



TESTIMONY OF

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BEFORE

U.S. House of Representatives
Committee on Homeland Security
Subcommittee on Border and Maritime Security

ON

“Moving the Line of Scrimmage: Re-examining the Defense-in-Depth Strategy”

September 13, 2016
Washington, DC

Introduction

Chairwoman McSally, Ranking Member Vela and distinguished Members of the Subcommittee, it is a pleasure to appear before you today on behalf of the U.S. Border Patrol (USBP) to discuss our layered security strategy and the role of checkpoints in securing the U.S. border between our Nation's ports of entry (POEs).

As America's unified border agency, U.S. Customs and Border Protection (CBP) protects the United States against terrorist threats and prevents the illegal entry of people and dangerous materials into the United States, while facilitating lawful travel and trade. USBP works with our CBP, interagency, state, local, tribal, territorial, and international partners to patrol the more than 6,000 miles of land border between the POEs that we share with Mexico and Canada and 2,000 miles of coastal waters surrounding the Florida Peninsula and the island of Puerto Rico.

Since the 9/11 terrorist attacks, the U.S. Government facilitated an unprecedented deployment of personnel, technology, and infrastructure to secure our Nation's borders. The resource base built over the past two decades has enabled USBP to develop and implement a Strategic Plan¹ and enforcement posture tailored to meet the challenges of securing a 21st century border against a variety of different threats and adversaries. Today, our Strategic Plan is based on risk: identifying high-risk areas and flows and targeting our response to meet those threats. Through enhanced technology and situational awareness and the introduction and expansion of sophisticated and layered tactics, capabilities, and operations, USBP's strategy focuses on *Information, Integration* and *Rapid Response* applied in the most targeted, effective, and efficient manner to achieve multiple objectives, including:

- Prevent terrorists and terrorist weapons from entering the United States between the POEs through improved and focused intelligence-driven operations, as well as operational integration, planning, and execution with law enforcement partners;
- Disrupt and degrade Transnational Criminal Organizations by targeting enforcement efforts against the highest priority threats and expanding programs that reduce smuggling and crimes associated with smuggling; and
- Manage risk through the introduction and expansion of sophisticated tactics, techniques, and procedures. These include methods of detecting illegal entries such as using "change detection" techniques, increased mobile-response capabilities, and expanded use of specially trained personnel with "force multiplying" skills and abilities.

Information gathered from reconnaissance, community engagement, sign-cutting and mobile and fixed technology together provide situational awareness and intelligence and helps us to best understand and assess the threats we face along our borders. The use of technology in the border environment is an invaluable force multiplier to increase situational awareness, direct a response

¹ 2012-2016 U.S. Border Patrol Strategic Plan. <https://www.cbp.gov/border-security/along-us-borders/strategic-plan>.

team to the best interdiction location, and warn the team of any additional danger otherwise unknown along the way. Information and intelligence will empower USBP leadership and front line agents to get ahead of the threat, be predictive and proactive.

Integration denotes CBP corporate planning and execution of border security operations, while leveraging partnerships with other federal, state, local, tribal, and international organizations. Integration of effort with these organizations will ensure we bring all available capabilities and tools to bear in addressing threats.

Lastly, through *Rapid Response*, we will deploy capabilities efficiently and effectively to meet and mitigate the risks we confront. Put simply, rapid response means USBP and its partners can quickly and appropriately respond to changing threats.

A key element of the USBP's nationwide Strategic Plan for securing the border is the USBP's layered enforcement posture, which has been referred to as "defense-in-depth". This layered posture includes advanced detection technology, tactical infrastructure, traditional patrol activities, and other tactical enforcement operations. The Strategic Plan recognizes that the security of the border cannot be achieved by only enforcement activities located at the physical border, such as routine patrols deployed from 135 Border Patrol stations, and six substations on the northern and southern borders. For that reason, some of USBP's enforcement operations take place away from the physical border, at interior checkpoints, and in ancillary areas. This approach makes full use of available enforcement opportunities to produce a layered deployment of capabilities to improve our comprehensive understanding of the threat environment, to increase our ability to rapidly respond to threats, and to strengthen enforcement.

USBP's 15 Forward Operating Bases (FOBs) give USBP a tactical advantage by providing close support in areas that are remote or otherwise difficult to patrol; reducing the amount of time and fuel required to drive to and from the border area; and providing a sustained enforcement presence and deterrence posture in the border area. FOBs are a critical part of the USBP Strategic Plan in that they provide greater operational capability in areas where gaps exist in deployment density and infrastructure.

Immigration checkpoints are also a critical element of USBP's layered approach to combat illegal cross-border activity and are the primary focus of my testimony. Border Patrol checkpoints are strategically located on routes of egress from the border and thereby additionally deters an attempted illegal entry. The purpose of checkpoint operations is to apprehend recent entrants who are undocumented and smugglers who were not apprehended at the border and are attempting to travel to interior locations.

As part of the USBP's layered security strategy, checkpoints greatly enhance our ability to carry out the mission of securing the Nation's borders against terrorists and smugglers of weapons, contraband, and unauthorized entrants. Checkpoint operations are critical security measures that ensure that the border is not our only line of defense, but rather one of many.

Checkpoint Operations

Given the ratio of agents to miles of border, checkpoints establish funnel points to more effectively use resources for immigration enforcement purposes. All checkpoint sites are determined by Border Patrol managers in advance of establishment, and are positioned far enough from the border to avoid interfering with traffic in populated areas near the border; at sites where the surrounding terrain should restrict vehicle passage around the checkpoint; and located on a stretch of highway compatible with safe operation. Permanent USBP checkpoints are operated at the same location every time; however, tactical checkpoints are mobile.

All checkpoint locations and operations are implemented in accordance with established CBP checkpoint policy, to ensure consistent and appropriate physical set-up, illumination, and signage for the safety of vehicle traffic and agents. Also, all checkpoints comply with all state departments of transportation requirements and federal traffic control guidelines using the latest version of the U.S. Department of Transportation, Federal Highway Administration's Manual of Uniform Traffic Control Devices.

In the operation of checkpoints, USBP also ensures that appropriate equipment including, vehicles, barricades, cones, rumble strips, and other traffic control equipment is in place to safely and effectively funnel and stop traffic to perform both primary and secondary inspection operations. The safe operation of traffic checkpoints is of the utmost importance. The site selection and the physical arrangement of immigration checkpoints are designed to minimize the risk of an accident or an injury to any agent or member of the public. At times when traffic can be funneled into one lane and during the hours of darkness, the physical setup is changed to enhance the safety of Border Patrol agents.

In addition to ensuring the safety of the traveling public and Border Patrol agents, USBP establishes checkpoints in strategic locations to maximize enforcement resources as well as to minimize interference with the flow of legitimate personal and business traffic. USBP makes every effort to only operate checkpoints when traffic volume allows the operation to be conducted safely and efficiently.

Although the purpose of an immigration checkpoint is to identify undocumented persons who recently entered and human smugglers, agents often encounter violators of other federal and state laws, such as the federal Controlled Substances Act and the Controlled Substances Import and Export Act. During primary or secondary inspection at an immigration checkpoint, Border Patrol agents briefly question the vehicle occupants' citizenship and immigration status. During the inspection, Border Patrol agents may make plain view observations regarding the vehicle and its occupants and may request consent to search. When agents obtain consent, they may search the area consented to, without a warrant and without probable cause.

Generally, Border Patrol agents employ two means to stop vehicles driven by smugglers using side roads to circumvent a checkpoint: additional checkpoints and roving patrols. USBP may establish and coordinate tactical checkpoints on circumvention routes, so as to ensure the effectiveness of checkpoints on main thoroughfares. USBP may also conduct roving patrols, an acceptable and effective means to stop vehicles driven by smugglers using side roads to circumvent an immigration checkpoint. Border Patrol agents on roving patrol may stop a vehicle

only if they have reasonable suspicion, based upon specific articulable facts and rational inferences from those facts, that the vehicle contains individuals who may have illegally entered the United States.

When Border Patrol agents make a lawful custodial arrest of an occupant of a vehicle at an immigration checkpoint, they are authorized to make certain warrantless searches incident to the arrest, including the person arrested, personal effects in the arrestee's possession. Vehicles and personal articles that are impounded, detained for safekeeping or as evidence may be subject to an inventory search.

USBP also uses canine teams to detect undocumented individuals and illegal drugs by conducting a quick exterior canine sniff at an immigration checkpoint while the roadblock inspection is ongoing. An alert by a Border Patrol canine constitutes probable cause to search. USBP canine teams are specially trained to detect the odors of controlled substances and concealed humans at checkpoints and other Border Patrol operations. As part of CBP's layered enforcement strategy, canine teams provide an unmatched level of security and detection capability.

When there is probable cause or consent, Border Patrol agents may also use detection technology such as non-intrusive inspection (NII) systems and x-ray equipment to view the interior of a vehicle. However, if agents have probable cause to believe that people are hidden inside a vehicle, agents will proceed with a physical search to minimize the risk of radiological exposure to humans.

The purpose of a Border Patrol checkpoint is to apprehend recent undocumented entrants and smugglers; however, as noted, in the performance of these operations, Border Patrol agents may develop suspicion of a range of criminal activity. Agents may be exposed to dangerous materials. To ensure the rapid detection of radiological materials, CBP policy mandates that all personnel assigned to primary inspection at Border Patrol checkpoints be issued a personal radiation pager and must ensure it is activated while on duty. A radiation pager is a portable gamma-ray radiation detector for use by law enforcement officials in the interdiction and location of nuclear materials.

Effectiveness, Performance and Metrics

While there is still work to be done, the Nation's long-term investment in border security between the POEs has produced significant and positive results. In Fiscal Year (FY) 2015, USBP apprehensions – an indicator of illegal migration – declined to 337,117 nationwide compared to 486,651 in FY 2014. CBP also has a critical counter-narcotics role; in FY 2015, CBP seized or disrupted the movement of more than 3.3 million pounds of narcotics and more than \$129 million in unreported currency at and in between the POEs. These positive trends lend themselves to our Nation's whole-of-government approach to border security efforts, which emphasize the importance of joint planning and intelligence sharing.

The presence of USBP agents along strategic routes reduces the ability of criminals and potential terrorists to easily travel away from the border. Given that fewer resources (law enforcement personnel, equipment, and technology) are required to operate a checkpoint, checkpoint

operations are an efficient and effective security mechanism used to interdict criminal activity and restrict the ability of criminal organizations to exploit roadways and routes of egress away from the border. In FY 2015, at checkpoints alone, USBP apprehended 8,503 individuals and seized over 75,000 pounds of drugs, while intercepting thousands of dangerous attempts at human and drug smuggling. Many of the drugs seizures at checkpoints are a reflection of the effectiveness of USBP's multi-layered strategy. The shipments seized at checkpoints are often referred to as "consolidation loads," meaning that they are not shipments being moved directly from the border into the interior, but rather they are a combination of several small cross-border shipments that had previously entered the United States, and are now being moved to major distribution points in the interior of the country.

For example, just a few weeks ago, agents from the Rio Grande Valley Sector working the Sarita Checkpoint, arrested a driver who had been attempting to smuggle immigrants in his vehicle. When a USBP canine alerted to his vehicle, the driver attempted to flee; however, after a brief pursuit, the driver was apprehended. Seven migrants were discovered in the trunk with no means of escape.² Also this past June, Border Patrol agents from the Laredo Sector assigned to the Interstate Highway 35 Checkpoint encountered a Kenworth tractor towing a cargo tank at the primary inspection lane.³ While the driver was being questioned, a service canine alerted to possible concealed humans or narcotics within the vehicle. After the driver was referred to secondary, the agents performed an x-ray scan of the trailer and discovered several anomalies within the cargo tank area. A total of 216 bundles, of what was later determined to be marijuana, were removed from the tank with a total weight of 5,734.3 pounds and a street value of \$4,578,440.00.

In August 2009, the Government Accountability Office (GAO) issued a report, *Border Patrol Checkpoints Contribute to Border Patrol's Mission but More Consistent Data Collection and Performance Measurement Could Improve Effectiveness*, (GAO-09-824) and made recommendations to improve checkpoint governance. To effectively manage and account for checkpoint performance measures, USBP created a Checkpoint Program Management Office (CPMO). The duties of the CPMO include reviewing checkpoint activity reviewing staffing and checkpoint resources; working policy and legal issues with divisions and departments at Headquarters; coordinating external reviews; coordinating with facilities maintenance and engineering on facility updates; and conducting liaison with sectors on checkpoint issues. The CPMO also collects and maintains statistical information, including traffic counts and arrest statistics per location to demonstrate that a particular checkpoint is effective in interdicting undocumented individuals and to justify the intrusion on the traveling public.

² "Rio Grande Valley Agents Rescue Immigrants, Smuggler Flees Checkpoint." August 23, 2016. <https://www.cbp.gov/newsroom/local-media-release/2016-08-23-000000/rio-grandew-valley-agents-rescue-immigrants-smuggler>.

³ "Significant Seizure Caught at Border Patrol Checkpoint." June 17, 2016. <https://www.cbp.gov/newsroom/local-media-release/2016-06-17-000000/significant-seizure-caught-border-patrol-checkpoint>.

Through strategic placement and operation, Border Patrol checkpoints are not only effective for enforcing immigration laws and detecting smuggled contraband, but they are also extremely beneficial in thwarting human smugglers. Smugglers often conceal immigrants in unsafe and even life-threatening conditions in an attempt to circumvent detection. The USBP works closely with our interagency, state, tribal, territorial, and local partners to urge immigrants not to put their safety at risk by attempting to illegally enter the United States or circumventing a checkpoint.

The Border Safety Initiative

Border Patrol agents work around the clock to detect, deter, and disrupt illicit cross-border activity in all types of terrain and environmental conditions in support of our law enforcement mission; however, an inherent and essential component of our security mission is the responsibility to protect the safety of the public. Every year, USBP is involved in the rescue of thousands of people – more than 3,200 this fiscal year alone – who are victims of human smuggling and other undocumented immigrants who find themselves in dangerous or distressing situations while attempting to cross into the United States from Mexico between the ports of entry. Historically, the summer months are the deadliest. Nearly 4,000 migrants have tragically lost their lives in the last 10 years from exposure to the unforgiving elements, suffering heat stroke, dehydration, hyperthermia, and drowning in canals, ditches, and the Rio Grande River.⁴

CBP's deployment of specialized personnel, area-specific technology, and public awareness campaigns are all key elements in the effort to prevent the unfortunate loss of life. USBP currently has more than 4,150 first responders, 730 Emergency Medical Technicians and 70 paramedics, all of whom are Border Patrol agents who also have the capability to treat any individual with immediate medical needs in the field.

CBP recently released the first in a series of 60-second Spanish language video testimonials⁵ of Central American immigrants who voluntarily share their horrifying 1,600-mile journey north in the hands of human smugglers. The immigrant testimonials are a continuation of Spanish language messaging campaigns CBP has launched in recent years in Central America, Mexico and in key Central American communities in the United States. Through these efforts, CBP hopes to prevent the loss of human lives and to raise awareness of the real dangers and hazards Mexican and Central American immigrants and their families face in the hands of unscrupulous human smugglers.

In conjunction with the launching of the testimonials series, CBP announced the expansion of Border Safety Initiative (BSI) messaging outreach to key Central American communities in

⁴ Southwest Border Deaths, By Fiscal Year.

<https://www.cbp.gov/sites/default/files/documents/BP%20Southwest%20Border%20Sector%20Deaths%20FY1998%20-%20FY2015.pdf>.

⁵ Migrant Testimonial Series (produced by the DHS Joint Task Force – West).

<https://www.cbp.gov/newsroom/national-media-release/2016-05-31-000000/cbp-launches-series-spanish-language-central>.

California, Texas, Florida, New York and Washington, D.C. metropolitan areas regarding the dangers of attempting to illegally cross the Southwest border. The BSI focuses on the deployment of lifesaving technology, emergency response personnel, as well as binational information campaigns aimed at reducing the numbers of immigrant deaths. BSI also strives to rescue immigrants who fall prey to unscrupulous human smugglers who have no regard for their life and safety.

Partnerships and collaborative efforts such as the BSI enhance our Nation's overarching capability to address the threat of human and drug smuggling, increase frontline intelligence and enforcement operations, and enhance the safety and security of the public we serve.

Conclusion

The function of checkpoints is to conduct immigration enforcement operations in strategic locations on routes leading away from the border. However, checkpoint operations are also a critical enforcement tool for interdicting dangerous materials, narcotics, and human smugglers. Checkpoint operations, paired with FOBs, effective Border Patrol canine teams, and sophisticated technology continue to deter the activities of human smugglers and disrupt the flow of illicit contraband from entering our communities.

The border environment is dynamic and requires adaptation to respond to emerging threats and changing conditions. I appreciate the partnership and support USBP has received from this Subcommittee, whose commitment to the security of the American people has enabled the continued deployment of resources and capabilities USBP needs to secure the border.

The continued focus on unity of effort, in conjunction with checkpoint and other strategic and layered enforcement operations, better enables USBP to enhance its ability to detect and respond to threats in our Nation's border regions. CBP will continue to strategically deploy resources, technology, and frontline personnel in order to keep our borders secure, and the communities along it, safe.

Chairwoman McSally and Ranking Member Vela, thank you for the opportunity to testify today. I look forward to your questions.