ARMED AND DANGEROUS: CONFRONTING THE PROBLEM OF BORDER INCURSIONS

HEARING

BEFORE THE

SUBCOMMITTEE ON INVESTIGATIONS

OF THE

COMMITTEE ON HOMELAND SECURITY HOUSE OF REPRESENTATIVES

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ARMED AND DANGEROUS: CONFRONTING THE PROBLEM OF BORDER INCURSIONS

Tuesday, February 7, 2006

HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOMELAND SECURITY,
SUBCOMMITTEE ON INVESTIGATIONS,
Washington, DC.

The subcommittee met, pursuant to call, at 3:10 p.m., in Room 311, Cannon House Office Building, Hon. Michael T. McCaul, [chairman of the subcommittee] presiding.

Present: Representatives McCaul, King, ex officio, and Etheridge.

Also Present: Representative Pearce.

Mr. MCCAUL. The Committee on Homeland Security, Subcommittee on Investigations, will come to order.

I see that Mr. Pearce from New Mexico has arrived. I ask unanimous consent that he be allowed to sit on the dais and question the witnesses for the hearing.

Having heard no objection, so ordered.

The subcommittee is meeting today to hear testimony on increased violence and the problem of incursions on the southern border. We will hear eyewitness testimony on the specific incursion that occurred on January 23, 2006.

I want to welcome the members of the subcommittee and the full committee to this landmark hearing. I would also like to offer a special welcome to the members of the Texas Border Sheriffs Coalition, who are present here today. I appreciate you coming up all the way here to Washington to participate. We appreciate the hard work you do every day to make us more safe and secure.

This marks the first official meeting of the Homeland Security Subcommittee on Investigations. I want to thank Chairman King for his vision in creating this committee and for the honor he has bestowed upon me to chair it. It is also an honor to serve with Ranking Member Bob Etheridge.

Today we will thoroughly examine the expanding crisis of violence on America's border with Mexico and, more specifically, we will investigate the increasing number of border incursions into America's sovereign land. The incursions, which often result in violent crimes, are unacceptable and cannot be tolerated. We want to know who is involved, examine trends and renew coordination between Federal, State and local law enforcement in deterring, responding and investigating these crimes.

The violence on the southern border that our Border Patrol and local law enforcement encounter is increasing at an alarming rate. From 2004 to 2005 violent incidents against Border Patrol agents

on the southern border have increased by 108 percent. Since October there have been 92 incidents of rock assaults, 47 physical assaults, 15 vehicle assaults and 19 firearm assaults on Border Patrol agents.

Today, we will see graphic photos of the injuries to the agents as a result of rock-throwing assaults on the border. According to the Department of Homeland Security, there have been 231 reported incursions into the United States since 1996. There is little doubt that the majority of these incidents, mostly occurring on the southwest border, are accidental. But even these accidental crossings present an opportunity for serious injury and loss of life. In fact, there are incidents of U.S. officers accidentally crossing into the Mexican side in pursuit. However, there are several reports of intentional violations of U.S. sovereignty by groups often smuggling hundreds of pounds of drugs, which appear to be associated with members of Mexican military or police forces.

To date, law enforcement has maintained an extraordinarily high degree of control and restraint. This may not always be the situation and it will not take much for one of these standoffs to turn violent and deadly.

On January 26, 2006, I, along with Chairman King, sent letters to Secretaries Rice and Chertoff asking for a full report on these incursions, the policies of the Departments of State and Homeland Security addressing Mexican incursions into the United States, and the procedures established by State and Homeland Security in responding to such incidents. I also sent a letter to the Mexican ambassador to the United States, and I related my concerns about the reports of the most recent incursions into the United States and requested that he meet with me at his earliest convenience to discuss the details of this incident so that we can learn more about what measures are being taken to prevent any future occurrences. Moreover, I asked the ambassador to give his assurances that these incursions into the United States territory are not condoned by the Government of Mexico.

Just before this hearing, I had the opportunity to meet with that Mexican ambassador to the United States, and I want to thank him for meeting with me and Chairman King and discussing this very important issue of border security; and the one issue and topic we came out of the meeting with is, we need greater cooperation between or two countries.

While it is possible that large drug cartels are using military-like uniforms, vehicles and weapons, the bottom line is that these incidents threaten the safety of law enforcement agents, citizens, and the security of our Nation. Just 2 weeks ago, on January 23, military-like Humvees assisted three SUVs in entering the United States at Neely's Crossing, Hudspeth County, Texas. As many of you know from recent press reports, this illegal activity was intercepted by local sheriff's deputies, members of the Texas Department of Public Safety, and the Border Patrol.

A chase ensued whereby the Humvees and one SUV successfully retreated into Mexico. One became stuck in the Rio Grande River and was destroyed by the individuals involved. The last vehicle was captured and found to contain more than 1,400 pounds of marijuana. At this hearing we will show the video of the chase and the

activities on the banks of the Rio Grande River. Unfortunately, the individuals responsible escaped to a safe haven and avoided apprehension.

There is an ongoing Federal investigation and investigation by the Mexican Government into who actually perpetrated this crime. The successful outcome of this investigation will depend on coordination between all levels of U.S. Government and, most importantly, cooperation from the Mexican Government.

This is but one of several serious incidents. A few others include March 14, 2000, near Santa Teresa, New Mexico, where border patrol agents apprehended nine individuals involved in an incursion after being fired upon. On October 14, 2000, Border Patrol agents in San Diego, California, were shot at from across the border by individuals appearing in Mexican uniforms. And May 18 of 2002, in Arizona the Border Patrol agents had the rear and side windows of his vehicle shot out during a reported incursion. Since October, 2005, to date, there have been six more known incursions at the border.

We share a common border with Mexico and—my home State of Texas does, but we also share a responsibility for developing effective policies to deter a highly organized and armed criminal element that is a threat to both of our countries. We will hold our friend and neighbor to the south to a high standard of cooperation and responsibility. This organized criminal element threatens the security and the well-being of citizens of both of our great nations.

In response to the increased violence on the border, Texas State and local law enforcement implemented Operation Linebacker. I believe the sheriffs here know what that is all about, and I applaud them for their efforts in Operation Linebacker. This program involves cooperation between the Border Patrol and local law enforcement preventing illegal immigration and criminal activity.

The House of Representatives last December passed the Border Protection Antiterrorism and Illegal Immigration Control Act of 2005, which will strengthen enforcement of immigration laws and enhance border security. We call upon the Senate to pass this tough border security bill because it is as important now, more than ever, to have increased border security in enforcement of our immigration laws.

The first duty of this government is to protect and defend its citizens, and protecting and securing our borders is a crucial part of this responsibility. Our borders cannot become the gateway for criminal enterprise and trafficking and terrorist activity. Our border must be the crossroads for safe and mutually beneficial trade, travel and tourism.

But our border is in crisis. We know that al-Qa'ida would like to exploit our borders and we know that they are vulnerable, and I have often stated that in the post-9/11 world this is no longer just an immigration issue, it is one of national security.

Today we will hear from several border sheriffs who put themselves on the front lines every day. It is they who live the violence and face the threats, but this is a threat not only to law enforcement, it is a threat to the safety and security of all Americans. It is our duty and responsibility in the Congress to first and foremost protect the American people.

The Chair now recognizes the ranking minority member of the subcommittee, the gentleman from North Carolina, Mr. Etheridge, for any statement he may have.

Mr. ETHERIDGE. Thank you, Mr. Chairman. Let me also welcome all of you here. I also want to thank all the witnesses who are here today attending the first hearing of the Investigative Subcommittee.

Let me at the outset applaud Chairman King and Ranking Member Thompson for their foresight in forming this subcommittee. The Department of Homeland Security was created 3 years ago this month, and I have had the privilege of serving first on the Select Committee and now on the permanent Homeland Security Committee, a very important committee, I think, in this Congress.

The last 3 years we have seen the Department struggle to integrate 22 separate agencies with their own traditions and their own culture. It has been a pretty messy process and progress has been uneven at best.

I look forward to serving on the Investigation Subcommittee because we know that we get better results when processes are transparent and Congress pays close attention to the implementation of initiatives. Congressman McCaul and I have agreed that this subcommittee will work in a fair and bipartisan manner with the intent of encouraging the good and fixing the bad at the Department of Homeland Security.

Today we will address the security of our national borders. The United States shares a 2,000-mile border with Mexico to the south and a 4,000-mile border with Canada to the north. The Federal Government currently employs about 11,200 agents to protect these borders, and I am proud to say that I have consistently supported increasing this number, especially in a 9/11 world.

Specifically, the bipartisan 9/11 Commission recommended significant increases in Border Patrol agents and Congress passed legislation to implement those increases. Unfortunately, the administration has failed to provide adequate funding for the Border Patrol to this date. These brave men and women take their mission to protect our country very seriously, and we need to make sure that they have the personnel and the resources necessary to do their job adequately. Border security and immigration control are Federal issues, and I think we will see today the need to beef up our Federal forces.

I would like to commend Sheriff West, Deputy Sheriff Legarreta and the other Texas sheriffs who have made the trip to Washington today to not only describe the events of January 23, but also to share with us their needs and concerns about border security and enforcement. They are on the ground and on the front line also.

Since the September 11th attacks, the Federal Government has put ever-increasing demands on our State and local first responders who were already working hard to protect their communities. Local and State law enforcement are critical partners in the fight against terror, but we need to make sure that the Federal Government meets their responsibility for securing our Nation and enforcing Federal law. The Federal role is critical to the effectiveness of this partnership.

I am very concerned that the administration's budget proposes eliminating the State criminal alien assistance program that is used to reimburse State and local law enforcement for detaining criminal aliens like the Mexican drug smugglers. The budget will also eliminate the successful COPS interoperable communication grant initiative. We have learned from the 9/11 attacks and also again with Hurricane Katrina that interoperability is an urgent challenge for our first responders. The Federal Government needs to provide more support in these areas, not less.

I look forward to the testimony of the U.S. State Department and the Customs and Border Patrol officials, as well as that of the law enforcement personnel on the ground at our border.

Thank you, Mr. Chairman, and I look forward to the testimony today and the Q&A that will follow.

Mr. MCCAUL. The chairman recognizes the chairman of the full committee, the gentleman from New York, Mr. King, for any statement he may have.

Mr. KING. Thank you, Chairman McCaul, Ranking Member Etheridge. It is a pleasure to welcome Congressman Pearce.

Let me say at the outset, I am delighted to be here today for a number of reasons. First, let me say that one of my first acts as chairman of the full committee was to establish this subcommittee, and it was precisely for reasons such as this, for issues such as this, that I thought it was important in the post-9/11 era that we have a special committee on investigations, special Subcommittee on Investigations, and I especially selected Congressman McCaul because of the extensive experience he had as a prosecutor on the Joint Terrorism Task Force and also the fact that he represents a district in Texas being so close to the border. So he has personal interest, personal involvement and long expertise in these issues.

I must say that when I appointed him to the position I also did not know that he had such a great ability to draw a crowd. So there are probably more people today than for all of the subcommittee hearings combined during the year.

Seriously, the people are here today because this issue is so vital and it is so important. It involves our sovereignty as a nation, involves our relationship with our friends to the south, the Government of Mexico. Whether we are talking about incursions, violations of our border, it is essential our subcommittee look into all the ramifications of those issues.

I want to commend also the sheriffs from the State of Texas who are here today. Especially I want to commend Chief Aguilar for the job that he does with the Border Patrol; and as I was mentioning to the chief beforehand, my father was a New York City police officer for many years, and I have some idea of just how tough this job is, that all of you have, where you get very little credit for what is done right.

I certainly appreciate the job you do, day in and day out, and all of the men and women who serve under you and the job that they do. You are literally on the front lines. I want to commend you for all that you do.

I also want to point out that because the Border Patrol is so important, I am very pleased the President in his budget is request-

ing 1,500 new Border Patrol agents. I believe that will be a very vital step forward. It is going to be a vital step forward.

Also, in the immigration bill and border security bill that we passed in the House last month, a major part of that was an amendment by Congressman McCaul which will allow reimbursement to local law enforcement for the job they do in assisting Federal law enforcement in border protection. I think that is important.

And also on the issue of interoperability, the Deficit Reduction Act we passed just last week includes $1 billion for interoperability, which is absolutely essential.

Let me say I look forward to this hearing today. I regret I will not be able to stay for all of it because I do have a prior engagement I have to go to in my role as chairman of the full committee, but I want to commend Congressman McCaul for responding so quickly and putting together this hearing today, because I think it is essential. It addresses the specific issues, but also more global issues of the security of our border, our long-term relationship with the Government of Mexico, working on this issue, and what more we feel has to be done.

We just had a meeting with the Mexican ambassador, and Congressman Pearce brought up the issue of while we understand why the Government of Mexico may not want to see more American troops on the border, perhaps then we should see more Mexican armed forces, law enforcement personnel, border personnel on the Mexican side of the border, because what is happening along the border where we find our agents being attacked, massive incursions, where constituents of Congressman Pearce and others find themselves in peril to a degree they never were in just several years ago, really cries out for action.

So I think the meeting with the ambassador, which certainly was prompted by the issues that are raised here today—and Congressman McCaul scheduled these hearings—I think are very significant steps.

I want to commend you for calling this hearing, I want to thank the witnesses for being here today and I look forward to the testimony and following through with you as far as we have to.

Mr. MCCAUL. Thank you, Mr. Chairman. I appreciate that. Other members are reminded that opening statements may be submitted for the record.

We are pleased to have distinguished panels of witnesses before us on this important topic. Let me remind the witnesses that their entire written statements will appear in the record. We ask that due to the number of witnesses, you strive to limit your testimony to no more than 5 minutes.

The Chair recognizes the first panel, Elizabeth Whitaker, Deputy Assistant Secretary, Western Hemisphere Affairs, Department of State—thanks for being here—and David Aguilar, the Chief of Border Patrol, U.S. Customs and Border Protection, Department of Homeland Security, to testify.

We will begin with the testimony from Assistant Secretary Whitaker.

STATEMENT OF ELIZABETH WHITAKER, DEPUTY ASSISTANT SECRETARY, BUREAU OF WESTERN HEMISPHERE AFFAIRS, DEPARTMENT OF STATE

Ms. WHITAKER. Thank you, Mr. Chairman. Chairman McCaul and distinguished committee members, my name is Elizabeth Whitaker and I am the Deputy Assistant Secretary of State for Mexico, Canada and Public Diplomacy in the Bureau of Western Hemisphere Affairs in the Department of State. It is a pleasure to appear before you to discuss recent incidents along our southern border and, specifically, to discuss the January 23 incursion into Hudspeth County, Texas, east of El Paso.

I am also pleased to be here with my colleague, Chief Aguilar, of the U.S. Border Patrol, the organization with primary responsibility within the Department of Homeland Security for responding to incursions across our borders.

It is safe to say that our working relationship with our partners in Mexico is excellent, and this relationship is a critical one. This is not to say that we do not continue to have significant challenges and issues with the Mexican Government related to the border we share, however. And in response, the Department of State has established several mechanisms through which we regularly communicate and coordinate with Mexican authorities at all governmental levels and in this way seek to preclude future incursions.

These mechanisms include, one, border liaison mechanism meetings or BLM meetings. These meetings are held by each of the Department of State's border posts two to four times a year. They bring together U.S. and Mexican diplomatic, law enforcement and other government personnel from both sides of the border to discuss issues requiring operational and policy coordination. These meetings allow our diplomats on the border, as well as U.S. law enforcement officers, to get to know their Mexican counterparts personally.

Number two, the second mechanism is the binational commission meetings. These are annual meetings between the United States and Mexican Governments which are cohosted by the Secretary of State and the Mexican Minister of Foreign Relations. They include Cabinet-level officials from both governments.

There are three working groups related to border security, migration, and law enforcement that meet throughout the year as part of the binational commission meeting. Those groups are the border security and cooperation group, the migration and consular affairs group, and the law enforcement counternarcotics working group. The BNC fosters enhanced government-to-government communication and liaison and, in this way, helps to prevent future border incursions.

A third mechanism is the senior law enforcement plenary, or SLEP, which brings together senior law enforcement policymakers semiannually to discuss law enforcement issues, including antinarcotics, organized crime and trafficking in persons. SLEP also identifies those issues that are to be raised bilaterally at the Cabinet level through the binational commission. The SLEP mechanism allows senior Federal law enforcement policymakers from both governments to get to know each other and improve working relations.

In addition to these periodic meetings and mechanisms, both the Department of State and U.S. law enforcement agencies meet with our Mexican counterparts on many specific issues throughout the year. I would also note that the Department of State has four officers assigned full time to border issues. They are on staff in the Office of Mexican Affairs.

As you are aware, the primary responsibility for security of our southern border rests with the Department of Homeland Security, but the Department of State plays an important supporting role. That is why I am pleased to appear before you with my colleague, Chief Aguilar.

The Department of State shares the concerns of DHS with respect to border incursions and the safety of U.S. Border Patrol agents, especially those incidents involving organized criminal networks. We take each and every border incursion seriously and actively work with our colleagues in DHS and partners in the Government of Mexico to investigate and respond to each and every reported incident.

Further, through the Security and Prosperity Partnership the Departments of State and Homeland Security are working cooperatively to implement the mutually beneficial, agreed-upon initiatives to secure the border and reduce these types of incidents from occurring in the future.

I would like to speak very briefly about how the Department of State is organized to deal with border issues. The Department of State has five posts or diplomatic missions along the almost 2,000 mile border between the U.S. and Mexico. Starting from east to west, these posts are located in the Mexican border cities of Matamoros; Nuevo Laredo; Ciudad Juarez, which is across the border from Texas; Nogales, across the board of from Arizona; and Tijuana.

They have a responsibility for a section of the border on the Mexican side as part of its consular district. These posts learn of border incursions into the U.S. by Mexicans from their consular districts, from U.S. law enforcement authorities that deal with or are alerted to the incursion either at the local, State or Federal levels. Depending on the nature and seriousness of the incursion into the U.S., the post contacts Mexican authorities requesting detailed information on the incident. These contacts may be made at the working level by law enforcement personnel assigned to the post or at the management level by that post's principal officer or consular general.

The post is responsible for reporting details of each incident to its higher headquarters, the U.S. Embassy in Mexico City and the Department of State in Washington, D.C. Again, depending on the nature and seriousness, the embassy may decide to make representations to Government of Mexico authorities in Mexico City expressing our concern over the incident and requesting a Mexican Government investigation.

The Department of State, through its Office of Mexican Affairs within the Bureau of Western Hemisphere Affairs may also communicate with the Mexican Embassy in Washington about an incursion incident. In all cases, the Department of State coordinates

and communicates with its counterparts at all levels within the Department of Homeland Security when these incursions occur.

Our working relationship with the Drug Enforcement Agency, or DEA, on border incursions is as close as it is with the DHS. DEA has an office within our embassy in Mexico City that coordinates its activities throughout Mexico and maintains branch offices at most, but not all, of the Department of State's five border posts in Mexico.

The DEA operates in Mexico as part of the U.S. Government's country team under the authority of the U.S. ambassador, who is the President's personal representative to the Government of Mexico. The DEA offices and border posts are likewise under the authority of the ambassador's delegate at that post, the post's consul general or principal officer.

In practical terms this means information developed through DEA sources that has any potential impact on U.S. national security, such as incursions across the border, is shared quickly not only with DEA's own headquarters, but with that post's senior leadership as well. This is communicated up the Department of State chain. At all posts in Mexico where there is a DEA presence there is close and productive communication and coordination with the Department of State senior leadership.

The Department of State learned about the incursion incident on January 23 through Federal law enforcement entities, our consular general across from El Paso, and media sources. Once enough details of the incident were compiled by the embassy in Mexico City and in the Department's Office of Mexican Affairs in Washington, it was quickly decided that this was a serious incursion that required investigation. To this end, the Department took the unusual step of delivering identical diplomatic notes to both the Mexican Secretary of Foreign Relations in Mexico City and the Mexican Embassy in D.C., requesting an immediate investigation into this incident.

In a cover letter to the Mexican Secretary for Foreign Relations, U.S. Ambassador Garza emphasized the seriousness and our concern over the elevated level of violence all along the border. The Government of Mexico promised a full investigation into this incident, and on January 31 Mexican authorities visited the site of the January 23 incursion as part of their review of the situation.

On February 3 the Mexican army chief and attorney general announced at a press conference in Mexico City that the persons involved in the incursion were not members of the Mexican military, but rather known members of a narcotics trafficking ring. The Mexican attorney general further stated his department would continue a criminal investigation into that incursion.

In conclusion, the Department of State works as part of the U.S. Government team with the Department of Homeland Security and DEA in strengthening the security of the United States borders. We will continue our active and ongoing dialogue with the Government of Mexico in securing our shared border.

Thank you for this opportunity to speak with you, sir. I would be glad to answer any questions you may have.

[The statement of Ms. Whitaker follows:]

PREPARED STATEMENT OF ELIZABETH A. WHITAKER

Chairman McCaul and distinguished Committee Members: My name is Elizabeth Whitaker, and I am the Deputy Assistant Secretary of State for Mexico, Canada and Public Diplomacy in the Bureau of Western Hemisphere Affairs of the Department of State. It is a pleasure to appear before you to discuss recent incidents along our southern border, and specifically to discuss the January 23 incursion into Hudspeth County, Texas east of El Paso. I am also pleased to be here with my colleague, Chief Aguilar of the U.S. Border Patrol, the organization with the primary responsibility within the Department of Homeland Security for responding to incursions across our borders.

It is safe to say that our working relationship with our partners in Mexico is excellent, and this relationship is a critical one. This is not to say that we do not continue to have significant challenges and issues with the Mexican government related to the border we share.

In response, the Department of State has established several mechanisms through which we regularly communicate and coordinate with Mexican authorities at all governmental levels, and in this way seek to prevent future incursions. These mechanisms include:

- Border Liaison Mechanism (BLM) meetings—These meetings are held by each of the Department of State's border posts two to four times a year. They bring together U.S. and Mexican diplomatic, law enforcement and other government personnel from all along both sides of the border to discuss issues requiring operational and policy coordination. These meetings allow our diplomats on the border, as well as U.S. law enforcement officers, to get to personally know their Mexican counterparts.
- Bi-National Commission (BNC) meetings—These annual meetings between the U.S. and Mexican governments are co-hosted by the Secretary of State and the Mexican Minister of Foreign Relations, and include Cabinet-level officials from both governments. Three working groups related to border security, migration and law enforcement meet throughout the year as part of the BNC process: The Border Security and Cooperation Group, the Migration and Consular Affairs Group, and the Law Enforcement/Counternarcotics Working Group. The BNC fosters enhanced government-to-government communication and liaison, and in this way helps to prevent future border incursions.
- The Senior Law Enforcement Plenary (SLEP) brings together senior law enforcement policymakers semi-annually to discuss law enforcement issues, including anti-narcotics, organized crime, and trafficking in persons. SLEP also identifies those issues that are to be raised bilaterally at the cabinet-level through the BNC. The forum allows senior federal law enforcement policymakers from both governments to get to know each other and improve working relations.
- In addition to these periodic meetings, both the Department of State and U.S. law enforcement agencies meet with our Mexican counterparts on many specific issues throughout the year.

As you are aware, the primary responsibility for security of our southern border rests with the Department of Homeland Security, but the Department of State plays an important supporting role. That is why I am pleased to appear before you with my colleague from Homeland Security, Chief Aguilar. The Department of State shares the concern of DHS with respect to border incursions, especially those involving organized criminal networks. We take each and every border incursion seriously and actively work with our colleagues in DHS and the Government of Mexico to investigate and respond to each and every reported incident. Further, through the Security and Prosperity Partnership, the Departments of State and Homeland Security are working cooperatively to implement the mutually-beneficial agreed upon initiatives to secure the border and reduce these types of incidents from occurring in the future.

I would like to speak briefly about how the Department of State is organized to deal with border issues. The Department of State has five "posts" or diplomatic missions along the almost 2000 mile border between the U.S. and Mexico. Starting from east to west these posts are located in the Mexican border cities of: Matamoros, Nuevo Laredo, Ciudad Juarez, across the border from Texas; Nogales, across the border from Arizona; and Tijuana. These posts each have responsibility for a section of the border on the Mexican side as part of its "consular district." Generally these posts learn of border incursions into the U.S. by Mexicans from their consular districts from U.S. law enforcement authorities that deal with or are alerted to the incursion either at the local, state or federal levels.

Depending on the nature and seriousness of the incursion into the U.S., the post contacts Mexican authorities, requesting detailed information on the incident. These contacts may be made at the working level by law enforcement personnel assigned to the post, or at the management level by that post's Principal Officer or Consul General.

The post is responsible for reporting details of the incident to its higher headquarters—the U.S. Embassy in Mexico City, and the Department of State in Washington, DC. Again, depending on the nature and seriousness of the incursion, the Embassy may decide to make representations to Government of Mexico authorities in Mexico City, expressing its concern over the incident and requesting a Mexican government investigation The Department of State, through its Office of Mexican Affairs within the Bureau of Western Hemisphere Affairs, may also communicate with the Mexican Embassy in Washington, DC about an incursion incident.

In all cases, the Department of State coordinates and communicates with its counterparts at all levels within the Department of Homeland Security when these incursions occur.

Our working relationship with the Drug Enforcement Agency on border incursions is as close as it is with DHS. The DEA has an office within our Embassy in Mexico City that coordinates its activities throughout Mexico, and maintains branch offices at most, but not all, of the Department of State's five border posts. The DEA operates in Mexico as part of the U.S. Government's Country Team, under the authority of the U.S. Ambassador, who is the President's personal representative to the Government of Mexico. The DEA offices in border posts are likewise under the authority of the Ambassador's delegate at that location, the post's Consul General or Principal Officer. In practical terms this means that information developed through DEA sources that has any potential impact on U.S. national security, such as incursions across the border, is shared quickly not only with DEA's own headquarters, but with that post's senior leadership as well. This information is then communicated up the Department of State chain. At all posts in Mexico where there is a DEA presence, there is close and productive communication and coordination with Department of State senior leadership.

The Department of State learned about the incursion incident in Hudspeth County, Texas on January 23 through federal law enforcement entities, our Consulate General in Ciudad Juarez across from El Paso, Texas, and media sources. Once enough details of the incident were compiled by the Embassy in Mexico City and in the Department's Office of Mexican Affairs in Washington, it was quickly decided that this was a serious incursion that required investigation. To this end the Department took the unusual step of delivering identical diplomatic notes to both the Mexican Secretariat of Foreign Relations in Mexico City and to the Mexican Embassy in Washington, DC, requesting an immediate investigation into this incident. In a cover letter to the Mexican Secretary for Foreign Relations, U.S. Ambassador Garza emphasized the seriousness of this incident and our concern over the elevated level of violence all along the border. The Government of Mexico promised a full investigation into this incident, and on January 31 Mexican authorities visited the site of the January 23 incursion as part of their review of the situation. On February 3, the Mexican Army Chief and Attorney General announced at a press conference in Mexico City that the persons involved in the incursion were not members of the Mexican military but rather known members of a narcotrafficking ring. The Mexican Attorney General further stated that his department would continue a criminal investigation into the incursion.

In conclusion, the Department of State works as part of the U.S. Government team with the Department of Homeland Security and DEA in strengthening the security of the United States' borders. We will also continue our active and on-going dialogue with the Government of Mexico in securing our shared border.

Thank you for this opportunity to speak with you. I would be happy to answer any questions you might have.

Mr. MCCAUL. The Chair recognizes the ranking member, Mr. Etheridge.

Mr. ETHERIDGE. Mr. Chairman, I ask for unanimous consent Mr. Reyes be allowed to sit on the panel with us today.

Mr. MCCAUL. Without objection, so ordered.

The Chair now recognizes Mr. Aguilar for his testimony.

STATEMENT OF DAVID AGUILAR, CHIEF, BORDER PATROL, CUSTOMS AND BORDER PROTECTION, DEPARTMENT OF HOMELAND SECURITY

Chief AGUILAR. Good afternoon, Chairman McCaul, Ranking Member Etheridge, Congressman Pearce and Congressman Reyes. Good afternoon. I have to say having been born and raised in south Texas, I feel right at home with all these Texas sheriffs, so it is good to be here.

My name is David Aguilar and I am the national chief of the U.S. Border Patrol. It is my honor and privilege to be here today to testify on behalf of the men and women of Customs and Border Protection and DHS. I am especially pleased to be here today to testify on our shared interest of the security of our Nation, safety of our communities, and the safety of our officers as they patrol the borders of our country.

Mr. MCCAUL. Can you pull the microphone a little closer?

Chief AGUILAR. I welcome the opportunity to testify not only on the subject of incursions, but also as to how this subject fits within the broader context of border violence and threats our officers face in their efforts to secure our country's borders every day.

The United States Border Patrol is responsible for patrolling, securing and protecting our Nation's borders between the ports of entry. The dynamics of illegal immigration and illegal narcotics trafficking are such that criminal organizations typically seek out border areas that will support their illegal border smuggling efforts. The organizations will look to base their staging, stashing and jump-off points into the United States at locations that have the infrastructure to support their smuggling activities.

Smugglers have historically exploited urban and populated areas along the border. While we have made great strides in increasing the levels of control along our border's urban areas, we are continuing to resource and incrementally gain greater control of the rural areas of our border with Mexico. The rural areas pose unique challenges. Vastness, remoteness, accessibility, and mobility are but a few of the major challenges that we face in patrolling and protecting our Nation's rural borders.

A trend that has developed as we continue to expand our control of the borders is a dramatic increase in border violence against our agents. Violence has always been a part of the environment in which the men and women of the Border Patrol operate and is recognized as an inherent part of securing our Nation's borders.

In fiscal year 2005, we experienced 778 assaults against our officers, a 108 percent increase from the previous year. Through January 31 of this fiscal year we have experienced 191 assaults. I attribute this increase in violence to the fact that the Border Patrol's achievements in gaining greater and expanded control of our borders has resulted in a greater reluctance of entrenched criminal organizations to give up areas in which they have either historically operated, or they are reluctant to give up areas where they have reestablished themselves as a reaction to our increased urban enforcement areas that have impacted upon them.

Our border with Mexico is a long, vast and, in many cases, a very remote, sometimes unmarked and poorly delineated border. We continue to increase deployments into remote areas to counter

and, resources allowing, anticipate criminal organizations' movements. The Government of Mexico is deploying albeit limited resources in comparison to ours into some of these remote areas within their country.

The reality along our border with Mexico is that there have been incursions into Mexico by Border Patrol and incursions into the United States by Government of Mexico entities. In those instances where Border Patrol has accidentally incurred onto Mexican territory, the notifications and resolutions have been quick and low key through established protocols and relationships at the local and national levels.

Border incursions attributed to Government of Mexico entities into the United States have occurred in urban and rural areas of operation. This is not a new phenomenon, and when it does occur, it is a situation that is not taken lightly and is of high concern to DHS and CBP. We recognize these have a very high potential for serious consequences.

In 2001, we reported the highest number of these types of incursions, a total of 42. Last fiscal year we recorded 19. This fiscal year we have recorded seven incursions through January 31.

We have worked with and urge the Government of Mexico in the strongest terms and at the highest levels to investigate and do everything possible to mitigate and keep these incidents from occurring. We have received assurances from the Government of Mexico that they too take these incidents very seriously, recognize the potential for serious international consequences, and they are taking definitive actions to address them. In the area of Fort Hancock, Texas, we have now seen Mexican soldiers and representatives from the PGR working on the south side of Neely's Crossing for investigative purposes.

Our chief patrol agents are reaching out and meeting with Mexican military counterparts at the general rank levels to better coordinate enforcement efforts and responsibilities along our Nation's borders. The Mexican federal preventive police has deployed approximately 300 officers in an effort to curtail border violence from Tijuana to Mexicali, and the PGR is now working in coordination with the Border Patrol sector chiefs in San Diego, Laredo, and Rio Grande Valley sectors to target prosecution and deterrence efforts along our Nation's borders.

Our governments are jointly working on the targeting of smugglers of humans at and between the ports of entry through an innovative efforts called OASISS. Under this program smugglers and guides are being prosecuted in Mexico for human smuggling and endangerment crimes committed in the U.S. against Mexican citizens, based on evidence secured by U.S. officers.

The Mexican Government is working very closely with us on what we have seen as an increasing threat, the use of tunnels to burrow under our increasing enforcement efforts. We have seen definitive actions taken on the part of the Mexican Government to address these international concerns.

Mr. Chairman, I do not want in any way to minimize the seriousness of each and every one of these incursion incidents, but I also do not want to leave the impression that our borders are under siege by Government of Mexico entities or individuals rep-

resenting—attempting to pass themselves off as Government of Mexico representatives. In those instances where individuals have been observed in illegal activity, regardless of their apparel, equipment or mode of transportation, they are criminals. They are criminals that both countries must do everything we can to do to stop them from exploiting our borders, making communities unsafe and detracting from our ability to protect America's borders from those that would bring harm to our homeland.

Likewise, I urge us not to allow the high media profile of an incursion incident to cause us to lose sight of the everyday threats our frontline officers and agents face on the border in the form of rockings, assaults, shootings, vehicular assaults.

Mr. Chairman, I understand that at this time you have generously given us permission to show a very short video to the subcommittee on some of these threats. I would appreciate that opportunity, sir.

Mr. MCCAUL. Without objection, so ordered.

Chief AGUILAR. What is going to be displayed here, Mr. Chairman, is a short video of about 2 minutes. The basis for this is to depict the border violence that our officers face every day on the border.

The first couple of shots will depict what we refer to as "rockings" coming at our officers from across the border, from Mexico into the United States. You should be able to hear also the radio communications that are occurring between the officers and the dispatchers.

One of the things I have to point out is, the American public, when they hear about rockings, sometimes think these are pebbles that are being thrown and lobbed at our officers. You will also see some pictures of the injuries. These are the individuals in Mexico, our officers.

[Video presented.]

Chief AGUILAR. Our officers having to revert to shields.

I believe this one you are seeing here is in California. This is taken by a remote video camera system. This is a shot of a Border Patrol vehicle, this is the interior, and that is blood belonging to an officer. That is the officer. That is the size of the rock that hit that officer.

Now this is taken from the inside of a vehicle. Our officer had a video camera in what we call a "war wagon." Those are bars across our windows. This is Yuma, Arizona. This is a load vehicle, loaded with aliens, that actually rams a tribal police unit. That is Border Patrol. There were 19 people in the vehicle, including two minors and a pregnant female. You will shortly see a Border Patrol helicopter up in this part.

We did apprehend this individual. Thank you.

Mr. Chairman, technology, tactical infrastructure and personnel are the answers to securing our borders. The Secretary recently announced DHS's secure border initiative, known as SBInet. I am confident that this innovative and comprehensive approach to our resourcing needs will make our country's borders safer and secure.

I thank you, Mr. Chairman, for this opportunity and look forward to answering any questions that you or the committee may have of me. Thank you.

[The statement of Chief Aguilar follows:]

PREPARED STATEMENT OF DAVID AGUILAR

Chairman McCaul and distinguished committee members: My name is David Aguilar, and I am the Chief of the Border Patrol, a component of U.S. Customs and Border Protection (CBP) within the Department of Homeland Security (DHS). I am honored to appear on behalf of CBP and the Border Patrol. Like you, we have no higher priority than the safety of U.S. citizens, as well as our dedicated agents that serve along the border. CBP remains steadfast in its commitment to securing our borders. It is a matter of national security, and through efforts like the Secure Border Initiative and the Arizona Border Control Initiative, we are consistently minimizing and shutting down vulnerabilities at the border. Criminal networks present a serious threat to border security and their lawlessness is not going unchecked. We take very seriously and investigate fully any alleged incident of criminal activity, threats against our agents or possible incursions.

I would like to begin by giving you a brief overview of our agency and mission.

CBP acts as the guardian of the Nation's borders, safeguarding the homeland by protecting the American public against terrorists and the instruments of terrorism, while enforcing the laws of the United States and fostering the Nation's economic security through lawful travel and trade. Within CBP's larger mission, the Border Patrol's time-honored duty of interdicting illegal aliens and drugs and those who attempt to smuggle them across our borders between the Ports of Entry remains a priority. We are concerned that terrorists and violent criminals may exploit smuggling routes to enter the United States illegally. Reducing illegal migration across our borders will help mitigate the danger of possible attempts by terrorists or violent criminals to enter our country.

As Secretary Chertoff noted in his June 9 statement before the Government Reform Committee, DHS has established a crosscutting initiative to protect the southwest border. It encompasses the efforts of several DHS agencies, and each agency plays an integral role. The operations themselves involve patrolling the border, apprehending illegal border crossers and seizing contraband, generating, sharing and analyzing information, detaining and removing illegal aliens, investigating smuggling organizations, and deterring illegal activity. One of the critical benefits of the creation of DHS is that the capability to take all of these enforcement actions along the continuum of border security now resides in one department within the Executive Branch.

With regard to CBP, the Border Patrol's National Strategy has made a centralized chain of command a priority and has increased the effectiveness of our agents by using intelligence-driven operations to deploy our resources. The Strategy recognizes that border awareness and cooperation with our law enforcement partners is critical. Partnerships with Immigration and Customs Enforcement (ICE), Department of the Interior, Drug Enforcement Administration (DEA), Federal Bureau of Investigation (FBI), Department of Transportation, as well as other interagency partners, state, local, and tribal law enforcement agencies and state Homeland Security offices play a vital role in collecting and disseminating information and tactical intelligence that assists in a quick and flexible responses, which are essential to mission success.

I have been asked to speak about border incursions by military and law enforcement personnel. Although decreasing in frequency, incursions into U.S. territory by units of Mexican military and law enforcement personnel have occurred. The reverse is also true—there have been incidents where U.S. Border Patrol agents have accidentally strayed into Mexico. These incidents often take place in remote areas where the international border is unmarked or unclear. Each and every incursion is of the greatest concern to the Border Patrol. Each individual incursion requires and receives an in-depth review.

From FY 2001 through the end of FY 2005, there have been 144 documented incursions into the United States. The Border Patrol definition of an incursion is identified as the unauthorized crossing of the international border by individuals who are, or appear to be, Mexican government personnel, whether intentional or not. Incursions have declined by more than 50% since 2001, and we have open dialogue with the Government of Mexico to continue to reduce the frequency of incursions. Although a declining trend, all incursions have the potential to result in violence, which is of significant concern to CBP.

Most incursion cases have been resolved at the field level by U.S. and Mexican authorities without the need for high-level diplomatic dialogue. Border Patrol does not have evidence of systematic incursions of the Nation's borders by Mexican military personnel.

At the local level, our enforcement leadership is using various mechanisms to establish periodic dialogue and interaction with Mexican police and military leaders to resolve and prevent accidental incursions. Protocols are in place throughout the southwestern border to handle incursions at a local level and to also implement measures to prevent future events. These protocols involve maintaining frequent communication with their counterparts within Mexican agencies, exchange of area maps, and briefings on the local terrain for units new to the area.

We are, indeed, aware of criminal organizations that wear military-style uniforms, use military-style equipment and weapons, and employ military-type vehicles and tactics while conducting illegal activity in border areas. Trafficking of persons and contraband constitutes a major threat, regardless of the perpetrators' identity. Border Patrol does not have proof that recent trafficking incidents we have seen involving individuals dressed in military or law enforcement attire were in fact Mexican Government personnel. However, we address each of these incidents as the serious criminal acts that they are, and these cases are actively pursued.

I recently returned from a visit with our agents on the southwestern border. During this trip, I met with our agents, Mexican Government officials and others in a continued effort to address critical border issues, including incursions. We have found that by working in partnership with Mexican officials we are able to lessen tensions and reduce the likelihood of an unfortunate incident. Mexican officials work with us on a daily basis in regards to our priority mission against terrorism. I believe that we can build on our efforts so far to make progress with this current problem.

DHS remains focused on monitoring and responding to these criminal threats and will continue to assess, develop, and deploy the appropriate mix of technology, personnel, and infrastructure to gain, maintain, and expand coverage of the border in an effort to use our resources in the most efficient fashion. As an example, the use of technology, including the expansion of camera systems, biometrics, sensors, air assets, and improving communications systems can provide the force multiplier that the Border Patrol needs to be more effective. Tactical infrastructure improvements will greatly assist DHS' ability to deter and respond to illegal activity crossing our border. Examples of tactical infrastructure include: strategically-placed fencing, vehicle barriers, all-weather access roads, land clearings, and bridge-crossings. The ongoing efforts of the Secure Border Initiative will further enhance our border integrity through the targeted deployment of assets, which will assist in preventing future incursions.

CBP's Border Patrol is the first line of defense in DHS' multi-agency effort to dismantle the violent smuggling organizations that threaten the American quality of life. This line of defense does come at a price, and our dedicated agents face significant risks. In fact, 192 Border Patrol Agents have been assaulted already in FY 2006. These statistics continue to reflect an upward trend; in FY 2005, 778 agents were assaulted, more than doubling the FY 2004 total of 374.

As we continue to bring larger areas of the border under operational control, we can expect spikes in border violence as border criminals discover they can no longer operate with impunity and are prevented from using the border for their criminal activities. These violent reactions to our increased law enforcement effectiveness should abate, however, as we solidify operational control in a new area. Our agents are trained, equipped and instructed on how to handle border violence as well as incursions. We will continue to work to advance public safety and the legitimate flow of commerce along our border.

Recognizing that we cannot control our borders by merely focusing on the immediate border, our Border Patrol strategy incorporates a "defense in depth" approach including detection, rapid response, and the use of checkpoints away from the border. These checkpoints are critical to our patrol efforts, for they deny major routes of egress from the borders to smugglers intent on delivering people, drugs, and other contraband into the interior of the United States. Permanent checkpoints allow the Border Patrol to establish an important second layer of defense and help deter illegal entries through improved enforcement.

The Border Patrol is also working with ICE, other DHS components, and the Department of Justice on an integrated approach to dismantling the criminal groups that perpetuate cross-order criminal activity. Border Patrol and ICE will partner in the Department's newly established Border Enforcement and Security Task Forces (BESTs), which build on the Department's experiences fighting violent cross-border crime in Laredo, Texas, during Operation Black Jack. Operation Black Jack has been a focused effort to coordinate ICE, CBP, DEA, FBI, Bureau of Alcohol Tobacco Firearms and Explosives, U.S. Marshals Service, and other state and local law enforcement agencies with significant support from the United States Attorney's Office and the District Attorney's Office. BESTs will focus on every element of the enforce-

ment process, from interdiction to prosecution and removal, with the goal of eliminating the top leadership and supporting infrastructure that sustains these cross-border organizations. They will leverage federal, state, tribal, local, and intelligence entities to focus resources on identifying and combating emerging or existing threats.

Another example of how interagency efforts benefit this layered defense is the partnership between DHS and the Department of Justice to develop the IDENT/IAFIS integrated workstation, which captures a single set of fingerprints and submits them simultaneously to DHS' Automated Biometric Identification System (IDENT) and DOJ's Integrated Automated Fingerprint Identification System (IAFIS) for identity checks. With immediate access to IAFIS nationwide, Border Patrol agents have identified thousands of egregious offenders in the past year, including 513 homicide suspects, 648 sex crime suspects, 6439 subjects previously charged or convicted of aggravated assault, and 11,844 suspects involved in dangerous drugs or trafficking, which otherwise may have gone undetected. With 31,414 major crime hits and 120,268 total IAFIS hits through fiscal year 2005, we have made significant strides towards improving national security and greatly enhancing our ability to secure our Nation's borders. This important initiative was made possible through the joint efforts of the US-VISIT Program, which provided the funding and overall project coordination, and CBP, which installed the workstations and conducted training.

The United States continues to experience a rising influx of nationals other than Mexicans (OTMs) illegally entering the country. OTM apprehensions totaled 165,175 for FY05, whereas FY 04's number of OTM apprehensions was 75,389. The 119% increase in the apprehension of OTM illegal entrant aliens has created additional challenges in bringing a level of operational control to the border. In response, DHS expanded the use of Expedited Removal (ER) proceedings for OTMs across the entire border. ER proceedings, unlike section 240 removal hearings between apprehension and removal, shorten the duration of time between apprehension and removal. A significant increase in bed space was allocated to support this expansion. Brazilian nationals were the initial focus for the ER program, and the influx of Brazilian nationals across the southwest border has been significantly reduced. ER has proven to be an effective enforcement tool for the southwest border.

Both DHS and Mexican authorities have a shared interest in addressing assaults on law enforcement personnel, increased lawlessness, and the victimization of innocent people occurring in border areas. In response to the recent incursion and the apparent escalation in violence across the border, the Department and the Government of Mexico have been engaging in renewed discussions on collaborative border security and safety initiatives.

For example, CBP is working with the Government of Mexico on various initiatives to increase the security and safety of our shared border including:

- **Information Sharing:** Border Patrol Liaison Program units share information related to terrorist threats and special interest aliens with the Government of Mexico. This effort has resulted in 468 arrests of non-Mexicans in violation of Mexican immigration laws. We know that Mexican authorities have identified many criminal organizations and issued multiple arrest warrants for alien smuggling.
- **Operation Against Smugglers Initiative on Safety and Security (OASISS):** In an effort to reduce the increasing number of human smugglers operating along the southwest border, CBP, in cooperation with the Government of Mexico, implemented OASISS, a bilateral Alien Smuggler Prosecutions Program. The OASISS program expands upon previous efforts to identify and prosecute violent human smugglers and save the lives of migrants who are put at risk by smuggling organizations.
- **Cooperative Enforcement Efforts:** In response to the escalating border violence, in coordination with CBP, the Government of Mexico has deployed several hundred enforcement and prosecutorial personnel from the PGR and PFP. In addition, the Government of Mexico has also deployed over 300 Mexican state police officers to target criminal organizations, human smugglers, and transnational gangs. These deployments of resources are to be based on assessments of existing border security threats in the San Diego, Tucson, Laredo, and McAllen areas.
- **Border Safety Initiative:** As security and safety on the border are inextricably linked, I would like to mention the Border Patrol's "Border Safety Initiative" or BSI. In Fiscal Year 2005, southwest border deaths increased by 41% (464 in FY05 vs. 330 in FY04) and southwest border rescues have increased by 91% (2570 in FY05 vs. 1347 in FY04). These statistics indicate that a secure

border will not only have an important law enforcement component, but also yield the humanitarian benefit of saving lives.

The Border Patrol's objective is nothing less than securing operational control of the border. We recognize the challenges that lie ahead, which includes incursions and increasing violence, and the need for a comprehensive enforcement approach. Our national strategy gives us the overall framework to achieve our ambitious goal. It is a matter of national security, and through efforts like the Secure Border Initiative, Operation Stonegarden, and the Arizona Border Control Initiative, we are consistently minimizing and shutting down vulnerabilities at the border. We face these challenges every day with vigilance, dedication to service, and integrity as we work to strengthen national security and protect America and its citizens. I would like to thank you for the opportunity to present this testimony today and for your support of CBP and DHS. I would be pleased to respond to any questions that you might have at this time.

Mr. MCCAUL. I want to thank you for your testimony. I have a few questions.

Those images are disturbing and they are graphic. They highlight the seriousness of what is going on at the border. I can tell you that Congress is very concerned about the violence on the border and the incursions that have occurred. They represent not only an attack on law enforcement, but on our sovereignty as a Nation every day, and I know you live with this. I know the sheriffs in the room live with this.

I have also a photograph that was taken at Laredo, Texas, just last month, on December 28th, which shows Mexicans firing upon our United States law enforcement, taking shots essentially. Since this incident, the same assailant from these pictures has been tied to three other incidents involving shots fired at CBP Border Patrol agents.

It just seems to me like it is getting worse, not better, and the cartels are getting more dangerous south of the border. And according to your written testimony, there are accounts of criminal organizations wearing military-style uniforms with high-powered, military-issued weapons and vehicles, and their tactics are similar to military.

What is going on and what can we do in the Congress to fix it?

Chief AGUILAR. What is going on, Mr. Chairman, is that the cartels are, in fact, utilizing equipment, firearms and personnel that had been trained in military tactics to facilitate their smuggling operations, especially in the areas where we are now operating. We refer to those areas as very rural areas because Border Patrol has been successful and achieved certain levels of control with urban areas of operation along the southwest border with Mexico. In these very remote areas, this is where these organizations are starting to show up more and more.

As to the latter part of your question, sir, I think the Congress and the administration is moving forth with what I talked about, the SBI Net, which is a comprehensive approach to resourcing our needs, which is personnel, technology and infrastructure, and our responsibility would then be rapid mobility of those resources to place where the need arises.

Mr. MCCAUL. I think after 9/11 we all learned from that example that what is important—and I worked on both sides. I worked in the Justice Department, I worked as Deputy Attorney General for the State of Texas, but what is important is that we work together, we communicate together at the Federal, State and local levels.

Can you talk a little bit about initiatives, because when I go down there, when I see the videotape that we will see later, what I see are State troopers and sheriffs down there, and Border Patrol, but what are you doing to help coordinate that and facilitate that cooperation that is so important?

Chief AGUILAR. Our chief patrol agents run our sectors' operations. One of the most critical things that they do is the liaison and relationship-building they have with the State, local and tribal authorities. It is only through partnerships, collaborations and collective efforts that we are going to make more rapid advances against these criminal organizations.

Working in unison, working in a very focused manner and taking operations such as Operation Linebacker, Operation Stone Garden, where grant money given to the States is applied in such a way that the sheriffs and the State and local entities are working in direct coordination with the Border Patrol specific to border security. We enjoy a tremendous relationship.

Everybody, I think, is strapped for resources, but we make the best of what we have by increasing those collaborative efforts.

Mr. MCCAUL. As Chairman King mentioned, I filed an amendment to the border security bill that would free up Homeland Security grant dollars for that purpose, and I hope that is utilized.

Ms. Whitaker, very quickly, there is an ongoing Federal investigation into the Neely's Crossing incident; is that correct?

Ms. WHITAKER. Yes, on the part of the Mexican Government.

Mr. MCCAUL. You said this was a serious incident, according to your testimony.

Ms. WHITAKER. We consider this a serious incident, and that is why we sent diplomatic notes both here in Washington and also delivered them in Mexico.

Mr. MCCAUL. You state that the Mexican Government has come forward and said these were not, in their opinion, Mexican military?

Ms. WHITAKER. Their investigation—again, I mentioned that they had returned to the scene of the January 23 incursion, they returned to that scene to investigate on the 31st of January. On February 3 they did announce indeed they had determined that these individuals were not members of the Mexican military, that they were actually known narcotraffickers, and the attorney general for the government has opened a criminal investigation in pursuit.

Mr. MCCAUL. Has the administration formed any opinion as to whether or not this was, in fact—these individuals were Mexican military?

Ms. WHITAKER. I have would have to consult with my colleague, Chief Aguilar. DHS is certainly looking into this, but I don't know that we have a conclusion.

Chief?

Chief AGUILAR. That would be correct, Mr. Chairman. There is an ongoing investigation being conducted by ICE and the FBI in coordination with the other authorities, but as far as I know, there is no conclusion to that yet.

Mr. MCCAUL. If I can include, on meeting with the Mexican ambassador, he mentioned they have identified four of the individuals

in the photographs taken by the Department of Public Safety and that when they are, hopefully, captured that they would make them available to United States law enforcement.

The Chair now recognizes the ranking member, Mr. Etheridge.

Mr. ETHERIDGE. Thank you, Mr. Chairman.

Ms. Whitaker, in 2002 we signed the SMART border accord with Mexico and Canada. The accord with Mexico included 22 specific points intended to improve cooperation and technological enhancements at the border.

What progress has been made in addressing these points?

And, secondly, is the Mexican Government doing enough to implement the Smart Border Accord?

Ms. WHITAKER. Mr. Etheridge, I think we do have some very good cooperation from the Government of Mexico, and I would like to give you a detailed answer on how we have—they have responded to the implementation of the Smart Border Accord. I would like to take that question back if I may and get you a written report.

Mr. ETHERIDGE. Would you make sure every member of this committee gets that?

Ms. WHITAKER. Absolutely.

Mr. ETHERIDGE. Mr. Aguilar, thank you for your testimony, and I join the chairman in, it is alarming some of the things we are hearing happening to our members of the Border Patrol. My question is this, though, as we look at it, it is obvious that we have a lot of open area; and as we pick up more patrol, pressures grow on the members of the patrol who act as Border Patrol.

How many additional Border Patrol agents per year can you handle and how many total do you need?

Chief AGUILAR. The question of the total, sir, is probably going to be best answered very shortly as a part of the Secure Border Initiative.net program that is being looked at right now.

As far as the actual—

Mr. ETHERIDGE. What date will that be available to the Members of Congress?

Chief AGUILAR. The integrator will be awarded at the end of this year whereby they will identify the number of personnel, the tactical infrastructure, and the technology that, melded together, in their best estimate, will give us what we need along the border.

In the meantime, we are continuing to move forward. We are not at a standstill. We are building tactical infrastructure, applying technology, and we are hiring Border Patrol agents.

Right now, the capacity of the Border Patrol Academy ranges from 1,700 and 2,000 agents per year that is flowed through the Border Patrol Academy.

Mr. ETHERIDGE. That is how many you can accept per year, trained, ready to do their job when they hit the ground?

Chief AGUILAR. Yes, sir.

The one thing I would urge the members of this committee to bear in mind is, when they graduate out of the Border Patrol Academy, there is a maturation period that they go through; that when they hit the ground after graduating from the academy there is a period of on-the-job training and, of course, everything that goes with it which we approximate takes another 12 months or so before

they are able to be deployed because of the ruralness and vastness of the areas where we work.

Mr. ETHERIDGE. An additional question regarding this incident: Is there any evidence or are you uncovering evidence that would indicate that the drug cartel is using soldier-of-fortune types to train their gangs?

Chief AGUILAR. We have received information, intelligence. To the degree that it is substantiated, I cannot testify that it is substantiated, but we have received information of that type of groups that are working with the drug cartel. So that type of information is there and something we are watching very carefully.

Mr. ETHERIDGE. Thank you. You mentioned earlier, both of you did, as relates on the informal and formal working. Let me ask you a question, Mr. Aguilar, in that regard.

Is there a formal or informal mechanism or system in place to engage all Federal stakeholders? Because protecting our borders is a Federal responsibility. No question about that; we have to acknowledge that. That means Border Patrol, FBI, DEA, Immigration, Customs, State Department, et cetera.

When a border incursion incident occurs, is there a mechanism that they come together and deal with that immediately?

Chief AGUILAR. Yes, sir. Probably the most rapid protocol, if you will, are the informal ones at the local levels where the chiefs of the Border Patrol reach out to their counterparts within DEA, FBI, ICE, and the American consul on the south side, and the Mexican consul.

There are also relationships established with the Mexican military on the south side so we can immediately call them in, and some of the enforcement agencies on that side also.

As to formal efforts, there are ongoing talks, if you will, and dialogue establishing those, yes.

Mr. ETHERIDGE. I know my time is almost over. One last point along this line because it is important, even though this is a Federal responsibility, we acknowledge that, to protect our borders.

How would you characterize the Border Patrol's relationship with State and local law enforcement along our northern and southern borders? I think that is a critical piece and part of the issue here today.

Chief AGUILAR. Absolutely critical, and the way I would gauge it as an immediate past chief in the field of no more than 16 months ago, I would rate it as excellent. All of us are challenged because of the resources, but working relationships are very, very high.

Mr. ETHERIDGE. Thank you, Mr. Chairman. I look forward to the next round.

Mr. MCCAUL. The Chair now recognizes Mr. Pearce.

Mr. PEARCE. Thank you, Mr. Chairman and Ranking Member Etheridge for the opportunity to sit on the committee today. I am the only member of Homeland Security, the full committee, that has a district on the actual border, and I agree with your opening statement that the border is in crisis.

It was because of the situation that I invited the full Homeland Security Committee to the district of New Mexico in August, and we toured that 180-mile range and many times found a border that was completely untended. It is along that southern border into

Mexico where the Border Patrol actually follows about 6 or 7 miles away from the border and patrols on Highway 9 because it is paved. And the Homeland Security Committee asked that question, but as of yet, people in that district reply that we have not gotten the Border Patrol up on the actual border.

I think that our relationship with the Mexican Government is very key, but we have responsibilities on both sides of the border.

I would—for my first question I would ask Ms. Whitaker, on page 2, paragraph 1, you use the phrase, "depending on the nature and the substance of the incursion." "What is this nature and this substance that is required, or justified in your agency's mind," that requires a diplomatic note or two diplomatic notes.

Have any other incursions ever risen to the level to require diplomatic notes?

Ms. WHITAKER. I believe they have. I am happy to go back and verify that, but on occasion they have, yes.

Mr. PEARCE. Do those diplomatic notes ever request any actions on behalf of our friends in the Mexican government to rachet up or change or increase or improve the operations on their side?

Ms. WHITAKER. The notes will include a request for an investigation, and, as I noted in the exchange of notes at the most recent event, Ambassador Garza, our Ambassador in Mexico City, called the government of Mexico's attention to the fact that this was an increasing problem and a grave concern.

Mr. PEARCE. You all expressed concern. You never asked that the responses be upgraded.

Ms. WHITAKER. Absolutely. We asked that they pay attention to this and take it seriously and we look for concrete action on the part of the Mexicans.

Mr. PEARCE. And these diplomatic notes, when do you think the first one might have been sent?

Ms. WHITAKER. I believe the first was sent on the—

Mr. PEARCE. No, I mean previous. You said other incidents have risen to this level to require that. So how long have we been diplomatically—how long has your agency been talking with the Mexican government asking for them to please take a look?

Ms. WHITAKER. I will go back and check.

Mr. PEARCE. If you can provide that information, and if you can find out during that whole period from the first diplomatic note to the last how the response mechanism has changed from the southern border, it would be very handy.

Ms. WHITAKER. Certainly.

Mr. PEARCE. When you refer to the nature and substance, that tends to have a flavor that maybe there are insignificant instances, that not all instances rise to the level of diplomatic notes. What would cause an incident not to rise to that level?

Ms. WHITAKER. Well, I think what we have seen, and I will ask for Chief Aguilar to opine on this as well, many of these incidents are indeed resolved at the local level. It is when we have a level such as occurred on the 23rd that seems to rise beyond.

Mr. PEARCE. What was it about this one that caused it to ratchet up to the next level? Exactly how did it differ? What made it significant? I am still unclear myself.

Ms. WHITAKER. That is a good question. My guess would be that I think because of the violence involved, because of the reports that we got on a very quick basis from our people on the ground, also from law enforcement authorities, it also attracted a good deal of media attention later on in the day, and because of the chain of command, we have or the chain of communication with DHS and our consulate on the border, they said this is unusual, this is not something that is going to be resolved at the local level and it requires our attention.

Mr. PEARCE. Chief Aguilar, thank you for your testimony also. At page 2, at the very bottom of the page, you say that we have found that by working in partnership with Mexican officials, we are able to lessen tensions and reduce the likelihood of unfortunate incidents.

That is a curious statement, because none of these incursions, we don't believe them to be involved with the Mexican government, and yet you say we can lessen tensions by working in partnership. So who is it that we are lessening tensions with?

Chief AGUILAR. Congressman Pearce, let me give you my personal experience as a chief on the border.

Mr. PEARCE. I just have 5 minutes. I think I am already—

Chief AGUILAR. I think this will answer it. Personal experience says when these instances occur that tensions rise dramatically, especially if there is a belief that it is Mexican military actually operating on the border or actually crossing across into the United States. In my experience, dealing with the three generals that operated south of me in the Tucson sector on a constant basis, being able to pick up the phone and say look, you are within the 2 kilometers that you have promised and you have a policy that you will not be in, that enables us to be preemptive.

At the time when an incursion is believed to be responsibility of the Mexican military, having that person-to-person relationship helps tremendously. We have seen these generals deployed literally aircraft within an hour of the incident. Within an hour of the incident within the Sonora Desert, that is quick. So it helps us continue working together in these very vast, very remote areas.

Mr. PEARCE. Thank you, Mr. Chairman. My time has elapsed.

Mr. MCCAUL. Chief Aguilar, there were reports that indicated that Mexican Special Forces known as Zeta were trained by our military and then defected at some point from the Mexican Special Forces and joined the cartels. Do you have any information about that?

Chief AGUILAR. No, sir. The only information we have, as I stated earlier, is we have received reports of that. I don't know who they were trained by. The information that we have is that they were Special Forces, members of the Mexican military, supposedly deserters.

Mr. MCCAUL. That would be a breach of trust certainly.

Chief AGUILAR. Yes, sir.

Mr. MCCAUL. And trust is really what it is all about when you are working with a foreign government. There is a level of trust you have with a person on the other side and whether you can trust information given to them.

I want to get to part of your statement, you said we are aware of criminal organizations that wear military style uniforms, use military style equipment and weapons and employ military-type vehicles and tactics while conducting illegal activities in border areas.

To me, that is disturbing. Tracking of persons and contraband constitutes a major threat, regardless of the perpetrator's identity. I agree with that statement. Whether these were military or cartels dressed up like military, either scenario is not good for this country.

You say Border Patrol does not have proof that recent trafficking incidents that we have seen involving individuals dressed as militarily were, in fact, Mexican government personnel.

Of course, we didn't capture anybody at the Neely's Crossing, which would be the best evidence, so we don't know what the real situation was down there. Do you completely discount the fact that it was Mexican military?

Chief AGUILAR. We cannot discount it, sir, taking into account the equipment, the type of vehicles, the uniforms or the garb that they were wearing, but at the same time we have to be responsible in actually categorizing them, because we did not apprehend anybody. In the past, we have apprehended individuals dressed in that type of garb that have turned out not to be Mexican military. So we are taking the responsible course here.

Mr. MCCAUL. Have we ever apprehended actual Mexican military on our side of the border?

Chief AGUILAR. We have detained, we have arrested, yes, Mexican military on our side of the border. Involved with narcotics, not to my knowledge.

Mr. MCCAUL. Was that the Santa Teresa?

Chief AGUILAR. That is one of the incidents, yes, sir.

Mr. MCCAUL. How many of those are there, to your knowledge?

Chief AGUILAR. There are several. I can get back to you with actual numbers.

Mr. MCCAUL. Did any of those involve aiding and abetting drug traffickers?

Chief AGUILAR. Not that we are aware of, no, sir

Mr. MCCAUL. Ms. Whitaker, what is the status at the State Department? What are you doing right now regarding the January 23th Neely's Crossing?

Ms. WHITAKER. We have, indeed, received the diplomatic note today from the Mexican Ambassador in which it is a formal response back, tracking back to the press conference announcement last Friday. At this stage of the game, we wait, along with our DHS colleagues, to see what the Mexican Attorney General is able to find out. And we know that our colleagues on the law enforcement side are also pursuing their own investigation.

Mr. MCCAUL. Well, I am very interested to see what ICE, I know they are the lead agency on this, what their investigation reveals. I know they are doing analysis on these photographs as well.

Chief Aguilar, just a final point. The trust issue again is important. The corruption issue is important. We know that the military and police really don't make a whole lot of money. Bribery is an issue. That is why all these things cause great concern. Maybe it is not sanctioned by the government, and we don't know, and that

is the purpose of this hearing, and we will have to investigate that fully and this committee will.

But are there members of cartels with a lot of money bribing, buying off Mexican military or buying uniforms or Mexican military issued vehicles? Those are all issues that I think are appropriate to bring out at this hearing do you have any comments on that?

Chief AGUILAR. Not that I could actually testify to that we have solid intelligence or anything of that nature, sir. The only thing that we do have is that the cartels are employing these times of tactics, are employing and utilizing some of this equipment that we have attributed to military-like equipment and training.

Mr. MCCAUL. Why would they wear military uniforms?

Chief AGUILAR. I can't answer that, sir. I don't know.

Mr. MCCAUL. The ones that were apprehended, did they say why they were in uniforms, the individuals that you captured before?

Chief AGUILAR. Of course, when we apprehended the ones that were actual military members, not involved in narcotics trafficking, they were basically making the incursion while they were on duty, if you will.

Mr. MCCAUL. How close do you observe the military getting to our international border?

Chief AGUILAR. Well, they have an internal policy that they will not operate within 2 kilometers of our border. They don't always hold to that. When we do spot them within 2 kilometers of our border, we immediately call the garrisons to advise them. The only time that they will be in that area is when they are in pursuit of a criminal organization, as they put it. We spot them often.

Mr. MCCAUL. In 2002, I recently talked to an old friend of mine in the Justice Department, ICE was doing a surveillance, in 2002 between Hudspeth and El Paso County, the helicopter that was doing a drug surveillance mission spotted a Mexican military vehicle on the other side, and then not too long after that, saw members that appeared to be uniformed outside of the vehicle. And then, finally, a military uniformed officer that appeared to be Mexican crossing the Rio Grande.

I guess, as you said, you know it happens sometimes. It is a concern. It is a concern for the State Department. It should be. We need to get a handle on this.

I will now recognize the ranking member.

Mr. ETHERIDGE. Thank you, Mr. Chairman. One thing, this is a serious thing and I am reminded that we are training an awful lot of law enforcement officers in Iraq and we have no guarantee as we train those that they are going to be our friends, and some of them may very well be creating problems for our soldier in Afghanistan and Iraq. So there are no guarantees as we know, Mr. Chairman, as we deal with this. Even those we train, that they will be loyal to us.

Mr. Aguilar, let me ask you a question. Do drug traffickers use vehicles painted to look like they belong to a U.S. agency, for example, a sheriff, a water service district, or to international border patrol and others, and if so what type and how many and where? That is important for us to know, because, obviously, they don't really care. They will look at the contraband into this country.

Chief AGUILAR. Yes, sir. They will try to assimilate into the legal population in many ways. We have actually apprehended counterfeit border patrol vehicles. While I was chief in Tucson there was two incidents of that type. It was only the border patrol agents that saw the vehicle and recognized them as counterfeit, that somebody else may not have noticed that. They were loaded with dope.

We have apprehended Fed Ex type counterfeit vehicles, municipal type vehicles, Sheriff's deputies vehicles that are counterfeit painted. It goes on and on. Yes, sir, it does happen on an ongoing basis.

Mr. ETHERIDGE. In your testimony you noted that the IDENT/IAFIS system has allowed Border Patrol officials to identify thousands of egregious offenders in the past year, including 513 homicide suspects and 648 sexual criminal offenders. You also noted the increase in OTM apprehensions.

What impact has the continuing reduction in the State Alien Assistance Program, or SAAP, funding had on the security of the southwest border States, especially now that you are more successful in identifying some of the criminal aliens involved in incidents?

Chief AGUILAR. I would hesitate to speak on behalf of the state and locals, but I know that the apprehensions we make of these criminal aliens has a bearing on the State and locals, on the impact we make on them. Upwards of 98 percent of the 1.1 million people that we apprehend coming illegally into this country are run through the IAFIS and IDENT Program. It is through these programs that we are identifying these criminal aliens. It is through these programs that we are able to turn over these criminal aliens, especially when there is a local warrant on them, to the State and locals. But I could not give you a cost to them at this time.

Mr. ETHERIDGE. Last month, a fellow by the name of Noel, I believe it is pronounced Exenia, a drug trafficker, admitted to smuggling 20 men between the ages of 25 and 33 that he called "Osama's guys" and described as Iraqi terrorists across the border somewhere in South Texas. He reported to a member of the Gulf cartel, the same group alleged to be involved in some of the same problems in the Texas border incident that we are talking about today. He admitted to charging $8,000 a head to smuggle in these terrorists across the U.S. border, in the region of the border in which this border incident occurred that were prompted with members of al-Qa'ida or other terrorist organizations. Is this an area where they could enter the United States easily?

Chief AGUILAR. The vulnerabilities that we face along our Nation's southwest border with Mexico is, in fact, just that, it is a vulnerability. We make the apprehensions of these OTMs. When we make these OTM apprehensions we ensure that every possible check that we have available to us, both domestically and foreign, is run on these individuals to ensure that we have everything we need on them.

Is it a vulnerability? Yes. Do we have information that al-Qa'ida and other terrorist organizations have looked at that possibility? Yes.

Mr. ETHERIDGE. Thank you. Let me ask one other question, because it has popped up several times now regarding corruption or the possibility of corruption, I guess is a better way to put it. Nor-

mally we don't like talking about it on our side of the border, but I think we need to raise the question.

Does corruption occur on the U.S. side? Are there cases that you know about involving U.S. law enforcement? And if so, how many?

Chief AGUILAR. Corruption—

Mr. ETHERIDGE. You are dealing in a lot of bucks, and drugs are a part of it. It is an issue that I think law enforcement really worries about.

Chief AGUILAR. Yes, sir. Corruption does occur, Congressman. Obviously every law enforcement agency in the world, not just in the U.S., recruits members of the human race. We are fallible. The human race is fallible. I would like to think we are doing everything we can to keep corruption from becoming a major problem for us. I would like to see it as zero. There is still more that we can do. Corruption does occur. I don't have the numbers with me now. We can get back to you on those.

Mr. ETHERIDGE. Thank you. We would appreciate that. Thank you, sir.

Mr. MCCAUL. The Chair recognizes Mr. Pearce.

Mr. PEARCE. Thank you, Mr. Chairman. Chief Aguilar, just following up on that last question, the program to put in the $239 million worth of technology on the border, the Washington Post article that said most of that was squandered, that many of the computers didn't have cameras and some of the cameras didn't have computers, and in some places where they both were there they weren't hooked together. Did your department ever come to any conclusions on that program?

Chief AGUILAR. What you are referring to I believe, sir, is the old ISIS program basically managed under the old INS. There were major problems with that program.

It is being assimilated under the SBI NET program. A lot of the problems that we had with it were that operators were not involved in the design, in the actual implementation. By operators, I mean the Border Patrol. That is being taken care of under SBI NET. We feel confident that the problems that occurred with ISIS are going to be taken care of, have been taken care of, and we will not allow those problems to resurface.

Mr. PEARCE. The catch and release program, the Secretary said we were going to stop the catch and release program. Judge Carter, a classmate of mine, just recently went to one of the detention facilities in Texas and they were processing them, and Judge Carter asked how long are they going to be here? And the guy says all they do is process them. Judge Carter said, I thought we were through with catch and release. He said we are. It is now catch, process and release.

Are you familiar with any efforts—are we actually catching and releasing, or are catching, processing and releasing?

Chief AGUILAR. We are moving very assertively toward catch and remove. We did not get to this point of catch and release overnight, and it is going to take us awhile to get to the point of catch and remove.

I can share with you that there have been some tremendous advances in the area of catch and release. An example, the McAllen sector, which is our highest producing OTM sector in the Nation,

Brazilians are down by 90 percent coming into this country, and those that are coming in are being detained.

There are some challenges that we are dealing with. For example, El Salvadorans, which right now happens to be the largest group of OTMs coming into this country, we cannot detain them. We cannot detain them because of the Orantes case. The Secretary is working very hard towards doing away with that, so that we can start the impacts on the El Salvadorans. Hondurans are down by 33 percent because of the fact we are detaining more and more of them in our three highest producing sectors; that is Laredo, McAllen and Del Rio.

In Del Rio sector, we have implemented a prosecutorial program along with the marshals and the judiciary where we are prosecuting everybody that is crossing into that part of the country to include Salvadorans. It is proving to be very effective.

Mr. PEARCE. My constituents stay very hyper on this. You say the border is not under siege. They believe it to be, and, frankly, when I looked at that video it appears under siege. But when the Secretary says we are through with a program of catch and release and then we begin to use rhetorical statements that now it is catch, process and release, it makes it very, very difficult to convince my constituents that anything significant is being done. And when they see that the promise—when the full committee was in our districts, that we are going to go ahead and we are going to grade the zone along the border and use ATVs to patrol the border, and later the border agency just walked away and said never mind, we are not going to do that, it makes it very difficult for me to take a stance to support the agency which I hope will do the job of securing the border.

When I talk to the people right there on the border, they don't believe that you have control of the border, which you said in your statement that the reason we are getting violence is because we have now taken control of so much of the border.

For me, when the agents scoot back 7 miles, what we do is give a border-free enforcement zone, and that gives the appearance to the people that want to come across that there is simply the opportunity for lawlessness in a 7-mile region. It is very difficult for me to explain that to my constituents. You can respond if you would like.

Chief AGUILAR. I would love to respond, yes, sir. As to the issue of the placement and tactics that we take along the border, probably the worst use of our agents would be to actually place them with one foot on that borderline, because we have sensors, we have technology, we have accessibility to that border where we can more strategically place them to be more effective against the incursions that are happening coming into the United States.

Now, I would like to go back to what you talked about, catch, process and release. That has not changed. We always apprehended, we always processed and we released when they had to. Now the releases are less than what they used to be. We are working towards catch, process and remove.

Mr. PEARCE. I think the Secretary's comments were we are going to stop the process of catch and release and to the Nation and the

President said it also last year in that same speech. It was very closely spaced.

Chief AGUILAR. Yes, sir.

Mr. PEARCE. Well, we have significant difficulties at the border, and the people along the border are just afraid for their lives for the first time. And when you say that the worst thing we can do is to put a foot on the border, what that tells my constituents is you, you are the line of defense, and then we tell civilians, and I am on your side. I asked the Minutemen, please, don't operate. But when you leave the citizens of this country on the front line with no protection, that is a very difficult stance for me to support.

Thank you, Mr. Chairman, for the extended time.

Mr. MCCAUL. The Chair recognizes the ranking member for a clarification.

Mr. ETHERIDGE. Mr. Chairman, in my request for information on those who have been convicted of corruption intended to include all local, State as well as Federal operating on the border. If you can get that for us.

Chief AGUILAR. Yes, sir.

Mr. MCCAUL. I would just like to add, I guess the Chairman's prerogative, that I ran for Congress, I worked in the U.S. Attorney's office in Texas, I was chief of counterterrorism, I had the Mexican border in my jurisdiction, I worked with intelligence agencies, and the number one threat I saw in terms of how we do things down there was the catch and release program. It was a big dangerous loophole in our national security policy. We met with Secretary Chertoff. He, in his words, called it indefensible. I know he knows it is indefensible. He has been in the department. He knows.

I will say I was proud to offer the Mandatory Detention Act which passed out of the House which calls upon mandates. We are hopeful, Mr. Pearce and I, that Homeland Security can do it on its own. It has got expedited removal underway and you are doing a good job with that. We are hopeful you can put an end to catch and release. But just for insurance, we codified it in the House. I hope the Senate will pass that. We also called for temporary detention to make it more cost-effective.

I know no one appreciates this concern more than you do, chief, and I know in the Border Patrol circles, it has been a well-kept secret for a decade, and it has percolated to the top; it has bubbled, it is a huge issue now. We want to make sure it is put to rest.

Having said that, I would like to thank the witnesses for being here today. You are now excused.

I would like to call our next panel of witnesses. The Chair now recognizes our next panel of witnesses. Sheriff Arvin West of Hudspeth County, Texas; Deputy Sheriff Legarreta, the Deputy Sheriff of Hudspeth County; Sheriff Leo Samaniego, who is the Vice Chair of the Texas Border Sheriff's Coalition and Sheriff of El Paso County; and finally T.J. Bonner, President of the National Border Patrol Council.

Mr. MCCAUL. I want to thank all of you for being here, and particularly for those of you from Texas coming all the way up. It means a great deal to me. Thank you for being here.

Sheriff West, we will start with you.

STATEMENT OF SHERIFF ARVIN WEST

Mr. WEST. Thank you, Mr. Chairman.

My name is Arvin West. I currently hold the office of Sheriff for Hudspeth County, Texas. I have held that office of sheriff since December of 2000. I was born and raised in Sierra Blanca, Texas. I call Hudspeth County my home and have been acquainted with the border area my entire life. I am proud to be an American and will defend this country with all I can do.

I have been in law enforcement since 1983, and this line of work has been my passion since the beginning of my career. I have worked along the border with Mexico since I began in law enforcement and I have seen many changes over the years. The level of violence has escalated over the years. The violence we see to die along the U.S.-Mexico border and Texas has escalated to the use of numerous types of automatic pistols, rifles and machine guns.

The drug cartels are protecting their drug shipments better. With the use of wide open and virtually unsecured borders in Texas, terrorism of local citizens, weapons, radios and cell phones, surveillance, more manpower, spending more money to change vehicles and the use of officials from Mexico, Mexican military, local law enforcement, Federal law enforcement, the drug cartels are becoming more efficient at the drug trade.

I am concerned that the drug cartels will further escalate the violence by the use of explosives. I am concerned that it is just a matter of time before the drug cartels will wire their drug loads with explosives, and when caught by law enforcement personnel detonate the load vehicle. The escalation of violence will be carried out with this in mind: If we can't have the drug loads, no one can.

As the drug cartels become more advanced and better organized, they too will have the strategy of deterrence aimed at law enforcement, not to mention the fact of having to deal with irate citizens, i.e. the Minutemen, untrained volunteers working on their own, and vigilantes wanting to take the law into their own hands and secure the border by vigilant force.

This is an overwhelming undertaking without the resources needed to do the work. To do the work effectively, all agencies from the U.S. Border Patrol to the local Sheriff's office need to increase the manpower and funding to train, equip and operate against the overwhelming manpower and weapons.

Information my officers have received from informants tell us that the activities of Operation Linebacker and increased law enforcement presence across the Mexico—Hudspeth County border have frustrated the cartels operating in the area. This activity by the Hudspeth County Sheriff's office has caused the cartels to change their locations, spend more money on load vehicles, scouts and drivers.

The frustrations the cartels are feeling has caused them to order that their load drivers be armed. The cartels have also employed others, such as the Mexican military, to help protect drug loads which are crossing into the U.S.

The area along the Texas-Mexico border in Hudspeth County ranges from mountains to desert-like terrain with an abundance of foliage along the Mexican side of the Rio Grande River. In almost

all places, the river can be crossed by vehicles or by foot and you only get your ankles wet.

The total miles along the Texas-Mexico border is approximately 1,200 miles, which is often rugged terrain. The remote areas along the border tend to give sanctuary for the cartels, Mexican militaries, other terrorists and illegal immigrants would who hide in order to make entry into the U.S. undetected. It is crucial that the local law enforcement have additional manpower to confront these escalating activities.

I can only hope and be heard, so that the others will recognize that we have a problem with the wide open and unsecured border between the U.S. and Mexico. The activity only the part of the drug cartels has been going on for a long time. I would like to relate to you the latest attempt to cross illegal drugs into the U.S. through Hudspeth County.

On January 23, 2006, my deputies were working information that they had gathered that a drug load was to cross into the U.S. near Neely's Crossing in the southwestern part of the county.

My officers began a surveillance of the area. Because of the use of scouts along the Rio Grande River and all areas where the drug loads were to travel, my officers set up their surveillance along the I–10 corridor, which is about 12 miles from the area where the drug load was to cross.

At approximately 2:10 p.m. that afternoon, a Texas DPS trooper saw three vehicles turn around and cross the median on I–10. The vehicles began traveling eastbound at a high rate of speed. The DPS troopers initiated pursuit of the vehicles, at which time my deputies joined the chase. The seizure of approximately 1,474 pounds and a vehicle was the result of the front tire blown out that rendered the vehicle unable to continue.

The deputies and DPS continued to chase the other two vehicles toward the water. When the deputies arrived at the border where the drug loads were to cross, the deputies were met with the Mexican military and a military Humvee. The deputies reporting seeing heavily armed soldiers in the Humvee. The deputies took a defensive position while the Humvee and the load vehicles crossed back into Mexico.

While crossing the Rio Grande River, a vehicle became stuck in the river. The Mexican military then flanked the deputies and DPS in order to protect the load of marijuana that was stuck in the river. The Mexican military spread themselves out to the east and to the west on the either side of the vehicle in the river, concealing themselves in foliage on the Mexican side of the river.

The deputies and DPS officers on the scene observed the vehicle was unloaded onto another vehicle. Once the marijuana was unloaded, the vehicle was set on fire and still sits in the river where it was burned.

That stands corrected. It has since been moved.

Efforts to secure the border with the U.S. and Mexico against illegal immigration, drug trafficking, Mexican military and terrorism has not been effective thus far. The border between Texas and Mexico has been a significant gateway of these kinds of illegal activities to enter the U.S. If illicit organizations can bring in tons of narcotics through the region and work a distributing network

that spans the entire country, aided by the Mexican military, then they can bring in the resources of terrorism as well. If drug cartels can solicit untrained people to drive across the border undetected and into the country with illicit products, then what can a well-trained terrorist do?

In conclusion, Mr. Chairman, committee members, I am committed as the Sheriff of Hudspeth County, Texas, to continue to make every effort possible, working with our partners in the Coalition of Sheriffs of Texas, the Texas State Governor's Office, Congress, Senate and other law enforcement agencies, local, State and Federal along our Nation's borders with Mexico, to stop, identify and detain any terrorist or components for terrorists before any other devastating act is committed in the country.

The issue facing our Nation along the U.S. and Mexico border threatens our very freedom and way of life, one which we have embraced for many years, and I hope will continue many more. I hope that my vocal stance on this issue of "Armed and dangerous: Confronting the problem of border incursions," will start the debate in our Nation's Capital and around the country. I hope this debate will fuel ideas real solution to the looming problem. I hope that a secure border and good relationship with our neighbors on our southern border will bring the U.S. and Mexico into a prosperous time for us all.

Thank you for the opportunity to speak with your committee. May God bless you and this great Nation we call home.

Mr. MCCAUL. Thank you, Sheriff West.

[The statement of Sheriff West follows:]

PREPARED STATEMENT OF SHERIFF ARVIN WEST

Mr. Chairman and Committee Members,

My name is Arvin West. I currently hold the office of Sheriff for Hudspeth County, Texas. I have held the office of Sheriff since December 2000. I was born and raised in Sierra Blanca, Texas. I call Hudspeth County my home, and have been acquainted with the border area all my life. I am proud to be an American and will defend this county with all that I can do.

I have been in law enforcement since 1983, and this line of work has been my passion since beginning my career. I have worked along the border with Mexico since I began in law enforcement and I have seen many changes over the years. The level of violence has escalated over the years. The violence we see today along the U.S. and Mexico border, in Texas, has escalated to the use of numerous types of automatic pistols, rifles, and machine guns. The Drug Cartels are protecting their drug shipments better. With the use of a wide open and virtually unsecured border in Texas, terrorism of local citizens, weapons, radios and cell phones, surveillance, more man power, spending more money to change vehicles, and the use of officials from Mexico "Mexican Military, Local Law Enforcement, Federal Law Enforcement", the drug cartels are becoming more efficient at the drug trade. I am concerned that the Drug Cartels will further escalate the violence by the use of explosives. I am concerned that it is just a matter of time that the Drug Cartels will wire their drug loads with explosives and when caught by law enforcement personnel, detonate the load vehicle. The escalation of violence will be carried out with this in mind, "If we can't have the drug loads, no one can". As the Drug Cartels become more advance and better organized they too will have a strategy of deterrence, aimed at law enforcement. Not to mention the fact of having to deal with irate citizens. IE: Minutemen, untrained volunteers working on their own, and vigilantes wanting to take the law into their own hands and secure the border by vigilante force. This is an overwhelming undertaking without the resources needed to do the work. To do the work effectively all law enforcement agencies from the U.S. Border Patrol to the Local Sheriff's Office's need an increase of man power and funding to train, equip, and operate against overwhelming man power and weapons.

Information my officers have received from informants tells us, that the activities of Operation Linebacker and increased law enforcement presence along the Mexico/Hudspeth County border has frustrated the Cartels operating in the area. This activity by the Hudspeth County Sheriff's Office has caused the Cartels to change their locations, spend more money on load vehicles, scouts and drivers. The frustration the Cartels are feeling has caused them to order that their load drivers be armed. The Cartels also have employed others, such as the Mexican Military to help protect drug loads, which are to cross into the U.S.

The area along the Texas/Mexico border is in Hudspeth County ranges from Mountainous to desert like terrain with an abundance of foliage along the Mexican side of the Rio Grande River. In almost all places the river can be crossed by vehicle or by foot, and only get your ankles wet.

The total miles along the Texas/Mexico border is approximately 1200 miles, which is often rugged terrain. The remote areas along the border tend to give a sanctuary for the Cartels, Mexican Military and others (Terrorist and Illegal Immigrants) who would hide in order to make entry into the U.S. undetected. It is crucial that the local Law Enforcement have additional manpower to confront this escalating activity.

I can only hope and be heard, so that others will recognize that we have a problem with a wide-open and unsecured border between the U.S. and Mexico.

The activity on the part of the drug Cartels has been going on for a long time. I would like to relate to you the latest attempt to cross illegal drugs into the U.S. through Hudspeth County.

On January 23, 2006 my deputies were working information they had gathered that a drug load was to cross into the U.S. near Neely's crossing in the southwestern part of the county. My officers began a surveillance of the area. Because of the use of scouts along the Rio Grande River and all areas where the drug loads are to travel, my officers set up their surveillance along the I–10 corridor, which is about 12 miles from the area where the drug load was to cross. At approximately 2:10 p.m. in the afternoon a Texas DPS Trooper saw three vehicles turning around and cross the median on I–10. The vehicles began travel east bound at a high rate of speed. The DPS Troopers initiated a pursuit of the vehicles at which time my deputies joined the chase. A seizure of approximately 1474 lbs of marijuana and a vehicle was the result of a front tire blow out that rendered the vehicle unable to continue. The Deputies and DPS continued to chase the other two vehicles towards the border. When the Deputies arrived at the border where the drug loads were to cross, the Deputies were met with the Mexican Military in a military Humvee. The Deputies reported seeing heavily armed soldiers in the Humvee. The Deputies took a defensive position while the Humvee and load vehicles crossed back into Mexico. While crossing the Rio Grande River a vehicle became stuck in the river. The Mexican military then flanked the Deputies and DPS in order to protect the load of marijuana that was stuck in the river, The Mexican military spread themselves out to the east and to the west on either side of the vehicle in the river, concealing themselves in the foliage on the Mexico side of the river. The Deputies and DPS officers on the scene, observed as the vehicle was unloaded onto another vehicle. Once the marijuana was unloaded, the vehicle was set on fire and still sits in the river where it was burned.

Efforts to secure the border with the U.S. and Mexico against illegal immigration, drug trafficking, Mexican Military, and terrorism has not been effective thus far. The border between Texas and Mexico has been a significant gateway of these kinds of illegal activities to enter the U.S. If illicit organizations can bring in tons of narcotics through this region and work a distribution network that spans the entire country aided by the Mexican Military, then they can bring in the resources for terrorism as well. If drug Cartels can solicit untrained people to drive across the border undetected and enter this county with illicit products, then what can a well-trained terrorist do?

Conclusion

Mr. Chairman and Committee Members,

I am committed as the Sheriff of Hudspeth County, Texas, to continue to make every effort possible, working with our partners in the Coalition of Sheriff's, Texas State Governors Office, Congress, Senate, and other Law Enforcement Agencies, Local, State, and Federal along our Nations Border with Mexico, to stop, identify and detain any terrorist or components for terrorism before another devastating act is committed in this Country. The issues facing our Nation along the U.S. and Mexico border threatens our very freedom and way of life, one which we have embraced for many years and I hope will continue for many more. I hope that my vocal stance on this issue of "Armed and Dangerous: Confronting the Problem of Border Incur-

sions" will spark debate in our Nation's Capital and around the Country. I hope this debate will fuel ideas and real solutions to this looming problem. I hope that a secure border and a good relationship with our neighbor, on our southern border, will bring the U.S. and Mexico into a prosperous time for us all.

Thank you, for the opportunity to speak before your committee, may God Bless you and this Great Nation we call home.

Sincerely,

Arvin West
Sheriff Hudspeth County Texas

Mr. MCCAUL. Sheriff Samaniego.

STATEMENT OF LEO SAMANIEGO, VICE CHAIR, TEXAS BORDER SHERIFF'S COALITION, SHERIFF, ELPASO CUNTY, STATE OF TEXAS

Mr. SAMANIEGO. Mr. Chairman, members of the subcommittee, Mr. Reyes, Congressman Pearce, thank you for the opportunity to come before you today and tell you what has been going on on the U.S.-Mexico border. Our Nation's security is our number one priority. The very routes, methods of concealment and human resources used by illicit organizations for drug trafficking and alien smuggling are also a threat to our national security.

I have been a police officer, the sheriff now for 22 years, in El Paso. Next month I will have 50 years in law enforcement, all of them on the border, and I am a witness to what I consider been a dramatic increase not only in drug trafficking, but illegal alien smuggling, violence. Now we are dealing with armed individuals on the other side of the border, whether they be military or paramilitary, guerrillas, whatever you want to call them.

I went on a radio station about a week ago and we were discussing the problem with what happened in Hudspeth County, and the lady I was talking to made a statement that made a lot of sense to me. She says, I don't care if there if it was Snow White and the seven Dwarfs. They were heavily armed. They pose a threat to citizens on both sides of the border. I think she is right.

The drugs that come in to the United States in our area do not stay there very long. Most of them are shipped to many cities in the United States. So what takes place on the border or doesn't take place on the border is going to affect the rest of the United States, whether we are talking about drug trafficking or illegal aliens.

If we let something cross the border and get away from us, it is going to wind up in Nashville, Shreveport, Houston, Los Angeles, who knows where.

We have had many incidents of violence in El Paso County dating back to 2000. We have investigated murders of illegal aliens that were held up, they refused to give up their money, they were shot. We also had a bunch of robberies that we have investigated with the Border Patrol. And we have had a few incidents like the one in Hudspeth County on December 14th of 2005. The Hudspeth County deputies and the Border Patrol were chasing a pickup truck that appeared to be loaded with marijuana. He made it up to I–10. It was apparent that he crossed the river somewhere in Hudspeth County and the driver refused to pull over. The next exit on the freeway, he headed south towards the river hoping to get away.

To make a long story short, he drove the truck into a canal thinking it was the river. Of course, he jumped out and ran out on the other bank. It is my opinion that if he had made it to the river, we could have had another encounter like they did in Hudspeth County.

There was another incident that was reported to us by a border patrolman, and this happened sometime in 2002. He was driving towards the river in the area of Fabens, which is close Hudspeth County, but in El Paso County, and he spotted what he thought were two soldiers dressed in army uniforms with automatic weapons on the Mexican side of the border, and one soldier on what he thought was a soldier on the U.S. side of the border, armed with the same type of weapon, and ten illegal aliens standing close by on the U.S. side.

When they spotted him, they all went back across the river into the Mexican side, and then a Humvee with a couple of other soldiers drove up, talked to the illegals for a few minutes. The three soldiers climbed back on the Humvee and left the area. There is a bunch of other incidents that I am not going to get into because of the time.

The Federal Government has spent millions of dollars to increase law enforcement in cities all over the United States, and in my opinion has failed to take care of the border where we should make every effort to stop either drugs or illegal aliens or anything else that may be coming into the country.

If the organizations that bring in the drugs and the illegal aliens are able to bring truckloads of it, then terrorist organizations can also smuggle people to carry out their plans. On the southwest border the same organizations involved in smuggling drugs have also been found to smuggle illegal aliens. In January, there was an Iranian that came across in the area of Columbus, New Mexico. The individual claims that he had been in Mexico for a long time working his way to the American border. He made the mistake of going to a home and asking for water and food of an ICE agent. Of course, he was quickly arrested, and I don't know what else has happened with that story, sir.

I am almost finished, sir, if you will allow me.

Due to the Federal Government's inability to totally control the border, the Texas border Sheriff's coalition was organized back in May of 2005 to share information and develop operations to help one another. Operation Linebacker is a program designed by locals to solve local problems. Of course, we took that from operation stone garden, which was very successful, but it was not long enough, just a matter of weeks, and then the funding ran out. Our national security is only as good as the weakest link, and in my opinion, the U.S.-Mexico border is the weakest link.

That concludes my testimony, sir. If you have any questions, I would be happy to answer.

[The statement of Mr. Samaniego follows:]

PREPARED STATEMENT OF SHERIFF LEO SAMANIEGO

Mr. Chairman, members of the committee, I would like to thank you for the opportunity to testify today on the impact of incursions, the drug trade, the status of law enforcement along the Texas/New Mexico-Mexico border, and ways to improve security here. I would also like to thank you for holding this hearing. My only regret

is that the hearing wasn't held on the border, where the rubber meets the road in drug trafficking, incursions and national security.

Realizing that our nation's security is our number one priority that does not diminish the problem we have with the recent border incursions and drug trafficking. In many ways, these two issues go hand in hand. The very routes, methods of concealment, and human resources used by illicit organizations for drug trafficking and alien smuggling are also a threat to our nation's security. On this border, counter-narcotics and national security efforts tap into the same law enforcement resources.

The problem

What I want you to walk away from this hearing with is the knowledge that the national drug abuse problem has a significant impact on the community of El Paso, and the entire Southwest Border. I want you to remember that the drugs flowing across this border, are, by and large, not staying here. Drug trafficking is not a local problem, it is a national problem, and requires the attention of our Federal government. While there is a drug abuse problem in El Paso, the demand does not compare to the high demand for drugs in the rest of the nation. The problem for El Paso is the transshipment of drugs through the region, and the illegal activities associated with it. Drug traffickers do not stop for long once they have entered El Paso. They continue with their shipments on to cities throughout the country. The failure to stop drug smuggling here today could mean 1,000 kilograms of marijuana will end up on the streets of St. Louis, Shreveport, Nashville—you name the city—tomorrow.

To illustrate my point let me tell you story about an incident on Wednesday, December 14, 2005. Deputies in Hudspeth County and Border Patrol Agents working in Hudspeth County identified a pick-up truck suspected of engaging in narcotics trafficking. Based on physical evidence; the vehicle crossed a low water point in the Rio Grande in Hudspeth County, Texas. The vehicle illegally crossed into the United States from Mexico.

Border Patrol Agents and Hudspeth County deputies spotted the 1992 Ford (Black and Grey) extended cab 4X4. The driver of the vehicle failed to pull over and eventually crossed into El Paso County. El Paso County Sheriff's Deputies were notified of the fleeing vehicle.

The driver traveling west on Interstate 10 exited the highway at the Tornillo exit and headed south toward the river. El Paso County Sheriff's Deputies (Drug Interdiction Unit) spotted the vehicle and attempted to pull the driver over.

The driver traveling south on Feed Penn (Approximately 55 mph in a residential area & School Zone) thought he was crossing the river near the intersection of Chamizo. In reality the driver was crossing the Franklin Canal when his truck got stuck. He was not injured as a result of driving into the canal. The driver exited the vehicle. Deputies caught him in a foot pursuit.

The driver is identified as Ricardo Roman Padilla (26 years old) from Guadalupe, Chihuahua, Mexico. Padilla is charged with possession of marijuana (over 50 pounds under 2,000 pounds). This is a second-degree felony. His bond is $75,000.00.

This is an incursion that demonstrates how porous the Texas/Mexico Border is. Imagine if this chase had occurred about 20 minutes early when school children would have been walking home from school along Feed Penn Rd.

He was caught because Governor Rick Perry has provided the Texas Border Sheriff's Coalition grant money that allows us to increase patrols in the hot spots utilizing money to pay officers overtime to work these danger zones. This is a program we call "Operation Linebacker."

Security of the Border

If the border was secure then these next three stories wouldn't have to be told to emphasize the problems we face.

September 12, 2000, Chihuahua State Judicial Police request assistance from the El Paso County Sheriff's Office in locating a possible crime scene on the Rio Grande-International Boundary near San Isidro, D.B. and possibly in the area of San Elizario, Texas.

El Paso County Sheriff's Office (CID) Detectives meet with State Judicial Police and two (2) witnesses near the river. The witnesses were related to the deceased.

Witnesses stated that the deceased was attempting to cross seven (7) persons illegally into the United States. They said that three (3) suspects wearing ski masks confronted them. The witnesses stated that the suspects came out of the foliage and demanded their money. They stated that the deceased refused to cooperate and was sot by one (1) of the suspects. The witnesses stated that the incident took place in the water. The deceased was on the Mexican side of the embankment. No physical evidence was ever recovered. Several shoe impressions were identified and photographed.

November 28, 2000, Border Patrol Agent from Fabens Station observes possible illegal entry approximately nine (9) miles west of the Fabens Port of Entry. An Agent also observed two (2) individuals on the Mexican side of the Rio Grande River; one (1) individual was hiding along the levee on the United States side of the river and approximately ten (10) individuals standing along the river bank on the U.S. side.

The same agent also observed two individuals on the Mexican side carrying military style rifles (M–16 style) and was wearing military type clothing.

The individuals on U.S. soil spotted by the Agent walked back across the river into Mexico. As the subjects walked back into Mexico the Agent observed the subject hiding along the levee on the U.S. was also carrying a military style rifle and was wearing military clothing. Once on the Mexican side, the three (3) subjects wearing military clothing waived at the Agent and departed the area along with the group of ten (10).

A short time later a military Humvee vehicle approached the ten (10) subjects and spoke to them. The vehicle then proceeded to leave the area after picking up the subjects dressed in military clothing. The Agent reported the individuals never made any threatening actions toward him.

In the summer of 2000, not long after the formation of the El Paso County Sheriff's Office RAPTOR team (Rapid Deployment Tactical Unit) in '02, we were asked by Border Patrol (BP) to assist with surveillance along the river levee near the Lee Moore Children's home. There had been some robberies of illegal crossers in the area. The suspects were reported to be using what looked like military ambush tactics.

In one incident, a man was being held up and apparently tried to resist. He was thrown to the ground and shot, though not killed. BP set up an LPOP in the area and encountered the suspects. There was a foot chase and BP almost caught one of them, however they managed to make it back across the river.

After that, RAPTOR was requested to assist. This would have been in August of 2002. Members of the team lay in along the levee to assist with surveillance. RAPTOR worked with the agents forming up to three teams of eight men who worked surveillance or security during the operation. Our personnel were trained in surveillance and how to use BP equipment including the night vision and communications gear.

While the city of El Paso is a safe community, the nation's third safest; approximately 3,000 automobiles a year are stolen in El Paso and taken to Mexico. Literally a stone's throw away, the City of Juarez, Mexico has been plagued with over 500 drug related homicides in the last ten years. Many of those were gang-style executions, and in addition there are approximately 200 unsolved murders of young women.

National Law Enforcement Effort

The enforcement efforts in other major cities are being increased because we are not stopping the drugs here. Efforts to secure our border against terrorism have not curbed the use of the Southwest border as the most significant gateway of drugs being smuggled into the United States. Federal resources have been expanded in cities to our north to combat drug use and distribution, yet most of the drugs have originated from this border. If illicit organizations can bring in tons of narcotics through this region and work a distribution network that spans the entire country, then they can bring in the resources for terrorism as well. If illegal aliens can be smuggled through here in truck loads (and they are) then terrorist organizations can also covertly smuggle the people to carry out their plans. On the Southwest Border, the same organizations involved in smuggling drugs have also been found to smuggle illegal aliens. Their motive is profit, regardless of the negative impact on our country. Smuggling terrorists, weapons, or weapons components would not be a far reach for these established organizations.

There are two issues that plague this area. First, the Federal government is expecting local agencies to assist with addressing the national drug problem, and now with increased national security efforts, but with reduced resources. Secondly, the Federal government is expecting more of its Federal agencies on the Southwest Border without adequate resources.

Federal Resources

There are Federal agencies in El Paso which have jurisdiction for investigating the types of crimes that are associated with both drug trafficking and national security; weapons trafficking and money laundering. However these agencies are so undermanned that they can barely extend resources towards the cooperative efforts required for national security and drug enforcement. Weapons trafficking is known to be an activity of the drug trafficking organizations, however, a systemic cooperative effort has not been made because the Bureau of Alcohol, Tobacco, and Fire Arms (ATF) does not have adequate numbers of agents up and down the border. The Internal Revenue Service, Criminal Investigation Division (IRS) has also been

seriously undermanned up and down the border. These agencies need to be significantly increase to address serious drug trafficking and security threats such as money laundering and weapons trafficking, two threats that have been largely ignored on the Southwest Border.

Border Sheriff's

I would like to close by describing how, the Texas Border Sheriff's Coalition has organized to share information, develop an operation to help one another with the federal government's inability to control the border. Operation Linebacker is a program designed by locals to solve local problems.

Extra patrols already operate under this plan thanks in large part to Governor Rick Perry who has stated on numerous occasions, "Although border security is a federal responsibility, we have no choice but to take aggressive steps at the state and local level to secure our borders and protect Texans."

In October 2005 Governor Perry released a comprehensive, six-point border security plan that featured Operation Linebacker. Again this program was designed by the Coalition to increase law enforcement presence along the Texas-Mexico border, particularly between legal points of entry.

Operation Linebacker is making life more difficult for those trying to smuggle drugs, weapons and people in to Texas. The incursions in Hudspeth County in the past two weeks, the reports of the confiscation of Improvised Explosive Devices (IED's) in Laredo, Texas last week and threats of personal harm to law enforcement personnel the past two months makes one fact clear, it is imperative that we increase security along our 1,200 border, it is a matter of a public safety and homeland security.

Conclusion

I want to thank you, Mr. Chairman, for this opportunity to testify. The El Paso County Sheriff's Office continues to make every effort possible, working with our fellow law enforcement agencies, Federal, state and local, to address the concerns of the community of El Paso and the American people. I would be happy to answer any questions you might have.

[Mr. Leo Samaniego, appeared in the place of Sheriff Sigifredo Gonzalez, Jr., Zapata County, Texas, Texas Border Sheriff's Coalition. Mr. Gonzalez's prepared statement is maintained in the committee file.]

Mr. MCCAUL. Thank you, Sheriff. I know we will have many questions for you and perhaps more time for you to share with us some of your anecdotal stories about what you have observed on the border.

Deputy Sheriff Legarreta.

STATEMENT OF ESEQUIEL LEGARRETA, DEPUTY SHERIFF, HUDSPETH COUNTY, STATE OF TEXAS

Mr. LEGARRETA. Mr. Chairman and committee members, on Monday, January 23, 2006, Sheriff's deputies from Hudspeth County were patrolling along interstate highways with information that was received that a large shipment of marijuana was supposed to be coming up from Farm Market Road 192 and up toward the Tiger Truckstop and then heading west on Interstate 10. Further information received was that the shipment was going to be transported by three newer model sport utility vehicles. One was supposed to be a black Cadillac Escalade, vehicle number two was supposed to be a blue Ford Expedition and the third vehicle was supposed to be a gray Toyota Four Runner.

At approximately 2 p.m. information received was that the vehicles had entered and were traveling toward Interstate 10. Texas DPS troopers were advised to start heading west on Interstate 10. At approximately 2:11, all three vehicles were spotted crossing the overpass at milepost 87 heading westbound. At this time, all information was then aired over the radio.

At milepost 84, Texas DPS troopers noticed all three vehicles had crossed the median on Interstate 10 and were heading east on Interstate 10. The DPS troopers attempted to make contact with these vehicles, however the vehicles refused to stop. These vehicles attempted to elude DPS troopers by accelerating at speeds in excess of 100 miles per hour.

DPS troopers called out a pursuit over the radio. DPS trooper number one was behind a black Cadillac Escalade and DPS trooper number two was behind the blue Ford Expedition. The gray Toyota Four Runner was between DPS Trooper one and the blue Ford Expedition.

The black Cadillac Escalade blew out its front passenger tire and came to rest about 7 miles south of milepost 87. DPS trooper number one cleared the vehicle and stayed with the vehicle. The driver of that vehicle had fled south toward Mexico. DPS troopers number two and the Hudspeth County Sheriff continued to pursue the blue Expedition at speeds of in excess of 100 miles per hour.

At approximately 11 miles southeast of milepost 87, the blue Ford Expedition turned off Farm Market Road 192 and on to a dirt road heading south toward the American-Mexican border. DPS trooper number two followed but went off the road. The Deputy Sheriff then continued the pursuit following behind the blue Ford Expedition.

Approximately 1–1/2 miles south of Farm Market Road 192, the blue Ford Expedition continued into the Rio Grande levee southbound. The gray Toyota Four Runner was already in the river and was continuing south into Mexico.

As the Deputy Sheriff came up on the curve, they encountered a military-style Humvee that was parked on the American side of the Rio Grande levee road. As the blue Ford Expedition went by the Humvee, it turned around and went back toward the river. A subject on the Humvee was observed wearing olive drab green military fatigues with an olive green military cap. This subject was also observed holding what appeared to be a heavy caliber weapon with what looked to be tripods mounted on it. The driver was also dressed in the same uniform, but this subject had a smaller caliber automatic weapon. The Humvee followed the vehicles in an angle toward the Rio Grande river and actually got into the river, crossing back into Mexico.

While waiting for the two vehicles to make it back across into Mexico, the grey Toyota Four Runner had gone first and waited in the river for the blue Ford Expedition. The blue Ford Expedition attempted to cross the river bank on the Mexico side, but got stuck.

At this time, another Humvee arrived and uniformed men were observed getting out and taking position east and west along the Mexico side of the river banks hiding behind heavy thick brush.

After the uniformed men arrived, approximately 10 or 15 men dressed in civilian clothes arrived. Some of the civilians were armed with unknown automatic long rifles. But at this time the Toyota Four Runner had attempted to push the blue Ford Expedition up the bank but could not. The Humvee then attempted to pull the blue Ford Expedition with a chain or strap, while the gray Toyota Four Runner pushed, but this attempt also failed.

Then a couple of men knocked over a fence on the Mexico side of the river bank and the gray Toyota Four Runner drove across. The Humvee then drove back into the Rio Grande River and attempted to push the blue Ford Expedition up and over the river bank. This attempt also failed.

At this time, civilian men started to offload the contraband from the blue Ford Expedition. Once the cargo was offloaded, an unknown subject intentionally set the blue Ford Expedition on fire. The contraband was then loaded on to another pickup truck on the Mexican side and the vehicles drove off. Then the civilian subjects walked away.

Away from the area along with Humvee. It is unknown what happened to the military uniform individuals due to the fact that once they took cover behind the heavy thick brush, they were not to be seen again.

Mr. MCCAUL. Deputy Sheriff, I understand we have a video, the one taken by the Department of Public Safety, that I would ask that you narrate for the committee.

Mr. LEGARRETA. Yes, sir. Would you like me to stand up and point to the areas?

Mr. MCCAUL. Sure, that would be fine.

Mr. LEGARRETA. This is right off the Tiger. This is the black Escalade. This is trooper number one behind the black Escalade. At this time they are going in excess of 100 miles an hour. Keep in mind that this road right here is primarily not in the best shape.

Okay. Right here, if you can freeze it right there, this is where the trooper went after he went off the road and thought the vehicle had rolled over. She got off and tried to find that vehicle, but the vehicle had kept going. The only vehicle that couldn't make it was her.

That is where I went by right there. I was already up there. This particular area right here is actually way after when I saw it. You can see the military Humvee right there, the personnel getting off of that one, and there is the Expedition right here in this area trying to get—trying to keep going, but they can't get it. There is a Humvee, this is where they strapped on the chain. Now they are trying to push it back down in the river trying to get it unstuck.

Right here is the gray Toyota Four Runner. As I said, it was just sitting in the river, trying to wait for the past and to get clear.

Down here you see the men right here breaking down the fence right here. They are jumping, tugging, breaking the fence line getting it ready for this Toyota Four Runner to come around them and go out that way.

Also keep in mind, this is way after I arrived. At this time there was other backup there, being DPS, SO, and I believe Border Patrol by that time.

The military I saw was already out in the brush, out and about, hidden out there, both east and west of the expedition's location.

This just right here is showing where the individuals are removing the contraband from the vehicle.

This right here is actually when somebody on the Mexican side had set that Expedition on fire, and it just burned. It burned down. Being on the Mexican river bank, there is not much we can do.

Once they did that, all the men, there is a road that runs right here. It kind of runs at an angle out in Mexico. All the men, and there was some military men that were gathered up in a big old circle right around here, right back here, and I don't know what they were talking about, but they were in a big old circle. I believe this is on the Escalade again. Disregard to public safety, just ran around the 18 wheeler.

Like I said, it is approximately three or four miles to where the Escalade actually blew out its tire. There is where he lost part of his tire right there.

Mr. MCCAUL. Sheriff, are we starting from the beginning at this point?

Mr. LEGARRETA. The way they set the vehicle, it is going back.

Mr. MCCAUL. I would like to comment that this entire video will be made available on the Homeland Security Committee's Web site. So thank you.

Mr. LEGARRETA. Yes, sir.

Mr. MCCAUL. Thank you. I think we have a greater appreciation of what you all have to deal with every day down there on the border. I appreciate your testimony.

[The statement of Mr. Legarreta follows:]

PREPARED STATMENT OF DEPUTY SHERIFF ESEQUIEL LEGARRETA

Mr. Chairman and Committee Members,

On Monday, January 23, 2006, Sheriff's Deputies from Hudspeth County were patrolling along the interstate highways when information was received that a large shipment of marijuana was supposed to be coming up from Farm Market Road 192 and up toward the Tiger Truckstop and then heading west on Interstate 10.

Further information received was that the shipment was going to be transported by (3) three new model sport utility vehicles. One vehicle was supposed to be a Black Cadillac Escalade. Vehicle number two was a Blue Ford Expedition, and the third vehicle was a Grey Toyota Four Runner.

At approximately 2:00 p.m. information received was that the vehicles had entered and were traveling toward Interstate 10. Texas Department of Public Safety (DPS) Troopers were advised to start heading west on Interstate 10. At approximately 2:11 p.m. all three vehicles were spotted crossing the overpass at milepost 87 heading westbound. At this time all information then aired over the radio. At milepost 84 Texas DPS Troopers noticed all three vehicle had crossed the median on Interstate 10 and were heading east on Interstate 10. The DPS Troopers attempted to make contact with these vehicles; however, the vehicles refused to stop. These vehicles attempted to elude DPS Troopers by accelerating to speeds in excess of 100-miles per hour. DPS Troopers called out a pursuit over the radio. DPS Trooper number one was behind a Black Cadillac Escalade and DPS Trooper number two was behind a Blue Ford Expedition. The Grey Toyota Four Runner was between DPS Trooper one and the Blue Ford Expedition.

The Black Cadillac Escalade blew out its front passenger tire and came to rest about seven miles south of milepost 87. DPS Trooper number one cleared the vehicle and stayed with the vehicle. The driver of that vehicle fled south toward Mexico. DPS Trooper number two and a Hudspeth County Deputy Sheriff continued to pursue the Blue Ford Expedition at speeds in excess of 100-miles per hour.

Approximately eleven miles southeast of milepost 87, the Blue Ford Expedition turned off Farm Market Road 192 and onto a dirt road heading south toward the American-Mexican border. DPS Trooper number two followed, but went off the road. The Deputy Sheriff then continued with the pursuit following behind the Blue Ford Expedition. Approximately one and a half miles south of Farm Market Road 192, the Blue Ford Expedition continued onto the Rio Grande levee (southbound). The Grey Toyota Four Runner was already in the Rio Grande River and continuing south into Mexico.

As the Deputy Sheriffs came up on the curve they encountered the military-style hummvee that was parked on the American side of the Rio Grande levee road. As the Blue Ford Expedition went by the hummvee, it turned around and went back toward the river. A subject on the hummvee was observed wearing an olive drap

green military fatigues with an olive green military cap. This subject was observed holding what appeared to be a heavy caliber weapon with what looked to be tripods mounted on it. The driver was also dressed in the same uniform, but this subject had a smaller caliber automatic weapon. The hummvee followed the vehicles in angle toward the Rio Grande River and actually got into the river crossing back into Mexico, awaiting for the two vehicles to make it back across into Mexico. The Grey Toyota Four Runner had gone first and waited in the river for the Blue Ford Expedition. The Blue Ford Expedition attempted to cross the riverbank on the Mexican side, but got stuck.

At this time another hummvee arrived and uniformed men were observed getting out and taking position east and west along the Mexico side river banks, hiding behind heavy thick brush. After the uniformed men arrived approximately 10–15 men dressed in civilian clothes arrived. Some of the civilians were armed with unknown automatic long rifles. At this time the Grey Toyota Four Runner attempted to push the Blue Ford Expedition up the bank, but could not. The hummvee then attempted to pull the Blue Ford Expedition with a chain or strap while the Grey Toyota Four Runner pushed, but this attempt failed as well. Then, a couple of men knocked over a fence on the Mexican side of the riverbank and the Grey Toyota Four Runner drove across. The hummvee then drove back into Rio Grande River and attempted to push the Blue Ford Expedition up and over the riverbank. This attempt also failed. At this time civilian men started to offload the contraband from the Blue Ford Expedition. Once the cargo was offloaded, an unknown subject intentionally set the Blue Ford Expedition on fire. The contraband was then loaded on another pick up truck on the Mexican side and then the vehicle drove off. Then, the civilians' subjects then walked away from the area along with hummvee's. It is unknown what happened to the military uniformed indivuals due to the fact that once they took cover behind the heavy thick brush they were not seen again.

Mr. MCCAUL. Mr. Bonner.

STATEMENT OF T.J. BONNER, PRESIDENT, NATIONAL BORDER PATROL COUNCIL

Mr. BONNER. Thank you, Chairman McCaul, Ranking Member Etheridge, Congressman Pearce, Congressman Reyes. On behalf of the 10,500 rank and file Border Patrol agents I represent, I very much appreciate the opportunity to express and convey their concerns about this very serious problem of armed incursions into the United States.

In my written testimony I have outlined some details of four incidents in which U.S. Border Patrol agents were shot at by armed intruders dressed in military uniforms, and in some cases we know for a fact that they were Mexican soldiers because in the Santa Theresa incident we captured nine soldiers and some of them had fired at us, not from that particular group. There were a total of about 16 soldiers, and they fired shots at some of our agents. Of course, Mexico denied that any shots had been fired.

In a subsequent incident not more than 7 months after that in San Diego, our agents were fired upon again by Mexican soldiers; and Mexico confirmed that they had soldiers operating in that area but once again denied that their soldiers had fired shots at our agents.

And then in another incident in Arizona a couple of years after that, our agents—one of our agents was fired at again and two of the windshields of his vehicle were blown out by a single rifle round, we must assume, to have that much velocity and staying power.

And then, finally, we had two agents seriously wounded last year in Arizona by rifle fire from AK 47s, high-powered rifles. In this incident it may or may not have been the Mexican military. It was men dressed in black fatigues.

What concerns me is that if they weren't Mexican military in any of these incidents, and we know that they were in some, why is Mexico just sitting back and allowing this to happen. I just can cannot conceive of the United States Government doing the same thing. I can't conceive of a Border Patrol agent or of a deputy sheriff or a State policeman or any law enforcement officer in the United States just sitting back along the border and saying, oh, that is curious. There goes a Humvee with some guys dressed up in military uniforms, but they are not coming into the United States so it is not really our problem. I guess we shouldn't even bother notifying the law enforcement authorities on the other side. Oh, look, they are shooting at the law enforcement agents on the other side. Boy, I am glad I am not over there.

I just can't see that happening, and yet Mexico with its continued denials is doing exactly that. They are sitting back and either allowing lawlessness to happen or some of their military and police are engaging in it, and we know that to be a fact. We know it is well documented that Mexican police and Mexican military, a fair number of them, are corrupt.

Now I am speaking for the agents, I am not speaking for the Department of Homeland Security or for the Department of State, so I am going to be bluntly candid. There is no way to sugarcoat this. There is a culture of corruption in Mexico. We know it exists, and we have to deal with it. These things don't—some of these incidents do not pass what I call the duck test. If it walks like a duck, quacks like a duck, looks like a duck, it is a duck. When you have people who are dressed in military uniforms, driving military Humvees, carrying military weapons, I would say that in all likelihood these are people who are in the military.

Mexico has not been candid with us and forthright in their assessment of some of these incidents, so it falls upon us to protect our sovereignty. To that end, we have made some specific recommendations in our written testimony—written statement.

First of all, we believe the foreign aid we are providing to Mexico in the amount of about $60 billion a year currently for narcotics efforts should be immediately discontinued. I don't want to have American tax dollars being used to fire at U.S. law enforcement agents.

We need to clearly demarcate the international boundary between the United States and Mexico. Now there are parts where it is pretty clear, especially when you get around the Rio Grande, but other parts as you move west of that it is less than clear. And granted it is not the easiest thing in the world to figure it out sometimes, but if it isn't in an incursion, there should not be any pointing of weapons or any gunfire associated with it.

We also believe that the Government of the United States at the highest levels needs to sit down with the Government of Mexico and tell them it ends here, it ends now. There will be no more incursions. We take this very seriously. And if there are further incursions, if you are not willing to deal with it, we will deal with it on our own.

Which leads me to one of the other recommendations, and Congressman Reyes will probably be surprised to hear me say this but I believe we need the U.S. military to be on standby at the border.

Not to patrol the border and enforce immigration laws but to be on standby for these incursions. If Mexico's military is going to come into the United States and fire shots or threaten our law enforcement agents, our law enforcement agents do not have the training, they don't have the weapons, they don't have the ability to deal with that. Our military does.

I also believe that if we want to gain control of that border, and we must for the sake of Homeland Security, we need to enact real work site enforcement such as H.R. 98, which Congressman Reyes is one of the original cosponsors of that bill. We also need to give the Border Patrol the tools, training and support that it needs such as is contained in H.R. 4044; and Congressman Reyes is also a cosponsor of that important piece of legislation.

I don't want to have to go to the funeral of a Border Patrol agent or any other law enforcement officer who has been killed by people coming across our borders, whether they be Mexican military or not; and Mexico is turning a blind eye and allowing them to operate along its northern border. Please, for the sake of these brave and dedicated law enforcement officers who risk their lives every day, take the necessary steps to not only protect them but to protect our Homeland Security. Thank you very much for your time.

[The statement of Mr. Bonner follows:]

PREPARED STATEMENT OF T.J. BONNER, PRESIDENT, NATIONAL BORDER PATROL COUNCIL

The National Border Patrol Council appreciates the opportunity to present the views, concerns and recommendations of the 10,500 front-line employees that it represents regarding the growing problem of armed incursions across the southwest border of the United States by current and former Mexican soldiers and law enforcement officers.

Over the course of the past several decades, hundreds of such incursions have been documented by the Border Patrol and other law enforcement agencies. While the overall number of these incursions has not increased significantly during the past few years, the level of violence associated with them has escalated dramatically. This should be cause for alarm on both sides of the border. In the four incidents described below, U.S. Border Patrol agents were shot at by current or former Mexican officials trespassing on American soil:

• **March 14, 2000, shortly after 10:00 p.m., near Santa Teresa, New Mexico (about fifteen miles west of El Paso, Texas):** Two Mexican Army High Mobility Multipurpose Wheeled Vehicles (HMMWVs or Humvees) carrying about sixteen armed soldiers drove across the international boundary and into the United States. The vehicles pursued a Border Patrol Ford Expedition outfitted with decals and emergency lights (which were activated for much of the time that it was being pursued) over a mile into the United States. The lead vehicle, containing nine soldiers armed with seven automatic assault rifles, one submachine gun, and two .45 caliber pistols, was captured by the Border Patrol after it became stuck in sand. The second vehicle pursued a Border Patrol agent on horseback and fired a shot at him. The soldiers then disembarked from the vehicle, fired upon one more Border Patrol agent and chased another agent before fleeing to Mexico in their vehicle. After being held by the Border Patrol for several hours, the captured soldiers and their vehicle, weapons, and ammunition were returned to Mexico. The Mexican government later denied that its soldiers had fired any shots.

• **October 24, 2000, around 12:00 p.m., near Copper Canyon, about thirteen miles east of San Ysidro, California:** Two U.S. Border Patrol agents observed a group of ten men dressed in military-style uniforms with tactical vests and carrying high-powered military rifles, at least two of which had bayonets affixed. Approximately eight shots were fired toward the location of the agents. The agents took cover in thick brush and identified themselves in Spanish as Border Patrol agents, but were nonetheless pursued by some of the soldiers, who entered the United States by crossing a well-maintained barbed-wire fence. The other Mexican soldiers set up two sniper positions, one in Mexico and another in the United States. The soldiers searched the area, pointing their weapons in the direction of the Border

Patrol agents and ordering them in Spanish to come out of the brush. The agents did not comply, but instead identified themselves again and told the soldiers to return to Mexico. When more Border Patrol agents neared the scene, the soldiers retreated to Mexico and drove off in a minivan. The agents returned to the scene of the incident on their own time two days later by legally crossing into Mexico through the Tecate Port of Entry. They took photographs of relevant evidence, recovered two recently-fired .380 caliber brass cartridges, and submitted all of this evidence to their supervisors. The government of Mexico subsequently confirmed that one of its military units had been operating in that area, but denied that any shots had been fired.

• **May 17, 2002, at approximately 8:30 p.m., near Papago Farms, about 90 miles southwest of Tucson, Arizona:** A U.S. Border Patrol agent patrolling about five miles north of the international border spotted a military helicopter flying toward Mexico. Shortly afterwards, the agent encountered a Humvee with three heavily-armed soldiers in the back. As the agent was quickly departing the area to avoid an armed confrontation, his vehicle was struck by a bullet that entered a rear window on the passenger's side and exited through a window on the driver's side. About four-and-a-half hours earlier, a Tohono O'odham police ranger patrolling near that location reported being chased by a Humvee containing several armed men wearing military-style uniforms. The Mexican government denied that any of its military units were operating in that area.

• **June 30, 2005, at approximately 12:30 p.m., east of Nogales, Arizona:** Two U.S. Border Patrol agents encountered a group of ten to twelve men wearing black military-style uniforms about a mile north of the international border. Some of the men opened fire on the agents, and at least one of them utilized a hand-held radio to direct the gunfire of several hidden shooters. A total of more than fifty high-powered rifle rounds were fired at the agents, both of whom were seriously wounded. The gunmen retreated back to Mexico using military-style cover and concealment tactics. Nearly five hundred pounds of marijuana were recovered during a search of the area.

While it is evident that *bona fide* Mexican military units were involved in the first three incidents, the latter assault may have been perpetrated by henchmen of the drug cartels, a significant number of whom are former Mexican soldiers or law enforcement officers. One such group, Los Zetas, works for the Gulf Cartel, and many of its members received training from the U.S. military and/or law enforcement agencies while they were employed by the government of Mexico.

The Mexican government cannot avoid responsibility for the actions of these renegade groups, however, simply by denying any official involvement. By allowing them to operate with impunity along its northern border, Mexico bears some of the responsibility for their actions. It is inconceivable that our government would turn a blind eye to groups of armed criminals furthering the illegal entry of contraband into one of its neighboring nations, especially if they were threatening and/or shooting at foreign law enforcement officers.

Most of the armed incursions along the southwest border coincide with the smuggling of illegal drugs into the United States. This factor alone, however, does not explain the high incidence of armed incursions by Mexican officials. Although large quantities of illicit narcotics are also smuggled across the border between the United States and Canada, there have been no documented armed incursions by Canadian military or law enforcement personnel. The relevant difference between the two nations is something that diplomats generally don't acknowledge, but that front-line law enforcement officers are acutely aware of and must deal with on a daily basis. A culture of corruption permeates every level of Mexico's military and law enforcement agencies. Law enforcement officers in Mexico are paid very low wages, and it is widely known and accepted that they augment their income by taking and extorting bribes. While the salary of Mexican soldiers is slightly higher, the temptation of large payoffs from the drug cartels is too much for many of them to resist, especially when there are few, if any, adverse consequences for doing so. Given this environment, the large number of corrupt Mexican police and soldiers should not surprise anyone. Although some politicians and high-level bureaucrats try to downplay the severity of this widespread problem, it negatively affects international law enforcement cooperation at the field level, as America's front-line law enforcement officers are unable to trust their counterparts south of the border.

Even with the best of intentions on the part of Mexico to purge this rampant corruption from its military and law enforcement agencies, it would require major reforms and a substantial amount of time to accomplish that goal. In the meantime, the United States must take immediate and decisive action in order to protect its sovereignty and secure its borders:

• The United States needs to recognize that it cannot rely upon its southern neighbor to stop the flow of illegal drugs across the southwest border, and must stop supplying financial aid to Mexico for that purpose.

• Officials at the highest levels of our government must inform officials at the highest levels of the government of Mexico in clear and unambiguous terms that armed incursions across our border will no longer be tolerated.

• The border between the United States and Mexico must be clearly marked in order to eliminate confusion and prevent unintentional incursions.

• The ineffective and unsafe tactic of stationing Border Patrol agents at fixed positions in close proximity to the international boundary must be discontinued immediately.

• America's *de facto* open border policy must be terminated by eliminating the employment magnet that entices millions of people to enter the United States illegally every year in search of work. The only way to do this is by enacting legislation that allows employers to easily determine who has a legal right to work in our country and then strictly enforcing that provision. Only one piece of pending legislation would ensure this result—H.R. 98, the Illegal Immigration Enforcement and Social Security Protection Act of 2005. All of the other legislative proposals suffer from the fatal flaw of allowing one document to be used to prove employment eligibility and another to establish identity. As outlined in a recent report from the Government Accountability Office, this would lead to widespread identity fraud and would seriously undermine worksite enforcement efforts.[1] As long as our law enforcement resources at the border are primarily occupied with millions of laborers, it will be impossible to intercept the thousands of criminals who are also exploiting our porous borders.

• The Border Patrol and other border law enforcement agencies must also be provided with the tools, training, and support necessary to accomplish their vital missions. H.R. 4044, the Rapid Response Border Protection Act of 2005, would provide many of these desperately-needed measures.

• United States military units should be stationed at strategic locations near the southwest border in order to be able to quickly respond to and deal with future armed incursions by the Mexican military. The Border Patrol and other civilian law enforcement agencies do not have the proper equipment nor training to safely and effectively respond to such incursions.[2]

In summary, the level of violence associated with the long-standing problem of armed incursions into the United States by Mexican officials is escalating dramatically, posing a serious threat not only to the lives of law enforcement officers along our southwest border, but also to the security of our Nation. The United States needs to take decisive and forceful action to confront this growing menace before another tragedy occurs.

Mr. McCAUL. I want to thank the witnesses for their testimony. Very insightful.

I think when a government fails to act, it is complicit by inaction, and I think the Mexican Government needs to fully cooperate with us, and I think it needs to help us secure these borders. There is

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[1] Immigration Enforcement: Weaknesses Hinder Employment Verification and Worksite Enforcement Efforts (GAO–05–813—August 2005)

[2] This should not be construed as a call for the military to enforce our immigration laws, which would be problematic for two principal reasons. First, it requires a great deal of training to ensure that someone is prepared to effectively enforce our complex immigration laws. Border Patrol agents receive nineteen intensive weeks of basic academy training in a wide variety of topics, and an additional six months of on-the-job training. Attempting to shorten this training would likely result in numerous civil rights violations, including wrongfully arresting and incarcerating people who have a legal right to be in this country. Second, training soldiers to enforce civilian laws would needlessly endanger them during military combat situations, as the rules of engagement between the two settings differ dramatically. In civilian law enforcement situations, the use of force is permissible only in self-defense or the defense of an innocent third-party, and even then only as a last resort. It is well-established that people instinctively react in a crisis according to their training. At best, people who are trained as both soldiers and law enforcement officers would hesitate in a crisis situation, endangering themselves. At worst, they would respond inappropriately, potentially endangering innocent people. An unfortunate incident that occurred near Redford, Texas on May 20, 1997 illustrates this problem. A squad of four U.S. Marines was conducting counter-drug border surveillance when it was fired upon by an 18-year-old high school student who was tending his family's herd of goats. The Marines outflanked the youth and fired a single fatal shot at him. While this response would have been appropriate in a military combat situation, it was entirely inappropriate in a civilian law enforcement setting.

no bigger threat to our national security than what is going on down there today, and I think many of the witnesses have talked about that.

I share your concern. I believe that the terrorists will use the same vehicle delivery that the cartels do, whether it is dope, whether it is human trafficking, to get a terrorist across, Middle Easterners. We know the cartels can make $15 to $20,000 a person if they can smuggle a Middle Easterner across our border. Or, God forbid, something the size of a bale of marijuana, and that would be a nuclear device. It poses a tremendous risk.

I am concerned about the immigration issues but first and foremost concerned about another terrorist attack in this country, and everything we do in the Congress should be designed to make sure that never happens again. I applaud your efforts.

In watching the video you see what you go through every day and you see the frustration. The first time I saw the video I was struck by the frustration that you have when they commit a crime in the United States and then they drive back across the Rio Grande. Basically, you can't do anything about it but sit back and watch. To me, that is not right; it is wrong policy. We need better cooperation on the Mexican side to apprehend these criminals when they cross on the other side.

Sheriff Legarreta, I want to focus on a couple of questions related to the video. As I understand, you were on the scene before that video was shot, is that correct?

Mr. LEGARRETA. That is correct, sir.

Mr. MCCAUL. Can you will tell us what you saw before that videotape?

Mr. LEGARRETA. Before that videotape—I was actually the first one on the scene. I was right behind that blue Ford Expedition. If you have never been on the river levee, it has got a lot of curves. Where this Humvee was parked at was about 150 to 200 feet prior to the last curve. When I came around that corner that Humvee was parked on the levee road waiting for this blue Ford Expedition. Once that blue Ford Expedition went by him, they turned around.

There was one subject sitting in the back of the Humvee. It was an open bed Humvee, had a canvas top. The doors were not there. It was an olive drab military style Humvee. The subject that was sitting on the back of that Humvee was dressed in an all-black green military style outfit. Along with the color of the cap, what they wore and some type of insignia, I cannot tell you what it was, but it had an insignia on it; and he was holding a large-caliber weapon which appeared to be a 50-caliber weapon to me mounted with a mounted tripod.

Mr. MCCAUL. I believe your testimony was you observed individuals in military style uniform, is that correct?

Mr. LEGARRETA. Yes, sir.

Mr. MCCAUL. Can you describe that?

Mr. LEGARRETA. Similar to the Border Patrol type outfit except it is solid green. It is an olive drab green.

Mr. MCCAUL. Have you seen Mexican military before?

Mr. LEGARRETA. Yes, sir.

Mr. MCCAUL. Was it consistent?

Mr. LEGARRETA. I have lived in Hudspeth County pretty much all my life and grown to know the military from Mexico. I have seen them occasionally right off the Mexican Customs side there where they have done random searches on people and stuff. So I have been knowing them pretty much all my life.

Mr. MCCAUL. Have you seen the military style Humvees before?

Mr. LEGARRETA. I have seen the American-type Humvees, and they was pretty similar to those. I believe there is only one type of military Humvee.

Mr. MCCAUL. Can you tell us a little bit about your background in terms of experience with the military?

Mr. LEGARRETA. Yes, sir. I did 6 years reserve duty with the United States Marine Corps, was honorably discharged as a sergeant, communications.

Mr. MCCAUL. I guess when we first heard about this in the Congress we were trying to figure out what is going on down there. Either it is Mexican military, which would be the worst of all scenarios, or it is cartel dressed as Mexican military, or cartel members buying off members of the Mexican military. And I would like to ask each of the panelists in their opinion what do you believe these individuals who are assisting the drug traffickers, who are these people?

Mr. LEGARRETA. In my honest opinion I believe it is everything. I think it is the cartel buying off the military, cartel buying off civilian people dressed as military and actually employing civilian to work for them.

Mr. MCCAUL. Sheriff West.

Mr. WEST. I concur with Deputy Legarreta. There is no doubt in my mind that is the way it is happening.

Mr. MCCAUL. Sheriff Samaniego.

Mr. SAMANIEGO. I have lived on the border all my life. I was not at the scene when this happened, but based on the description that Deputy Legarreta gave us, I am inclined to believe that they were military.

Mr. MCCAUL. Mr. Bonner.

Mr. BONNER. I also was not at the scene. I have seen pictures and just saw the video. In my judgment, and it is by known means an expert opinion, it appeared to be Mexican military to me. But, as I stated in my testimony, it is immaterial. If Mexico is allowing this to happen, they bear some of the responsibility, a large part of that responsibility.

Mr. MCCAUL. The Chair recognizes the ranking member.

Mr. ETHERIDGE. Thank you.

Mr. Samaniego, as a sheriff, in your testimony you noted that the Federal Government is expecting local agencies to assist with addressing the national drug problem as well as increasing national security efforts but has reduced resources provided to local agencies. What impact has this had on your border State?

I ask this question because just recently the sheriff in one of my counties in North Carolina confiscated $20 million worth of cocaine. I don't know where it came in the country, I have no way of knowing, but it took a lot off the street. I would be interested in your comment.

Mr. SAMANIEGO. We are affected by not only the drug trafficking but the drugs that manage to come across. El Paso is known as a warehouse city where the cartel crosses drugs through the bridges or the port of entry, around it, around Hudspeth County and then they stash it in El Paso until they have a big load. Then it goes to all the other cities in the U.S.

I have probably about 30, 35 deputies assigned to drug task forces with DEA, with Customs, with the FBI, the U.S. Marshal, you name it; and it puts a big strain on us.

Mr. ETHERIDGE. Are you saying the bulk of the funding for those deputies is local funding?

Mr. SAMANIEGO. Some of it is grant funds, but I do have additional deputies assigned because I don't feel that we have enough of them. And we are also affected by burglaries or crime committed by illegal aliens coming in. Our jail is impacted, the population, and most—we do have a contract with the U.S. Marshal to house Federal inmates, and we average probably 800 daily, but there is a bunch of them there that no one pays for and the taxpayers of El Paso have to foot the bill.

Mr. ETHERIDGE. In that regard, I noticed in the budget that was released yesterday from the administration, the President's budget, he zeroed out funding for the States' Criminal Alien Assistance Program; and we understand for States that funding has declined nearly 50 percent since 9/11, going from $45 million to under $25 million. What impact, if any, has the continued reduction in this funding had on your ability to provide security on the border counties?

Mr. SAMANIEGO. We are going to continue to incarcerate anybody that violates the law. I don't care if no one pays for it. But we are getting reimbursed probably 5 cents to every dollar that we spend to house illegal or criminal illegal aliens.

Mr. ETHERIDGE. Thank you.

That gets back to the point we raised earlier, this truly is a Federal responsibility, and if we don't reimburse for the efforts, we have got another problem.

Mr. Bonner, in your testimony you covered some of this, but I want to get it on the record again. What resources, equipment, technology and infrastructure concerns, if any, do your members have that need to be addressed in remote areas along the border for us to be able to do the job that is required as Federal border agents to meet our commitment to protect our border?

Mr. BONNER. Congressman, if you have a few hours, I could go down a whole laundry list.

Mr. ETHERIDGE. We have 40 some seconds.

Mr. BONNER. We have vehicles that have close to 200,000 miles that should have been retired at 40,000 miles because they get run hard. We have agents out there who do not do not have soft body armor that will stop a handgun bullet, but it is expired, it is defective. We have a crying need for more Border Patrol agents.

It is heartening to see the administration come 75 percent of the way to what the Intelligence Reform Act promises of the 2,000 Border Patrol agents, which is a big improvement over the 210 they requested last year, but it is still not 2,000. And we should be in-

creasing even more than that 2,000. We should be trying to increase the Border Patrol by 25 percent every year.

There are a lot of things that we desperately need, and I don't see them on the horizon.

Mr. ETHERIDGE. In that vein, you are in contact with the person on the ground every day, what are the concerns that you are hearing from your members about the increased violence along the border?

Mr. BONNER. The biggest concern that I hear is that we feel that we are out there alone, that we don't have the support from the folks in Washington, D.C., that they don't really care, they don't understand the problem and they just spout off these statistics which are just numbers to them. But when you are out there on the line and the rocks are flying at you or the bullets are whizzing by you, it is very real.

Mr. ETHERIDGE. Thank you, Mr. Chairman. I will save my time. Thank you.

Mr. MCCAUL. Mr. Pearce.

Mr. PEARCE. Mr. Bonner, following along in that line of questioning, do you—let me switch gears just a second. Mr. West, you said that, page 4, the efforts to secure the border are not effective. You heard the testimony of Chief Aguilar, the head of Border Patrol, in his first section said the border was more secure every day. So do you not—you just absolutely disagree with that?

Mr. WEST. Absolutely, yes, sir. Even though there are more agents coming in—for example, I asked him directly how many were coming to my area. Five hundred are supposed to be graduating, fixing to be put out in the field. I asked him how many were coming to my area. I got a response of 25 to cover the entire sector, which is probably the largest sector in the entire Border Patrol. Communications as well.

As far as the officers on the ground, they are doing an excellent job, they are doing the best they can, but they are shorthanded in regards to that. Once you get past the guys on the ground, the brass, there is no communication. There is not any on my part.

I will go so far as to say up until January when this incident took place I couldn't pick the A chief out of a crowd of two from El Paso. Never seen the man before in my life. I have had maybe—since 2000, when I took office, I have had the occasion maybe to have conversations with the chief maybe two or three times.

So as far as the communication dialog, and I speak for my county, it is not there. Radio operations with them, we have not—there, again, I want to go back to the agents. They are doing the best they can with what they have got.

Mr. PEARCE. I appreciate that.

The three of you in the sheriffs arena have described this as a Humvee. In the meeting just previous to this, the Ambassador just declared and the Under Secretary both declared it was absolutely a Hummer. When I looked at it—I don't know Hummers, that the exhaust goes straight up. That appears to be a little bit more of a Humvee characteristic. You all are dead certain that your testimony is correct that it was a Humvee, not just one of the look-like Hummers?

Mr. WEST. No, sir, that was a Humvee, from our perspective.

Mr. PEARCE. You saw the video.

Mr. SAMANIEGO. Yes, sir, I did. Well, the most important thing is really not the uniforms but the tactics that were used. When Officer Legarreta got there, they were all in a group. They split up into two groups. They formed one line going left, one going right, and then disappeared, which anybody that has military experience knows that is a maneuver used by the military when they want to get you in a crossfire, and that is exactly what transpired. It is not something that a bunch of thugs in military uniforms would do.

Mr. PEARCE. Thank you.

Mr. Bonner, you said that the problem appears to be with people in Washington, and I agree enough with that, but I think the Border Patrol itself gets some responsibility. I agree that the people on the ground have the right attitude, but when the head of the agency said that the border is not under siege, when he says that we are getting control of the border, and it directly contrasts with the testimony of the sheriffs, that directly contrasts even what the border agents in my districts say, how do you feel about those differing positions? Would you address that?

Mr. BONNER. From the perspective of the rank and file, we believe that the border is completely out of control. The folks at the top get paid to say nice things about the Government of Mexico. They get paid to try and reassure the public. I don't get paid to reassure the public. I feel that my responsibility is to tell the truth to the American people, and the truth of the matter is our borders are out of control.

Just about anyone who wants to come into this country, can. We capture about a million people a year, but our agents on the ground estimate that 2 to 3 million people get by us, and that frightens me. While most of them are probably just looking for a job, there are some very serious criminals in there, and there are some terrorists in there as well.

Mr. PEARCE. Thank you, Mr. Chairman. I will look for to a second round if you have it.

Mr. MCCAUL. I know Secretary Chertoff stated this whole thing has been overblown, but I think if you look at it not just from a isolated incident but a cumulative effect it is not. It is sort of like the straw that broke the camel's back. When Neely's Crossing got hit, it got tremendous attention because of this rising problem out there that everybody identifies as a national security concern. So I am glad we are able to entertain this issue.

I want to ask the sheriffs one question; then, Mr. Bonner, I have a question for you. For the sheriffs, what is your, if any, communication and coordination with your counterparts on the Mexican side like? Can you tell us about that?

Mr. WEST. I have got a good relationship with the Presidente Municipale which is—he is kind of like the county judge or the county mayor, the way they explain it down there. The relationship with that gentleman is outstanding. I mean, any kind of communication back and forth that I need, for example, stolen equipment taken from the United States, I can contact him. If it is in that area, generally I can get it back without a problem.

But that is where it stops. Once it goes beyond that, there is no communications. There again, up until the other day, I finally met

the A chief or the A chief in El Paso; and I have no idea who the general is in Mexico or who any of those people are that play a role in that. I have asked the Mexican consulate who come to visit with me after this incident to give me a list of these people where we can make contact with them for the simple reason, if we do have incidents like that, I can have a direct communication with them. I have yet to see that.

Mr. MCCAUL. I know when I was with the Justice Department we tried to comprise task forces. Obviously, trust is an issue there, but it a step in the right direction in terms of communication. And if that would be helpful, I think that is something we need to push in the Congress or push the Homeland Security Department to do.

Mr. WEST. From my perspective as Sheriff of Hudspeth County, not on the Mexico side but also the dialog on the American side as far as Federal levels, and it needs to be a two-way street, not a one-way street.

Mr. MCCAUL. I couldn't agree more, and that was my follow-up question. That is, Mr. Bonner, when I look at that video, I see the State trooper making the chase. They get to the border. The deputy sheriff is already there, but Border Patrol is nowhere to be found.

I had heard things in terms of the pursuit policy, and I want some clarification from you into what the pursuit policy is. Because we have heard reports that in this case they were told not to pursue, Border Patrol. I wanted to know if you could confirm or deny that. I think it would be helpful to get that out.

Explain to me the pursuit problem. I get the sense the sheriffs are really the people on the ground, the first line. When we look at funding up here, that speaks volumes. And so why don't you help me with that and answer some of those questions.

Mr. BONNER. I have heard the same reports that you have, Congressman, that Border Patrol was ordered to back off and that ultimately other units from the Sierra Blanca station responded; and we do have a pursuit policy that says if anyone is breaking any traffic law that they need supervisory approval in order to engage in a pursuit.

My understanding is that they were told to back off of that pursuit, which troubles me, the whole notion that the Border Patrol can't pursue people who are breaking our laws. I mean, I have been involved in pursuits where I have been backed off when I could see what appeared in my professional judgment to be drugs sticking out of the back of a camper shell and was told to back off; and God knows how many lives were ruined or lost because of that shipment of drugs. And yet we have these insane policies that prevent us from doing our job. They tie our hands.

Mr. MCCAUL. Do you believe that is a policy we should revisit?

Mr. BONNER. I believe it should be revisited. I believe there should be laws that make it more painful to run from the law enforcement than to be caught. In other words, a mandatory sentence of say 25, 50 years. If you run from a law enforcement officer, you are going to jail; and we are tossing the key away. Take your chances, get pulled over, and then maybe you will only get 5 years for driving a load of illegal aliens.

Mr. MCCAUL. It is hard to envision a full partnership when you have one hand tied behind your back, and I think that is what this

policy effectuates. I will be taking a look at that as well because I think the sheriffs need that kind of assistance down there. I commend them for the work that they do.

The Chair now recognizes the ranking member.

Mr. ETHERIDGE. Thank you.

Sheriff West, you alluded to this some about relationship, but I would like to know for the record how would you characterize your relationship with the CBP and other Federal law enforcement officials on the U.S. side of the border.

Mr. WEST. As far as the agents in the field, the PAICs in charge, I have got two Border Patrol areas that have two different PAICs that are in charge, Border Patrol agents in charge. As far as the PAICs up to that level, it is wonderful. The guys on the ground, the guys working out on the field, wonderful. Beyond the PAICs, I couldn't tell you. I don't know the people.

Mr. ETHERIDGE. If I use that—if I am understanding you correctly, it is great on the ground.

Mr. WEST. Correct. But, beyond that, I don't have a relationship with them because I don't know them.

Mr. ETHERIDGE. I will accept that. You have shared with us the concerns you have on the other side of the border on some of them. I guess what we need to hear—again, let me ask you this question. What do you think the Federal Government needs to do to help secure our borders in rural areas, because that apparently—what do you think ought to be done?

Mr. WEST. Number one—in regards to the Federal Government, number one is the COPs grant, something like that to allow us to be able to hire more people and put on the ground as far as the sheriffs offices are concerned.

Number two is open a two-way street dialog with the higher up in regard to border patrols, whatever, all—it used to be Customs. Those channels need to be opened up, and the contact points need to be made and somebody can make a quick decision when the phone call is made and not wait 72 hours, 3 or 4 days. This incident started at a little after 1. A little after 2 it was completely over with. So those decisions needed to be made quick.

Mr. ETHERIDGE. Thank you, Mr. Chairman. I yield back.

Mr. MCCAUL. Mr. Pearce.

Mr. PEARCE. Mr. Chairman.

I appreciate the testimony of every single one of you, and I appreciate your service.

Mr. Bonner, as I consider one of the policies that really seems to not—the logic doesn't seem to quite connect, but in our district the border agencies have moved about 70 miles away from the border, and they put these checkpoints, and the stated reason is so that all the people who come across illegally will channel in and get on the interstates and then we will catch them all there. Is that really the thought process?

Because what is happening is the people go to the back room, take a picture of the check stations and distribute them. Because they go through the back roads and so the pressure is on all the sheriff departments. What possible logic could the border agencies have for that?

Mr. BONNER. Checkpoints have a useful function as a backup to the agents on the line, that what gets by the agents on the line can then be picked up by the second bite at the apple, if you will. They were never intended to be the only strategy.

And the only thing—again, I don't speak for the higher ups. The only thing that comes to mind is that they believe that people like to see their tax dollars at work. You can point to agents at a checkpoint; people can go through and go look at all the Border Patrol agents. The country must be safe.

But you are absolutely correct. It does not make a lot of sense to put all of your eggs in that one basket.

Mr. PEARCE. What about the agents—and I have been out and sat at night with the Border Patrol and sit there with the night vision goggles and try to pick up stuff. They tell me a lot of times they only get 2 hours in the field, and the other 6 hours is used for paperwork to process the people that they catch. So they say effectively they have got about 2 hours a day for detention and the rest for paperwork. Is that something that you find is more broad-based than just the district I represent?

Mr. BONNER. Depends on how many people you are catching and where those people are from. When you are catching people from countries other than Mexico, there is a lot more paperwork involved in that. And it is a source of frustration for the agents because you do all this paperwork and in many cases, as was noted earlier, these people are simply released.

The key to the whole catch and release or the catch and remove program is having the funding to hang on to people long enough to remove them from the country. That is why we are in the mess now, because they didn't have enough money; and the word got out that—come on in to the United States. They will give you a piece of paper that allows you to remain there, and you can disappear.

Mr. PEARCE. Are you aware of the funding? When I asked the people in El Paso, that would be the station chief, I think Mr. Moon was his name, they supplied that the cost was about $75 a day. The cost at the Federal penitentiary in the county I reside is about $45 a day and included in that they are able to do therapeutic rehabilitation. Do you know about the cost per day to detain in border facilities?

Mr. BONNER. It varies widely, and in a lot of instances we try and contract it out to the local or State facilities. But, again, it boils down to money, whether it is $75 a day or $45 or $35, if you have no money for it, they walk out the door.

Mr. PEARCE. But you could detain twice as many if it went from $70 to $35.

Mr. Chairman, I really appreciate this second panel. In the first panel, I just wish that you had given an invitation to the head of the Border Patrol to stay around and hear this testimony and also the lady from the Secretary of State because I think they should hear. In Washington, the upper echelon believes that the border is in control, but I hear the testimony of gentlemen like these who live with it every day, and the border is not in control, and we have a requirement to do something about that.

Mr. Bonner, it takes great courage to come up and testify in contradiction with what the head of the agency says, so I appreciate that.

Mr. Samaniego, thank you for your service. Fifty years, that is pretty nice.

Mr. West, I appreciate your service.

Mr. Legarreta, thank you very much. Your testimony was very compelling and was the piece that really convinced me that we knew what we were talking about when we said these things were Humvees, not Hummers.

Mr. Chairman, there is a lot of very powerful information that has come out of this meeting; and I appreciate the opportunity to sit in today. Thank you.

Mr. MCCAUL. Thank you, Mr. Pearce.

I want to say sometimes you learn more from the troops on the ground than you do from the generals. We get a lot of spin up here in Washington. That is why I wanted to have you all come in face to face, particularly the sheriffs. I know you deal with this issue on the border every day and you face what we saw in that video. It means a lot to me, and it means a lot, obviously, to this committee, and we are dedicated to continuing with this investigation and doing whatever we can in the Congress to control this border.

I want to ask Sheriff West, I was given some photographs, I am not quite sure what these are, but if you would like to address these, I would like to give you the opportunity.

Mr. WEST. Yes, sir. I apologize. Sheriff Domingues handed me those today. Those photos were taken in 1993 in Presidio County of the same style military personnel or same style clothing of the military in Presidio County. They are basically running over us down there.

Mr. MCCAUL. Is this on the Mexican side?

Mr. WEST. No, sir, that is the American side.

Mr. MCCAUL. These are Mexican soldiers on the U.S. side.

Mr. WEST. Yes, sir.

Mr. MCCAUL. Were they confronted?

Mr. WEST. No, sir. The gentleman taking that photograph was I believe just a citizen taking them and saying, look, here is some photos of some Mexican soldiers on our side.

Mr. MCCAUL. Deputy Sheriff Legarreta, have you seen these?

Mr. LEGARRETA. I saw them just quickly.

Mr. MCCAUL. I was curious if they look similar to what you observed—

Mr. LEGARRETA. They do.

Mr. MCCAUL. —in Hudspeth County.

I want to thank the witnesses for their excellent testimony. This has been a very insightful for us. I want to continue an open dialog with the sheriffs and again thank you for coming up all the way to Washington. I hope your stay is a pleasant one; and if there is anything my office can do to help you, please let me know.

I am going to go ahead and excuse this panel. We have one last one.

Mr. MCCAUL. It is a distinct pleasure of the Chair to recognize a colleague and Member and friend, Silvestre Reyes.

STATEMENT OF THE HONORABLE SILVESTRE REYES, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Mr. REYES. Thank you, Mr. Chairman and Congressman Pearce and my colleague Bob Etheridge. It is a privilege to be here.

I appreciate the opportunity to come and testify because I think all of you know that my background before coming to Congress was in the United States Border Patrol after having served in the military. I had the opportunity to serve as a Border Patrol agent, and the last 12 years of my 26 and a half year career with the Border Patrol was as a chief. I was a chief down in south Texas for about 9 years. Finished out my 3 years service in El Paso sector, which is the west Texas, all of New Mexico area. So I am very familiar with the area and with the operations of the United States Border Patrol.

I am here because I am concerned that a lot of the work that we have been doing in terms of convincing the Mexican Government that they should be a partner with us, if we don't deal in facts and we don't deal in accuracy, then that partnership may not take place. And the reason I say that is because when, Mr. Chairman, you said that a government—when the government fails to act, then basically it is complicit. I think all of us are complicit in the situation that we have seen on the border here today. I am in my ninth year in Congress and since coming here I have been advocating that we ought to be funding a thousand Border Patrol agents every single year, along with equipment and technology to support them, to act as force multipliers. That hasn't happened.

We have a very spotty track record in terms of the support that we give our border—our premier border agency. Even after 9/11 we haven't done our job as a Congress. So when we fail to act, we are complicit, and we as a Congress are complicit in this.

There is a lot of frustration at all different levels. I was born and was raised on the border. I represent a border district. I spent almost my entire career in the Border Patrol working along the U.S.-Mexico border, so I know the challenges.

When you hear Chief Aguilar talk about the priority that a chief has to make sure that not only are you operationally sound but that you also know those that are in charge across the border, he is exactly right.

When Sheriff West talked about just knowing the man who is like a mayor and nobody else, that is not anybody's fault except the sheriff. There are ways to be able to go and do liaison for the sheriff, chief of Border Patrol and anybody else that has that as a priority, but you have got to have it. If you worry about the issue of corruption, then when some incident occurs you are not going to know who to call, you are not going to have any kind of relationship with an individual that may be able to help you.

I can relate to you one important incident that occurred to me when I was a chief, and that is we got a report that one of our detention officers had been kidnapped. And because I knew the head guy of Customs and the head guy of the PGR, I was able to call, find out that that was not the case. They actually responded to the place where this individual was supposedly being held. The individual was there, but he was there voluntarily. He had not been kidnapped.

But if you don't have—if you don't establish those relationships, if you don't understand that is an important part of your duty on an international border, then you really have no business being in charge of any entity.

I am concerned about this particular incident because of the misimpression that it sends nationally and because of the sensationalism that is associated with it. I can tell you that when I first heard of this incident I called the ambassador and I called the Mexican consul and said, expedite an investigation as soon as possible. Because some of the things that I heard then and I heard today didn't make sense to me.

I worked, as I said, all my adult life on the border. I never saw a 50-caliber machine gun on the back of any kind of military style vehicle. I am an Army veteran and I know what that looks like, and those of us in the military know those are pretty impressive weapons. Under stress, it can certainly appear to be a 50-caliber to somebody that is not familiar with it. But there is a big difference between making a statement conclusively that this was the Mexican military, without having all the facts, and making a statement that it was a military style vehicle.

I think the bottom line for me is that we, as Members of Congress, need to do three very important things. The first one is we need to understand the problem. We need to have all the facts, and then we need to be willing to act on it. When we have got Members that don't understand the operation and necessity for checkpoints, as my colleague from New Mexico was mentioning, then there is a serious issue. It is not for show. It is not to tell the people that they are secure. Those checkpoints are very effective in taking down drug lords and also other felons of different types. And the chief can give you all those statistics.

They don't take officers from the line because, as you mentioned, Congressman Pearce, you have been out there on the line with some of the officers. I can tell you this. When officers are assigned out there and they apprehend undocumented people, somebody has to process them. I thought we had done a much better job of computerizing the record checks and the forms so that that had reduced the processing time considerably.

I take great exception with the statement made by an agent or agents that say that they work the line for 2 hours, then they have to spend 6 hours processing. Unless they are catching 40, 50 people among the two agents, that doesn't sounds right to me. But that means to me that we have to bring, for instance, the chief of the El Paso Border Patrol, give him an idea of what we are looking for so that he can bring in the agent in charge of those areas we are interested in and take an accounting on that.

Every single station has an operational report monthly where they report operational time versus processing time, and all of that can be analyzed by the staff. All of that is important as we go about trying to support the agency that has the lead responsibility for protecting our Nation's borders. I fear that we sometimes fail to appreciate the work that they are doing.

Sometimes we fail to look at ourselves for our unwillingness to hold ourselves accountable and also two administrations since I have been in Congress, the Clinton administration and the Bush

administration. We need to do a better job. We need to give them the resources. We need to give them the personnel. You heard Chief Aguilar say that they can assimilate, train and deploy 2,000 agents a year.

When Mr. Bonner talks about 25 percent of the Border Patrol, I can tell you that is very unrealistic because there is a training process, there is a seasoning process. You don't want to have a disparity between trained, seasoned officers versus trainee agents.

The border is a dangerous place, as you can see by those videos. The border is not a place for amateurs. The border needs to be a well-structured area with somebody in the lead. The lead belongs to the United States Border Patrol. The problems that they have had in terms of resources is because we have failed them. We have failed them, we have failed our country, and in the process we failed ourselves.

We are as complicit as anyone else might be in the system, and I would strongly urge that we change that. That is why I am so grateful to you, Mr. Chairman, that you are willing to take this on. Because I have been advocating before the creation of Homeland Security with the Judiciary Committee. I always tell my colleagues—and, by the way, Chief Aguilar used to work for me, so I know him to be a straight shooter. He is an outstanding—he was an outstanding patrol agent in charge and is today an outstanding choice for that national chief. We need to support people like that.

Then we also need to understand that where there is a void because of our failure to act, you are going to have those that jump in that void. You see that by these sheriffs. They see an opportunity there. They see frustration because they don't have the resources. Their funding comes from the county. That is their primary source of funding. That is their responsibility. So I certainly don't blame them, because having good relations with all the different law enforcement entities is vital.

You can bet that I am going to mention to Chief Gilbert, who is now the chief in El Paso, that he needs to reach out and do some of these things that were identified and spoken about here this afternoon. But, most of all, we need to understand that for us it is about making sure that we keep our country safe, making sure that we hold Mexico to the standard that they have to help us manage that border.

I can tell you, Mr. Chairman, and I told you last Friday that I made those phone calls, they put those field investigative teams out there, they notify the different agencies. That is why that other video was publicized. We don't get any where by sensationalizing. We don't get anywhere by making accusations without having all the facts. That is our job.

I applaud you for the work that you are doing, and I would be glad to answer any questions that you might have about the time I have been here since leaving the Border Patrol or when I was a chief in the Border Patrol. I am fortunate to have worked my way up through the ranks in the patrol, so I can speak with a degree of authority on the work of a great agency with great, dedicated personnel and the greater effort that they give each and every day.

So thank you for giving me a chance to be here.

Mr. MCCAUL. I wanted to say in response, Congressman Reyes, how fortunate we are have to have someone like you in the Congress. Twenty-five plus years Border Patrol, chief of the El Paso sector. I knew you before I ran, and you are a valuable asset, and I look forward to working with you on this. I appreciate your invitation down to El Paso after this. I think there is a lot of follow-through that we can do together. We have worked on bills in the past, and I think there is plenty of room in the future.

I agree with you, in final comment, that it is a Federal responsibility first and foremost. I think we have failed, the Federal Government has failed in that, and that is one of our biggest charges up here, because you are talking about lives and people. So, again, thanks for being here; and I look forward to working with you some more in the Congress.

Mr. ETHERIDGE. Mr. Chairman, let me say to my colleague we appreciate him being here. Thank you so very much for not only what you did before you got here but what you do as a Member of this Congress and your contribution. We appreciate it.

You are right. We have got to hold people's feet to the fire now. We will find out where the resources are to get the job done. Because it is a Federal responsibility, first and foremost; and when that doesn't get done, it falls on the shoulders of those who are on the border, but, more importantly, it ripples all across America in a host of ways.

Thank you.

Mr. REYES. Thank you.

Mr. MCCAUL. The committee stands adjourned.

[Whereupon, at 6:02 p.m., the subcommittee was adjourned.]

APPENDIX

ADDITIONAL QUESTIONS AND RESPONSES FOR THE RECORD

ELIZABETH WHITAKER RESPONSES

Question: It was unclear from your oral testimony what types of incidents would arise to a serious enough nature in which the U.S. would contact Mexican authorities.

Response: Normally, local authorities on both sides of the border are able to resolve incidents without recourse to national authorities in Washington and Mexico City. The United States Government would contact the Mexican national government only where local efforts did not resolve the incident.

Question: Please list and explain how many other incursions into the U.S. have ever risen to the level that required a diplomatic note with the Mexican government.

Response: We are not aware of incursions into the U.S. other than the one on January 30 that required a diplomatic note to the Mexican government. In 2000, the State Department was consulted when Mexican troops inadvertently entered U.S. Territory near Santa Teresa, N.M., but our records do not show that a diplomatic note was sent.

Question: In such instances in which the Department of State submitted a diplomatic note to the Mexican government for possible incursions, what action was requested on behalf of the U.S. government? What has been the outcome of these requests?

Respsone: After the January 23 incursion, the Department requested that the Mexican Government's investigation indicated that the parties involved in the incursion had no connection to the military or government. Further, Mexico identified four individuals believed to be involved in the incursion; those individuals remain at large.