

Transcript of House Appropriations Subcommittee on Homeland Security Hearing on the Proposed Fiscal 2013 Appropriations for the U.S. Customs and Border Protection

Hearing Held on February 29, 2012

ADERHOLT:

Well, good morning. The hearing is called to order. Let me first start by -- the hearing this morning with some very sad news. Yesterday, even the coastguard helicopter carrying four crew members unfortunately and tragically crashed off the coast of Mobile, Alabama.

And while the investigation is still ongoing, initial reports status at least one of the crew members has died. This tragedy is a sobering reminder of the risks our frontline operators take each in every day -- risk that put many brave, dedicated and security professionals in harm's way.

So our sincere thoughts, our prayers go out to the families, to the crew member of the coast guard and the entire Coast Guard family and the entire Department of Homeland Security family during this time. So we certainly will remember them in our thoughts and prayers.

This morning, we welcome witnesses from the U.S. Customs and Border Protection as we consider the FY13 budget request to secure our borders and facilitate lawful trade and travel.

They are Chief Michael Fisher, Office of Border Patrol; Assistant Commissioner, Kevin McAleenan, Office of Field Operations; Assistant Commissioner, Michael Kostelnik -- all right, it's close. I know I'm -- by the end of the hearing, I'll have it down. Kostelnik, OK, I'll have it by the end of the hearing -- who is with the Office of Air and Marine and last but not the least Assistant Commissioner, Mark Borkowski, Office of Technology Innovation and Acquisition.

Thank you all for being here. We appreciate your ten minutes. We appreciate your service not only to the border, but also to the entire Department of Homeland Security. So thank you for what you do. The people that will encounter you on a day to day basis.

It is the interest of these officers and agents and the folks today on the short follow up the FY13 budget request. For the first time, the budget request proposes a reduction to CBPs top line.

While the administration claims to fully support the 21,370 border patrol agents and the 21,186 CBP officers, the request contains a number of cuts to mission support activities that could dilute that investment.

Since the creation of the Department of Homeland Security, the Congress has increased staffing levels to deliver CBPs mission. This front line personnel came within the mission -- with the mission support funds that CBP said it needed to provide vehicles, weapons, trainings, communications equipment and technical support for those assets to keep the agents in the field.

Now, we see requests that contradicts those earlier request by assuming numerous efficiency and deferments. While the subcommittee has directed CBP to look for efficiencies in this operation, we expect that the efficiencies would be real and based on actual analysis -- not dictated by prorated cuts across the board.

Even more troubling that our question about the impact of cuts to basic mission support activities are our concerns of the blatant reduction in CBPs air surveillance capabilities.

The request proposes to cut 37 front line positions from air and marine operations and 52 percent cut from air and marine procurement. At a time when border patrol is looking to maximize its available resources and persistence of surveillance it is one of the biggest remaining gaps and certainly this is unacceptable.

Further, our nation's containing, counter drug efforts in the source and transit zone have been disseminated in this request that we're seeing with cuts in the Department of Defense, Coast Guard and CBP assets.

Bottom line, this budget puts the investments we've made in border security over the years at risk.

I say to this, last year this subcommittee expects truth in budgeting and unfortunately, this request does provide a straightforward picture of its impacts. As a result, gentlemen, we look forward to hearing from you this morning regarding what you need to perform your mission.

No doubt, we expect you to be responsible and thrifty managers of the resources you have, but as we put your officers and agents in harm's way, we must ensure that we're providing them with the tools and with the capabilities they need to perform their mission.

At this time, I would like to recognize the subcommittee's distinguished ranking member, Mr. Price for his opening remarks.

PRICE:

Thank you Mr. Chairman, and I want to join with you in expressing our concern about the Coast Guard incident and our good wishes, prayers, sympathy to the family of the downed coast guardsmen. We'll be following this incident with great caring and concern.

I want to also join you in welcoming our witnesses today -- the representatives of important functions within the Customs and Border Protection Agency. The agency's tasked with wide ranging responsibilities.

Your agency is critical to expediting legitimate travel and commerce in the United States while at the same time policing our borders both at and between ports of entry to prevent drugs, weapons, counterfeit goods and illegal or dangerous individuals from entering.

All of these efforts involve targeting, screening, and inspecting persons of concern and cargo either overseas or once they reach our border here in the United States.

Each of you has a unique responsibility made all the more important by the lack of a permanent commissioner at CBP at the moment. Therefore, each of you has an increased burden to provide effective oversight and leadership within your branch as well as coordination throughout the department.

So I'm pleased to welcome the panel here today, our panel of distinguished CBP witnesses to discuss their missions, priorities in more depth as you testify on the budget request.

For fiscal year 2013, CBP is requesting \$10.4 billion. While it appears that CBP is getting \$190 million increase or two percent above 2012, this is somewhat misleading.

In an apples to apples comparison, after you remove that proposed U.S. visit transfer of 261.5 million, CBP actually comes out slightly below last year's level. Like the rest of the federal government, you are being asked to do more with less. And your budget reflects your heavy reliance on human capital for all your activities -- to maintain your current staffing of 21,370 border patrol agents and 21,186 CBP officers, your request leaves few dollars remaining to invest in new assets and tools for your personnel.

I support the decision to sustain front line operations, but I do have serious concerns about cuts proposed elsewhere to achieve this goal. For example, this budget requests a 52 percent decrease in funding for air and marine procurements at a time when aging assets are already operating with reduced flight hours.

The request will result in further reducing flight hours by approximately 40,000 fewer flight hours than just three years ago. A troubling decrease that this committee must weigh of which the implications of which this committee must weigh.

Couple this with the proposed \$7.1 million reduction in air and marine staff and I have serious reservations about the ability of the office and air and marine to effectively carry out its mission. We would want to explore that with you.

Elsewhere, this budget proposes an 18 percent reduction to border security fencing, infrastructure and technology. That seems reasonable to me. I'm recognizing that the border fence project has been completed and the follow on to SBI has been delayed.

I have more questions about the proposed cuts to missions support and information technology support which may impact front line operations. This committee allocated significant resources under my tenure as chairman to provide adequate support staff to CBP ensuring front line personnel were not spending their time performing administrative functions behind desks. This budget, I'm afraid, would erase many of those gains.

On the technology front, no one could deny that much of the equipment used by CBP at our ports of entry has reached or will soon reach its projected lifespan.

That's precisely why the Recovery Act provided \$100 million for non-intrusive inspection systems. However, the budget proposes a \$31 million reduction for this technology forcing the department to rely on currently fielded equipment.

Deferring investment and equipment and technology today, I'm afraid the department might only increase the cost of these upgrades tomorrow.

So gentlemen, during this period of fiscal restraint, you've been asked to tighten your belt. In doing so, we do have to ask of whether this budget is properly calibrated, whether it's balanced in a way that maintains critical operations without removing the resources or reducing the resources that we need to operate in other areas.

Many tradeoffs that we're going to need to explore. So we have lots of questions. Let's get right down to the testimony and we're eager to hear from you. Thank you.

ADERHOLT:

Mr. Price -- Chief Fisher, I would recognize you at this time for your opening statements for the panel. So if you would proceed.

FISHER:

Thank you, Chairman Aderholt, ranking member Price and members of the subcommittee. Good morning. It's an honor and a privilege for us to be here today to discuss the hard work of the men and women of the U.S. Customs and Border Protection.

If I may, Mr. Chairman, before I begin, on behalf of the commissioner of CBP, we would also like to extend our condolences to United States Coast Guard and their families given the tragedy that we just -- that you have mentioned earlier at the beginning of the hearing.

Since the department was created, this committee has been extremely supportive of CBP and our challenging mission. And we thank you for your continuing support. The significant commitment and investment you have made in CBP helps protect our country from a host of evolving threats to the United States including the threat from transnational criminal organizations.

Today, I would like to highlight on behalf of the panel our fiscal year 2013 budget request and outline the ways in which your investments of both time and resources are utilized.

And I would also like to discuss the ways in which we hope to perform our mission more effectively and efficiently in the future.

CBP is the largest uniformed federal law enforcement agency in the country and our priority mission is to protect the American public while facilitating lawful trade and travel.

This mission includes ensuring that all persons and cargo enter the United States legally and safely through official ports of entry, preventing the illegal entry into the United States of persons and contraband at and between the ports of entry and insuring the safe and efficient flow of commerce entering the country and enforcing trade and tariff laws and regulations to protect domestic industry.

In support of this mission and on a daily basis, our front line officers and agents guard more than 3,900 miles of border with Canada; over 1,900 miles of border with Mexico; and approximately 2,600 miles of shoreline.

Last fiscal year, CBP processed 352 million travelers at ports of entry, inspecting 17 million truck, rail and sea containers. CBP officers at our ports of entry arrested nearly 8,200 people wanted for crimes including murder, rape, assault and robbery.

In between the ports, CBP apprehended approximately 341,000 subjects trying to cross our borders illegally and we denied entry to more than 215,000 people attempting to enter the United States who were found inadmissible for immigration, customs, health, criminal or national security reasons. Our job is no small task and the threats are ever present and consistently evolving.

In the past year, CBP has continued to effectively use the resources provided by congress to increase the security of our borders and improve lawful trade and travel.

We brought unprecedented focus and intensity to the southwest border security operations to prevent violence and prohibit the illegal flow of goods and people.

Examples of CBPs efforts include the following: It increased the size of the border patrol to more than 21,000 agents, screened all southbound rail and vehicle traffic to look for illegal weapons and cash to disrupt criminal enterprises in Mexico, created a joint field command in Arizona where CBP brings together its three operational components under a joint command structure to more effectively meet the challenges faced in the state of Arizona.

Our goal of border security recognizes that the border is much more complex than simply a line on a map. It is an entire area extending into both our country and our neighbor countries.

Security starts along the border by leveraging every law enforcement asset and optimizing them in an integrated way. It continues throughout the border environment as CBP continues and coordinates with our federal, state, local and tribal partners.

Finally, a border policy must foster legitimate trade, travel, immigration, accommodating the movement of commerce from the United States and our allies derive trade and tourist revenues and which derives hundreds of thousands of jobs.

The president's fiscal year 2013 budget supports CBPs efforts to perform our mission more effectively through targeted investments. This initiatives enable CBP to gain efficiencies and administrative savings to maintain front line operations.

This budget supports several priority areas. For instance, maintains the largest deployment of law enforcement officers where 21,370 border patrol agents and 21,186 CBP officers working at the ports of entries.

It includes the request for an additional \$38 million for targeting systems and staff to increase our targeting capabilities and improve our technology-based operations to better support our officers and agents in the field including the successful immigration advisory program and the container security initiative.

It requests another \$ 31 million for critical maintenance and improvements through our automated targeting systems of the national targeting center, these information technology systems of the backbone that supports our ability to incorporate intelligence and improved technologies to target suspected inbound and outbound shipments for examinations and passengers to inspections in real time.

It also supports additional technology deployments to the southwest border including integrated fixed towers to specific locations in Arizona. And it supports our commitment to the recapitalization of our aging fleet of aircraft with the request of \$28 million to extend the life of our P3 surveillance aircraft, \$20 million for new multi-rule law enforcement aircraft and \$17.5 million to continue the modernization of our Blackhawk helicopters.

We've also maintained the commitment to lawful trade, through partnerships with the trade community. CBP has that a positive impact on commercial trade that would enhanced with the FY2013 budget request.

Last year, CBP formally established two industry centers focused on trade processing in the electronics and pharmaceuticals industries. By having these centers for excellence and expertise focus on industry-specific issues, CBP is now able to provide tailored support to each trading environments in a more efficient manner.

And in conclusion, Mr. Chairman, we appreciate this opportunity to be here this morning and we are honored to share with you the excellent work of the men and women at CBP do each and every day to safeguard both our nation's borders and our citizens. And we look forward to answering your questions sir. Thank you.

ADERHOLT:

Thank you, Chief Fisher. Thank you for your opening statement. And those comments and anything else you have could be entered into the record as well. Let me start out with, this is for Commissioner Borkowski.

It has been a year and a half since the security froze future activities under SBInet. In January of 2011, the program was replaced with the Arizona border technology plan to buy off the shelf technology that could be deployed immediately to meet border patrol's clear mission needs.

Yet here we are a year later and very little of that technology has actually been deployed. Only the procurement for thermal imaging devices went out on time and I do not believe the remaining procurements have even been put out for bid yet. Is that correct?

BORKOWSKI:

In addition to thermal imaging devices, we handled the agent portable surveillance systems. But we did that through an agreement with the Army. Mobile surveillance capabilities systems are in first article testing and Friday, we actually released the procurement document for the mobile video surveillance systems.

ADERHOLT:

With this past Friday (inaudible).

BORKOWSKI:

(Inaudible) last Friday. Yes.

ADERHOLT:

With nearly 800 million available for obligation this fiscal year, some of that is a carry over unspent from last year.

BORKOWSKI:

Yes.

ADERHOLT:

So really, funding this operation for the delay, would you agree with that?

BORKOWSKI:

Yes.

ADERHOLT:

Could you talk a little bit about the delay for getting the essential tools into the border patrol agents' hands and when you expect it to get, you know, the bulk of this equipment fielded.

BORKOWSKI:

Certainly. The two large items (inaudible) are the remote video surveillance system as well as the integrated fixed tower. The RFP for remote video surveillance system, our original projection would have gone out last September. So we are about six months behind that.

And as part of an accommodation of that, what we did is we split that effort into two pieces because what those remote video surveillance systems do is they replace 50 existing obsolescent camera sets in Arizona and add an additional 20 towers.

So we worked with the Army Corps of Engineers to build the towers so that the towers will be ready when we actually procure the cameras. The cause of the delay is basically based on three things, quite frankly.

The first of those is our human capital resources to buy these things. We took the -- our office that was responsible for SBInet and split to handle all of these procurements and frankly, that's been a demand on them.

The second issue has had to do with effectively a cultural change in how we procure these. While it certainly makes sense to buy things non-developmentally, it turns out that actually doing that is our existing contracting system was a bit of a culture shock to our system. We had some bumps with that.

The third issue does have to do with some strategic and tactical decisions about accepting some delays for long term benefit. For example, revisiting some of the sites where we're going to put these -- where we're going to put these cameras, making sure that we had a very clear understanding of what industry we wanted.

Frankly, I thought that was worth the trade despite the penalty and so we made those decisions.

ADERHOLT:

Three years ago, you told the subcommittee in response to questions when, from now-Chairman Rogers who is chairing the full committee, that you would have failed if progress was not made.

And here we are virtually in the same place and I think that that is a great concern to this subcommittee. I think it's a very big concern to the agents. I think they deserve better and I do think that this needs to be addressed in a very expedited manner.

While we've been focused on Arizona, what is -- what is happening with respect to technology development for the rest of the Southwest border particularly what we see -- see shifts in the smuggling routes such as South Texas?

BORKOWSKI:

Yes. First of all as we describe when we built the Arizona plan, we have extended the plan to Southwest borders. Now we have a technology laid down for the entire Southwest border with the efforts still focused on Arizona, but with an ability should operation requirements dictate to shift, to shift some priorities.

In addition, some of the systems that we have procured for example the mobile surveillance capabilities actually are deployable to other parts of the border. And those are very useful capabilities because they are mobile.

A third thing I would highlight is we are engaged in a discussion now with the Department of Defense about systems used overseas that -- that could come back that we could use in some of these areas haven't settled on it yet, but that will also give us a quick shot in the arm should we need it, should those systems be affected.

ADERHOLT:

I've received the planned procurement schedule and the schedule shows really just a shift, is this pretty much accurate how the -- the delays have been in place?

(UNKNOWN)

Yes.

ADERHOLT:

Well I like to include this in the record. But I would ask as Mr. Rogers mentioned a year ago, I've, you know - we're in the same place a year from now, would you expect -- would you say, have the same answer that you'd expect that you probably have failed?

BORKOWSKI:

Yes. I would say if I don't meet that schedule, then I would fail to meet my objectives, yes.

ADERHOLT:

Okay. Let me turn it over to Mr. Price now.

PRICE:

Thank you, Mr. Chairman.

Let me turn to Mr. McAleenan and the question of supply chain security. As you know the Secretary has repeatedly testified and I think often persuasively testified that we cannot physically screen all cargo coming into the United States from overseas despite the objectives that were articulated in the 9/11 Act and that some members of this body have -- have continued to push.

That has appeared to be a very elusive goal and perhaps one that would not represent a rational allocation of resources. And I understand that in this budget, there is this -- there isn't a specific provision for the pilot projects that involved 100 percent screening that the SFI, Secure Freight Initiative ports are now reduced to one in Karim (ph), Pakistan. But perhaps you can clarify that.

The alternative to this is of course to focus on the greatest threats. And that's what the Container Security Initiative, the CSI is all about. And we've amply funded that initiative although there have been some mixed signals here as well, I would have to say over recent years that the department has -- has proposed and scaled back CSI at some overseas ports.

But this year, the budget proposes an increase of 13 million for CSI to quote "rebalance" its international footprint and to continue to move to a hub concept in those countries where there are multiple CSI ports.

And in addition, CBP plans do change. The plans to change (inaudible) what they're targeting depending on the country's risk and the internal targeting capabilities.

So I have -- I have some questions about this whole cluster of issues. What programmatic changes are you making this year and in the 2013 budget to improve supply chain security without impeding the flow of goods into our country?

Secondly, is this going to be the new normal, the new -- the new -- the new norm for CSI or could we expect proposals to reduce the overseas presence in favor of screening cargo at the national targeting center? And what is that future balance going to look like?

And then thirdly why -- why has it been so hard to conclusively identify an alternative to 100 percent physical screening?

MCALEENAN:

Thank you, Congressman Price. Some good questions there and I'll try to address them expeditiously in the response.

Now, we do appreciate your strong and well reasoned approaches on these issues over the past several years and working with your staff.

Taking these questions in order in terms of how we're going to continue to improve our supply chain security, CBP remains focused on its multi-layered approach, maintaining and improving our programs to identify and address potential risk by enhancing our targeting efforts and really trying to take action at the earliest possible point in the supply chain and not just to focus on the maritime environment.

So we're talking about GCI for maritime, but also the year cargo advance screening program that we've developed for air cargo and the rail security partnerships we're working on in the Southwest border.

We also want to continue to realize the full value of the import security filing or ten plus two. And some of the investments of this committee have made in advanced analytics for our targeting allowing us to achieve that.

And, of course, we want to sustain our signal trade partnership program, (inaudible) and continue to build on those efforts as well as effectively and efficiently examining cargo and you highlighted the challenges and maintaining our NII capability.

Although we're pretty healthy there, thanks for the (inaudible) investment in our NII (ph).

In terms of the mixed signals, Congressman on CSI, I think what we've had here is really we tried to take a cut in fiscal year '11 that turned out to be too deep to sustain what we thought would be the critical aspects of our program including our international footprint.

So this 13 million is really a rebalancing and I think it is the new normal as you put it for CSI. What we've done is reduce our international footprint from 186 CBP officers abroad to 85 now is our target level. And we've done that through a variety of measures.

One, the NTC for cargo is supporting the targeting efforts. We're doing fewer of the pieces of the targeting at the foreign locations. Two, in certain countries where we have good trusted partnerships, we're moving to a hub and spoke type of system.

So we're able to liaise with the foreign customs organization centrally and save money on our -- on our IT connectivity while maintaining the relationships. So that's an important area for us.

And just to quickly -- I understand my time is limited -- get to the question of why is this so hard. I believe, Congressman, this is difficult because we're -- we're essentially trying to bridge the gap between two divergent philosophies.

One, it's focused on risk management and a layered approach of security and that doesn't put all of our eggs in one basket. And another approach that focuses just on one significant security measure, 100 percent scanning at one point in the process.

PRICE:

But if I can interrupt, you're definitely coming down on the side of risk management, is that not right?

MCALEENAN:

That's correct, sir. I think that's reflected in the administration's -- the national strategy for global supply chain security which did validate many of the principles we've been working on in terms of managing risk and addressing it at the earliest possible point in supply chain.

The added pieces we're looking towards the national strategy supports is the extension to the other members of the federal agency, deeper partnerships beyond Coast Guard and TSA with whom we work with closely to some of the other departments and agencies that have a role as well as the state and local governments.

And secondly the potential to expand globally and really build on our efforts with the world customs organizations, IMO, IKO and others to set standards and to increase the overall global supply chain network.

ADERHOLT:

Mr. Carter.

CARTER:

Thank you, Mr. Chairman.

Chief Fisher, welcome to all of you. We're glad you're here. Chief Fisher, a December GAO study found that there are significant weaknesses in evaluation of CBP training program evaluations.

What steps are you taking to address this criticism to ensure that the taxpayers are given the most bang for their buck in the money CBP is spending to train officers?

FISHER:

I'm not specifically familiar with that report. It does on training in general, Congressman?

CARTER:

My understanding that they said there was a significant weakness in the evaluation process of CBP for that training program.

FISHER:

OK.

CARTER:

In other words you're not looking into your program with a jaundiced eye so it can be improved. You had no knowledge of that?

FISHER:

Well, sir I'm not specific -- I'm not familiar with the specifics in that particular report. I can however tell you that working both with the office of training and development and within CBP writ large and I think the skills to not just the border patrol offers but certainly CBP officers and air marine.

You know, we have looked over for the last few years both in terms of how we recruit, the extent of which we are doing backgrounds and polygraphs with agents and officers to include taking a look at how and what we're actually training at the academies, how we're following up in the post academy environment when those agents and officers are deployed to their respective areas and the probationary period by which we constantly evaluate Border Patrol agents.

And I can tell you that generally -- and when you look at attrition within the Border Patrol, the highest area where we do find attrition is those Border Patrol agents that have been hired that ultimately don't pass the five year probation and we don't hold on to those individuals.

CARTER:

Another is, like, that I have an interest in is human trafficking. I'm sure you're aware human trafficking is really a heinous crime in which individuals are exploited for sex or labor or forced into what someone commonly say modern day slavery.

In these cases, in first encounter, many of these victims have -- with law enforcement officers is your department, CBP. What if any training is required for CBP officers who are -- in order to help them understand how to deal with and identify human trafficking. Do you have a specific training issue for that?

FISHER:

We do. Border Patrol agents between the ports of entries go through training to really bring to their sense of awareness and protocols what to do if in fact they are encountering witnesses or victims of crime.

And unfortunately, as you mentioned, Border Patrol agents do see that along our borders. We don't do this independently, by the way. Part of our responsibility's post arrest is to critically identify to the extent that we're able to do biometrics, to be able to identify the individuals and who they are.

We take a look at collectively within the group because many times it's not just individuals that we apprehend. We try to identify the smuggling organization and then starts the series of intelligence gathering.

Again, we don't do this independently. We do checks with the National Targeting Center. We also work with our State local and Federal investigators, most importantly within the Department of Homeland Security. It eyes the investigators in those areas and collectively as we get information about these individuals in any potential human trafficking.

Those cases are followed up with the investigators, and we turn over all information that we were able to garner during the investigation or during the information process subsequent to the arrest.

CARTER:

Oh, yes. The truth is, this is human terrorism. The people that are being smuggled across may have instances -- are very afraid to speak to anybody about their situation because they're scared for that, either of consequences to themselves personally or to their families back home.

Many of them don't even -- didn't even know they would get in this mess until they got it. And I guess my question was, is there a specific training to -- and maybe I a duty, I don't know. But it seems to be someone needs to be able to identify mostly women in this situation and have special skills to realize their situation and work through it with them.

And otherwise, if it turns out we learn about this people usually when they reach their destination area into the system that -- and then we discover them in various operations that are going on in the interior of the country, at least in interior Texas, anyway.

FISHER:

Right.

CARTER:

So, I hope that you can work on those specific skills to assist these women in their terror that they're already in.

FISHER:

We will, sir.

CARTER:

Thank you. Thank you, Mr. Chairman.

ADERHOLT:

Mr. Olver?

OLVER:

Thank you. Thank you, Mr. Chairman. Chief Fisher, this is -- as you see, my first time that I've been in this room. I have to figure out how to use the turn on here, just the little push button.

I'm curious, the agencies which are part of CBP and all those that are in Homeland Security were coupled together after 9/11. And prior to that, the -- well, after they were couple together and the Department of Homeland Security was created, the total number of employees in those agencies that had come from it and whatever new ones, including TSA, ended up more than doubling, more than doubling.

Did the agencies that are yours, Border Patrol and the CBP, there probably was some reorganization there, did those also double at that time? Can you tell me anything about historically what the circumstances were there?

FISHER:

Certainly, sir. Since March of 2003, when the Department stood up, I can tell you from the Border Patrol standpoint, we did, in fact, about double to what we -- when we came in to the organization 2003, the agent officer corps and what we have today with that 21,370, we have doubled over the last few years.

I can't speak specifically to the other offices of the double.

OLVER:

And the other offices and CBP, would they have been roughly -- go ahead.

FISHER:

Congressman, for us in the field of operations, since 2003 we grew about 15 percent from the staff that came in in our operations.

OLVER:

So the Border Patrol, I want to really focus on Border Patrol, you talk about 2,000 miles of Canadian border. What number -- what portion of the Border Patrol -- Border Patrol, I take it as our land borders, Canada and the Southern Border.

FISHER:

Generally, but we do have Border Patrol stations that have marine sectors in New Orleans, Miami and Puerto Rico. But the vast majority of our resources are deployed, Congressman, as you mentioned, to the Northern and Southern border.

OLVER:

Okay. Roughly, how many are along in the Canadian border? Is that 21,000?

FISHER:

There's approximately 2,200.

OLVER:

2,000?

FISHER:

Yes, sir.

OLVER:

And then the other, roughly 18,000 of them say a few hundred in the marine services, roughly 18,000. How does that break down among the four states, California, Arizona, New Mexico and Texas? Can you give me a sense to that?

FISHER:

I can't, sir. Generally, Texas and Arizona are right. Well, actually, Arizona is probably where we have the most Border Patrol agents deployed. Right there, we have a little over 4,000 Border Patrol agents.

From there, if you look at Arizona and the State of Texas, generally, you have a little over about 24 to 2500 in each of, say, Rio Grande Valley and San Diego. The two other sectors, and Loreto, if you take a look at Del Rio and El Paso, they generally fluctuate between 12 and 1400 Border Patrol agents. The smallest of those sectors in Marfa, Texas, obviously has just less than a thousand.

And then you also look at places like Yuma, Arizona, which probably has the smallest contingent of Border Patrol agents there, which is approximately about 1,000 Border Patrol agents in Yuma, Arizona.

OLVER:

Well, you've given a very thorough answer. But the one that I can't quickly translate into how many are California border, how many are Arizona border, how many are New Mexico border, and how many are Texas border.

FISHER:

I beg your pardon. I did not -- I can't give you that information by a state, sir.

OLVER:

That would be good. I want to -- Mr. Carter had asked about human trafficking. I wanted to ask you -- and I probably won't have time to get back to further where I was before. But in your testimony, you're saying that \$126 million in illegal currency was seized in 2011.

So, there's a lot of smuggled cash moving along the border. And on both sides is a border and it's exceeding in criminal enterprises in both sort, some of which could be human trafficking, human slavery, or whatever it might happen to be.

Are there special problems there that are inherent in the tracking and the origin and the destination of that cash and what kind of techniques do you have to bring into play? Do they

differ from just what would be called the human trafficking or are they interrelated with human trafficking that you can't separate?

FISHER:

That's a great question, Congressman. I will tell you that CBP -- I mean we're not the experts in this area. Over the last couple of years, we're working with field operations and Border Patrol agents trying to look at stopping some of the south bound at the ports of entry, vehicles predominantly that are -- that have cash that are going south, and in this particular example, into Mexico.

What we have found is bulk cash. Smuggling had changed ever since we've started those type of operations. We're seeing a lot more deep fulfillment methods within those vehicles, which we didn't see originally when we started checking southbound.

I will you, what we actually apprehend intelligence, and certainly, our intuition along the border is probably a small -- a very small percentage of the cash that is going back south talking with the investigators both from the financial side and Homeland Security investigations.

The criminal organizations continue to change the ways by which they use banking systems both in Mexico and the United States. Cash value cards are being a lot more popular, which right now as I've been briefed, they are one of the statues that would prohibit us or prevent us from seizing those because they store value cards that have cash on those.

It's an emerging threat that we recognize and working with the investigators trying to...

OLVER:

Is most of that cash going through the actual border crossings where -- you've indicated there that most of the vehicular traffic. Do you know anything about what's passing just through the port border?

FISHER:

CBP has made some seizures of cash between the ports of entry going south and to Mexico. Few and far between from the amount of cash that CBP does these and intercept. As a matter of fact, the vast majority of those encounters are vehicles that are going south and to Mexico.

And in some cases, we would have people that do body carries with cash on busses or vans, for instance, heading south and to Mexico. But it is an emerging threat in working with the investigators trying to tie that cash into the criminal enterprise. It's not an easy task, I will tell you.

ADERHOLT:

Mr. Crenshaw.

CRENSHAW:

Thank you, Mr. Chairman.

And Mr. Kostelnik, I'm working with Mr. Aderholt, to get that right, to get it down. Well, I want to ask you a little about the P3 Program. P3s are actually based in my home district in Jacksonville, and so I've seen firsthand the value that they bring the PH of the next generation that they're coming.

And I understand that, I think, 16 of the P3 have been transferred to you all have gone through kind of -- I guess they call it a slept life extension type program, and understand that that's been very successful in terms of introduction, in terms of surveillance.

Knowing the 2012 budget, there was money to extend the life, I guess, in two more aircrafts. I think number 13 and 14. At first, I want to ask you, overall, that program is working well, as I understand it. And is that money being used now to do the life extension of those two?

If it is, when will that be completed? When will they get back into the service?

KOSTELNIK:

That's a long history with the P3 fleet and sort of the strategic marine plan. This committee has been very helpful in sustaining those aircrafts. We have eight aircrafts, in fact, established in centerfield, you know, near in AS Jackson area and another eight aircrafts in Corpus Christi.

And it's our only large aircraft in that class in the multi- world in maritime patrol and our contingency environment. Eight of the aircrafts are -- work on long range trackers, which have 16 radars and flare systems. And eight of the aircraft are the doomed aircraft by (inaudible), and they provide unique capabilities for wide variety of contingency response

In the transfer zone, those aircrafts, for the last five years, have been more than 50 percent of the total air picture in the transfer zone. They've been extremely productive against getting -- going after the self-propelled principles, go fast boats and a wide variety of transportation devices in getting bulk cocaine in large quantities on these boats.

A typical submarine carries five to eight metric tons, for example. In fact, this last year, in 2011 (inaudible), which is the primary interagency mission commander not only for us and our P3s, but the Coast Guard. And there was our P3 that we're a part of. We have 150,000 pounds of 80 percent tier of cocaine last year alone.

That's almost \$2 billion. So, first, that's a very important piece of our mission set defending the narcotics we get there. It prevents it from getting to the border.

We're currently looking at the program. Given the budget cost and environment that we have in that program and other aircraft, you're right. This year, according to the P3 Service Life Extension Program, we have money on hand provided by this committee to put the next two -- to purchase the next two wing sets.

We have purchased 12 wing sets for 12 of the aircraft already. We have four aircrafts that have already been re-winged. In fact, there are 19 international users of the P3 in the world stage, we're the first one to re-wing a P3 several years ago.

And we support the committee. We intend to compete the rest of that acquisition overtime. So, 2012 is on track. We're looking at the aircraft numbers to decide we have 16 aircraft -- right number of aircraft to have. Fourteen is the right number of aircraft to have.

But we've done other things that have made the aircraft even more useful. Historically, we fly those aircrafts as a pair. The boom provided the radar identification of surface targets and the long- range tractor where the flare and the radar does the detection and the end game.

Historically, it's required two aircraft to do that mission set. Because of some of the systemic work we've done on the aircraft and modification, the P3s are reality, just a platform that have gone back and put flare systems now in our all doomed aircraft.

So now the boom with new flares has the same capability as the '02 aircraft used to have.

CRENSHAW:

But the money for -- in '12 or those next two I guess '13 or '14, is that being done now?

KOSTELNIK:

We're looking at that right now and...

CRENSHAW:

But it's not being done?

KOSTELNIK:

It's still on-track. We have to put that out on contract in the next month. We're actually briefing the internal through CBP to look at the long-term needs of the mission in terms of that mission...

CRENSHAW:

So, the plans are to do the work on those two?

KOSTELNIK:

It is.

CRENSHAW:

How about for '13, there's money that you said pending decisions? You're going to do the next drop as '15 and '16. Is that still on track?

KOSTELNIK:

The 2013 request, there is a \$10 million reduction for other properties within the department. However, the peace program will not have a significant impact on the P3 side. That does nothing to do with the investment and the aircraft re-winging.

It will delay the investment for the later aircraft. But the program with what is in the 2013 budget does keep the P3 program on track. It will ultimately result in 14 re-winged aircraft. Like, another additional 20,000 for 20 years and 15,000 service life hours in each of those re-winged aircraft.

It was always our plan at some point not to re-wing the last two aircrafts and to retire those depending on the near-term considerations and the budget environment. We may have decided to retire those aircraft earlier rather than later.

CRENSHAW:

That was, I think, a pending decision. That's the decision you're thinking about.

KOSTELNIK:

Yes, sir.

CRENSHAW:

If you decide not to -- you'll just have 14 instead of the last in '06.

KOSTELNIK:

Well, no, there's a decision about when we would go to 12 aircrafts.

CRENSHAW:

I got you. But we're already planning on doing the 12 -- or 13 and 14. That was -- you have money in budget to do that. But you have not done it yet, but you're going to do it.

KOSTELNIK:

The money is there, and if we don't do that, we hold the committee responsible. We're currently planning to do that.

CRENSHAW:

Thank you.

ADERHOLT:

Ms. Roybal-Allard.

ROYBAL-ALLARD:

Just to add to the comments that were made by Congressman Carter with regards to women, I just also like to point out that we are getting also reports about the treatment of unaccompanied children where they are either not screened at all or being improperly screened.

So, hope that you will add that to the list of things to look into and get back to this committee to give a report in how that is being handled.

At last year's hearing, based on reports in the L.A. Times, I asked about a series of deeply troubling abuses by Border Patrol agents including multiple cases of rape and assault. Since then according to NGO report in November of last year, there were credible reports immigrants continuing to be threatened with physical violence unlawfully deprived of their property and denied food and water for extended periods of time.

Chief Fisher, I know that you take these allegations very seriously. I also know that you face many challenges and training and overseeing the Border Patrol workforce, which has expanded

dramatically in recent years. So, can you please highlight the steps that you're taking to address any of these abuses and the kind of training that is being done?

FISHER:

Certainly, Congresswoman. I can tell you, first and foremost, as a Chief in the United States Border Patrol I require all Border Patrol agents to enact and enforce the laws that a Congress passes within the Constitution, with the degree of consistency and with compassion. That's upfront.

And as we train Border Patrol agents and are bound by rules and regulations, we don't do our enforcement actions without those provisions. And when I was in the field and continue to do so here in Washington and working with NGOs and others, like tell them, you know, to the extent that they hear of these allegations of misconduct. Which are true, we do take all of those very seriously.

As a matter of fact, we turn all of those allegations of misconduct over to the office of inspector general. We don't do those in-house. We don't have our own investigations. We turn those over to an independent third-party to investigate.

And what I tell them is when I hear those either in headquarters or when I was in the field, and the 21 chiefs that are out there hear this as well. And then I reinforce this just recently at a chief's conference out in Phoenix a few months ago just to make sure that we get all the relevant.

So, in fact, when we do turn those allegations of misconduct over to the investigators, they have a starting spot to start getting and doing their fact checking. And I will hold every Border Patrol agent accountable to those standards that I just articulated.

ROYBAL-ALLARD:

Do you know how many investigations are ongoing right now?

FISHER:

I do not know.

ROYBAL-ALLARD:

Okay. This is both for Chief Fisher and Commissioner McAleenan, is that correct? Okay. Secretary Aderholt kind of had stated that the enforcement directive outlined a memo by ICE's Director Morten, our well-recent priorities that are to govern how DHF uses its immigration resources.

However, it's my understanding that CBP has not yet issued instructions to its personnel on adopting the Morten memo. And can you explain why that is and when you intend to do that?

FISHER:

Sir, may I go first if that's OK, Mr. McAleenan?

I can tell you that since Director Morton issued his prosecutorial discretion memo as early as November last year, I did issue some further guidance to the field leadership in terms of what that meant specifically within Border Patrol operations.

And I will tell you the way that we operate very, very succinctly is when we make apprehensions anywhere along the border, we first have the requirement to be able to identify and classify these individuals.

It is different than people walking up to a legitimate port of entry, be it the land border or the airport, providing documentations requesting admittance into United States.

The vast majority of individuals at Border Patrol agents encounter don't have any forms of identification. So we have no idea generally in the field on who these individuals are, what their backgrounds are or the extent to which they may pose a threat this country.

Subsequent to the arrest when we take these individuals back into generally a Border Patrol station, we will run systems check using biometrics. We will gather biographical information to be able to ascertain the level of threat individuals pose to really line up what final disposition that we're going to offer.

And then generally, those case under the protection of the laws and under protection of due process, generally the individuals have the ability to either determine -- and this is very simplistic, by the way -- to determine whether they want to, in contiguous countries, return to their country of origin voluntarily, the voluntary return or if, in fact, they, at their request, want to see an immigration judge.

And then in all cases, we work this along with ICE if, in fact, there's going to be a detention disposition depending upon which course of action they require. We continue to do that today and that was referenced in my direction to the field as early as November.

ROYBAL-ALLARD:

If you want to add to that or...

MCALEENAN:

Just very briefly. From our perspective at the ports of entry on the discretion piece, we don't have as much discretion under the Immigration and Nationality Act.

We don't have the authority to admit an inadmissible person and it's a very rare circumstance where we encounter individuals in the interior as part of our operations. So it's a little bit different. I agree with everything Chief Fisher said.

ROYBAL-ALLARD:

And actually my next question is directed at Mr. McAleenan. I really remain concerned that we're really not devoting enough resources to our ports of entry, the land border crossings.

And according to the Department of Justice, the vast majority of the cocaine, methamphetamine, marijuana and heroin that enters our country comes through these border checkpoints. Yet according to DHS estimates, the criminal apprehension rate is only 28 percent at these checkpoints.

This lack of resources is also hurting American business. According to the Texas Border Coalition, which is a group of business and government leaders, additional funding is badly needed to combat the drug cartels and to better facilitate the flow of goods and people through these entry points.

Given your success in screening other sectors of the border, what shifts in resources do you recommend that this subcommittee make to more effectively address the flow of drugs and to better facilitate.

ADERHOLT:

If you could be brief in your answer, we're running -- we're running out of time. But go ahead and answer this and if you could just sort of be brief and summarize quickly.

MCALEENAN:

Yes. Obviously, staffing and our layered enforcement approach at ports of entry is a critical aspect of our stopping narcotics from entering our country. And ports of entry are a preferred route to some degree.

The apprehension rate you referenced is an old stat from 2008. It's not currently accurate. We'd be happy to provide an official- use-only level briefing on our current apprehension rates for major violations to update you on that.

ROYBAL-ALLARD:

I appreciate it.

ADERHOLT:

Congress has invested billions of dollars in CBP since September 11th, particularly in the -- in bolstering Border Patrol and the staffing in particular to a record number of 21,370 has already been mentioned and providing technical -- tactical infrastructure along the borders.

Chief Fisher, this would -- I would address this to you. Border Patrol is starting to get the tools together to do its job in the right way, at least that's the belief of this subcommittee. But as we see it, persistent surveillance is one of the most significant gaps remaining in your capabilities. How would you respond to that?

FISHER:

Yes, sir. And I would agree, Mr. Chairman, I mean, it took us a while and many thanks to this committee for identifying and fulfilling the requirements that were identified for our border security mission.

I will tell you, one of the things in moving into just over the last couple of years, when we looked at the capability that the Border Patrol in particular has been both in terms of the increase in personnel, the amount of fencing that was required and built along the southwest border and the infusion of technology, we started our strategic shift in terms of what it means for the out years as it relates to persistent surveillance.

One of the things that we have been looking over the last year or so and as part of this, one of the strategic shifts within our strategic plan is I'm not of the opinion as the chief of the Border Patrol and talking with the field chiefs over these last couple of years, that it's a requirement to have persistent surveillance everywhere along the border.

When we looked at the 2004 strategy which was predominantly resource-based, the mantra of personnel, technology and infrastructure, we started talking in terms of persistent surveillance.

Persistent surveillance really is not, or the absence of persistent surveillance doesn't necessarily define the vulnerabilities along the border. And we look at now shifting from a resource-based approach strategy into a risk (inaudible) approach strategy.

What we look at now is vulnerabilities and ultimately the risks aren't necessarily defined in the absence of persistent surveillance. Really, those risks and the extent to which you look at vulnerabilities are really directly proportional. And I would suggest ultimately defined by threat, not necessarily that we have to have a camera or a Border Patrol agent 24/7 looking at a spot of terrain.

So as we shift from our tactical approach to forward deployed and denying terrain, what we look at now is looking at those areas along the border where persistent surveillance does make sense.

There are going to be areas along our border, matter of fact, I'm working with Mr. Borkowski in identifying some of those locations where we're always going to need persistent surveillance.

And I would suggest that's going to be not all across 19,000 or 1,900 miles of border to our south nor would it apply in many cases along our Canadian border. What we have to be able to do is understand that the information first and foremost and then parenthetically you can read in intelligence and understanding how we integrate both in terms of planning and execution with our federal, state, local travel partners as well as our belief to rapidly respond if, in fact, information indicates that an area along the border is a higher risk area.

And so we look at persistent surveillance. We're not going to continue to say, "Well, this area is, quote, unquote, 'secure' because we have a camera that's posted there 24/7."

ADERHOLT:

Let me just interrupt here. Talk about your air assets and how important they are overall.

FISHER:

(Inaudible) is critical and important to a Border Patrol agent. It wasn't too long ago that I myself is working in one of those canyons and just waiting, you know, on a tracking operation by myself to hear the rotor blades coming up overhead. They provide a valuable resource both in terms of providing detection capability to have our eyes in a forward position for us and also to provide air and ground support to Border Patrol agents.

And the payloads and the technologies just over the last few years, it's incredible. As a matter of fact, we're deploying some new technology called VADER which is a Vehicle and Dismount Exploitation Radar. It has the capability to track multiple targets to act as a queuing mechanism for Border Patrol agents to then respond to some of those.

ADERHOLT:

Which of the air assets do you think is most effective?

FISHER:

Most effective? Well, I don't know, but I would pick one. I think the combination and the right combination of the type of air assets, for instance, if you have an unmanned aerial system that

can look forward in deep an provide us advance warning on the approach of what threats are coming to the border, that's critically important.

To be able to get to some of those remote areas in the absence of border roads, then I would say UH 60 helicopter to get a team in and put them on the ground.

There's a whole series of types of capabilities that the general has brought to bear over the last few years. And I wouldn't suggest that, one, in and of itself is the most critical.

It's our capability to take a look at each, unique capabilities that each one of those aircraft provide and then being able to assess how we optimize those in groups along with the other technology that we have on the ground.

ADERHOLT:

OK.

Mr. Price?

PRICE:

Thank you, Mr. Chairman. Let me just continue your line of questioning because one of the striking things about this budget and I think a warning sign that perhaps we need to heed is the reduction in critical air and marine assets.

As I indicated in my opening statement, I'd just like to ask you to elaborate on this. And this does go back also to the earlier questions about this -- the numbers in this budget for SBI are reduced. But it still is a sizable request, \$327 million, still a sizable investment, particularly with 800 million in the pipeline as I understand it.

So I don't know if that's the explicit tradeoff we should be looking at, but in the budget like this you're looking at any and all tradeoffs I think, wondering how these priorities were set.

General Kostelnik, I supposed this should go to you in terms of the air and marine assets that we're talking about overall. Your annual flight hours are anticipated to drop from 106,644 in 2010 to 65,000 in this request. That's -- on the face of it, it appears to be a significant reduction.

If the procurements are halved this year which I think is what we're talking about here, what impact will this have on CBP operations in the years to come? And then let me just ask you to comment on the multi-enforcement aircraft in particular because of delays in MEA procurement in part due to a change in aircraft since the vendor stopped making the original one.

This would be a break down or a break in the production of this critical asset. So what are you doing? What do you think you need to do to get the MEAs back on track? And does this 20.5 million in your request take care of that?

KOSTELNIK:

Well, it's a long story. The committee staff is well familiar with the acquisition program. And, of course, we have the fleet that we have. So we, over the last six years, walked the fine line of reinforcing and sustaining the old aircraft that are still viable with new technology and then adding selected new technologies in the area of the UAVs, the MEAs, new model Blackhawks and other key assets to keep ourselves on the leading edge.

The chief is right (ph) in our target. And if you talk to the operators out in the field, really our hours are going down. We did not have enough O&M to meet the flying hour requirements with the aircraft and the mission sets that we have today. Your facts are spot on. The peak flying program is about 106,000 mission hours in 2010 and we're forecasting in 2013 the hours would be about 65,000. That's about a 30 percent reduction in our capability and it is significant.

Now, offsetting that is the aircraft that are delivering that capability are better, I talked about the P-3s and these systems on the dome, these systems on the long range tracker.

We have M model Blackhawks now in service. They're augmenting the A models, that means they're more readily available, more dependable, you know, better systems. We talk about domain awareness and what Mr. Borkowski provides, the land piece. The chief is right about the targeting.

And in the air piece, while the numbers are about the same in terms of aircraft that we had in 2005, the capabilities are far superior. In the old days, the Border Patrol flew light OH-6s, no real sensor capabilities. All those aircraft have since been retired and then replaced with world-class A-Star helicopters all of which carry a forward looking infrared system and are fully connected to agents in the ground and other connectivity.

And as you know, we operate the most capable UAS system in any homeland on the world stage. But the second largest operator in the world of the Predator, and the only operator of the Guardian systems with aircrafts flew nightly. They all flew last night from four different operating locations around the country and we target them through smart intelligence working with the field commanders to put those assets where we need them.

So if we look at the broader picture and actually our O&M funding is actually up slightly in 2013. But if you look at what's happening in the real world around the gas prices, if you didn't like the price at the pump for cars, the price of the pump for aircraft is much more significant.

So the cost of operation in these times go up and all of those things over time manifest itself. But in our history as we acquire the UAVs, we never really acquired the O&M to effectively operate the size of the fleet that we have.

PRICE:

My time has expired. Thank you.

ADERHOLT:

Mr. Culberson?

CULBERSON:

Thank you, Mr. Chairman.

My apologies for running a little bit late, but it's a pleasure to have you here, sir. I know how dedicated you and all of your officers -- all of you guys are to enforcing the law, securing the border, protecting our country and our families. We deeply appreciate the sacrifice. And the risk that you take is, so impressive to get out in the field and see what you all have to face everyday in the dead of night.

And in the Tucson Sector in particular, chief, where I notice you've got a long history from the Tucson Sector that has been particularly dangerous. It's all dangerous but particularly in the Tucson Sector which is sort of like a super highway because of the absence of checkpoints until recently, the lack of prosecutions in particular have been a problem.

And I wondered if I could -- Ryan (ph), can you give him the -- give it to him.

Chief, in front of you, you've got a list that I prepared. I know I've given this to the other members of the committee in the past. These are numbers that I pulled together over the years with, you know, my staff and I personally have been trying to figure out, of the people that you actually arrest, that you intercept. How many, you know, of those folks that you actually arrest are the Department of Justice are actually prosecuting?

But before I get into that, let me ask you, what is your best estimate of out of every hundred people that cross the border, how many of those do you estimate are being intercepted or arrested by Border Patrol officers, 10 percent -- excuse me -- 10 out of 100, 20, 30?

FISHER:

Could you rephrase the question please?

CULBERSON:

Yes, sir. I'm just trying to get a handle on what percentage of those who cross the border do you think the Border Patrol actually intercepts and arrests? You know, a good ballpark estimate based on your experience and knowledge. Is it 10 out of 100? 20 out of 100? 30 out of 100?

FISHER:

Well, Congressman, I would say it really depends on the area.

CULBERSON:

Sure.

FISHER:

I tell you, when I was in San Diego and with 60 miles of border given that infrastructure and the deployment density and the work that we've done with our federal state local partners, the apprehension we call the effectiveness ratio by how many people came in and of that number, you know, how many people did you apprehend, return back. I can tell you, that number was high. But again, it depends on which...

CULBERSON:

Sure what you're talking about. Let's say, San Diego ballpark, 40 percent?

FISHER:

I think San Diego would be higher than 40 percent, sir.

CULBERSON:

Fifty percent?

FISHER:

Well, if you're just talking over the land, there's also threats around the (inaudible) as we start seeing the criminal organizations shift their tactics as they have over the last couple of years...

CULBERSON:

Sure.

FISHER:

And so as we're going out now over 100 miles west off the coast and landing in places as far north in L.A. and Malibu, it's very difficult to ascertain what that unknown number is.

CULBERSON:

Sure.

FISHER:

Certainly, (inaudible) give you the estimates of that.

CULBERSON:

And I want to stress, you got no better friend. This whole committee, we're behind you 100 percent, sir. And I'm not fussing. Actually, you know, you guys are risking your lives, you know, you're really doing everything within your power to intercept them. I'm not being critical.

What I'm leading up to is to kind of look at these prosecution rates, that this is out of your control. This is done by the U.S. Department of Justice. You do your best to get people prosecuted.

I know my good friend Judge Carter who served -- how many years on the bench as judge?

CARTER:

Twenty.

CULBERSON:

Twenty years.

If an arrest was made, for example, you represent -- you're a district judge in Williamson County -- if I may just on the side just as an example. For example, judge, if the Williamson County sheriff's department made an arrest, what percentage of the people arrested by the sheriff's department in Williamson County, what percentage of those would be prosecuted?

CARTER:

Eighty.

CULBERSON:

Eighty percent. And that's a key point because the officers and the folks that you intercept -- estimate, let's say Tucson, you worked in Tucson. What percentage of those that cross in Tucson are intercepted? Probably, 10 or 20 percent, right?

FISHER:

It's probably high depending on sector, it's a large state.

CULBERSON:

Pretty low.

FISHER:

The miles of border, sir.

CULBERSON:

It's going to be -- would you say 10 or 20 percent?

FISHER:

I think it would be higher than that, sir.

CULBERSON:

Thirty percent?

FISHER:

Again, it's hard for me to estimate a guess (inaudible) specific area.

CULBERSON:

OK. Why don't we say for the sake of argument we'll say we give -- that we'll say it's -- I'll certainly give you guys the benefit of the doubt, about 40 percent on average up and down the whole border.

FISHER:

Hypothetically, (inaudible).

CULBERSON:

OK, 40 percent. If you look at the numbers I've given you -- and I've shared this with the committee before and I want to pass it on again. This is the root of our problem, Mr. Chairman and committee members. These officers are risking their lives busting their chops to arrest these guys.

And unlike any other part of the United States where, for example, in Williamson County, it just logically -- we're now (inaudible), Mr. Chairman, or in North Carolina or Massachusetts, anywhere in the country, Florida, your local police department arrests somebody, you've got 80, 90 percent chance those guys are going to be prosecuted by a grand jury and the district attorney.

These poor men and women of the Border Patrol, you bust your chops out there in the dead of night, snakes, you know, all the other hazards intercept and these killers, human smugglers, slavers, pirates coming into the country, look at the prosecution rate of the people that you're intercepting in the Tucson Sector, for example. They are only -- the U.S. Department of Justice is only prosecuting 14.5 percent. Yes, and that's -- and they're saying that they're arresting -- they're intercepting 200,000 people.

And let's say even if for the sake of argument that represents -- and it can't be -- and Tucson I guarantee most of them are getting through. And I don't want to pin you down on the record, sir, because I don't want any adverse reflection on any of your officers. But even if that's a 40 percent, 10 percent of the 21,000 times 6, it's going to be at least 180,000 are getting through and then you're only prosecuting 15 percent of those. I mean, you can do the math. It, you know, looks like about 84 percent of the people that your officers arrest are immediately turned -- they're just -- they're home in time for dinner.

I mean, I was out there in Tucson and those guys were literally, that at one point the U.S. attorney and I'll -- I appreciate the time, Mr. Chairman. This is such a critical point. When I visited Tucson Sector a couple of years ago, the U.S. attorney there had actually issued a verbal - - they were too smart to do it in writing, but verbally, the U.S. attorney, Mr. Chairman, had told the Border Patrol sector chief in the Tucson area that they would not prosecute anybody that was carrying a load of less than 500 pounds.

But all the loads in the evidence room in Tucson were all 488 pounds, 490 pounds, 470 -- I mean, took the smugglers, he said about 48 hours to figure out the new procedure. So the only thing that smuggler was out of was about three hours a time in the load and he was home in time for dinner, that's the general rule.

And it drove your officers is crazy. The prosecution rate is a real problem. Would you agree, Sir, that getting the U.S. attorney to prosecute people that you arrest, it's a real problem.

(UNKNOWN)

It's challenging in some judicial districts, but I wouldn't characterize it across the southwest boarder that way, no.

CULBERSON:

That's correct. In the -- in the Del Rio Sector where Judge Alia Ludlum has truly implemented the Streamline program and Mr. Chairman, and finally in the Tucson, in the El Paso Sector, in Del Rio they're prosecuting 56 percent and in El Paso, 65 percent.

And the result has been safe streets, the local community strongly supports this program and it's something that we in Congress, Mr. Chairman and committee members need to do our part. I'm on CJS with you, Mr. Chairman, and I'm looking forward to working with you to get the U.S. attorney to back these fine men and women up and enforce the existing law which is six months in jail for a first offense, then you can do it with full support of the local community because everybody likes safe streets. Thank you very much.

ADERHOLT:

Thank you, Mr. Culberson.

Mr. Olver?

OLVER:

I think I learned the first time. Thank you, Mr. Chairman.

Mr. Culberson has raised a number of questions that I'm concerned of (inaudible) and I think we probably can put together a coherent set of questions if we worked on it together, if we add any interest in that.

But in the previous testimony, you had told me that there were -- 2,000 roughly on the Canadian border and 18,000 Border Patrol on the -- on the southern -- on the southern border.

Do you keep -- do you keep yearly records as to how many illegal -- how many illegals are apprehended on each of the borders?

(UNKNOWN)

Yes, Sir, we do.

OLVER:

You do. Well, that's good.

The -- a colleague of ours spoke last night on the -- on the floor and commented, gave some data around Maine (ph) where there were about -- few of them, a 100 that were apprehended in a recent two-year period.

And on the Arizona border a number of very close to what Mr. Culberson was speaking of, something like 250,000 were -- that being apprehended there. That is a proportion -- I can't make the connection with how many total on the Canadian border, but I would love to see data on a table of the data that you say you have year by year for total apprehensions on the Canadian border of illegal immigrants that try to enter and what it would be on the four states on the southern border, on the -- yes, on the southern border as we've gone through before.

Now, in his comments last night, he was saying that more than 50 percent of all the illegals coming in were on the Arizona border alone and that -- he didn't even include the Yuma section. Oh, he was talking about only the Tucson section which narrows it down quite a bit.

So the data from - for a period of years would show -- I don't know that I want you to do a mass of effort, but it's the day we're (ph) all there would be interesting for members to see what that apprehension situation looks like.

You -- in your -- in your written testimony that said and I'm quoting, Border Patrol apprehensions, a key indicator of the legal immigration had decreased 53 percent since the school year 2008 and are less than one fifth of what they were at their peak in the year 2000. Now, that's an 80 percent decrease in -- from 2000 in total.

(UNKNOWN)

Right.

OLVER:

But a 53 percent increase just from 2008 alone. So charts of those data for those different states over -- over a 10-year period going back to 2000, that's a 12-year period, I guess, would be really very dramatic in showing that you're doing a major good job.

But I'm wondering if those data wouldn't show that one has a hugely (ph) greater number of the patrol agents on the Canadian border than there -- are apparently needed in borders where the numbers are so great.

And let me just say, I wanted to -- my real question was the Arizona border from what I heard last night at a time when I was paying much greater attention to something else, that his point was that you -- much of that border in the Tucson area, particularly, in Arizona in total was -- was public land.

The Department of Agriculture Land, Department of Interior Land and there must be a considerable amount which, of course, tribal land which is nominally under Interior but has its -- I would guess its own -- can you tell something about the problems you have on the Arizona border because of the public lands and how you're dealing with it?

FISHER:

Yes, Congressman. It does present some unique challenges in terms of, you know, where we patrol and in Arizona, Tucson Sector, specifically, is probably the area most along the border where we see public lands.

And -- but I can tell you that right now, just over this last year, Tucson Sector represents approximately 40 percent of the total activity along the southwest border, not 50 percent. It's about a year or two back where did represent about 50 percent of the apprehensions.

But the Border Patrol agents that work in Tucson Sector work with the most local land managers, whether it's with the Department of Interior and their counterparts. And in most instances, do have access. And we do have memorandums of understanding with those other departments and agencies to allow access for Border Patrol agents in the event that they have to go on public lands to do the enforcement mission.

OLVER:

Mr. (inaudible).

(UNKNOWN)

If I could add something very briefly, if the gentleman would yield, just very briefly. It's beyond the public lands. It's the Indian Nations in Tucson (inaudible).

OLVER:

And men in tribal lands.

(UNKNOWN)

Oh, excuse me.

OLVER:

I did include tribal land.

(UNKNOWN)

Right.

OLVER:

But you're only jurisdiction is to (inaudible) within a 100 miles of the border is that the case on the land borders?

(UNKNOWN)

No, Sir. It's not limited to that. Our (inaudible) patrol is -- a matter of fact, if you look at some of the check point and some of the stations and some of those tracking operations, it's not just limited but predominantly, that's where we do operate with in those 100 miles to be able to set up our defense in depth deployment in some of those areas.

And it does include, predominantly, a very large area of the west desert which is the Toho'no-otam (ph) nation and we work in cooperation with the police department there as well.

OLVER:

Thank you, Mr. Chairman.

ADERHOLT:

Mr. Carter?

CARTER:

Thank you, Mr. Chairman.

I've got much questions. I'm going to try to (inaudible) with my time. So first, what happens to your cash -- the cash forfeitures who receive the cash?

(UNKNOWN)

(Inaudible).

(UNKNOWN)

Chairman, we would turn those over to another investigative agency, generally, it's ICE that would then take that as evidence and then continue with their investigations, but it's not ...

CARTER:

And then is that turned over to the prosecutors? And when it forfeits, who gets it?

(UNKNOWN)

When its forfeiture goes to the Treasury -- asset forfeiture fund and then it's dispersed across the government based on a privatized schedule, we do get some of that fund -- funding back as an investment to (inaudible) enforcement operations.

CARTER:

If you see this -- a million bucks and you send it up (inaudible) you see that you've done your job and this new prosecutorial discretion (ph) that says that I will prosecute, they still forfeit that money. Do the prosecutors office get a piece of that money?

(UNKNOWN)

(Inaudible) the Treasury Department manages that -- that fund and how it's dispersed, I believe it is an inequitable formula that goes across the interdictors, the investigators and the prosecutors.

CARTER:

It might be interesting if they didn't get it -- if they don't prosecute it, they shouldn't get at nothing (ph). We talked about air support, there was a time when I was on this committee when were having a big hoorah about the fact that all the helicopters were in Arizona. I think all of them (inaudible) at that time, I'm not sure.

But all the helicopters were in Arizona and I asked the question, "OK. So when you spot them with the helicopter, do you go out and pick them up?"

"Oh, no -- no. We drop through the water" which is (inaudible) contrary to (inaudible) of law enforcement. By anyway, we've got a lot more air resources now. Thank god for that. And we have a quick response situation.

Now, we read at least in the texts in newspapers that sometimes you got to have some pretty hairy firefights when you (inaudible) cross some of these (inaudible) and they were armed and they shoot up the (inaudible). Does the air response have the ability to fire back at these people?

I guess, (inaudible) or are you just seeking, spotting, and identifying?

(UNKNOWN)

Our law enforcement, you know, entitlements, you know, kind of dictate what the use of force is. But, no, we are able to engage, you know, air to ground in protective measures when necessary and we do carry, you know, long rifles of, you know, sufficient caliber to get the job (ph).

In fact, in the maritime -- well, this past year -- these couple of years, we put a Barrett .50 caliber rifle on that to participate in helping with the narcotics and addictions on the Gulf (inaudible)...

CARTER:

(Inaudible) mortgage (ph) of that, right?

(UNKNOWN)

We do. We're not anti-personnel, but in a defensive mode, would we use air capabilities to protect (inaudible) ground, we certainly would.

(UNKNOWN)

Well, you know, we're generally outgunned on the border and I would like to see my law enforcement officers have sufficient backup support from the air if they need it to call in for help because we know how effective it is in warfare and I like those helicopters to do more than watch.

(UNKNOWN)

Well, from (inaudible) note, I think the Chief alluded to it earlier, for special response and high-end engagements, the Vortex (ph) -- actually, training border patrol agents -- that's our T-type (ph) capabilities, routinely crew the large aircraft.

And this last year, with this committee's support, we've added four (inaudible) model Black Ops. Those come with leading edge Army aircraft with combat armor and we do have the capability of (inaudible) larger weapons.

CARTER:

Well, I would like to personally think that would be a good idea. We talked about quick response. One of the issues on every border that I've (inaudible) -- now, I haven't officially visited New Mexico, but I've been there, but I have visited Arizona and of course, Texas.

In roadways -- and I know you're doing some work, Chief, on developing roadways systems to enhance your ability to move. When I was in Arizona, that's some awful rough country up there - - how are you doing there on that on roadways?

And with their lack of (inaudible) roadways which I know you're champion of, (inaudible) who's pretty bad and we're trying to (inaudible) those vehicles as -- as we work towards call savings. Any comment on how the -- the lack of getting all the roads we need is going to hurt us as we try to (inaudible) these vehicles especially in rough territory.

FISHER:

Yes, Congressman. That's a really good point. As a matter of fact, I can tell you we still submit our requirements to JTF North in El Paso, Texas and in a lot of times, they will assign engineering battalions that will go out and do everything from road improvements and so, we continually -- to -- to work that with our partners in the Department of Defense and really under the broader command of North (inaudible).

And so, those requirements continue along our border. We also took into consideration not just as we're moving into 2013, but -- but coming up with the rotational system on these vehicles. As a matter of fact, it would not be prudent for us to continue to use a suburban, for instance, in those very difficult terrain areas and keep it there for the -- for the life of the vehicles.

It doesn't make sense there because of the wear and tear. You're not going to get that life expectancy out of it. So what we're trying to do and what we are doing is coming up with a very prudent rotational cycle so that these vehicles -- depending upon the type, the body frame, and where they're actually located so we can start rotating those out sooner to be able to prolong and get us to the life cycle that we're looking for in the future.

CARTER:

Good for you. That's good business.

FISHER:

Thank you, sir.

ADERHOLT:

Mr. Crenshaw?

CRENSHAW:

Thank you, Mr. Chairman.

Let me ask you a big picture question related to the conversation we had a minute ago because it sounds like the money that we appropriated in '12 haven't been spent yet, but it sounds like it's going to be spent.

Thirteen (ph) pending decisions, you're going to decide what to do with those last two P-3s. Sounds like maybe you've decided and then talk about maybe just having 12 instead of 16.

And so, I mean, I applaud your effort to do more with less. That's what everybody is being asked to do, but numbers do matter. We still haven't solved the problem of having one airplane in two places at the same time.

And so, I'm just trying to get an understanding. If you -- if you decide not to do the last two even though the money has been requested, how would that impact what you do particularly in the -- in the source transit zones.

I think that's an important -- it sounds to me like that's very important because when you don't do as well there, then you've got all the other interdiction that needs to be done on kind of a smaller scale. And it seems to me the way with the government changing in Mexico, the Navy probably has less and less access to -- to kind of loan then use from time to time.

There's (inaudible) more and more pressure on the so-called workhorse -- the P-3s that you've got. You talked about it's hard to pick one over the other. They're all important.

To talk about the big picture about -- about what would happen -- what would happen for instance if you didn't decide to do the next two, how would that affect the flight hours in those --

in those source transit zones and how would that impact later on the interdictions and other -- and other kind of just more normal border cross.

FISHER:

Yes, Congressman. I will tell you, I'm working with the General and his staff.

I mean, first, I'm not -- to be honest with you, I'm not a big proponent. I didn't go out to the Chief's conference a couple of months ago and tell the 21 chiefs, "Hey, we're going to do more with less." But I did tell them that we're going to accomplish our prioritized mission with what we have.

But I think the mindset there is we owe the General and others certainly on this committee a better approach on how we identify our requirements. Over the last few years, what the Border Patrol has historically done, is we request air hours and we historically have done that.

We want, you know, 10 percent increase. So we want, you know, 1,500 air hours per quarter (ph), whatever it was. And what we're trying in the workforce to do now is take a look at what the specific capability is.

The other interesting thing that has happened over the years is with the infusion of other ground technology whether it's a mobile surveillance system that Mr. Borkowski has been able to get out and the mobile surveillance capabilities when we have ground-based radar systems.

We had unintended ground sensors. We have a whole array of technology now and huge capability that quite frankly the leadership really hasn't caught up with. When we look at our strategic shift and we talk about optimizing capability, that's exactly what we're talking about.

But it's (inaudible) for me as a Chief to continue to continue to ask the General to increase flight hours when I don't provide him with capability in a prioritized fashion, those air hours are actually going to be able to do.

CRENSHAW:

The air hours I guess would go down. If you -- like in the 13, you decide pinning (ph) those decisions, not to extend the life of those last two P-3s -- would that mean air hours went down because that's what -- that's what you're looking at and that would impact what your plans are.

FISHER:

No, I'm just talking -- the matter in which we state our requirements because when the Border Patrol agent says, "I need more air hours," what I'm asking them to do is say, "Well, do you want

that in a form of an overhead unmanned aerial system?" because that brings a whole different capability than a UH-60 with flare capability.

It's different than a mobile enforcement aircraft. It's different than...

CRENSHAW:

Who decides that? Does the General decide that? When you say, "We need air hours" -- I mean maybe, General, you could comment. It seems to me if somebody is looking for air hours in kind of a short transit zone, I guess, the P-3s are doing. If you got two less, that impacts your air hours or the other planes fly more?

(UNKNOWN)

Well, it's more complicated than that. But in -- we have a limited amount of (inaudible) to support all the flying hour program.

And this year, we did reallocate hours from the transit zone to higher priority CBP missions along Arizona and South Texas for the spring campaign. But it's still a substantial commitment.

We typically have provided 7,200 hours in the past. We hope to provide about 6,000 hours to the transit zone. It's not just simply the aircraft number because although we've had 16 aircrafts, you know, we (inaudible) all 16 of those in 2005 with the help of this committee.

We've been in the process of restoring. We've never had more than 11 of those aircraft flying since that time. In fact, some aircraft were still grounded.

And having said that (inaudible) here that Congressman Price noted, we did fly more than 10,000 hours with about eight aircrafts. So we can fly more hours than we're projecting that are needed even at the normal commitment with the numbers that we have.

But you get into aircraft availability more certainly better, gives you more flexibility over different geographies, more (inaudible) if particular airplane would be ready to fly as these airplanes are still fairly old, use (ph) more time to have something down in commitment.

So the number of aircraft with the fleet is 12; all new wing (ph) were 14, all wing (ph) or 16 that we have -- with two that normally retire. In (inaudible), we can fly -- it's not limited to the number of aircrafts. Twelve is sufficient.

ADERHOLT:

Mr. Culberson?

CULBERSON:

Thank you very much, Mr. Chairman.

I want to circle back if I could, Chief, to the prosecution ring (ph) because all of us know common sense history. Tell us that the -- all the uniformed officers, all patrol cars, all the helicopters, all the -- everything that you do, doesn't mean anything if the criminals know that there's no consequence.

They're going to be picked up and turned loose either immediately or in a few hours. And if I could, sir, I'd love to have your help if you'd ask somebody in your staff to take a look at the numbers I've given you and -- and help me confirm those.

And if I could, sir, ask you to look at -- look at the sheet I've given you and I'll provide this -- if I could, Mr. Chairman, I ask you this be made as part of the record.

ADERHOLT:

Sure.

CULBERSON:

Thank you, sir.

And to the best of my knowledge, we have -- I have my staff -- we have personally verified this with the U.S. Attorney for these sectors and with the Border Patrol chiefs to try to get a handle on -- on how many of the people that you do arrest are being prosecuted and I do need your help in particular, in filling out '09. Apparently, we had some trouble getting the numbers for '09.

But what do you need looking at these different sectors, Chief, and based on -- again, only if you've got personal knowledge of these sectors, what is holding you back? What is -- what do you need in these different sectors to help improve the prosecution rate?

For example, Mr. Chairman, I know it is possible -- and because of our work together on CGIS -- that the Border Patrol is -- because with Congress, it's been generous. You guys have -- have got -- you know -- you know your numbers of personnel have been pushed up pretty significantly.

We've done everything we can to help you -- that you're not flush, but you're pretty close to flush with personnel and funding and equipment, et cetera. So the local -- the judge in the Del Rio sector for example, Judge Alia Ludlum whose prosecution rate is at 56.4 percent in the most recent fiscal year number that we could get.

The Border Patrol Sector Chief there has enough personnel, Mr. Chairman, that they've been able to assign Border Patrol officers who get some -- some additional training as assistants to work in the courtroom -- essentially, almost like prosecutors.

I think they actually work in support of U.S. Attorney and the Marshall Service in handling these folks to process them and then also on helping to present these cases to the judge and she brings them in 30/40 at a time and just -- and cranks through them.

And Amnesty International, ACLU -- they've all given their best shot. And there really aren't any -- I mean, she's really -- they've really done a good job with this and she started it. It's called Operation Streamline.

I bet you heard me talk about that ad infinitum because it really works. So in the -- for example, Del Rio sector, sir, you're assigning personnel to help in a courtroom. That's something you can do in other sectors as well, correct? And we'd like to ask for your help in doing so as needed, as requested by the District Courts. You'd be willing to do that.

FISHER:

Yes. In many locations, we do it. It's not just to do lawyers work. Border Patrol agents certainly resemble this remark -- not that smart to do that, sir, to be honest with you.

What we do is we have our prosecution units that are co-located within (inaudible) at the U.S. Attorney's office.

CULBERSON:

Bingo.

FISHER:

So we can make sure that we get all the information from the field and be able to present it to the -- to the United States Attorney or certainly the EUSA to be able to do those cases.

CULBERSON:

And actually help in the courtroom.

FISHER:

We'll do whatever is asked, sir.

CULBERSON:

Yes, sir.

Mr. Chairman, there's a great way for us to help the DOJ because, you know, we're short of money, short of personnel in the -- with the DOJ on our other subcommittee. But again, the Border Patrol is close to flush and they've got plenty of personnel.

And if I could ask the Chairman's help and the committee's help and our expert staff, and your help, sir, in figuring out where you got personnel that you could assign in some of these courtrooms up and down the Southern border and we could help supplement the work of the Department of Justice in improving these prosecution rates.

That would be a big help to increase the prosecution rate, would it, sir? It certainly helps in those sectors where you're doing it.

FISHER:

And to the extent, it wouldn't detract from our priority (ph).

(CROSSTALK)

CULBERSON:

Of course.

FISHER:

I would suggest that we would look into that.

CULBERSON:

Super.

FISHER:

And work with the committee in looking for that, sir.

CULBERSON:

That'd be terrific. What else do you need in looking at some of these other sectors, sir, where the prosecution rate is low? Could you give the committee some guidance on where we might help you direct resources, personnel, et cetera to help bring up these prosecution rates?

Looking at the sheet in front of you...

FISHER:

Certainly.

CULBERSON:

...maybe sectors jump out at you as areas where we might help you?

FISHER:

Certainly. And I'll try to be brief because I think it gives an opportunity to work with you, sir, and your staff in a broad context.

First, I'd like to -- to address -- you had mentioned 2009. I've been looking for 2009 numbers, within our systems in each year. Apparently, there was a technology glitch from what the I.T. folks told me, "That's my word, not theirs, in terms of our inability to extract information as it relates to end force and ident for that -- for that year." So...

CULBERSON:

That's why there's a gap.

FISHER:

That's why. We just don't have the ability to extract that level of information just in that particular year.

But generally, when you look at prosecutions in and of themselves, I would not agree that -- that just increasing prosecutions in these other judicial districts, even if we were able to, would be the right approach for a variety of reasons not which I'll go into now just for the sake of time.

I would however like to extend an opportunity to brief you and your staff on consequence delivery of which the prosecution within the United States District Courts are part of that process. But it's not the elixir for us.

It's not necessarily the consequence is going to give us the operational effect we're looking for. For example, when people look at Operation Streamline, generally, the recent successes that we've seen over the years in places like Del Rio were only successful when their levels of activity were so low that the input and -- and our ability to work with the courts was manageable.

What we also looked at is prosecution and generally, you're right. In one of the statues, the (inaudible) six-month incarceration, but in fact, when you look at the actual time served in places like Tucson, the average time served for an individual that's prosecuted in the U.S. Attorneys Office under a broad (inaudible) United States Code is generally two to three days.

We have our ability to look at other consequences, not just prosecution and our consequence delivery system was set up to do just that, sir. We'd be happy to share that with you and your staff with your kindness.

CULBERSON:

Thank you very much.

ADERHOLT:

(Inaudible) I think that'll be ideal.

FISHER:

Thank you.

ADERHOLT:

We're going to do a quick third round. And we just abbreviated maybe just (inaudible) 101 quick questions. And if I could ask you just because we're short in time, when you do answer your question, keep it succinct and -- so we can move on and so everyone can have -- can ask one more brief question.

Mr. McAleenan, let me start with you. Managing field operations, staffing, those needs are certainly, I'm sure, a significant challenge.

The subcommittee has requested submission of the workforce staffing model developed by CBP to better discuss how CBP sees its needs and addresses these challenges. We have not received it yet.

Where is the workforce staffing model currently?

MCALEENAN:

Congressman, we've been working very hard on the workforce staffing model and our Congressional report in response.

That report titled "Resource Optimization at Port of Entry" is in the final approval process in the administration. We hope to be able to share it with you in the coming weeks and (inaudible) to work with your staff on it.

That report will highlight the transformation initiatives, (inaudible) taking to innovate, how we do business on the border, automating old forms, incorporate technology to streamline our core processes and really looking at trusted traveler programs so we can focus our limited resources on the highest risk to make it more efficient, and in fact, to mitigate the need for additional staffing.

ADERHOLT:

So you think -- what -- in the next 30 days, we would have that?

MCALEENAN:

That is our concern and we've gone through all the rounds of editing with the department in OMB.

ADERHOLT:

Oh, I understand that the model is -- will actually (inaudible) for significant numbers of CBPL, sir, is that correct?

MCALEENAN:

Yes, sir. The model weighs about a hundred different processes and factors, the timing it takes to do them, the volumes we're seeing, the number of enforcement actions and comes up with projected number that we need to accomplish our mission effectively.

MCALEENAN:

OK. I said I'd be brief, so -- Mr. Price?

PRICE:

Mr. Chairman, I will also be brief. Although, I do want to ask for a one quick follow-up from the General and then to ask Chief Fisher to elaborate a bit on this recent agreement with the -- with the Department of Defense about air assets -- National Guard air assets on the border.

But General, we got cutoff earlier on our exchange with regard to the air and marine assets. So I just want to give you a chance to comment quite specifically on the impact of this on recapitalization.

All the reductions that we're talking about come from procurement that's been cut in half. And you're aware our committee has regularly enhanced funding for air and marine assets trying to keep recapitalization on track.

For example, in 2012, we included additional funding for one new MEA (ph). So, with the large decrease of this sort (ph) in 2013, this -- this would appear to be quite hard to -- to maintain this recapitalization schedule and I want to give you a chance to comment directly on that.

(UNKNOWN)

Well, it is going to be difficult. It forced us to prioritize our investments between new acquisitions and sustainment activities. So with the proposal in 2013, much like the hedge fund you gave us in 2012, investments are going for the same targets.

To keep the Service Life Extension Program on track with the P-3 for the reasons that we've talked about here, to continue the upgrade of Black Hawk and (inaudible) that everybody that's been who has been out in the field know how important the Black Hawks are to our mission.

We have 16 A-model aircraft. We're in the process of grading A to L. The committee gave us extra money for another Black Hawk investment which is going to allow us to put another three A-models into that system. And so, we have funded with the 2013 investment which also includes another A to L conversion. Six of the Black Hawks will be recovered in addition to the 4-M models and with regard to the MBA in particular we would have had a gap in the line, production line this year and about ahead we had no aircraft investment in 2012.

You gave us the money for that. Five of the aircraft are at the plant and two are actually in service. That sixth aircraft goes on - well in contract two weeks ago, and so, that will keep the production line with the aircraft that we have going through next year. The fund in 2013 fund another basic aircraft but it's going to be difficult to keep that production line open long-term and adds to the challenge because the industrial basis, not just because of us but because of a lack of investment from the day to day. And so, it's management challenge that causes us to manage our investments as a priority both on sustainment to keep the aircraft and also for investment and keeping it protected from the new technology.

Mr. Carter?

CARTER:

Thank you, Mr. Chairman.

My good friend Mr. Price has mentioned something about an agreement using RSF from the National Guard. Would you tell me about that agreement and then I have another question.

Somebody quickly tell are you - each one should take that.

FISHER (?):

Yes, Congressman, an operation failings which was taking place in 2011. As you recall we worked with the Department of Defense in using predominantly Title 32 soldiers to provide things like (inaudible) and application teams along the border, as well as Intel analysts that were assigned to help other criminal investigations, as we transition to 2012 and working with the Department of Defense we amended our requirements to include air mobility as a priority requirement. And so, as we're finishing up today is the actual last day of the transition in February.

And so, starting on or about tomorrow we will be transitioning from up to approximately 1,200 boots that were National Guard to approximately 300 that will basically be sorting missions both in Arizona and South Texas and the contingent in all the four states will continue to do the Intel analyst work for the criminal investigators.

CARTER:

And so, you'd be working with one asset, you'd be working with the C-130s?

FISHER (?):

No, sir, there would be predominantly helicopters very similar in scale and scope to the platforms in technology that the general provides to our agents in the field and also some fixed wings at a very smaller scale in terms of being able to deploy and use four looking infrared systems very similar to the capabilities that CBP has are very compatible, sir.

CARTER:

I asked the question because in Texas we're losing actually (inaudible) for no reason that we can figure out. Yes, and we're trying to stop that from happening. And so, I want to know if you want to use them.

Thank you, Mr. Chairman.

Mr. Olver?

OLVER:

Thank you, Mr. Chairman. At this point I don't have another question. I just want to thank the four of you as leaders of their agency, parts of your agency and the nearly 50,000 in the agency or more than 50,000 people in the agency for the job that you do for us.

In my view one of the handful worst failures of the Congress over the last five years is the failure to produce comprehensive immigration reform. We were so close about five years ago when President Bush and senators, as I remember it, mostly about the senators, Senator Kennedy and Senator McCain who were very, very close to a comprehensive immigration reform which would have made much of what we were talking about today, I think, a lot easier. And now today we are a chasm further apart than we were five years ago.

And so, I don't where we're going but I just want to thank you profusely for the work that you do. Thank you.

ADERHOLT:

Mr. Dent?

DENT:

Thank you, Mr. Chairman. I guess my question is directed to Commissioner Kostelnik.

When the administration announced the pull-back of the National Guard from the border DoD promised to provide the same level of support and at least \$60 million in other ways. Those are the ways that were largely air support.

At the time DHS and DoD were working on a plan to detail that level of support, so just a few quick questions. When do we see the plan?

KOSTELNIK:

Actually the picture is crowded...

(CROSSTALK)

...that he was walking and obviously we (inaudible) he might have the better facts on it...

DENT:

Chief Fisher?

FISHER:

Thank you, General. We have the plans, sir, and I'd be happy to share that with you and your staff at your convenience.

DENT:

And with that, wait a minute, what level of support has been provided by DoD today?

FISHER:

Over this past, again, we're in a transition in February, and so, if we're talking about this year, calendar year we are finishing with up to 1,200 National Guardsmen providing support to border patrol agents predominantly across the Southwest border and as you mentioned we are transitioning right now from the intra- identification teams which were very static along the border to air platforms to provide over-watch for border patrol agents in between ports.

And then I'll get on the civil air patrol here for the second. The civil air patrol has been I think a tremendous asset. They are also involved in a lot of training missions along the border and it can be engaged in DHS missions at a very pretty low cost.

DENT:

Is the civil air patrol part of the DoD's support plan and couldn't they be?

FISHER:

Currently under Operations Sailings (ph) and I don't know that much about the civil air patrol to see if in fact that is part of a broader DoD support plan to civilian authority.

Let me (inaudible) for that because there has been, as you know, a relationship with border patrol and particularly with those aircraft and they do provide some unique, you know, kind of

capability so they can be tasked through GTF North, not as - for this particular operation but the light aircraft that they do all for some things very specific mission areas and where there are mission needs in those areas. We could and would use those.

There have been MOAs in the past and they could be in arrangements (ph).

DENT:

What are the impediments to using that? Are there at best eye check for several hundred planes, pilots...

FISHER:

The large population they are typically very small simple aircraft. They are typically not equipped with a special radios and equipment that we use for high-end operations.

And the DoD, they have been supportive of target missions and other general surveillance missions that the issues that we find ourselves today, although they are very expensive to operate and the crews come for free we don't have enough ONM to operate much more capable aircraft that we have on the border within our own...

DENT:

That seems to be a pretty low-cost solution to me that those are don't seem like insurmountable impediments to get some maybe air assets on the Southwest border. I just encourage you really to pursue along with the Department of Air Force, you've told us that's your MO, your Memorandum of Understanding would be (inaudible).

Commissioner Borkowski, in the last year you've taken on the role of chief acquisition executive for CBP and as a result you've gotten involved in the automated commercial environment or ACE and it's more than a 10-year history. It's been short on results and that more than \$3 billion I think that's not unacceptable.

Where is the program now and what would be delivered this year?

BORKOWSKI:

The program this year is closing out the so-called M- 1 functionality which is a manifest, an electronic manifest for sea and rail capability. It's currently in operational tests, it's been piloted and we expect it should go live hopefully in March.

And so, that is the - that is in the focus of the effort recently. In addition of course we've been doing things. There is functionality that is already in ACE, and so, updating that functionality and maintaining it has been an effort for us this past year and then going forward we want to move to the cargo release module and we're in the process of doing it and it's designing kind of bit-sized chunks for cargo release and consistent with the parities of the trade community in building those other over the next year and a half.

DENT:

And as you know Congress has been very supportive of this program and well my time has expired, and so.

ADERHOLT:

Mr. Culberson?

CULBERSON:

Thanks, Mr. Chairman.

Commissioner Kostelnik I have had several constituents contact me worried about the FAA bill containing to revision and authorize and UAVs to be flown over the continent of the United States.

Do (inaudible) control all of the UAVs within Homeland Security or is there anybody else within Homeland Security that controls the operation UAVs?

KOSTELNIK:

Our UAVs are all maintained by air and marine and support of border patrol and other mission but they're all under our effective control and in partnership with the Coast Guard as well.

CULBERSON:

So all the UAVs controlled by Homeland Security are run by you?

KOSTELNIK:

And these are all the large (inaudible), yes, sir.

CULBERSON:

I've visited Port Huachuca in the Arizona sector, it's a spectacular operation, again, very frustrating to see the videos that you guys had. In one case I remember seeing a video taken by one of the UAVs of a, literally it looks like a convoy of smugglers coming into the United States and the U.S. attorney cut them all loose and wouldn't prosecute.

Another one where vehicles were coming in, I forgot how much - how much you all intercepted, officers at three o'clock in the morning risking your lives and the U.S. attorney turning them all loose, very frustrating.

How many UAVs do you all operate there out of Fort Huachuca now?

KOSTELNIK:

In Fort Huachuca there are four aircrafts...

(CROSSTALK)

We have nine aircrafts in service and another aircraft will be procured and enter the service this summer.

CULBERSON:

How many other that's up and down the border in addition to shoe at Fort Huachuca?

KOSTELNIK:

Four in Fort Huachuca and two at NIS Corpus Christi, and so, six that are dedicated to the Southern border, two, and out of North Dakota to the Northern border. One at the cape and the next Guardian will go to the cape, and so, there will be two in the Southeast region.

CULBERSON:

That's the cape?

KOSTELNIK:

Cape Canaveral Air Force station will operate the Guardian.

CULBERSON:

Cape Canaveral. And then your jurisdiction is - obviously you focus on the 100 miles right there along the border but you've got nationwide jurisdiction don't you?

KOSTELNIK:

It's more of a wide variety of mission. Now as the border patrol you could expect on the borders in the ports of entry between but during contingency times where there are deep water horizon, where therefore all hurricanes or river flooding which are, Saint Louis this part year from the North and up to Memphis, Tennessee from the South or the core of engineers know and other federal agencies that we do a lot of work.

CULBERSON:

You have nationwide jurisdiction?

KOSTELNIK:

Well we have very limited air where we could fly with this special certificates of approval from the FAA but today we've got those when we need them.

CULBERSON:

And so, you're familiar with the FAA bill that authorize the use of UAVs over the continent of the United States?

KOSTELNIK:

That's going to take some time to develop because there's a lot of variety of UAV from small hand (inaudible) that local police would use all the way up to the global Hawk, and so, there will be additional rules to go along certain classes of vehicle.

CULBERSON:

What reassurance then would you, can you give my constituents who are concerned about the Department of Homeland Security using UAVs and remote sensors to monitor Americans in their homes?

KOSTELNIK:

No, we don't do that. As you know sensors can't really look into windows, we don't look into cars, we're focused along the border, we're focused in areas where people are up to no good.

You know there are limits, you know, to the system and they're all under federal control very closely scrutinized. It's not an issue that you should have with us.

CULBERSON:

Thank you very much.

ADERHOLT:

Gentlemen, thank you for your attendance here today. We do appreciate your attendance and your candid answers with the subcommittee. We have a number of concerns with the request for FY '13 and has been mentioned. We also have a number of outstanding requests for information and information that is relevant to our discussion today and the decision that the subcommittee is facing in today's forward.

In particular the department is late in submitting key reports and plans that are acquired by statute, to have them for CBP included in the air, marine plan and the border security technology plan. Both are extremely important in giving us what we need in order to draft our bill.

Please talk to whoever you need to talk to and those reports to us, we need that information today.

Thank you again for appearing before us and the hearing is adjourned.