

HOMELAND SECURITY ADVISORY COUNCIL



SOUTHWEST BORDER TASK FORCE RECOMMENDATIONS

SEPTEMBER 2009



Homeland Security Advisory Council

September 30, 2009

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Secretary Janet Napolitano
U.S. Department of Homeland Security
Washington, DC 20528

Dear Madame Secretary:

Earlier this year, you directed the Homeland Security Advisory Council to establish a task force to focus on two major issues regarding our Southwest border. The Southwest Border Task Force was created to prepare recommendations to you on border commerce and border violence. Specifically, the Task Force focused on how to assure a high level of inspection at our border while not hindering the facilitation of commerce, as well as assessing the realities of border violence. Early on, the Task Force determined that there is no spillover violence and moved on to their other tasking.

Over the past several months, the Task Force held meetings in Albuquerque, New Mexico and El Paso, Texas, held numerous conference calls, and heard from 13 subject matter experts in deliberating upon the recommendations included in this report.

The Homeland Security Advisory Council would like to personally thank the Task Force members; the Vice-Chairs of the Task Force, Ambassador Jim Jones and Sheriff Guadalupe Trevino; the Homeland Security Advisory Council staff; and the subject matter experts who spoke to the Task Force.

On behalf of the Homeland Security Advisory Council, we appreciate the opportunity to advise you on these important topics regarding the Southwest border. It has been an honor to serve you, the members of this Department, and the American people in this advisory role.

Sincerely,

William Webster
Chair, Homeland Security Advisory Council

Executive Summary

The Southwest Border Task Force (SWBTF) was chartered to provide the Homeland Security Advisory Council (HSAC) with recommendations to address issues facing the Southwest border. The Task Force convened in Albuquerque, NM in June 2009 and in El Paso, TX in August 2009, interspersed with conference calls, to address two important border issues. Led by Chairman Judge William Webster and Vice Chairs Ambassador Jim Jones and Sheriff Lupe Trevino, the Task Force divided the issues into two categories: commerce and border violence.

Led by Ambassador Jones, the Commerce Subgroup developed a wide array of recommendations on how to maintain, increase, and ease the flow of commerce across the Southwest border. They call for the standardization of practices and technology at all ports of entry (POE); the creation of a “best practices” team to study both the Mexican and Canadian borders; enhancing the Customs-Trade Partnership Against Terrorism; improving infrastructure and technology at POE; reviewing the Presidential permitting process; increasing funding for, and the hiring of, more Customs and Border Protection Officers at POE; and adopting Environmental Protection Agency requirements for drayage trucks.

Sheriff Trevino and the Border Violence Subgroup members focused on recommendations to decrease border violence. These recommendations for U.S. officials include working closely with Mexico to continue professionalizing their law enforcement agencies; working with DHS to pursue 100% participation from local law enforcement agencies in various law enforcement programs; adopting uniform definitions of border violence and spillover violence; increasing and streamlining cross border communications technologies; continuing the support and funding of fusion centers; augmenting state and local full time assets; and increasing resources through federal grant funding, and expanding the Border Information Sharing and Operations Network.

Finally, with the initial tasking of the Task Force complete, the Task Force recommends that the Secretary consider extending its work to develop a longer range vision for the Southwest border by 2020. This might encompass both public and private research and development projects; entrepreneurial incubators; centers of technology development; alternative energy projects, especially renewable energy; entertainment centers; and the development and conservation of new water resources including sea water. This would include cross border plans to provide security and reduce border violence. Develop a vision and plan to make both sides of the US-Mexico border a destination for business and tourism by 2020.

Homeland Security Advisory Council

Southwest Border Task Force

Recommendations

September 30, 2009

Commerce

1. Standardize practices and technology at all ports of entry (POE) including fees, fines, the use of biometric identification, and radar arches.

Background:

Significant progress has been made standardizing technology at all POE, specifically with the use of biometric identification. On June 1, 2009, the Western Hemisphere Travel Initiative (WHTI) went into effect, which requires all citizens of the United States, Canada, Mexico, and Bermuda to have a passport, or other accepted document that establishes the bearer's identity and nationality, to enter or depart the United States from within the Western Hemisphere.ⁱ

The Federal Bureau of Investigation (FBI) is continuing the successful implementation of the Central American Fingerprint Exchange Initiative (CAFE). This initiative collects, stores, and integrates biometric data from El Salvador, Guatemala, Belize, Honduras, and the Mexican state of Chiapas into a central database accessible to U.S. law enforcement. The FBI will continue to implement the Transnational Anti-Gang initiative which coordinates the sharing of gang intelligence between the U.S. and El Salvador.ⁱⁱ

2. Appoint a "best practices" team, composed of members from both government and private sector, to study Mexican and Canadian border POE and recommend standardized protocols at all Southwest border POE.

Background:

Required paperwork and electronic documents differ between Southwest border POE. Standardizing the process streamlines border crossing and border commerce. Utilizing best practices minimizes significant costs to companies attempting to determine appropriate procedures.

3. Enhance Customs-Trade Partnership Against Terrorism (C-TPAT) to help foster a culture of security and trust between the federal government and the private sector. Establish a two or three step process for recertification. Reevaluate penalties for security violations to encourage companies to report problems accurately, rather than hide them.

Background:

Currently, C-TPAT validation process is a long and cumbersome process for all involved, involving an initial security profile submission, conducting various validation procedures, establishing a validation venue, a validation visit, and a final validation report.ⁱⁱⁱ

Companies self assess their own supply chain security programs against C-TPAT security criteria.^{iv} This self assessment encourages dishonesty about weaknesses in their supply chain in order to achieve security validation.

4. Request reports from x-ray machine providers about necessary changes to increase the current speed of trains traveling through border inspections, from the current four-to-five miles per hour, to 10-15mph. Increase collaboration between Federal Railroad Administration and U.S. Customs and Border Protection (CBP) on all rail inspections.

Background:

Rail cargo going through POE currently travels at four-to-five mph during inspections. This creates an opportunity for tampering or stowaways boarding train cars as other parts of the train are inspected. An increase of only one mph would result in an additional 500 train cars passing through inspection in a 24 hour period. The goal is to keep trains moving and limit opportunities for interdiction by contraband.

5. Improve current POE infrastructure and authorize and build additional POE for trucks, passenger vehicles, pedestrians, and rail. Staff new POE with appropriate numbers of employees. Attention should be paid to southbound infrastructure. One of the focuses should be on reducing POE wait times.

Background:

No new railroad POE have been built in the last 100 years. Six billion dollars is needed in infrastructure funding immediately, including modernization to highway, railway and surrounding infrastructure. Seven hundred twenty million dollars was allocated in the American Recovery and Reinvestment Act to upgrade port facilities, some of which were built prior to World War II. The program provides additional resources to the multi-year modernization strategy that includes a total of 43 CBP owned land POE, which are primarily along the northern border of the U.S.

Beginning in 2004, CBP thoroughly assessed all land port facilities as part of a comprehensive effort to modernize critical components of the nation's border infrastructure. Modernization projects were determined according to an assessment of conditions at the facilities based on their capacity to meet CBP's operational priorities and mission. CBP will target Recovery Act investments toward land port facilities struggling with the most urgent operational deficiencies. Preceding land port construction, CBP and the U.S. Army Corps of Engineers will conduct site surveys for planning beginning in

early April 2010. Construction will range in scope from renovations and alterations to full facility replacement. CBP will announce more details on Recovery Act projects for non-intrusive inspection, border technology and tactical communications in the coming weeks.^v

6. Appoint a White House coordinator for the Presidential permit application process, with the authority to set and enforce agency comment deadlines. Advise the White House to issue an executive order, ordering federal agencies to respond quicker to the permitting process. Expedite Presidential permits and planning process for the following projects: Colombia - Webb County Railroad Bridge; Columbus - Palomas POE; San Luis I-San Luis Rio Colorado I; Calexico - Mexicali Crossing Project; Otay San Ysidro - El Chaparral Crossing Expansion Project; San Diego - Tijuana Airport Cross Border Facility; Tornillo - Guadalupe International bridge; Nogales - Mariposa Crossing.

Background:

The Presidential permitting process, to develop new POE, is incredibly cumbersome. The process involves at least 13 steps and at a minimum, four government agencies in addition to Congress and the White House. The process typically takes nearly 10 years to complete. Having a coordinator with White House authority to facilitate the process will streamline and expedite the entire process.^{vi}

7. Fund CBP to hire more CBP Officers for POE. Funding goals needs to be set for two CBP Officers per open lane of traffic at POE. The increase in funding should be focused on hiring additional staff rather than paying for overtime for current CBP Officers. To assist in the recommendation of increasing staffing at the border POE, inform the SWBTF of budget needs so the Task Force can support the effort of Office of Management and Budget (OMB), the White House, and Congress during the budget appropriations process.

Background:

Recent congressional funding has been focused on increasing the number of Border Patrol agents to station in between POE rather than CBP Officer at POE. The fiscal year (FY) 2009 budget includes a request for \$362.5 million to hire 2,200 Border Patrol officers, but only \$25 million to hire 22 CBP officers needed at land ports despite the need to need to hire thousands CBP Officers specifically for POE.^{vii}

To close budget gaps, CBP often authorizes excessive overtime rather than hiring necessary additional officers. This happens, in part, because of the high cost associated with hiring and training new officers. According to the U.S. Government Accounting office (GAO) it costs \$159,642 to hire and train an individual officer.^{viii} Relying on overtime can detract from border security due to officer fatigue.^{ix}

8. Adopt smart border management utilizing risk-based algorithms.

Background:

It is impossible and self defeating to attempt to inspect every person, conveyance, and cargo container as they cross the border. In congressional testimony, retired Coast Guard Commander Stephen E. Flynn characterized smart border management as, "Risk management requires quickly clearing the inspection queues of traffic that is deemed low risk so that limited enforcement resources can focus on that which is deemed to be high risk. But, ultimately determinations of low or high risk are only as good as the integrity of the information, the targeting algorithms and intelligence that underpin them."^x

9. Draft requirement that drayage trucks' engines meet or exceed 2010 Environmental Protection Agency (EPA) heavy-duty engine pollution standards. This could be phased in over a two-to-three year period. Coordinate these efforts with Mexican counterparts to cover all trucks reaching POE.

Background:

2001 EPA standards 40 CFR Parts 69, 80, and 86, set emissions standards for heavy-duty engines to be phased in between 2007 and 2010.^{xi} This set of standards could be phased in over two-to-three years to extended EPA standards to all drayage trucks entering POE. The California Air Resources Board (ARB) enacted similar measures; California Code of Regulations, Title 13, Section 2027; setting state-wide emissions and engine standards on all drayage trucks operating in California. ARB projects their regulation is expected to prevent about 1,200 premature deaths and provide a health cost savings of \$8.7 billion statewide through 2020.^{xii}

10. Develop a report on the possible expansion of electronic document transmissions via Radio Frequency Identification (RFID) in border documents at POE and work to expand the use of electronically transmitted documents.

Background:

Utilizing RFID technology in documentation permitting entry at the border permits CBP officers at POE inspection booths to read documents from a distance, facilitating a safer and quicker inspection. The capability to use RFID would enhance officers' security and increase the number of crossings processed per hour.^{xiii}

11. Decide if the SWBTF should continue. If so, recommend two-to-three additional meetings to focus on a grand vision of what the Southwest border should be in 2020, with regards to commerce and border security, and how to get there.

Border Violence

1. Work closely with Mexico to continue professionalizing their law enforcement agencies.

Background:

Unless Mexican law enforcement is engaged, there will continue to be problems policing the border. Mexican policy might not focus on stopping people from migrating north across the border, but they can tackle issues such as human trafficking, drug and weapons shipping, money laundering, and counter terrorism.

Expand anti-corruption efforts to include training for ethics and anti-corruption under a police professionalization program, support for citizen complaint offices, and training and equipping inspectors general offices which can confront corruption throughout Mexico's federal bureaucracy. They also include judicial reform programs to improve crime prevention, strengthen institutions and the rule of law.^{xiv}

2. Department of Homeland Security (DHS) must continue to pursue 100% cooperation from local law enforcement, including full integration of local law enforcement into DHS in the form of continuing and increasing funding for Secure Communities, Border Enforcement Security Task Forces (BEST), the 287(g) program on the detention side only, and Operation Stonegarden (OPSG) grants. Local law enforcement should not take the place of federal law enforcement with regards to immigration. The 287 (g) program should be limited to detention.

Background:

Secure Communities is a DHS initiative that improves public safety by implementing a comprehensive, integrated approach to identify and remove criminal aliens from the United States. The Secure Communities Program Management Office coordinates all U.S. Immigration and Customs Enforcement (ICE) planning, operational, technical, and fiscal activities devoted to transforming, modernizing, and optimizing the criminal alien enforcement process.^{xv}

The 287(g) program, one of ICE's top partnership initiatives, allows state and local law enforcement to enter into a partnership with ICE.

The BEST initiative is a DHS task force created in order to leverage federal, state, local, tribal, and foreign law enforcement and intelligence resources, in an effort to identify, disrupt, and dismantle organizations that seek to exploit vulnerabilities in the border and threaten the overall safety and security of the American public. The task forces are designed to increase information sharing and collaboration among the participating agencies focusing toward the identification, prioritization, and investigation of emerging or existing threats.^{xvi}

3. Adopt the uniformed definitions of border violence and spillover violence defined in the memo in Appendix D.

Background:

The Department of Homeland Security has no official definitions for border or spillover violence. The general usage is: border violence refers to violence within counties that share an international border, which is directly linked to cross-border criminal organizations; and spillover violence refers specifically to violence originating in Mexico with transnational criminal organizations directed at U.S. personnel.

The lack of uniform definitions creates uncertainty in aligning policies and procedures for combating both issues.

4. Increase Mexican southbound enforcement and modernize and increase southbound operations at POE.

Background:

Southbound operations are a temporary measure, but combined with other law enforcement tactics they can be utilized to stem the tide of weapons and money flowing south. Southbound operations are only a measure to be taken until Mexican enforcement can more effectively do inbound interdiction for weapons, cash, and other contraband entering Mexico from the U.S.

5. Increase and streamline communications and communication technology between law enforcement agencies along the border. Communications need to be easy and universal between law enforcement agents (federal, state, and local) who are covering similar targets or areas. This can be achieved by utilizing programs such as Urban Area Security Initiative (UASI) grants. Create Border Area Security Initiative (BASI) which would mirror UASI. Designate federal funding to: augment local law enforcement agencies to hire deputies and officers; to buy equipment; and to acquire new technology to fight border violence and prevent spillover violence.

Background:

Law enforcement agencies, including federal, operate communications devices using different technologies or different radio frequencies. This creates scenarios where agents and officers in close proximity, cannot communicate with each other. In many instances the solution is a simple technological change.

The UASI grant program provides states and local governments with the funding needed in high-risk urban areas to build an enhanced and sustainable capacity to prevent, respond to, and recover from threats or acts of terrorism.^{xvii} Almost \$8 million were allocated to UASI funding in FY 2009

6. Utilize federal funding to train and station additional CBP Officers rather than directing funding towards additional overtime for existing Officers. Hiring should be directed at posting CBP Officers at POE, rather than on more CBP Border Patrol Agents stationed in-between the POE.

Background:

Customs and Border Protection's total funding for the Office of the Border Patrol has increased from about \$1.8 billion in fiscal year 2006 to about \$3.5 billion in fiscal year 2009. As part of each year's budget request for fiscal years 2006 through 2009, DHS requested funding from Congress for CBP to hire additional Border Patrol Agents. During this time period, DHS has received funding to enable CBP to hire an additional 8,200 Border Patrol agents. The fiscal year 2010 PCM estimates that it will cost \$170,360 to recruit, hire, train, equip, and deploy a new Border Patrol Agent hired in fiscal year 2010, nearly \$11,000 higher than the fiscal year 2009 PCM estimate of \$159,642. The changes include an increase of nearly \$3,000 in vehicle purchase costs, an increase of nearly \$3,000 for security clearance and background investigations, and an increase of \$5,000 in rental payments.

The basic salary for a new BP agent for FY09 was \$19,176 and Administratively Uncontrollable Overtime (AUO) was \$5,571 and all other overtime was \$4,902. By these figures, budgeted overtime pay is over 50% of the basic salary of a new agent.^{xviii}

7. Continue supporting and funding fusion centers.

Background:

Fusion centers help disseminate important information across different law enforcement agencies. This support is tailored to the unique needs of the locality and serves to: help the classified and unclassified information flow; provide expertise; coordinate with local law enforcement and other agencies; and provide local awareness and access. As of July 2009, there were 72 designated fusion centers around the country with 36 field representatives deployed.^{xix}

8. Expand the Border Information Sharing and Operations Network (BISON)¹ to be implemented across entire southwest border. The expansion of BISON could coincide with the increase in number of fusion centers.

Background:

Real time information sharing programs between all levels of law enforcement, for a more timely final resolution of border crime help law

¹ Appendix E

enforcement agents gain the upper hand in developing trends. The Texas Data Exchange (TDEx) from the Texas Department of Public Safety Crime Records Service (CRS) is an example of successful, real time, information sharing between law enforcement.

Endnotes

- ⁱ “Western Hemisphere Travel Initiative.” Department of Homeland Security. 10 September 2009 <http://www.dhs.gov/files/programs/gc_1200693579776.shtm>.
- ⁱⁱ Johnson, David. “The Merida Initiative.” Remarks. Tucson Committee on Foreign Relations. Tucson, Arizona. 7 April 2009.
- ⁱⁱⁱ “C-TPAT Validation Process Fact Sheet.” Department of Homeland Security. 8 September 2009 <http://www.cbp.gov/xp/cgov/trade/cargo_security/ctpat/ctpat_validation/validation_fact_sheet.xml>.
- ^{iv} “C-TPAT Validation Process Frequently Asked Questions.” Department of Homeland Security. 8 September 2009 <http://www.cbp.gov/xp/cgov/trade/cargo_security/ctpat/ctpat_validation/validation_faqs.xml>.
- ^v “CBP Announces Plan to Modernize Land Ports of Entry Funds from American Recovery and Reinvestment Act to Address Infrastructure Needs.” Department of Homeland Security. 8 April 2009 <http://www.cbp.gov/xp/cgov/newsroom/news_releases/april_2009/04082009_6.xml>.
- ^{vi} Peschard-Sverdrup, Armand. Facilitating Legal Commerce and Transit. Memo prepared for the Pacific Council/COMEXI Joint Task Force on Re-thinking the Mexico-U.S. Border: Seeking Cooperative Solutions to Common Problems. <www.psamex.com>.
- ^{vii} Peschard-Sverdrup, Armand. “CBP: Challenges and Opportunities.” Memo prepared for: Mexico’s Ministry of the Economy: U.S.-Mexico Border Facilitation Working Group. January 2008.
- ^{viii} U.S. Government Accounting Office. “CBP Could Improve Its Estimation of Funding Needed for New Border Patrol Agents”. GAO-09-542R. June 15, 2009.
- ^{ix} Peschard-Sverdrup, Armand. “CBP: Challenges and Opportunities.” Memo prepared for: Mexico’s Ministry of the Economy: U.S.-Mexico Border Facilitation Working Group. January 2008.
- ^x Flynn, Stephen. “Border Technology: Keeping Terrorists Out of the United States – 2003.” 108th Cong., 1st Sess. 12 March 2003.
- ^{xi} United States. Dept. of Environmental Protection. “Control of Air Pollution From New Motor Vehicles: Heavy-Duty Engine and Vehicle Standards and Highway Diesel Fuel Sulfur Control Requirements; Final Rule.” Federal Register. 18 Jan. 2001: 5002-5134.
- ^{xii} “Facts About Drayage Truck Regulations Reducing emissions from goods movement in California.” California Environmental Protection Agency. 9 September 2009 <<http://www.arb.ca.gov/msprog/onroad/porttruck/drayagetruckfactsheet.pdf>>.
- ^{xiii} Peschard-Sverdrup, Armand. Facilitating Legal Commerce and Transit. Memo prepared for the Pacific Council/COMEXI Joint Task Force on Re-thinking the Mexico-U.S. Border: Seeking Cooperative Solutions to Common Problems. <www.psamex.com>.
- ^{xiv} Johnson, David. “The Merida Initiative.” Remarks. Tucson Committee on Foreign Relations. Tucson, Arizona. 7 April 2009.
- ^{xv} “Secure Communities Fact Sheet.” Department of Homeland Security. 11 September 2009 <http://www.ice.gov/doclib/pi/news/factsheets/secure_communities.pdf>.
- ^{xvi} “Border Enforcement Security Teams.” Department of Homeland Security. 11 September 2009 <http://www.ice.gov/pi/news/factsheets/080226best_fact_sheet.htm>.
- ^{xvii} Department of Homeland Security. “Federal and State Oversight of the New York City Urban Area Security Initiative Grant Program.” Office of the Inspector General, March 2008.
- ^{xviii} U.S. Government Accounting Office. “CBP Could Improve Its Estimation of Funding Needed for New Border Patrol Agents”. GAO-09-542R. June 15, 2009.
- ^{xix} “State and Local Fusion Centers.” Department of Homeland Security. 9 September 2009 <http://www.dhs.gov/files/programs/gc_1156877184684.shtm>.

Appendix A

Southwest Border Task Force Membership

William “Bill” Webster (Chair), Retired Partner, Milbank, Tweed, Hadley, & McCloy, LLP
James “Jim” Jones (Vice Chair), Chairman and Chief Executive Officer, Manatt Jones Global Strategies
Guadalupe “Lupe” Trevino (Vice Chair), Sheriff, Hidalgo County, Texas
Norman “Norm” Augustine, Retired Chairman and Chief Executive Officer, Lockheed Martin Corporation
Ruben Barrales, President and Chief Executive Officer, San Diego Regional Chamber of Commerce
Andrea Bazan, President, Triangle Community Foundation
Robert “Rob” Bonner, Senior Principal, Sentinel Homeland Security Group and Counsel, Gibson, Dunn & Crutcher, LLP
Ray Borane, Former Mayor, City of Douglas, Arizona
Raymond Cobos, Sheriff, Luna County, New Mexico
John Cook, Mayor, City of El Paso, Texas
Jeffrey Davidow, President, Institute of the Americas
Richard Dayoub, President and Chief Executive Officer, Greater El Paso Chamber of Commerce
Victor Flores, Director, Executive Projects, Arizona-Mexico Commission
Francis “Pancho” Kinney, Vice President, HNTB Federal
Melvyn “Mel” Montano, New Mexico National Guard
Kenny Montoya, Adjutant General, New Mexico National Guard
Ned Norris, Chairman, Tohono O'odham Nation
Ralph Ogden, Sheriff, Yuma County, Arizona
Evelyn Rodriguez, President and Chief Executive Officer, Rodriguez Health Consulting Services
Robert “Bob” Ross, President and Chief Executive Officer, The California Endowment
Jerry Sanders, Mayor, City of San Diego, California
Maurice Sonnenberg, Senior International Advisor and Director, JP Morgan

Appendix B

Southwest Border Task Force Subject Matter Experts

Dave Berry, Vice President, Swift Transportation

Alan Bersin, Assistant Secretary for International Affairs and Special Representative for Border Affairs, Department of Homeland Security

Tom Hunter, President & Laboratories Director, Sandia National Laboratories

Gary Gallegos, Executive Director, San Diego Association of Governments

Kumar Kibble, Acting Director, U.S. Immigration and Customs Enforcement Office of Investigations

James Kniestedt, Kansas City Southern Railroad

Chappell Lawson, Associate Professor of Political Science, MIT

Armand Peschard-Sverdrup, President and CEO, Peschard-Sverdrup & Associates, LLC

Tim Sampson, Acting Director, Border Security Division, Office of Intelligence and Analysis

Herb Schmidt, President, Con-way Truckload

Jeff Self, Division Chief, Southwest Border Operations, Customs and Border Patrol

John Wheeler, Secretary, New Mexico Department of Homeland Security and Emergency Management

Joan Woodard, Executive VP & Deputy Laboratories Director for Integrated Technologies & Systems, Sandia National Laboratories

Appendix C

Southwest Border Task Force Tasking

June 4, 2009

MEMORANDUM FOR: Judge William H. Webster, Chairman
Homeland Security Advisory Council

FROM: Secretary Janet Napolitano

SUBJECT: Homeland Security Advisory Council
Southwest Border Task Force

The Homeland Security Advisory Council (HSAC) has contributed to America's security since its establishment in 2002.

An ongoing challenge to the security of the United States has been the violence occurring in Northern Mexico as a result of both the competition among and between drug cartels for markets and transit plazas, and the unprecedented challenge to the trafficking cartels mounted by the government of President Felipe Calderón. A related security challenge is posed by the violence occurring in the United States that has a nexus to Mexican drug and human trafficking organizations.

I request that a task force be formed under the HSAC to review DHS's responses to these security concerns with a specific focus on examining the balance between security and facilitation of ports of entry (POEs), and to provide recommendations for how DHS should improve its response strategies. In particular, I ask that the recommendations focus on two main issue areas:

1. POEs: how do we assure a high level of inspection at our border while not hindering the facilitation of commerce; and how should we authorize, design, and build, future POEs?
2. Assessing the realities of border violence: what are the different categories of border violence; what is the public's perception of that violence; and how can DHS most effectively meet the challenges presented?

Appendix D

Border Violence Definitions

Purpose:

This memorandum outlines a set of definitions for Department of Homeland Security (DHS) for terms related to border violence. By providing a concrete foundation for policy discussions and external communications, these terms will allow DHS to: 1) speak in a more coordinated fashion about the different types of violent crimes that we see on the Southwest border (SWB); and 2) more accurately demonstrate progress in matching those threats with policies and enforcement.

This document is meant to apply to the U.S.-Mexican border, and is not meant to alter or supersede definitions that exist for operational reporting of violent incidents and crimes along the border.

Background:

In order to gauge the progress of securing the Southwest border, DHS must speak in a compelling and coordinated way about the reality of the situation faced by U.S. border communities. In short, DHS must define the context for analysis of the issue. However, at present, no standard set of definitions exists to guide DHS discussion on the topic of border violence neither publicly or within the interagency process. As a result, discussion of the issue often detracts from the efforts the Department has made to secure the border region. Included herein are a set of terms that support a more common approach to what otherwise could remain a politically intractable matter.

Discussion:

At present, no uniform set of DHS definitions exists to describe the threat to U.S. persons, interests, and property that results from the heightened violence occurring amongst Transnational Criminal Organizations (TCOs)—principally Drug Trafficking Organizations (DTOs)—and between TCOs and the Government of Mexico. In some cases, such as the Customs and Border Protection (CBP) Border Violence Protocols (BVP), the Department has established very useful operational guidelines for classifying types of violence. However the Department has neither applied such a framework to our public discussion of the issue, nor to our internal strategic discussions. As a result, public officials, politicians, and media outlets have seized upon the concept of “spillover violence”—a term that implies violence in Mexico might flow directly across the border, endangering American communities.

The intense violence witnessed in Northern Mexico over the last two years is a result of the unprecedented crackdown on TCOs by the Calderon administration. It has played out among drug cartels competing for transit plazas and between those cartels and Mexican law enforcement and military forces. This violence has occurred almost exclusively on

Mexican territory. The risk of such violence physically spilling over the border to threaten American communities presently remains low and to date has not occurred. In fact, the large cities along the Southwest border, such as El Paso and San Diego, are among the safest in America.

Of course, we do observe and experience effects of local criminal activities with a nexus to TCOs on our side of the border, such as drug-related gang shootings, robberies, and kidnappings. We also observe a certain amount of violent crime related to illicit activities at the border; such as violence associated with human trafficking, or the multiple assaults that occur against agents and officers on a daily basis. Not only has this type of violence long been a reality on the U.S.-Mexico border, but curtailing it requires a different approach in terms of scale and tactics than protecting against so-called spillover violence, should it in fact occur.

The use of five definitions to capture the distinctions among the five major categories of violence are proposed:

1. Overall Criminal Violence
2. Border-Related Organized Crime Violence
3. Violence against Law Enforcement Agents
4. Border Violence
5. Spillover Violence

In practice, these categories overlap in a descending order of specificity (and occurrence), with “Criminal Violence” serving as the broadest baseline measure of public safety in American communities. From there, we can distill violence related to the activities of organized criminal networks in the U.S.. “Violence against Law Enforcement Agents” is meant to capture independent violent acts associated with the activities of criminal activities of the transnational criminal organizations—such as the “rockings” of U.S. Border Patrol agents, and violently resisting arrest; anything short of a campaign of violence directed by organized crime leadership. Further, we define “Border Violence” as violent acts which occur within a specified geographical proximity to the U.S.-Mexico border. Finally, “Spillover Violence” is defined most narrowly, capturing the currently minimal risk that violence originating in a foreign country will directly threaten U.S. citizens or interests located on U.S. territory. Each specific incident of violence falls under the “least inclusive” definition fitting its facts. For example, a kidnapping in Phoenix connected to alien smuggling would fall under category II, “Border-related Organized Crime Violence,” while the same incident occurring in Nogales would fall in category IV, “Border Violence.”

Each of the definitions below are accompanied by examples that should further illustrate the practical distinctions among the five categories of violence. The categories themselves are broad, and encompass a number of sub-categories, which can be matched with the catalog of incidents found in the CBP Border Violence Protocols. It is essential that the language we use publically be congruent with the language embodied in protocols which guide operations and management of violence on the border as well as with the reality of border violence and perceptions of it within border communities.

DEFINITIONS

I. Criminal Violence—The criminal use of force or threat thereof occurring within the United States, as reported by state, local, tribal, or federal law enforcement agencies.

Examples:

- *Offenses involving force or the threat of force:* as measured by the FBI Uniform Crime Reports (UCR). UCR currently includes four offenses: murder and non-negligent manslaughter, forcible rape, robbery, and aggravated assault.
- *Other violent crimes not included within UCR reporting, to include kidnapping and extortion.*

II. Border-Related Organized Crime Violence—Any act of violence which takes place in the United States with links to cross-border crime such as drug, arms, cash, and alien smuggling/trafficking.

Examples:

- *Violent abduction by human-trafficking organization that takes place away from the SWB:* in April 2009 a local ABC news affiliate reported that Phoenix police are finding, on average, more than one kidnapping victim per day, with a total of 700 abductions-for-ransom reported over 2 years.
- *Killings carried out by gangs involved in drug distribution away from the SWB:* gang violence in U.S. drug distribution centers such as Chicago, Atlanta, or Los Angeles, with links to cross-border drug trafficking.

III. Violence against Law Enforcement Agents—Any act of violence carried out against a U.S. federal, state, local, or tribal Law Enforcement Agent, in association cross border crime, but not organized or directed by a TCO.

Examples:

- *“Rockings” against U.S. Border Patrol:* On March 9, 2009, a U.S. Border Patrol agent from the Tucson sector was struck in the head with a cinder block by an unidentified assailant who was standing on the Mexican side of the International Border Fence.
- *Vehicular Violence against U.S. Border Patrol:* In January, 2008, drug smugglers fleeing U.S. Border Patrol near Andrade, CA struck and killed CBP Agent Luis Aguilar, who was attempting to plant a tire deflation device.
- This category would also include violent acts associated with resisting arrest by federal, state, local and tribal law enforcement; as well as those carried out by illegal migrants being repatriated by Border Patrol and ICE agents.
- It would *not*, however encompass offensive violence as directed by TCO leadership, as discussed below.

IV. Border Violence—Any act of violence which takes place, within 25 miles of the U.S. side of the border, which has links to cross-border crime such as drug, arms, cash or alien smuggling/trafficking or illegal migration.

Examples:

- *Automobile-related violence associated with human smuggling:* In 2004, police chased a pickup carrying 24 illegal immigrants into the center of Sierra Vista, AZ. The truck flipped, killing an elderly couple waiting at a stoplight.
- *A violent act that crosses the U.S.-Mexico border, or spans U.S.-Mexican territory:* In September 2008, night vision-surveillance cameras captured a man crossing the Rio Grande and aiming a rifle at passenger cars on West Paisano drive before returning to Juarez. While no injuries were reported, it came on the heels of another incident in which perpetrators on the Mexican side of the border had fired pellets at workers building the border fence in El Paso.
- *Violence between drug traffickers bringing loads into the United States:* In April 2009, CBP reported a shootout in Tucson sector in which one group of drug traffickers allegedly tried to hijack another's load of drugs. Two traffickers were injured.

V. Spillover Violence—Violence that starts in Mexico as part of a conflict among TCOs or between TCOs and the Government of Mexico that carries over onto U.S. territory or threatens U.S. personnel or interests in Mexico;

OR

Offensive violence organized or directed by TCOs against U.S. personnel or interests in the United States or Mexico.

Examples:

- While there are no current examples of spillover violence, a proximate example would be a situation like that which occurred in Laredo, TX in 2005. At that time, a turf war between cartels in the Mexican city of Nuevo Laredo resulted in the deaths of 60 Mexican citizens over 6 months, and the kidnapping or killing of 30 Americans south of the Border. Concurrently, Laredo officials reported that on the U.S. side of the border, businessmen were being threatened by drug gangs demanding protection payments. Two homicides occurred in Laredo that involved suspected members of Mexican drug gangs, including one in which a deputy sheriff was shot and wounded by a suspect carrying an AK-47 assault rifle.
- The *L.A. Times* and *Chicago Tribune* reported on May 7, 2008 that Joaquin “El Chapo” Guzman, has instructed associates to use deadly force, if needed, to protect trafficking operations north of the border. The message was allegedly delivered by Guzman in March to a gathering of associates in Sonoita, Mexico, south of the Arizona border.
- In the event that DHS observed evidence of a strategic campaign of violence—directed by a transnational criminal organization—to intimidate U.S. citizens, law enforcement agents, or public officials on U.S. territory, this would be classified as spillover violence. No such evidence exists, to date, though DHS contingency planning efforts currently underway are geared toward mitigating this type of extreme circumstance.

Appendix E

Border Information Sharing and Operations Network (BISON) Memo

MEMORANDUM

FOR: Law Enforcement Partner
FROM: Ted Sexton
SUBJECT: Assistant Secretary, Office for State and Local Law Enforcement
Southwest Border Information Sharing and Operations Network
(BISON)

Purpose

This memorandum informs of the proposed Southwest Border Information Sharing & Operations Network (SW-BISON). Utilizing battle-tested analytic software from DoD's Joint Improvised Explosive Device Defeat Organization (JIEDDO), proven open source resources, and existing law enforcement databases SW-BISON will mesh publicly available data and law enforcement observations into the actionable intelligence needed for field operations and criminal investigations. This unique, scalable initiative creates a Southwest Border (SWB) information sharing environment from existing, implemented technology, promoting both the homeland security and judicial functions of federal, state, local and tribal (FSLT) law enforcement agencies (LEAs).

The Network

Despite significant and coordinated efforts from LEAs, drug trafficking organizations (DTOs) and gangs continue to operate across state and national borders, attracting new recruits and advancing promising members to "management" positions. One of the most significant challenges faced by all levels of LE is to "connect the dots" and simultaneously target the full range of a criminal enterprise: the elite leadership, "middle management," and street-level members. SW-BISON connects those information gaps.

Built on software packages used to track, analyze, predict and neutralize IED attacks in Afghanistan and Iraq, BISON is currently undergoing testing at the Multi-Agency Collaboration Environment (MACE) facility, operated jointly by DoD and DHS. BISON emphasizes geographic mapping and data translation across platforms and systems, providing a detailed, visual assessment to otherwise disparate data. The system is able to link government resources, LE databases, and public information sources. For instance, MACE's system would allow an investigator to view real-time aerostat and UAV feeds, GPS blue-force tracking, jail/ records management systems and examine the jurisdiction's

computer aided dispatch calls for service while overlaying information like warrants, incident reports, and news media.

SW-BISON can incorporate proprietary data systems as well, such as Appriss' JusticeXchange (JX), an information interface already utilized extensively by the nation's LE community. Currently, nearly 65% of all LE agencies have full access to JX, and 80% of all inmates in U.S. correctional facilities are processed into the system. The JX auto-updates every 15 minutes, ensuring users have the most up to date information on over 38 million booking records, 6 million photos, 1.2 million outstanding warrants, and 300,000 probation/ parole records. Fourty-one states will be members of JX as of October 2009, with over 25,000 users nationwide. Such records data can be plugged into BISON directly from the agency or via an existing data management service like the JX.

Expand the Prototypes - Texas TDEx and Arizona AZLink

The State of Texas has been using its own data mapping and collaboration platform, called the Texas Data Exchange (TDEx), since 2005. The TDEx was developed to address information and analysis gaps from High Intensity Drug Trafficking Areas (HIDTA), Joint Terrorism Task Forces (JTTFs), and fusion centers. By linking local incidence reports, CBP data, OneDOJ/N-Dex networks, and publicly available but inaccessible state and local records, TDEx greatly enhances criminal investigations and analytic capabilities. Using open-source software, TDEx has been modified to include many of the mapping and tracking functions of BISON, providing state-wide situational awareness. In Texas alone, a full 60% of the SWB is currently using this data interface that can be directly imported into BISON.

A similar program, AZLink, was launched in 2007 to serve LE along Arizona's southern border. AZLink now integrates automated information from the DHS Law Enforcement Information Sharing Service, the OneDOJ/N-Dex system under Justice's Law Enforcement Information Sharing Program, and participating local jurisdictions. The AZLink and TDEx interfaces are compatible; the two exchanges could be integrated almost immediately into BISON if given proper technical support.

Data Control & Analysis

BISON's data can be restricted based on user profile and the providing authority's preferences. Thus, the system can be made to operate at all levels of classification, including publicly available. Much of the data within the network is either open source or from standard, non-intelligence law enforcement accessible records management systems, such as incident reports, names, aliases, drivers' license numbers, addresses, vehicle registration information, "Most Wanted" databases, arrests and conviction histories. Additionally, Web-based platform offers password controlled log-in, user activity auditing/tracking, and customized levels of data access, flow and usage to comply with relevant statutory requirements for incoming and outgoing data.

The DHS Contribution

The Southwest Border Information Sharing and Operations Network is a cost effective and proven program. SW-BISON will enable real-time information sharing and link analysis across the entire Southwest Border. The Network will be employed by LEAs as an analytic tool, a tactical awareness system, and a records management database, promoting a clearly defined mission using established processes. The Department can provide the technical resources to allow efficient data sharing in course of law enforcement and security operations. Implementation of SW-BISON will provide a better understanding of the organization and operation networks of criminal and terrorist entities, particularly Mexican DTOs and human traffickers. The on-going situational awareness and analysis derived from the SW-BISON will enable DHS and its security partners to set strategic policy and goals that more effectively target, neutralize and dissimilate these criminal entities.

SW-BISON will enable the best collaboration and operational deployment of *all* federal, state, local, and tribal assets, and meet the DNI tasking of implementing a common Information Sharing Environment along the Southwest Border.

Implementation

On August 26, 2009, the SLLE Office facilitated a meeting between MACE and local law enforcement leadership from each of the four SW Border States. The capabilities shown generated strong support with the SW Border representatives. As a follow-up, the MACE facility has developed a two phase pilot program to implement this system across the entire SW Border. This plan is estimated to cost \$6.2M for of Phase 1, which links the four SW Border States and MACE for data integration, and \$1.9M for the operational support trial in Phase 2. A briefing paper has been developed by MACE for this pilot program.