stand and raise your right hand. Do you swear that the testimony you will give before this Committee will be the truth, the whole truth, and nothing but the truth, so help you, God?

Mr. WOLF. I do.

Chairman JOHNSON. Please be seated.

The Honorable Chad Wolf is the Acting Secretary for the Department of Homeland Security and has been serving in this position since November 2019. Mr. Wolf has served in numerous senior leadership roles within the Department, which includes leading the Office of Strategy, Policy, and Plans, as well as Chief of Staff of the Department. Acting Secretary Wolf.

### **TESTIMONY OF THE HONORABLE CHAD WOLF,<sup>2</sup> ACTING SECRETARY, U.S. DEPARTMENT OF HOMELAND SECURITY**

Mr. WOLF. Chairman Johnson, Ranking Member Peters, and distinguished Members of the Committee, it is a privilege to appear before you today to discuss the Department of Homeland Security's mission to keep this Nation safe and to present the President's fiscal year 2021 budget for the Department.

As Acting Secretary, my priorities are guided by a determination to ensure that DHS is robust, resilient, and forward-leaning, prepared to address today's threats as well as those of tomorrow. The fiscal year (FY) 2021 President's budget is not only a reflection of those priorities, but a path to achieving them.

<sup>1</sup> The prepared statement of Senator Peters appear in the Appendix on page 40.

<sup>2</sup> The prepared statement of Mr. Wolf appears in the Appendix on page 41.

As this Committee knows, the Department of Homeland Security's mission spans air, land, sea, and cyber domains, and our workforce of 240,000 strong stands watch for the Nation 24 hours a day, 365 days a year. They serve a unique dual imperative: keeping our Nation safe and secure while keeping it prosperous by facilitating lawful trade and travel.

As I often say, economic security is homeland security, and DHS plays a critical role in this mission. The President's budget ensures that our workforce has the resources needed to execute these critical responsibilities. It includes \$49.8 billion in net discretionary funding and \$5.1 billion for the disaster relief fund (DRF).

Consistent with recent years, our budget priorities remain the same, which is securing our borders, enforcing our immigration laws, securing cyberspace and critical infrastructure, transportation security, and American preparedness.

Recognizing that threats to the homeland are more dynamic than ever before, the budget also positions us to respond to emerging threats, including those emanating from nation-states. The Department also continues to help manage the U.S. Government's response to the coronavirus. The Department continues to support the Department of Health and Human Services, who is the lead Federal agency in charge of the U.S. Government's response. DHS remains focused on assisting travelers arriving at our air, land, and maritime ports of entry (POE), and the administration took early action to prohibit foreign nationals with travel to China from entering the United States. The same now applies to foreign nationals traveling from Iran.

Every day, the men and women of DHS are making sure that these travel restrictions are in place and enforced. They are also ensuring that all American citizens with recent travel to China or Iran are funneled through 11 airports where we have stood up enhanced medical screening. The Department's Chief Medical Officer is also coordinating closely with the Centers for Disease Control (CDC), non-government organizations (NGOs), the Governments of Mexico and Canada, and local health officials on our operational procedures as well as impact on our workforce.

I would also like to note that the Department's Cybersecurity and Infrastructure Security Agency, is working with the private sector owners and operators across all critical infrastructure sectors to identify impacts to the supply chain and to share guidance on potential cyber vulnerabilities and impacts to their workforce.

The Department is also closely monitoring cases of the virus that appear here in our hemisphere. Last Friday, the first case of coronavirus was confirmed in Mexico, with five additional cases reported since. The same day, I would note that a misguided court in California suspended the Migrant Protection Protocols (MPP). Hours later, private attorneys and NGO's demanded the entrance of over 2,000 illegal aliens, causing both CBP and Mexican officials to temporarily close a handful of ports of entry for several hours. Thankfully, the court entered a temporary stay, but I will say that MPP has an uncertain future.

We know from experience that the journey to the U.S. border puts migrants in poor conditions, and they often arrive with no passports, no medical history, and no travel manifests. The admin-



istration will continue to closely monitor the virus globally as well as in our hemisphere, and we will adjust our proactive measures as necessary.

Let me take a few more minutes just to highlight a few of the additional priorities in the budget.

The Department must continue to grow our digital defense as cyber threats grow in scope and severity. Election security remains a top priority for the Department and the administration to preserve our electoral process and to secure our systems against any interference. The President's budget invests \$1.7 billion in CISA to strengthen our cyber and infrastructure security mission.

The security of our Nation's borders also remains a primary focus for the Department and, most notably, the budget includes \$2 billion for the construction of approximately 82 miles of new border wall system as well as funding for additional technology and additional staffing.

While securing our borders is vital, the integrity of our immigration system requires that we enforce the law as written, and it remains the priority of the Department to protect our citizens by identifying, detaining, and removing criminal aliens from our country. And the budget includes over \$3 billion to ensure that our law enforcement officials have the resources they need to faithfully execute the law. And that is as true today as it was in the wake of September 11, 2001 (9/11). Counterterrorism is the Department's core mission. Importantly, the President has increased funding for targeted violence and terrorism prevention programs by 500 percent in this budget, up to \$96 million. This funding is critical to identifying at-risk individuals and preventing their radicalization to violence.

Also note that the budget invests in modernizing the fleet of the United States Coast Guard. Specifically, it provides \$550 million to fund the construction of a second Polar Security Cutter, which supports our national interests in the polar region.

While physical capabilities and technology are certainly important, the Department's greatest assets remains our workforce, and so the President's budget provides funding for over 500 new cybersecurity employees across the Department, and at CBP 750 new Border Patrol agents, including 126 new support staff, as well as sustained funding that Congress provided in fiscal year 2020 of the 300 Border Patrol processing coordinators. At ICE, the budget provides for 2,800 new law enforcement officers and 400 new ICE attorneys. At TSA, the funding sustains over 47,000 transportation security screeners or officers, and that is to match pace with passenger volume growth.

These are only but a few priorities included in the budget, and as has been noted, DHS has one of the most diverse and complex mission sets in all of government, and I am constantly amazed by the dedication of our professionals. Therefore, I ask your support in providing them the resources they need to keep our homeland secure through the President's fiscal year 2021 budget request.

Thank you again for the opportunity to appear.

Chairman JOHNSON. Thank you, Acting Secretary Wolf.

I will defer my questions until the end. Senator Peters.

Senator PETERS. Thank you, Mr. Chairman.

A couple of questions related to the coronavirus that I think are worth mentioning up front, although we will have a more in-depth hearing tomorrow. Secretary Wolf, I want to chat with you a little bit about we are making sure that we have coordinated information that is going out to folks. The one thing that I certainly have been hearing back home over and over again, people are bombarded from a variety of information sources. Sometimes it is conflicting. Even within this administration, we have different departments saying different things about coronavirus. There are folks out there trying to profit from some of the fear that is out there as well.

We had an opportunity to hear from the Vice President yesterday. I handed him an idea that I think is important, and I wanted to get your sense. It is that we have a dedicated website that is dot-gov that is a credible source that people can go to with some very straightforward facts about the coronavirus and, probably more importantly, how the Federal Government is actually responding so people can see what is being done or not being done. But I think it is important to have everybody all on the same page, all communicating in a way. The CDC does put out information, but it is difficult to get to. You have to really want to go find some of that information. It should not be that difficult for the average American to go to a trusted dot-gov site and get the facts and have it all in a coordinated fashion.

Is that something that makes sense to you? And would you be willing to lean in that we have an information source that takes your Department's information and others' and puts it out in a straightforward, factual way that people can trust?

Mr. WOLF. I am certainly supportive of making sure that we push as much information as quickly as we can to the American public. So if there is a way to streamline that that makes that more accessible, I am certainly in support of that. We talked about this issue yesterday, so, again, I am happy to talk with the Vice President and really the interagency on how we do that.

As you mentioned, HHS houses a lot of this information, but do understand that sometimes it is a little clunky to get to. You would have to go to HHS to see what they are doing and DHS on our dot-gov page to really understand what we are doing as well. So I certainly support the notion of pushing as much information as quickly as possible in an easily digestible format to the American people.

Senator PETERS. With one easy, accessible source, because you have a lot of information to put out. People should not have to search through all these different sites. Again, I am sure my colleagues are hearing all this from people, too, that there just does not seem to be a coherent place to go and get the idea of what is happening.

The next question relates to test kits and essential employees in testing. I know that recently in Washington State an office was closed when someone tested positive, and an office of 300 folks were sent home at that time. Obviously, that particular unit folks can telecommute and can continue to work. But as you know, Acting Secretary Wolf, a lot of your folks are on the front line.

Mr. WOLF. Right.

Senator PETERS. You cannot send hundreds of folks from the border home for 2 weeks and not have people there, and if this con-

tinues to spread, you could have a situation where we just simply do not have the manpower to protect our country.

My question to you is: How are you looking at a solution to prioritize testing so that we can test folks who either have the illness or do not? And if you do not have the illness, you can stay on the job; you can stay on your post at the airport or wherever you may be working. How are you going to be managing this issue as people come forward with an illness and you cannot close everything down? Explain to me how you are thinking that through.

Mr. WOLF. I think we are doing that in a couple different ways. One is the administration is obviously pushing our more tests, and I think you will hear a little bit about that tomorrow when HHS testifies, while making sure that—sort of revising the number of rules, making sure that commercial labs and State labs can push out those tests as well. So, overall, part of the process is getting more of those into the hands of folks.

We have also talked with CDC about as our front-line workers, should this continue to grow and they become impacted, how do we prioritize getting those individuals tested. So we would do that not only with the local and State health officials, but also with the local CDC folks as well as CDC headquarters to do that. We will have to do that on a case-by-case basis, depending on what part of the country they are at and everything else that is going on in that particular region or community. But we have talked to them about how do we prioritize DHS officials, protecting the border and doing their mission-essential jobs so that they can identify whether or not perhaps they are sick, and if not, continue to provide their mission.

Senator PETERS. Part of it could be because you do not show symptoms for a couple weeks. If someone does test positive, you do not want to send necessarily everybody home that does not test positive, even though they may have been in the vicinity of that individual.

Mr. WOLF. That is correct.

Senator PETERS. So if you are changing the testing criteria or you are going to test folks that appear completely healthy, confirm that they are healthy so they can stay on their job.

Mr. WOLF. We are. As we get more and more of those tests out there, we will have the ability to test more and more folks, and that is part of the process, yes.

Senator PETERS. Great. The administration's budget proposal zeroes out the Chemical Facility Anti-Terrorism Standards (CFATS) program. It is my understanding that a determination was made to dissolve this anti-terrorism program without any analysis or threat assessment. To your knowledge, was a threat assessment or detailed analysis done to justify this decision?

Mr. WOLF. To my knowledge, it was. Again, it was a discussion not only with the administration and DHS and obviously CISA who runs the program. So we looked at that, and our assessment is you can reach more facilities—as of right now, we spend about \$75 million to regulate 3,300 facilities. Our approach is to move that to a voluntary program so we can reach beyond the 3,300, and you can reach up to 40,000 chemical facilities. Again, that is very similar to how CISA does their mission and all their other mission sets, whether it is election security, critical infrastructure, soft target se-

curity. It is moving to a voluntary-based program, allowing them to push out more of their protective security advisers, their cybersecurity advisers, working with these chemical facilities, again, trying to increase the amount of security that we have across the chemical industry sector.

Senator PETERS. So you are saying there was an assessment. That is news to me and to my staff. Are you able to provide those documents to us as to the assessment that was made?

Mr. WOLF. We will work with you to provide that.

Senator PETERS. I would appreciate it. You mentioned this would go to a voluntary process. However, right now the focus is on 3,300 facilities, as you mentioned.

Mr. WOLF. It is.

Senator PETERS. Those 3,300 have been determined as the most dangerous and the ones that are most exposed to a terrorist threat. There is a reason why that 3,300 was picked. If we go to a voluntary way to do it, you say that could expand it to 40,000. But what is to have those 3,300 actually use the voluntary program? We actually may be moving away from the most vulnerable sites and perhaps letting other folks get into it and then in the process actually making us more vulnerable.

Mr. WOLF. So that is not our experience. Our experience, particularly in this case, working with these 3,300 facilities over the course of well over a decade, about 13 years, is they have increased their baseline of security, and they will continue to do that. And we see that. One would say how do we know that? We see that in other sectors that CISA works with, again, in election security fraud, also the critical infrastructure, soft target security. They know, as they push information out, the industry is looking to how to better protect their facilities, in this case chemical facilities. So we are confident that they will continue to build on the work that they have done over the last 13 years and will continue that security. It is good for their facilities. It is good for their people. It is good for their employees. And, again, the idea here is to try to reach out, to go beyond those 3,300, to scoop up more chemical facilities, but also to make sure that we spread the resources across CISA to look at all of their threats and all of their vulnerabilities. So, again, pushing out more of those protective security officers across the country, the cybersecurity security officers across the country that cannot only deal with these chemical facilities but also can do other missions at CISA.

Senator PETERS. Thank you. I am out of time, but before I give up my time, I would just like to ask for unanimous consent (UC) that a statement from the National Treasury Employees Union (NTEU)<sup>1</sup>, who represent CBPOs, be entered into the record.

Chairman JOHNSON. Without objection.

I do want to just say on the record I completely agree with the administration's proposal's result as it relates to security tests or inspections and security advisory for the chemical sector. To me it makes perfect sense you have a common approach across all critical infrastructure sectors. CFATS is a special way of doing it, and to me that does not make a whole lot of sense, particularly in light

<sup>1</sup>The statement referenced by Senator Peters appear in the Appendix on page 62.

of the fact that, as you said, you have already got a lot of investment. You have increased security already. Take a win. Celebrate the success, and then go with the more common, from my standpoint probably more easily manageable approach of the Department. Rather than have a completely separate and special system, have a common approach across the Department. So, again, I am completely supportive of what the administration is trying to do here. Senator Carper.

#### OPENING STATEMENT OF SENATOR CARPER

Senator CARPER. I spent a few years of my life in the Navy, and when I was a lieutenant commander, people would call me "commander." Folks who were lieutenant colonels, they call them "colonel." You are Acting Secretary; I am going to call you "Secretary," if that is OK.

Mr. WOLF. OK.

Senator CARPER. Mr. Secretary, a question about staffing levels for Border Patrol and also for the crossings, whatever to call the commerce that goes back and forth across our border crossings.

My recollection is that we have had—I think our authorized level for Border Patrol officers is a little over 20,000, and we have had a hard time actually filling those vacancies, hiring all those people. I want to ask about that today. Any idea how we are doing in terms of filling the spots that are actually—

Mr. WOLF. So you are exactly right, Senator. We have had a difficult time. I would say CBP has had a difficult time over the years hiring Border Patrol officers. I will say in the last two fiscal years we have had a net increase, so we were able to hire more individuals to the Border Patrol than leave the Border Patrol. So we think we are on the right trajectory, and that is for a variety of different reasons, not only from hiring incentives, but it is also retention incentives, different duty stations, different rotations.

So there are a number of things that Border Patrol has put in place, again, working with Members of the Committee and others, to try to put those procedures in place to not only recruit qualified individuals but to retain our best and brightest.

So, again, I think we are on the right path. There is certainly more work to be done there, which is why you see a request in the 2021 budget for 750 Border Patrol agents.

Senator CARPER. All right. I am told by my staff that the Department has failed to provide Congress with information regarding the actual number of ICE agents and Border Patrol agents currently on board, and I would just ask you to commit for the record to providing us—

Mr. WOLF. Sure.

Senator CARPER [continuing]. Congress, with current on-board numbers for Border Patrol and ICE agents, if you would do that.

Mr. WOLF. Yes.

Senator CARPER. And would you also provide us data on hiring for each of the last 3 fiscal years that you have alluded to.

Mr. WOLF. We will.

Senator CARPER. Let me just ask, in terms of ports of entry, CBP's workload staffing model indicates that the number of officers needed to effectively secure our ports, where a lot of illicit mate-

rials come through, but would indicate—the staffing model indicates we need about 26,000, almost 27,000 officers to secure our ports. But that does not seem to be reflected in the administration’s budget. Can you explain that?

Mr. WOLF. We continue to not only hire Border Patrol officers, but also what we call “OFO” officers, which man our ports of entry. Some of our fees allow us to continue to do that, to hire those individuals as well, so that may not be reflected in an appropriations request.

I will say that from a staffing standpoint, for ports of entry we feel very comfortable. What we are focused on at ports of entry is making sure that we get the right technology there that supplements the staffing so that we are able to screen vehicles, passenger vehicles as well as commercial vehicles, for many of the illicit narcotics and contraband and other items.

Senator CARPER. I am going to ask you to respond for the record, again, back on this issue of the officers at our ports of entry. The question will be: Why doesn’t the President’s budget request actually ask for funding to fulfill that need?

Let me talk a little bit about leadership vacancies, if I could. I do not know that we have ever had this conversation before, you and I, but we have certainly had this conversation in this room many times. In the last administration, when Jeh Johnson was our Secretary, right about the time he took over, we had what I called “Executive Branch Swiss Cheese” in the senior leadership positions in Homeland Security, and we worked very hard, Tom Coburn and I and the Members of this Committee worked very hard to try to fill those and to work with the administration to do that.

You are the fifth person to lead the Department of Homeland Security under the current administration in basically 3 years. That is not good. That is not good. We need Senate-confirmed leadership. We need continuity of leadership. We are grateful that you are willing to take this on, but this is not a way to run a Department or a government.

Addressing this issue is not your responsibility. You are willing to serve as our Acting, but it is the President’s responsibility. I just want to ask that you use your influence within the administration to push for qualified, permanent candidates to be nominated and brought to the Senate for a vote. That is really a request I would make of our leadership here. I do not know that the administration will listen to us. The Obama Administration listened to both Tom Coburn and me and others, did not matter if you were a Democrat or Republican. But we need Senate-confirmed folks and well-qualified people as well.

Do you have any information you could share with us, though, about nominations for some of the key posts within the Department of Homeland Security? For example, when can we expect to receive nominations for some of the many leadership posts that remain vacant across the agency? I will just mention a couple of them: the Director of U.S. Citizenship and Immigration Services (USCIS), the Commissioner of CBP, and the Director of ICE. Any thoughts on when we could see some nominees for those posts?

Mr. WOLF. Again, Senator, I would say obviously those are Presidential nominations, so the administration, the White House has a

process that that goes through Presidential Personnel. I would refer you to them as far as any nominees that are in the pipeline.

I will say we have a number, I believe one or two, that are pending before the Senate as far as our nominees, and I want to thank the Senate. We had a recent female Administrator confirmed, so that is very helpful. So I would appreciate any help that you can provide on acting quickly on the nominees that are before the Senate. But I understand your point about the unfulfilled positions at the Department.

Senator CARPER. There you go. Also, on St. Elizabeth's, is your office in the St. Elizabeth's area?

Mr. WOLF. So the headquarters did move in April.

Senator CARPER. Can you say yes or no?

Mr. WOLF. Yes.

Senator CARPER. OK. I am going to ask you—I am going to submit a more detailed question on this. This is something we have been following, as you know, for years, trying to figure out, having all these different pieces of the Department of Homeland Security spread out all over the place, and try to get them in one central place so somebody could actually lead them as a team. But I am going to ask a detailed question for the record regarding the most recent plan for the site.

But, briefly, do you agree that ultimately completing the DHS headquarters at St. Elizabeth's will enhance the ability of the agency to complete its missions and save taxpayer dollars?

Mr. WOLF. Absolutely.

Senator CARPER. Good. Thank you. Could you be more clear? No, I am just kidding. That is what I was hoping we would hear. Thank you.

Mr. WOLF. Thank you.

Chairman JOHNSON. Next, my Acting Ranking Member, Senator Hassan.

#### **OPENING STATEMENT OF SENATOR HASSAN**

Senator HASSAN. Thank you, Mr. Chair. I thank you and Senator Peters for holding this hearing. And, Acting Secretary Wolf, thank you for being here, and please pass along my thanks to all the women and men who serve the Department.

Mr. WOLF. Thank you.

Senator HASSAN. It is challenging work, and we are very grateful for their service.

I wanted to start with asking you a question about ransomware attacks and what the Department is doing on a couple critical areas. Over the past year, the private sector and State and local governments have endured an outbreak of ransomware attacks that target everything from schools to city services to hospitals and public health facilities.

As we have seen, these entities all play an important role in helping to promote community health and prevent the spread of infectious diseases such as coronavirus. Last week, a cybersecurity firm warned that public and private entities may be at an increased risk of ransomware attacks due to the spread of the coronavirus as criminal hackers exploit staffing interruptions and decreased operational capacity.

I was pleased to see that the President's budget request continues to increase investments in cybersecurity. However, we must do more to protect our State and local partners and specifically health care facilities against ransomware.

Can you tell me how DHS will seek to protect our health care facilities from ransomware attacks as they deal with the coronavirus emergency?

Mr. WOLF. Absolutely. So, obviously, ransomware, as Director Krebs will say in CISA, that is probably one of their most horrific types of cyber intrusions that they see on a daily basis. So the men and women at CISA are certainly focused on this, and they continue to push a number of products, a number of sensors on a lot of the Federal networks, and talking to State and locals.

Specifically, when we talk about coronavirus, there are a couple different ways that CISA is approaching this. One would be as individuals are staying home and doing more of the teleworking, that obviously prevents vulnerabilities on their system, cyber vulnerabilities. CISA is also leaning in on that front, again, pushing information, making sure that as companies go to more telework, that they are aware of some of the vulnerabilities that could be on their systems from a cyber perspective.

Also, scams that you mentioned as well, we do see that today. People are going to take advantage of any type of crisis, any type of incident that is going on out there. So CISA is, again, pushing information out there that folks need to be aware of, a number of scams, a number of incidents that are going on that are focused around the coronavirus or asking for money or doing a number of things. So, yes, they are focused on that as part of what they are providing the Department on our response.

Senator HASSAN. I think it is just really important—and I hope you will take this back to Director Krebs—that we make sure that our public health and hospital systems have contingency plans in case they do face a ransomware attack, because one of the issues that any society and country faces during some sort of epidemic like this is that their health care capacity is stretched. And so we want to make sure that there are contingency plans in place and that the Department can do everything it can to aid in that.

Mr. WOLF. I did talk with Director Krebs today. They held a call, over 6,000 connections—not quite 6,000 people but 6,000 connections.

Senator HASSAN. OK.

Mr. WOLF. Across a variety of industries to include the health care industry, to talk about responses to coronavirus, to talk about emergency plans, to talk about the telework and number of things, to answer a lot of questions to—

Senator HASSAN. Right, and I appreciate that. My particular focus, though, here is just to think about not just the telework vulnerabilities, but the impact that a ransomware attack would have in shutting down an entire computer system.

So let us move on to another issue. In recent years, Americans have witnessed an increase in the number of threats and violent attacks on houses of worship. Toward that end, my colleagues and I authorized and expanded the Department of Homeland Security's Nonprofit Security Grant Program (NSGP) last year in order to get



more funding to community organizations facing threats of violence.

In New Hampshire, faith communities became eligible for this important funding for the very first time last year. This is mostly due just to the size of our State and the size of our houses of worship.

However, I was frustrated to learn that this year FEMA has forced houses of worship to rush to meet a deadline that is nearly 3 weeks earlier than the maximum allowable time for applications under current law. Right now houses of worship in New Hampshire, many of which are applying for the first time—and they are small. They do not have large staffs. They do not have professional grant writers. They are scrambling to navigate this complex process and prepare a grant application with very limited resources.

So, Secretary, now that the Nonprofit Security Grant Program has been authorized and expanded, will you give houses of worship more time to apply for this year's grant program by extending the deadline to the full time allowed under the law?

Mr. WOLF. Yes, I am unaware of the 3-week period that you talk about. I am certainly aware of the funding notice that went out from FEMA on all of our grants.

Senator HASSAN. Right.

Mr. WOLF. So let me definitely take that one back and understand the difference on that 3-week period. I do not see a problem with it.

Senator HASSAN. I think one of the things we were told is that there are only two FEMA employees processing applications and that that might have an impact on it. Obviously, if that is the impact, I am hoping you will commit to providing more FEMA staff to this grant program going forward.

Mr. WOLF. OK.

Senator HASSAN. After reviewing the President's budget, I was very concerned about the proposed reduction in FEMA funding to emergency management trainings for local officials. The National Domestic Preparedness Consortium, for instance, helps ensure that communities across the United States are ready for likely threats and hazards. Courses offered by the consortium include Framework for Health Emergency Management, Community Health Care Planning and Response to Disasters, Medical Countermeasures Awareness for Public Health Emergencies, and Disaster Preparedness for Health Care Organizations.

So, Secretary Wolf, as the Nation grapples with the spread of the coronavirus, why would the administration choose to cut funding for these trainings that help first responders and health care providers deal with public health emergencies?

Mr. WOLF. Of course, I would start out by saying obviously the fiscal year 2021 budget was built many months ago, over 12 months ago.

Senator HASSAN. Understood.

Mr. WOLF. What I will say on the grant funding, which I know is a very active conversation with Congress, is we continue to—we have pushed out, I believe, \$52, \$53 billion in grants since the life of the Department, and it is designed to build capacity. It is not designed at the end of the day to be baseline budgeting.

Senator HASSAN. I understand that, and I am running out of time. But I hope you are going to reconsider these cuts given now the presence of the coronavirus. The last thing we should be doing right now with people on the front lines is saying, "I hope you built the capacity. Too bad if you did not. This was a one-time thing." Right? I really think we need to be investing with all the skill and resources we have. So I look forward to continuing the discussion with you.

Mr. WOLF. Absolutely, and, again, the money that the administration requested in the supplemental would obviously go to benefit State and local capacity as well. So we have thought through that as well.

Senator HASSAN. Thank you.

Chairman JOHNSON. Senator Harris.

#### OPENING STATEMENT OF SENATOR HARRIS

Senator HARRIS. Thank you, and I join my colleagues in terms of our collective and nonpartisan concern about the coronavirus. I just received this afternoon word that we have an elderly individual in California who has passed away from the coronavirus, and, of course, my prayers are with their family.

Mr. Chairman, also, California is seeing the first signs of potential drought, and wildfire season has already started. But the Committee, our Committee, has not had a formal FEMA hearing, an oversight hearing, since April 2018. So this is 22 months later, and during that time we have had at least two devastating wildfire seasons in California, flooding across the Midwest, and earthquakes in Puerto Rico. We clearly need an oversight hearing, and I am requesting that we have one as soon as possible, and I look forward to working with you to make that happen.

Mr. Secretary, last year Chief Justice Roberts said that the administration has said "they are not going to deport" DACA recipients and instead "work authorization and these other benefits are what is at stake." Yet in January, Acting ICE Director Albence said that, "If DACA is done away with by the Supreme Court, we can actually effectuate these removal orders."

So that sounds to me like if the Supreme Court rules in your favor, you are going to start deporting DACA recipients.

Does the administration plan to deport DACA recipients?

Mr. WOLF. That would not be our priority, no.

Senator HARRIS. Are you considering deporting DACA recipients?

Mr. WOLF. No. Of course, we would have to look at the totality, if there are individuals that fall out of status and commit crimes. There are a number of reasons why we would perhaps identify, target, and remove individuals. So it is very hard to say a blanket yes or a blanket no.

Senator HARRIS. Can I take away from that statement that if they have not committed any crimes and have remained productive members of our community, they will not be targeted with deportation?

Mr. WOLF. Again, they would not be targeted. We focus our time, attention, and resources on removing criminals from the general public, and what I would say—

Senator HARRIS. Is this the case regardless of what the Supreme Court returns as its ruling?

Mr. WOLF. I would say yes, that is our priority day in and day out, week in and week out—removing criminals. But what I will also say is obviously we have to enforce the law as it is written. So when we get final orders of removal, we are going to effectuate those as well. But, again, we have limited resources, so we have to target those resources, and we target those to criminals.

Senator HARRIS. Does your agency have any plans to change what you have been doing as it relates to DACA recipients who have remained productive, law-abiding members of their community based on the ruling of the Supreme Court that we expect to happen any day or month now?

Mr. WOLF. Again, it is hard for me to say yes or no in a blanket—obviously, they have a certain legality to be here in the United States. If that is changed, we obviously have to assess that. But, again, what I am telling you is our focus will remain on removing criminals from the general public.

Senator HARRIS. OK. But what I am trying to understand is this: There are many organizations out there right now who have as their business to concern themselves with the well-being of immigrants—

Mr. WOLF. I understand.

Senator HARRIS [continuing]. Who are very concerned and making contingency plans based on what the Supreme Court might rule. I find it hard to believe that your agency is not also making contingency plans around what might be three to four scenarios in terms of what the Supreme Court would rule. Are you telling me you do not have any contingency plans?

Mr. WOLF. No, I am not saying that. I am saying our focus will remain on removing criminals from our community.

Senator HARRIS. Can you share with this Committee your contingency plans based on what might be the Supreme Court ruling?

Mr. WOLF. I will go back to ICE, and we will look at that, yes.

Senator HARRIS. And can you have that to us by the end of next week, please?

Mr. WOLF. Let me check, let me confer with ICE. I have not seen those contingency plans personally, so let me look with ICE and review those, and we will get those up.

Senator HARRIS. And you will get those to the Committee?

Mr. WOLF. We will get those to the Committee.

Senator HARRIS. Thank you.

According to human rights organizations, there have been at least 1,001 reported cases of murder, rape, torture, and kidnapping against people that have been sent to Mexico under the Trump administration's remain in Mexico policy. This number includes 228 children who were kidnapped or nearly kidnapped, according to the report. The places you have been sending them include cities that the State Department has put on the Do Not Travel list for American citizens because those places are just not safe. Many experts believe that the administration's policy of sending people to Mexico under this policy was intended to deter these people from returning to the United States to seek asylum.

Is it your intention to send these people to a place so horrible that they give up their quest to seek asylum and refuge in the United States?

Mr. WOLF. No. Our design with the Migrant Protection Protocols is to make sure that we are able to effectuate the immigration process in a quick manner to render those that have a meritorious claim, they can get their hearing heard in a matter of months versus years; and those that have a false claim, again, get their—

Senator HARRIS. I understand the purpose of the process.

Mr. WOLF. Right.

Senator HARRIS. But the effect of the process has been that 1,001 human beings have been—and those are just the report—subject to extreme violence. In fact, I sent a letter to you, to your office, along with 23 other United States Senators describing what has happened, including that there was a 23-year-old woman and her 5-year-old daughter who were kidnapped and then released, but threatened with death if they did not pay a ransom. The letter describes a 20-year-old woman who was grabbed in the street and sexually assaulted after she was returned under this policy to Mexico. The letter describes a 21-year-old who was robbed at knifepoint and stabbed in the back, and the Mexican police would not help him.

It has been 7 months since we sent your agency this letter. We have not received a response.

My question to you is: Have you investigated any of these complaints? And if so, why do you continue to maintain a policy that is exposing human beings to this kind of violence when they are simply coming here seeking asylum and refuge from harm?

Mr. WOLF. So the Department has always maintained that the journey north for many of these individuals is very dangerous, and so we are taking a number of policies and procedures to reduce that dangerous journey north.

Senator HARRIS. What are you doing?

Mr. WOLF. Reduce the pull factors.

Senator HARRIS. Please tell us what you are doing.

Mr. WOLF. We are also working with the Government of Mexico to—again, we have sent through the Department of State over \$22 million, shared that through a number of NGO's, like United Nations High Commissioner for Refugees (UNHCR) and International Organization for Migration (IOM) with the Government of Mexico to buildup their shelter capacity specifically for MPP.

Senator HARRIS. Are you aware—

Mr. WOLF. As well as transportation—

Senator HARRIS [continuing]. that these complaints include incidents that are occurring in those shelters? Are you aware of the 1,001 cases—

Mr. WOLF. Well, I am aware of that report, yes. I am aware of that report. I am aware—

Senator HARRIS. Have you investigated it?

Mr. WOLF [continuing]. Of the overall violence, again, on the journey north as they make this journey north, which is why we have been encouraging these individuals to seek protection as close to home as possible so they do not—

Senator HARRIS. With respect, sir, because I am running out of time, I understand your point about the journey north. But I am explaining to that the report indicates after they have made the journey north, coming here to seek asylum, we are sending them back to Mexico under a policy that is being administered by your agency, and it is upon that return that they are being exposed to rape, to murder, to kidnapping, and torture. So I am asking you, are you investigating those cases and critically evaluating whether this is the intended effect of your policy? Or does it point out a defect in your policy?

Mr. WOLF. I understand the question. We continue to work with the Government of Mexico to provide them the capacity, the capability, to continue to invest in those shelter capacities along the border at the MPP sites, not only to buildup that capacity but to secure that. And we certainly encourage all individuals in the MPP program to go to those shelters. What we find, unfortunately, is there is a number of those folks that are in the program that choose not to go to those shelters, that go elsewhere in those communities. And so we would encourage all of them to go to those Government of Mexico-designed shelters through the MPP process where they do have that protection.

Chairman JOHNSON. Senator Rosen.

#### **OPENING STATEMENT OF SENATOR ROSEN**

Senator ROSEN. Thank you. Thank you for holding this hearing. Thank you, Acting Secretary Wolf, for being here today.

You and I have talked before about the tragic deaths and treatment of migrant children in the custody of Customs and Border Protection at the U.S. Southern Border. After meeting with a number of organizations providing services to children at the border, my staff and I came up with a set of recommendations and sent them to your office last year.

Since then, our offices have exchanged a number of ideas on how to implement those recommendations. Specifically, we have talked about providing pediatric care at the border, staffing CBP facilities with child welfare professionals, and increasing oversight at CBP facilities. I know that we share the goal of ensuring that no child in the care of the United States is treated inhumanely.

So can you please share your thoughts on how we can work together to ensure that every child in DHS custody has access to medical care and safe and healthy facilities?

Mr. WOLF. Let me start off by saying obviously the care and welfare of any individual, whether it is an adult or child, is taken very seriously, and I take that very seriously as well, particularly when we talk about vulnerable populations such as children.

We have done a number of things over the last 12 to 13 months, including two new medical directives, one that was sent out in January 2019, and then we updated that medical directive in December 2019. As part of that, we have an implementation plan that is due at the end of the month, and I would offer to work with you and your staff to review that implementation plan. It has a number of initiatives in there, including a lot of what we are doing today, but it finalizes that and makes that permanent. So that includes having pediatric providers, medical service providers at Border Pa-

trol facilities. We put a number of medical contracts in place. Up to 700 individuals can be there at any one time. We have 300 on the ground today in 47 different locations. These are medical providers that are supplementing the staff. I will just say from January 2019 to March 3 of this year, CBP has provided over 263,000 medical interviews and over 75,000 medical assessments.

So we do take our responsibility very seriously. I think we can continue to do more. Again, I am committed to working with you and your staff on how to continue to do more under the medical directives and under the direction that we are proceeding.

Senator ROSEN. Thank you. Thank you for agreeing to work with me and my office on this very important issue for taking care of the children. I know that we will continue to make progress so that we never face another crisis like this at the Southern Border like we saw last year.

Now I would like to go on to build upon what Senator Hassan was talking about, about the Nonprofit Security Grant Program. Over the last few years, we have seen a dangerous increase in threats and attacks on all types of houses of worship, including the deadliest attack against a Jewish community in modern American history at the Tree of Life synagogue in Pittsburgh. It is, therefore, critical that we allow the appropriate resources to assist houses of worship as they try to increase the safety and security for all worshippers, our churches, our synagogues, our mosques, and temples. Americans of every faith should never have to live or should not live in constant fear that they can join together in their congregations, their communities, or church groups to pray.

So the Nonprofit Security Grant Program provides FEMA grants to eligible nonprofits for target-hardening security enhancements to protect against terrorist attacks. Unfortunately, the President's budget does not appear to request a specific amount for the Nonprofit Grant Program.

So given the need for the program, as demonstrated by an increase in the number of grant applications last year, can you explain how the Department will allocate sufficient resources to keep our houses of worship safe and secure?

Mr. WOLF. There are a couple different ways, and I will say the President did sign that legislation into law, and so we will continue to work with Congress to make sure that that is fully funded, which is the Nonprofit Security Grant Program that goes toward houses of worship.

At the Department we are doing a number of things, and what you will see in the fiscal year 2021 budget is an increase, taking our Office of Targeted Violence and Terrorism Prevention, where a lot of this work occurs outside of the FEMA grants, taking that from about \$16 million up to \$96 million, so making sure that we have capacity in this office to continue work in this area. So it not only benefits houses of worship, but it benefits all places, all institutions, soft targets that are perhaps targeted for a number of different reasons.

I will also say we had our Homeland Security Advisory Committee—we had a subcommittee that provided a report on a number of actions, recommendations that the Department could take regarding houses of worship, and I sent that out to the Department

for an implementation plan and hope to have that back soon. It has a number of recommendations that we will implement.

Senator ROSEN. I am still interested in being sure that we have adequate funding, because in fiscal year 2019, \$16 million was allocated for the Security Grant Program, and organizations filed \$169 million worth of grant applications. And so, obviously, there is a great need. You are talking about even less than that. How are we going to fill the gap between the need in our community—we have seen violence in prayer groups and churches around this country, synagogues and mosques and the like. So how do you think we can fill this gap?

Mr. WOLF. So, again, the budget I was talking about was more on the policy and programmatic side. There is the FEMA grant process that will continue the Nonprofit Security Grant Program that will continue and, again, be focused on the houses of worship, as you indicated. My comment earlier was the President signed that authorization bill, so we are certainly committed to working with Congress to make sure that that is fully funded.

I guess my point was there is the FEMA grant process and then there are other activities the Department is doing that also focuses on houses of worship and other soft targets.

Senator ROSEN. OK.

Mr. WOLF. We are increasing our work in that area. We had a strategy that came back. When I was in the policy before this job, it was my primary focus, pushing that strategy out, which, again, sets priorities across the Department that looks at the rising threat of domestic terrorism writ large for the Department and specifically houses of worship. So the Department is certainly committed to it. I am committed to it. We have a strategy out there that is prioritizing our actions.

Senator ROSEN. Thank you. I am sure the faith-based community will appreciate it.

Mr. WOLF. Thank you.

Chairman JOHNSON. Senator Portman.

#### **OPENING STATEMENT OF SENATOR PORTMAN**

Senator PORTMAN. Secretary, thank you. You guys have been busy this last year, and let me follow up on the faith-based and Nonprofit Security Grant Program. You are right. Last year we finally got an authorization. The authorization was for less than the appropriated amount, actually because there is such a concern about this and such a need for it. So the \$90 million that we got into the budget last year for this fiscal year was an unprecedented amount, and it is needed. We had over 2,000 applications in 2019 that FEMA looked at. You were able to fund 718 of them. So I do think there is—based on the analysis we have done at least, there are a lot of applications you thought were good applications but did not have the funding to be able to grant them.

I am a little confused about your answer on where the money is in the budget because I do not see it either, and I know you support the program and the President also signed the authorization, which I really appreciate. I was the author of that authorization.

We do have an increased level of hateful messaging, hateful crimes. We had bomb threats in Ohio 2 weeks ago. They were fo-

cused on the Jewish community, specifically some synagogues in northeast Ohio. It is reality. It is a sad reality, not just in the Jewish community but the Muslim community, the Hindu community, even in the Sikh community there have been some incidents, and the Christian community.

Can you just more precisely tell me where the funding is coming from?

Mr. WOLF. Sure. So the Nonprofit Security Grant Program is built within our larger FEMA grant program. It has not been a line item to date. We are continuing to fund it year over year. The bill that the President signed and Congress passed, I think you will see that in future budgets be a line item. Of course, that will be passed well before the budget—or well after the budget was created.

Senator PORTMAN. It was passed at the end of the year for 2021.

Mr. WOLF. Correct. But we are continuing to fund that. We funded that in the past, again, out of the larger pool of our FEMA grants. So it is there. It is just not a line item, so it does not show up specifically in the budget. But that is how we have continued to fund it, and I think you will see that reflected specifically based on the legislation that was signed into law.

Senator PORTMAN. So you would expect—my understanding is that was not true with regard to previous budgets, but you are saying it is within the FEMA grant program.

Mr. WOLF. It is.

Senator PORTMAN. And usually there is \$90 million as Congress appropriated set aside for this fiscal year?

Mr. WOLF. For 2020 or 2021?

Senator PORTMAN. For 2020.

Mr. WOLF. For 2020, I will get you the exact—whether it is 60 or 90. I do not have that offhand, but I can certainly follow up with you on that.

Senator PORTMAN. With regard to what the number ought to be in the future, there has been discussion of that. As you know, some members have made announcements that they think it ought to be a certain level, and as we have looked into those, it is hard to find what the justification is, in other words, what the basis is. It seems to me what it ought to be is how many applications will come in, how you all have scored those applications, and I assume that there are, again, a number of them that were qualified but you just did not have the funds for. And that to me seems to be what ought to lead us next year as we look at the appropriations numbers to determine what the amount is. Are you willing to help us with that?

Mr. WOLF. We are. Again, back to the earlier question about grant funding, what we try to do is buildup capacity, so what we are looking at is houses of worship. We are looking at those new houses of worship that need the grant funding to buildup their capacity. So we continue to look at all our needs.

I will say that we get requests that outpace our resources each and every year for a number of our grant programs. We have resource constraints and have to make those decisions. But, yes, we will continue to work with Congress on what that right amount is.



Senator PORTMAN. I have been impressed with your people and also the FBI who have helped us back home in Ohio. We had a statewide conference, and a lot of good information was exchanged. Some things, frankly, are just best practices. How to harden a facility, where the cameras ought to be, and where security guards should be posted.

Mr. WOLF. Right.

Senator PORTMAN. We also appreciate the fact that last year you permitted for the first time armed security personnel to receive some of the funding, understanding you want that to be sustainable over time. So I think we are making progress, but I just want to be sure that we come up with a number that makes sense, that is really meeting the need, because, again, sadly, I think it is increasing.

With regard to the coronavirus, we have obviously a lot of need out there. I am just looking at the supplemental. We just got this a couple of hours ago. This is the proposed supplemental, and Chairman Shelby and the Appropriations Committee sent it out. It looks like it has funding for what you would expect, HHS, National Institutes of Health (NIH), and Food and Drug Administration (FDA) to try to get some therapies out there. And, there is State Department, United States Agency for International Development (USAID), aid in here for foreign countries to be able to contain it more. Even Small Business Administration (SBA) has some funding in here, but not DHS. Are you aware of that?

Mr. WOLF. I am.

Senator PORTMAN. And why is that? I assume you are playing a central role in this.

Mr. WOLF. We are, and, again, we stood up a number of medical contracts. I will say overall we spent somewhere between \$12 and \$13 million thus far on the Department's response. That was just stand-up, so initial costs to stand up a lot of our processes that we see at our airports, land ports of entry. We think that is probably \$2 to \$3 million going forward per month. So it is not a big number for us when we look at a whole-of-government response. Obviously, we can sustain that funding level to a certain extent. We will probably have to move some of our budget around this fiscal year to address that. But the administration wanted to focus this supplemental request obviously on the medical response. So, again, as you indicated, most of those dollars are dedicated to HHS, CDC, and others inside the Department of Health and Human Services.

Senator PORTMAN. Do you think under your current TSA budget, for instance, you have adequate funding to be able to respond to the crisis?

Mr. WOLF. We do. We have adequate funding today to do that, not only to continue our medical contracts, our medical screening that we are doing at the 11 airports, but also the protective measures and protective wear, personal protective equipment (PPEs) that we are providing our workforce as well.

Senator PORTMAN. Finally, on the issue of China and these talent programs, as you know, the Permanent Subcommittee on Investigations (PSI) of this Committee spent a year looking at these programs and decided in a shocking report that we had virtually done nothing for two decades to keep Chinese programs like from taking

our research, commercializing it in China, sometimes military, sometimes economic. And we are coming up with legislation shortly to deal with that that a lot of Members of this Committee will be part of.

But one thing that I wanted to ask you about is how can you help us more to identify people who are coming over to the United States from China in particular, although other countries are involved as well in trying to get our taxpayer-paid research, and specifically members of the Chinese military who have come over here for conferences, for university visits, and it seems to me that there is a pretty clear intent with a number of these individuals to obtain research while they are here and take it back.

Mr. WOLF. Right.

Senator PORTMAN. Have you looked into this issue? And what do you think DHS should be doing that we are not doing?

Mr. WOLF. Absolutely, so part of that is an intel issue, but also there are number of visa programs that USCIS administers that we see perhaps some that have been abused over time, that we see a lot of students on certain visas for extended periods of time from China, but also from other countries, that perhaps they are so large, it is very difficult for us to monitor those individuals.

So we are working through a number of those visa programs. I am happy to talk to you and the Committee about how do we root out some of the abuse of those programs while retaining the ability, again, to bring over the best and the brightest, to continue to fuel the economy but make sure that we do that in a smart way.

Senator PORTMAN. We want to have appropriate exchanges, but I will just say that I think this Committee would be interested in helping you if you are looking for additional expertise and resources to identify these individuals, because this is a growing threat and obviously the problem is getting a lot more attention.

You, as I understand it, are about to disband your Homeland Security Academic Advisory Council. I would just like to warn against that and instead use it for this purpose, because the relationship you have with our higher education partners is really important for us to be able to deal with this issue, and I think that Council could be a good forum.

Mr. WOLF. OK. Thank you.

Chairman JOHNSON. Senator Romney.

#### **OPENING STATEMENT OF SENATOR ROMNEY**

Senator ROMNEY. Thank you, Mr. Secretary, for being here. Picking up on what Senator Portman spoke about, about the potential threat from a pandemic, certainly we hope that COVID-19 does not become a pandemic, that it does not impact the lives of our citizens any more dramatically than it already has.

But in the event that there were a pandemic of a substantial nature, there are a lot of people whose jobs would be on the line—restaurants, airline employees, hospitality workers generally, perhaps even retail individuals. Is there an effort at DHS or perhaps at Treasury to say how we could provide for continuity of business, continuity of paychecks, if you will, for people who might be put out of work by virtue of fear, people not going to restaurants, people not going on airplanes, and so forth? Are we contemplating that

kind of a circumstance? Do we have plans in place or are you aware of things of that nature having been created?

Mr. WOLF. I am aware of some of that planning that is going on in the interagency. Again, from the Department's perspective—I talked about it a little bit earlier—CISA, is talking with a lot of the private sector, their private sector across a number of the critical infrastructure sectors that they talk to about that continuity, about that business planning, about the telework, thinking through all the different steps that they need to do that perhaps they do not have pandemic plans like the U.S. Government has.

So we have begun that outreach. We will continue to do that outreach and plugging them in. And as they do those calls, we have representatives from HHS and other departments of the Federal Government to provide that expertise. Perhaps they do not have the ability to plan to provide that.

Senator ROMNEY. We had Troubled Asset Relief Program (TARP) to save our banking system from collapsing. I am talking about do we need to think about what would happen if lots of people started getting laid off from a whole series of jobs who otherwise then cannot pay for their apartments and cannot pay their bills and so forth. There may need to be some kind of rescue capacity for people in this kind of circumstance that we need to begin to think about, and I would just encourage you, among your colleagues, not to plan that that is the case with COVID-19, but at least to have in mind plans to say how do we make sure in rescue enterprises so that people can keep getting paychecks and meet their obligations and not throwing our country into a financial distress setting.

In that regard, with regards to the TSA employees, do you have masks and gowns and so forth that could protect our TSA employees if this becomes more substantial so that they do not have to worry about capturing some kind of disease from people that are coming through?

Mr. WOLF. We do. We have protective materials, protective gear for both our TSA officers as well as our CBP officers.

Senator ROMNEY. You have a sufficient amount for them?

Mr. WOLF. We do. We have sufficient supplies for them. We provide that today so they have the option of using those materials today. Some are opting to; some are opting not to. And so we will continue that.

Senator ROMNEY. Good. Glad to hear it.

Mr. WOLF. And that is at the specific direction and guidance of the CDC.

Senator ROMNEY. Good. I want to turn to another topic, which is immigration. In the conversations I had with Border Patrol agents, they made the point that most of the people who are in this country illegally came here legally in the first place. Therefore, building a wall is an important part of securing our land, but also making sure that people who come here illegally are unable to get jobs here, taking away jobs from our own employees. Therefore, the E-Verify system many believe was the most effective way we have to prevent people from taking jobs that have come here and are here illegally.

I noted that there is no longer a recommended mandatory E-Verify in the plan this and wonder why that is and suggest that

we once again include a mandatory E-Verify system and perhaps enhance it as opposed to make it less robust.

Mr. WOLF. We continue to look at that. Obviously, E-Verify is run out of USCIS from the Department, and they continue to work on that. What we have heard from a number of businesses and I think what the administration, the President, and others have heard from a number of businesses is the difficulty of using that system. So we are certainly taking a look at how to simplify, how to streamline the use of that system so that business can do that. And we certainly talk to them particularly about the agricultural sector, and we continue to have discussions with them about that.

Senator ROMNEY. It just strikes me it is not rocket science. If we have trouble with this, ask American Express or Visa or MasterCard how they give people a card and verify whether it is legitimate or not. And I am concerned that this is a system that is really effective and somehow we are stepping back from it.

Let me turn to cybersecurity. I was disappointed in seeing that CISA's budget is being reduced. I cannot understand how that would be when the President said that threats to cybersecurity are a threat to the stability of the United States. I would anticipate this is a place where we would be substantially increasing our investment, not cutting our investment.

Mr. WOLF. Part of this is a timing issue. Obviously, if you look at the President's budget request for fiscal year 2020 and the budget request for 2021, it is an increase. Obviously, the funding for the Department came a little late last year, and so I think this is a timing issue. I do agree and understand the concern it is a decrease or a reduction if we look at what was enacted in fiscal year 2020. Of course, our budget was built many, many months ago for fiscal year 2021.

We will continue to work with Congress on what that right number is. I will say that I talked to Director Krebs specifically about the budget. He feels confident that the 2021 budget request fully funds all the mission-specific critical needs of CISA.

Senator ROMNEY. Just given the attacks that are coming from various places, hostile places, it would seem that this is an area we should be investing quite substantially in.

Let me turn to the Coast Guard. I do not have a good sense of what our relative capacity is, our relative strength is in the North Pole, in the seas in the north, and what other nations are doing. Do you have a sense, can you give us a sense of what Russia, China, and others have with regards to ice breakers and cutters in that area? And should we be making a more substantial investment in our Coast Guard capacity in those waters?

Mr. WOLF. I would say certainly yes, as far as additional investment, and the fiscal year 2021 budget request asked for additional funding for that second Polar Security Cutter. I will say the other countries that you mentioned have many more assets than we do.

Senator ROMNEY. Why are we willing to live with the idea that they have many more assets there than we do? Why would we not make the investment to at least equal what other nations are doing in that part of the world?

Mr. WOLF. So, again, we are doing just that. In the fiscal year 2021 budget request, it is \$555 million for the second Polar Secu-

rity Cutter, again, to address a number of our issues in the Arctic region. We will continue to look at—if you asked the Commandant the same question, he would have a plan for additional cutters. And, again, working within the resources—national polar cutters. Working within those resources, we need to make sure that we continue to fund that. But, yes, that is an asset, that is a capability. The Coast Guard is doing great work with the current Polar Security Cutter that they have—I believe it is the Healy—which is about 40 to 44 years old. So we need to reinvest. The administration is doing that. The President's budget request does reinvest in those.

Senator ROMNEY. We are adding one. We are way——

Mr. WOLF. We have a new one coming on, and this would be the second one.

Senator ROMNEY. Yes, I just would anticipate or I would encourage us to think about a much more robust investment in our capacity in those waters.

Thank you.

Chairman JOHNSON. Senator Scott.

#### **OPENING STATEMENT OF SENATOR SCOTT**

Senator SCOTT. Thank you, Chairman. First of all, thank you, Secretary Wolf, for all your hard work.

I recently had the opportunity to visit the Customs and Border Patrol international mail facility in Miami. You have got a great team. They were very, very, very impressive. And what I went down there to get a better understanding of is how we are inspecting all the goods that are coming internationally. I guess we have five of these facilities around the country.

Do you feel like we are doing a good job? My understanding from talking to different ones is in the Miami facility they have the resources to be able to look at everything coming in, but in some of the others, they have to pick and choose because we just do not have the resources. So how do you feel about adequate resources and how we are doing with regard to international mail coming in?

Mr. WOLF. I think over the last several years we have certainly increased our capacity and capability to look at those parcels coming in. I think we have more work to do on that. Congress passed a number of bills to help us in this, the Strengthen Opioid Misuse Prevention (STOP) Act, the International Narcotics Trafficking Emergency Response by Detecting Incoming Contraband Technology (INTERDICT) Act, that allows us and gives us some new tools and some new resources to do that.

It is a challenging topic; it is a challenging issue for CBP. As you indicated, we have a number of these largest facilities. There is one in Florida, there is one in New Jersey. There are several across the country. As we look at opioids and the opioid crisis that we have, a lot of that comes through our U.S. Mail, and trying to ascertain that, screen those packages, and identify those packages is a real challenge. It is one that CBP has been really leading the charge on within the Department, and they will continue to do that. It continues to be a priority for them.

Senator SCOTT. So knowing that China, in my opinion, intentionally sends fentanyl here and they produce a lot of counterfeit

goods that they sell online, what resources do you need or what else should we be doing to stop this? Because it does not appear to be slowing down. They are doing more and more, and they are more creative all the time.

Mr. WOLF. So it is certainly a whole-of-government approach from looking at it at the source, and the administration has been proactive on that. From a departmental perspective, there are a couple different ways we go about that. It is obviously screening individuals or packages as they come into the country. It is also investigating, so ICE Homeland Security Investigations (HSI) is our lead law enforcement in this area investigating these cases that we find as well. Our Science and Technology (S&T) Department I believe in the fiscal year 2021 budget has about \$8 to \$9 million to continue to invest in the technology that can screen these packages or screen individuals that are bringing the illicit narcotics in.

So we continue to invest from a departmental perspective on what our authorities are, on stopping bad things coming into the country. But I think to your larger point—and the administration is very committed on this issue—it is certainly more of a whole-of-government approach, engaging at the diplomatic level with the Chinese and others.

Senator SCOTT. This is sort of a little bit the same, but going to the coronavirus, is there one place where, if you are Paul Anderson and you run the Port of Tampa, and he says, I can go to this one website or I can talk to this one person, and I am told exactly what I have to do to be able to deal with any screens we need to do with regard to the coronavirus?

Mr. WOLF. So most of that information right now resides on the HHS website. I believe it is .gov/coronavirus, so a lot of the information they have there and what they are doing. I will say that the Department of Homeland Security on our dot-gov page also has a number of information there. We talked earlier—Ranking Member Peters talked about maybe a different website that has everyone's information in one place, and I would certainly support pushing out as much information to the public as possible.

I will say that is exactly what the administration has been doing over at least the last several weeks, pushing out information, holding daily press conferences and briefings to know exactly the information, trying to share that in real time as closely as possible. But I would say it is both the HHS website—depending on what the question is—as well as DHS. We retain a lot of that information as well.

There is also protective security advisers. There are a number of folks, certainly in Miami but elsewhere, that can also assist in answering those questions.

Senator SCOTT. Florida is the cruise capital of the country, and now that we are seeing the coronavirus spread now through Latin America where a lot of the cruises go, especially on the east coast of Florida, how are you guys going to deal with the increase in cases down in Latin America?

Mr. WOLF. So we continue to look at that very closely, again, with HHS and CDC, and I would say, I continue to say all options remain on the table as far as additional travel restrictions, additional measures, additional funneling at airports, medical assess-

ments at airports. As cases increase, you have seen a number of travel warnings and travel advisories the Department of State has issued on this as well.

First of all, we go where CDC and HHS tells us to go, and, of course, as they design their medical strategy, depending on what area of the world is the hot spot or they see it developing, we will adjust our measures accordingly. So if they see certain incidents or things occurring in Latin America, South America, then we will adjust accordingly. We only have so many resources, so we do need to focus our resources on the priority at the time. I will say right now it is flights coming from China and Iran into these 11 airports where we have the majority of our resources.

Senator SCOTT. Are the Latin American countries being a partner? Are they doing screenings before people either get on planes or get on cruise ships and things like that?

Mr. WOLF. So we are talking to all of our international partners, particularly in South America, Mexico, Canada, and the like. The only ones that I am aware of that are doing that outbound screening would be in Italy and South Korea at the moment. But we are talking to a wide range of international partners about what other measures they are putting in place.

Senator SCOTT. Are you considering requiring that, otherwise people cannot get on cruise ships and airplanes?

Mr. WOLF. Again, I would say that all options from my perspective remain on the table, and I know I have heard the Vice President also articulate that. So I think, yes, as we continue to look at how do we combat the virus, I would say everything is on the table, and we continue to assess that, which is why you saw new travel restrictions on the country of Iran.

Senator SCOTT. Thanks.

Chairman JOHNSON. Senator Sinema.

#### **OPENING STATEMENT OF SENATOR SINEMA**

Senator SINEMA. Thank you, Mr. Chairman. Mr. Acting Secretary, I appreciate you being here today, and I look forward to our discussion.

I am committed to finding bipartisan and common-sense solutions to secure Arizona's border and protect our communities while treating migrants fairly and humanely. Strong border security and a fair immigration system should be mutually reinforcing goals, and I am ready to work with my colleagues in a bipartisan way to achieve those goals.

Mr. Chairman, I ask for unanimous consent that the testimony of Ned Norris, chairman of the Tohono O'odham Nation, from the February 26, 2020, hearing before the House Natural Resources Subcommittee for Indigenous Peoples of the United States be entered into the record.<sup>1</sup>

Chairman JOHNSON. Without objection.

Senator SINEMA. Thank you.

Mr. Acting Secretary, I believe we should work together with our travel partners to tackle some of the threats and challenges along our Nation's borders. Last week, during a Senate Appropriations

<sup>1</sup> The statement referenced by Senator Sinema appears in the Appendix on page 53.

Committee hearing, you mentioned conversations you had with me in my office and the Tohono O'odham Nation about government-to-government consultation and that you and the Tohono O'odham Nation have a difference of opinion when it comes to consultation. As you know, I wrote to you last December requesting a commitment to conduct robust government-to-government consultation with the Nation prior to executing any border security or immigration initiatives that impact the Nation.

In your response on February 12th, you recognized the importance of this tribal consultation, but Mr. Norris, the chairman of the tribal community, said in his House testimony last week that DHS "has failed to engage in any formal government-to-government consultation with the Nation," and that the tribe was informed about blasting on Monument Hill, which is a sacred site for the tribe, only on the date that it actually occurred.

So my question is: How do you intend to work out this difference of opinion to ensure that the agency meets its legal obligation and the trust responsibility we have to tribes to solicit input from the Nation and incorporate the input received into the decisionmaking process and final plans?

Mr. WOLF. The question I believe I received was: Are you consulting, are you communicating with them? The way it was phrased to me was, it appears that CBP and DHS is not. And that is not the case. So CBP specifically, as we talk about a border wall system and communicating with a number of landowners across the Southwest border, is certainly the lead agency in doing that. So I know they have been in consultations and discussions with the Nation on a variety of different issues. I know there are land use or water use issues that they have addressed, I believe, as well.

So my commitment, as I indicated to you in our conversation, is to continue that consultation. I will take it back as far as the question of a formal government-to-government consultation. I do not know if that is a term of art, but I am happy to look into that. But I do know that CBP has been communicating with the Nation on a number of instances. We will continue to do that. But if there is a more formal process that they would like to see, I am happy to look into that and to determine, if that has not already begun, why it has not.

Senator SINEMA. I would appreciate that. I am not familiar with the exact details either, but I did review the chairman's testimony and was concerned that his opinion was that that consultation had not been official or formal, and that they were receiving late notice about disruption of sacred sites.

As you know, the DHS routinely waives a series of Federal laws to speed border barrier construction, and these waivers mean that DHS takes responsibility to protect cultural and sacred sites as well as water resources, as you just mentioned. I am hearing growing concern in Arizona from ranchers, communities, and tribes that DHS is not doing the best possible job with these stewardship responsibilities.

In January, I wrote you a letter, and we talked on a call, asking you to review all the border barrier construction efforts in Arizona and to launch a Red Team review efforts to develop strategies to



improve construction and better meet DHS responsibilities to protect water resources in culturally sensitive areas.

The February response that my office received from you did not reference the request for the Red Team review, and that type of review is critically important so that Arizonans know that DHS is making every effort to mitigate the negative impacts.

So is DHS willing to conduct the review and then develop and implement a strategy as a result of the review to best protect these water resources in sensitive areas?

Mr. WOLF. What I would certainly commit is trying to understand better what the concerns are of the landowners. So if you receive information from them, if you want to forward that to us, to try to have a better understanding of what their specific concerns are. We have a very robust program at CBP not only from a contracting perspective but also a requirements perspective when we talk about a border wall system and what we do on the Southwest border. So there are a lot of safeguards. There are a lot of checks there. I am happy to have the team walk you through what we do there. But if we can get a better sense specifically of what are the concerns of the landowners—we have a very large footprint on the Southwest border working through a lot of these issues. The Army Corps is obviously down there, which is our main contractor building our border wall system. They have a number of subcontractors that are doing a lot of the survey work.

So I think I would need to just understand a little bit more about what the concerns of the landowners are, if it is their personal property, if it is survey concerns, if it is right of access, what the issue is, and then we can certainly work with you and your office to address those.

Senator SINEMA. We will certainly follow up, and I appreciate that offer. I will tell you that while our ranchers in particular on the Southern border are very concerned about border control and border security, they are equally concerned about water resources because that is the livelihood for them and their families and for future generations.

I mentioned in my January letter concern about depletion of groundwater and how that could have a significant effect on the livelihood of these exact communities. I appreciated your agreement to not drill new wells within 5 miles of Quitobaquito Springs, but I am still concerned that DHS use of local wells for barrier construction will deplete groundwater levels near the San Bernardino Refuge, Cabeza Prieta National Wildlife Refuge, and other areas of Arizona.

So I would like to work together closely on this, but I would like to hear what steps DHS is taking to mitigate negative impact on water resources across Arizona, in addition to Quitobaquito, also paying attention to San Bernardino and Cabeza Prieta.

Mr. WOLF. I am happy to work again with you and the office to address that. Again, our CBP team that looks at a number of, I would say, not only resources but issues, as we look at priority sections of where we are building the border wall system, and again, working with the Army Corps who will go in there, who will do a number of surveys, do a number of assessments, looking at specific issues. For many of the sites, we bring in the water. There are

some sites where we do not. But I am happy to work with you and the office to address any concerns. As you mentioned, we were able, again, to address one of the concerns with the Nation that we talked about earlier. So we will continue to have that collaborative relationship.

Senator SINEMA. Thank you. Mr. Chairman, my time has expired, but I want to just let the Under Secretary know my team will follow up particularly about those two water refuge areas and ensuring that we get some kind of agreement like we have with Quitobaquito.

Thank you, Mr. Chairman.

Chairman JOHNSON. Senator Hawley.

#### **OPENING STATEMENT OF SENATOR HAWLEY**

Senator HAWLEY. Thank you, Mr. Chairman. Thank you, Mr. Secretary, for being here.

I want to start with the good news by saying that we are grateful in the State of Missouri for the folks at FEMA, the 12,300 personnel there and the 519 FEMA core staff, many of whom have come to the aid of my constituents over this past year in what was for us a very devastating year of natural disasters in the State of Missouri and are helping as we get ready for another serious flooding season this season. So thank you for that.

Having said that, I would be remiss if I did not mention that many of my constituents have faced seemingly insurmountable bureaucratic challenges in getting applications made to FEMA and getting responses from FEMA. We have had instances where folks are still waiting for a response from FEMA on assistance. We have even had a couple of instances in which FEMA awarded grants of individual assistance to individuals and then withdrew it and said, "Oops, we made a mistake. We want you to give all of that back."

You can imagine how—"frustrating" is not the right word, I mean, how absolutely infuriating that is given everything that they have been through. Of course, most of these folks are still not even in their homes given the flooding.

So I have raised these issues with Administrator Gaynor repeatedly. I have also written him a letter to which he just replied yesterday. Here is the bottom line for me. I want to make sure that FEMA has policies in place to get Missourians the aid that they still need retroactively—retrospectively, I should say, and that they are ready to assist Missourians in the flooding season that unfortunately is soon to be near upon us. Do I have your commitment on that?

Mr. WOLF. You certainly do, and I talked to Administrator Gaynor about this, and certainly as we look forward, FEMA is going to support not only Missouri but any affected community.

I will say that I have certainly heard about the bureaucratic challenges that you mentioned, and it is certainly something I have talked to FEMA about. When a natural disaster hits, as I have said previously, that individual or that family that is affected could have three or four, maybe up to six different inspectors, folks knocking on their door from a variety of different agencies—FEMA, HHS, and the like. So we want to make that as simple as possible, and I know FEMA is doing a lot of work on that.

So, again, you certainly have my commitment, working through Administrator Gaynor, to try to simplify that process. If there is any outstanding one-offs, certainly let me know, and we can sort of address those. I read your comment to be a little bit more holistic than just bureaucratic challenges, but if there are specific ones, we are happy to take those on.

Senator HAWLEY. Thank you. I appreciate that. I look forward to working with you on that.

Let us talk about the border crisis and opioids. I believe that CBP last year, in fiscal year 2019 at least, seized over a million pounds of drugs, arrested 12,000 individuals wanted for criminal activity, and inspected over 400 million travelers, which is quite significant. In Missouri, we are feeling the effects of this. Our own Department of Health and Senior Services reports that one out of every about 56 deaths in the State in 2018 were caused by opioids, over 1,100 deaths in 2018 alone due to opioids, and that is not even getting to other forms of drugs like methamphetamines, for instance, that are crossing the Southern border and flooding into my State.

I can tell you—I have seen it firsthand—there is not a single community and unfortunately there is not a single school in the State of Missouri that has not been touched by the drug crisis, this wave of illegal drugs coming across the Southern border. Give me an update on that. What more do you need from this Congress to do your job and stem that flow?

Mr. WOLF. As I indicated earlier, I think we have a couple of different challenges when we talk about opioids. Obviously, coming through the U.S. Mail, coming into the country, it is a challenge. Congress has passed a couple of bills that provide additional resources, additional capabilities, the STOP Act, the INTERDICTION Act that we are implementing, and so thank you for that. We continue to do that.

When we talk about the Southwest border, it is our nonintrusive inspection (NII) equipment as well as our canine capability to continue to do that. So, again, Congress allocated funding in fiscal year 2019 and 2020 for about 600 systems, NII systems, and that will increase our capability by 2023 to inspect instead of 1 to 2 percent of vehicles coming in for illicit narcotics, to get all the way up to 40 percent, and for commercial vehicles to take that from 15 percent to 72 percent. So, again, through Congress' help and resources, we are trying to roll out both the large, the medium, and the small nonintrusive inspection that gets at some of our narcotics.

Senator HAWLEY. Thank you for your work on that. I look forward to continuing to work with you on it. It is a subject of immense importance.

Mr. WOLF. Absolutely.

Senator HAWLEY. For literally every community in my State.

Finally, for me the last topic, China. I have been following the exploitation, and we have explored it some in this Committee, their exploitation of American research and of our educational system, including, of course, Internet Protocol (IP) theft and sometimes just outright espionage. I have introduced in this Committee a measure, S. 2728, which would give your Department expanded authorities to address this issue, including developing counterintelligence

awareness training, a vetting task force, a focused effort between your Department and State to identify areas of study and fields of study that are sensitive for homeland security and counterintelligence purposes.

Can you speak to some of that? Would those sorts of authorities, would this sort of effort be helpful to you in your work?

Mr. WOLF. I certainly have not seen the bill, but just what you described, it would be immensely helpful. And so in the Department, I would say about 6 weeks ago I asked the Department to pull together a China working group to take a look across the Department of where are our authorities, where do we do a lot of work, where do we see any seams or gaps, take a look at the intel, and then come back. So that is underway.

I can tell you we probably have seams and gaps from a DHS perspective, but a lot of what you said I think would fit nicely in the work that we are doing. So I would look forward to working with you on that.

Senator HAWLEY. Great. We will follow up with you. Thank you so much.

Thank you, Mr. Chairman.

Chairman JOHNSON. Thank you, Senator Hawley.

Senator Hassan has a few more questions before I ask mine and close out the hearing.

Senator HASSAN. Thank you for the courtesy, Mr. Chair. And I did want to just echo—Senator Harris had asked for an oversight committee hearing on wildfire prevention, and it sounds like a very good topic for us to explore. So I would just add my support for that.

Secretary Wolf, I wanted to ask a couple more budget items. The Multi-State Information Sharing and Analysis Center (MS-ISAC), is a vital tool for Federal, State, and local governments to share cybersecurity information with each other, particularly as cyber threats against our schools, local governments, and health care facilities are surging across the country.

Last fall, I sent DHS a letter along with Senators Schumer and Peters asking to ensure that the MS-ISAC has adequate funding to do its job. We confirmed with Director Krebs, the CISA Director, last month that MS-ISAC received the full funding this year to do its important work. Yet in the President's fiscal year 2021 budget request, you are once again proposing to underfund this important organization.

So what are you going to do to ensure that the MS-ISAC gets the funding it needs so that we can avoid the same uncertain budget planning year after year?

Mr. WOLF. I have also talked with Director Krebs not only about the MS-ISAC—obviously they have an Election Infrastructure ISAC as well.

Senator HASSAN. Right.

Mr. WOLF. A number of these ISACs are absolutely critical to the work that CISA does. So let me take that one back. I am happy to work with you to make sure that we have adequate funding to those ISACs, absolutely critical to what CISA does and how they share information with our private sector, State and locals. So you certainly have my commitment to do that.

Senator HASSAN. Great. That would be good to work on together. Then I wanted to turn to another topic. As you know, late last year a member of the Saudi Royal Air Force attacked the Pensacola Naval Station and killed three United States sailors and injured eight more. Al-Qaeda's Yemen affiliate has subsequently claimed credit for this attack. The shooter was here on a temporary visa through which friendly nations send their military officers to our country for training and education.

In the aftermath of the attack, the Federal Government re-screened the remaining Saudi military personnel here for this program and found that 17 of them had shared jihadist material online and 15 were in possession of child pornography.

What steps is DHS taking to conduct more thorough vetting of foreign military students and trainees? And how is the President's budget request for DHS supporting this enhanced vetting?

Mr. WOLF. Sure, absolutely. We continue to work with the Department of State specifically on the Pensacola issue, as you outlined, not only with the Department of State but with the Department of Defense (DOD) on that. So from a DHS perspective through USCIS, we do a number of the security enhancements or security reviews of different visa applications. Some of the visa programs we run; many of those that we do not. The Department of State runs this specific one that you mentioned.

So we will continue to do that. The budget, obviously USCIS is fee-funded. They do not have a traditional appropriations like most of our other work. So there are a number of things that we are doing to make sure that USCIS, including looking at their fee structure, they have a rulemaking which is out there for comment today, to make sure they continue to be fully funded so that they can do their work, which includes the security reviews that you are talking about.

Senator HASSAN. All right. Thank you. I would look forward to working with you additionally on that.

I just wanted to turn back to one thing. I asked you earlier about the whole issue of cuts to the National Domestic Preparedness Consortium funding, and you said that part of what we would see in the supplemental proposal was perhaps money that could be used in that way. Then I just heard Senator Portman say that the supplemental that Congress has agreed on does not include funding for DHS. So I do not want to put you on the spot at this moment, but how are we going to make sure that our local front-line people have the kind of training especially around public health preparedness that they need to have.

Mr. WOLF. Sure, we will continue to look at the training piece. I think my comment a few minutes ago was included in the supplemental request. I have not seen the current version of it that is floating out there. It was information—or, sorry, it was funding that would come to HHS that they would provide to State and locals to respond to the coronavirus. So that was my specific comment.

Senator HASSAN. OK.

Mr. WOLF. I will take a look at the consortium. I am not familiar with their exact funding level, but I agree with you, making sure that State and locals have the training that they need to do that,

and we will continue to do that. There are tradeoffs in our budget that we have to make, and so what the 2021 budget request is is a reflection of those tradeoffs. But, again, I think this is an important issue. I am happy to continue to work with you and your staff to make sure that we get the right balance there.

Senator HASSAN. All right. I appreciate that. Thank you very much. And thank you, Mr. Chair.

Chairman JOHNSON. Thank you, Senator Hassan.

A completely different subject. During Secretary Nielsen's confirmation one of the priorities she pointed out to me was the fact that she wanted the authority within DHS to counter the malign use of drones. I think we were all shocked that law enforcement did not have that. We got that authority to you, but this is really pretty much the first step. So I wanted to ask you: What have we done with that authority? And is it time now for a second or third step in terms of where we are at, countering the malign use of drones?

Mr. WOLF. I would say, Mr. Chairman, as you mentioned, it is very specific and I would say even in some respects limiting authority that was provided to DHS, and it includes just covering DHS facilities mainly. It also allows us to respond to an incident, and so we would certainly do that when we talk about a soft target. There is an ongoing conversation that we continue to have with Congress, particularly on the House side, regarding Counter Unmanned Aircraft Systems (CUAS) capabilities at airports, which is where we see a lot, but not all.

So we continue to do that, but, again, our authority is very limited. We are using a lot of the funding request to develop capabilities, and we are certainly utilizing experience not only from inside DHS and Secret Service (USSS) has a little experience in this area, but also DOD and what they are doing in theater to protect their facilities.

So we are trying to leverage their expertise to build out our expertise, but I would agree with you, I think it is the next step. It is time probably to talk about additional authorities, additional capabilities that the Department needs. And I will say that this is a difficult area to build up capabilities in, and so whether you look at DOD—they have been doing this for several years. We have had the authority just for, I would say, a year and a half. So we need to do more, but I am happy to continue to work with Congress on what those new authorities are.

We have started to outline what those possibly could be, so I am happy to talk to Congress as we look at those in the interagency as well.

Chairman JOHNSON. The agency I think you really have to deal with is the Federal Aviation Agency (FAA).

Mr. WOLF. We are.

Chairman JOHNSON. OK.

Mr. WOLF. That is part of the process.

Chairman JOHNSON. This Committee will stand ready to get your input in terms of what we need to do on this, understanding how really complex this issue is, but OK.

Senator Hassan mentioned this, and I appreciate that, and this Committee I think is very appreciative of the men and women

within DHS, the conditions they work under. I think you mentioned that in your written testimony, but the risks that they subject themselves to.

Mr. WOLF. Right.

Chairman JOHNSON. So we really do want to convey our gratitude and have you take that back to the men and women.

Mr. WOLF. I certainly appreciate that, and I just want to build off of that. Certainly the commitment and the support that you provide the men and women of DHS does not go unnoticed, and certainly the Committee as well. So we again thank you and your staffs for everything that you do to support us, provide us the resources, the authorities that we need to do our job, so I appreciate that.

Chairman JOHNSON. Because Committee Members go to the border, are in more frequent contact with the men and women of DHS, you are not seeing us politicize here today the response to the coronavirus. Unfortunately others have. Again, I am very mindful of the fact that tomorrow we will have this hearing, and so many of these questions really are directed toward HHS, CDC, and NIH. But what I would like you to do, because you have been there since January 2nd, talk about how the administration has responded from the standpoint of the interagency working groups. Again, from my standpoint the administration has definitely not underreacted. I think they are fully aware—because, again, I have not tried to—I have not abused this privilege, but we have spoken a number of times. I have spoken with people within NIH, CDC, Ken Cuccinelli. We have had that type of access, and I appreciate that. But if you can just kind of talk, because there is a true cost to overreacting.

Mr. WOLF. Absolutely.

Chairman JOHNSON. I have also said that the chance that this administration gets it perfect is zero. But, again, you are not underreacting. You understand the cost of overreacting. Can you just kind of talk about the interagency working, what you have been going through to give—first of all, I think to lay some of this what I would consider grossly unfair criticism to rest, but also give the American people some comfort that you are on the case here.

Mr. WOLF. I think some of the actions that we took initially should give the American people a very strong confidence. The President was one of the first individuals leaning forward on this. We put in a number of travel restrictions and the funneling, really the first country to do that. And, of course, a number of others have followed since then.

I will say that, again, the threat of coronavirus to the American people remains relatively low, and it is designed to keep it that way on a number of the procedures that we are putting in place.

The interagency process is working well. As you indicated, we are trying to strike that right balance, trying to push out as much information to the American people, to Congress, and to our other stakeholders, to make sure they understand what is going on. So there is a lot of activity that you can see, and, of course, there is a lot of activity that the American people cannot see.

So at the Department of Homeland Security but also the other departments that are part of the task force, we are doing a number

of planning. So we have pandemic plans in place. We are doing a number of planning, a number of things behind the scenes. As this unfolds, should it unfold, should we need to go in a different direction, all that planning is taking place today as we continue to try to fight and mitigate the virus today.

So we continue to do that. A lot of that I appreciate the American people cannot see, and perhaps, some Members of Congress cannot see, but the work is going on. I will say the Vice President and the leadership that he has provided to this is holding, as I mentioned, daily information flows to the American people, which started—we have weekly and biweekly briefings to Congress, pushing out as much information as we can. Again, as you mentioned, you have an oversight hearing tomorrow with HHS and DHS, so we continue to push out as much information.

But I think your point is right, which is we need to be up front and very transparent with the American people. But let us not overreact. Let us tell them what we know, and that is what we are doing. Let us act on what we know and then talk about preparedness measures, talk about what we can in open settings like this. But just know, I would say to you and the American people, that the Department of Homeland Security and our other interagency task force members are planning for all scenarios. As I mentioned earlier, all options remain on the table to address the coronavirus.

Chairman JOHNSON. I think it is important that Members of Congress but the American people understand, too, that we do not have perfect information. Far from it. It takes time to develop the testing capability and then manufacture and distribute it. Personally from what I understand, 2,500 kits will be going out by the end of this week. Each one of those kits has the capability of doing 500 tests. Do the math on that. That is 1.2 million tests.

Now, talking to Senator Hassan, apparently, to really confirm results because you do not want false positives, maybe each patient might need two. But that has been a real limitation, so that is really kind of a first step. That has just been a limitation. We have a limitation in terms of the number of doctors and nurses we have and other health care professionals working in hospitals. So we need to make sure that they are protected first.

Again, I am very mindful of how complex, how difficult this issue is. Again, I have been very appreciative of how accessible members of the administration have been, and we certainly know because we have been briefed multiple times. Almost daily there is some kind of briefing going on. So, again, I just really appreciate that, and I want you to convey certainly this Committee's appreciation to not only the men and women of DHS but throughout these government agencies that are doing everything they can to keep America as safe as possible. This is a real issue; this is a real problem. It is not being ignored by any stretch of the imagination.

Secretary Wolf, we really do appreciate your service. I mean this. Mr. WOLF. Thank you.

Chairman JOHNSON. I do not envy your task, but I truly appreciate you stepping up to the plate here, coming before this Committee, but just your work, your tireless work day in and day out.



The hearing record will remain open for 15 days until March 19th at 5 p.m. for the submission of statements and questions for the record. This hearing is adjourned.

[Whereupon, at 4:17 p.m., the Committee was adjourned.]



## A P P E N D I X

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**Chairman Johnson's Opening Statement  
"Resources and Authorities Needed to Protect and Secure the United States"  
Wednesday, March 4, 2020**

*As prepared for delivery:*

I want to thank Acting Secretary Chad Wolf for being here today to describe and provide the rationale for the President's Fiscal Year 2021 budget request for the Department of Homeland Security. This year's budget request equals \$75.9 billion, a reduction of \$12.5 billion from last year's enacted total of \$88.4 billion. The primary variances from last year include a reduction of \$12.3 billion for FEMA's Disaster Relief account for Major Disasters, a savings of \$2.4 billion in transferring the Secret Service back to the U.S. Treasury Department, and an increase of \$2.5 billion to provide additional resources to ICE and CBP as they continue to deal with unacceptably high levels of illegal immigration. I'm sure these proposals will be topics for robust discussion.

In addition to these budgetary issues and priorities, the Department of Homeland Security plays a central role in addressing other current threats and security issues. Our committee will be holding a hearing tomorrow on the challenges we all face in dealing with the growing Coronavirus outbreak. But today, we will want to hear Mr. Wolf's assessment of the current situation and his plan of action to deal with it.

Throughout society, computer systems and networks are increasingly under attack from state and non-state cyber criminals. The Department's Cybersecurity and Infrastructure Security Agency, or CISA, partners with federal departments and agencies, state, local, tribal, territorial governments, and the private sector to protect their mission-critical systems. To enhance these efforts, Senator Hassen and I introduced the Cybersecurity Vulnerability Identification and Notification Act of 2019, which provides CISA with the limited legal authority to identify the owners or operators of potentially compromised critical infrastructure systems to provide them notice of these vulnerabilities. I look forward to the committee considering this needed authority at our legislative mark-up next week.

Additionally, CISA provides security assessments and advisory services to the sixteen critical infrastructure sectors of our economy. For all but one sector in which CISA has oversight, CISA employs a common approach by using voluntary Protective Security Advisors. In 2006, Congress authorized a specific regulatory program for the Chemical sector — the Chemical Facility Anti-Terrorism Standards program (CFATS). CFATS is set to expire in the coming weeks, and the administration proposes to transfer CFATS Chemical Security Inspectors into the same voluntary system used for the other critical infrastructure sectors. I support this common sense approach, but am willing to work with industry, the administration, and congressional colleagues on a path forward we can hopefully all agree on.

I thank Acting Secretary Wolf for his willingness to serve in this capacity at a critical time for the Department, and I look forward to discussing the resources and authorities the Department needs to protect the homeland.

**U.S. Senate Committee on Homeland Security and Governmental Affairs  
“Resources and Authorities Needed to Protect and Secure the Homeland”**

**OPENING STATEMENT OF RANKING MEMBER GARY C. PETERS**

**March 4, 2020**

**AS PREPARED FOR DELIVERY**

Thank you Mr. Chairman, and thank you, Secretary Wolf for being here today, and for your service to our nation.

Every year, the Homeland Security Secretary comes before this committee to discuss the “tough choices” that were made to arrive at these final budgetary numbers. But we don’t often hear how those decisions were made.

The numbers in this budget proposal represent decisions that will have a real effect on the safety of the American people – choices that I hope were made after extensive deliberation and thoughtful consideration.

It is our duty to carefully consider your proposal and thoroughly evaluate the process that lead you to these conclusions.

If we went through this proposal line by line, we would likely find any number of areas on which we disagree. But we share the common goal of keeping the American people safe.

At the same time, your mission to secure the homeland and protect the American people must coexist with a diverse set of responsibilities: to facilitate lawful trade and travel, to uphold basic civil rights and liberties, to protect the integrity of our elections, and to assist communities around the country recovering from disasters.

It is my hope that this budget, and our discussion here today, will reflect that broad scope of challenging responsibilities. Secretary Wolf, I look forward to hearing from you today.



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TESTIMONY  
OF  
CHAD WOLF  
ACTING SECRETARY  
U.S. DEPARTMENT OF HOMELAND SECURITY  
REGARDING A HEARING ON  
“THE FY 2021 DEPARTMENT OF HOMELAND SECURITY BUDGET”  
BEFORE THE  
UNITED STATES SENATE COMMITTEE ON HOMELAND SECURITY AND  
GOVERNMENTAL AFFAIRS  
March 4, 2020  
Washington, D.C.

Chairman Johnson, Ranking Member Peters, and distinguished Members of the Committee:

It is a privilege to appear before you today to discuss the Department of Homeland Security's (DHS) critical mission functions that keep this Nation safe and to present the President's Fiscal Year (FY) 2021 Budget for the Department. This budget will serve as a catalyst to assist DHS in maintaining pace with adversaries attempting to circumvent our laws and threaten our citizens and our way of life.

My priorities are guided by a determination to ensure the Department is three things: robust, resilient and forward-leaning. The FY 2021 President's Budget is not only a reflection of those priorities but a path to achieving them.

DHS is comprised of eight major Components and many support Components and employs more than 240,000 men and women who stand ready to respond to a wide variety of threats in some of the most extreme and austere environments. These harsh conditions include Border Patrol Agents patrolling the U.S. border in southern Arizona where temperatures reach upwards of 120 degrees, to the crew of the United States Coast Guard Cutter POLAR STAR, breaking ice as thick as 21 feet in the Antarctic Region where temperatures fluctuate between -40 to -90 degrees to conduct national security missions.

These men and women continue to make significant contributions to the larger homeland security apparatus as they stand watch 24 hours a day, seven days a week, 365 days a year, (or 366 days this year given it is a leap year). Our mission is to protect Americans and the homeland from threats by land, air, sea and cyberspace while promoting the nation's economic prosperity through the facilitation of legitimate travel and commerce. This balance to ensure security without impeding the freedom of movement is a very delicate one and the men and women of the Department of Homeland Security continue to execute it with tenacity and compassion.

The Department's key budget priorities remain consistent with recent years; Securing Our Borders, Enforcing Our Immigration Laws, Securing Cyberspace and Critical Infrastructure, Transportation Security and American Preparedness. However, there are emerging threats that underscore the importance of the Department's global reach. This budget recognizes that fact and positions the Department to respond.

Though the United States has long faced isolated threats from China, Iran, and Russia, we are at a critical time in our Nation's history as it relates to threats emanating from these Nation states. While the Administration works trade negotiations with China toward the goal of achieving a fair and balanced trade deal that both countries can call successful, we must increase pressure on the Chinese government for the ongoing violations of Intellectual Property Rights (IPR) laws. These violations continue to reduce market opportunities and undermine the profitability of United States businesses as sales of products and technologies are undercut by competition from illegal lower-cost imitations. Additionally, there are increasing concerns with the Chinese government's continued investment into U.S. interests and their impact to national and economic security. Specifically, as the United States builds out capacity within the 5G network, we must

maintain a proactive posture in addressing a multitude of cybersecurity threats and vulnerabilities.

The increased tension with Iran forced the Department to assume an enhanced security posture, particularly in the cybersecurity domain to prevent threats aimed at revenge for the recent death of Iranian General Qasem Soleimani. The Department's Cybersecurity and Infrastructure Security Agency (CISA) continues to monitor an uptick in malicious activity by pro-Iranian hackers and social media users as Iran possesses the capability and tendency to launch destructive cyber-attacks. The 2016 election is a stark reminder that Russia remains a significant threat to our democratic process. And with a Presidential Election this November, it has never been more important to increase our digital defense to prevent cybersecurity threats from influencing electoral outcomes.

To emphasize the variation in threats facing the Department, the Coronavirus (COVID-19) which originated in Wuhan, Hubei Province, China, continues to spread to other parts of the world at a pace that has the Center for Disease Control and Prevention (CDC) and DHS at the ready. On January 31, 2020, the Secretary of Health and Human Services declared COVID-19 a public health emergency in the United States, and the President signed a Presidential Proclamation (Proclamation 9984) using his authority pursuant to Section 212 (f) of the Immigration and Nationality Act to suspend the entry into the United States of foreign nationals who pose a risk of transmitting COVID-19. As of 5 p.m. Eastern Standard Time on February 2, 2020, foreign nationals, other than immediate family members of U.S. citizens and legal permanent residents and other individuals falling within narrow exceptions to the Proclamation, who were physically present in the People's Republic of China, excluding Hong Kong and Macau, within the last 14 days will be denied entry into the United States. On February 29, 2020, President Trump expanded Proclamation 9984 to also include most foreign nationals who have been to Iran within the last 14 days.

DHS, including U.S. Customs and Border Protection (CBP) and the Transportation Security Administration (TSA), continues to work very closely with our CDC partners to route all admissible persons who have been in mainland China or Iran in the last 14 days to one of 11 designated ports of entry where the Federal Government has focused public health resources. As the DHS lead for coordinating with interagency partners, the Countering Weapons of Mass Destruction Office (CWMD) is currently supporting these enhanced health screenings through contracts with local EMS, public health, and/or first responders. Based on current information, **the risk from COVID-19 to the American public remains low** and we are taking measures to keep the threat low and prevent the virus from spreading. Sadly, six deaths in the United States from COVID-19 have been reported. As we have said from the beginning, we expect to see additional cases in the United States and as such DHS is responding with proactive safeguards and is prepared to increase these measures should it become necessary.

The FY 2021 President's Budget for DHS includes \$49.8 billion in net discretionary funding and an additional \$5.1 billion for the disaster relief fund (DRF) to support response to and recovery from major disasters in the homeland. By providing the men and women of DHS the necessary resources to execute their important and extremely complex missions, the President's Budget ensures we continue our current trajectory of reinforcing the security of our nation through

enhanced border security, immigration enforcement, transportation security, resilience to disasters, and cyber security.

To help frame the rising threat, I would like to highlight some of last year's operational achievements. U.S. Customs and Border Protection (CBP) processed and cared for an unprecedented number of migrant families and children. Encounters and apprehensions totaled more than 851,000 along the U.S. Southwest Border (SWB) alone. This total included more than 76,000 unaccompanied children and approximately 474,000 family units. This was a 110 percent increase over FY 2019 apprehension totals (404,142). They inspected over 410 million travelers, arrested almost 13,000 wanted individuals and prevented nearly 299,000 inadmissible travelers from entering the United States. Additionally, their combined efforts with CBP's National Targeting Center (NTC), the Immigration Advisory Program and the Regional Carrier Liaison Group prevented the boarding of almost 19,000 high-risk travelers from boarding flights inbound to the United States. AMO executed nearly 93,000 flight hours and more than 33,000 float hours in balancing law enforcement and humanitarian operations. This effort included 300 flight hours during a two-week period to provide relief to Bahamian citizens in the aftermath of Hurricane Dorian and 3,600 flight hours dedicated to the migrant caravan surge along the SWB.

The Cybersecurity and Infrastructure Security Agency (CISA) worked tirelessly alongside Federal, State and local election officials leading up to the 2018 mid-term elections and in preparation for the upcoming 2020 Presidential Election. Over 500 CISA employees supported election security preparedness nationwide, including providing technical cybersecurity assistance, information sharing and expertise to election offices, campaigns and technology vendors, this included staffing a nationwide virtual watch floor. As part of Active Shooter Preparedness, CISA also provided information to the critical infrastructure community and general public to help prepare emergency action plans and education on steps to increase incident survivability. Specifically, 39 in-person workshops with over 3,600 participants were conducted; nearly 87,000 people successfully completed an online course and a website focusing on active shooter training was viewed more than 937,000 times by the public.

United States Citizenship and Immigration Services (USCIS) naturalized 833,000 new citizens, an 11-year high in new oaths of citizenship. The number of refugee applicants interviewed nearly doubled from FY 2018 to 44,300 (from 26,000). These interviews supported the admission of 33,000 refugees to the United States which was a 32 percent increase over last year. USCIS also completed 78,580 affirmative asylum applications, and experienced a six percent rise in credible fear cases processed to 103,235.

The Federal Emergency Management Agency (FEMA) deployed over 12,300 FEMA personnel and 519 FEMA Corps personnel in support of 99 major disaster declarations including Hurricane Dorian, 22 emergency declarations and one Fire Management Assistance Grant declaration across 45 States, tribes and territories.

United States Immigration and Customs Enforcement (ICE) removed nearly 268,000 individuals from the United States and arrested over 143,000 individuals. Homeland Security Investigations made nearly 50,000 arrests, approximately 80% of which were criminal arrests, including over 4,300 gang leaders, members, and associates. These gang arrests included 452 Mara Salvatrucha



(MS-13) gang members.

The Transportation Security Administration (TSA) screened approximately 839 million passengers, 1.9 billion carry-on items and 510 million checked bags in FY 2019. This was a 4.3% increase in checkpoint volume which equates to an average increase of over 95,000 passengers per day. They enrolled over 2.1 million new individuals in TSA's PreCheck Application Program which is designed to increase security throughput by expediting trusted travelers and reducing security screening times.

The United States Coast Guard (USCG), through their search and rescue efforts, saved 4,335 lives and prevented over \$41 million in property loss. Over 400 of those lives saved were during Hurricane Dorian response efforts. Simultaneously, while executing their law enforcement responsibility, they removed over 458,000 pounds of cocaine and 63,000 pounds of marijuana with estimated wholesale value of \$6.2 billion.

The Countering Weapons of Mass Destruction (CWMD) Office completed 155 surge deployments of the Mobile Detection Deployment (MDD) Program, enhancing interdiction efforts and expanding law enforcement partners' ability to protect the Nation from a Weapon of Mass Destruction threat. This was an increase of over 115 percent from FY 2018 (72 deployments). Additionally, CWMD conducted more than 100 training exercises, training events and informational briefings with partners and stakeholders to develop doctrine, create training curriculum and validate readiness.

The United States Secret Service conducted protective advances for nearly 6,500 visits and traveled overseas with protection details on 395 foreign visits. The Secret Service seized \$369 million in counterfeit U.S. currency, an 81% increase over the previous year. Finally, the Secret Service closed 1,718 Cyber Financial Crime cases, an increase of 160 percent over FY 2018 and experienced an 18 percent rise in Cyber Financial Crime cases opened, while the Cyber Financial Potential Losses Prevented increased by 36 percent (\$5.2 billion to \$7.1 billion) during the same year.

Last year's operational achievements serve as a baseline from which to determine the incremental growth of threats to the homeland in the coming years. Analyzing the previous year's statistical achievements also allows DHS to plan for future threats accordingly. The FY 2021 President's Budget for DHS is an opportunity for Congress to provide the men and women charged with executing complex missions with the necessary prevention, response and recovery resources.

The security of our Nation's borders remains a primary focus area for the Administration and this Department. Border security is national security as any nation's sovereignty begins with its ability to secure its physical borders. Securing the border is extremely complex and requires a multifaceted approach. The Department has long executed a defense-in-depth model when it comes to border security. There are 5,000 miles of border between the United States and Canada and over 1,900 miles shared with Mexico. The President's Budget is a step toward enhancing border security through investments in staffing, infrastructure and technology. Without a strategy that involves these key investments, border security would be unattainable.

The President's Budget includes \$2.0 billion for the construction of approximately 82 miles of new border wall system. This funding supports real estate and environmental planning, land acquisition, wall system design, construction and oversight. While a physical barrier alone does not solve all border security concerns, it remains foundational to a strategy for achieving operational control of the SWB. A physical barrier is a proven deterrent as well as a mechanism for channeling activity to predetermined points along the border which allows DHS to allocate response resources with much more precision.

Domain awareness is a vital component to border security and complements a physical barrier by providing increased opportunities for actionable intelligence, especially in remote areas with little infrastructure. To complement the physical barrier, the budget includes \$28 million to increase domain awareness through the deployment of 30 Autonomous Surveillance Towers (formerly Innovative Towers) across the Southwest border. The towers are designed to provide persistent electronic surveillance in remote areas of the border without the need for a permanent Border Patrol Agent presence. The data derived from these sensors will be relayed in real-time to the Air and Marine Operations Center and local Border Patrol Stations and/or Sectors for processing, threat determination and response execution.

The President's Budget seeks funding for a number of CBP's airframe and sensor modifications, conversions and/or upgrades. These platform improvements are multi-purposed as they provide increased levels of domain awareness and are instrumental in interdiction and humanitarian operations. They include \$15.5 million to convert an Army HH-60L to CBP's versatile UH-60 Medium Lift Helicopter configuration. UH-60s are the only assets in CBP's fleet that have medium lift capability and are rugged enough to support interdiction and life-saving operations in extreme or hostile environments (desert, extreme cold or open water). The Budget includes \$14.3 million to upgrade a DHC-8 Maritime Patrol Aircraft. These aircraft operate under broad operational spectrums, including coastal/maritime boundaries in the Caribbean and Latin America. The Budget also requests \$13.0 million for the replacement of obsolete, out of production aircraft sensor integrated mission systems. Systems requiring replacement include non-High Definition (HD) Electro Optic/Infrared (EO/IR) sensors, outdated mapping systems, video displays, recorders and data links that facilitate real-time data exploitation.

While technology plays an important role in the Department's day-to-day missions, our most critical resource remains our personnel. As the Department remains focused on threats from those attempting to circumvent existing laws, we cannot lose sight of the year-over-year increase in the volume of legitimate trade and travel. This volume increase, can limit the time CBP has to conduct necessary threat analysis down to minutes or seconds without impacting the legitimate movement of people and goods.

The President's Budget seeks funding for additional personnel within several Departmental Components including; \$161 million for 750 Border Patrol Agents and 126 support personnel, with an additional \$54 million to sustain 250 Agents hired in FY 2019 and FY 2020; \$544 million for ICE to add an additional 2,844 law enforcement officers and 1,792 support personnel; and, \$3.5 billion to fund 47,596 Transportation Security Officers, which supports the projected 4 percent increase in volume. The FY 2021 Budget also accounts for a 3 percent pay increase for

the uniformed men and women of the Coast Guard, a 1 percent civilian pay increase, and an additional 1 percent increase in award spending, along with annualizing the 3.1 percent civilian pay raise in 2020.

The majority of these personnel increases are targeted for frontline Agents and Officers. However, across the Department there will be staffing increases in various support positions. U.S. Border Patrol, for example, will use Processing Coordinators to perform non-border security, non-law enforcement officer activities such as support activities related to processing or providing humanitarian support. This additional increase will allow frontline Agents and Officers currently assigned to perform administrative duties out of necessity, to focus more time on operational responsibilities.

DHS is committed to enforcing immigration laws across the nation, including the interior of the United States. Our priority is to identify, detain, and remove criminals from the United States that are here illegally with particular attention focused on those individuals posing a threat to public safety. The Department does not intend on stopping there; those employers who knowingly break the law for the self-serving purpose of cheap labor will be identified and brought to justice.

FY 2019 apprehensions between the ports of entry along the Southwest border increased 115% when compared to FY 2018. This unprecedented spike in illegal crossings drove a corresponding increase in the ICE average daily population (ADP). The resulting effect was an increase in historical occupancy levels within DHS detention facilities. Forecasting models reinforce the need for an increase in ICE's detention beds to 60,000 (55,000 adult and 5,000 family). The budget includes \$3.1 billion for this capacity increase and ensures ICE is able to maintain pace with projected migration flows and enhance enforcement activity within the interior of the United States.

We must continue to increase our digital defense as cybersecurity threats grow in scope and severity. The FY 2021 President's Budget is poised to continue investments in the Cybersecurity and Infrastructure Security Agency (CISA) to assess evolving cybersecurity risks and protect Federal Government information systems and critical infrastructure. CISA continues to work tirelessly to ensure cyber-attacks are unable to compromise or disrupt Federal networks. With the November Presidential Election fast approaching, CISA is also working with State and local organizations in all 50 states to ensure American elections are decided by Americans without outside interference. Accordingly, the President's Budget seeks \$1.1 billion in CISA cybersecurity operational costs and investments for programs to include the Continuous Diagnostics and Mitigation (CDM) program and the National Cybersecurity Protection System in order to strengthen the security posture for government networks and systems. The budget also includes \$157.6 million for the Emergency Communications program which enables improved public safety communications services throughout the nation. This program also manages funding, sustainment and grant programs to support communications interoperability and builds capacity with Federal, State, local, tribal and territorial stakeholders.

The Coast Guard is a unique Component given it is the only branch of the U.S. Armed Forces

within DHS. As a military service and a law enforcement organization with a regulatory responsibility, they possess broad jurisdictional authorities and flexible operational capabilities. This combination necessitates an inherent need to ensure they are postured for rapid response to a variety of missions with a modernized fleet that supports these requirements.

The President's Budget includes \$555 million to support the Polar Security Cutter (PSC) program management and to fund the construction of PSC 2. This acquisition recapitalizes the Coast Guard's heavy polar icebreaker fleet to support national interest in the Polar Regions and provide assured surface presence in ice-impacted waters. The Budget also includes an additional \$153 million for existing airframe modernization (combines \$88 million for Fixed-Wing Aircraft and \$65 million for Rotary-Wing Aircraft). These improvements will help ensure the Coast Guard fleet is appropriately equipped for the complex missions they are charged with executing. This modernization effort aligns the Coast Guard's recapitalization of airframes with the Department of Defense Future Vertical Lift acquisitions to create additional acquisition efficiencies. Finally, \$564 million is included for the Offshore Patrol Cutter (OPC). This funding supports the production of OPC #3 and Long Lead Time Materials for OPC #4 along with technical and program management costs.

The FY 2021 President's Budget includes \$96 million in additional resources, distributed across several Components to fund the Targeting Violence and Terrorism Prevention (TVTP) program. This program is designed to support early detection and prevention of radicalization of individuals prone to violence by interrupting those efforts with appropriate action by leveraging civic organizations, law enforcement and community organizations. The Department's investment includes Components vested in research and development, early detection and response.

What makes the United States great is its resiliency in the face of adversity and hardship. Throughout our storied history, there are dozens if not hundreds of examples of that resiliency displayed. And though the people of this country are resilient by nature, it is important that we as a Department appropriately plan ahead for things we know are coming including hurricanes, earthquakes and fires. One of FEMA's strategic goals is to Ready the Nation for Catastrophic Disasters. The FY 2021 President's Budget helps FEMA achieve this goal by funding numerous initiatives aimed at preparedness and disaster recovery. FEMA continues to invest in State and local governments to increase preparedness and resiliency. The budget includes \$2.5 billion to support State, local, tribal and territorial governments in the form of non-disaster grants and training. These funds are key in sustaining and building new capabilities to prevent, protect against, respond to, recover from and mitigate high consequence disasters and emergencies in our Nation's high-risk transit systems, ports, and along our borders.

In addition, the Nation's transportation systems are inherently open environments. Part of TSA's mission is to protect these systems to ensure the free and secure movement of people and commerce. U.S. transportation systems accommodate approximately 965 million domestic and international aviation passengers annually, that number is in the billions when you factor in, over-the-road buses and mass transit systems.

Ensuring effective screening of air passengers remains a top priority for TSA. In an effort to

balance the need for increased security without impeding freedom of movement for legitimate travelers, the President's Budget includes \$28.9 million to expand TSA's Computed Tomography (CT) Screening capability. CT Screening is the most impactful property screening tool available today. Not only is it more effective against non-conventional concealment methods but it eliminates the need for passenger to remove electronic items from carry-on bags. This combination improves security and expedites the screening process to increase passenger throughput efficiency. To offset TSA operations, a \$1.00 increase is proposed in the Aviation Passenger Security Fee. This minimal increase would generate approximately \$618 million in additional revenue and help defray the increasing cost of aviation security.

Finally, the FY 2021 President's Budget proposes to transfer the U.S. Secret Service (USSS) functions, personnel, assets and obligations along with the functions and responsibilities of the Secretary of Homeland Security related to the Secret Service over to the Department of the Treasury.

I have only touched on a handful of priorities included in the FY 2021 President's Budget for DHS. This is not intended to convey a message of less importance for those Components, resources or initiatives not highlighted. DHS executes its vast mission responsibility using a defense-in-depth strategy and much of DHS's success is predicated on this approach to execution. Components within the Department have individual mission responsibilities however, they cannot disassociate themselves from one another as their daily activities are intertwined to close gaps in security, resiliency and economic prosperity. Accordingly, those Components, resources or initiatives not listed remain just as important.

I continue to be amazed by the professionalism, dedication, and tenacity displayed daily by the men and women of this Department. Their resolve and genuine commitment to the complex homeland security mission is above reproach and we should all sleep better at night knowing they are on duty. Despite their continued commitment, they cannot safely nor effectively execute their mission without the proper resources. Therefore, I ask for your support in providing them the resources needed to keep our families safe through the FY 2021 President's Budget.

Thank you for the opportunity to appear before you and discuss the Department's FY 2021 Budget submission and I look forward to taking your questions.

## MAJOR BUDGET LINE ITEMS

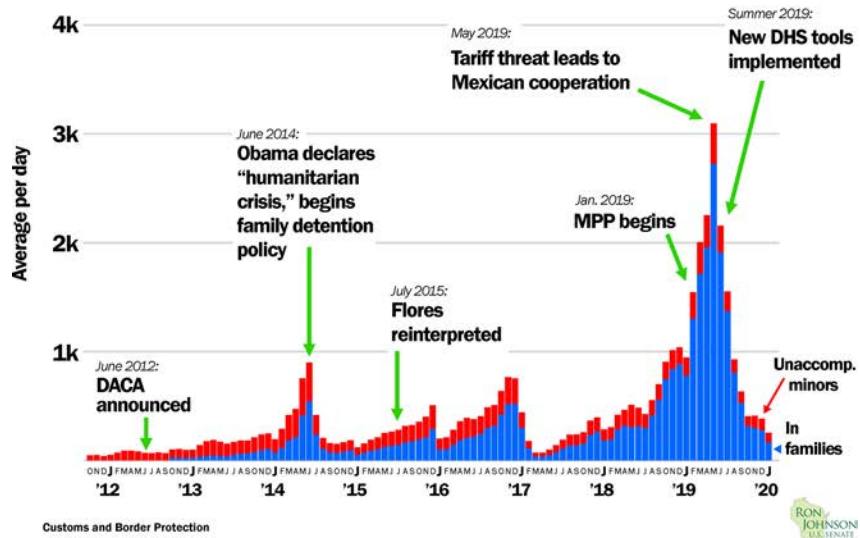
	Total spending	Offsetting fees	Net spending
CBP	<b>\$18.2</b>	(\$2.6)	<b>\$15.6</b>
Coast Guard	<b>\$12.3</b>	(\$2.1)	<b>\$10.2</b>
ICE	<b>\$10.4</b>	(\$0.5)	<b>\$9.9</b>
FEMA	<b>\$14.5</b>	(\$10.2)	<b>\$4.3</b>
TSA	<b>\$8.2</b>	(\$4.1)	<b>\$4.1</b>
CISA	<b>\$1.8</b>	—	<b>\$1.8</b>
other discretionary	<b>\$18.6</b>	(\$10.7)	<b>\$8.0</b>
<b>Total discretionary</b>	<b>\$75.9</b>	(\$26.1)	<b>\$49.8</b>
FEMA major disasters	<b>\$5.1</b>	fy2019: <b>\$12.0</b> fy2020: <b>\$17.4</b>	

DHS. Dollars in billions.



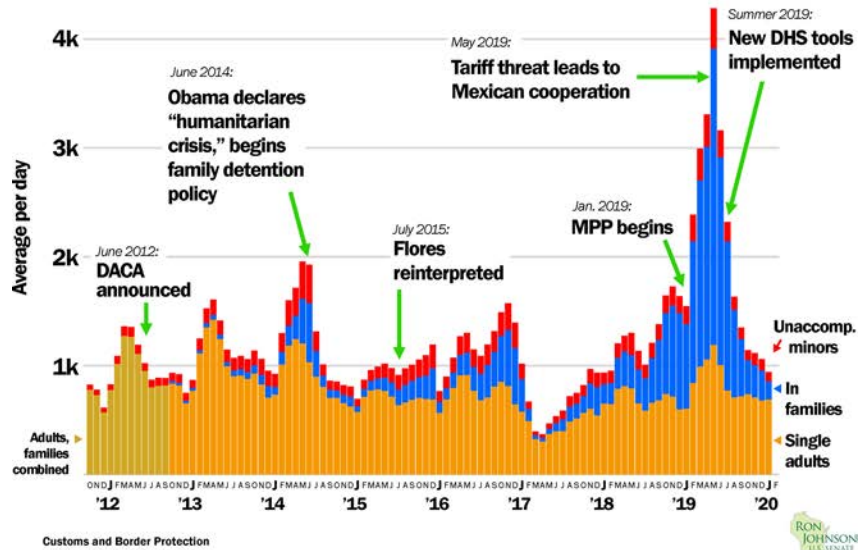
# SW BORDER APPREHENSIONS

DAILY AVERAGE BY MONTH: UNACCOMPANIED MINORS AND FAMILIES ONLY



# SW BORDER APPREHENSIONS

DAILY AVERAGE BY MONTH







**THE TOHONO O'ODHAM NATION OF ARIZONA  
TESTIMONY OF THE HONORABLE NED NORRIS, JR., CHAIRMAN**

**U.S. HOUSE OF REPRESENTATIVES COMMITTEE ON NATURAL RESOURCES  
SUBCOMMITTEE FOR INDIGENOUS PEOPLES OF THE UNITED STATES  
HEARING ON DESTROYING SACRED SITES AND ERASING TRIBAL CULTURE: THE TRUMP  
ADMINISTRATION'S CONSTRUCTION OF THE BORDER WALL**

**February 26, 2020**

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**INTRODUCTION & HISTORICAL BACKGROUND**

Good afternoon, Chairman Gallego, Ranking Member Cook and distinguished Members of the Subcommittee. It is an honor to have the opportunity to testify before you today on behalf of the Tohono O'odham Nation of Arizona. I also want to recognize and honor Chairman Grijalva, in whose district our Tribal Nation is located.

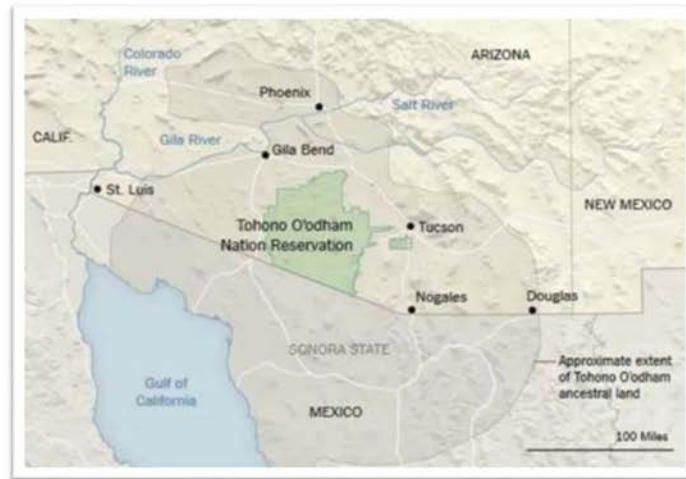
I am Ned Norris, Jr. and I am the Chairman of the Tohono O'odham Nation, a federally recognized tribe with more than 34,000 enrolled Tribal citizens. Our ancestors have lived in what is now Arizona and northern Mexico since time immemorial. With no consideration for our people or our sovereign and historical rights, the international boundary was drawn through our ancestral territory in 1854, separating our people and our lands. As a result, today our Main Reservation shares a 62-mile border with Mexico -- the second-longest international border of any tribe in the United States, and the longest on the southern border. Seventeen O'odham communities with approximately 2,000 members are located in our historical homelands in Mexico. O'odham on both sides of the border share the same language, culture, religion and history. Tribal members regularly engage in border crossings for pilgrimages and ceremonies at important religious and cultural sites on both sides of the border. We also cross the border to visit family and friends.

Today, only a portion of our ancestral territory is encompassed within the boundaries of our current Reservation. Our original homelands ranged well beyond these boundaries, and included what is now the Organ Pipe Cactus National Monument (adjacent to the western boundary of the Nation's Reservation and a UNESCO biosphere reserve),<sup>1</sup> the Cabeza Prieta National Wildlife

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<sup>1</sup> Biosphere reserves are areas with unique ecosystems recognized by the United Nations Educational, Scientific and Cultural Organization (UNESCO) as special places for testing interdisciplinary approaches to managing social and ecological systems. Each reserve promotes

Refuge, and the San Bernardino National Wildlife Refuge to the east. The Nation has significant and well-documented connections to these lands and the religious, cultural and natural resources located there.



#### THE NATION SUPPORTS AND IS ACTIVELY ENGAGED IN BORDER SECURITY EFFORTS

The Nation has long been at the front lines of securing the border. Over the past decade the Nation has spent an annual average of **\$3 million of our own tribal funds** on border security and enforcement to help meet the United States' border security responsibilities. The Nation's police force typically spends more than a third of its time on border issues, including the investigation of immigrant deaths, illegal drug seizures, and human smuggling.

The Nation also has longstanding, positive working relationships with Customs and Border Protection (CBP), Immigration and Customs Enforcement (ICE) and other federal law enforcement agencies. The Nation has entered into several cooperative agreements with CBP and ICE, and pursuant to numerous Tohono O'odham Legislative Council resolutions has authorized a number of border security measures on its sovereign lands to help CBP. Some examples include:

- **High Intensity Drug Trafficking (HIDTA) Task Force:** The Nation leads a multi-agency anti-drug smuggling task force staffed by Tohono O'odham Police Department

solutions reconciling the conservation of biodiversity and sustainable use.

<http://www.unesco.org/new/en/natural-sciences/environment/ecological-sciences/biosphere-reserves/>.

detectives, ICE special agents, Border Patrol agents, and the FBI. This is the only tribally-led High Intensity Drug Trafficking (HIDTA) Task Force in the United States. In 2018, the Nation's Task Force Commander W. Rodney Irby received an award recognizing him as the HIDTA National Outstanding Task Force Commander.

- **ICE office and CBP forward operating bases:** Since 1974, the Nation has authorized a long-term lease for an on-reservation ICE office. The Nation also approved leases for two CBP forward operating bases that operate on the Nation's lands 24 hours, 7 days a week.
- **Vehicle barriers on our lands:** CBP constructed extensive vehicle barriers that run the entire length of the Tribal border and a patrol road that parallels it.
- **CBP checkpoints on our lands:** The Nation has authorized CBP checkpoints on the Nation's major east-west highway to Tucson and the northern highway to Casa Grande.
- **Integrated Fixed Towers:** The Nation approved a lease of its lands to allow CBP to build an Integrated Fixed Tower (IFT) system that will include surveillance and sensor towers with associated access roads on the Nation's southern and eastern boundaries to detect and help interdict illegal entries.
- **Shadow Wolves, an ICE tactical patrol unit:** The Nation also has officers that are part of the Shadow Wolves, an ICE tactical patrol unit based on our Reservation which the Nation played a role in creating. The Shadow Wolves are the only Native American tracking unit in the country, and its officers are known for their ability to track and apprehend immigrants and drug smugglers, using traditional tracking methods. The Shadow Wolves have apprehended countless smugglers and seized thousands of pounds of illegal drugs.

#### ONGOING AND IMMINENT HARM TO SACRED SITES AND CULTURAL RESOURCES

Although the Nation has authorized these border security measures on our Tribal lands and we share the federal government's concerns about border security, we strongly oppose the construction of a border wall on our southern boundary. A wall is extremely expensive for the American taxpayer, is ineffective in remote geographic areas like ours, and is highly destructive to the religious, cultural and environmental resources on which our members rely and which make our ancestral lands sacred to our people. Ongoing construction of the wall already has and will continue to disturb and destroy culturally significant sites and cultural resources, tribal archeological resources, and sacred sites and desecrate human remains.

The Nation has detailed the negative impacts of the border wall construction that currently is underway in Arizona, which DHS is calling Tucson Sector Projects 1, 2 and 3, and Yuma Sector 3, in several amicus briefs that the Nation has filed in litigation challenging construction of the border wall.<sup>2</sup> Tucson Sector Projects 1 and 2 involve construction of a 43-mile long, 30-foot high concrete-

<sup>2</sup> See, e.g., *Sierra Club and Southern Border Communities Coalition v. Donald J. Trump*, No. 4:19-cv-00892-HSG, Amicus Curiae Brief of Tohono O'odham Nation in Support of Plaintiff's Motion for Supplemental Preliminary Injunction (June 18, 2019, N.D. Ca.) (Dkt. No. 172); Amicus Curiae Brief of Tohono O'odham Nation in Support of Plaintiff's Motion for Partial Summary Judgment (October 18, 2019) (Dkt. No. 215).

filled steel bollard fence (pedestrian barrier or wall) to replace existing vehicle barriers and pedestrian fencing near the Lukeville Port of Entry. The Yuma Sector Project contemplates over 30 additional miles, connecting with these projects, and extending through Cabeza Prieta National Wildlife Refuge and Organ Pipe Cactus National Monument, and ending less than two miles from the western boundary of the Nation's Reservation. Similar construction is moving forward to the east of the Nation's Reservation in Tucson Sector Project 3, which includes the San Bernardino National Wildlife Refuge. These projects have caused and will continue to cause significant and irreparable harm to cultural and natural resources of vital importance to the Nation, including damage to those resources from construction and associated impacts off the reservation, as well as damage caused by increased migrant traffic and interdiction on our Tribal lands.

The federal government itself acknowledged the importance of the Nation's interest in the areas now impacted by ongoing and contemplated wall construction for the Tucson and Yuma Sector Projects. For example, the National Park Service confirmed in its General Management Plan for the Organ Pipe Cactus National Monument the importance of Quitobaquito Springs to the Nation, which is located about 200 yards from the border and which is an important part of the O'odham salt pilgrimage every year:

There are 11 springs in the monument, eight of which are located at Quitobaquito, by far the largest source of water. The pond and dam at Quitobaquito were constructed in 1860, and the resulting body of water is one of the largest oases in the Sonoran Desert. The site is also sacred to the O'odham, who have used the water from this spring for all of their residence in the area.

...

There still exist sites within the monument which are sacred to the O'odham, including Quitobaquito Springs ... *Even to the present day, the O'odham continue to visit the monument to collect sacred water from the Springs, to gather medicinal plants, and to harvest the fruit of the organ pipe and saguaro cactus.*<sup>3</sup>

The Park Service also has recognized that there are O'odham burial sites within Quitobaquito.<sup>4</sup> In October 2019, the National Park Service notified the Nation that it had found a human bone fragment near Quitobaquito Springs, underscoring that it is a resting place for our ancestors. Yet despite the federal government's documented recognition of Quitobaquito Springs as a site sacred to the Nation, and despite the Nation's longstanding relationship with CBP, federal contractors working on the Tucson Sector border wall recently bulldozed and bladed a large area near

<sup>3</sup> U.S. National Park Service, *Organ Pipe Cactus National Monument, Final General Management Plan, Development Concept Plans, Environmental Impact Statement* (Feb. 1997), at 30, 33, available at <https://www.nps.gov/orpi/learn/management/upload/fingmp.pdf>.

<sup>4</sup> *Id.* at 158, citing Anderson, Keith M., Bell, Fillman and Stewart, Yvonne G., *Quitobaquito: A Sand Papago Cemetery*, Kiva, 47, no 4 (Summer, 1982) at 221-22; *see also* Bell, Fillman, Anderson, Keith M. and Stewart, Yvonne G., *The Quitobaquito Cemetery and Its History*, U.S. National Park Service, Western Archeological Center (Dec. 1980), available at <http://npshistory.com/series/anthropology/wacc/quitobaquito/report.pdf>.



Quitobaquito Springs, destroying a burial site that the Nation had sought to protect and irreparably damaging the most unique and significant oasis in the Sonoran Desert. There was no advance consultation about the destruction of this site, no advance notice given, and no effort to mitigate or avoid the irreparable damage done to this sacred site.

Earlier this month, CBP contractors also conducted blasting in support of wall construction efforts at another culturally important site within Organ Pipe Cactus National Monument known as Monument Hill.<sup>5</sup> Monument Hill was historically used for religious ceremonies by the Hia-C'ed O'odham (with whom the Nation has a shared ancestry). It is the site of historical battles involving the O'odham and Apache and is believed to be the final resting place for many tribal ancestors, as recovered bone fragments there attest. CBP undertook this action despite the fact that on multiple occasions last year the Nation expressed its concerns, and in December 2019, CBP and other federal officials met with the Nation's Tribal Historic Preservation Officer and staff, who explained the significance of Monument Hill and conveyed the Nation's concerns about damage from the planned wall construction. Nevertheless, CBP completely ignored the Nation's concerns and suggestions for mitigating potential impacts from the wall construction, and failed to even notify the Nation of its plans to blast Monument Hill until the day that the blasting occurred.

This disrespect for our sacred sites and their desecration at the hands of our federal government is deeply painful. These sites are not only sacred to the Nation – they are a part of our shared cultural heritage as United States citizens. As Americans, we all should be horrified that the federal government has so little respect for our religious and cultural values, and does not appear to have any intention of slowing down enough to understand or avoid the harm it is causing.

In response to the concerns raised in the press and by environmental groups about the blasting at Monument Hill, CBP stated that it had conducted unspecified “surveys” and found no cultural or historical sites within the project area (defined as the 60-foot wide area of land adjacent to the border called the Roosevelt Reservation)<sup>6</sup> – but this statement is entirely inconsistent with the information regarding bone fragments and the ceremonial significance of Monument Hill that was provided to CBP by the Nation's staff. CBP also said that it had an “environmental monitor” in attendance to ensure that work would stop if any “unidentified culturally sensitive artifacts” were found during the blasting. But the fact is that CBP has one monitor in place for the entirety of Organ Pipe Cactus National Monument, and there are multiple crews working on clearing and constructing the wall at different locations along the border within the Monument, making it extremely unlikely that one monitor can adequately cover all the locations. Nor is it clear that the monitor was aware of the significance of Monument Hill nor likely that he could identify human

<sup>5</sup> See Firozi, Paulina, The Washington Post, *Sacred Native American Burial Sites are being Blown Up for Trump's Border Wall, Lawmaker Says* (Feb. 9, 2020), available at <https://www.washingtonpost.com/immigration/2020/02/09/border-wall-native-american-burial-sites/>.

<sup>6</sup> Carranza, Rafael, The Republic, *No Cultural Sites Found Where Crews are Blasting Sacred Mountain for Border Wall, Officials Say* (Feb. 13, 2020), available at <https://www.azcentral.com/story/news/politics/border-issues/2020/02/13/customs-border-protection-no-cultural-sites-near-blasting-border-wall-tohono-oodham-nation/4743103002/>.

bone fragments should any be recovered during the blasting -- bone fragments typically require additional testing to determine whether they are human or animal.

CBP's claims also are completely at odds with the results of a July 2019 National Park Service survey, which identified five new archeological sites (of pre-contact Native American artifacts) and a large number of additional archeological resources within the 60-foot wide federal easement along the border in Organ Pipe. The survey noted that many existing archeological sites will be impacted or destroyed by the border wall construction, and highlighted that many areas along the Organ Pipe border remain unsurveyed - making consultation and careful surveying critical before additional construction occurs.<sup>7</sup>

But such care and consultation seem extremely unlikely, as the federal government continues to plow full steam ahead with construction of the border wall, with no apparent concern for tribal culture or religious sites. Indeed, a similar fate likely awaits many other of the Nation's cultural and sacred sites, including a burial site immediately adjacent to the border and another site called Las Playas, both located in Cabeza Prieta National Wildlife Refuge.<sup>8</sup> These and other sites of significance to the Nation, including some in the immediate vicinity of Tucson Sector Project 3 in the San Bernardino Valley, have been documented in other federal reports, although these areas are less well surveyed so the potential for destruction of cultural and natural resources by construction of a border wall is high.<sup>9</sup> But there is little question that the ongoing construction of 30-foot high steel bollard wall in this area will have serious negative impacts, destroying tribal culture and sacred sites. Finally, while the focus of this hearing is on sacred sites, I must underscore as well the environmental damage that ongoing wall construction is wreaking on wildlife and trees, cacti, and

<sup>7</sup> Veech, Andrew S., *Archeological Survey of 18.2 Kilometers (11.3 Miles) of the U.S.-Mexico International Border, Organ Pipe Cactus National Monument, Pima County, Arizona*, U.S. National Park Service, Intermountain Region Archeology Program (July 2019), available at <https://games-cdn.washingtonpost.com/notes/prod/default/documents/cbd7ef6a-3b5b-4608-9913-4d488464823b/notes/7a429f63-9c46-41fa-afcb-c8e238fcd8bb.pdf> (discovery of five new archeological sites and 55 isolated finds; recommending additional evaluation of sites, noting that 17 identified archeological sites will be destroyed by the border wall construction, and that many areas along the border within the Monument remain unsurveyed).

<sup>8</sup> Carranza, Rafael, The Republic, *Tohono O'odham Historic Sites at Risk as Border Wall Construction Advances in Arizona* (Jan. 20, 2020), available at <https://www.azcentral.com/story/news/local/pinal/2020/01/21/tohono-oodham-historic-sites-risk-over-border-wall-construction/4527025002/>.

<sup>9</sup> Fish, Paul R.; Fish, Suzanne K.; Madsen, John H., *Prehistory and early history of the Malpai Borderlands: Archaeological synthesis and recommendations*, U.S. Department of Agriculture, Forest Service (2006) at 29-30, available at [https://www.fs.fed.us/rm/pubs/rmrs\\_gtr176.pdf](https://www.fs.fed.us/rm/pubs/rmrs_gtr176.pdf); U.S. Fish and Wildlife Service, *Cabeza Prieta National Wildlife Refuge: Comprehensive Conservation Plan, Wilderness Stewardship Plan and Environmental Impact Statement* (Aug. 2006) at 172, 586, available at <https://www.fws.gov/uploadedFiles/CPNWREIS.pdf>; U.S. Fish and Wildlife Service, *Environmental Assessment of the Malpai Borderlands Habitat Conservation Plan* (July 26, 2008) at 17, available at <https://www.fws.gov/southwest/es/arizona/Documents/HCPs/Malpai/MBHCP%20EA%20w%20FONSI.pdf>.

other plants of documented significance to the Nation. Also adversely affected are vitally important sources of water, and we are deeply concerned about flooding in those areas where construction occurs.<sup>10</sup> All for the sake of a vanity project that will not effectively secure the border.

#### **FORMAL GOVERNMENT-TO-GOVERNMENT CONSULTATION WITH THE NATION IS REQUIRED**

The federal government's actions are even more offensive because it has completely ignored its trust responsibility to tribes and its legal obligation to consult with the Nation regarding ongoing and planned construction of the border wall -- *before* decisions are made about construction that will impact tribal resources and lands. Section 102(c) of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) provides the Secretary of DHS with exceptionally broad authority to "waive all legal requirements" he determines are necessary to ensure expeditious construction of border barriers and roads. *See* 8 U.S.C. §1701 note. In 2008, DHS issued a waiver that covers a large portion of the southern border in California, New Mexico, Texas and Arizona, including the Tohono O'odham Nation's border with Mexico. *See* 73 Fed. Reg. 19087 (April 8, 2008) (correction). In 2019, DHS issued additional waivers covering the area of the border where the Tucson Sector Projects are underway. *See* 84 Fed. Reg. 21798 (May 15, 2019). In fact, this Administration has issued multiple waivers to facilitate construction of the border wall -- seventeen times in the last two and half years. As a result, DHS has been given a complete pass to entirely ignore virtually all potentially applicable federal environmental, cultural and religious protection laws, and all federal, state or other laws, regulations and legal requirements deriving from or related to the subject of those federal laws. *Id.* at 19080. As you know, with its aggressive raiding of other federal agency budgets, DHS is also now ignoring the budget limitations Congress placed on this construction.

However, IIRIRA also requires DHS to consult with Indian tribes, the Department of the Interior, state and local governments and property owners "to minimize the impact on the environment, culture, commerce and quality of life" of the construction of the border wall. IIRIRA Section 102(b)(1)(C). To date, DHS has not complied with this statutory directive, and has failed to engage in any formal government-to-government consultation with the Nation regarding the ongoing construction of the border wall and the serious harm that it is causing to the Nation. Although CBP has engaged in telephonic conversations and meetings with the Nation, primarily with the Nation's staff rather than its leadership, these actions do not constitute the government-to-government consultation that is required by law. The failure to engage in formal consultation with tribal governments before decisions are made that will affect tribal rights and interests violates not just IIRIRA, but Executive Order No. 13175, "Consultation and Coordination with Indian Tribal Governments" (Nov. 6, 2000), and the DHS Tribal Consultation Policy (Sections II.B. and III.A), as well as the federal government's general trust obligation to respect tribal sovereignty and engage with tribes on a government-to-government basis.

In November 2019, the Nation wrote a letter to CBP requesting that CBP engage in the statutorily- and administratively-required consultation and proposed several mitigation measures (including a buffer zone around Quitobaquito Springs) to address the harms that were occurring to the Nation's resources as a result of the Tucson Sector wall construction. In its January 2020 response to the Nation's letter, CBP declined all of the Nation's requests -- for information, for a

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<sup>10</sup> *See Sierra Club, Amicus Curiae Brief of Tohono O'odham Nation* at 7-8.

schedule, and for mitigation.<sup>11</sup> In the letter, CBP also declined to engage in formal government-to-government consultation with the Nation prior to taking border wall construction actions impacting the Nation -- while at the same time suggesting that it valued the ongoing communication between the Nation and CBP. Those communications are valuable, but meaningful consultation must be a two-way street. CBP cannot simply ignore the Nation's concerns or proposed mitigation measures, and turn around and bulldoze sacred sites, destroy cultural resources, and deplete precious groundwater -- that is far from the consultation that is required by the law.

Furthermore, because the reprogrammed funding originally appropriated to the Department of the Defense (DOD) is being used to fund the ongoing construction in the Tucson and Yuma Sectors, additional consultation requirements are at issue. Section 8141 of the FY 2019 DOD Appropriations Act prohibits the use of funding made available under the Act in contravention of Executive Order 13175 (requiring tribal consultation) and the FY 2020 DOD Appropriations Act contains a substantively identical provision in Section 8129. In addition, DOD has its own tribal consultation policy pursuant to Executive Order 13175 that requires DOD to engage in meaningful consultation with tribes whenever an action has the potential to significantly affect Indian lands, tribal rights, and protected tribal resources (whether such resources are located on or off Indian lands), and requires that such consultation be completed before implementation of the proposed action impacting the affected tribe. DOD Instruction 4710.02 (Sept. 24, 2018).

In contravention of the FY 2019 and 2020 DOD Appropriations Acts and its own consultation policy, *to date DOD has not conducted any government-to-government consultation with the Nation.* On February 7, 2020, the Nation wrote a letter to Secretary of Defense Mark Esper requesting that DOD immediately engage in government-to-government consultation with the Nation consistent with the FY 2019 and FY 2020 DOD Appropriations Acts and the DOD tribal consultation policy and that no DOD funds be expended on border barrier construction impacting the Nation until consultation has occurred. We have not yet received a response.

DHS (and DOD) must engage in a more thorough and substantive consultation and review process that is respectful of our government-to-government relationship, and that recognizes the Tohono O'odham Nation's unique history and relationship to these lands and resources. Meaningful consultation requires DHS and DOD to consider the information provided by the Nation before proceeding to construct border barriers that damage and destroy our sacred sites and cultural resources, and before making any decision about what type of border security measures are most appropriate in and around our ancestral homelands. Although DHS has committed to "formal, government-to-government consultation with the Tohono O'odham Nation prior to taking actions that may impact the tribe and its members in Arizona" as required by the law and its tribal consultation policy, DHS currently is giving little more than lip service to consultation. DHS and DOD must engage in formal, government-to-government consultation before proceeding further with border wall construction that irreparably harms tribal cultural resources and sacred sites, and as a consequence, harms the O'odham and harms all of us, by losing part of our cultural heritage.

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<sup>11</sup> CBP did agree not to drill any new wells within five miles of Quitobaquito, but the Nation remains concerned that the continued use of water in connection with construction of the border wall will deplete groundwater resources in the area on which the Nation relies.



## CONCLUSION

Two things are clear to us about the law as it currently stands. One is that Congress must withdraw or at least better limit DHS's authority to unilaterally give itself waivers to circumvent every federal statute on the books -- this authority is dangerously broad, and has allowed DHS nearly unchallengeable, dictatorial authority to run roughshod over the rights of the Tohono O'odham and every other border community in the United States. The federal government has abused its authority, trampling the rights of local communities and local governments. This kind of non-challengeable authority may be tolerated in a totalitarian state, but it does not sit well among the statutes that are supposed to protect our freedoms in the United States of America.

The second is that Chairman Grijalva's introduction in the last Congress of legislation that would put into federal law meaningful consultation requirements through his proposed Requirements, Expectations, and Standard Procedures for Executive Consultation with Tribes Act (RESPECT Act), and this Subcommittee's hearing on similar draft legislation last April, is right on target and desperately needed. The fact is that while the federal agencies pay lip service to tribal consultation, there is precious little way for tribal governments to enforce current consultation policies when the agencies choose to ignore them. Enactment of a statutory consultation requirement would help put an end to the federal government ignoring our concerns, our expertise, and our right to self-determination. The federal government owes our government, and the governments of the local communities and states around us, more respect. *We want to thank Chairmen Grijalva and Gallego for their efforts to resolve this continuing problem.*

O'odham have lived in what is now Arizona and Mexico long before the border was drawn through our lands. It should be no surprise that we have deep religious, cultural and historic ties to these lands where we have so long lived. The federal government's continued destruction of sites and resources that have religious and cultural significance to our people amounts to the bulldozing of our church grounds and our civilian and military cemeteries. For us, this is no different than DHS building a 30 foot wall through Arlington Cemetery, through the grounds of the National Cathedral, or through George Washington's Mt. Vernon.

Preservation of the history and culture of the Tohono O'odham people is not just important to the Tohono O'odham Nation -- it is important to the preservation of the history and culture of the United States as a whole. As we preserve Lincoln's house in Springfield Illinois, as we preserve Civil War battlefields and cemeteries, and as we honor holy places of worship everywhere in the United States, we also must preserve and protect such places of significance to the O'odham, the first Americans in this part of our great country.

The Nation appreciates the Committee's interest in understanding more about the harms to our cultural resources and sacred sites that already have occurred, and that will continue to occur as the result of the construction of a border wall within our ancestral territory. We welcome a continued dialogue with the federal government on these issues, and we urge Congress to exert its authority to protect our sacred sites.



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

**RESOURCES NEEDED TO PROTECT AND SECURE THE HOMELAND**

**BEFORE THE COMMITTEE ON HOMELAND SECURITY  
AND GOVERNMENTAL AFFAIRS  
UNITED STATES SENATE**

**March 4, 2020**

Chairman Johnson, Ranking Member Peters, and distinguished members of the Committee, thank you for the opportunity to submit this statement for the record. As President of the National Treasury Employees Union (NTEU), I have the honor of leading a union that represents over 27,000 Customs and Border Protection (CBP) Officers, Agriculture Specialists and trade enforcement personnel stationed at 328 land, sea and air ports of entry across the United States (U.S.) and 16 Preclearance stations currently at airports in Ireland, the Caribbean, Canada and the United Arab Emirates. CBP's Office of Field Operations (OFO) pursues a dual mission of safeguarding American ports by protecting the public from dangerous people and materials, while enhancing the nation's global and economic competitiveness by enabling legitimate trade and travel. In addition to CBP's trade and travel security, processing and facilitation missions, CBP OFO employees at the ports of entry are the second largest source of revenue collection for the U.S. government. In 2019, CBP processed more than \$2.8 trillion in imports and collected approximately \$72 billion in duties, taxes, and other fees.

CBP OFO is also the largest component of the Department of Homeland Security (DHS) responsible for border security — including anti-terrorism, immigration, anti-smuggling, trade compliance, and agriculture protection — while simultaneously facilitating lawful trade and travel at U.S. ports of entry that are critical to our Nation's economy. Yet, the President's Fiscal Year (FY) 2021 budget requests no new funding for the hiring much needed CBP Officers, Agriculture Specialists, Trade Operations Specialists and Mission Support positions. The final FY 2020 funding agreement provided \$104 million to fund the hiring 800 new OFO positions, including 610 CBP Officer and CBP Agriculture Specialist new hires.

For years, NTEU has advocated for the hiring of thousands of new CBP Officers and hundreds of new Agriculture Specialists based on the agency's own Workload Staffing Model (WSM) and Agriculture Resource Allocation Model (AgRAM). **According to CBP's January 2020 onboard staffing data, CBP has 24,606 CBP Officers onboard, but the FY 2019 WSM**

**states a need for 26,837 — a gap of 2,231. For CBP Agriculture Specialists, the January 2020 data shows 2,477 onboard, and the FY 2019 AgRAM shows a need for 3,148 — a gap of 671.**

This staffing gap results in ports operating well below 100 percent of capacity. For example, the mayor of El Paso recently stated that “we need at least 200 more Officers.” And according to El Paso commercial truckers, there are at least eight commercial lanes at the Ysleta land port, and only four are open on a regular basis. There are six lanes at the Bridge of the Americas, and only three are regularly open. (*Border Wait Times Hinder Flow of Commerce, Hurting American Companies*, Texas Tribune, February 20, 2020.)

NTEU appreciates the funding level for CBP OFO employees in the FY 2020 DHS final funding agreement and urges Congress to add to these new hire numbers in FY 2021 to address ongoing staffing shortages at the ports of entry. **NTEU is requesting Committee members seek from Senate Appropriators a minimum \$160 million in direct appropriated funding for CBP “Operations and Support” in FY 2021 to fund the hiring of at least 600 CBP Officers, 240 CBP Agriculture Specialists, 200 CBP Agriculture Technicians, 20 Agriculture Canine Teams and 50 non-uniformed trade enforcement specialists and associated operational support personnel.**

NTEU commends Ranking Member Peters and Senator John Cornyn for introducing and favorably reporting **S. 1004, the *Safeguarding American Ports Act*, stand-alone legislation that would authorize the hiring of 600 additional CBP Officers annually until the staffing gaps in CBP’s WSM is met.** NTEU strongly supports this CBP Officer staffing authorization bill that is awaiting Senate floor action and urges every member of the Senate to support this bill.

NTEU is not alone in seeking increased funding to hire new CBP Officers at the ports. A diverse group of business, industry and union leaders have joined forces in support of legislation and funding to hire more CBP personnel and alleviate staffing shortages at the nation’s ports of entry. The coalition – which includes leading voices from dozens of leading shipping, tourism, travel, trade, law enforcement, and employee groups – testified and sent letters urging Senators to cosponsor S. 1004 and asking appropriators to provide the funding necessary to hire at least 600 new CBP Officers annually.

As stated above, in addition to the shortage of CBP Officers there is a current shortage of approximately 671 funded Agriculture Specialists nationwide according to CBP’s own data-driven and vetted Workload Staffing Model. Last month, the House followed the Senate in unanimously passing the NTEU endorsed bill, **S. 2107, the *Protecting America’s Food and Agriculture Act of 2019*. The new law authorizes CBP to hire 240 CBP Agriculture Specialists, 200 CBP Agriculture Technicians and 20 Agriculture Canine Teams per year until the staffing shortage that threatens the U.S. agriculture sector is met.** NTEU asks the Committee to support a FY 2021 funding request of \$160 million that includes \$74.5 million to hire the first wave of CBP agriculture inspection personnel authorized by the newly enacted statute.

**CBP Officer Overtime:** Due to the ongoing current staffing shortage of 2,477 CBP Officers, CBP Officers nationwide are working excessive overtime to maintain basic port staffing. Currently, CBP Officer overtime pay is entirely funded through user fees and is statutorily capped at \$45,000 per year. All CBP Officers are aware that overtime assignments are an aspect of their jobs. However, long periods of overtime hours can severely disrupt an officer's family life, morale and ultimately their job performance protecting our nation.

Because CBP Officers can be required to regularly work overtime, many individual Officers hit the overtime cap very early in the fiscal year. This leaves no overtime funding available for peak season travel, resulting in critical staffing shortages in the third and fourth quarter that coincides with holiday travel at the ports.

To address this issue, at many ports, CBP has granted overtime cap exemptions to over one-half of the workforce to allow managers to assign overtime to Officers that have already reached the statutory overtime cap, but cap waivers only force CBP Officers already working long daily shifts to continue working these shifts for more days. Officers are required to come in hours before their regular shifts, to stay an indeterminate number of hours after their shifts (on the same day) and are often compelled to come in for more overtime hours on their regular days off. Involuntary overtime resulting in 12 to 16-hour shifts, day after day, for months on end significantly disrupts CBP Officers' family life and erodes morale. As NTEU has repeatedly stated, this is not a long-term solution for staffing shortages at the ports and has gone on for far too long.

**Temporary Duty Assignments at Southwest Land Ports of Entry:** Due to CBP's ongoing staffing shortage, since 2015, CBP has been diverting hundreds of CBP Officers from other air, sea and land ports to severely short-staffed Southwest land ports for Temporary Duty Assignments (TDYs). CBP recently ended the most recent round of CBP Officer TDYs to Border Patrol sectors across the southwest border. From May through September 2019, CBP deployed a total of 731 CBP Officers to designated Border Patrol Sectors. In this latest deployment, 245 Officers were sent from the SW Border Field Offices with the remaining 486 officers coming from the other Field Offices.

According to a newly-released study, "The Economic Costs of the U.S.-Mexico Slowdown," this most recent TDY has resulted in a significant slowdown at the US-Mexico border leading to substantial economic harms. Millions of trucks carry goods across the border every year and delays at land ports cause cascading logistical problems. The current slowing on the US-Mexico border is reducing efficiency and costing the US economy billions in output and hundreds of thousands of jobs. If the diversion of CBP Officers from the Southwest border international land ports continues, the state of Texas alone could lose more than \$32 billion in gross domestic product in just over three months. If there is a one-third reduction in trade between the U.S. and Mexico over a three-month period, the cost to the US economy would be over "\$69 billion in gross product and 620,236 job-years (when multiplier effects are considered). Almost half of these losses occur in Texas."

NTEU urges Congress to require CBP to allocate personnel and resources appropriately to ensure timely processing of people at ports of entry and better manage the changing demographic

flows at our southern border. To end all these TDYs, CBP must fill existing CBP Officer vacancies and Congress must fund the hiring of the additional CBP Officers called for in CBP's own WSM. Without addressing the 2,477 CBP Officer shortfall, allocating adequate staffing at all ports will remain a challenge.

**CBP Funding Sources:** CBP collects Customs User Fees (CUFs), including those under the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), to recover certain costs incurred for processing air and sea passengers and various private and commercial land, sea, air, and rail carriers and shipments. The source of these user fees are commercial vessels, commercial vehicles, rail cars, private aircraft, private vessels, air passengers, sea passengers, cruise vessel passengers, dutiable mail, customs brokers and barge/bulk carriers.

COBRA fees are deposited into the Customs User Fee Account and are designated by statute to pay for services provided to the user, such as 100% of inspectional overtime for passenger and commercial vehicle inspection during overtime shift hours. Of the CBP Officers currently funded, CUFs fund 2,538 full-time equivalent (FTEs) CBP Officers. Further, Immigration Inspection User Fees (IIUF) fund 4,179 CBPO FTEs. Together CUF and IIUF fund nearly one third of the entire CBP Officer workforce at the ports of entry.

As in the past, the Administration's budget proposes increases in user fees collected by CBP. Currently, over 36 percent of CBP OFO is funded with a combination of user fees, reimbursable service agreements, and trust funds. It is gratifying to see that the CBP Officer staffing numbers in the President's budget are not dependent on Congress first enacting changes to statutes that determine the amounts and disbursement of these user fee collections.

The FY 2021 budget again proposes fee increases to the Immigration Inspection and Consolidated Omnibus Budget Reconciliation Act of 1985 user fees; however, these user fees cannot be increased without Congress first enacting legislation. Legislative proposals to increase user fees have been part of the Administration's annual budget submission since FY 2014. These user fee increase proposals are again in the FY 2021 budget request, even though the Committees with jurisdiction have never held hearings on these long-standing legislative proposals and the Administration has not pressed upon these Committee Chairs to do so.

**NTEU strongly opposes any diversion of CUFs.** Any increases to the CUF Account should be properly used for much-needed CBP staffing and not diverted to unrelated projects. Unfortunately, while section 52202 of the FAST ACT indexed CUFs to inflation, it diverted this funding from CBP to pay for unrelated infrastructure projects. Indexing COBRA CUFs to inflation would have raised \$1.4 billion over ten years—a potential \$140 million per year funding stream to help pay for the hiring of additional CBP Officers to perform CBP's border security, law enforcement and trade and travel facilitation missions. **Diverting these funds has cost CBP funding to hire over 900 new CBP Officers per year since the FAST Act went into effect. These new hires would have significantly alleviated the current CBP Officer staffing shortage.**

**Reimbursable Service Agreements:** In order to find alternative sources of funding to address serious staffing shortages, CBP received authorization for and has entered into Reimbursable Service Agreements (RSAs) with the private sector, as well as with state and local

governmental entities. These stakeholders, who are already paying CUFs and IIUFs for CBP OFO employee positions and overtime, reimburse CBP for additional inspection services, including overtime pay and the hiring of new CBP Officer and Agriculture Specialist personnel that in the past have been paid for entirely by user fees or appropriated funding. Since the program began in 2013, CBP has entered into agreements with over 211 stakeholders providing more than 793,000 additional processing hours for incoming commercial and cargo traffic (GAO-20-255R).

NTEU believes that the RSA program is a band aid approach and cannot replace the need for Congress to either appropriate new funding or authorize an increase in customs and immigration user fees to adequately address CBP staffing needs at the ports. RSAs simply cannot replace the need for an increase in CBP appropriated or user fee funding—and make CBP a “pay to play” agency. NTEU also remains concerned with CBP’s new Preclearance expansion program that also relies heavily on “pay to play.” Further, NTEU believes that the use of RSAs to fund CBP staffing shortages raises significant equity issues between larger and/or wealthier ports and smaller ports.

**Opioid Interdiction:** CBP OFO is the premier DHS component tasked with stemming the nation’s opioid epidemic — a crisis that is continuing to get worse. According to a May 2018 report released by the Senate Homeland Security and Governmental Affairs Committee Minority titled *Combating the Opioid Epidemic: Intercepting Illicit Opioids at Ports of Entry*, “between 2013 and 2017, approximately 25,405 pounds, or 88% of all opioids seized by CBP, were seized at ports of entry. The amount of fentanyl seized at the ports of entry increased by 159% from 459 pounds in 2016 to 1,189 pounds in 2017.”

On January 26, 2019, CBP OFO made their biggest fentanyl seizure ever, capturing nearly 254 pounds of the deadly synthetic opioid at the Nogales port of entry. According to the Drug Enforcement Administration, just two milligrams of fentanyl is considered a lethal dose. From the January 26, 2019 seizure alone, it is estimated that CBP Officers seized enough fentanyl to kill 57 million people. That’s more than the combined population of the states of Illinois, New York and Pennsylvania. The street value for the fentanyl was over \$102 million. CBP Officers also seized an additional 2.2 pounds of fentanyl pills and a large cache of methamphetamine.

Most fentanyl is manufactured in other countries such as China and is smuggled primarily through the ports of entry along the southwest border and through international mail and Private Express Carrier Facilities, e.g. FedEx and UPS. Over the past five years, CBP has seen nearly 50 percent increase in express consignment shipments from 76 million to 110 million express bills and a 200 percent increase in international mail shipments from approximately 150 million to more than 500 million.

Prior to the enactment of FY 2019 funding agreement, there were only 181 CBP employees assigned to the five Postal Service International Service Centers and 208 CBP employees assigned to the Private Express Carrier Facilities. Additional funding from Congress for new hires in the past two cycles has increased the number of CBP Officers assigned to these inspection facilities. NTEU’s funding request would allow for further increases in CBP OFO staffing at these facilities. Noting the positive impact of hiring additional CBP Officers, it is

troubling that the President's 2017 Border Security Executive Order and his subsequent budget requests did not ask for one additional CBP officer new hire. **In 2019, CBP Officer seized a total of 2,560 pounds of fentanyl, an increase of 46.6 percent from FY 2018.** Imagine what CBP OFO could do with adequate staffing and resources.

**CBP Trade Operations Staffing:** In addition to safeguarding our nation's borders and ports, CBP is tasked with regulating and facilitating international trade. CBP employees at the ports of entry are critical in protecting our nation's economic growth and security and are the second largest source of revenue collection for the U.S. government — \$72 billion in 2019. **For every dollar invested in CBP trade personnel, we return \$87 to the U.S. economy**, either through lowering the costs of trade, ensuring a level playing field for domestic industry or protecting innovative intellectual property. Since CBP was established in March 2003, however, there has been no increase in non-uniformed CBP trade enforcement and compliance personnel. Additionally, CBP trade operations staffing has fallen below the statutory floor set forth in the Homeland Security Act of 2002 and stipulated in the FY 2019 CBP Resource Optimization Model for Trade Positions. **NTEU strongly supports proposed appropriated funding in the FY 2021 budget request for 50 additional Trade Agreement, Remedies, and Enforcement personnel and ensure compliance with laws that govern priority trade issues, such as Intellectual Property Rights.**

**Ongoing Morale Issues at DHS:** Adequate staffing at CBP ports of entry is critical to our nation's economic vitality. In order to attract talented applicants, however, federal agencies must also recognize the importance of employee engagement and fair treatment in their workplace. Unfortunately, low morale has been a consistent challenge at DHS. For six consecutive years the Partnership for Public Service (PPS) *Best Places to Work in the Federal Government* ranked DHS last among large agencies surveyed. In 2019, PPS ranked CBP as 380<sup>th</sup> out of 420 component agencies surveyed with a drop of 2.1% from 51.6% in 2018 to 49.5% in 2019.

The *Best Places to Work* results raise serious questions about the department's ability to recruit and retain the topnotch personnel necessary to accomplish the critical missions that keep our country safe. If the agency's goal is to build a workforce that feels both valued and respected, these results show that the agency needs to make major changes in its treatment of employees. Widespread dissatisfaction with DHS management and leadership creates a morale problem that affects the safety of this nation.

Of particular concern to NTEU is the increase in suicides as the reported cause death of Federal employees. New data released by the U.S. Bureau of Labor Statistics (BLS) in the past month shows that Federal employee suicides are at their highest level in at least 15 years, with suicides accounting for 28% of the 124 Federal employee job-related deaths in 2018. BLS records the event as a job-related suicide if the suicide occurred at work or if it occurred elsewhere but can be definitively linked back to work. Since 2011, the number of self-inflicted intentional fatalities among Federal workers has more than doubled to 35, although the Federal workforce has remained approximately the same size.

Most suicides continue to involve Federal employees in work related to law enforcement, such as CBP. In 2016, 15 of the 16 reported suicides were by Federal workers employed at a

national security related agency. At CBP, more than 100 employees died by suicide between 2007 and 2018, according to the agency itself. NTEU applauds CBP for seeking additional funding for their Employee Assistance Program (EAP). We also appreciate that CBP agreed to add NTEU representatives to a CBP workgroup that is working to address the unacceptably high rate of suicides among CBP personnel and develop a “Suicide Prevention Strategy.” It is vital that this workgroup continue to include rank-and-file members’ input as it develops a strategy to reduce the number of job-related suicides at CBP.

NTEU also strongly supports H.R. 1433, the *DHS Morale, Recognition, Learning and Engagement Act* or the *DHS MORALE Act*. The *MORALE Act* was approved by the full House last year and is awaiting action by the Senate. The bill directs the Chief Human Capital Officer (CHCO) to analyze government-wide Federal workforce satisfaction surveys to inform efforts to improve morale, maintain a catalogue of available employee development opportunities and authorize the designation of a Chief Learning and Engagement Officer to assist the CHCO on employee development.

H.R. 1433 also authorizes the establishment of an Employee Engagement Steering Committee comprised of representatives from across the Department, as well as individuals from employee labor organizations that represent DHS employees. Lastly, the bill authorizes the Secretary to establish an annual employee awards program to recognize non-supervisory DHS employees who have made a significant contribution to the Department. In our collective bargaining agreement with CBP, NTEU negotiated an extremely popular employee joint awards program. The Agency retains the discretion to determine how much of its budget will be allocated for awards, but 85 percent of the total awards budgeted are recommended by a joint union/management awards committee to be distributed proportionately among bargaining unit employees. NTEU recommends that DHS look at the negotiated CBP joint awards program as a model for an agency-wide program.

While a major factor contributing to low morale at CBP is insufficient staffing and resources at the ports of entry, the provisions in the *DHS MORALE Act* will help to address non-staffing issues that affect employee morale by improving frontline employee engagement and establishing a statutory annual employee award program. NTEU commends the House for approving the *DHS MORALE Act* and urges the Senate to expeditiously do the same.

#### **NTEU Recommendations**

To address CBP’s workforce challenges, it is clearly in the nation’s economic and security interest for Congress to authorize and fund an increase in the number of CBP Officers, CBP Agriculture Specialists, and other CBP employees at the air, sea and land ports of entry.

In order to achieve the long-term goal of securing the proper staffing at CBP and end disruptive TDYs and excessive involuntary overtime shifts, NTEU recommends that Congress take the following actions:

- Enact S. 1004, *the Securing America’s Ports of Entry Act* that authorizes funding for CBP Officers without amendments;



- Support funding for 600 new CBP Officers in FY 2021 DHS Appropriations;
- Support funding for needed Trade Operations Specialists and other OFO support staff;
- Enact H.R. 1433, the DHS Morale Act; and
- Fully fund and utilize recruitment, relocation and retention incentives.

Congress should also redirect the increase in customs user fees in the FAST Act from offsetting transportation spending to its original purpose of providing funding for CBP Officer staffing and overtime and oppose any legislation to divert additional fees collected to other uses or projects.

The employees I represent are frustrated and their morale is low. These employees work hard and care deeply about their jobs and their country. These men and women are deserving of more staffing and resources to perform their jobs better and more efficiently.

Thank you for the opportunity to submit this statement for the record.

**Post-Hearing Questions for the Record  
Submitted to the Honorable Chad Wolf  
From Senator Thomas R. Carper**

**“Resources and Authorities Needed to Protect and Secure the Homeland”**

**March 4, 2020**

***\*\*Due to the change-over in Administration, responses were not received  
to these questions for the record.\*\****

Election Security

1. The FY2020 NDAA required the Under Secretary of Homeland Security for Intelligence and Analysis to provide Congress a report on cyber-attacks and attempted cyber-attacks by foreign governments on our election infrastructure in connection with the 2016 Presidential election, and any anticipated attacks.
  - a. The Department has missed the statutory deadline, of February 18, 2020 – 60 days after the President signed the NDAA into law – to submit that report. When can Congress expect to receive it?

Climate Change

1. In January 2019 the Pentagon issued a report titled “Effects of a Changing Climate to the Department of Defense.” The report stated that the effects of a changing climate are a national security issue, with potential adverse impacts on our military readiness, installations, and operations around the globe. The report quotes General Dunford, then-Chairman of the Joint Chiefs of Staff, as saying:

“When I look at climate change, it’s in the category of sources of conflict around the world and things we’d have to respond to. So it can be great devastation requiring humanitarian assistance—disaster relief—which the US. Military certainly conducts routinely.”

  - a. What are DHS and its components doing to mitigate and prepare for the threat of climate change, if anything? Please be comprehensive in your answer.

Domestic Terrorism

1. In 2016, I worked with DHS and stakeholders on a bill to authorize within the Department an Office for Partnerships Against Violent Extremism. That bill would have

codified the Department's efforts at the time to counter violent extremism, by engaging with community partners and working alongside each of them to protect our homeland.

I am grateful to then-Acting Secretary McAleenan for his leadership in the Department's efforts to produce a comprehensive strategic framework for countering terrorism and targeted violence, issued September 2019. And I am concerned that with Secretary McAleenan's departure, the Department will yet again lack the leadership necessary to accomplish the goals that the Acting Secretary set out to do.

- a. Would you support bipartisan legislation, such as I introduced in 2015, to codify the Department's efforts to counter terrorism and targeted violence to ensure consistency of this mission, and provide for appropriate Congressional oversight?
- b. Do you believe that such a bill would help in your and the Department's efforts to focus on and appropriately allocate resources to counter the threat of the rise of targeted violence in this country?

#### Responsiveness to Oversight Requests

1. I led an oversight letter back in January with a handful of my colleagues to Acting Commissioner Mark Morgan demanding answers from CBP following reports of delays and enhanced screening for Americans of Iranian descent being held at U.S. ports of entry and airports.
  - a. We have not received a response to that letter. When can I expect a response? Have you spoken with Acting Commissioner Morgan about it?

#### Staffing for Adequate Fire & Emergency Response

1. The Staffing for Adequate Fire & Emergency Response (SAFER) grant program provides much needed resources to career fire departments and combination fire departments across the country. As you may know, Congress included authority for the Department of Homeland Security in Title III, Section 307 of the Consolidated Appropriations Act for FY19 to grant waivers to grantees to use SAFER grants for fire fighter retention purposes.

This SAFER grant waiver authority was included in appropriations bills FY09 through FY15 and again in FY18 and FY19. It was disappointing that the Department of Homeland Security declined to grant waivers for FY18. My colleagues and I sent a letter to former Acting Secretary McAleenan on May 21, 2019 asking the Department of Homeland Security to ensure career fire departments and combination fire departments are eligible for SAFER grant waivers in FY19.

- a. Can you commit to permitting SAFER grant waivers for FY19?

#### Border Patrol and ICE Agents

1. During your hearing, you committed to providing me some numbers on staffing levels at CBP and Immigration and Customs Enforcement (ICE) – thank you for that. What are the Department’s current staffing levels for Border Patrol agents and ICE agents?
  - a. Please also provide the data for hiring these agents for the last three fiscal years.
  - b. How do you plan to hire more agents and also retain the ones you have?
  - c. In a budget briefing provided to staff, I believe CBP stated that, down the road, they would base Border Patrol hiring on what they referred to as the “personnel requirements determination.” What is the personnel requirements determination and where is it derived from?
  - d. CBP’s Workload Staffing Model indicates that the number of officers needed to effectively secure our ports of entry is 26,837. Why doesn’t the President’s budget request funding to fulfill that need?

#### Inspector General Funding

1. I understand that the DHS Office of Inspector General (IG) has requested \$195 million in order to just sustain the current level of operations into FY 2021. However, the President’s budget request is \$177 million, which would have an adverse impact on the ability of the IG to fulfill its important mission. Specifically, this level of funding would reduce audits and investigations and the ability of the IG to be responsive to Congressional requests.
  - a. Acting Secretary Wolf – I understand that for every \$1 invested in the DHS IG an average of \$9.65 is returned to the taxpayer. Do you agree that the Inspector General should have the funding needed to complete its important mission?

#### Investments in DHS Headquarters at St. Elizabeths

1. Acting Secretary Wolf, over the last several years, despite significant challenges due to inadequate and inconsistent funding from Congress, and challenges associated with redeveloping the infrastructure at St. Elizabeths, the Obama and Trump Administrations have made progress in developing the consolidated headquarters. Just last year I was proud to join the Department as it celebrated the opening of the Center Building.

In the most recent budget request, the Administration requests \$459 million for the continued consolidation of the Department of Homeland Security at the St. Elizabeths Campus for the General Services Administration, and \$144.7 million for the Department of Homeland Security. This funding will provide for ongoing support costs and for a new headquarters facility for the Office of DHS Intelligence and Analysis, headquarters

operations of the DHS Immigration and Customs Enforcement, and a portion of the headquarters function of the DHS Customs and Border Protection.

With that in mind, I ask that you review and respond to the following questions:

- a. How will continued development of a consolidated headquarters for the Department at St. Elizabeths enhance the ability of the Department to achieve its mission?
- b. What is the current estimated savings for taxpayers over the long term should Congress provide the requested funding for this project?
- c. Please provide an overview of the current DHS occupancy at St. Elizabeths. How many employees are on the site, how many are slated to move given the current infrastructure? Please also provide timelines for those employees slated to move to the site. Additionally, please provide an update on the reconfiguration of the Munro building.
- d. Last year Congress provided the Department with a substantial amount of money towards the construction of a new facility for the Cybersecurity and Infrastructure Security Agency (CISA) at the St. Elizabeths headquarters campus. What additional resources does the Department need to ensure CISA has a facility that accommodates easy access for stakeholders that are at the core of CISA's mission?
  - i. Currently, I believe CISA operates in eight different leased locations across the National Capital Region. Are there any infrastructure enhancements CISA would need that are mission-critical for the success of the Agency's relocation to the headquarters campus?
- e. Please provide an overview of current and future expected occupancy of the Nebraska Avenue Complex.
- f. What additional resources (if any) are needed for DHS to continue to move employees to the Headquarters at St. Elizabeths?

***\*\*Due to the change-over in Administration, responses were not received to these questions for the record.\*\****

**Post-Hearing Questions for the Record  
Submitted to the Honorable Chad Wolf  
From Senator Kamala Harris**

**“Resources and Authorities Needed to Protect and Secure the Homeland”**

March 4, 2020

*\*\*Due to the change-over in Administration, responses were not received  
to these questions for the record.\*\**

**Safety of Individuals Enrolled In the “Remain in Mexico” Policy**

DHS has stated that individuals returned to Mexico should seek out shelters run by the government or NGOs. DHS has also stated that “[t]he Government of Mexico has provided shelter and support for those in MPP.”<sup>1</sup> During the March 4 hearing, Acting Secretary Wolf stated that individuals in MPP were safest if they went to “Mexico-designed” shelters.

1. **How many total shelter beds has the Mexican government made available to individuals enrolled in MPP?**
2. **Please provide a list of all shelters in Mexico that DHS understands are available to individuals enrolled in MPP, including the city, the capacity, and the operator of each shelter.**
3. **What, if any, coordination has DHS undertaken with the Government of Mexico or other organizations, including IOM and UNHCR, to ensure that available shelter space meets minimum standards of humane conditions? What minimum standards are applied?**

On March 4, 2020, Reuters reported that thousands of people that the U.S. government has enrolled in MPP were bussed by Mexico to the southern Mexican border. They reportedly participate in this busing program to escape the cities in which they are forced to reside without knowing that they will be transported all the way to the southern part of Mexico, which is a three days’ drive away from the northern border where they will have to report for their court dates in the U.S. As a result, their efforts to escape dangerous conditions risks them missing their court hearings.

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<sup>1</sup> Frank Miles, Fox News, *DHS defends policy keeping asylum-seeking migrants at Mexico border* (Nov. 18, 2019), available at <https://www.foxnews.com/politics/homeland-security-mexico-migrants-border-county>.

4. **What steps, if any, has the U.S. government taken to ensure that the Mexican government is not impeding the ability of asylum seekers to return to the border for their court hearings?**

**Vulnerable Individuals Enrolled in the Migrant Protection Protocols (“Remain in Mexico”)**

On February 21, 2020, KPBS news reported on multiple instances in recent months in which pregnant women returning to the border at San Ysidro port of entry in California to attend their court hearings were not permitted to enter the United States and attend their hearings, including a woman who was seven months pregnant. On January 22, 2020, the American Civil Liberties Union (ACLU) Foundation of San Diego and Imperial Counties and the ACLU Border Rights Center filed an administrative complaint with the DHS Office of Inspector General asking for a review of CBP’s treatment of pregnant women.

5. **Has DHS taken any steps to investigate the basis for CBP personnel denying entry to the U.S. to pregnant women to attend their court hearings?**
6. **Has CBP issued guidance regarding the treatment of pregnant women under the “Remain in Mexico” policy to ensure their health and safety and protect them from potential discrimination? If so, please provide the guidance issued to the Committee.**
7. **Do you commit to initiating an assessment of these reports and taking any appropriate disciplinary action against DHS personnel?**

**DHS Policy Regarding DACA recipients**

At the March 4 hearing, Acting Secretary Wolf committed to providing the Committee with DHS’ plans on immigration enforcement that take into account the various potential decisions the Supreme Court may issue, which is expected to be issued at some point between now and June 2020. The Committee has yet to receive any correspondence from DHS or ICE on providing the plans.

8. **When will DHS provide those plans to this Committee?**

Under longstanding U.S. Citizenship and Immigrations Services (USCIS) policy, the information provided by an individual who applied for DACA is protected from being shared with ICE and Customs and Border Protection (CBP). This policy was confirmed before this Committee by multiple DHS officials, including General Kelly, Acting Secretary Duke, and Secretary Nielsen. Specifically, they confirmed that the information of DACA recipients is not routinely shared for enforcement purposes.

9. **Please confirm whether this longstanding USCIS policy has changed in any way.**
10. **If the policy has been changed:**
  - a. **Who at DHS was responsible for effectuating the change in policy?**

- b. When did the new policy take effect?
- c. Please share guidance or any other documents on the policy that was distributed to appropriate DHS components.

**11. Has the information of DACA recipients been shared for any reason within DHS for immigration enforcement purposes? Please provide the number of instances of such information-sharing taking place.**

- a. For each instance, please provide DHS' rationale for sharing information that has been protected from sharing under longstanding USCIS policy.

#### **CBP Medical Directive**

On or around December 31, 2019, U.S. Customs and Border Protection (CBP) posted Directive No. 2210-004 Enhanced Medical Support Efforts ("Medical Directive"). This directive appears to update CBP Directive No. 2210-003, CBP Interim Enhanced Medical Efforts (January 2019) ("Interim Medical Directive"). The January 2019 Interim Medical Directive called for the review of "implementation plans" within 60 days of ratification of the policy. The December 2019 Medical Directive also calls for development of "detailed implementation plans" within 90 days of the effective date of the policy.

The Acting Secretary referenced both directives during his March 4 testimony and indicated that implementation plans are in the process of being drafted.

**12. It has been over 12 months since the January 2019 Interim Medical Directive called for the preparation of implementation plans. Please provide a final copy of the implementation plan developed pursuant to the Interim Medical Directive.**

**13. Is DHS on track to complete the implementation plan required by the December 2019 Medical Directive? Please provide current drafts of the implementation plans to this Committee.**

#### **Ensuring DHS Grants Protect the Homeland**

The Fiscal Year 2020 Homeland Security Grant Program (HSGP) Notice of Funding Opportunity (NOFO) instituted significant, problematic changes for California's State Homeland Security (SHSP) and Urban Area Security Initiative (UASI) grant funding. In FY 2019, California received \$62,011,000 for SHSP and \$123,900,000 for UASI. Under DHS' new funding methodology, California could potentially lose \$12,402,200 for SHSP and \$16,180,000 for UASI. Accordingly, the new funding methodology jeopardizes national security by threatening to shut down essential homeland security projects, programs, and partnerships.

**14. Please explain the process that DHS/FEMA took to evaluate the feasibility of these sweeping changes to the Homeland Security Grant Program.**



15. Do you believe that there is a one-size-fits-all approach that will best protect homeland security in each and every state throughout the nation?
16. Based on DHS' 2020 Metropolitan Statistical Analysis Risk Methodology, California is the #1 ranked state with the highest risk score, an increase in risk from 2019. How can you assure the security of the homeland by allowing for the potential decrease of funding to states and urban areas that DHS has itself deemed to be at high risk, like California?
17. Goal 3 of FEMA's 2018-2022 Strategic Plan is, "Reduce the Complexity of FEMA." However, the new methodology appears to have been rolled out without vetting it with key stakeholders. How do the new requirements and funding ranges, align with FEMA's goal?
18. Will DHS/FEMA implement a formal review or appeal process for the funding award decisions made for this grant?

#### **Increasing Visa Denials**

My office has received reports that foreign-born athletes, coaches, and trainers seeking "legal permanent resident" status to work or live in the U.S. due to their "extraordinary" abilities have reportedly experienced higher denial rates. The approval rate for individual immigrant petitions for permanent residence based on extraordinary ability (a category used by professional athletes) fell from 82.1% in FY 2016, 69.4% for FY 2018, and, 56.3% in FY 2019. For petitions for which USCIS issued a Request for Evidence, the approval rate fell from 47.8% in FY 2016 to 37.3% for FY 2018 and 34.4% for FY 2019.

In addition to the above immigrant visas, an estimated 20,000 international athletes, officials, referees, and international sport leaders visit the United States on non-immigrant visas annually for world championships, world cups, Olympic qualifying events, training camps, and international meetings.

19. On December 11, 2019, the Wall Street Journal<sup>2</sup> reported that the approval rate for individual petitions for permanent residence based on "extraordinary ability" fell from 82.1% in FY 2016 to 69.4% for FY 2018, and 56.3% in FY 2019. What has caused this downward trend?

***\*\*Due to the change-over in Administration, responses were not received to these questions for the record.\*\****

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<sup>2</sup> Louise Radnofsky, The Washington Post, *Athletes Seeking Green Cards Find Proving They're Exceptional Has Gotten Tougher Under Trump* (Dec. 11, 2019), available at <https://www.wsj.com/articles/elite-athletes-seeking-visas-face-heightened-scrutiny-by-the-trump-administration-11576060200?mod=searchresults&page=1&pos=1>.

**Post-Hearing Questions for the Record  
Submitted to the Honorable Chad Wolf  
From Senator Jacky Rosen**

**“Resources and Authorities Needed to Protect and Secure the Homeland”**

**March 4, 2020**

<b>Question#:</b>	1
<b>Topic:</b>	Influx of Travelers
<b>Hearing:</b>	Resources and Authorities Needed to Protect and Secure the Homeland
<b>Primary:</b>	The Honorable Jacky Rosen
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** On the night of Saturday, March 14, 2020, images appeared on social media of airport terminals in the United States filled with thousands of people who waited hours to retrieve their baggage and go through customs and security. Travelers were slowed due to enhanced COVID-19 screening following the President's announcement the previous Wednesday that all travel from Europe would cease for 30 days, causing U.S. citizens overseas to rush to get back to the U.S. They were trapped in large crowds at the airports for hours, in exactly the type of large group settings that the Centers for Disease Control and Prevention (CDC) advised Americans to avoid in order to reduce the risk of spreading coronavirus.

Did the White House consult with you or, to your knowledge, any Department of Homeland Security (DHS) personnel before the President's speech about his announcement that he would suspend flights from Europe to the U.S. for 30 days?

**Response:** In accordance with the longstanding practice of previous Administrations of both parties, we do not discuss our conversations with the White House.

**Question:** Did the White House instruct DHS to prepare for a heavy influx of travelers at the limited number of airports that are screening passengers for COVID-19, and ensure adequate support staff was there, including from CDC?

**Response:** In accordance of longstanding practice of previous Administration of both parties, we do not discuss our conversations with the White House. However, the U.S. Department of Homeland Security (DHS), Countering Weapons of Mass Destruction (CWMD) Office had been operationalizing pandemic preparedness plans since the summer of 2019. These plans included the use of agreements with emergency medical service providers for personnel to supplement and support the Centers for Disease Control and Prevention (CDC) at international airports. When the need arose, CWMD initialized those service agreements and scaled the services to the

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<b>Committee:</b>	HOMELAND SECURITY (SENATE)

15 airports ultimately identified as locations where the U.S. government would focus public health resources.

<b>Question#:</b>	2
<b>Topic:</b>	Remedial Measures
<b>Hearing:</b>	Resources and Authorities Needed to Protect and Secure the Homeland
<b>Primary:</b>	The Honorable Jacky Rosen
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** What remedial measures has DHS taken to ensure that passengers arriving in U.S. airports will not have to wait for their baggage and screening for extended periods in crowded areas?

**Response:** CBP has worked with CDC to align public health screenings and CBP arrival processes in the most efficient fashion possible. Due to available space within the port of entry, pre-identified travelers were referred for enhanced public health screening by DHS's CWMD and CDC to a segregated area prior to entering normal CBP processing and airport owned international arrival progressions. Any ill traveler would have been isolated for a public health illness response in a separate location from the initial public health screening.

<b>Question#:</b>	3
<b>Topic:</b>	Domestic Terrorism
<b>Hearing:</b>	Resources and Authorities Needed to Protect and Secure the Homeland
<b>Primary:</b>	The Honorable Jacky Rosen
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** According to the FBI, white nationalist violence in the United States is on the rise, including acts of violent anti-Semitism.

Last year, Senator Lankford and I launched the first-ever Senate Bipartisan Task Force for Combating Anti-Semitism, which was partly born out of the violence we have seen over the past several years, from Charlottesville to Pittsburgh to New York.

Also last year, in response to this increasing epidemic, the Department of Homeland Security launched the Office of Targeted Violence and Terrorism Prevention to prevent domestic terrorism in all its forms, and set up an accompanying new grant program. The Department also released the first Strategic Framework for Countering Terrorism and Targeted Violence, which found that domestic terrorism is as great a threat to the United States today as foreign terrorism.

What are the Department's implementation plans for this new strategy, and do you have the funding, authorities, and tools required to protect Americans from rising domestic terrorism?

**Response:** Fiscal Year (FY) 2020 appropriations provide a solid foundation for the Department of Homeland Security's (DHS) efforts to successfully execute its vision for prevention and protection, which is clearly reflected as documented in the *Strategic Framework for Countering Terrorism and Targeted Violence* (Strategic Framework). The President's FY 2021 Budget further augments the Department's prevention and protection missions, requesting approximately \$96 million to allow DHS to bring its prevention mission to scale and strengthen protection measures to implement the Strategic Framework. Taken together, the Department has dramatically increased the resources dedicated to providing technical assistance, training, and grants to state, local, tribal, and territorial partners addressing targeted violence and terrorism, including domestic terrorism. We look forward to continuing to work with Congress to keep you informed of our progress.

<b>Question#:</b>	4
<b>Topic:</b>	Combating White Nationalism
<b>Hearing:</b>	Resources and Authorities Needed to Protect and Secure the Homeland
<b>Primary:</b>	The Honorable Jacky Rosen
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** How does the Department to expand information-sharing and outreach to local communities? Are there plans to set up any sort of central hub for community partners with resources for combating white nationalist?

**Response:** DHS already maintains information sharing mechanisms for state, local, and select private sector community security professionals via the Homeland Security Information Network (HSIN). With HSIN, the Department is able to set up web-based portals that disseminate pertinent information to Homeland Security audiences. For example, the DHS Office of Intelligence and Analysis (I&A) administers the Homeland Security Information Network-Intelligence (HSIN-Intel) portal, a secure web-based platform for sharing intelligence products. Through HSIN-Intel, I&A supports the widest dissemination of its intelligence products.

HSIN-Intel currently makes available over 40,000 products, including hundreds of products focused specifically on domestic terrorism. Of these 40,000+ products, 8,000 were shared in 2018 resulting in over 68,000 views, representing an increase from 2017 of 325 percent. Additionally, the DHS Cybersecurity and Infrastructure Security Agency (CISA) maintains a similar portal for private sector critical infrastructure operators and owners.

<b>Question#:</b>	5
<b>Topic:</b>	UASI Program
<b>Hearing:</b>	Resources and Authorities Needed to Protect and Secure the Homeland
<b>Primary:</b>	The Honorable Jacky Rosen
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** The Urban Area Security Initiative, or "UASI," is a vital program for protecting the people of Las Vegas, our critical infrastructure, and our tourism economy. UASI grants assist high-threat, high-density urban areas like Las Vegas in preventing, mitigating, responding to, and recovering from terrorist attacks, and FEMA oversees this program.

Nevada is home to a year-round population of 3 million people, but we have over 50 million visitors every single year, and Las Vegas annually hosts more than 20,000 conventions, creating significant need for UASI dollars. When I was in the House, I joined a bipartisan Nevada delegation effort fighting for reforms that ended up doubling the city's UASI allocation.

And yet, despite increased need in Nevada and states across the country, the President's Budget proposes reducing the UASI program by \$535 million, and adding a 25% match requirement for states and local governments. Additionally, the budget justification states that: "The Federal Government cannot afford to over-invest in programs that State and local partners are slow to utilize when there are other pressing needs."

Has DHS engaged with UASI grant recipients to learn why they might have trouble utilizing funds, rather than simply reducing overall UASI funding by half a billion dollars?

**Response:** DHS will award its state, territorial, and urban area eligible applicants based on risk and the anticipated effectiveness of proposed projects. These awards will be within the target allocation range provided in the FY 2020 Homeland Security Grant Program Notice of Funding Opportunity. As a result, Nevada will be receiving more in FY 2020 than in FY 2019 for state and UASI grants. For FY 2020, Nevada will receive a State Homeland Security Program allocation of \$4,287,500, and Las Vegas will receive \$5,250,000 in Urban Area Security Initiative funding, a combined increase of \$460,000 compared to FY 2019.

<b>Question#:</b>	6
<b>Topic:</b>	Fair Share of Responsibility
<b>Hearing:</b>	Resources and Authorities Needed to Protect and Secure the Homeland
<b>Primary:</b>	The Honorable Jacky Rosen
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** The budget justification states that requiring a 25% cost share for UASI recipients will "encourage grant recipients to share responsibility of the cost of preparedness activities in their own budgets." The City of Henderson, Nevada received \$270,000 in UASI grant money to build an Emergency Operations Center, and then the City put forward \$1 million. When it comes to our Fusion Center, UASI funds provide IT infrastructure, cameras, and other equipment, but the Center is housed in the Metropolitan Police Department so they cover the lease, and each law enforcement agency puts forward a person to staff the Fusion Center 24 hours a day. So what support is there to suggest that UASI grant recipients aren't shouldering their fair share of responsibility for deterring terrorism?

**Response:** DHS has consistently encouraged states, locals, tribes, and territories to take on a greater responsibly utilizing local budgets and regional partnerships as mechanisms towards maintenance and sustainment of preparedness efforts. The cost share and \$409 million National Security and Resilience Grant Program proposed in the FY 2021 budget will fill much of the proposed budget reductions and enable state, local, tribal, and territorial governments (SLTTs) to take on a greater role in sustaining existing capabilities, while providing a suitable level of funding to focus on building new and innovative solutions that increase SLTT capability. Therefore, DHS continues to propose a 25 percent non-Federal cost share for those preparedness grant programs that currently do not have a cost share component.

Finally, a non-federal cost share<sup>1</sup> is not a new concept. Currently over half of the funding for preparedness grants have a cost-share requirement. The proposal, if enacted, would apply to the State Homeland Security Program, Urban Area Security Initiative, and the Transit Security Grant Program, which would make the suite of preparedness grant programs' cost-share requirements uniform and consistent.

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<sup>1</sup> Cost Share, also known as "non-Federal share," or "match," is the portion of the costs of a federally assisted project or program not borne by the Federal Government. The authorizing statute for each FEMA program sometimes establishes a minimum or maximum cost share. Both the Federal share and the non-Federal cost share must be used for eligible costs for activities that FEMA has approved in the grant award, meaning that both the Federal and non-Federal contributions must be reasonable, allocable, necessary, and otherwise allowable under the grant program. Contributions of cash, third-party in-kind services, materials, or any combination thereof, may be accepted as part of the non-Federal cost share, depending on the applicable grant program. FEMA administers cost-sharing requirements consistent with 2 C.F.R. § 200.306



<b>Question#:</b>	7
<b>Topic:</b>	Terminating TPS
<b>Hearing:</b>	Resources and Authorities Needed to Protect and Secure the Homeland
<b>Primary:</b>	The Honorable Jacky Rosen
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** Reports have indicated that the Department's decisions to not extend TPS for multiple countries were politically driven.

Can you please provide the criteria DHS used on its decision to terminate TPS for each of the countries listed below?

El Salvador

Honduras

Nepal

Nicaragua

Haiti

Sudan

Is the criteria used by the Department to terminate TPS for the countries listed above consistent with policies and/or practices used under previous administrations?

If not, why not?

**Response:** The reasons for the decisions to terminate the Temporary Protected Status (TPS) designations for each of the six countries noted above are stated in the *Federal Register* notices (FRNs) that announced those decisions. *See* Termination of the Designation of Honduras for Temporary Protected Status, 83 Fed. Reg. 26074 (June 5, 2018); Termination of the Designation of Nepal for Temporary Protected Status, 83 Fed. Reg. 23705 (May 22, 2018); Termination of the Designation of El Salvador for Temporary Protected Status, 83 Fed. Reg. 2654 (Jan. 18, 2018); Termination of the Designation of Haiti for Temporary Protected Status, 83 Fed. Reg. 2648 (Jan. 18, 2018); Termination of the Designation of Nicaragua for Temporary Protected Status, 82 Fed. Reg. 59636 (Dec. 15, 2017); Termination of the Designation of Sudan for Temporary Protected Status, 82 Fed. Reg. 47228 (Oct. 11, 2017). DHS takes TPS decisions very seriously and makes all decisions in full compliance with the law. Prior to the current expiration date for an existing TPS designation, the Secretary of Homeland Security reviews conditions in the foreign country and, after consultation with other appropriate federal agencies, determines whether the statutory conditions for TPS continue to be met. Under the *Immigration and Nationality Act* (INA), if the Secretary determines that the conditions for designation continue to

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be met with respect to a given country, the Secretary extends the designation. But if the Secretary determines that the conditions for designation are no longer met with respect to that country, the Secretary is required by statute to terminate the designation. Based on information such as country conditions and the ability of the designated country to receive returning nationals, among other relevant statutory factors, the Secretary determined that the statutory conditions supporting each country's TPS designation no longer existed. As a result, pursuant to statute, the Secretary was required to terminate each country's TPS designation.

<b>Question#:</b>	8
<b>Topic:</b>	Internal Deliberations
<b>Hearing:</b>	Resources and Authorities Needed to Protect and Secure the Homeland
<b>Primary:</b>	The Honorable Jacky Rosen
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** What other Departments, agencies, administration officials, did DHS consult or work with to make TPS determinations for the countries listed above?

**Response:** The TPS statute (INA §§ 244(b)(1),(b)(3)(A)) requires the Secretary to consult with “appropriate agencies of the Government” in making a determination to extend or terminate a country’s TPS designation. This may include, among others, the Secretary of State. All interagency consultations are specific to the circumstances of the TPS designation.

**Question:** Please provide documents and/or memos that led to the termination of all the countries listed above.

**Response:** These memoranda are pre-decisional, deliberative, and in furtherance of the Secretary’s decision-making.

<b>Question#:</b>	9
<b>Topic:</b>	Reevaluating Terminations
<b>Hearing:</b>	Resources and Authorities Needed to Protect and Secure the Homeland
<b>Primary:</b>	The Honorable Jacky Rosen
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** Should the federal court order the termination of TPS for the countries listed above, will the Department commit to reevaluating all TPS terminations, including assessing current country conditions given the strong allegations of political interference?

If not, why not?

If so, please provide a copy of your reevaluations of current country conditions.

**Response:** DHS interprets “[s]hould the federal court order the termination of TPS for the countries listed above...” to be asking about the Department’s response in the event that the decisions to terminate the TPS designations of the six countries named above are upheld by the federal courts now considering those decisions. It is premature to discuss what exact actions DHS may take in response to an as yet unknown order or orders. The Department will need to assess what such orders may require and act accordingly. The last FRN, issued by DHS in compliance with the court orders in *Ramos*, *Bhattarai* and *Saget*, explains the Department’s intentions with respect to effecting the terminations of the TPS designations in the event that the Department prevails in the litigation. *See* 84 Fed. Reg. 59403. That notice further provides for the continuation of the TPS and the validity of TPS-related documentation of eligible beneficiaries under the designations for the six countries at issue in accordance with the preliminary injunctions and other court orders. U.S. Citizenship and Immigration Services (USCIS) continues to comply with the terms of the court orders in the TPS-related lawsuits; however, USCIS cannot speculate on any future orders with which we may be required to comply.

<b>Question#:</b>	10
<b>Topic:</b>	Detaining Immigrants Spending
<b>Hearing:</b>	Resources and Authorities Needed to Protect and Secure the Homeland
<b>Primary:</b>	The Honorable Jacky Rosen
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** The President's Budget is a statement of priorities, and so is money spent throughout the year. To that end, I'd like to know if you can tell me, or if you can get back to me with the following spending amounts:

How much did DHS spend in FY2020 to detain non-violent immigrants in for profit detention centers?

**Response:** Due to constraints within the financial reporting systems, it is difficult for ICE to delineate its detention spending of non-violent immigrants at the centers noted.

<b>Question#:</b>	11
<b>Topic:</b>	Domestic Terrorism Spending
<b>Hearing:</b>	Resources and Authorities Needed to Protect and Secure the Homeland
<b>Primary:</b>	The Honorable Jacky Rosen
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** How much did DHS spend in FY2020 to combat anti-Semitism and domestic terrorism?

**Response:** DHS does not have discrete budget line items for work in these areas; rather it is taking place within the context of larger mission sets. For example, ICE agents combat domestic terrorism and/or anti-Semitism as part of different investigative categories, including (but not limited to) gang investigations, narcotics smuggling investigations, document fraud investigations, cyber investigations, or global trade investigations. In addition, CISA partners with members of the Jewish Community—through the Secure Community Network and directly with Jewish facilities through Protective Security Advisors—to provide access to a wide range of existing resources and capabilities to address threats regardless of motivation.

<b>Question#:</b>	12
<b>Topic:</b>	MPP Spending
<b>Hearing:</b>	Resources and Authorities Needed to Protect and Secure the Homeland
<b>Primary:</b>	The Honorable Jacky Rosen
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** How much did DHS spend in FY2020 on administering the Remain-in-Mexico program?

**Response:** The Migrant Protection Protocols (MPP) involves migrants who enter or seek admission at the Southern Border unlawfully or without proper documentation. They are returned to Mexico to await their hearings instead of being allowed into the United States. CBP and ICE administer the MPP, including the Immigration Hearing Facilities (IHF) where asylum hearings are conducted. In FY 2020, IHF operation costs totaled \$39.5 million as of May 17, 2020. Other costs, such as pay costs, are part of normal operations, are funded out of base pay, and are not separately tracked.

<b>Question#:</b>	13
<b>Topic:</b>	Cyber-Attacks Spending
<b>Hearing:</b>	Resources and Authorities Needed to Protect and Secure the Homeland
<b>Primary:</b>	The Honorable Jacky Rosen
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** How much did DHS spend in FY2020 to protect our elections from cyber-attacks?

**Response:** The *Consolidated Appropriations Act for Fiscal Year 2020* (Public Law 116-93) provides CISA a total of \$43.5 million for the Election Security Initiative and I&A, \$7.5 million above the budget request for election security.

It is important to recognize that funding in support of election security is not limited to these funds. We also support State and local election officials through operational capabilities funded elsewhere. At the height of our work on the 2018 midterm election, we had over 500 individuals supporting our election security efforts. We expect that as we get further into the 2020 election season, we will, once again, be surging all necessary resources to support this critical mission.



<b>Question#:</b>	14
<b>Topic:</b>	Border Wall Spending
<b>Hearing:</b>	Resources and Authorities Needed to Protect and Secure the Homeland
<b>Primary:</b>	The Honorable Jacky Rosen
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** How much did DHS spend on constructing the border wall?

**Response:** Since January 2017, DHS has been appropriated approximately \$5.1 billion to construct approximately 272 miles of new border wall system, which includes DHS and Treasury Forfeiture Funds. To date, approximately \$4.8 billion has been obligated by DHS.

<b>Question#:</b>	15
<b>Topic:</b>	OIG Funding
<b>Hearing:</b>	Resources and Authorities Needed to Protect and Secure the Homeland
<b>Primary:</b>	The Honorable Jacky Rosen
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** DHS Inspector General, Dr. Joseph Cuffari, came in to see me at the end of last year, and I understand he also recently briefed Congressional staff on his office's request for \$195.6 million. Dr. Cuffari says that this is the amount his office needs to sustain its current level of operations. Among the many examples of fraud, waste, and abuse that the IG's office has uncovered over the past several years, in 2019 the IG reported that migrants at El Paso Del Norte Processing Center were subjected to severe and dangerous overcrowding, that three facilities "had no access to showers," two facilities had not provided children with hot meals, and children had limited access to fresh clothes. Around the same time, a different OIG report concluded after unannounced visits to four ICE detention facilities that ICE detained migrants in unsafe and unhealthy conditions.

These are fixable problems that Congress and the general public would never know about but for the agency's Inspector General. Despite this, the President's Budget requests funding of only \$177.8 million, a decrease from last year.

Do you agree that the Office of the Inspector General plays a critical role in detecting fraud, waste, and abuse at your Department?

What can you do as Secretary to support the Office of the Inspector General and ensure both its independence and its capacity to address Congressional requests for investigations into fraud, waste, and abuse?

**Response:** Yes, I agree that the Office of the Inspector General's (OIG) work is important to the Department's ongoing quest for improved mission effectiveness and efficiency, work that includes identifying fraud, waste, and abuse through audits, inspections, and investigations.

As Acting Secretary, I will ensure that DHS remains committed to a professional and collaborative relationship based on openness and transparency in its interactions with the OIG and maintains an understanding and respect for the unique and independent status the OIG occupies within the Department.

**Post-Hearing Questions for the Record  
Submitted to the Honorable Chad Wolf  
From Senator Kyrsten Sinema**

**“Resources and Authorities Needed to Protect and Secure the Homeland”**

**March 4, 2020**

<b>Question#:</b>	16
<b>Topic:</b>	Emerging Technology
<b>Hearing:</b>	Resources and Authorities Needed to Protect and Secure the Homeland
<b>Primary:</b>	The Honorable Kyrsten Sinema
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** The Department of Homeland Security's mission is to secure the nation from the many threats we face. This requires the dedication of more than 240,000 employees in jobs that range from aviation and border security to emergency response, from cybersecurity analyst to chemical facility inspector. I believe technology is the factor that can make the biggest impact when it comes to protecting America.

What process does DHS utilize to identify emerging technology to meet security gaps at our borders?

**Response:** The mission of the DHS Science and Technology Directorate (S&T) is to enable effective, efficient, and secure operations across all homeland security missions by applying scientific, engineering, analytic, and innovative approaches to deliver timely solutions and support Departmental acquisitions.

To carry out this mission, S&T utilizes an Operating Model Blueprint (OMB) that outlines a high-level set of foundational processes to enable common program/project management practices for S&T research and development (R&D) efforts. The OMB builds upon and standardizes S&T processes, to enable effective oversight and informed decision making. It spans the entire program/project lifecycle from identifying customer needs to post-transition activities, while accommodating different types of R&D programs executed by S&T. The OMB is designed to apply rigor while enabling innovation.

There are three phases in the OMB:

1. “Understanding Needs” is the first phase. This phase is primarily focused on engaging with S&T’s customer base to clearly understand their needs and working with them to articulate their needs into actionable requirements.

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2. “Apply a Deliberate Approach to Addressing Needs” is the next phase. This phase takes the requirements identified by the previous phase and performs a comprehensive analysis to determine if a full or partial solution is available, if existing solutions are adaptable, or if R&D is appropriate. The analysis includes an estimate of potential development costs and transition opportunities. This information is adjudicated within S&T and shared with the customer to enable informed decision making by all parties.

3. “Execute Efficiently and Effectively” is the third and final phase. In this phase, a program or project plan is agreed to with the customer and S&T staff begin to execute efforts to develop and/or test a capability that meets the customer’s requirement for transition or commercialization.

The “Understanding Needs” phase of the OMBP is driven by the existing DHS process for Integrated Product Teams (IPTs). S&T has Strategic Mission Managers (SMMs) and component-specific IPT Portfolio Managers (PiMs) who partner with component leaders to identify their capability gaps with associated R&D needs; designate highest priorities for strategic and mission impact; and develop actionable requirements upon which an analysis of potential solutions can be based. These activities facilitate comparisons both within and across component-prioritized portfolios, enabling strategic R&D decision-making based on relative priority of capability gaps and their significance to the component’s mission and the Department’s overall strategic goals.

The next step is to translate the identified component capability gaps into valid operational requirements. The Office of Science & Engineering (OSE) provides matrixed services related to component operations and requirements analysis, technology scouting, systems engineering and standards, technology center subject matter expertise, test and evaluation, and technology transition. All these services are leveraged in development of these operational requirements.

Within OSE, the Operations and Requirements Analysis office (ORA) has lead responsibility to coordinate the IPT process, described above, and to assist in the development of valid requirements that set the stage for R&D program success. Through a Gap Decomposition process, ORA analysts lead an R&D team to understand the underlying Component operational needs, and translate these needs into validated operational requirements. These requirements become the backbone of the R&D scouting and identification efforts, assuring that candidate technologies are always assessed on their capabilities to deliver enhanced Component mission performance.

The “Apply a Deliberate Approach to Addressing Needs” phase takes the requirements identified by the first phase and performs a comprehensive analysis to determine (1) if a full or partial solution is currently available, (2) if existing solutions are adaptable with different technical

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approaches, or (3) if research and development is needed to develop a solution. Within S&T, the Technology Centers Division (TCD) and the Technology Scouting and Transition Division (TST) are integral in this analysis.

TCD conducts enduring baseline research into crosscutting scientific, engineering, and technology areas. This activity includes maintaining S&T's baseline competency and awareness of the state-of-the-art and art-of-the-possible in key science, engineering, and technology areas. TCD hosts communities of interest in these areas and maintains strategic partnerships across federal research organizations to assist in identifying emerging scientific concepts and technological innovation. TCD also advances the state of science and technology where needed to address operational gap areas common to multiple missions and multiple portfolios – to feed focused S&T program support and provide general solutions against challenging and persistent DHS mission needs and Component requirements. Finally, the subject matter experts within TCD serve as science and engineering advisors to S&T's divisions and to the Department to provide guidance on the emerging science and technology.

TST leads S&T's technology scouting and transition efforts to assist in the identification of existing, new, and emerging technologies from other federal, industry, academic or partners for use by R&D programs. TST also monitors for new innovations that could be applied to close gaps identified in S&T's program portfolios. TST uses an extensive internal and external information network to monitor for emerging technologies and to provide updates as new and relevant technologies are identified. TST also is constantly gauging the state of the market for capability improvements to meet customer component needs. TST provides a Technology Clearinghouse to facilitate the mission of DHS and serve as a centralized clearinghouse for homeland security technology requirements and solutions.

S&T also drives the commercialization of federally funded and mission relevant technologies to ensure each are transitioned into the marketplace and available to end users. Activities include managing the Commercialization Acceleration Program, Cooperative R&D Agreements, Intellectual Property Program, and Partnership Intermediary Agreements.

Privacy analysis and protection play an integral role in the process to identify emerging technology to meet security gaps at our borders. At the Component level, the S&T Privacy Office participates in the OMBP to engage with S&T Leadership, Portfolio Managers, and Program Managers throughout the planning, gap analysis and decomposition, solutions development, acquisition, and program management lifecycles. This information is adjudicated within S&T and shared with the customer to enable informed decision making by all parties.

During the “Execute Efficiently and Effectively” phase, a project plan is developed and agreed to with the customer, S&T executes the project plan to develop and test a capability that meets the

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customer's requirements and then transitions the R&D deliverables to the component customer. This phase is led by S&T's Office of Mission and Capability Support (MCS), who oversees the development of the capability, and TST, who oversees the transition process.

MCS has the central function of program management and is responsible for aligning matrixed resources within and outside of S&T to achieve program goals and allow for optimized cost, schedule and effort. MCS achieves this through effective, customer-focused execution of programs based on validated priorities and requirements.

S&T's Office of Innovation and Collaboration (OIC) provides S&T access to qualified scientific, engineering and business partners. DHS uses these partners for research, development, and technology transition and commercialization, as well as the physical and administrative infrastructure that enables DHS science and engineering to be effective. The OIC network has close and continuing relationships with DHS and other security agencies, national laboratories, industry, and universities. Programs within OIC offer DHS an ability to explore different approaches to complex problems, structure studies to experiment with the most promising ideas, and then evaluate the potential for advancing those efforts through the science and technology development pipeline.

TST oversees the transition of S&T-funded technology solutions to DHS components.

**Question:** Once potential technology is recognized, how does DHS determine if it meets the requirements identified by DHS components?

**Response:** S&T works closely with homeland security operators to clarify requirements, identify research and development gaps, explore existing, new or emerging technologies that can fill the gaps, and when appropriate or needed apply research and development efforts to fill the gaps.

To determine if a potential technology solution meets the component customer requirements, the first need is to have clearly defined and measurable requirements, developed in partnership with the component customer. This is accomplished during the first phase of the OMBP discussed in our response to the previous question. With clearly defined and measurable requirements, all potential technology solutions are thoroughly evaluated against those requirements. This is accomplished in close collaboration with the component customer, in a number of different ways, but typically includes test and evaluation, operational experimentation (OpEx), or having the operational component pilot the technology in real-world operations.

S&T Operational Experimentation (OpEx) program is an example of a scalable and highly adaptable capability that validates operational requirements and determines if candidate technologies meet identified needs. OpEx activities place the Operational components' end-

<b>Question#:</b>	16
<b>Topic:</b>	Emerging Technology
<b>Hearing:</b>	Resources and Authorities Needed to Protect and Secure the Homeland
<b>Primary:</b>	The Honorable Kyrsten Sinema
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

users in a realistic operating environment using simulated scenarios to conceptualize operational requirements and assess candidate technology solutions. In this way, OpEx activities mitigate risk by better aligning potential technology to their intended operational environments and associated policies, procedures, and concepts of operation. The result can reduce acquisition risk for, and potentially accelerate development of, new technology needed to meet mission critical needs and increase operational capability.

**Question:** Technology is constantly evolving. After research and development and during the acquisition phase how does DHS ensure that the technology does not become obsolete.

**Response:** S&T offers a number of services to component acquisition projects to assist them in ensuring they are not procuring obsolete technology. As stated earlier, S&T's OMBP spans the entire program/project lifecycle to include after the transition of R&D deliverables. It is critical that constant engagement with DHS operational components, utilizing SMMs and PfMs, remain after the transition of R&D deliverables as requirements and priorities change with adversarial threats, enabling component customers to make informed acquisition decisions.

Services made available to component acquisition programs after delivery of R&D includes technology scouting and subject matter expertise on emerging science and technology, operational experimentation, system engineering and test and evaluation.

**Tech Scouting:** TST is responsible for constantly gauging the state of the market for technology to address component customer needs. TST provides a Technology Clearinghouse to serve as a centralized clearinghouse for homeland security technology requirements and solutions. The Technology Clearinghouse is available on S&T's public facing website which provides a direct path for S&T's customers and stakeholders to access curated information on technology research and development activities, technology requirements, technology scouting activities, OpEx, and transitioned technology.

**Subject Matter Expertise:** TCD conducts enduring baseline research into crosscutting scientific, engineering, and technology areas. This includes maintaining S&T's baseline competency and awareness of the state-of-the-art and art-of-the-possible in key science, engineering, and technology areas. TCD also advances the state of science and technology where needed to address operational gap areas common to multiple missions and multiple portfolios – to feed focused S&T program support and provide general solutions against challenging and persistent DHS mission needs and component requirements. Finally, the subject matter experts within TCD are available to serve as science and engineering advisors to S&T's component acquisition programs to provide guidance on emerging science and technology.

<b>Question#:</b>	16
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<b>Committee:</b>	HOMELAND SECURITY (SENATE)

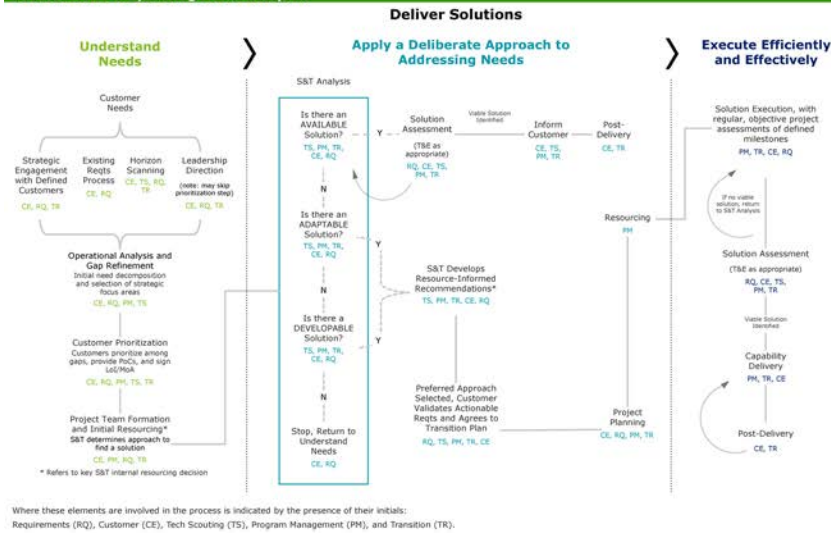
Operational Experimentation: OpEx program is an example of a scalable and highly adaptable capability that conducts activities for DHS components to refine and validate operational requirements and determine if candidate technologies meet identified needs. DHS operational components and S&T use the OpEx program to discover how existing solutions, emerging technologies, and technological developments of strategic importance can support critical missions. OpEx activities mitigate risk by better aligning potential technology to their intended operational environments and associated policies, procedures, and concepts of operation. The result can reduce acquisition risk for, and potentially accelerate development of, new technology needed to meet mission critical needs and increase operational capability.

Systems Engineering: S&T's Systems Engineering & Standards Division (SES) provides matrixed systems engineering support to R&D programs as well as representing S&T on the DHS Acquisition Review Board, providing technical risk information on major acquisition programs. SES also performs technical assessments on DHS acquisition programs, as well as acts as the DHS Standards Executive. SES serves as the S&T Joint Requirements Council (JRC) gatekeeper for all JRC Joint Requirements Integration and Management System artifact reviews.

Test and Evaluation: S&T's Test & Evaluation Division (TED) is the Principal Advisor on test and evaluation to the Office of the Secretary, component heads, and Chief Acquisition Officers. TED provides test and evaluation oversight of the Department's major acquisition programs (Level 1, Level 2, Special Interest) and review and comment on Operational Requirements Documents. TED is responsible for approving Operational Test Agent selection, the Test and Evaluation Master Plan, the Operational Test Plan and the Developmental Test and Evaluation Plans that support Acquisition Decision Events 2C/3. In addition to providing the Letter of Assessment to the Chief Acquisition Officer and Component Acquisition Executive to support acquisition decisions, TED is also a member of the Acquisition Review Board.



## ATTACHMENT 1: Operating Model Blueprint



<b>Question#:</b>	17
<b>Topic:</b>	Legal Orientation to Migrants I
<b>Hearing:</b>	Resources and Authorities Needed to Protect and Secure the Homeland
<b>Primary:</b>	The Honorable Kyrsten Sinema
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** Since January 2019, DHS has implemented several new programs to expedite asylum processing for migrants arriving at the southwest border. These programs include Migrant Protection Protocols (MPP), Prompt Asylum Claim Review (PACR), Humanitarian Asylum Relief Process (HARP) and Asylum Cooperative Agreements (ACA). While I support the agency's efforts to make our existing credible fear process more efficient and effective while simultaneously protecting our borders, several requests for more information about these programs from my office to DHS have gone unanswered. I want to ensure that the implementation of these programs provides a fair and just process for migrants seeking asylum. Two main concerns I have are that the rapid implementation and expansion of these programs has failed to ensure migrants get a proper legal orientation regarding their rights and that access to counsel is extremely limited. It is critical that we work to improve both of those concerns so that our nation knows that migrants are being treated fairly and humanely when they come to our borders.

What factors were reviewed to determine if a Port of Entry, Border Patrol Station or Border Patrol Sector could support one or more of these programs in operation?

**Response:** CBP abides by current laws, policies, regulations, court rulings and agreements between other federal agencies and participating countries, which may limit the ability of CBP to expand these programs. Practical, physical, and legal limitations also influence the ability to expand these programs to all amenable populations in all locations.

**Question.** How specifically was the ability of CBP to offer legal orientation to migrants taken into account when making these decisions?

**Response:** CBP took into account the existing capabilities to provide legal orientation to aliens who would be subject to these programs. Aliens in these specific programs are provided tear sheets, translated into the alien's language, that explains the program to which they are enrolled. Aliens processed for Expedited Removal with Credible Fear are provided with a CBP Form M-444, Information About Credible Fear Interview. Aliens processed for Notice to Appear are provided with a list of free legal service providers, which is maintained by the DOJ's Executive Office of Immigration Review (EOIR). Aliens in ICE Enforcement and Removal Operations (ERO) custody, including aliens processed under MPP returning for their hearing at an IHF, receive in-person or video "Know Your Rights" presentations.

<b>Question#:</b>	18
<b>Topic:</b>	Physical Space
<b>Hearing:</b>	Resources and Authorities Needed to Protect and Secure the Homeland
<b>Primary:</b>	The Honorable Kyrsten Sinema
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** When deciding where to institute these programs, what considerations were given to physical space in Port of Entry facilities and Border Patrol stations to allow for migrants to make calls to legal aid groups, receive calls in return, meet with legal representation within CBP facilities, and have legal representation present or available by phone while doing credible or reasonable fear interviews?

**Response:** CBP took into account the existing capacity to provide legal orientation to aliens who would be subject to these programs in the locations where implemented.

<b>Question#:</b>	19
<b>Topic:</b>	Challenges Identified
<b>Hearing:</b>	Resources and Authorities Needed to Protect and Secure the Homeland
<b>Primary:</b>	The Honorable Kyrsten Sinema
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** Moving forward, what are the major challenges identified during the pilot of these programs that will need to be addressed before implementing any of these programs further across the southwest border?

**Response:** CBP Border Patrol stations and ports of entry were constructed as short term holding facilities. To expand some of these programs further, CBP would need to ensure applicable facilities can provide services consistent with holding individuals in CBP for longer periods of time.

<b>Question#:</b>	20
<b>Topic:</b>	Language Access Efforts
<b>Hearing:</b>	Resources and Authorities Needed to Protect and Secure the Homeland
<b>Primary:</b>	The Honorable Kyrsten Sinema
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** The Department of Homeland Security recognizes the importance of being able to communicate effectively with individuals, including those with limited English proficiency (LEP), across many missions, initiatives and functions. The DHS Office for Civil Rights and Civil Liberties (CRCL), which leads the Department's language access efforts, supports the Department as it secures the nation while preserving individual liberty, fairness, and equality under the law. Please explain how DHS ensured that implementation of these expedited asylum programs would meet standards laid out by CRCL to guarantee LEP individuals can meaningfully participate in their asylum process and interact with DHS.

Was the four-factor analysis laid out in the DHS Master Language Access plan reviewed before implementing programs such as MPP, PACR, HARP and ACA? What potential deficiencies were identified as part of this analysis before implementing these programs?

Were any outside experts, linguist experts, or other stakeholders consulted regarding language access for migrants being placed in expedited asylum processing programs?

**Response:** DHS is committed to providing appropriate language access to Limited English Proficiency (LEP) persons in all of its programs and activities, including in its asylum programs. DHS, including its Components, have implemented the requirements of Executive Order 13166, Improving Access to Services for Persons with LEP (August 11, 2000), DHS-wide Language Access Plan and, as applicable, Component Language Access Plans. The DHS Office for Civil Rights and Civil Liberties (CRCL) is responsible for providing guidance and oversight for implementing the provisions of Executive Order 13166 and ensuring consistency and accountability across DHS. CRCL has provided guidance to CBP on meeting language access requirements in MPP and immigration enforcement programs generally and has solicited the advice of experts, linguists, and other stakeholders on language access needs of specific populations encountered at the border.

<b>Question#:</b>	21
<b>Topic:</b>	Language Access Plan Resources
<b>Hearing:</b>	Resources and Authorities Needed to Protect and Secure the Homeland
<b>Primary:</b>	The Honorable Kyrsten Sinema
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** What tools and resources referenced in CBP's Language Access Plan are available to CBP personnel carrying out programs such as MPP and PACR?

**Response:** The United States Border Patrol (USBP) has a Spanish language requirement for their Border Patrol Agents. At the Border Patrol Academy, all Border Patrol Agents are provided Spanish language training, and completion of this training is a requirement before graduation. The current Spanish curriculum incorporates processing procedures in objective-driven exercises utilizing the Spanish language, which falls within interdiction and processing of LEP subjects. In addition, USBP has a national contract for language interpretation services that can be accessed telephonically when employees who may provide language assistance are not available. Additionally, USBP employees have access to the job aids to assist in their use of the Spanish language.

The Office of Field Operations (OFO) has a protocol for the use of interpreters and translation services, which is triggered by a request for language services. CBP also utilizes other means of interpretation and translation, including Agency employees certified to provide language services. If a need for language services cannot be met using these resources, USCIS Language Line or a contract language service provider may be utilized.

In addition, CBP has posted the CRCL "I Speak" multi-lingual posters nationwide at operational locations to assist officers and agents in identifying languages spoken by LEP members of the public that CBP encounters in its programs and activities.

**Question.** What additional tools and resources can we help provide to ensure language access meets CRCL guidelines?

**Response:** There is a shortage of qualified interpreters and translators that can communicate in the indigenous languages of Central America and Mexico that DHS and its components may use to communicate with the indigenous populations in carrying out DHS's missions. DHS is working to fill this gap using appropriated resources.

Toward this end, CRCL and the DHS Language Access Working Group hosted a day-long Central American Indigenous Languages Roundtable on August 21, 2019, to bring together DHS Components, non-government organizations, and other federal agencies who interact with DHS personnel across the country on issues where language access is implicated, including on the U.S. Southern Border. The roundtable provided an opportunity to discuss the practices the Components were utilizing to communicate with indigenous individuals, identify challenges and effective practices to provide meaningful access, and explore ways to increase the availability of

<b>Question#:</b>	21
<b>Topic:</b>	Language Access Plan Resources
<b>Hearing:</b>	Resources and Authorities Needed to Protect and Secure the Homeland
<b>Primary:</b>	The Honorable Kyrsten Sinema
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

indigenous-speaking interpreters. This effort will continue in 2020 with two additional Central American Indigenous Languages Roundtable meetings with frontline officers and agents from several DHS Components, and subsequently with community stake holders, members or representatives of the Central American indigenous communities, and professionals associations to obtain their feedback on current practices and resources and/or best practices for providing meaningful access to indigenous language speakers.

<b>Question#:</b>	22
<b>Topic:</b>	Adequate Legal Counsel
<b>Hearing:</b>	Resources and Authorities Needed to Protect and Secure the Homeland
<b>Primary:</b>	The Honorable Kyrsten Sinema
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** One of the most concerning things my office hears during discussions with Arizona non-profit and legal aid organizations is that migrants placed into expedited asylum processes do not have access to legal orientation material, are provided material in a language they do not understand, have no opportunity to make phone calls with legal counsel, and generally do not understand what is happening to them throughout the process.

Do you feel that migrants in DHS custody who are participating in these fast-track asylum programs get adequate legal orientation and have fair access to legal counsel if they seek it? Why or why not?

**Response:** Individuals in Prompt Asylum Claim Review (PACR) and Humanitarian Asylum Review Process (HARP) are in the credible fear process and are entitled to all of the procedures specified under 8 USC 1225(b)(1) and 8 CFR 208.30. Each individual in the credible fear process receives a Form M-444, Information about Credible Fear Interview. The M-444 explains that the individual may consult with a person of his or her choosing prior to the interview and the consultant may participate by telephone in the interview. The M-444 also provides that the interview will usually occur at least 48 hours after the individual's arrival at the detention facility in order to give the individual time to consult with a consultant by telephone. At the beginning of each interview, asylum officers verify that the individual received the M-444 in a language they understand, and that he has an understanding of the credible fear determination process.

Due to limited capacity and resources at ports of entry and Border Patrol stations, and the need for orderly and efficient processing of individuals, DHS generally is unable to provide access to counsel during MPP fear assessment interviews. However, as of December 5, 2019, USCIS is generally permitting access to counsel during MPP non-*refoulement* (fear assessment) interviews that occur at IHFs in Laredo and Brownsville, TX. DHS also provides access to counsel to all individuals detained in CBP custody in California awaiting or undergoing MPP fear-assessment interviews pursuant to the preliminary injunction and class certification orders in *Doe v. McAleenan*, No. 19-cv-2119 (S.D. Cal. Jan. 14, 2020) (requiring in-person access to retained counsel prior to non-*refoulement* interviews and telephonic access during non-*refoulement* interviews for “[a]ll individuals who are detained in CBP custody in California awaiting or undergoing non-*refoulement* interviews pursuant to the ‘Migrant Protection Protocols’ program and who have retained lawyers”).



<b>Question#:</b>	23
<b>Topic:</b>	Legal Orientation to Migrants II
<b>Hearing:</b>	Resources and Authorities Needed to Protect and Secure the Homeland
<b>Primary:</b>	The Honorable Kyrsten Sinema
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** Can you please list all mediums through which legal orientation is provided to migrants in CBP custody, the languages the material is translated into besides English, how often the material is updated, and who is responsible for updating these materials?

**Response:** Aliens processed for Expedited Removal who are referred to USCIS for a credible fear screening are provided with USCIS Form M-444, Information About Credible Fear Interview which describes an alien's right to consult with a person(s) of the alien's choosing, as well as what to expect during the credible fear interview with an asylum officer. The M-444 is currently available in twelve language translations and is maintained by USCIS. If the M-444 is not currently available in the alien's preferred language the content of the form will be read to the alien via interpreter. USCIS updates the Form M-444 as needed to reflect current law and policy. Aliens processed for MPP or ACA receive a Tear Sheet that explains the MPP or ACA process. Aliens processed for Notice to Appear are provided with a list of free legal service providers which is maintained by EOIR. Aliens in ICE ERO custody, including aliens processed under MPP, returning for their hearing at an IHF, receive in-person or video "Know Your Rights" presentations.

<b>Question#:</b>	24
<b>Topic:</b>	Legal Orientation Programs I
<b>Hearing:</b>	Resources and Authorities Needed to Protect and Secure the Homeland
<b>Primary:</b>	The Honorable Kyrsten Sinema
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** Are there different legal orientation materials used for each different program (MPP, PACR, HARP, ACA)?

If so, what are the critical differences in the legal orientation migrants are provided within each of these programs?

**Response:** Aliens processed for Expedited Removal who are referred to USCIS for a credible fear screening (which includes PACR and HARP) are provided with USCIS Form M-444, Information About Credible Fear Interview which describes an alien's right to consult with a person(s) of the alien's choosing, as well as what to expect during the credible fear interview with an asylum officer. The M-444 is currently available in twelve language translations. If the M-444 is not currently available in the alien's preferred language the content of the form will be read to the alien via interpreter. Aliens processed for MPP and ACA receive a Tear Sheet that explains the MPP or ACA process. Aliens processed for Notice to Appear are provided with a list of free legal service providers which is maintained by the Executive Office of Immigration Review (EOIR). Aliens in ICE ERO custody, including aliens processed under MPP, returning for their hearing at an IHF, receive in-person or video "Know Your Rights" presentations.

<b>Question#:</b>	25
<b>Topic:</b>	Legal Orientation Programs II
<b>Hearing:</b>	Resources and Authorities Needed to Protect and Secure the Homeland
<b>Primary:</b>	The Honorable Kyrsten Sinema
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** The Executive Office for Immigration Review (EOIR) and ICE/ERO have instituted legal orientation programs (LOP) for migrants going through asylum processing. Evidence has shown the LOP program to be remarkably successful by fiscal, efficiency, and due process-related measures. Currently these vital programs reach only a fraction of all immigrants facing deportation proceedings and without basic understanding of their rights and legal representation, it is nearly impossible for individuals to navigate our complex immigration laws and system.

What aspects of the LOP program as it exists within ICE/ERO could be applied to migrants undergoing the asylum processing and consideration, such as being part of the PACR or HARP programs, while in CBP custody?

**Response:** Aliens in PACR and HARP are in the credible fear screening process and are allowed telephonic access to any person(s) of their choosing, including legal counsel. When initially oriented into the programs, the subjects are provided a Department of Justice list of free or low cost legal services. Aliens are then provided at least 48 hours to consult with any person(s) of their choosing before their credible fear interview with USCIS. During the alien's credible fear interview with USCIS, the alien's consultant or attorney may participate in the interview telephonically.

**Question.** What are the biggest challenges CBP would face in implementing LOP at the agency's facilities?

**Response:** CBP facilities are short-term holding facilities and are not constructed to facilitate on site legal consultation.

**Question.** What steps can Congress and the Administration take to assist CBP in instituting a meaningful LOP for migrants in your care?

**Response:** CBP facilities are designed as short-term holding facilities which are not conducive to providing onsite legal counsel. An expeditious transfer of custody of migrants to an ICE/ERO facility would provide an opportunity for onsite legal counsel.