

**MEASURING OUTCOMES TO UNDERSTAND THE  
STATE OF BORDER SECURITY**

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**HEARING**

BEFORE THE

**SUBCOMMITTEE ON BORDER  
AND MARITIME SECURITY**

OF THE

**COMMITTEE ON HOMELAND SECURITY  
HOUSE OF REPRESENTATIVES**

ONE HUNDRED THIRTEENTH CONGRESS

FIRST SESSION

MARCH 20, 2013

**Serial No. 113-8**

Printed for the use of the Committee on Homeland Security



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

U.S. GOVERNMENT PRINTING OFFICE

82-582 PDF

WASHINGTON : 2013

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## MEASURING OUTCOMES TO UNDERSTAND THE STATE OF BORDER SECURITY

Wednesday, March 20, 2013

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

The subcommittee met, pursuant to call, at 10:03 a.m., in Room 311, Cannon House Office Building, Hon. Candice S. Miller [Chairwoman of the subcommittee] presiding.

Present: Representatives Miller, Barletta, Jackson Lee, and O'Rourke.

Also present: Representative Barber.

Mrs. MILLER. The Committee on Homeland Security, our Subcommittee on Border and Maritime Security, will come to order.

The subcommittee is meeting today to examine how to measure our Nation's border security and our witnesses today are Chief Michael Fisher, chief of the United States Border Patrol, Kevin McAleenan, acting assistant commissioner in the Office of Field Operations at U.S. Customs and Border Protection, Mark Borkowski, who is the assistant commissioner for the Office of Technology, Innovation, and Acquisition at the U.S. Customs and Border Protection, and Judge Veronica Escobar of El Paso County Texas, and we certainly welcome all of our panel. I will introduce them a bit more in detail in just a moment.

But how this committee and how this Congress really, this subcommittee, approaches border security should be based on answers I think to some very simple questions.

First of all, what does a secure border actually look like? How do we get there? Then, how do we measure it?

As Chairwoman of the subcommittee, I have made these questions certainly a focal point of our efforts here in this Congress. Identifying some of the principal characteristics of what a secure border looks like was the goal of this subcommittee's first hearing.

Today, we are going to be examining what is perhaps the most important piece of border security, and its puzzle so to speak, and that is how we measure border security outcomes.

In the past, we have based our standing of border security progress at how much technology or how much personnel we have along the border or how many linear miles of the border that were under operational control.

The current conversation focuses on the record, the number of Border Patrol agents, on how many UAVs we have there, on the fact that the amount of people that we are catching is low. So we

assume that the border must be secure, and security is certainly more than resources or low apprehension rates.

Without a way to quantify effectiveness there can be really no sound basis for determining how secure our borders are, let alone justification for immigration policy decisions.

I think it is time to change the conversation up a little bit. In my view I think a better way to the state of border security is how effective we are at keeping bad people or bad things out of the country; basically, we need to stop measuring resources and pivot to a measurement of outcomes.

Our borders, whether that is the Southern Border or the Northern Border or all of our maritime borders, are very dynamic places that are constantly changing. Once we have secured a section of the border, that doesn't mean that it will be secured forever.

Smugglers are always going to seek out the area of least resistance and how we address our border security in measuring that has to reflect that reality also.

At our last hearing, Assistant Commissioner McAleenan said something that I want to reiterate. He said, "There is no single measure that will tell the whole story at the border," which I thought was very true. I certainly agree with that, which is why I am certainly open to a series of measures that could better inform the security and the vastly different terrain along the border or at our ports of entry and in the maritime environment.

Unfortunately, such measures do not exist today. They don't seem to be ready in the near-term. The Department of Homeland Security officials have been telling us for quite a few years that, sort of, the next holistic measure called the Border Condition Index is on its way and we have yet to see—to have it make its appearance.

Although I certainly have said that I am willing to look at better ways, different ways to measure border security, but we are looking for the Department to deliver on that.

My hope today is that we will get some good answers about the status of the BCI, what measures it will take into account, and when it may be ready.

In fact, several Members have asked questions about the status of the BCI at our last hearing, but again, we were not able to get answers really from those on the ground.

This is very troubling because if we learned anything from the failure of SBInet, it was that the operators on the ground have to be more involved, must be more involved. The ground-floor stakeholders must be more involved in the development of border security decisions, I think, in order to prevent any failure.

Developing a complicated measure without the continual input of the men and women who are in the field, on the ground, who will be held to this standard, is not the best way to do business.

So, if the BCI cannot be ready in 2 years, you know, we have to question if it is going to be a useful tool.

In 2010, when the administration stopped reporting operational control information, the GAO warned that—they said, "The absence of measures for border security may reduce oversight and the Department of Homeland Security accountability."

Congress and the American people must have a great deal of confidence that the Nation's border security agencies can deter or apprehend the overwhelming majority who cross the border illegally, and possess the ability as well to interdict drugs and whatever else may be coming across destined for American cities, that we don't want to be coming into our country.

I think absence of such assurances, we will just have the same border security and immigration conversations next year and the following year and the following year thereafter.

In my view, only a robust and agreed-upon way to measure outcomes can be the basis for that confidence. All of the DHS components for the nexus to the border have to be held accountable for success or failure, progress or not.

We need to have a comprehensive strategy to secure the border and part of that strategy has to be a measurement system that makes sense.

The Department should be held accountable for outcomes and certainly not keep telling us that the border is just more secure than ever because there are a lot of agents or technology or infrastructure along the border.

Again, we have to be able to have a robust way of measuring it; something that can be explained, easily explained to the American people, that we are going in the right direction.

So I certainly look forward to hearing from our distinguished panel this morning. I think we have a lot of expertise, fantastic expertise, before the subcommittee here today, and I we certainly look forward to hearing from them and at this time, I would yield to the Ranking Member for an opening statement.

Ms. JACKSON LEE. Good morning. I thank the gentlelady from Michigan for yielding, and I am very pleased with your leadership and us working together on a very important component of America's National security, and more importantly, Madam Chairwoman, asserting of the jurisdictional authority of Homeland Security and the Border and Maritime Security Subcommittee as it relates to the question of comprehensive immigration reform.

We know well that as the debate moves rather swiftly, one of the issues that has been raised, that will be raised, either as a constructive component or either in some camps and categories as one that would distract from comprehensive immigration reform, it is whether or not we have a secure border.

Your last hearing, our last hearing, where we asked how the border was being secured was an important outlay, if you will, of establishing what is actually happening.

This hearing is important because it is really key to have how that is measured and the experts that you have here, as I welcome the witnesses, will be very constructive in our journey toward making sure that the border security effort is led by this full committee, Chairman, and Ranking Member, and this subcommittee that I believe is working with good intentions.

Let me also acknowledge Congressmen Beto O'Rourke for championing the value of understanding the border and providing us with insight as relates to the expertise that is in his Congressional district. So besides the witnesses, we look forward to welcoming

Judge Escobar for that expertise, and we thank the Congressman for his leadership on that issue.

I am pleased the subcommittee is meeting to examine the Department of Homeland Security's efforts to use metrics to quantify border security.

This discussion is particularly timely as Congress continues to work on legislation to reform our immigration system; border security will be an integral part of this discussion.

Also in recent years, Congress has made unprecedented investments in border security personnel, technology, and resources to help DHS achieve that goal.

Existing border metrics, while perhaps imperfect, indicate these investments have paid off. Apprehensions at border crosses totaled nearly 365,000 Nation-wide in fiscal year 2012, which is a 78 percent decrease from their peak in fiscal year 2000.

According to the Government Accountability Office, Border Patrol data shows that the effectiveness rate for eight of the nine Border Patrol sectors on the Southwest Border improved from fiscal years 2006 to 2011.

They also found that the recidivism rate across has dropped to 36 percent in fiscal year 2011, down from 42 percent in fiscal year 2008.

Certainly, our leadership on the board should be acknowledged for the work that our law enforcement has done along with homeland security. It is important to note these strides, and we thank you for it.

It is important that for Congress to have an accurate assessment of remaining needs at our borders so we can identify areas for improvement. But I am encouraged that the trends—about the trends that we are seeing. But I also want to say that we want to make sure these trends are being seen in the light that they should be and that is that you have the resources that you need or is it combined with the weak economy. Likely we will hear some of that today.

While metrics are useful to measure our continued progress towards better-managed borders, I will reiterate my strong opposition to tying a comprehensive immigration reform to achieving some arbitrary standard of border security or some exaggerated standard; meaning that to make the argument that the border is not secure and won't be for many years to come and therefore we will not be able to complete comprehensive immigration reform.

Indeed, we must move forward on parallel tracks reforming our broken immigration system while continuing to work together to achieve more secure borders.

I would also caution that no single number or metrics can tell us whether our borders are secure. Geography and terrain of our borders are very diverse and the threats can differ from mile to mile based on highways, mountains, waterways, planes, and deserts.

Madam Chairwoman, I do want to focus on the area that our colleague, Mr. Barber, is from, the Arizona desert area, and the concerns that he has expressed over the last couple of months in the time that he has been on this committee.

Also metrics that are useful at the ports of entry will differ from those that are meaningful for between the ports of entry. Instead



I believe DHS should use a range of data points combined with the stakeholder input to determine the state of the border and to make decisions about where additional resources may be necessary.

Today I hope to hear from the operators, Chief Fisher, Assistant Commissioner McAleenan, about what they believe are the best metrics to assess the state of our borders.

I am particularly interested in hearing from the CBP about what metrics are most valuable at the ports of entry, which is something we hear less about compared to challenges between the ports of entry.

Further, I want to hear about how Mr. Borkowski uses information from the operators both in developing Border Condition Index and making border security technology acquisition decisions.

Last, and arguably most importantly, I would like to hear from Judge Escobar on how border cities' and communities' input and needs could be included in these decisions.

I thank the witnesses for joining us and look forward to a productive discussion.

Finally, in conclusion, I am aware of the GAO report, which I will make more comments on as I go forward, and the metrics request that was made by Congressman Thompson and also Mr. Barber, and as the Ranking Member, I will look forward to analyzing that report and probing it more closely.

Finally, Madam Chairwoman, I will look to posing some questions regarding the utilization of drones on the border and will look forward to some in-depth responses to that inquiry.

This is an important hearing. I thank the witnesses and look forward to a productive discussion.

I yield back to the gentlelady.

Mrs. MILLER. I thank the gentlelady, and I am prepared to accept a UC request if the gentlelady would like to offer one for Mr. Barber to sit in on our hearing. He said he had to run a quick errand and be right back.

Ms. JACKSON LEE. I do. I ask unanimous consent that Mr. Barber, as a Member of the full committee who is not a Member of the subcommittee, have permission to sit and to inquire through questioning on this committee and at this hearing.

Mrs. MILLER. Without objection.

Ms. JACKSON LEE. Thank you.

Mrs. MILLER. Other Members of the committee are reminded that opening statements might be submitted for the record and again, we are pleased to have four very, very distinguished witnesses before our panel here today.

Michael Fisher was named chief of the United States Border Patrol in May 2012. Chief started his duty along the Southwest Border in 1987 in Douglas, Arizona. He has also served as the deputy chief patrol agent in the Detroit sector and as an assistant chief patrol agent in Tucson.

Mr. Kevin McAleenan is the acting assistant commissioner at the U.S. Customs and Border Protection where he is responsible for overseeing CBP's antiterrorism, immigration, anti-smuggling, trade compliance, and agricultural protection operations at the Nation's 331 ports of entry.

Welcome both of them back.

Mark Borkowski became the assistant commissioner at the Office of Technology, Innovation, and Acquisition at the U.S. Customs and Border Protection in July 2010.

In this role, he is responsible for ensuring technology efforts are properly focused on mission and well-integrated across CBP. Prior to his appointment as the assistant commissioner, Mr. Borkowski was the executive director of the Secure Border Initiative, SBInet.

Veronica Escobar was sworn in as El Paso County Judge on January 1, 2011. She works on issues related to health care, border policy, government consolidation, nature tourism, economic development. In her role as judge, she has been active in addressing issues important in border communities.

Judge, in my area, we call you the county executive. That is our term in Michigan for what you do there.

But we welcome all of you here and certainly the witnesses' full written statements will appear in the record.

The Chairwoman now recognizes Chief Fisher for his testimony, and thanks again for appearing once again before this subcommittee, Chief.

**STATEMENT OF MICHAEL J. FISHER, CHIEF, BORDER PATROL,  
DEPARTMENT OF HOMELAND SECURITY**

Chief FISHER. Chairwoman Miller, thank you for the opportunity.

Ranking Member Jackson Lee, Congressman O'Rourke, Congressman Barletta, it is an honor to appear before you today to discuss the state of border security and the role that the Border Patrol agents and our mission support employees play to secure the border along with our strategic partners.

I believe the committee has it right in terms of characterizing the border as a non-static state and framing the discussion around the state of border security.

As we have discussed in the past, the border fluctuates with ever-present and dynamic threats along the continuum of potential vulnerabilities at a point in time.

A condition that sets in motion risk mitigation as well as risk management responses primarily utilizing advanced information, operational and technological integration, and rapid response applied both at the strategic and the tactical level, all the while, recognizing the interdependency of intelligence, interdiction, and investigative capabilities.

As stated in my previous remarks before this committee, I believe the state of border security is one in which we reduce the likelihood of attack to the Nation, one that provides safety and security to the citizens against the dangerous people seeking entry into the United States.

Given this framework, the question becomes how should we measure this, not just how we can measure this; an important distinction in my opinion.

In order to explain how we might show sustained progress over time in this mission space, I want to frame my brief remarks against our strategic plan. I will start with our classified environment, which is nothing less than the prevention of terrorists and terrorist weapons from entering the United States.

I propose that I would prefer this committee on the potential corridor threats to the homeland and describe to you our integrated risk mitigation approach.

In a classified setting, I would share how we are prioritizing threats and how we are refining situational awareness. If amendable, we would also include outcome measures for your insights towards our progress.

In the unclassified environment, our focus for this hearing on managing risk and disrupting and degrading transnational criminal organizations. Outcome measures to assess our progress in this area would include the following.

First, analysis of unique subjects, which helps us determine the number of people who have entered between the ports of entry and were subsequently apprehended.

Distinguishing unique subjects and as a subset of apprehensions is important because it informs our understanding of patterns and rates of flow toward and into the United States. It also allows us to measure illegal activity at in between the ports of entry.

The second outcome measure would be recidivism, which separates the number of people arrested at least two times from those who are arrested only once.

Third, the average apprehension-per-recidivist rate provides us with the ability to analyze the flow and corresponding trends to distinguish between those that only enter two times from those with multiple entries in a given area over a period of time.

This is important in assessing the threat. Moreover, as a measure, it informs our decisions to redeploy resources to high-risk areas as well as applying the appropriate consequences in order to reduce a further entry while disrupting criminal smuggling networks culminating and reduce flow rates.

Fourth, as we have discussed in the past, affective rates in corridors characterized by significant illegal cross-border activity is equally important. We need to be aware of those who make illegal entry and track as best we can the outcome.

Now we are learning and getting better at knowing how many people entered, and of that number, how many did we apprehend or turn back. This, in essence, is the effectiveness ratio; an informed assessment governed by our best efforts of integrating technology along with our agent judgment and experience not predicated on certitude.

Fifth, and final, post-apprehension analysis. For instance, how many individuals do we arrest with criminal records and what does the trend line suggest? How many individuals have outstanding arrest warrants? Were they previously removed from the United States, and if so, under what circumstances? Were they arrested while smuggling illegal contraband?

These are just a few examples of outcome measures that I would offer this committee. To balance our judgments regarding the state of border security, outside entities at that track similar measures may be used.

For instance, the FBI's uniform crime reports, established to meet the needs for reliable, uniform crime statistics for the Nation, perhaps may be useful. Today, data from these reports and the

analysis are provided by nearly 17,000 law enforcement agencies across United States.

In conclusion, I want to thank the committee for leading this important effort to get the outcome measures right. I look forward to questions. Thank you.

[The joint prepared statement of Chief Fisher, Mr. McAleenan, and Mr. Borkowski follows:]

JOINT PREPARED STATEMENT OF MICHAEL J. FISHER, KEVIN MCALEENAN, AND MARK BORKOWSKI

MARCH 20, 2013

Chairwoman Miller, Ranking Member Jackson Lee, and distinguished Members of the subcommittee, it is an honor to appear before you today to discuss the role of U.S. Customs and Border Protection (CBP) in securing America's borders, a role that we share with our Federal, State, local, Tribal, and international partners.

We are here today to discuss measurements of border security. Some have suggested that it can be measured in terms of linear miles of "operational control," a tactical term once used by the Border Patrol to allocate resources among sectors and stations along the border. We do not use this term as a measure of border security because the reality is that the condition of the border cannot be described by a single objective measure. It is not a measure of crime, because even the safest communities in America have some crime. It is not merely a measure of resources, because even the heaviest concentration of fencing, all-weather roads, 24-hour lighting, surveillance systems, and Border Patrol agents cannot seal the border completely.

For border communities, important barometers for success are security and facilitation of travel and trade. A secure border means living free from fear in their towns and cities. It means an environment where businesses can conduct cross-border trade and flourish. For other American communities, it means enjoying the benefits of a well-managed border that facilitates the flow of legitimate trade and travel. Our efforts, combined with those of our international, Federal, State, local, and Tribal partners, have transformed the border and assist in continuing to keep our citizens safe, our country defendable from an attack, and promote economic prosperity.

For CBP, securing our borders means first having the visibility to see what is happening on our borders, and second, having the capacity to respond to what we see. We get visibility through the use of border surveillance technology, personnel, and air and marine assets. Our ability to respond is also supported by a mix of resources including personnel, tactical infrastructure, and air and marine assets.

#### UNPRECEDENTED RESOURCES AT OUR BORDERS

Thanks to your support, the border is more secure than ever before. Since its inception, DHS has dedicated historic levels of personnel, technology, and infrastructure in support of our border security efforts. Resource levels, when considered with other factors, remain essential aspects in helping to assess the security of our borders.

#### *Law Enforcement Personnel*

Currently, the Border Patrol is staffed at a higher level than at any time in its 88-year history. The number of Border Patrol agents (BPAs) has doubled, from approximately 10,000 in 2004 to more than 21,000 agents today. Along the Southwest Border, DHS has increased the number of law enforcement on the ground from approximately 9,100 BPAs in 2001 to nearly 18,500 today. At our Northern Border, the force of 500 agents that we sustained 10 years ago has grown to more than 2,200. Law enforcement capabilities at the ports of entry (POEs) have also been reinforced. To support our evolving, more complex mission since September 11, 2001, the number of CBP officers (CBPOs) ensuring the secure flow of people and goods into the Nation has increased from 17,279 customs and immigration inspectors in 2003, to more than 21,000 CBPOs and 2,400 agriculture specialists today. These front-line employees facilitated \$2.3 trillion in trade in fiscal year 2012, and welcomed a record 98 million air travelers, a 12 percent increase since fiscal year 2009, further illustrating the critical role we play not only with border security, but with economic security and continued growth.

### *Infrastructure and Technology*

In addition to increasing our workforce, DHS has also made unprecedented investments in border security infrastructure and technology. Technology is the primary driver of all land, maritime, and air domain awareness—and this will become only more apparent as CBP faces future threats. Technology assets such as integrated fixed towers, mobile surveillance units, and thermal imaging systems act as force multipliers increasing agent awareness, efficiency, and capability to respond to potential threats. As we continue to deploy border surveillance technology, particularly along the Southwest Border, these investments allow CBP the flexibility to shift more BPAs from detection duties to interdiction and resolution of illegal activities on our borders.

At our POEs, CBP has aggressively deployed Non-Intrusive Inspection (NII) and Radiation Portal Monitor (RPM) technology to identify contraband and weapons of mass effect. Prior to September 11, 2001, only 64 large-scale NII systems, and not a single RPM, were deployed to our country's borders. Today CBP has 310 NII systems and 1,460 RPMs deployed. The result of this investment in resources is the capacity for CBP to scan 99 percent of all containerized cargo at seaports and 100 percent of passenger and cargo vehicles at land borders for radiological and nuclear materials upon arrival in the United States.

The implementation of the Western Hemisphere Travel Initiative (WHTI) involved a substantial technology investment in the land border environment; this investment continues to provide both facilitation and security benefits. For example, today, more than 19 million individuals have obtained Radio Frequency Identification (RFID) technology-enabled secure travel documents. These documents are more secure as they can be verified electronically in real time back to the issuing authority, to establish identity and citizenship; they also reduce the average vehicle processing time by 20 percent.

An outcome of the increased use of RFID-enabled secure travel documents is CBP's capability to increase the National law enforcement query rate, including the terrorist watch list, to more than 98 percent. By comparison, in 2005, CBP performed law enforcement queries in the land border environment for only 5 percent of travelers. In terms of facilitation, CBP has also capitalized upon these notable improvements to establish active lane management at land border ports; this process is analogous to the management of toll booths on a highway. Through active lane management, CBP can adjust lane designations as traffic conditions warrant to better accommodate trusted travelers and travelers with RFID-enabled documents.

CBP continues to optimize the initial investment in the land border by leveraging new technologies and process improvements across all environments. Since 2009, a variety of mobile, fixed, and tactical hybrid license plate readers (LPR) solutions have been deployed to 40 major Southern Border outbound crossings and 19 Border Patrol checkpoints. These capabilities have greatly enhanced CBP's corporate ability to gather intelligence and target suspected violators by linking drivers, passengers, and vehicles across the core mission areas of in-bound, checkpoint, and out-bound. In the pedestrian environment, automated gates coupled with self-directed traveler kiosks now provide document information, query results, and biometric verification in advance of a pedestrian's arrival to CBPOs.

CBP not only supports security efforts along the nearly 7,000 miles of land borders, but also supplements efforts to secure the Nation's 95,000 miles of coastal shoreline. CBP has more than 268 aircraft, including 10 Unmanned Aircraft Systems (UAS), and 293 patrol and interdiction vessels that provide critical aerial and maritime surveillance and operational assistance to personnel on the ground. Our UAS capabilities now cover the Southwest Border all the way from California to Texas, providing critical aerial surveillance assistance to personnel on the ground. Our UAS flew more than 5,700 hours in 2012, the most in the program's history. Over the last 8 years, CBP transformed a border air wing composed largely of light observational aircraft into a modern air and maritime fleet capable of a broad range of detection, surveillance, and interdiction capabilities. This fleet is extending CBP's detection and interdiction capabilities, extending our border security zones, and offering greater opportunity to stop threats prior to reaching the Nation's shores. Further synthesizing the technology, CBP's Air and Marine Operations Center (AMOC) integrates the surveillance capabilities of its Federal and international partners to provide domain awareness for the approaches to American borders, at the borders, and within the interior of the United States.

CBP is also looking to the future by working closely with the DHS Science & Technology Directorate to identify and develop technology to improve our surveillance and detection capabilities in our ports and along our maritime and land borders. This includes investments in tunnel detection tactical communication up-

grades, and tunnel activity monitoring technology, low-flying aircraft detection and tracking systems, maritime data integration/data fusion capabilities at AMOC, cargo supply chain security, and border surveillance tools tailored to Southern and Northern Borders, including unattended ground sensors/tripwires, upgrades for mobile Surveillance Systems, camera poles, and wide-area surveillance.

#### INDICATORS OF SUCCESS

This deployment of resources has, by every traditional measure, led to unprecedented success. In fiscal year 2012, Border Patrol apprehension activity remained at historic lows with apprehensions in California, Arizona, and New Mexico continuing a downward trend. In fiscal year 2012, the Border Patrol recorded 364,768 apprehensions Nation-wide. In fiscal year 2012 apprehensions were 78 percent below their peak in 2000, and down 50 percent from fiscal year 2008. An increase in apprehensions was noted in south Texas, specifically of individuals from Central American countries, including El Salvador, Guatemala, and Honduras. However, significant border-wide investments in additional enforcement resources and enhanced operational tactics and strategy have enabled CBP to address the increased activity. Today, there are more than 6,000 BPAs in South Texas, an increase of more than 80 percent since 2004.

At POEs in fiscal year 2012, CBPOs arrested nearly 7,900 people wanted for serious crimes, including murder, rape, assault, and robbery. CBPOs also stopped nearly 145,000 inadmissible aliens from entering the United States through POEs. Outcomes resulting from the efforts of the CBP National Targeting Center and Immigration Advisory Program, include the prevention of 4,199 high-risk travelers, who would have been found inadmissible from boarding flights destined for the United States, an increase of 32 percent compared to fiscal year 2011.

We see increasing success in our seizures as well. From fiscal year 2009 to 2012, CBP seized 71 percent more currency, 39 percent more drugs, and 189 percent more weapons along the Southwest Border as compared to fiscal year 2006 to 2008. Nation-wide, CBP officers and agents seized more than 4.2 million pounds of narcotics and more than \$100 million in unreported currency through targeted enforcement operations. On the agricultural front, from fiscal year 2003 to fiscal year 2012, CBP interceptions of reportable plant pests in the cargo environment increased more than 48 percent to 48,559 in fiscal year 2012. In addition to protecting our Nation's ecosystems and associated native plants and animals, these efforts are important to protecting our Nation's economy as scientists estimate that the economic impacts from invasive species exceed \$1 billion annually in the United States.

Another indicator of the success of our combined law enforcement efforts is reduced crime rates along the Southwest Border. According to 2010 FBI crime reports, violent crimes in Southwest Border States have dropped by an average of 40 percent in the last 2 decades. More specifically, all crime in the 7 counties that comprise the South Texas area is down 10 percent from 2009 to 2011. Between 2000 and 2011, four cities along the Southwest Border—San Diego, McAllen, El Paso, and Tucson—experienced population growth, while also seeing significant decreases in violent crime.

These border communities have also seen a dramatic boost to their economies in recent years. In fiscal year 2012, more than \$176 billion in goods entered through the Laredo and El Paso, Texas POEs as compared to \$160 billion in fiscal year 2011. Additionally, the import value of goods entering the United States through Texas land ports has increased by 55 percent between fiscal year 2009 and fiscal year 2012. In Laredo alone, imported goods increased in value by 68 percent. Arizona is also a significant source for the flow of trade. In both fiscal year 2011 and fiscal year 2012, \$20 billion entered through Arizona POEs.

Communities along the Southwest Border are among the most desirable places to live in the Nation. Forbes ranked Tucson the No. 1 city in its April 2012 "Best Cities to Buy a Home Right Now" and in February, 2012, the Tucson Association of Realtors reported that the total number of home sales was up 16 percent from the same month the previous year. Tucson also joins Las Cruces, New Mexico on Forbes' list of "25 Best Places to Retire." These Southwest Border communities are also safe. In fact, *Business Insider* published a list of the top 25 most dangerous cities in America, and again, none of them is located along the Southwest Border. In fact, El Paso was named the second safest city in America in 2009 and the safest in 2010 and 2011. This is in dramatic contrast to Ciudad Juarez, just across the border, which is often considered one of the most dangerous cities in the Western Hemisphere.

The successes of a secure border are also reflected in key National economic measures. In 2011, secure international travel resulted in overseas travelers spending

\$153 billion in the United States—an average of \$4,300 each—resulting in a \$43 billion travel and tourism trade surplus. In addition, a more secure global supply chain resulted in import values growing by 5 percent and reaching \$2.3 trillion in fiscal year 2012 and is expected to exceed previous records in the air, land, and sea environments this year. CBP collects tens of billions of dollars in duties, providing a significant source of revenue for our Nation's treasury. These efforts compliment the strategies implemented by the President's National Export Initiative (NEI) which resulted in the resurgence of American manufacturers, who have added nearly 500,000 jobs since January 2010, the strongest period of job growth since 1989. Additionally, other efforts to boost trade and exports are producing results. In 2011, United States exports have reached record levels, totaling more than \$2.1 trillion, 33.5 percent above the level of exports in 2009. United States exports supported nearly 9.7 million American jobs in 2011, a 1.2 million increase in the jobs supported by exports since 2009. Further, over the first 2 years of the NEI, the Department of Commerce had recruited more than 25,000 foreign buyers to United States trade shows, resulting in about 1.7 billion in export sales. The administration's National Travel and Tourism Strategy calls for 100 million international visitors a year by the end of 2021, bringing more than \$250 billion in estimated spending.

#### PROTECTING AMERICA FROM AFAR: SECURE BORDERS EXPANDED

Although enforcement statistics and economic indicators point to increased security and an improved quality of life, many of these outcomes are a result of CBP's intelligence-based framework to direct its considerable resources toward a dynamic and evolving threat. CBP gathers and analyzes this intelligence and data to inform operational planning and effective execution.

CBP's programs and initiatives reflect DHS's ever-increasing effort to extend its security efforts outward. This ensures that our POEs are not the last line of defense, but one of many.

#### *Securing Travel*

On a typical day, CBP welcomes nearly a million travelers at our air, land, and sea POEs. The volume of international air travelers increased by 12 percent from 2009 to 2012 and is projected to increase 4 to 5 percent each year for the next 5 years. CBP continues to address the security elements of its mission while meeting the challenge of increasing volumes of travel in air, land, and sea environments, by assessing the risk of passengers from the earliest, and furthest, possible point, and at each point in the travel continuum.

As a result of advance travel information, CBP has the opportunity to assess passenger risk long before a traveler arrives at a POE. Before an individual travels to the United States, CBP has the opportunity to assess their risk via the Electronic System for Travel Authorization for those traveling under the Visa Waiver Program, or as part of the inter-agency collaborative effort to adjudicate and continuously vet visas, which are issued by the Department of State. CBP has additional opportunities to assess a traveler's risk when they purchase their ticket and/or make a reservation, and when they check-in.

Before an international flight departs for the United States from the foreign point of origin, commercial airlines transmit passenger and crew manifest information to CBP. CBP's National Targeting Center then reviews traveler information to identify travelers who would be determined inadmissible upon arrival. As part of its Pre-Departure and Immigration Advisory/Joint Security Programs, CBP coordinates with the carriers to prevent such travelers from boarding flights bound for the United States. From fiscal year 2010 through fiscal year 2012 CBP prevented 8,984 high-risk travelers from boarding as a result of these programs.

Additionally, CBP's work on business innovations and enhanced partnerships with private industry helped lead to the expansion of Trusted Traveler Programs like Global Entry. More than 1.7 million people, including more than 414,000 new members this fiscal year, have enrolled in Trusted Traveler Programs, which allow expedited clearance for pre-approved, low-risk air travelers upon arrival in the United States. When comparing 2011 and 2012, CBP processed 500,000 more passengers using Global Entry and there were 689,000 more kiosk uses in 2012.

These efforts not only allow CBP to mitigate risk before a potential threat arrives at a POE, but they also make the travel process more efficient and economical by creating savings for the Federal Government and the private sector by preventing inadmissible travelers from traveling to the United States.

#### *Securing Trade and the Supply Chain*

In fiscal year 2012, CBP processed 25.3 million cargo containers through the Nation's POEs, an increase of 4 percent from 2011, with a trade value of \$2.3 trillion.

The United States is the world's largest importer and exporter of goods and services. To address increasing travel volumes, CBP assesses the risk of cargo bound for the United States, whether by air, land, or sea, at the earliest point of transit.

Receiving advanced shipment information allows CBP to assess the risk of cargo before it reaches a POE. Since 2009, the Importer Security Filing (ISF) and the Additional Carrier Requirements regulation have required importers to supply CBP with an electronically-filed ISF consisting of advance data elements 24 hours prior to lading for cargo shipments that will be arriving into the United States by vessel. These regulations increase CBP's ability to assess the scope and accuracy of information gathered on goods, conveyances, and entities involved in the shipment of cargo to the United States via vessel.

Since 2010, CBP has implemented the Air Cargo Advance Screening (ACAS) pilot, which enables CBP and the Transportation Security Administration (TSA) to receive advance security filing cargo data and help identify cargo shipments inbound to the United States via the air environment that may be high-risk and require additional physical screening. Identifying high-risk shipments as early as possible in the air cargo supply chain provides CBP and TSA an opportunity to conduct a comprehensive review of cargo data while facilitating the movement of legitimate trade into the United States. Benefits to ACAS pilot participants include: Efficiencies by automating the identification of high-risk cargo for enhanced screening before it is consolidated and loaded on aircraft and reduction in paper processes related to cargo screening requirements which may increase carrier efficiency.

CBP also has a presence at foreign ports to add another layer of security to cargo bound for the United States. The Container Security Initiative (CSI) launched in 2002 by the former U.S. Customs, places CBPOs on the ground at foreign ports to perform pre-screening of containers before they placed on a United States-bound vessel. The CSI program has matured since its inception in 2002, through increased partnership with host country counterparts and advances in targeting and technology, allowing CBP to decrease the number of CBPOs on the ground at CSI ports, while maintaining security outcomes. CBP still screens more than 80 percent of cargo destined for the United States prior to lading on a vessel.

#### *Securing the Source and Transit Zones*

The effort to push out America's borders is also reflected by CBP's efforts to interdict narcotics and other contraband long before it reaches the United States. Since 1988, CBP Office of Air and Marine (OAM) and the former U.S. Customs Service, has provided Detection and Monitoring capabilities for the Source and Transit Zone mission. The CBP OAM P-3 Orion Long Range Tracker (LRT) and the Airborne Early Warning (AEW) aircraft have provided air and maritime surveillance, detecting suspect smugglers that use a variety of conveyances. Transnational Criminal Organizations (TCOs) smuggle various contraband towards the United States Borders and Arrival Zones. The CBP P-3 aircraft have been instrumental in reducing the flow of contraband from reaching the Arrival Zones, by detecting the suspect aircraft and vessels while still thousands of miles away from America's border. In fiscal year 2012, P-3 crews were involved in the seizure of 117,103 pounds of cocaine and 12,824 pounds of marijuana. In the first quarter of 2013, P-3 crews have been involved in the seizure of 33,690 pounds of cocaine and 88 pounds of marijuana. Providing direction to interdiction assets and personnel to intercept suspects long before reaching the United States, the CBP P-3 aircraft and crew provide an added layer of security, by stopping criminal activity before reaching our shores.

#### EVALUATING THE STATE OF THE BORDER

DHS uses a number of indicators and outcomes to evaluate security efforts at our borders, including factors described above such as resource deployment, crime rates in border communities, and apprehensions. However, while enforcement statistics and economic indicators point to increased security and an improved quality of life, no single metric can conclusively define the state of border security. Any individual metric can only capture one element of border security and none captures the true state of security along our borders. Rather than focus on any particular metric, our focus is on the enhancement of our capabilities, ensuring that we have tools that will lead to a high probability of interdiction in high-activity areas along our Southwest Border.

#### CONCLUSION

Over the past 4 years, this administration has undertaken an unprecedented effort to secure our border and transform our Nation's immigration enforcement systems into one that focuses on public safety, National security, and on the integrity



of the immigration system. DHS has deployed historic levels of personnel, technology, and infrastructure to the Southwest Border to reduce the flow of illicit drugs, cash, and weapons and to expedite legal trade and travel through trusted traveler and trader initiatives.

CBP has made significant progress in securing the border with the support of Congress through a multi-layered approach using a variety of tools at our disposal. CBP will continue to work with DHS and our Federal, State, local, Tribal, and international partners, to strengthen border security and infrastructure. We must remain vigilant and focus on building our approach to position CBP's greatest capabilities in place to combat the greatest risks that exist today, to be prepared for emerging threats, and to continue to build a sophisticated approach tailored to meet the challenges of securing a 21st Century border. At the same time, the Secretary has made it clear that Congress can help by passing a common-sense immigration reform bill that will allow CBP to focus its resources on the most serious criminal actors threatening our borders.

Chairwoman Miller, Ranking Member Jackson Lee, and distinguished Members of the subcommittee, thank you for this opportunity to testify about the work of CBP and our efforts in securing our borders. We look forward to answering your questions.

Mrs. MILLER. Thanks very much, Chief.

The Chairwoman now recognizes Mr. McAleenan for his testimony, and again, welcome back to the committee.

**STATEMENT OF KEVIN MC ALEENAN, ACTING ASSISTANT COMMISSIONER, OFFICE OF CUSTOMS AND FIELD OPERATIONS, U.S. CUSTOMS AND BORDER PROTECTION, DEPARTMENT OF HOMELAND SECURITY**

Mr. MCALEENAN. Good to be back. Good morning, Madam Chairwoman, Ranking Member Jackson Lee, distinguished Members of the subcommittee. I appreciate this committee's continued leadership on these issues and look forward to our discussion this morning.

CBP remains committed to increasing the effectiveness of our operations and programs and we welcome this discussion.

We define a secure border at our Nation's port of entry as a well-managed border where mission risks are effectively identified and addressed while legitimate trade and travel are expedited.

Every day we carry out our mission to protect the people and the economy of the United States by preventing dangerous people and goods from entering the country while expediting legitimate trade and travel that is a lifeblood of our economy.

Traffic at our 330 ports of entry is diverse and varied. It differs by environment—air, land, and sea; type of traffic, whether traveler, conveyance, or cargo; and mode of transportation—commercial or general aviation, personally-owned vehicle, truck, rail, and containerized package or bulk cargo. All of these present different challenges and different threat profiles and different processing time expectations.

As a result, as you noted, Madam Chairwoman, we don't have a single number or target level by which CBP's Office of Field Operations can measure the full scope of our security or facilitation efforts, but there are a number of important indicators that we do use to address and refine our operations.

These metrics are both qualitative and quantitative. They include effectiveness and efficiency, and are assessed at the National, regional, port, and programmatic levels.

We use these key indicators to assess our performance and evaluate trends and developments over time. I think we can come to a mission and environment-specific understanding of what those measures are and the best way to capture and discuss them.

We start with the volume of travelers and goods. That is the backdrop against which we measure our performance. Last year, CBP welcomed 350 million passengers and travelers and processed over 25 million cargo containers and over 100 million air cargo shipments with a trade value of \$2.3 trillion.

We continue to see increases in all of our environments at both traveler and trade and anticipate continued growth.

It is important to note that the vast majority of this traffic, an estimated 99.5 percent of land passengers and 90.6 percent of air travelers, is in compliance with all laws and regulations.

Our goal is to identify and interdict those few travelers and shipments that may present a risk, while facilitating the vast majority. This presents a complex, multifaceted risk-sorting problem that we work very hard to address every day. We are working to find and stop those proverbial needles in the haystacks while the haystacks are actually in motion.

Using a number of increasingly-refined tools and techniques, we are improving our ability to do this and focusing our finite resources on those people and goods that present the highest potential risk.

In addition to refining our risk-based and layered approach to security, we have worked to extend our borders outward to interject threats before they reach the United States at the earliest possible point in the supply chain in the travel cycle.

DHS, in cooperation with our interagency and foreign partners, now screens people and goods earlier in the process before boarding passengers or loading cargo onto planes or vessels destined for the United States.

Since 2009, CBP has expanded its pre-departure screening efforts and now checks all air travelers against Government databases on all flights arriving to or departing from the United States prior to boarding.

In addition, all in-bound maritime cargo manifests are screened before they are laden vessels with almost 85 percent of high-risk shipments being examined or addressed before arrival at a U.S. seaport.

We are tracking improvements in our capabilities, resulting in enforcement benefits across each of our other critical missions, as well, from our enhanced capacity to identifying and interdicting inadmissible persons to our ability to detect and interdict smaller and better-concealed contraband to our trade enforcement and agriculture protection efforts.

I would welcome the opportunity to discuss any of these mission areas in greater detail.

In addition to improving our ability to identify and mitigate potentially high-risk trade and travel, CBP remains focused on identifying ways to facilitate the growing volume of people and goods entering the United States.

We have seen marked facilitation improvements to the development of a series of transformative initiatives that increases speed

of our processing including the expansion of trusted traveler and trader programs, the elimination of paper forms, and the increased use of technology in our process.

We will continue to aggressively pursue these strategies which will both increase security and streamline the process for people and goods crossing the border.

The state of border security continues to improve at our ports of entry. We have made tremendous progress and are well-postured against terrorist threats having pushed our security measures beyond our immediate borders.

We have focused our agricultural protection efforts against the highest-risk, pest, and diseases and are maintaining historic levels of interceptions of products and pests, and we are pursuing a robust strategy to optimize our current business processes.

In short, we have maintained and increased our mission effectiveness while facing increasing demands from growing passenger and trade volume and we continue to seek ways to improve.

Chairman Miller, Ranking Member Jackson Lee, and Members of the subcommittee, thank you for this opportunity to testify. I look forward to taking your questions.

Mrs. MILLER. Thank the gentleman.

The Chairwoman now recognizes Mr. Borkowski for his testimony and welcomes him back to the committee as well.

**STATEMENT OF MARK BORKOWSKI, ASSISTANT COMMISSIONER, OFFICE OF TECHNOLOGY INNOVATION AND ACQUISITION, U.S. CUSTOMS AND BORDER PROTECTION, DEPARTMENT OF HOMELAND SECURITY**

Mr. BORKOWSKI. Thank you, Chairwoman Miller, Ranking Member Jackson Lee, and distinguished Members of the committee. It is a pleasure to be here and talk about this what is frankly an extremely challenging topic.

I think it is important because we have talked a little bit about how the Border Patrol measures, what the Border Patrol does, and that is important, and we need to continue to do that.

Assistant Commissioner McAleenan just talked a great deal about how he knows whether he is doing well or poorly and it is important that we do that, but in some of the discussions and even here, we have asked—but holistically, how are we doing?

So to start, I think we need to kind of reframe that. As I deal with this question, and I have done a lot of research on it as you might imagine, I have to constantly remind myself that this is a bigger problem than even just CBP.

This is a holistic question of what the state of the border is and CBP is a part of that, is a part of the contribution, but is not the entire contribution.

I know we have all heard the Secretary for example emphasize the importance of internal enforcement. So you are the panel here from Customs and Border Protection, which is very much focused on the at-the-border contribution to border security. You just heard about the Border Patrol domain and you have heard about the Office of Field Operations domain, but what about—how do you put all that together?

I think, Chairwoman Miller, it goes to something you said in your statement about how do we simplify this.

Because frankly we are very comfortable with the kinds of measures that our experts are proposing, but it is very difficult to use those in this kind of a forum to discuss the state of border security.

That is actually what has gotten us to some of the opportunities, the options, the things that we have been investigating as perhaps ways of depicting that story in a simpler form, and that is what the BCI is intended to do.

So let me briefly describe the BCI. You probably remember that we have gone through several iterations of ways of attempting to explain the state of the border and one of the more recent ones was apprehensions; the decline in apprehensions.

We often said and continue to say that the decline in apprehensions is a good indicator that the border is more secure. Now when we said that, frankly we said that because as you might have gathered from some of the things that the chief said, we look at a lot more than that.

We look at a great deal of data that helps us validate what those apprehensions mean, but for the simplicity of presentation to the public, we used the apprehensions as a surrogate for all of that information. The Secretary asked us about that at one point because she got criticized, frankly, for using apprehensions; what about the things that you don't know?

Well actually, there is a lot more we know but it was that dilemma of being simple in explanation that was the problem. So we went back to the Secretary and described the kinds of things that you just heard from AC McAleenan and from Chief Fisher, and the Secretary said that is great and I get that, but is there any way that you can consolidate that into something a little simpler? Something that stands for all of that without necessarily being all of that; and that is what the concept of the Border Condition Index is.

So we have been going and researching datum looking at what is available, looking—is there some set of—some subset of this that is an indicator, that is indicative of what all of the data says?

Although I think there is a perception that we have not worked with the operators, in fact, we have. We started with the operators. We have reiterated with the operators, but partly that reconciliation between what Chief Fisher is doing in his kind of tactical operational level and at the big picture message, that takes time. That is one of the challenges. We had to do that very carefully and very deliberately.

So that is what the BCI is intended to do. I would be happy to talk about where we are in that. We have looked at a number of options, but I would also caution you that it is an indicator. It is not a perfect number, but it has attempted to depict what all of this other stuff when you look at it holistically tells us, and so the question is: What should be in there? What does that mean it to be holistic? That is what we are dealing with the BCI.

The only other thing I think I would like to highlight briefly because I think, Chairwoman Miller, you raised it, and I just want to make this point. We agree that it is not appropriate to measure

inputs standing alone as measures of border security. What is an input?

Number of Border Patrol agents, amount of technology, miles of fence, those are resources we apply to a problem, and we agree it is not correct to say we have just spent a lot of money and therefore, we are better. We need to link that to outcomes, but one of the challenges is that when you design plans, you design them with an expectation of an outcome.

So what I want to assure you of is that when we talk about plans for technology or for personnel, we have done that, advised by, for example, in the case of the Border Patrol, the Border Patrol's expectation of what that will produce in terms of an outcome.

So when we measure our progress against for example amount of technology procured, it is important to measure that, but I want to assure you that we measure that in the context of the reason we are doing it is because it is designed to produce an outcome that the Border Patrol has requested.

So that is kind of our overall thinking. That is what the BCI is designed to do and I wouldn't throw away measures of inputs, but I would always remember that those measures—those inputs were designed to produce an outcome.

I look forward to the committee's questions.

Mrs. MILLER. Thank you very much.

The Chairwoman now recognizes Judge Escobar for her testimony.

**STATEMENT OF VERONICA ESCOBAR, EL PASO COUNTY  
JUDGE, EL PASO, TEXAS**

Judge ESCOBAR. Thank you very much, Chairwoman Miller and Ranking Member Jackson Lee. I appreciate the opportunity to be here with all of you this morning.

I am Veronica Escobar, the county judge for El Paso, Texas. As one of your colleagues and my own Member of Congress has undoubtedly informed you many times, El Paso is the safest city of its size in the Nation.

In fact, for the last 3 years in a row, that has been our ranking and for at least a decade preceding that, we have been among the top three safest cities of the Nation, and that predated the walls, the drones, and the quadrupling of Border Patrol agents.

We are dealing today with this question of how to measure security because border security was mandated to be achieved before immigration reform would be enacted.

We were told by our policymakers that our pursuit would be enforcement first, but it quickly became enforcement only to the detriment of any thoughtful policy considerations or reform.

Those of us who have been engaged in this issue have long said that immigration reform should come first, that approaching enforcement first or only is a backward way to deal with the flow of people and goods across our borders.

In 2007, when the Federal Government erected the wall that scars my community, I took a tour of it with Border Patrol agents who told me that 85 percent of their apprehensions at the border were of non-criminal offenders.

That meant only 15 percent or fewer of the apprehensions made were for criminal aliens. It is important to note that the definition of criminal aliens is broad and includes people who do not necessarily represent a security threat to the United States.

The more important fact is that the 85 percent and even some of the 15 percent of undocumented crossers are risking jail time and even their lives to be in this country to find work, perhaps establish a safer and better life, or reunite with their families.

In 2008, Border Patrol Chief David Aguilar wrote that, “90 percent of the illegal aliens we arrest are drawn to this country for socioeconomic reasons,” but our Nation has spent enormous resources trying to secure our borders from these migrants.

Had we dealt with those crossers at the policy level, creating for example legal guest-worker programs for migrant farm workers or more humane family reunification programs, which are especially relevant for border communities like mine, then fewer resources would have been needed for security, which costs taxpayers \$18 billion in fiscal year 2012 alone, and more importantly, those resources could have been aimed at targeting true threats, the threats described by those seated at this table.

With this in mind, how do we as a Nation put together metrics that will define success and security? How do we apply that to a border where the geography, environments, and populations are so different as the Ranking Member pointed out in her opening statements?

Furthermore, if we are to look at what security is, we should also identify what we know it should not be. It should not be long, idling wait times at our ports of entry, and it should not be unnecessary, expensive, ugly fencing that can easily be defeated with tunnels and ladders.

Since we are talking about metrics today, one of the metrics El Paso and other communities have asked about for years now has been staffing statistics at each of our ports of entry. It is very difficult to fully understand how to address the lack of personnel at the ports when the statistics about the specific number of CBP personnel at each port isn’t available to local leaders or even the Members of Congress who represent us in the District of Columbia.

This secrecy will be problematic if and when communities like El Paso are allowed to begin reimbursable fee, public/private partnerships such as those described in S. 178 and its companion bill, H.R. 1108, the Cross-Border Trade Enhancement Act of 2013.

I know there are co-sponsors on this committee and even the Chairman of the committee. I define security by our ability to protect our vital interests; our port—excuse me—our people, our economy, and our infrastructure among them.

Security for example should be measured by how quickly we can move people and goods safely across our ports. Is international trade that boosts our economy a vital interest of the United States and therefore an important measure of our security?

Absolutely. In another vein, security also should be measured by the transparency that helps us address shortages in personnel and inadequacies in technology and infrastructure.

Finally, it should be measured by those of us who live in the communities that bear the brunt of the measures enacted by Con-

gress and should be based on close collaboration with local leaders and law enforcement.

I submit to you that once we deal with immigration reform first, finally, and thoughtfully, a more meaningful and less complex debate over security and outcomes can easily be resolved.

Thank you very much for this opportunity. I look forward to the questions.

[The prepared statement of Judge Escobar follows:]

PREPARED STATEMENT OF VERONICA ESCOBAR

MARCH 20, 2013

Good morning, my name is Veronica Escobar and I am the county judge of El Paso, Texas. I thank you for the opportunity to be here with you today to discuss "Measuring Outcomes to Understand the State of Border Security."

As one of your colleagues (and my Congressman from Texas's 16th Congressional District), Representative Beto O'Rourke has said many times, El Paso, a border community, is among the safest in the Nation. In fact, the last 3 years in a row, we've been ranked the safest city of our size, and have consistently ranked among the top three safest cities for over a decade. This achievement, just like the safety enjoyed by other communities along the U.S.-Mexico border, predated the walls, drones, and quadrupling of Border Patrol personnel. So I appreciate that I can share with you a local perspective about security on the border.

We're dealing with this question of how to measure security because border security was mandated to be achieved before immigration reform would be enacted. We were told by our policy-makers that our pursuit would be "enforcement first," but it quickly became "enforcement only," to the detriment of any thoughtful policy considerations or reform.

Those of us who have been engaged in this issue have long said that immigration reform should come first—that approaching enforcement first (or only) is a backward way to deal with the flow of people and goods across our borders.

In 2007 when the Federal Government erected the wall that scars my community, I took a tour of it with Border Patrol agents, who told me that 85% of apprehensions at the border were of non-criminal offenders. That meant only 15% or fewer of the apprehensions made were for "criminal aliens." It's important to note that the definition of "criminal aliens," is broad and includes people who do not necessarily represent a security threat to the United States. The more important fact is that 85% (and even some of the 15%) of undocumented crossers are risking jail time and even their lives to be in this country to find work, perhaps establish a safer and better life, or reunite with their families. In 2008, Border Patrol Chief David Aguilar wrote that "90 percent of the illegal aliens we arrest are drawn to this country for socio-economic reasons."<sup>1</sup>

But our Nation has spent enormous resources trying to "secure" our borders from these migrants. Had we dealt with those crossers at the policy level—creating, for example, legal guest worker programs for migrant farm workers or more humane family reunification programs (especially relevant for border communities like mine), then fewer resources would have been needed for security, which cost taxpayers \$18 billion in fiscal year 2012 alone. In El Paso, for example, if it were easier for Mexicans to go back and forth, fewer would try to live here permanently—with stricter controls, crossers have an incentive to try to live here rather than risk re-crossing the border.

With this in mind, how do we as a Nation put together metrics that will define success and security? How do we apply that to a border where the geography, environments, and populations are so different?

While our Southern Border cities have commonalities among them, clearly we are not all alike. El Paso is an urban community, a vibrant county of over 800,000 people with five international ports of entry in our sector that move people and goods back and forth. We are across from the massive, sprawling metropolis of Ciudad Juárez. Obviously, we are unlike rural border towns that are situated across from rural Mexican communities. But, we all share a common theme: The vast majority of the people coming across our border want to be a part of us, not harm us.

<sup>1</sup> Aguilar, David V. *Frontline U.S. Customs and Border Protection Magazine*. "Protecting the Southern Border," Spring 2008, p. 10.

And before evaluating metrics for success, how do we even define “security”? That is a definition that depends on whom you ask. Some think that security means not allowing a single human being to enter our country without permission—an impossible standard. Absolute security can never be achieved. And even if it could, absolute security is incompatible with a free society. Security may mean something different to local law enforcement, or to those in the intelligence community, or to those who are part of a neighborhood watch program. History has shown us that the Southern Border does not present a security threat.

If what this country is trying to achieve is having more control over who comes back and forth across our borders and knowing who those people are and what they’re bringing in, I will repeat that we’ve approached the situation in a completely backward way.

It’s not too late to revisit that approach even though the question before everyone now is how to measure border security. The key is to reform immigration first and then deal with those who are truly a threat to U.S. National security. We need to stop using precious resources on those whose purpose in coming to the United States presents no threat and who can be dealt with through policy changes.

Furthermore, if we are to look at what security is, we should also identify what we know it should not be: It should not be long idling wait times at our ports of entry and it should not be unnecessary, expensive, ugly fencing that can be easily defeated with tunnels and ladders.

Those border wait times are expected to worsen if we do nothing. I recently toured some of the maquiladoras in Ciudad Juárez, which produce the cell phones we use as well as a number of different products that this Nation’s economy and people depend on. Each maquiladora is expanding and their exports are growing. That means more commerce moving across El Paso’s ports (last year it was worth \$80 billion). These job- and economy-growing companies all shared a common concern and complaint: Long border wait times.

Since we’re talking about metrics today, one of the metrics El Paso and other communities have asked about for years now has been staffing statistics at each of our ports. It’s very difficult to fully understand how to address the lack of personnel at the ports when the statistics about the specific number of CBP personnel at each port isn’t available to local leaders or even the Members of Congress who represent us in the District of Columbia. I understand the need to secure certain data from the human- and drug-smuggling organizations that CBP and ICE contend with on a daily basis. However, keeping these statistics secret from policy makers such as Members of Congress is excessive and counter-productive.

This secrecy will be problematic if and when communities like El Paso are allowed to begin reimbursable fee public-private partnerships such as those described in S. 178 and its companion bill in the house, H.R. 1108, the Cross-Border Trade Enhancement Act of 2013. The Chairman of this committee is even a co-sponsor of this legislation. If we as local partners are encouraged to supplement personnel at our ports but we aren’t allowed to know what current staffing levels are, how will we know what the supplement should be? These are the types of metrics we should be focused on.

I define security by our ability to protect our vital interests: Our people, our economy, and our infrastructure among them. Security, for example, should be measured by how quickly we can move people safely across our ports. Is international trade that boosts our economy, a vital interest of the United States and, therefore an important measure of our security? Absolutely. In another vein, security also should be measured by the transparency that helps us address shortages in personnel and inadequacies in technology and infrastructure. And finally, it should be measured by those of us who live in the communities that bear the brunt of the measures enacted by Congress, and should be based on close collaboration with local leaders and law enforcement.

I submit to you that once we deal with immigration reform—first, finally, and thoughtfully—a more meaningful and less complex debate over security can easily be resolved.

Mrs. MILLER. Thank you very much, Judge.

Again, I appreciate all the panel being here.

This hearing really in my mind has been called at a very critical juncture in the National debate about comprehensive immigration reform or however we want to categorize it.

I think we have an opportunity as a country to actually get something done on this very important issue this year perhaps.



You look at the—in the Senate with the “Gang of Eight” whatever they are calling themselves. I had an opportunity to chat a bit with one of the members of that committee, that group—it is not a committee, but a working group, earlier this week and felt very optimistic that they were moving along and we would be seeing some sort of a work product shortly.

I think that has been pretty widely reported as well and here in the House, we have a similar group, bipartisan, just as it is in the Senate, working on these critical issues.

But, a component of that and something that is going to be asked by every member of the House or the Senate that may be voting on any bill eventually, that comes to the Senate or the House, will be the same question that the American people are going to ask; and that is whether or not we have a high degree of comfort or confidence in whether or not our borders are secured, so that we, as I say, do not continue to have this same conversation over and over without some way to measure that. One of you said—the Secretary asked you to come up with that this formula because it wasn’t—to put it in simple terms that the American people could understand.

I think we are all asking the same question that Secretary Napolitano asked of all of her staff; how we can put it in terms that we can understand it and feel good about it, whether it is—whether the results are good or bad, at least that we understand what is happening.

The first thing we don’t want to do is mislead ourselves about what is going on at the border, whether it is secure or not secure. You may have one, you know, one person that has a very different opinion of—than another of what border security looks like and whether or not the border is secure.

I would also say this. We—you know, one of the things that I think we certainly learned from the 9/11 Commission recommendations that I look at all the time and I have it in my prism as I ask questions or certainly my service on this committee is, we had to go from the need-to-know information to the need-to-share information; and that had to cross all ground-floor stakeholders that we share information with—various agencies certainly within the Department of Homeland Security, that we share with our local law enforcement, you know, force multipliers throughout the entire chain, et cetera.

This BCI asking for this 2 years ago and we still don’t have it, and, you know, as the Secretary has said, operational control is an antiquated term, not to be used.

So we are sort of sitting here as a Congress asking the Department as you are developing this BCI, are you know, let’s not make the same mistakes for instance that were made, many people have said by SBInet and when we developed that—by not really getting good input and asking the people in the field whether or not—you know, what they thought to help them develop this.

So I know, Mr. Borkowski, you said that you have had good conversations. I am not sure that—I guess I am not sure that that is exactly so, that you have had as much conversation as you have need to or input or suggestions from the people in the field about that. So I would just say that I guess I would like to flush that out

a bit. Do you think you are asking for instance, the Chief and Mr. McAleenan and others, the kinds of questions that you need to, and at what point will you be able to give us something that we can use as a measure?

Mr. BORKOWSKI. First of all, I don't believe that we intend, at least at this point, that the BCI would be a tool for the measurement that you are suggesting. So let's—I need to start there.

The BCI is part of a set of information that advises us on where we are and most importantly, what the trends are and that is what it is designed for.

So it is not our intent, at least not immediately, that it would be the measure you are talking about. We do think it would be a very useful tool to show why we believe that the trend is one way or another and to show the components of that trend. So that is the first thing.

In terms of interaction with the operators, we have actually had extensive interaction. Now I would agree with your statement that we need more and that is part of the issue. That has to go back and forth until it converges, but in the initial considerations of what might be included, we have asked the operators what they had.

So some of the things that AC McAleenan described to you, some of the things that Chief Fisher described to you, those are candidate elements underneath of the build-up of the BCI.

After we had some notional constructs—oh, by the way, in addition to that, we went out to the communities mostly in Arizona, but to NGOs, law enforcement, ranchers, academics; asked them what was important to them.

So there was a lot of homework done in what should we include, not just our own operators, but other stakeholders. After we had some notional constructs, we fed those back to this operational community and by the way, to a panel of academic experts who commented on it and made some suggestions for changes.

We, as recently as last week, got together with the staffs in both Chief Fisher and AC McAleenan's office to go through this again because again, what they are concerned about is the kinds of things that Chief Fisher described to you are the kinds of things he is going to continue to use.

What he needs to be comfortable with is whether or not those things in total reconcile with the kinds of things that are coming out of the BCI, and we continue to do that. So—

Mrs. MILLER. So you met with them last week, you mentioned—of course you knew that this hearing had been noticed by then—I am just asking. So you have been meeting with them on a very regular basis?

Mr. BORKOWSKI. Absolutely.

Mrs. MILLER. To get all of their input? Et cetera, et cetera?

Mr. BORKOWSKI. Absolutely. Now, I would—

Mrs. MILLER. You know, I would—

Mr. BORKOWSKI. Sorry.

Mrs. MILLER. Excuse me—I am—I don't have that much time. But the—if we are not to use operational control, and again, I even said in my opening statement, I am open to the suggestion that that is an antiquated term and perhaps this is not the best meas-

urement, and I appreciate—believe me I do—how complicated it is; a layered approach at the border, how very complicated it is to get some sort of an accurate measurement, but we have been told—at least I have been under the—operating under the assumption for the last several years that this BCI would be taking the place of operational control, that it would be something that whether the GAO, et cetera anybody, any other agency vetting this would be using as a measurement.

Now you are saying that it has never really been intended to be used as a measurement. So I am just trying to let this all digest here.

If that is so, I guess I would ask the chief if I could, you mentioned certainly, you know, as far as the threats you would want to talk about that in a classified setting. I appreciate that, of course, but some of the outcomes certainly can be in an unclassified setting like a hearing like this so that we can explain to the American people what is going on.

You mentioned—I was taking some notes while you were talking, Chief—the effectiveness ratio is essentially the measurement that you are currently utilizing. Do you feel comfortable that that is a—I guess I am just trying to understand this—a component of the BCI or what is your thought about the BCI? Do you agree that it shouldn't be used as a measurement?

Chief FISHER. Initially, with Mark and as we were discussing this, as we were developing our strategy and looking at outcomes 3 years ago, we started understanding how valuable effectiveness was as a replacement to stand-alone apprehensions only as we have been maturing process; which gets us to some of the things—we had offered that up to Mark on some of the different measures that we were collecting under the—our new strategic plan.

So in that regard, we have shared with Mark everything that we collect, whether they are being incorporated or not or the extent to which one or the other is, I don't know, but we are still moving down in terms of how we within, as Mark framed, our domain, right.

So we understand what is happening because it is not just measures, it helps us at the tactical level deploy and redeploy resources to those areas where we are now differentiating between high- and low-risk areas. So it is very valuable to us independent on whether it gets absorbed into a broader Border Condition Index.

Mrs. MILLER. I appreciate that.

I didn't want to cut you off, Mr. Borkowski, if you have anything else to add to that.

The reason I am focusing on this obviously—look, we all understand we are dealing with a constrained fiscal environment here. At the same time we are asking you, can you tell us exactly how you are doing?

It is a very difficult question to be asked and to answer it correctly. I am not trying to gotcha, kind-of thing. But I am telling you, at this moment in time, where we have an opportunity to do comprehensive immigration reform, if we just say well, we can't really—you know, we can't use operational control and the BCI is not really a good thing and it is not the correct—it is a component of the important scenario there and you really don't have a matrix

that we can utilize that could be a component of our failure to pass something that I think is very important for our country.

So there is a lot of interest and just trying to get a handle on, you know, we look at some of the lessons learned, certainly since 9/11 with various kinds of technology that we have deployed along the border that has not worked particularly well but has cost a ton of money, and the American people are going to be making sure their representatives ask these questions.

Any other comment there?

Mr. BORKOWSKI. I would just say that obviously we have had the discussion with the chief, and one concept for at least part of this BCI is to take the effectiveness ratio and somehow bound it by how confident should we be in that number.

That is the challenge, right? How do you take what is a very good number, a well-calculated number, and then add to that some level of confidence you have in it because the effectiveness ratio also is based on what we know. How do I augment that with the uncertainty in the knowledge? That is the kind of thing that the BCI is struggling with.

Mrs. MILLER. I appreciate that.

I recognize the Ranking Member for any questions you may have.

Ms. JACKSON LEE. Madam Chairwoman, thank you.

The line of questioning, I think, is enormously important on a very important policy journey that this country is making.

So gentlemen and lady, this committee is making, I think, a very sound effort as I work with the Chairwoman on establishing a bracket of which we can stand on.

I am very glad that the leadership on this committee has shown an openness to the idea of a policy decision being made about comprehensive immigration reform.

Speaking for myself, I will say that I embrace it totally and believe that it is a long-overdue policy and legislative initiative that should be passed, and I recognize, as the Chairwoman has indicated and I think we have said it together; No. 1, this committee should be an intimate part of the border security aspect, but at the same time, facts are really the oil to the engine and I would say to the Department you have got to get in the game. What I am hearing here is not really a definitive game strategy.

When I say that, this is the second hearing, this is a hearing based upon an assessment, and I am not getting, I think, what could be not where you tie yourself to what you believe you could not tie yourself to, but where you can give confidence that the trends are leading to the kind of security that we need.

So let me just cite again the December 2012 Government Accountability Office report that was drawn through the request of Ranking Member Thompson and Mr. Barber, which I associate myself with the request now in this position, and to note that some of the data indicated that eight of the nine Border Patrol sectors on the Southwest Border improved from fiscal years 2006 to 2011, and that GAO also found that the recidivism rate across dropped to 36 percent in fiscal year 2011, down from 42 percent.

So those are some indicia that one can cite, but maybe what you should indicate as we have put to the side operational control that

the security of the border is a continuum, that it is a challenge and a responsibility that is on-going, that you have confidence that the maximum level of ability the border is secure, but that collaboration with State and local officials and information gathering is a continuing challenge along with technology.

Now Members of Congress should be able to understand that if that is asserted in an affirmative manner. So let me proceed with my questions to say that at some point, we are going to have to have DHS work with us more concretely about the confidence of the security of the border, and I would add to that I recognize that we have a distinctive topography along the border.

Mr. Barber needs help. He will speak for himself, but he has an Arizona desert border that we need to be assured that we can work with, and I believe we can, but you got to own up to it. I don't believe that we should hold up comprehensive immigration reform because as Judge Escobar said, that will contribute to your being able to do a better job.

Let me raise these questions. I would like to go where the Chairwoman has gone. I would like to give us the meat and potatoes that we need.

First of all, I want to ask: Are we using the Z Portal system? I understand that new technology has been given a lot of awards, and how is that effectively securing the ports of entry?

Mr. MCALEENAN. Thank you, Ranking Member Lee.

Yes, we are using the Z Portal. We, with the support of Mr. Borkowski's office and our Office of Information Technology, we have purchased a number of Z Portals and a similar technology called ZBBs that operate more quickly at a lower level of radiation and allow us to scan many more vehicles and actually Z Portal on the Southwest Border we have several bus portals as well.

This has been a tremendously effective tool for us in identifying and seizing additional illicit drugs.

Ms. JACKSON LEE. My question is: Do you continue to get the technology as it improves and increases and about how many of your ports of entry do you know that you are using that Z Portal?

Mr. MCALEENAN. We have NII lay down at all of our ports of entry that take cargo and we use it to inspect that.

Ms. JACKSON LEE. Give me how many.

Mr. MCALEENAN. I can give you the numbers on the ZBBs and Z Portals in a follow-up if that is okay.

Ms. JACKSON LEE. You are continually improving that technology?

Mr. MCALEENAN. Absolutely. We use the American Recovery and Reinvestment Act to purchase a number of very effective systems that we are applying.

Ms. JACKSON LEE. Would you suggest that that is helping provide security at the border or giving an answer to those who are trying to hear do we have—I know that is not the newest technology, but is that part of the security that you are talking about?

Mr. MCALEENAN. Our non-intrusive inspection technology is absolutely a critical tool that we are using to increase security.

Ms. JACKSON LEE. Okay, now I asked this, but I need to hear it again. So how are you moving up on the ladder of technology as it relates to that kind of technology? Are you constantly being able

to upgrade it to your satisfaction? Do you believe the present technology is satisfactory?

Mr. MCALEENAN. Well, we have been upgrading of the last several years the Z Portals and the ZBBs that we just talked about are more efficient because they work faster and they have a lower energy level that allows us to put more vehicles through them. So yes, we have been able to benefit from an improving continual technology.

Ms. JACKSON LEE. Mr. Borkowski, let me, because you are the center point of intellect around this issue and seemingly have been given the responsibility of sort of holding on to the BCI, and I assume that you use a lot of analytics to be able to give it some substance, you heard what I said.

You all have got to rise to the occasion. If we are not using operational control, then you have got to tell me that Northern Border, here is how we assess and we can tell you that we are making progress. The GAO report gave some numbers. I don't know if under the GAO report it is a weak economy that saw those numbers go down, and DHS needs to be able to tell us that.

Secondarily, the border that raises a lot of concern is the Southern Border, so what are the concrete measures that you would say could definitively be interpreted to have us in a continuum of securing the border?

Mr. BORKOWSKI. If you are talking about for example between the ports of entry, so I won't talk holistically unless you would like me to, but if you are talking about between the ports of entry, I think what is important there is whether or not we have got the capability to deal with the threat that the chief of the Border Patrol perceives.

So chief of the Border Patrol can measure that not quantitatively, but in a very disciplined way, and compare that to the capabilities we have.

If you add to that the information he has about effectiveness, I think that is a very important metric. So if you take and you assess whether the Border—chief of the Border Patrol has the capability he thinks he needs to have to watch a border and he has a good effectiveness ratio, I would say that is a pretty good indicator that the border is secure in that area. That is between the ports of entry.

Ms. JACKSON LEE. Well, okay. Let me just stop here. If I could just, Madam Chairwoman, just get my last two questions very quickly.

I will take that, and some others may pursue that.

Let me just say to Judge Escobar. In a testimony in the Senate, one of the witnesses indicated that Dr. Shirk of the Transborder Institute of the University of San Diego indicated that what we are seeing in actuality with migrants coming across is that the enforcement has actually caused more deaths, 400 I think in one of the years that he was speaking of, in our enforcement process and these are only individuals that are trying to work.

You somewhat commented on that. I would appreciate it if you would. I would just throw this very quick question out so then I can get the answers from the other three gentlemen, but: Utilization of drones, how much of it and whether you have seen that

have any impact. Let me go to Judge Escobar very quickly, please, on this idea that migrants—that you have seen deaths because of the enforcement as opposed to finding an immigration reform process for that.

Judge ESCOBAR. Thank you very much, Ranking Member. You are absolutely correct.

What happens when the United States puts up the walls that we have put up in our Southern Border, it does not stop necessarily the flow of people who are trying to find work in our country and also some of the bad folks who are trying to smuggle drugs and the coyotes who move those people across our borders.

It just pushes that movement into more treacherous territory, terrain that is more challenging for these families trying to reunify with their families or trying to get work. So if we deal with those people who can be addressed through policy changes, through reform, it will do what former Border Patrol Chief Aguilar said, which is de-clutter the environment for law enforcement.

Ms. JACKSON LEE. Thank you very much. I will wait on that other answer.

Mrs. MILLER. We may be able to go to a second round. We will see how we do.

Ms. JACKSON LEE. Thank you.

Mrs. MILLER. I would just appreciate the gentlelady's questioning. I thought one thing she said that was very significant is when she asked the Department to get in the game, and I think that is a very good way to put it.

You do not want the Department of Homeland Security to be the stumbling block to comprehensive immigration reform for this country and it could happen. So get in the game. I absolutely would agree with that.

At this time, the Chairwoman would recognize the gentleman from Pennsylvania, Mr. Barletta.

Mr. BARLETTA. Thank you, Madam Chairwoman.

Judge Escobar, in your testimony you talk about the need for reforming our immigration system before we spend enormous resources trying to secure our borders from migrants who are looking for a better life specific to El Paso.

You argue that if it were easier for Mexicans to go back and forth that they would be less likely to want to live here permanently.

However, many of the 11 million illegal immigrants came in through our international airports, whether it is El Paso International Airport or Philadelphia International Airport in my home State, I believe anywhere where there is an international airport you are a border State.

In my home city in Hazleton, Pennsylvania, it is estimated that 10 percent of our population is there illegally. We are 2,000 miles away from the nearest Southern Border.

Judge, are you aware that 40 percent of the people who enter the country illegally didn't sneak across the border, but entered legally and overstayed their visa?

Judge ESCOBAR. Yes, sir, I am. I—the perspective that I bring to you and that I am trying to share with you this morning is the perspective of a Southern Border community that has ports of entry.

You are absolutely correct in that visa overstays need to be tracked, and in fact, that is where some of the threats are coming from, which actually goes to my point that if we enact immigration reform that deals with people who want easier access along my Southern Border to come in and visit family or to reunify with family or to work in construction jobs that American companies give them or to work in agriculture, which are jobs given to them by American farmers. If there is a mechanism and there is a mechanism through policy to address those individuals then it becomes easier—I would submit—it becomes easier to track those visa overstays because we are utilizing resources to deal with a smaller population of immigrants.

Mr. BARLETTA. You know, the question is, you had stated that 90 percent just come for work, they are not involved in any criminal activity. How do you separate salt from sugar? How do you separate—how do the men and women who are protecting our borders separate the 90 percent from the 10 percent who will do us harm?

In 1986, Congress promised the American people that if they gave amnesty to 1.5 million illegal aliens—turned out to be 3 million; it doubled as soon as we waived the carrot of American citizenship—that they would give amnesty—this would be a one-time deal—we would secure our borders and we would never deal with this again.

Now here we are years later, 11 million estimated which I believe will be more again because we are now doing the exact same thing. History has taught us nothing. What makes the promise of this Congress, the Gang of Eight in the House or the Senate or the President—what makes—what makes this promise to the American people any different than the one in 1986?

Judge ESCOBAR. You know, I think the challenge for Congress is when it puts the decisions off over the years then and you are not dealing with them on an annual basis, then you are going to end up in situations like we are in today in this Nation when we are having to deal with 11 million people who, as the saying, the cliché goes, are living in the shadows. So it should not be a one-time fix.

Policy and reform should be on-going. You can't just do it every 20 years. Immigration, the flow of people, the reasons why they come across, the reasons why businesses want certain types of workers, that is going to change year after year after year.

So I would encourage the Congress not to think of this as a one-time fix that we are never going to have to address going into the future, but instead, as an on-going long-term challenge that, as the Ranking Member described it or maybe it was the Chairwoman, as a journey that the Congress is going to need to address every year through its budgets and through policy reform.

Mr. BARLETTA. You know, also, you talk about the need for reforming our guest-worker program. As you remember, 1993 World Trade Center bomber, Mahmud Abouhalima, overstayed a tourist visa and was in the country illegally. He received amnesty in 1986 by falsely claiming to be a seasonal agricultural worker even though he was a cabdriver.

You argue that most migrant workers pose no threat, but one of these agricultural workers was actually an Islamic terrorist who perpetrated one of the deadliest attacks in American history.



If you could prevent just one terrorist from being granted legal status, wouldn't you agree that it is worth the wait?

Judge ESCOBAR. I think one of the things that is difficult is to define security because security may mean something very different for you than it does for me.

You may be talking about absolute security saying that if we want to be secure, then we have to somehow somehow maybe seal the borders or do everything possible to achieve absolute security.

That is not an achievable goal. It is not possible to have absolute security.

Mr. BARLETTA. But my question is if you could stop one terrorist—

Judge ESCOBAR. Well, the answer is, of course.

Mr. BARLETTA. Okay.

Judge ESCOBAR. But—I am sorry.

Mr. BARLETTA. You also testified that history has shown that the Southern Border does not present a security threat. If most of the illegal immigrants who are sneaking across our land borders or ports or overstaying their visas are just looking for work, then I would argue with you that they do present a threat.

They present a threat to the millions, millions of Americans who are out of work and looking for a job. Our immigration laws are meant for two reasons; protect the American worker and to protect our National security.

How can you support policies to allow businesses to hire cheap labor at the expense of our Nation's workers, American workers, when your own town of El Paso has a higher unemployment rate than the National average?

Judge ESCOBAR. I would submit to you that if those workers were given legalized status, they would be adding to the tax base and they would be contributing to our economy in a way—

Mr. BARLETTA. Well, there was just a study that proves that that is not true. That if we grant amnesty to the 11 million illegal aliens, the Heritage Foundation completed a study that it will cost us \$2.6 trillion over the next 20 years.

This is after all the tax revenue is realized. This is a time when we are trying to balance our budget. We are trying to find more money for the men and women who protect us, but by granting amnesty, this plan of pathway to citizenship will actually cost us \$2.6 trillion after taxes.

Judge ESCOBAR. Well, I have read studies to the contrary and so, really when you talk to economists, they are a great guide for some of our most challenging policy decisions. Economists generally will agree that adding those folks into our country in a way that they can make contributions, it certainly does contribute to our economy.

Mr. BARLETTA. Could you identify any of those economists?

Judge ESCOBAR. You know, I am sorry, I apologize. I did not bring the list with me. I would be happy to forward studies and names through my Member of Congress who serves on this committee.

Mr. BARLETTA. I trust the Heritage Foundation. Thank you.

Mrs. MILLER. Thank the gentleman very much.

At this time, the Chairman recognizes Mr. O'Rourke, from Texas.

Mr. O'ROURKE. Thank you.

I want to commend the Chairwoman for her focus on this question of how we define border security, and as she said earlier, I think it is one of the most important questions that we as a subcommittee, a full committee, a Congress, and a country answer because—you know, the fate of comprehensive immigration reform hinges on this. I think the fate of communities like El Paso, other border communities, and our National economy depend on our ability to answer this in a thoughtful, intelligent, rational way.

So I appreciate her leadership and I also want to thank her and Ranking Member Jackson Lee for giving us the opportunity to hear from our county judge who is able to bring her experience and perspective to bear on an issue that I would argue disproportionately affects her constituents in the community of which she presides over as county judge.

Judge Escobar, I wanted to ask you a question about an opportunity that might become available in the near future.

Chairman McCaul of the full committee, Congressman Cuellar, and others including on the Senate side, Senator Cornyn are introducing legislation that will allow communities like ours to partner with the Federal Government to provide necessary resources to speed the flow of this legitimate trade that Acting Commissioner McAleenan talked about—the 99.5 percent of the flow coming through our ports of entry that is completely legitimate that has the appropriate documentation.

What do you as an El Pasoan, as a county judge, as somebody who might ask one of the poorest communities in the country to pony up additional resources to speed this flow, what do you need to know before you can advocate for this kind of partnership and ask your constituents to dig in a little deeper to help us solve this problem?

Judge ESCOBAR. Well, thank you very much Representative O'Rourke, and I appreciate that you are one of the co-sponsors of that bill, a bill that could help communities like El Paso provide adequate resources to easing that flow back and forth.

The challenge as I briefly mentioned in my comments this morning is that if we don't have the metrics, we are talking about metrics today, if we don't have the specific number of personnel shortages at the ports of entry—so if we don't have the statistics that tell us how many individuals, how many CBP officers are at the ports, how many lanes are closed due to personnel shortages.

If we don't know that and we are asked or we are saying that we are willing to put up money and participate in this partnership, we cannot know nor can we guarantee to the public and the local property taxpayer that it is actually going to plug those holes and to address those gaps.

So that is a critical component of the metrics I would argue that you all should demand from your agencies.

Mr. O'ROURKE. Let me ask, Acting Commissioner McAleenan, there is this a very legitimate concern that we not supplant Federal resources that should be obligated to border communities like ours, and instead, if we are going to contribute, it is a supplement to what you are already doing.

Without your willingness to share that data that the judge and others in our community are asking for, how can we make that informed decision and ask our citizens to contribute in this way?

Mr. MCALEENAN. Thank you, Congressman. I think it is a reasonable point and a couple thoughts in response. First, if we had this legislation and we were able to enter into those public/private partnerships that were deemed to be in the economic interest of the local communities, that would be a partnership situation where there would be commitments to increase service levels based on that augmentation. So I would make that commitment very clearly right now.

In terms of the overall availability of data on exact staffing and specific ports of entry, that is something that we are working towards with our workload staffing model. That is something we intend to deliver and have a robust conversation about with this committee and with the Congress more broadly this year.

I think that will help us share data about where we are and where we think we need to be, and would really provide a good foundation for pursuing legislation like you have offered or other agreements of the similar type.

Mr. O'ROURKE. But when—I want to make sure I understand your answer. We can expect to have that specific staffing information and the larger set of data that you are talking about this year?

Mr. MCALEENAN. That is CBP's intent and my understanding it is the administration's effort.

Mr. O'ROURKE. Okay. I appreciate that. Then in the brief time I have left, the judge brought up an important point I think that you know, the prevailing wisdom right now is that prior to comprehensive immigration reform, we need to secure the borders.

You and Acting Commissioner McAleenan have said our borders have never been more secure and the judge is saying after comprehensive immigration reform I think we can look forward to even greater security because of your ability to focus on your top priorities in terms of threats and those are of course terrorists, people who want to do our country harm, the weapons that they might be trying to bring across to do that.

Can you respond to that and talk about how that might allow you to free up resources or better prioritize the resources that you have right now? Chief Fisher. Sorry.

Chief FISHER. Certainly, Congressman. I just—a point of clarification from my perspective. I generally don't like to—or broadly characterize the border in its entirety one way or the other, right. So I can tell you at any point in time that there are areas along the border that are of higher risk, more activity level, problematic, higher rates of assaults against my Border Patrol agents, and there are other areas to the contrary.

That is part of this risk assessment piece. I will also state that when we are talking broadly about threats, generally folks outside of the organization look at the individuals and the groups of individuals that come into this country after we know a lot about them.

But what I would ask to also take into consideration is the Border Patrol agent who last night perhaps in an area in the Nogales area in the mountains, or perhaps the Border Patrol agent who is

working south of the Otay Mountain, or another Border Patrol agent who was working the river last night.

Each one of those agents in various different circumstances is being approached by individuals; many times those agents are alone. Sometimes it is a group of two; sometimes it is a group of 10. Those Border Patrol agents do not know who those people are, nor do they know what those individuals intend to do once they are encountered by the Border Patrol agent.

Therein lies what we qualify as a risky situation. All right? Not everywhere. What we do find out and post arrest based on biometrics and bio graphics, we then try to set who these people are, what they intend to do. Then there is a whole series of consequences. There is a whole series of dispositions that would fall either in the administrative or in the criminal context.

But what generally happens; people then take a look at an overarching population of people that we apprehend, it may be a 3-month period, it may be a year period, and then try to qualify the risk that we are trying to define after that risk has been adjudicated.

So it is really important that we frame that. It is not all-or-nothing proposition when it comes to security. It is graduated based a lot more on what we do and what we don't know and it is our continued ability to learn to get better to be able to provide those Border Patrol agents in those scenarios that I just described with advanced information, the right training, the right equipment, the integrated operational approaches like our strategy is going to do along with our ability to rapidly get into areas so that it puts them in a better position to reduce risk for themselves and for the citizens in which we serve.

Mr. O'ROURKE. I am out of time, but I would like in the future perhaps directly from you or in writing, a direct response to the proposition made by the county judge that with CIR you can better prioritize resources and look forward to even better security along our border than we have today.

So, thank you and thank you, Chairwoman.

Mrs. MILLER. Thank the gentleman.

The Chairwoman now recognizes the gentleman from Arizona, Mr. Barber.

Mr. BARBER. Thank you very much for letting me sit in on this hearing. I am not a Member of this subcommittee, but this hearing is very important to me, and I appreciate the opportunity to be here to meet the witnesses and to ask some questions.

First of all, I want to thank the witnesses for coming today. Some very, I think, helpful testimony.

You know, the men and women of the Border Patrol who I work with a great deal face incredible dangers every single day and you put your finger on it, Chief Fisher, when you talked about the incidents: Rockings, rip crews that are trying to steal drugs from other smugglers put people in jeopardy. Brian Terry as you know was killed possibly by a rip crew.

So what they are going through every single day is not fully appreciated by the American people. Sometimes when I stop at the checkpoint coming back to Tucson I say as I am leaving, "Thank you for your service," and they look at me with a startled look on

their face like, "You are thanking me? No one does that," or not enough people do.

So I just want to say up front that what your men and women do is absolutely amazing, heroic, and very important to our country's security.

I think that what we need to do is make sure that they have the resources they need to get the job done. I am very concerned about sequester. Of the 35 to 40 percent cut in salaries that the Border Patrol agents will face, with a loss of furlough, with the loss of overtime and furloughs, we cannot step back and move backwards from the improvement that we have made in border security.

If we do, as the Chairwoman has said, many issues relate to this. The future of comprehensive immigration reform depends on our continued efforts to secure the border. Whatever that means, Judge, I agree with you on that.

That is part of the problem. The central question really is: How do you define border security? We have been talking about it for decades and more recently in the last 6 years we have put a lot of billions of dollars of resources into it.

When I talked to ranchers for example and they tell me that they are unsafe on their land and that they can't go to town without taking their children with them and that they go to the clothes-line armed or they go on their land fully-armed to inspect their water lines, then we are not secure from their perspective because they are not safe.

If you go to Nogales or Douglas where the build-up is significant, people feel differently about it. So it is a matter of where you are and what you are facing. So we have to come to terms with this definition of border security and we have to plug the holes that exist.

In my district alone, 50 percent in terms of poundage of the drugs seized in this country are seized right in my district; the most porous area of the country. We have to do better and I know, Chief Fisher, you want to do more and hopefully we can continue to plug those holes.

But when it comes to measuring border security, the issue in front of us today, we really are, I think, not doing as good service to ourselves, to the Department, or to the country when we cannot have what the people would consider credible and reliable metrics to define success.

I am alarmed to say the least by the most recent jail report which was referred to by the Ranking Member that came out and pointed out that the Border Patrol rolled out last May a new strategy that didn't have goals, it didn't have metrics, it didn't have a process for evaluation.

That is not really a plan, is it? Now obviously the Department has to do something. So I guess I want to go to that point specifically, Chief Fisher, you know, I have the highest admiration for what you do and it is good to see you again and what your men and women do, but we have to give them consistent ways of measuring success.

So can you ask or can you tell us where we are in the process of developing those metrics that will fill the big holes in that plan?

Where are we right now? The Department promised it would be done by November. Could you give us an update on where we are?

Chief FISHER. Sure can, Congressman. First of all, it is good to see you again, sir, and thank you for those kind comments. It certainly gives me great pride to serve those Border Patrol agents here in Washington, and when I go through the checkpoints, I do make sure that I think them as well. So thank you for doing that.

We do have metrics. Matter of fact, unfortunately, part of my opening statement that I would like to share with you really labeled just four or five as examples.

When the GAO did that report, they did so—we worked with Rebecca Gambler and her team—provided an array of metrics and measures of things that we were looking at as it related to our new strategy.

Part of their analysis interestingly enough was they went back about 2006 to 2011, and as you recall, we just recently over the past year just-released the strategic plan.

Many of those measures over the past 3 years we have been gathering some of which we have been just analyzing differently, some of which we created whole new different sets of data, things like the consequence delivery system, things I had mentioned earlier; just quickly, the recidivism rate, the average rate of—the average apprehension per recidivist.

We take a look at unique subjects. We look at deflection and how that is differentiated between displacement. I would welcome the opportunity to sit down with you or members of your staff to go through those in detail, sir.

Mr. BARBER. Madam Chairwoman, could I just ask one more question? I know my time is up.

It is really important that the Department when it devises these new metrics that are going to be now completed by November, that the stakeholders are involved in helping you define what success is.

I am talking about the business people, the residents, the ranchers, the Border Patrol agents themselves. I talk with those men and women all the time. They have got incredible insights about what goes on as you well know because they are there. The ranchers are on their land every single day.

What process can you tell us about it that will include input from those vital stakeholders before we actually finalize and submit these metrics?

Chief FISHER. Well, Congressman, when I am out in the field and talk with them, the things that are brought to my attention are, well Chief, can you tell us a little bit about your ability to see things through broader situational awareness although they don't use those terms necessarily, but what they are talking about is our ability for broader situational awareness.

How can you tell me, either its technology or whether it is through intelligence or agent deployments, can you tell me what is happening around my area? Because when my dog barks at night, my wife is scared.

I understand that perception, right. Each area of the border, I am glad you brought that uniqueness out, is very different, right.

So what we are training the organization to do, understanding the direction where we are going and defining this risk-based approach versus a resource-based approach because you are right and Chairwoman Miller really set the stage.

I can't go to those ranchers and say, "Hey, you should be—you should feel safer because we have an integrated fixed tower 5 miles down the road and I just doubled the size of the Border Patrol station in Douglas over the last 3 years."

That doesn't change the fact that the perception, whether it is real or not, depending upon what the activity is.

Our approach with the field leadership is, to the extent that we are able to with information, is to explain to them what we have in terms of information. What we know is happening there so they understand not just, "Hey, would you call us when you see something suspicious?" We want to be able to tell them what that is.

The second thing is we want them to know to the extent that we are able to, what we are doing about it and in some cases it may be deployments. It may be, hey, we are going to have Border Patrol agents in the area tonight. You are not going to be able to necessarily see them because they are going to be working in these general areas. We want you to call them because they are going to have the ability to respond if you see them.

Or we are working some technology you may be aware of; I am out in the East County and the Douglas area and I would be happy to go into further detail outside of this hearing to do that.

Mr. BARBER. I want to thank the Chairwoman, and I would repeat what you and the Ranking Member said. Please get in this game fully. We need it in order to move forward with comprehensive immigration reform. We will not get there without your help.

So thank you Madam Chairwoman.

Mrs. MILLER. Thank the gentleman, and I thank him for joining the subcommittee today as well.

At this time, we are going to go to a second round of questions, but in the interest of time, we will keep it to 5 minutes. With that, I would recognize the Ranking Member.

Ms. JACKSON LEE. Thank you so very much.

I am in a meeting interestingly enough with leaders of commercial airports in the anteroom here and so I wanted to quickly get some additional inquiry in. But first what I would like to do is to say that on behalf of all of the Members, we thank all of the men and women for their service and we thank Congressman Barber for his initial comment. But this appreciation of service goes along with inquiry, and Chief Fisher I think that the detailed presentation that you made to the question of the Congressman from Arizona is the framework that myself and the Chairwoman who have committed to working together. This is a, sort of, inquiry that we are making together and the framework is one that we are making together.

That detailed, nonclassified response is the kind of package that we are going to need, if you will, as we move forward in a parallel structure to have extra tools for you through comprehensive immigration reform and then of course the tools that you necessarily need at the distinctive borders.

Let me pose right to Mr. McAleenan quickly, and if I can get a sequester answer from all three that is just a yes or no.

Chief Fisher, is sequester impacting you negatively, prospectively?

Chief FISHER. We do have reduced capability as of March 1.

Ms. JACKSON LEE. I am sorry?

Chief FISHER. We do have reduced capability as of March 1.

Ms. JACKSON LEE. Thank you.

Mr. McAleenan.

Mr. MCALEENAN. Yes.

Ms. JACKSON LEE. Mr. Borkowski, you are obviously, but—

Mr. BORKOWSKI. Yes.

Ms. JACKSON LEE. All right.

If I can bring to your attention and for us to get back together, JFK airport is experiencing through a message to me from Congresswoman Clarke, we are very concerned and Bush Intercontinental Airport is of great concern and let me just give an example of one besides the—and if you could just give a quick answer—besides the idea of sequester which you have already said. However, we have Air China possibly bringing in about \$400 million, wanting to leave Bush Intercontinental Airport at 1:30 a.m. and your staffing and again, this is not a pointed blame, it is how can we resolve this, is indicating they have no leverage, staffing, et cetera after 12 a.m.

That is a very difficult challenge and are you familiar with this quandary that we are in? Can you provide us a report back? You want to mix that in with your sequester issue? They will start—this is going to start, I think, in—you are—look like you are starting some decreases in April, and this is going to start soon thereafter.

Mr. MCALEENAN. Quick response now and I would be happy to follow up in greater detail.

The challenges that you outlined at our major international gateway airports are certainly present. We have seen tremendous growth in your environment.

JFK you mentioned, 14 percent over the last 3 years and about 5 percent so far this year. Houston, we have seen 23 percent over the last 3 years, continued growth this year and we have got a robust strategy to try to address that with our existing resources of both our scheduling, our collaboration with the airports.

Houston you know, you are familiar with our Express Connect; our one stop—

Ms. JACKSON LEE. Right.

Mr. MCALEENAN [continuing]. Trying to move those passengers is—

Ms. JACKSON LEE. Can I work with you on those specific issues? I am going to cut you off just because I need to get these other—this other question in. Can I work with you on those specific issues?

Mr. MCALEENAN. We would love to do that.

Ms. JACKSON LEE. All right. Thank you.

Let me just ask this question. Tell me the utilization of drones—what is—how much—that is nonclassified—who uses it and, Chief, I guess I would go to you and Mr. Borkowski, very quickly.



Chief FISHER. Yes, it provides us a critical capability in terms of broadening our situational awareness and adding to the suite of technology that we and this particular committee have supported graciously by the way for our ability to secure this country.

Ms. JACKSON LEE. Mr. Borkowski.

Mr. BORKOWSKI. It does two key things for us. No. 1, it can get to areas that it is very difficult to put ground-based technology and get up over them and it can move into them as the Border Patrol needs.

The second thing it provides us is kind of strategic information. It is one thing to have information that is real-time, the camera that I am going to ask the Border Patrol go respond to what this camera sees. The predator also allows us to get an idea of whether or not things are changing on the border.

So where we think some things are not happening, we can go check and confirm that it is not happening or learn that that has changed and then the Border Patrol can adapt to it. So those two key things are important to us.

Ms. JACKSON LEE. Madam Chairperson, let me thank you very much for allowing this, and I would just ask on the record that we possibly have—well, let me just say—and I want to possibly have that we have a classified briefing on the utilization of drones because I want to be both consistent with the Constitution as well as looking at that as a resource that these gentlemen are using. I really would appreciate—I think it would be important for this committee to have a classified briefing on the drone utilization.

Let me thank you all for your testimony. Thank you for the second capacity to ask questions.

Mrs. MILLER. Thank you.

At this time, the Chairwoman recognizes Mr. Barletta, from Pennsylvania.

Mr. BARLETTA. Thank you, Madam Chairwoman, and again I would like to thank you for this important hearing. I believe it is very important that we educate Members of Congress before we make public policy that will affect our Nation as some of the proposals that we are hearing about will.

My question is to Chief Fisher and Mr. McAleenan. You know, as I mentioned before, we could build fences across the entire country, north and south. We can protect our coastlines east and west, but almost half of the people that are in this country illegally didn't come in that way.

It is important that I keep repeating this because I believe that it is a missing piece to how we determine whether our borders are secure.

So I think it is very important for everyone to accept the fact that visa overstays are just as important as protecting our borders North and South. A person that sneaks across the Southern Border into El Paso and takes an American job is no different than somebody who overstays a visa and takes an American job.

It is no different if someone crosses the border into Arizona and plants a bomb somewhere or someone who overstays a visa and plants a bomb. So I think there is a missing piece to this when we talk about whether our borders are secure.

So even if Secretary Napolitano would declare that our borders are secure, I would argue that our borders are not secure, are not secure until we also deal with the fact that visa overstays are part of our National security responsibilities.

So my question to Mr. Fisher and Mr. McAleenan; how do we fix this? We are talking a lot about how do we protect our borders and are you coordinating with ICE and how do we—what are some ideas that we might be able to impose to solve that problem?

Mr. MCALEENAN. Thank you, Congressman. It is an important issue and I think from the Secretary on down, it is an important focus for the Department of Homeland Security and certainly for CBP.

We are absolutely coordinating with ICE and with the Department of State to really address this from the early origination of the problem from when people are applying for visas, when people are applying as visa waiver country travelers to come to the United States, assessing those applications for risk at our international processing center to gather with State and ICE who are joining us to look at the same data with the best intelligence in our advanced techniques.

So we are starting now much earlier in the process at the outset. I think the Secretary and others have defined the security process as critical at each juncture before the visa is issued, at the port of entry, assessing admissibility, following up, identifying and following up if there are overstays and of course, enforcing the laws on employers who put people to work who are here out of status. I agree we have to do all of those things.

Mr. BARLETTA. Do you agree though that that should be included when we assess whether or not our borders are secure, that we also include whether or not we can track people in and out of the country when they overstay their visas?

Mr. MCALEENAN. I believe it is included, yes.

Mr. BARLETTA. Thank you.

Mrs. MILLER. Thank the gentleman.

I would also, just to mention on this visa overstays quickly, it is something that this subcommittee has had a lot of conversations about even during the last Congress and you are spot on, Mr. Barletta, about the high percentage, in the 40 percentile of everybody who is here illegally came here on a visa overstays as you mentioned, the 9/11 hijackers, several of them were here on a visa overstay.

Since the committee really had very focused oversight on that, the Department of State has focused much more on trying to develop a robust exit system. We do pretty well getting them here, but not tracking when they leave and developing a robust exit system in dealing with what several hundred thousand backlog of visa overstays.

I am not quite sure where they are at this time, but there has been quite a bit of progress but the largest room is a room for improvement. That certainly is true.

With that, the Chairwoman recognizes Mr. Barber.

Mr. BARBER. Thank you again, Madam Chairwoman.

Two or three quick questions. I want to go back for a moment if I could, Chief Fisher, to the question of getting input before these metrics are finalized.

I think it is critical that it not only be done, but it be seen to be done and I would really urge you to convene public meetings where people who live and work along the border and back from the border can give you their sense of what it would mean when they say, "The border is secure."

Because I think when we measure—when I look at it, I look at it anecdotally and I look at it empirically. The empirical data unfortunately is mixed. The GAO report showed that we have different ways of measuring or using data across the sectors; that is not helpful, but I do think the credibility of the metrics will be enhanced dramatically if we can have public input and it is seen to be done.

So I urge you to really consider that as you go forward. Specifically now I want to ask a question about tools that can be useful. I have talked a lot about the area east of Douglas all the way to the New Mexico line which is wide-open territory, as you know, to mountains coming in from Mexico.

The drug traffic into those communities across the ranchland and put people at risk. We have, I think at least for now, saved the Aerostat Program which was going to be taken down operated by the Air Force at least through this fiscal year. Hopefully it will be picked up by DHS next fiscal year.

The Aerostat Program is our blimps basically that both have a visible deterrent as well as a very important tool for detecting incursions.

Chief Fisher, you might want to take this under advisement, but I really think that if we can get another Aerostat, another blimp over the ranch area that I have talked about east of Douglas between there and New Mexico, it would have a great benefit because part of the problem is the cartel is coming through it the mountains and canyons are hard to see.

So you may want to comment on whether that is feasible or whether that would be helpful and then the last question has to do also with increased resources.

The Senate is sending us hopefully a CR that will increase the budget for CBP. Could you comment on if that passes, and it is going to be in the range of \$250 million, how that could be used to offset the impact of furloughs and over time?

So I posed a lot of questions to you at once: The stakeholder issue, the Aerostat, and the CBP increase hopefully that is coming.

Chief FISHER. To your first comment and question, I would not disagree with you, Congressman. We will take that—and matter-of-fact, it is being done in some locations will make sure that the leadership within your area is involved as well.

To the second, I will tell you briefly, we are always changing and our requirements for detection capability and perhaps Mark can talk a little bit broadly as it relates to whether it is a tethered Aerostat or other similar technology that is meeting our requirements.

Third, once we settle with the numbers we certainly—the direction that I have given my staff here at headquarters and the commanders in the field is basically two principles.

First and foremost, preserve to the extent that we are able to, our priority mission sets.

Second, make sure that we can reduce, to the extent that we are able, to the impact on the agents, the employees, and their families. Within that construct, we intend to do just that, sir.

Mr. BARBER. Thank you very much.

I yield back.

Mrs. MILLER. I thank the gentleman.

Let me just say sincerely how much I again appreciate all of your service to the country and it has been said here already by other Members, certainly all of us certainly appreciate, so very, very sincerely the bravery and the heroism and the courage and the dedication 24/7 by those who are out in the field and serve our country so very, very well in helping to secure our border.

Easy for us to sit here in Washington, you are probably thinking, asking you all of these questions, right, when you see what is going on in the field and I guess I just make that comment because I do want you to know that we do think about that and we see it and we do thank you so much for your service.

But that being said, I think you can also understand and you see here that there is an increased focus here about trying to get to some sort of a measurement because I think many of us from the profession that we are all involved in, in elective capacity here see an opportune time in our country, a sort of a pivotal time, a historic pivot perhaps, to get some sort of immigration reform done.

Perhaps. Perhaps not, but that conversation will not be being had with Members of Congress or the American people without asking this critical question of is the border secure and how can we measure it and do we, as I said, do we feel confident that the measurement that we are using, whatever it is, is something that is—that we can understand—and believe me, I know that sounds so simplistic.

You are probably thinking, well geez, there is all these various components in it, but that is a question that we have to ask ourselves.

Just as you say, how do you define success, right, in theater or in any kind of engagement and that is a question that we are trying to get to. So I think we are all very open on trying to ask the right question and understanding the components that go into the construct of an answer.

So again, we will leave the hearing record open for 10 days and if any other Members have any questions of you, we would ask that you respond in writing, but we appreciate your service and we look forward to continuing to work with you as we do secure our Nation's border and move forward to serve the American people.

Thank you all very, very much.

Subcommittee is now adjourned.

[Whereupon, at 11:43 a.m., the subcommittee was adjourned.]

## APPENDIX

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LETTER FROM VERONICA ESCOBAR TO CHAIRWOMAN MILLER

MARCH 27, 2013.

The Honorable CANDICE MILLER,  
*Chairman, Subcommittee on Border and Maritime Security, H2-176 Ford House Of-  
fice Building, Washington, DC 20515.*

DEAR CHAIRWOMAN MILLER, Thank you for inviting me to testify before the Border and Maritime Subcommittee on March 20, 2013. I enjoyed presenting the Members with the perspective of an active border community, El Paso, Texas. Ensuring safe and effective borders is a critical issue for our National and economic security.

During the question-and-answer segment of the hearing, Rep. Barletta asked me to provide him with copies of some of the economic studies I referenced regarding the tax and economic growth benefits of an improved immigration system, including a path to citizenship for those currently residing in our country. I have forwarded those documents to his office along with all Members of the Subcommittee on Border and Maritime Security, but I would also like to ask that they be included with my testimony as part of the hearing record. The documents are attached.\*

Thanks for your leadership on this important topic. I look forward to working with you and the committee in the future. Please do not hesitate to contact me if you have any questions or concerns.

Sincerely,

VERONICA ESCOBAR,  
*El Paso County Judge.*

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ARTICLE, CQ WEEKLY

THE ECONOMICS OF IMMIGRATION

*By David Harrison, CQ Staff, Nov. 26, 2012—Page 2376.*

The immigration debate has a new argument.

For the past few years, those who favor allowing illegal immigrants a path to legal residence and eventual citizenship have based their campaign on moral grounds, that it is only fair and humane to bring the millions of undocumented immigrants out of the shadows, where they often are mistreated and underpaid.

Those who oppose such a path to legality have countered with a more politically powerful assertion, that illegal immigrants take jobs from Americans and, in their millions, threaten to ruin the country and its economy.

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\* Congressional Budget Estimate has been retained in committee files and is available at [www.cbo.gov/sites/default/files/cbofiles/ftpdocs/72xx/doc7208/s2611.pdf](http://www.cbo.gov/sites/default/files/cbofiles/ftpdocs/72xx/doc7208/s2611.pdf). The Economic Benefits of Comprehensive Immigration Reform by Raúl Hinojosa-Ojeda has been retained in committee files and is available at <http://www.cato.org/sites/cato.org/files/serials/files/cato-journal/2012/1/cj32n1-12.pdf>.



**CHANGING DYNAMIC:** Students block a street in Los Angeles during a June demonstration for an end to deportations. The DREAM Act would grant citizenship to many illegal immigrants brought to the United States as children, and proponents say that allowing them to stay and work would be good for the economy. (KEVORK DJANSEZIAN/GETTY IMAGES)

Now, though, at the moment when President Barack Obama's re-election has highlighted the growing voting power of Hispanic, Asian, and other foreign-born Americans, pro-immigration groups have begun to make an economic argument of their own.

What's been mostly lost in the political back and forth in recent years is the considerable body of evidence that liberalizing immigration policies would, in fact, improve the U.S. economy. Experts and academics have run computer models of various legalization scenarios and found that they would all help brighten the Nation's economic prospects as it continues to struggle out of a recession.

"Putting these young people to work is good for the economy and creates jobs, just the opposite of what many people have argued," says Sen. Richard J. Durbin, the Illinois Democrat who is one of the most outspoken advocates of the DREAM Act, which would grant citizenship to many illegal immigrants brought to the country as children.

"Bringing these people out of the shadows who are undocumented," Durbin says, "having them pay taxes, having them pay for the protection of basic laws, these things are good for the economy."

Most economists agree that a mass legalization program would have a net positive long-term effect on the economy, and that agreement includes even Harvard's George J. Borjas, whose studies of immigration and falling wages have long been cited by those who oppose more liberal immigration policies.

The macroeconomic effects of an immigration bill, it seems, are not in question. The 1986 Simpson-Mazzoli Immigration Reform and Control Act, which gave a path to citizenship for illegal immigrants who had been in the country before 1982, had the effect of raising the wages of formerly undocumented workers by 15.1 percent within 4 or 5 years, according to one study commissioned by the Labor Department. That, in turn, boosted consumption and tax revenue.

"The economics is really clear," says Jeremy Robbins, director of the Partnership for a New American Economy, a coalition of mayors and corporate CEOs that was co-founded by New York Mayor Michael Bloomberg to seek more liberal immigration

policies. “If you get talented people here who want to work, the economy is going to grow. We don’t have a zero-sum economy. And the same is true at the low-skilled end.”

That doesn’t mean that every American’s life would be improved overnight. As with any significant policy shift, an immigration overhaul would create winners and losers, at least in the short term. Academics disagree over the details, in particular the question of whether the new influx of legal low-skilled labor causes wages for native-born low-skilled workers to drop.

And that is part of what worries immigration opponents such as Lamar Smith, the Texas Republican who chairs the House Judiciary Committee.

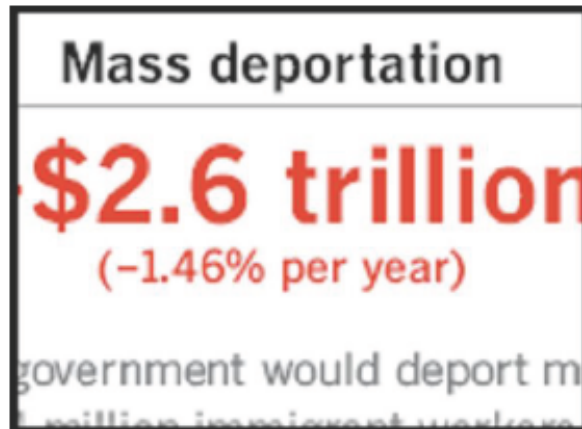
“Jobs are scarce and families are worried,” Smith said at a hearing last year. “Seven million people are working in the U.S. illegally. These jobs should go to legal workers.”

Nevertheless, even some Republicans are starting to probe a new path on the immigration debate, given the results of this month’s election. Sen. Marco Rubio, the Florida Republican and Cuban-American who undoubtedly will play an important role on immigration within his party, noted during a Nov. 15 event at the Newseum in Washington that illegal immigrants fill a need in the economy that they could just as easily be filling as legal workers.

“If your economy is demanding 2 million people a year to fill 2 million new jobs at a certain level, but you’re only allowing a million people to come in,” Rubio said, “you have a supply-and-demand problem, and that supply of folks that need a job in Mexico or anywhere else in the world is going to meet that demand.”

#### *An Uncertain Pathway*

When President Ronald Reagan signed the 1986 immigration law, he set in motion a process that would eventually put 2.7 million formerly illegal immigrants on the road to citizenship. First, the law granted them permanent residency visas—known as green cards—which also allowed them to bring immediate family to the United States. Over time, many of those green-card holders became naturalized citizens, woven into the fabric of the country.



**How Overhauling Immigration Might  
Alter the Economy: [Click here to view  
chart](#)**

Thanks to the law, immigrants were able to bargain for higher wages, pay taxes, build up their credit histories and apply for loans. Knowing that they were safe from deportation also made them more likely to learn English, get an education, buy houses and start businesses. They eventually settled down to raise thoroughly American children weaned on sugary cereals and Saturday morning cartoons.

“All around, it generated a burst in consumption as wages increased, but also in productivity, which is the economist’s dream,” says Raúl Hinojosa-Ojeda, a Chicano studies professor at the University of California, Los Angeles, and an influential pro-immigration voice. “When you create a wage increase for a lot of people in the economy, they start spending a lot more. And we are all people that sell to them, so our economic activity goes up.”

In a paper earlier this year for the free-market Cato Institute, which backed a more liberalized immigration system, Hinojosa-Ojeda estimated that a new immigration law similar to the 1986 overhaul would add \$1.5 trillion to the country’s gross domestic product—roughly 0.84 percent—over 10 years.

A less-expansive change that would simply create a guest-worker program, rather than legalize all 11 million undocumented people living here, would only create \$792 billion in added growth, while a mass-deportation plan would reduce GDP by \$2.6 trillion, Hinojosa-Ojeda found.

Another Cato Institute study in 2009 found similar results. Restrictionist policies would harm the economy, while legalization combined with a visa tax assessed on immigrants would add \$180 billion to the economy each year. And a report last month from the Center for American Progress—which was founded by President Bill Clinton’s chief of staff, John Podesta—reached a similar conclusion when looking at the DREAM Act, a more narrowly written immigration bill that would only grant a pathway to citizenship to the roughly 2 million young people brought to the United States illegally as children. The study estimated that passing the DREAM Act would generate \$329 billion into the economy by 2030.

Many of those studies point to the 1986 law as evidence.

#### *Cost to Consumers*

Higher wages for a large swath of immigrants would also probably increase prices for consumers, making things like restaurant meals and lawn care services more expensive.

For instance, today, roughly 70 percent of farm workers are illegal immigrants, largely because American workers refuse to take farm jobs. If government policy grants the undocumented workers legal status, they will eventually look for better jobs in other industries. That means the farm industry will either have to raise wages and prices or continue to hire illegal immigrants. Neither of those is a good option.

Hinojosa-Ojeda says that although that may be true in the short term, over time, newly legalized workers would become more productive, which would offset the impact of their higher wages so that consumers would not notice much of a price change.

Other researchers say the economy’s need for a large pool of low-skilled, low-wage workers is the reason why any mass legalization proposal should include a revamped guest-worker program that would allow workers more say over their employment and working conditions.

“Because of our border with Mexico, you really have to accommodate the demand for that type of labor with legal pathways,” says Pia M. Orrenius, a senior economist at the Federal Reserve Bank of Dallas and a former adviser to the George W. Bush administration. “Those can be set up to work for the benefit of both countries. It’s not that difficult to set up working programs.”

“A lot of people don’t want to stay permanently,” she adds. An improved temporary-worker program would simply “reinforce the circular migration that was there for many decades.”

#### *Needs of the Market*

But guest-worker programs have traditionally been one of the thorniest parts of immigration policy. In 2006–07, when Congress last debated immigration legislation, labor unions opposed the guest-worker provision in the bill, saying the program would not be responsive to the needs of the labor market and would create a class of second-class workers with no rights and no hope of staying in the country.





**RISING TIDE: A young immigrant in Maryland applies for a work permit and deferred deportation under an Obama administration program. Hispanics now account for more than half the country's population growth. (JOSE LUIS MAGANA / AP)**

"There has to be a rational, data-based way to determine when there's a labor shortage," says Ana Avendaño, the AFL-CIO's immigration director. "And when that's determined, employers should bring in workers to deal with those labor shortages. Those foreign workers should come in with full rights."

Avendaño says she would favor a government commission that would use state-of-the-art labor market data to determine where the shortages are at any given point.

Recent immigration overhauls introduced by two Democrats, Sen. Robert Menendez of New Jersey and Rep. Luis V. Gutierrez of Illinois, included such provisions, Avendaño says. Senate Majority Leader Harry Reid, a Nevada Democrat, also has cited the Menendez bill as a possible starting point for next year's immigration debate. That makes Avendaño optimistic.

Despite its net positive effects overall, legalizing the status of millions of undocumented immigrants would not benefit everyone equally, at least not right away. Low-skilled American workers, in particular, who have been hardest hit by the current downturn, could find themselves competing with millions of new job applicants.

"The official unemployment rate for native-born Americans without a high school degree is well over 20 percent, and their underemployment rate exceeds 32 percent. That's also a third of that entire class of workers," Rep. Elton Gallegly, a California Republican, said during a hearing last year by the Judiciary subcommittee on immigration that he chaired.

"And yet at the same time, millions of illegal immigrants hold jobs," added Gallegly, an outspoken critic of loosening immigration rules. "Even when low-skilled Americans can find jobs, their wages are depressed by illegals and other low-skilled immigrants."

Gallegly and other conservatives often cite the work of Borjas, the Harvard economist who favors more restrictions on immigration. One of his most-cited studies found a link between an influx of immigrant workers and falling wages.

Between 1980 and 2000, Borjas has written, immigrants expanded the supply of working men by about 11 percent. That brought about a 3.2 percent drop in the wages of the average American worker. The effect was strongest among high-school dropouts, who saw their wages decline by 8.9 percent.

Borjas' results have been challenged by other economists, notably Giovanni Peri at the University of California, Davis. According to Peri, though immigrant workers may have some small negative impact on native workers in the short term, they actually lead to higher wages for Americans over time. That's because immigrants, many of whom do not speak English well, tend to take different jobs than native-born workers do. Immigrants will cluster in trades like construction, for instance, whereas low-skilled Americans will get jobs in manufacturing, he says.

That means immigrant workers and native-born workers complement each other rather than compete against each other. In a post for the Federal Reserve Bank of San Francisco, Peri provides an example: "As young immigrants with low schooling levels take manually intensive construction jobs, the construction companies that employ them have opportunities to expand. This increases the demand for construction supervisors, coordinators, designers and so on. Those are occupations with greater communication intensity and are typically staffed by U.S.-born workers who have moved away from manual construction jobs."

Over time, many of those who would earn legal status would move up the economic ladder and compete with native-born workers for higher-skilled jobs, but at that point they would blend into the American workforce and make it more productive, Orrenius says.

"Is that really a negative? I don't think we should call that a negative," she says. "That productivity increase is part of economic growth, and that's something that's desirable. There was a time when they didn't want women in the labor force because they didn't want them to compete with men."

#### *Is There a Cost to Society?*

Opponents of legalization contend that legalizing millions of low-income immigrants would drain social services. Sen. Jeff Sessions of Alabama, the ranking Republican on the Senate Budget Committee, has been particularly vocal on this point and has called for changing welfare rules so that less is spent on benefits to immigrants.

"One of the bedrock legal principles of immigration is that those coming to America should not be reliant on federal assistance," Sessions said in a statement this month. "That principle has been steadily eroded."

During the 2006-07 immigration debate, the Congressional Budget Office found that the added costs of the legislation, especially its Medicare and Social Security costs, would outweigh the new tax revenue generated by the change. CBO reported that the 2006 immigration bill would have increased mandatory spending by \$54 billion between 2007 and 2016, largely because of immigrants' becoming eligible for entitlement programs. Discretionary spending also would rise by \$25 billion from 2007 to 2011, while tax revenues would rise by \$66 billion by 2016, which is not enough to offset the added costs.

But CBO acknowledged that its analysis did not take into account the possible economic growth that could occur after legalizing so many undocumented workers. That growth, the agency said, could boost tax revenues by anywhere from \$80 billion to \$160 billion between 2007 and 2016, which would compensate for the increased government costs.

There is another reason to believe that the increased use of entitlement programs would not put a substantial strain on the Treasury, Orrenius says. That's because any immigration overhaul that makes it through Congress almost certainly would include more visas for high-tech workers, a change that has wide bipartisan support.

Those workers are more likely to earn higher wages, which means they'll contribute more in taxes than the value of the social services they will receive. "High-skilled immigration is a big fiscal boon," Orrenius says. "That balances out what is a fiscal cost on the low-wage, low-education side."

So if a sweeping immigration overhaul is such a good idea from an economic point of view, why have advocates been so silent in making that case until now? The main reason seems to be that it is a nuanced argument that doesn't play well in bumper stickers.

"The argument for low-skilled immigration is a longer-term argument," says Robins, of the Partnership for a New American Economy. "It's a harder argument to make in a sound-bite context."

Since the election, however, some Democrats have started relying more on the economic case. And they have been joined by some Republicans hoping to strike a deal that could make the GOP more palatable to Hispanic voters, a fast-growing voting block.

"People that are here, even those who are here illegally, if they'd like to work, we ought to figure out a way to let them work," Sen. Rand Paul, a Kentucky Repub-

lican, said on the Fox Business Network on Nov. 15. “I think immigrants are an asset, not a liability.”

Any grand bargain on immigration remains a long way off. But if members of both parties can agree on the macroeconomic merits of an immigration overhaul, they may find it easier to convince skeptical colleagues and the public at large.

FOR FURTHER READING: *Path to citizenship*, p. 2363; *Immigration and employment*, 2009 CQ Weekly, p. 2860; *Bush-era overhaul effort*, 2007 Almanac, p. 15–9; 2006 Almanac, p. 14–3; *1986 overhaul*, 1986 Almanac, p. 61.

