



governmentattic.org

"Rummaging in the government's attic"

Description of document: Department of Homeland Security (DHS) Weekly Cabinet Reports produced through the Office of the Secretary, January 20 - April 30, 2009

Request date: 09-May-2010

Released date: 20-July-2010

Posted date: 14-September-2015

Source of document: U.S. Department of Homeland Security
245 Murray Lane SW
STOP-0655
Washington, D.C. 20528-0655
Fax: 202-343-4011
E-mail: foia@hq.dhs.gov
[Online FOIA Request Submission Form](#)

The governmentattic.org web site ("the site") is noncommercial and free to the public. The site and materials made available on the site, such as this file, are for reference only. The governmentattic.org web site and its principals have made every effort to make this information as complete and as accurate as possible, however, there may be mistakes and omissions, both typographical and in content. The governmentattic.org web site and its principals shall have neither liability nor responsibility to any person or entity with respect to any loss or damage caused, or alleged to have been caused, directly or indirectly, by the information provided on the governmentattic.org web site or in this file. The public records published on the site were obtained from government agencies using proper legal channels. Each document is identified as to the source. Any concerns about the contents of the site should be directed to the agency originating the document in question. GovernmentAttic.org is not responsible for the contents of documents published on the website.



Homeland Security

July 20, 2010

SENT VIA EMAIL

Re: DHS/OS/PRIV 09-626

This is the final response to your Freedom of Information Act (FOIA) request to the Department of Homeland Security (DHS), dated May 9, 2010 and received in this office May 10, 2010. You requested a copy of each weekly departmental report produced between January 1, 2009 and May 1, 2009. Specifically, you noted that the report you seek "is comprised of a brief report from each of the offices and is produced through the Office of the Secretary."

A search of the Office of the Secretary for documents responsive to your request produced a total of 66 pages. As a result of discussion among agency personnel, as a matter of administrative discretion, I am releasing portions of the documents that otherwise may be exempt under FOIA. I have determined that 50 pages of the records are releasable in their entirety and 16 pages are partially releasable pursuant to Title 5 U.S.C. § 552 (b)(2)(high), (b)(5), and (b)(6), FOIA Exemptions 2(high), 5, and 6, as further detailed below:

FOIA Exemption 2(high) protects information applicable to internal administrative and personnel matters, such as operating rules, guidelines, and manual of procedures of examiners or adjudicators, to the extent that disclosure would risk circumvention of an agency regulation or statute, impede the effectiveness of an agency's activities, or reveal sensitive information that may put the security and safety of an agency activity or employee at risk. Whether there is any public interest in disclosure is legally irrelevant. Rather, the concern under high 2 is that a FOIA disclosure should not benefit those attempting to violate the law and avoid detection.

FOIA Exemption 5 protects from disclosure those inter- or intra-agency documents that are normally privileged in the civil discovery context. The three most frequently invoked privileges are the deliberative process privilege, the attorney work-product privilege, and the attorney-client privilege. After carefully reviewing the responsive documents, I determined that portions of the responsive documents qualify for protection under the deliberative process privilege. The deliberative process privilege protects the integrity of the deliberative or decision-making processes within the agency by exempting from mandatory disclosure opinions, conclusions, and recommendations included within inter-agency or intra-agency memoranda or letters. The

release of this internal information would discourage the expression of candid opinions and inhibit the free and frank exchange of information among agency personnel.

FOIA Exemption 6 exempts from disclosure personnel or medical files and similar files the release of which would cause a clearly unwarranted invasion of personal privacy. This requires a balancing of the public's right to disclosure against the individual's right privacy. The privacy interests of the individuals in the records you have requested outweigh any minimal public interest in disclosure of the information. Any private interest you may have in that information does not factor into the aforementioned balancing test.

You have a right to appeal the above withholding determination. Should you wish to do so, you must send your appeal and a copy of this letter, within 60 days of the date of this letter, to: Associate General Counsel (General Law), U.S. Department of Homeland Security, Washington, D.C. 20528, following the procedures outlined in the DHS regulations at 6 C.F.R. § 5.9. Your envelope and letter should be marked "FOIA Appeal." Copies of the FOIA and DHS regulations are available at www.dhs.gov/foia.

Provisions of the FOIA allow us to recover part of the cost of complying with your request. In this instance, because the cost is below the \$14 minimum, there is no charge. Consequently, your request for a fee waiver is moot. 6 CFR § 5.11(d)(4).

If you need to contact our office again about this matter, please refer to **DHS/OS/PRIV 09-626**. This office can be reached at 703-235-0790.

Sincerely,



Vania F. Lockett
Associate Director, Disclosure & FOIA Operations

Enclosures: As stated, 66 pages

DEPARTMENT OF HOMELAND SECURITY

Weekly Cabinet Report

January 29, 2009

I. UPCOMING REFORM-BASED ACTIONS

Steps to Increase Transparency

- The Secretary has continued to release daily action directives to assess and solicit employee input about the Department's performance across its core mission areas: protection, preparedness, response, recovery, and immigration. Her goal is to identify those areas that require immediate attention, develop strategies to address short-term needs and long-term goals, and provide clear, consistent direction on how we can more fully unify the Department. Directives are available upon request.
- **Public Affairs** will launch the Leadership Journal, an online blog for DHS employees, the media, and general public featuring articles from the Secretary and other senior leadership at the Department.
- **Coast Guard** is engaging in aggressive new media strategy utilizing RSS feeds, the iCommandant blog, and YouTube to promote public safety and mass rescue planning.

Reforms, Cost Savings and Eliminating Waste and Abuse

DHS will launch a department-wide efficiency review initiative based on feedback from the action directives and input provided by senior leadership and employees. This initiative will identify measures to save money, ranging from basic efficiency measures (saving water, paper, electricity, reducing travel, etc) to more complex measures involving procurement, department-wide cross-training and consolidation where possible. Additionally, Efficiency Review will focus on improved customer service by reducing bureaucracy and making forms and processes used by the general public more user-friendly. Such initiatives include:

- **TSA** approved changes to improve internal control and auditing capabilities resulting in annualized savings of \$1.5 million.
- **Coast Guard** released an RFP to promote significant improvements and efficiencies in contracting and anticipates a reduction in procurement cycle time of 10-25%.
- **FEMA** approved contract support to assist in reducing FOIA request backlog.

II. POTENTIAL OR EXPECTED PRESS STORIES

Expected News Items

- **Secretary Napolitano**
 - Site visits to DHS components continued this week, press releases are anticipated on additional Action Directives, and a pen and pad session with DHS beat reporters is scheduled for 1/30/09, followed by interviews with major TV networks. Ongoing interviews on Super Bowl preparation including Fox and the Today Show.
- **FEMA**
 - Regional Contraflow Conference in Biloxi, Mississippi on 1/28/09.
 - Acting Administrator Nancy Ward meeting with Plaquemines Parish officials on recovery issues on 1/29/09 and with St. Bernard Parish officials on 1/30/09.
 - Emergency Declarations issued—WA, AR, KY, VA and MD. We anticipate that OK, MO and possibly OH may seek declarations this week.
- **CBP**
 - Representatives traveling to the Netherlands, UK, Finland, Denmark and Spain to conduct ESTA (Electronic System for Travel Authorization) outreach events.
 - Initiated national advertising campaign focusing on port "Go Live" events and instilling the appropriate sense of urgency to acquire WHTI-compliant documents before 6/1/09.
- **USCIS**: National Stakeholder Meeting on 1/27/09.
- **TSA**: Secure Flight program will begin low rate operations during week of 1/26/09.
- **Coast Guard**: Planned media roundtable and blogger roundtable upon release of Carderock report.

- **Secret Service:** Hosting a seminar 1/27-30/09 for 24 U.S. Attorneys and/or AUSAs to discuss the Secret Service's investigative mission.
- **ICE:** Participating in the National Sheriffs' Association's (NSA) Annual Winter Conference on 1/29/09.

Pending Stories

- **Eric Schmidt (*New York Times*) – no publishing date**
 - Ongoing query on TOPOFF lessons learned; seeking information from FEMA and DHS.
- **NPR – anticipated week of 1/26/09 or 2/1/09.**
 - Two-part series on U.S. immigration system, featuring interview with ICE Acting Asst Sec John Torres.
- ***Chicago Tribune, WGN, San Antonio Express-News, Columbus Dispatch, frontereas.com***
 - Reporting on ICE alien removal flight operations media event on 1/27-28/09.
- ***Associated Press***
 - Profiling Laredo Border Enforcement Security Task Force (BEST).
- **Dan Morse (*Washington Post*)**
 - Story about 287(g), Criminal Alien Program, and how local agencies work with ICE.

Reports

- **FEMA**
 - IPAWS Implementation Plan Submission to Congress – release: January 31, 2009.
 - The USFA Annual Report to Congress is in the final stages of vetting.
 - Working with White House to determine if Comprehensive Preparedness Guide 101 should be released concurrently with the Integrated Planning System.
 - Response to Draft Report – “Implementation of Flood Insurance Reform Act of 2004”- release next week.
 - Final Draft After-Action Report outlining findings from 2008 hurricane season and corrective actions to be implemented prior to 2009 hurricane season has been approved.
- **TSA Report to Congress: FY 2009 Checkpoint Support Expenditure Plan;** approved by OMB on 1/22/09, will be transmitted to the Appropriations Committees soon.
- **2008 Report on Unauthorized Aliens in United States** sent to OMB for review.
- **ICE:** Drafting “Congressional Status Report, First Quarter FY 2009, Secure Communities: A Comprehensive Plan to Identify and Remove Criminal Aliens (SC/CIRCA).” Due to Congress 2/13/09.

III. POTENTIAL OR EXPECTED LEGISLATIVE/POLICY ISSUES

Rules

- **TSA:** The “10+2” rule became effective on 1/26/09 with no major problems reported as yet.
- **Management:** The Federal Acquisition Regulation Council will publish a rule in the Federal Register on 1/30/09 to delay E-verify implementation until 5/21/09 rather than February 2009.
- **CBP:** Anticipates forwarding a Notice of Proposed Rulemaking to DHS to amend CBP regulations to establish an international registered traveler program, Global Entry (Global Entry pilot program currently operates at seven airports).

Congressional Activity

- **ICE**
 - Secure Communities Executive Director David Venturella will brief House and Senate Appropriations staff on 1/30/09.
 - ICE Monthly Congressional 101, open to all Congressional Offices, is on 1/30/09.
- **FEMA**
 - On 2/2/09 or 2/3/09, FEMA Acting Administrator Nancy Ward and Acting Deputy Administrator Dave Garratt will meet with Senator Landrieu to discuss recovery issues.
 - Briefing House Appropriations Committee staff on 1/30/09 and Senate Appropriations Committee staff on 2/5/09 to discuss FEMA's Mission Assignment Program.
 - On 1/29/09, FEMA CFO Norman Dong will provide the Senate Appropriations Committee an account-by-account follow-up (with audit discussion).

- **Coast Guard:** Written testimony on International Piracy on the High Seas to House Subcommittee on Coast Guard and Maritime Transportation by 2/4/09.
- **The Chief Administrative Office** will meet with Senate Appropriations staff concerning the headquarters consolidation and stimulus package on 1/29/09.

IV. TRAVEL/SPEECHES OF CABINET MEMBER AND SENIOR PRESIDENTIAL APPOINTEES

Week Ahead:

- **1/30/09:** Coast Guard Commandant Allen to Air War College Maxwell AFB (Alabama) for speech to students and to New Orleans, LA for speech at Integrated Support Command ground breaking ceremony.
- **2/3/2009:** Acting TSA Administrator Rossides and Undersecretary for Management Elaine Duke will participate in a GAO panel discussion on the Presidential Transition.
- **2/10/2009:** Acting TSA Administrator Rossides delivering keynote address at Washington Homeland Security Roundtable where she will discuss TSA's Security Evolution.

V. SENIOR PERSONNEL ANNOUNCEMENTS

- The Office of Public Affairs expects to issue one or more personnel announcements on front office senior staff, the Office of General Counsel, and the Office of Public Affairs.

VI. ADDITIONAL ITEMS OF IMPORTANCE/INTEREST TO THE WHITE HOUSE

- **Super Bowl XLIII:** CBP has been working closely with Tampa along with federal, state and local law enforcement and public safety agencies to ensure that the Super Bowl and all NFL-sponsored events undertake appropriate security measures.
- **Renewal of Homeland Security Advisory Committee (HSAC) charter** was forwarded to Secretary Napolitano for her review and signature. Charter expires February 20, 2009.
- **Coast Guard** imposed Conditions of Entry on 1/23/09 for vessels arriving to the U.S. from Venezuela. (b)(2) (high)

DEPARTMENT OF HOMELAND SECURITY

Weekly Report
February 5, 2009

I. Efficiency and Transparency

Reforms, Cost Savings, and Eliminating Waste and Abuse

Secretary Napolitano is developing a department-wide Efficiency Review to create a leaner, smarter, more efficient and open DHS.

Phase I (Feb. April) will:

- 1) Establish the Efficiency Review Steering Committee with representatives from each Component;
- 2) Develop clear metrics to measure progress (cost savings/ avoidances, faster turnaround times, etc)
- 3) Identify best practices throughout government/ private sector to implement at DHS.
- 4) Implement efficiency initiatives at pilot offices throughout the department;
- 5) Publicize successfully executed initiatives.

Other ongoing reform efforts at DHS include:

- **FEMA's Gulf Coast Recovery Office** by identifying duplications and inefficiencies, reduced administrative costs of over \$450 million in FY08-09, contract building security savings of \$1.8 million, and \$200,000 in annual invoice management savings. This is largely savings from OMB expectations for FY 08-09. OMB expectation for disaster administrative costs is 14 percent. In FY08, the actual administrative costs in the Gulf Coast Recovery operation were 8 percent, and in FY09, budget administrative costs are projected to be further reduced to 6 percent.
- **Science & Technology** partnered with Secret Service, industry, and academia to digitize over 9,000 ink samples improving investigation of criminal and terrorist activities and reducing matching times from days to minutes. The Digital Ink Library officially transitioned last Friday, 1/30/09.

Steps taken to increase transparency and user-friendliness

- **Global Entry**, a new pilot program managed by U.S. Customs and Border Protection, allows pre-approved, low-risk travelers expedited clearance upon entry into the U.S. Since implementation in June 2008, Global Entry has reduced average wait times by 70% (7 minutes) compared to regular inspection; over 75% of those enrolled in Global Entry are processed in under 5 minutes. Statistical analysis based on data from Nov 19, 2008 to Jan 9, 2009; report published on 1/29/09.
- **TSA** implemented an improved FOIA intake process for more efficient searches, quicker responses, and greater public access to TSA policies/ procedures. Implementation began on 2/20/09.

II. Potential or Expected Press Stories (pending stories from previous reports are not included)

Recent Media Reports

- **Contra Costa Times** reports ICE arrested nearly 2,000 gang members in L.A. last year, a record number. More than 850 of those arrested are being prosecuted on state or federal charges. The rest are in the US illegally and are being deported to their native countries.
- **Washington Post** reported on increased interest by state/local governments to jam/disable wireless devices to prevent remote control bombs.

Expected Stories

- **Coast Guard** broke ground on new facilities that will house the New Orleans Integrated Support Command Center - highlighting \$120 million commitment to New Orleans area (1/30/09).
- **TSA:** 9/11 Act deadline (2/3/09) for 50% of all cargo transported on passenger aircraft to be screened for explosives prior to loading expected to generate significant media interest (TSA will meet deadline).
- Major media coverage anticipated this week on E-Verify and DHS implications of the economic stimulus package (*USA Today*, *CNN*), border fence (*Wall Street Journal*), immigration enforcement (*Miami Herald*), and the national threat advisory system (*Parade Magazine*).

Potential or Pending Stories

- **TSA** began series of “Coalition Conversations” with representatives of various constituency organizations. First “conversation” took place with the Sikh Coalition 1/29/09. No stories published to date.
- **FEMA**: Awarded over 2,800 Assistance to Firefighters Grants (AFG) and 150 Staffing for Adequate Fire and Emergency Response (SAFER) grants so far this year.
- **AP—Los Angeles** writing about impact of Border Enforcement Security Task Force (BEST) teams along the northern and southern borders.
- **LA Daily News** working on a story on ICE’s worksite enforcement probe into Micro Solutions Enterprises.
- **Reader’s Digest** interviewing Acting A/S Torres on 2/4/09 about human rights violators.
- **Homeland Security Today** publishing article about Safe Quick Undercarriage Immobilization Device, which can immobilize a vehicle remotely and whose development was funded by DHS.
- **Homeland Defense Journal** publishing article 2/09 on interoperability improvements since Katrina.
- **Middle Eastern Broadcasting Network** interested in CRCL outreach to Arab-American community and **Pakistan Post** interested in CRCL Outreach to the Pakistani American community.

Department and IG Reports

- Office of Immigration Statistics’ (OIS) Draft Report, *Estimates of the Unauthorized Immigrant Population Residing in the United States: January 2008*, says the number of unauthorized persons in the U.S. is down from 11.8 million to 11.6 million, the first decline in several years. The report has been approved by OMB and OIS is coordinating release.
- **IG: Annual report to Congress on States’ and Urban Areas’ Management of Homeland Security Grant Programs** - summarizes audits of 10 states and 1 urban area. Reports overall efficient/ effective job of administering the grant, distributing funds, and ensuring all available funds were used, though individual issues in areas such as financial reporting, oversight, procurement exist. Report released on 1/29/09 and is being publicly released by COB 2/6/09.

III. Legislative and Policy issues

Congressional testimony

- Transportation and Infrastructure Subcommittee on Coast Guard and Maritime Transportation
 - **2/4/09: Hearing on International Piracy.** Rear Admiral Baumgartner testifying for Coast Guard.
 - **2/19/09: Field hearing in Miami, FL.** Rear Admiral Branham testifying for Coast Guard.
- **2/26/09:** OHA testifying before Senate Homeland Security Cmte on the Federal Veterinary Workforce.

Major congressional activity (meetings included in previous report are not listed below)

- **1/30/09:** OPS, Military Advisor, and CBP briefed Senate Appropriations staff on SW Border Violence Plan.
- **1/30/09 and 2/3/09:** TSA Deputy Admin briefing Senate Commerce staff, House Approps staff, and Senate Approps staff on Risk Emphasized Flight Screening.
- **2/2/09:** FEMA meeting with House Appropriations staff to discuss the national capital region.
- **2/3/09:** TSA briefing House Homeland Security staff on EDS Baggage Screening Investment Study.
- **2/3/09:** National Bombing Prevention Act of 2009 placed on suspension calendar for action by the House.
- **2/4/09:** Management meeting with OMB to review Prospectus that requires OMB clearance and Congressional approval to consolidate the DHS HQ elements not relocating at St. Elizabeths.
- **2/5/09:** CBPAst Commissioner meeting Sen. Dorgan to discuss UAS airspace access on northern border.
- **2/6/09:** TSA briefing House Homeland Security staff on Transportation Worker Identification Credential (TWIC) update.
- **2/6/09:** OHA briefing staff from House Homeland Security on OHA Component Services portfolio.
- **2/17/09:** OHA briefing House Homeland Security staff on CoMPASS, a collaborative project with HHS which consolidates Federal public health and medical training, funding, and standards resources.
- **TBD:** BioWatch Director will brief Sen. Reid on Las Vegas BioWatch and technologies used to process samples.
- Management and GSA met with SAC Homeland Security and Financial Services and General Government subcommittee staff to discuss capability to execute additional funds if provided in stimulus.

New regulations/rulemaking

- **TSA: Notice of Proposed Rulemaking: Large Aircraft Security Program;** Amending 49 CFR 1544 and other regulations to enhance the security of general aviation large aircraft. The NPRM was published in the Federal Register on 10/30/08. The original comment period closed 12/29/08, but was extended by TSA and now closes on 2/27/09.
- **TSA: Notice of Proposed Rulemaking:** Would impose security measures on domestic and foreign aircraft repair stations as required by Vision 100. 49 U.S.C. 44924. Currently under review at OGC, after which it will go to the Secretary for review.

IV. Legal Issues

Major movement in ongoing litigation/enforcement actions

- ***United States v. Illinois***, In 8/07, Illinois enacted a statute that effectively prohibits employers in the state from participating in the E-Verify program. Illinois filed its opposition to DHS motion for summary judgment on 1/27/09. DHS reply due 2/10/09. The reply brief will restate our arguments from our initial brief - that the Illinois law prohibiting enrollment in E-Verify is preempted by the federal authorization for E-verify. The reply brief will also discuss the current sunset date for E-Verify.

(b)(5), (b)(6)

- ***Terrorist-Related Inadmissibility – Mandamus Litigation.*** In U.S. District Court for the Northern District of California in Ahmed v. Gonzales, the Government on 1/26/09 filed a declaration describing the process for the immigration exemption for the terrorist activities. The declaration, filed in response to an order of the court, described the process and procedures that U.S. Citizenship and Immigration Services (USCIS) uses in identifying cases involving support for undesignated terrorist organizations as defined under section 212(a)(3)(B)(vi)(III) of the Immigration and Nationality Act (INA), and adjudicating such cases, including the discretionary exemption for terrorist activity at INA section 212(d)(3)(B)(i). The court has a status conference scheduled for 2/9/09.

Federal Register notices/new regulations/rulemakings


- USCIS Final Rule "Employment Authorization and Verification of Aliens Enlisting in the Armed Forces" provides that an alien lawfully enlisted in one of the armed forces has employer-specific work authorization to serve in the armed forces. The final rule is currently under review by General Counsel.

V. Travel/ Speeches (items listed in previous reports are not included)

- **2/4-5/09:** *CG Commandant to AZ* to meet with General Dynamics to discuss enhancing Rescue 21 capabilities.
- **2/6/09:** *CG Commandant to Dallas, TX.* Speaker at National Security Agency's Information Directorate and Defense Information Systems Agency.
- **2/9-10/09:** *Acting U/S for S&T to Miami, FL.* Business-Higher Education Forum Winter meeting.
- **2/11/09:** *Acting A/S for Health* Speech at the CBRN Defense Conference (DC)
- **2/3-6/09:** *DNDO Acting Dir to Los Angeles and San Diego.* Tour seaport, border crossing operations.
- **2/4/09:** *NPPD Acting A/S* speech at National Defense University's College of the Armed Forces.

VI. Additional items of importance not covered above

- **Katrina/Rita FEMA Housing Program** and HUD's Disaster Housing Assistance Program scheduled to end 3/1/09. Secretary met with FEMA on 2/4 to determine options for extension.
- 1/29/09: GAO report, "**Secure Border Initiative Fence Construction Costs**," stated CBP completed 215 miles of fencing along southern border costing \$625 million as of 10/31/08. No recommendations included in report.

- (b)(5)
- 

DEPARTMENT OF HOMELAND SECURITY

Weekly Cabinet Report

February 12, 2009

I. Efficiency and Transparency

As part of the ongoing DHS Efficiency Review (ER) Initiative, the Secretary is issuing an Action Directive to each component and office within DHS to evaluate efforts to increase transparency, reduce costs, streamline processes, eliminate duplication, improve customer service, and assess contractor/ FTE balance, procurement, energy conservation, travel expenses, fleet management, employee training and electronic communications. These responses, due in early March, will provide an inventory of efforts currently underway and generate new efficiencies across the department. In preparation for the first ER steering committee meeting (this month) all component heads have been asked to appoint a senior official in their office to serve as the ER lead.

One of the first department-wide ER initiatives will be a thorough review of all contract employees by office and function to determine which positions can be converted to full-time employees and where excessive contractor spending can be cut entirely.

II. Press Stories

Recent Media Reports

- **2/3: AP** Reported that Dr. Leopold Munyakazi, a Rwandan national, was suspended from his position as a professor at Goucher College pending an investigation into alleged human rights violations in Rwanda prior to entering the U.S. ICE confirmed Munyakazi was administratively arrested for being in the U.S. illegally, placed into removal proceedings, and released on the Intensive Supervised Appearance Program.
- **2/4:** Numerous media outlets reported on the Migration Policy Institute's report, "*Collateral Damage: An Examination of ICE's Fugitive Operations Program.*" The report alleges that the National Fugitive Operations Program does not focus on the most violent criminal fugitives. OPA noted that the data MPI used did not include more recent data showing a substantial increase in the number of criminal fugitive arrests.
- **2/7: CG** rescue of fishermen on an ice flow in Lake Michigan featured on several major media outlets.

Expected Stories

- **USCIS** Acting Deputy Director will administer the Oath of Allegiance to 63 active duty military naturalization candidates during a special ceremony in Norfolk, VA on 2/13 (open press).
- **FEMA** will conduct "meet and greets" with beat reporters at CNN, NPR and CQ over the next two weeks.
- **Western Hemisphere Travel Initiative** Phase II commercial is being aired in 12 border markets and print ads are featured in *Time*, *Newsweek* and *Travel and Leisure*. The ads inform travelers about document requirements that will go into effect on 6/1/09 (passports, enhanced driver's license, trusted traveler cards).
- **USA Today** has approached TSA for feature story on aviation security. (publication date unknown)
- **Washington Post** (Mary Beth Sheridan) to interview DNDO Acting Dir. Gallaway 2/12 about the use of Urban Areas Security Initiative (UASI) funds by D.C. for preventive radiological/nuclear detection operations. The story will focus on the National Capital Region's project to build a network of radiation detectors using \$4 million in UASI funding that was awarded last year and how this project fits into the work that DHS is doing nationally for radiation detection. (publication date unknown)
- **New York Times Magazine** is working on story about self-propelled, semi-submersibles (SPSS), which are difficult to detect vessels used to smuggle large amounts of narcotics. (publication date unknown)
- **Time Magazine** is working on a story on Coast Guard Search and Rescue that examines cost of missions and how many are caused by personal error or ignoring warnings. (publication date unknown)

Release of department/agency reports

- **GAO: “Aviation Security: Status of Transportation Security Inspector Workforce,”** concluded that TSA does not have a reasonable basis to determine the necessary size of the Transportation Security Inspector workforce. TSA concurred and had already contracted for a staffing study on this issue (Report released 2/6).
- Congressional Status Report, First Quarter FY09, “***Secure Communities: A Comprehensive Plan to Identify and Remove Criminal Aliens***,” is due to Congress on 2/13. Highlights include an 84% increase in criminal alien indictments and triple the number of arrests of criminal alien fugitives compared to Q1 FY 2008.
- **IG: U.S. Immigration and Customs Enforcement’s Management of 2005 Gulf Coast Hurricanes Mission Assignment Funding** (Issued to DHS: 2/4) - Report includes ten recommendations that address procedures and internal controls regarding disaster procurement, accounting for mission assignment related expenses, and accountable property. The report identifies questioned costs totaling \$5.9 million.
- **IG: National Communicating System’s Management of 2005 Gulf Coast Hurricanes Mission Assignment Funding** (Est. issue date: 2/12) Report includes 21 recommendations that address procedures and internal controls regarding disaster procurement, accounting for mission assignment related expenses, and accountable property. Report identifies questioned costs totaling \$1.8 million.
- **IG: Assessment of the Surface Transportation Security Inspection Program** (Issued to DHS: 2/9) - Report states that the program appears understaffed for the long term and the command structure has affected quality and morale of workforce.
- **IG: CBP Award Fees** (Est. issue date: 2/17) - Report finds use of cost-plus-award-fee type contract CBP used to acquire enforcement equipment maintenance and field operations support to be an improper contract type for these needs.

Major grant announcements

- **2/6:** FEMA awarded 367 FY08 Assistance to Firefighters grants (\$33,143,775) and 22 FY08 Staffing for Adequate Firefighters and Emergency Response grants (\$23,391,829).

III. Legislative and Policy issues

Congressional Briefings

- **House Homeland Security Committee Staff Briefings**
 - **2/9:** ICE briefed minority staff on Operation Angel Watch, an initiative designed to prevent predators from attempting to circumvent U.S. laws by traveling abroad to engage in illicit sex acts with children.
 - **2/11-2/12:** ICE to brief majority staff on public safety and health investigations and criminal violations involving illegal exports of sensitive military and dual-use technologies.
 - **2/12:** Federal Protective Service to brief majority staff on general emergency plan as it relates to public health and safety, including general emergency response and emergency protocols.
 - **2/9:** Counternarcotics Enforcement briefed staff on status of 2009 update to the *National Southwest Border Counternarcotics Strategy and Implementation Plan* due to Congress 4/29.
- **2/11:** IG briefing Sen. Finance on Sen. Grassley’s letter requesting additional penetration testing to look at counterfeit law enforcement credentials.
- **2/11:** IG to brief House Approps Subcommittee on HS on SBInet oversight and CBP’s Automated Targeting System.
- **2/11-2/13:** FEMA to provide a quarterly update, planning brief, private sector preparedness brief, U.S. Fire Administration and National Fire Incident Report System update to House and Senate Appropriations.
- **2/12:** TSA to brief Sen. Comm. staff on Transportation Worker Identification Credential Card Reader Pilot.

Major congressional activity on legislation

- (b)(5) [REDACTED]
- **Passage of House Legislation**
 - **2/3: Fair, Accurate, Secure, and Timely (FAST) Redress Act of 2009**, implementing the FAST Redress process for handling issues with the terrorism watch lists.
 - **2/3: National Bombing Prevention Act of 2009**, which amends the HS Act of 2002 to direct the Secretary of DHS to establish an Office for Bombing Prevention within DHS's Office of Infrastructure Protection.
 - **2/4: The House passed H.R. 738**, which requires the head of each federal law enforcement agency to submit a report to the Attorney General containing information on the death of any person in their custody.

IV. Legal Issues

Major movement in ongoing litigation/enforcement actions

- **Bayo v. Napolitano**. On 1/30/09, the 7th Circuit granted the Government's petition for rehearing en banc and vacated the panel opinion of 8/1/08, which held that an alien's waiver of a removal hearing as a condition of entry under the Visa Waiver Program is valid only if entered into knowingly and voluntarily.
- **Garcia v. Attorney General**. On 2/4, the 3rd Circuit denied the Government's petition for rehearing en banc of the court's 10/28/08 panel decision, which held that the five-year statute of limitations on rescission of Lawful Permanent Resident (LPR) status in section 246(a) of the Immigration and Nationality Act (INA) applies to removal proceedings where the removal is based on facts that could have been grounds for rescinding the adjustment of status.
- **Robinson v. Napolitano**. On 2/2, the 3rd Circuit reversed the district court's judgment and ruling that an alien must be an "immediate relative" at the time a Form I-130 (petition for alien relative) is adjudicated, rather than the time of filing, and that an alien does not qualify as an "immediate relative" if the alien's U.S.-citizen spouse dies prior to the adjudication and the couple had not been married for longer than two years. This is the first of three expected decisions by the courts of appeals on the "widow" cases. (Appeals remain pending in the First and Sixth Circuits). In so holding, the 3rd Circuit rejected the contrary holding of the 9th Circuit in *Freeman v. Gonzales*.
- **Southwest Airlines Co. v. TSA**. On 2/2, the U.S. Court of Appeals for the D.C. Circuit issued a decision affirming the most significant aspects of TSA's methodology for collecting underpaid Aviation Security Infrastructure Fees ("ASIFs") from over 20 airlines. The court ruled against TSA, however, on two points, which relate to base year cost number and the rejection by TSA of one airline's audit.

New regulations/rulemaking

- **TSA Air Cargo Screening Interim Final Rule** codifies a statutory requirement of the 9/11 Act requiring TSA establish a system by 8/3/10 to screen 100% of cargo transported on passenger aircraft.
- **Small Business Administration** is hosting a Roundtable on TSA's Large Aircraft Security Program Notice of Proposed Rulemaking on 2/13 because of the significant small business interest in the rule.

VI. Additional items of importance not covered above

- (b)(2)(high) [REDACTED]

- (b)(2)(high) [REDACTED]

- (b)(2)(high) [REDACTED]
- **2/6: Counternarcotics Enforcement** attended an interagency meeting, hosted by the State Department, to identify options for engaging with Ecuador on allowing DHS aircraft to continue operating from Ecuadorian airfields, after the Manta, Ecuador Forward Operating Location closes on 10/30/09. Proposal in process.
- **TSA's new program Secure Flight**, which prescreens airline passengers, will launch a public awareness campaign on 2/9 to educate the public on the new information needed to make a reservation to fly including full name, date of birth, and gender. Secure Flight is currently working with 3 flights per day and intends to bring all domestic air carriers on by the end of 2009, then international carriers in 2010.
- Brian de Vallance will serve as the Secretary's designee for recovery implementation.

DEPARTMENT OF HOMELAND SECURITY

Weekly Report

February 19, 2009

I. Efficiency and Transparency

Sec. Napolitano announced the department-wide Efficiency Review initiative to DHS components and offices on 2/13 and via press release on 2/17. The initiative will evaluate efforts to increase transparency, reduce costs, streamline processes, eliminate duplication, improve customer service, and assess contractor/ FTE balance, procurement, energy conservation, travel expenses, fleet management, employee training and electronic communications.

Additional efforts to increase transparency and reduce fraud, waste, and abuse include:

- **USCIS:** Conducted a review in 1/09 of open obligations (unpaid bills, outstanding contract payments, etc.) and closed obligations in which final payments have been received; recovered \$2.2 million in savings.
- **FEMA** began using Twitter to push tornado safety messages, weather alerts and FEMA warnings during OK storms to subscribers (DHS currently has 1700).
- **TSA:** Revised internal policies to require classified sections of documents to be redacted (vs. the entire document itself) to increase transparency and the dissemination of public information about TSA programs.

II. Press Stories

Recent Media Reports

- **2/10-2/11:** Extensive regional coverage of the Secretary's trip to KY, KS, and IA to survey storm damage.
- **2/12:** *New York Times* and *New Orleans Times-Picayune* positive editorials on HUD extension of Katrina housing benefits. *Washington Post* and *AP* also wrote positive articles on this topic.
- **2/12:** *AP:* Miami-based CG helped apprehend 16 suspected pirates in the Gulf of Aden (near Somalia) in two separate incidents.
- **2/12:** *MSNBC* story on TSA skills training program emphasizing customer service and critical thinking.
- **2/12:** *Orlando Sentinel* on the investigation and capture of an illegal immigrant who raped an 11-yr-old girl.
- **2/13:** *USA Today* story on background checks TSA conducts on all employees and contractors.
- **2/15:** *LA Times* story about reporter ride-along with officers from LA Joint Criminal Alien Task Force (JCART). JCART officers, accompanied by U.S. Marshals and LAPD, arrested a Guatemalan national wanted for 2008 fatal shooting. The subject was taken into custody and subsequently agreed to speak with the reporter.
- **2/17:** *USA Today* story about increasing cyber attacks on Fed govt networks. US-CERT Director noted this may merely reflect improved tracking of attacks, but remains alarmed about phishing, where seemingly legitimate e-mails solicit sensitive information, and "web redirects," which redirect a computer to a website where it downloads malicious software.
- **2/17:** *CNN* and media along the Southwest border report on impact to ports of entry potentially due to violence in Mexico. CBP quickly clarified that the ports remained open at all times, and disruption to inbound traffic on the southern side was due to protests, not violence.
- **2/18:** *USA Today* front page story on TSA's pilot use of full-body scanners in some airports, replacing metal detectors, which are much less effective at detecting hidden objects.
- **2/19:** New York/New Jersey media coverage (*Daily News*, *NY1*, *Newsday*, *Star-Ledger*) of the Secretary's trip to NY to meet with state and city officials and honor mariners that responded to the flight in the Hudson.
- **2/19:** *CQ* reports on DHS ART member Paul Kurtz' comments at a conference that the U.S. is not ready to respond to a "cyber Katrina" and it is unclear who would be in charge in such a situation.

Expected Stories

- *AP* and other publications requested information regarding the transfer of Khalid Duhham Al-Jawary from Bureau of Prisons to ICE custody. In 1993, Al-Jawary, an Iraqi national with dual Ir

(b)(5)

(b)(5)

ICE did not provide comment.

IG Reports

- **Final Report to Congress, 2/13, Posting to Website, 2/17:-** "FEMA: In or Out?" Prepared at the request of the Senate Committee on Homeland Security, this paper concludes that FEMA should stay in DHS.
- **Final Report Posted to Website 2/13:** "Removals Involving the Alien Parents of U.S. Citizen Children." Report finds ICE limitations in collecting reliable information because ICE does not require staff to enter this information into their database. IG recommends ICE report on the feasibility of ensuring relevant data is collected and documented
- **Final Report Posted to Website 2/17:** "2007 Debris Removal Pilot Program and Initiatives." Report found FEMA commitment to the national debris removal pilot program (6/07 to 12/08), but its outreach efforts could have been more effective.
- **Final Report Posted to Website 2/17:** "TSA's Management of Aviation Security Activities at Jackson Evers International and Other Selected Airports." Report finds TSA has improved internal covert testing (staff attempts to penetrate TSA screening checkpoints with fake boarding passes and/or contraband) but further security improvements are needed within commercial aviation.

III. Legislative and Policy issues

Congressional testimony/hearings

- **2/24: USSS Director** before House Approps Cmte, Subcmte on HS about inaugural problems.
- **2/25: FEMA** before House Cmte on Transportation and Infrastructure on Gulf Coast Recovery.
- **2/26: FEMA** before House Approps Cmte on Recovery Efforts.
- **2/26: DHS Health Affairs** before Senate HS and Govt Affairs Cmte, Subcmte on Oversight on "Protecting Animal and Public Health: Homeland Security and the Federal Veterinarian Workforce."

Congressional Briefings


- **House Homeland Security Committee**
 - **2/12: TSA and CBP** briefed staff on the US-VISIT Air Exit Pilot program, which involves three fingerprint biometric pilot programs scheduled to begin 5/09 involving TSA, CBP and a TBD airline (required by 2009 HS Approps Act); TSA pilot- O'Hare Airport; CBP pilot- Detroit Airport.
 - **2/17: Chief Human Capital Officer** briefed staff on Federal Human Capital Survey results.
 - **2/18: ICE** briefed majority staff on investigations involving counterfeit commodities.
 - **2/19: FEMA** to brief Committee on agency-wide planning efforts.
 - **2/19: I&A** to brief staff on Single Point of Service, a fully integrated 24 hr resource providing partners a single point of contact to request information and intelligence support, communicate product requirements, and share critical information with DHS.
 - **2/20:** At Cmte request, Civil Rights Civil Liberties to describe its 2/4-2/6 trip to Minneapolis and St. Paul to meet with government officials who are engaging the local Somali American community.
 - **2/20: ICE** to brief majority staff on investigations involving counterfeit pharmaceuticals and smuggling of endangered species.
 - **2/26: I&A, CG, CBP, and ICE** to brief Subcmte on Border, Maritime and Global Counterterrorism on threats to northern and southern borders. Classified (TS/SCI).
 - **2/27: TSA** to brief staff on 2006 Baggage Screening Investment Study, which considered alternative funding sources and levels for checked baggage screening systems in US airports. Study recommended minimum level of \$435M annually for explosives detection system purchase and installation.
- **Senate Homeland Security Committee and Government Affairs Committee**
 - **2/17 – 2/20:** Committee staff will tour **CBP** operations in Honolulu, HI.
 - **2/19: FEMA** to brief Committee on agency-wide planning efforts.
- **House Appropriations Committee**
 - **2/17: DNDO** quarterly update to staff on technology assessments.
 - **2/18: TSA** briefed staff on Dulles Airport Operations and Federal Air Marshall Service overview.
 - **2/19: TSA** briefed staff on implementation of Certified Cargo Screening, a program to certify other entities in the air cargo supply chain to screen cargo (indirect air carriers, freight forwarders, and shippers) transported on passenger aircraft.
 - **2/20: DNDO** quarterly update to staff on red team exercises. These are independent assessments of programs that explore alternative plans, operations, and capabilities from the perspective of partners, adversaries, and others (i.e. contracting an organization with no knowledge of DNDO to investigate open-source information to determine what information about U.S. nuclear detection capabilities terrorists could acquire and how that would affect their plans).

~~*NOT FOR PUBLIC DISTRIBUTION*~~

- 2/20: Subcmte on HS requested a briefing from the **IG** regarding FY 2009 mandate in Appropriations requesting OIG review of ICE's 287(g) agreements.
- **Senate Approps Cmte, 2/13:** USCIS briefed staff members of the Homeland Security Subcmte on E-Verify.
- **Senate Finance Committee Staff Briefings**
 - 2/13: **CBP** will brief the Committee on CBP trade security and facilitation issues pertaining to Asia.
 - 2/14 – 2/21/09: Staff will tour **CBP** operations in Shanghai, Hong Kong and LA/Long Beach.
- **Other Significant Congressional Briefings**
 - 2/20: **TSA** and **CBP** tour of Dulles Airport Operations for Rep. Farr and staff.
 - 2/21: **ICE** to brief Sen. Cornyn on Southwest border issues.
 - 2/20: **FEMA** meeting with Sen. HS and Govt Affairs Cmte, House Transportation and Infrastructure Cmte, and representatives of National Advisory Council (NAC) to discuss NAC's recommendations on reforms to statutes, regulations, and policies related to the Stafford Act.
 - 2/26: **I&A** to brief staff of House Intel Cmte on private sector outreach.
 - 2/26: **US-VISIT** to brief House Armed Services Subcmte on Terrorism and Unconventional Threats on biometrics
 - Congress is expected to act on **omnibus appropriations bill** that will fund departments that have been under a continuing resolution since the beginning of FY 2009. Reauthorization for E-Verify expected to be included.

IV. Legal Issues

Major movement in ongoing litigation/enforcement actions

- (b)(6)
- 

Regulations and Federal Register Notices

- **Coast Guard TWIC Advanced Notice of Proposed Rulemaking** presents preliminary thoughts on potential requirements for electronic Transportation Worker Identification Credential (TWIC) readers for certain vessels and facilities that are regulated by the CG. It discusses additional requirements associated with TWIC readers, such as recordkeeping and amendments to security plans previously approved by the CG. This rule had been cleared by OMB, but was pulled back from the Federal Register per the WH COS Memo. The rule is currently with the OGC front office.

VI. Additional items of importance not covered above

- This week, **FEMA** will circulate the updated Target Capabilities List (TCL) among national associations and state and local officials for informal review and comment. TCL informs grant investment justifications and analysis, training course curriculum, exercise objectives and evaluation guides, and assessments of national preparedness.
- **Civil Rights and Civil Liberties** will host an **Immigrant Worker Roundtable** on 2/26 with attendees from the EEOC, DOL, DOJ, the National Labor Relations Board, and ICE to discuss inter-agency coordination when alien detainees raise civil rights charges with federal agencies.
- **S&T** will release the **Global Knowledge Center (GKC)**, a secure, Web-based resource used to identify and understand biological threats around the globe on 2/27.

I. Efficiency and Transparency

- The first meeting of the **DHS Efficiency Review Steering Committee** will take place 2/27.
- DHS launched www.dhs.gov/recovery on 2/23, consolidating all Department reports and communications related to the **American Recovery and Reinvestment Act** and cross-linking with www.recovery.gov.
- **TSA** was featured in a 2/3 *National Journal* article on the use of social networking to engage employees. Highlights include an online forum for TSA employees to candidly discuss and vote on ideas to improve security and customer service. This program has attracted significant interest throughout the Federal Government with briefings provided to State, Education, Treasury, Justice, NASA, Commerce, Transportation and OPM.

III. Press Stories

Recent Media Reports

- **Last Week:** President Obama signed Oklahoma, Missouri and Tennessee Major Disaster Declarations. Widespread regional/local coverage. News reporting has been informative and accurate.
- **Last Week:** *Washington Post*, *Government Executive*, and *Federal News Radio* stories about how elected officials and the DHS IG believe FEMA should remain under DHS.
- **2/19-2/20:** Several media outlets published stories about terrorist Khalid Al-Jawary (see last week's report).

Expected Stories

- **2/24:** USCIS Acting Deputy Director Michael Aytes met with the editorial board of the *Dallas Morning News* regarding enhancing national security, improving customer service, and other USCIS national issues.
- **2/25:** **Organisation for Economic Co-operation and Development** report released, comparing/contrasting risk management practices in six countries. Highlights DHS as the lead U.S. risk management organization, and called attention to the Department's unprecedented public-private sector partnership framework the National Infrastructure Protection Plan. International coverage expected.
- **2/26:** The **Radio Frequency Identification (RFID) "Go Live" event** is planned for 2/26 in San Diego and 3/23 in El Paso, announcing RFID technology installation and upgrades at San Ysidro, the largest land border port in the Nation. The upgrades, which include new software, hardware and the deployment of vicinity RFID technology, are part of the Western Hemisphere Travel Initiative. The San Diego event has been coordinated with the local Chamber of Commerce and other federal, state and local representatives. Media to receive a full demonstration.
- **2/27:** USCIS Acting Deputy Director Michael Aytes will administer the oath of allegiance (in a special naturalization ceremony) for USMC Lance Corporal Gasca, a Walter Reed patient.
- **4/12:** In observance of Lincoln's 200th birthday, USCIS is planning a special naturalization ceremony for 500 applicants at the Lincoln Memorial in Washington, DC.
- **Emergency Management Magazine (Government Technology)** will run a positive article featuring S&T and first responder communications interoperability in this month's upcoming issue.
- **CBRNe World magazine** working on an article on the Self-Contained Breathing Apparatus (SCBA) developed for firefighters by S&T. SCBA reduced the weight of firefighters' air tanks from 35 to 7 lbs for more mobility.
- **FOX News** (Mike Levine) positive story on cargo container security; no interview and no firm publish date yet.
- **AP** (Cain Burdeau) is working on a story describing the proactive approach to disasters FEMA is developing by putting contracts in place for potential needs in advance of a catastrophic disaster. (No firm publish date)
- Jack Davis, contributing writer to *Times-Picayune*, *Chicago Tribune* and board member of the National Trust for Historic Preservation and Smart Growth Louisiana, is researching sources of damage to Charity Hospital other than Katrina and the flood that followed. (No firm publish date)
- **LA Times** story anticipated regarding the increasing use of stipulated removals, which occur when an alien signs a request to be removed from the country immediately, waiving his or her right to a trial and acknowledging the consequences of returning to the U.S. **LA Times** obtained statistics on this issue from DOJ and ICE. ICE said it has standard procedures in place to ensure that aliens are not pressured into choosing stipulated removal. (No firm publish date)

Grants

- **4/7 Announcement:** TSA FY09 Surface Transportation Grants:
 - Tier II Transit Security Grant Program (target allocation \$36.6M; DHS received \$58.8M in requests).
 - Freight Rail Security Grant Program (target allocation \$15M; DHS received \$26.7M in requests).
 - Intercity Bus Security Grant Program (target allocation \$11.6M.; DHS received \$17.6M in requests).

IG Final Reports

- **Congressional Distribution 3/3: “Internal Control in the FEMA Disaster Acquisition Process”** includes eight recommendations aimed at improving internal controls in the FEMA acquisition process.
- **Congressional Distribution 3/3; Web Posting 3/11: “FEMA’s Implementation of Best Practices in the Acquisition Process”** identifies ten recommendations including preparation of strategic plans/outcome-based performance measures, and development of steps to improve visibility and process of acquisitions.

Outreach

- **2/24 – 2/27: Office for Civil Rights and Civil Liberties** traveling to Minneapolis and St. Paul to meet with leaders of Muslim, Arab, Somali, and new American communities.
- **2/26 – 2/27: FEMA Acting Adm. Ward** remarks to Big City Emergency Managers Forum in Miami, Florida.
- **3/3 – 3/5: Office for Civil Rights and Civil Liberties** will speak on engagement efforts at the Credible Muslim Voices Planning Conference in San Antonio, Texas. This event is closed to the press.
- **3/4: OHA Acting A/S Krohmer** to keynote the National Emergency Management Summit in Washington, DC.

IV. Legislative and Policy issues

Congressional testimony/hearings

House Appropriations Subcommittee on Homeland Security

- **2/26: FEMA** will testify in a hearing titled, “Disaster Response: Is FEMA Up To the Challenge?”
- **3/3: ICE Office of Detention and Removal Operations Director James Hayes, Division of Immigration Health Services Captain Jose Rodriguez and GAO** will testify on Detainee Health Care.
- **3/17: NPPD, S&T, and FEMA** representatives will testify on emergency communications issues.
- **3/19: US-VISIT Director and the Screening Coordination Office** will testify on US-VISIT issues.

House Homeland Security Committee: 3/4 (Tent.): ICE, GAO, and others on the 287(g) Program.

Congressional Briefings

Appropriations Committees

- **3/2:** The majority and minority staff of both Appropriations Committees will receive an update on **ICE** hiring.
- **2/26: FEMA** to brief Staff on the Senate Appropriations Committee on the U.S. Fire Administration National Fire Incident Reporting System and on the Federal Preparedness Coordinator.

House Homeland Security Committee

- **3/4: NPPD Office of Emergency Communications** to brief Rep. Mike Rogers, new Ranking Member on the Subcommittee on Emergency Communications, Preparedness and Response.
- **3/5: NPPD** scheduling a DHS-NSA member-level briefing to provide a cybersecurity threat briefing.

Other Significant Congressional Briefings

- **2/26: ICE** to brief Rep. John Campbell’s staff on ICE’s jurisdiction over cyber crimes.
- **2/26: USCIS** to provide routine brief to Rep. Heath Shuler and staff of the Blue Dog Democrats on E-Verify.
- **2/27: I&A** to brief Staff of the House Intelligence Committee on the personnel structure of I&A
- **3/2: Office for Civil Rights and Civil Liberties** briefing staff from a number of House Committees concerning the civil rights impacts of E-Verify (briefing requested by House Ways and Means Social Security Subcommittee).
- **3/4: NPPD and ODNI** to brief Senator Carper on the Comprehensive National Cybersecurity Initiative.
- **EB-5 Immigrant Investor Pilot Program** is scheduled to expire on **3/6**, but reauthorization is included in the House draft of the Omnibus spending bill (program is sustained by fees, so the reauthorization will contain no new appropriations). DHS and many members of Congress support the program and want it to continue. Congress created the program in 1992 to stimulate economic activity and create jobs for US workers, while simultaneously affording eligible aliens the opportunity to become lawful permanent residents. It encouraged foreign investment in “Regional Centers,” which promoted economic growth, improved regional productivity, job creation and increased domestic capital investment. Under the EB-5 pilot, 10,000 visas were allotted annually to individuals who invested \$500,000-\$1 million in a commercial enterprise that creates at least 10 full-time jobs for qualified employees. The full complement of visas available has never been used and no more than 3,000 visas for investors/ family members have been used in any one year. The Pilot temporarily expired on 9/30/03, was reinstated and extended for five years, and extended again through 3/6/09 as part of the FY09 continuing resolution. In FY07, only 806 investors and family members immigrated to the US under this category, but the program is expected to generate \$1 billion annually in aggregate immigrant investment, creating more than 20,000 new direct and indirect jobs.

A

- (b)(5)
- (b)(5)

- The **H-1B amendment** offered by Sen. Grassley and Sen. Sanders disallowing all financial institutions receiving funds under TARP from hiring foreign professionals on an H-1B visa was added to the Stimulus bill. The provision expires after two

(b)(5)

V. Legal Issues

Major movement in ongoing litigation/enforcement actions

- **Kiyemba v. Obama.** On 2/18, the D.C. Circuit reversed a decision of the district court, which had granted the *habeas* petitions of 17 Uighur detainees who have been detained at the U.S. military detention facility in Guantanamo Bay, Cuba since 12/01, although they no longer are designated as enemy combatants. The district court had ordered the Government to bring the detainees into the United States for their release. That order was stayed pending appeal. In its decision, the D.C. Circuit reaffirmed that the exclusion of aliens from the United States is a power vested exclusively in the political branches of government, and the judiciary is not authorized to override the determination here by the Executive Branch.
- **Castro v. United States.** On 2/20, the 5th Circuit reversed a decision by the district court, which had dismissed a Federal Tort Claims Act (FTCA) claim against the Government by a U.S. citizen woman who claimed that CBP violated the constitutional rights of her U.S. citizen minor daughter when it detained the child along with her father, an illegal alien, and allowed the father to take the daughter with him to Mexico when the father was removed, even though the father had physical and legal (joint) custody of the child. In reversing, the 5th Circuit held that the discretionary function exception to the FTCA does not apply for alleged violations of the Constitution, provided that the constitutional violation is also actionable as an intentional tort under state law, because such actions are outside the scope of the Government's authority.
- **CASA de Maryland, Administrative Tort Claims on behalf of German Cruz, Jose del Transito Contreras, and Denis Alvarez-Alvarado.** On 2/18, the *Washington Post* published a story on the immigration arrests of German Cruz, Jose del Transito Contreras, Denis Alvarez-Alvarado and others at a convenience store in Baltimore. The claimants' central allegation is that ICE officers lacked reasonable suspicion to detain them and impermissibly targeted them because they are Latino. After viewing the security camera footage in its entirety, the IJ concluded that the ICE agents did not engage in racial profiling, did not violate the fourth amendment, and were authorized to interrogate, detain and arrest.
- **Rosario Gambino.** On 2/18, the 9th Circuit denied Gambino's petition for review in an unpublished decision. Gambino, identified as involved in organized crime, sought protection under the Convention Against Torture claiming that incarceration in an Italian maximum security detention facility would constitute torture.

Regulations and Federal Register Notices

- **Secretary Napolitano and Secretary Clinton** jointly signed certifications to Congress that DHS and DoS have met all statutory requirements for implementation of the Western Hemisphere Travel Initiative (WHTI). Certification allows the 4/3/08, land/sea final rule to become effective on 6/1/09. Also notified OMB that DHS with concurrence by DoS, has declined to extend the 6/1/09 effective date for the WHTI final rule (determination required under the 1/20/09 COS memorandum).
- **The Secretary** submitted a proposed rule "Special Community Disaster Loan Program" to OMB for review under Executive Order 12,866 on 2/25. This rule proposes procedures and requirements for Gulf coast communities that received Special Community Disaster Loans in 2005 following Hurricanes Katrina and Rita, to apply for cancellation of such loans as authorized under the Stafford Act.

VII. Additional items of importance not covered above

- (b)(2)(high)
- (b)(5)
- **DHS** co-led a U.S. delegation (with DoS and DoJ) in Rome to negotiate an Agreement to Prevent and Combat Serious Crime with Italy. The two countries agreed on general principals and set the goal of completion by 5/09.
- **TSA's** pilot use of **Whole Body Imaging** for primary screening continues to go well. Additional pilot sites will begin operating in Albuquerque (2/26) and San Francisco (3/2).
- **TSA Secure Flight:** Additional carrier began transmitting vetting data for two flights on 2/23 with its first passengers flying on 2/26. Two additional air carriers come online over the course of the next two weeks.

DEPARTMENT OF HOMELAND SECURITY

Weekly Cabinet Report

March 5, 2009

I. Recovery, Reform, Efficiency, and Transparency

Recovery updates included in VP Report.

An inventory of the first six weeks of Secretary Napolitano's department-wide Efficiency Review revealed the following initial savings and reforms:

- (b)(2)(high) [REDACTED]
- Initiated a program that captures fleet fuel costs as fuel purchases are made for individual vehicles in real time and makes these transactions available to fleet managers almost immediately, allowing managers to make nearly instant adjustments to improve efficiency in fleet usage. With 45,000 vehicles and an estimated 1.5 million transactions annually, an improvement of at least 1/2 of 1% is expected for annual savings of a minimum of \$1 million.
- Identified, in partnership with the Department of Energy, opportunities to use renewable energy technologies throughout DHS. An estimated \$3 to \$5 million dollars in costs will be avoided by using on-site renewable energy generation instead of grid power. DHS is considering all facilities as candidates for renewable energy technologies beginning with Coast Guard facilities, where wind generation is already in the planning stages at some sites.
- Restructured the Office of Security so that each section or group will focus on one functional area of expertise, which will eliminate overlap in work assignments and duplication of supervisory functions and provide uniform implementation of established security policies throughout DHS components. It is anticipated that streamlining services provided to components will result in an approximately 15% savings in overhead and operational costs (\$1 million). In addition, it is expected that the conversion of approximately 23 contractor positions to federal employee status will provide savings of approximately 20% (\$44,000) per position.

Secretary Napolitano also announced on 3/3 that DHS will institute its first-ever policy to engage the direct and interactive involvement of Indian Tribes in developing regulatory policies, recommending grant procedures, and advising on key issues. In addition, the Secretary announced that DHS will add a position in the Office of Intergovernmental Programs specifically to handle relationships with Tribes, and that each DHS component will have a liaison dedicated to tribal issues.

III. Press Stories

Recent Media Reports

- **2/26: Federal Computer Week** positive story on Virtual Alabama an award-winning state program that makes it possible for various entities in local, county, state, and federal governments to share a variety of technical mapping and imaging files. S&T is expanding this project to other southern states, with the ultimate goal of creating a Virtual USA. Story emphasized that this is not a top-down, federally mandated project, but rather data is locally owned and shared upward. **Emergency Management Magazine** (Corey McKenna) story on Virtual Alabama to run in next issue (April). Stories feature interviews with S&T Command, Control and Interoperability Division Director Dr. David Boyd.
- **2/26: USA Today** on Secretary Napolitano's positive comments at her hearing on millimeter wave machines at airports, which she said are "less intrusive and easier" than being patted down.
- **2/27: MSNBC** story on TSA's Large Aircraft Security Program and its policy to classify aircrafts heavier than 12,500 pounds as large aircrafts, which will be subject to strict security regulations. Many smaller general aviation pilots worry that these extra layers of security will put their everyday practices out-of-business, though in reality the rule does not apply to smaller aircrafts.
- **3/4: New York Times** story highlights a letter from DHS Policy to immigration advocates in South Florida that the Department will continue to work with Haiti on the removal of its nationals

Expected Stories

- Extensive coverage expected of **Secretary Napolitano's travel to the Gulf Coast region** on March 5-6, including the new FEMA Administrator-designee Craig Fugate. Secretaries Napolitano and Donovan will participate in an editorial board meeting with the **New Orleans Times-Picayune** on March 5.

- **3/3:** CBP and the **Kootenai Tribe of Idaho** signed the first ever MOA for the development of an Enhanced Tribal Card, which allows the Kootenai to establish their identity, tribal membership, and US/Canadian citizenship for border crossing.
- **3/3:** Commandant Allen delivered the **State of the Coast Guard Address**, citing modernization as his top priority. Several publications in attendance; thus far, coverage limited to local papers and maritime blogs.
- **3/5:** S&T will announce two new **Federally Funded Research and Development Centers** the Systems Engineering and Development Institute (SEDI) and the Homeland Security Studies and Analysis Institute (HSSAI). S&T notified House and Senate Appropriations Committees as required. SEDI will provide special technical expertise to Department program managers to increase value in homeland security systems acquisitions. HSSAI provides the Department with independent and objective analysis of cross cutting mission studies in areas like risk management and resource allocation, and identifies opportunities to improve performance through policy, operations, and technology trade-offs.
- **Inside U.S. Trade** exit interview with former CBP Commissioner Basham is slated to run shortly. Topics included securing and facilitating legitimate trade and travel, progress made since 9/11, and challenges remaining.
- Two upcoming **Western Hemisphere Travel Initiative (WHTI) Radio Frequency Identification (RFID) “Go-Live”** events in El Paso the week of 3/16 and one in Laredo, Texas on 3/23 with Rep. Silvestre Reyes.
- **New Bedford Standard Times** writing an update story on the 3/07 worksite enforcement operation at Michael Bianco Inc. in New Bedford, MA. Reporter is inquiring about the status of the 361 aliens who were arrested. ICE is investigating what information is available. Publication date unknown.
- **Federal Computer Week** interview with Acting CIO Margie Graves on DHS’ progress in securing and unifying the Departments IT systems. Graves emphasized DHS’s efforts to consolidate and secure its IT efforts. Publication date unknown.
- **Beverly Press** (Ed Folven) and **Federal Computer Week** (Ben Bain) interviewed S&T personnel for a positive story on the CIIMS technology (funded by S&T) adapted by the LAPD into a project called LA Shield and used in security for the Academy Awards. CIIMS is a computer-based tool that enhances the inspection process by providing a small, easy-to-use, tablet-sized computer with touch-screen controls that allows inspection teams to visualize their location and their proximity to the property being inspected. Publication date unknown.

IG

- **Congressional Distribution 3/4; Web Posting 3/11: “The State of California Management of State Homeland Security Program Grants Awarded During FY 2004 through 2006.”** IG recommends improvements in California’s management of the State Homeland Security Program grants to strengthen grant fund reallocations, better measure sub-grantee preparedness, increase the frequency and scope of sub-grantee oversight, strengthen internal controls over funds management, assure compliance with federal purchasing requirements, utilize equipment purchased with grant funds, and assure full and fair competition in procurement.

Outreach

- **3/3:** CRCL met with legal experts from the **Asian Law Caucus, Asian American Justice Center, and Asian Pacific American Legal Center** to listen to concerns about the impact of immigration enforcement on Asian-Americans.
- TSA to brief the **ACLU** (3/16) and the **Center for Democracy and Technology** (3/18) on implementation of Secure Flight, and has also reached out to the **Electronic Frontier Foundation** and the **Electronic Privacy Information Center**.

IV. Legislative and Policy issues

Congressional testimony/hearings

House Homeland Security Committee

- **3/5:** AFGE President John Gage, NTEU President Colleen Kelly, Partnership for Public Service President Max Stier, and Carol Bonosaro of the Senior Executives Association (No DHS witnesses) to testify before the Subcommittee on Management, Investigations, and Oversight on the Homeland Security workforce.
- **3/12:** Office of Infrastructure Protection Acting A/S James Snyder before Subcommittee on Transportation Security and Infrastructure Protection on the Mumbai attacks and the U.S. private sector.

Senate Homeland Security and Governmental Affairs Committee

- **3/12:** FEMA will testify before the Ad Hoc Subcommittee on Disaster Recovery in response to the Ad Hoc Subcommittee’s Special Report on Deficiencies in Federal Housing Assistance after Hurricanes Katrina and Rita.

House Appropriations Committee – Subcommittee on Homeland Security

- **3/10:** Two panels on border issues (focusing on Secure Border Initiative (SBI) and Border Enforcement Security Task Forces)
 - **Control of Land Borders:** CBP Deputy Commissioner Jason Ahern; CBP SBI Director Mark Borkowski; CBP Office Border Patrol Chief David Aguilar.
 - **Violence on the Border with Mexico,** Ahern; Deputy Assistant for International Affairs Mark Koumans; Director of ICE Office of Investigations Marcie Forman.
- **3/12: FEMA and TSA** to testify on rail and transit issues.
- **3/17: FEMA, NPPD, and S&T** to testify on interoperable communications.
- **3/18: TSA** to testify on air cargo screening.
- **3/19: DHS Policy and US-VISIT** to testify on Biometrics and Identity Programs.

House Armed Services Committee, Subcommittee on Military Personnel

- **3/3: Coast Guard Rear Admiral Daniel R. May** on Coast Guard Reserves: Recruitment, Retention, & End Strength.

House Transportation and Infrastructure Committee, Subcommittee on Coast Guard and Maritime Transportation

- **3/11: Coast Guard** on Drug and Migrant Interdiction.

Congressional Briefings

Appropriations Committees

- **3/5: FEMA** to brief Senate Staff on National Preparedness Directorate evaluation and assessment of preparedness.
- **3/5: CBP** to brief Senate staff on the Automated Commercial Environment (ACE). ACE is the U.S. commercial trade processing system designed to automate border processing to enhance border and economic security through lawful international trade and travel. ACE will eventually replace the current import processing system for CBP, the Automated Commercial System. ACE is part of a multi-year modernization effort and will be deployed in phases.
- **IG** teleconference with House staff to discuss recommendations from IG Report, “ICE Policies Related to Detainee Deaths and the Oversight of Immigration Detention Facilities.” IG confirmed that ICE was implementing the recommendation to work with the Division of Immigration Health Services to identify all clinical staff shortages and reach out to clinical partners to develop and implement a strategy to fill clinical staff shortages at immigration detention facilities.

Other Significant Congressional Briefings

- **House Transportation and Infrastructure Committee, 3/5:** ICE to brief Subcommittee on Economic Development, Public Buildings and Emergency Management on current Federal Protective Service budget and staffing issues
- **3/6 (rescheduled): Office for Civil Rights and Civil Liberties** briefing staff from a number of House Committees concerning the civil rights impacts of E-Verify (requested by House Ways and Means Social Security Subcommittee).
- **3/6:** ICE to hold monthly “101 Congressional Briefing” for congressional staff on SW border anti-violence initiatives.
- **House Agriculture Committee, 3/5-6:** DHS Chief Veterinarian and Director of OHA's Food, Agriculture and Veterinary Defense Division Dr. Tom McGinn will meet with **Reps. Collin Peterson and David Scott and staff for Rep. Leonard Boswell** to discuss the potential utility of an Animal ID system for livestock in the event of a homeland security event.

Activity on Legislation

- Language to reauthorize the **EB-5 program** and **E-Verify** until 10/1/09 was included in the **Omnibus Appropriations Bill** that passed the House on 2/25 (See last week’s report).

V. Legal Issues

Major movement in ongoing litigation/enforcement actions

- **Negusie v. Mukasey.** On 3/3, the Supreme Court reversed a decision of the 5th Circuit denying an alien’s petition for review of a Board of Immigration Appeals (BIA) decision that had denied his request for asylum and withholding of removal under the Convention Against Torture. The BIA and 5th Circuit both ruled that the alien was ineligible for asylum and withholding under the “persecutor bar,” a provision in the Immigration and Nationality Act applicable to those who “ordered, incited, assisted, or otherwise participated in the persecution” of others because of a protected ground (e.g., race, religion). The alien argued he was not barred under this provision because he was coerced into performing the persecutory acts. The BIA and 5th Circuit rejected that argument, relying on the Supreme Court’s decision *Fedorenko v. United States*, 449 U. S. 490 (1981), which had interpreted a similar bar. In reversing the 5th Circuit, the Supreme Court held that *Fedorenko* does not control the interpretation of this provision, and remanded back to the BIA to reinterpret the statute.

- **Savantage Financial Services, Inc. v. United States.** On 2/23, Savantage Financial Solutions filed a suit in the Court of Federal Claims claiming that DHS did not follow a previous protest decision to complete the Transformation and Systems Consolidation (TASC). TASC consolidates and integrates mission-essential enterprise financial, acquisition and asset management systems. The estimated total value for this requirement is \$450 million.

Regulations and Federal Register Notices

- **Coast Guard “Consolidation of Merchant Mariner Qualification Credentials” Final Rule** consolidates the regulations covering issuance of merchant mariner qualification credentials to reduce the burden on mariners by limiting the number of times they need to appear in person to provide fingerprints and proof of identity and to address comments received from the public.. This rule had been at the Federal Register in January 2009, but was pulled back pursuant to the WH COS Memo. DHS General Counsel and the Coast Guard recommend moving forward with this rule and publishing it.

VI. Senior Personnel Announcements

- **2/23:** John Morton announced as the President’s selection for Assistant Secretary for ICE. Esther Olavarria named Deputy Assistant Secretary for Policy.
- **2/26:** Chani Wiggins named Assistant Secretary for Legislative Affairs. Nelson Peacock and Sue Ramanathan named Deputy Assistant Secretaries for Legislative Affairs.
- **2/27:** CBP Commissioner Ralph Basham retired. Deputy Commissioner Jayson Ahern (career) will be Acting Commissioner.
- **3/4:** Craig Fugate announced as President Obama’s selection to head FEMA.

VII. Additional items of importance not covered above

- **3/2: FEMA** distributed four draft Target Capabilities Incident Command, Emergency Operations Center Management, Weapons of Mass Destruction/Hazardous Materials Rescue, and Mass Transit Protection to Homeland Security and Emergency Management stakeholders for review and comment (due March 20).
- (b)(2)(high)
[REDACTED]
- **3/30: The USCIS Field Office in Moscow, Russia** will assume full responsibility from the State Department for processing Orphan Petitions filed within the Russian Federation, as it does in many other countries throughout the world. Russia is one of the top three countries in terms of rate of sending orphans to the US.
- **Secure Flight** operations continue, having vetted approximately 9700 individuals since 1/30. An additional air carrier (Xtra Airways) went into operations on 2/26. Two additional air carriers will begin operations over the next two weeks.
- **The Transportation Worker Identification Credential (TWIC)**, a tamper-resistant biometric credential issued to workers who require unescorted access to secure areas of ports/vessels launched in 10/07, will have 1 million workers enrolled by 3/9.

I. Recovery, Reform, Efficiency, and Transparency

In response to the Secretary's action directive on efficiency review, the Department has created an inventory of more than 700 efficiency initiatives conducted over the past five years. Initiatives range from incremental savings using energy-efficient technologies to enterprise-wide savings through improvements in financial management. These initiatives will serve as the baseline for the department-wide Efficiency Review 30-60-90-120 day plan, which the Secretary will announce in a speech before employees and press on 3/27 (more details to come).

Recent efficiency initiatives include:

- The Federal Law Enforcement Training Center (FLETC) established a water-wise landscaping program at their facilities and buildings that involves soil analysis, drought-resistant native plants, efficient irrigation, organic fertilizer, and resource-conscious planning and design to reduce water usage. Through consolidation of 13 systems and targeted irrigation, FLETC projects an approximate cost avoidance of \$80,000 per year. (1/09)
- To reduce operations and maintenance costs needed to support aging assets, the Coast Guard selected two models of aircraft to retire from service, anticipating an annual recurring cost avoidance of approximately \$22.3 million. (1/09)
- CBP started an initiative to convert bi-weekly leave and earnings statements from paper to online. Assuming 20,000 to 50,000 employees opt-in, the initiative is expected to cut costs by \$100,000 to \$250,000 annually. (began 3/09)
- FLETC won the GSA national mail center competition for innovative practices to cut costs. From the 3rd quarter of FY08 to the 4th quarter of FY08, FLETC cut the average cost of mail from \$18.61 to \$6.81 resulting in \$460,105 in savings during a single quarter. (award announced 3/09)

In response to a White House request, DHS created a department-wide catalogue of cyber programs/ initiatives and analyzed the data to determine whether there were any significant gaps in policy/ legal authority preventing any program or initiative from achieving success. Sent to the White House on 3/9.

II. Press Stories

Recent Media Reports

- **Last Week:** Major Disaster Declarations in Oregon, Washington, Illinois, Indiana and New York
- **3/6: USA Today** story on drug traffickers use of ultra-light aircraft in Mexico to get narcotics across the border.
- **3/6: Reuters** television news filmed El Paso Port of Entry and used footage of CBP officials speaking about their role in border security and discussing examples of recent seizures along the border.
- **3/6: Wall Street Journal, AP, USA Today, Washington Times, Wired, ComputerWeek, etc.** Ongoing coverage regarding National Cyber Security Center Director Rod Beckstrom's resignation last week. Reports cite assertions in Beckstrom's resignation letter that the NSA, not DHS, is in control of the nation's cyber security efforts.
- **3/6: CNN.com** story about \$1 billion awarded to TSA for aviation security in Recovery Act package.
- **3/6: Boston Globe** front-page story, generally positive and informative, on more companies using E-Verify.
- **3/6: Chicago Tribune** on FEMA inspector's stolen laptop that had personal information of flood victims on it. **Indiana Post-Tribune** also working on a story on this topic; FEMA will be responding to the reporter's inquiries.
- **3/7: Augusta Chronicle** on unsafe FEMA trailers sold through GSA as scrap but that retain HUD labels declaring them livable. Investigation is underway. FEMA confirmed that since 10/08, 1,100 of the trailers have been sold as scrap.
- **3/10: Fox News aired** two stories related to drugs, weapons/currency seizures and border violence. Reporter traveled to San Diego 3/9 to discuss CBP's border security efforts and the effects of border violence on front-line personnel.
- **3/10: Fox News** interview w/ David Gersten of DHS Office of Civil Rights and Civil Liberties re: fusion centers..
- **3/10: ABC-Minnesota** affiliate aired a story about TSA policies on screening employees (See last week's report).
- **3/11: Bloomberg News** on Somali-American men from Minneapolis-St. Paul traveling to Somali to fight/train with al-Qaeda-linked group.
- **3/11: Multiple reports** on two brothers charged by New Jersey authorities in the murder of two other migrant farm workers in Springfield, NJ. The suspects, who have been living in the U.S. illegally, are in ICE custody.
- CBP Public Affairs continues to facilitate interviews and ride-along requests from local and national media (including the **LA Times, Newsweek, FOX News, NY Times, Reuters**) regarding border violence.

Expected Stories

- Continued coverage of FEMA Administrator-nominee **Craig Fugate** and the Secretary's visit to the Gulf Coast.
- Briefings with CBP officials and **New York Times** re: border violence, technology deployments and fence construction.

NOT FOR PUBLIC DISTRIBUTION

- **3/10:** Coast Guard Final Report of Investigation into **the collision of the Motor Vessel Cosco Busan and the San-Francisco-Oakland Bay Bridge** (11/2/07) released. The report includes 12 recommendations for corrective action, eight of which were directed to the Coast Guard. To date, action has been completed on five, and action will be initiated shortly on the remaining three.
- **3/11:** Secretary Napolitano announced the establishment of the Unified Public Assistance Project Decision Team in the Louisiana Transitional Recovery Office. The team will expedite final decisions to approve project scopes and eligible work costs for disputed projects between the FEMA and the state.
- CBP is working with the *Wall Street Journal* on a story regarding seizures of weapons and currency; the *American Journal of Transportation* on the current status of trade programs, and the *Los Angeles Times* on the decline in apprehensions between the ports of entry and trends in maritime human smuggling. Publication dates TBD.
- *Federal News Radio* requested an on-air interview with the Office of the IG to discuss a recently issued IG report, "Effectiveness of TSA's Surface Transportation Security Inspectors." The report said TSA's inspectors are insufficient in rail and mass transit, were hired without any experience, and that the inspector program appears to be understaffed for the long term. Date and time of the interview TBD.
- *CNN* (Jeanne Meserve) is working on a story about forensic cameras, which are similar to the black box used in aircraft, and would record video data in mass transit vehicles, at critical infrastructure locations, or for other law enforcement purposes that could be retrieved by investigators following a catastrophic incident. Interviews with relevant S&T division leadership not scheduled yet.
- *AP* reporter Fred Frommer has the disaster preparedness beat and will be producing a series of articles throughout the upcoming hurricane season. Publication dates TBD.
- *Newsweek* interviews regarding Mexican drug cartels: Two *Newsweek* reporters interviewed ICE personnel for story regarding Mexican drug trafficking organization operations in the U.S.; specifically Phoenix, Tucson and Atlanta.

IG Reports

- **Congressional Distribution 3/13; Web Posting 3/20:** "Coast Guard's Management of 2005 Gulf Coast Hurricanes Mission Assignment." Includes 12 recommendations that address procedures and internal controls regarding disaster procurement, accounting for mission assignment related expenses, and accountable property. The report also identifies questioned cost totaling \$20.6 million.
- **Congressional Distribution 3/13; Web Posting 3/20:** "Potentially High Costs and Insufficient Grant Funds Pose a Challenge to REAL ID Implementation." State officials indicated they needed more timely guidance from DHS to estimate REAL ID implementation cost; that REAL ID grants did not sufficiently mitigate the costs, and they viewed communication of grant information by DHS as ineffective.
- **Congressional Distribution 3/16; Web Posting 3/23:** "Management Letter for CBP's FY 2008 Consolidated Financial Statements." Reports internal control weaknesses in financial management that are reportable, but do not rise to the level of a significant deficiency and includes recommendations for improving financial management.
- **Congressional Distribution 3/16; Web Posting 3/23:** "TSA's Known Shipper Program." TSA needs to strengthen the controls and oversight of the Known Shipper Program, which covers cargo for transport on passenger aircraft.
- **Congressional Distribution 3/16; Web Posting 3/23:** "Management Oversight of Immigration Benefit Applications Review of CIS Adjudication Process." CIS needs to develop baseline performance measurements, enhance oversight of pilot programs, implement a knowledge management system, and formalize an agreement with the State Department to improve immigration benefit application processing.
- **Congressional Distribution 3/16; Web Posting 3/23:** "Improvements needed in FEMA's Monitoring of Grantees." FEMA needs to make grants management infrastructure improvements and discontinue using support contractors performing inherently governmental functions.
- **Congressional Distribution 3/16; Web Posting 3/24:** "Summary of Significant Investigations 3/1/03 - 9/30/08." Highlights the significant investigative work undertaken since DHS became operational.
- IG has provided TSA with its final draft of the results of its Audit of the "Effectiveness of the Checked Baggage Screening System and Procedures used to Identify and Resolve Threats" for a final sensitivity review. The full report is classified SECRET. OIG will also release an unclassified summary to the public in approximately two weeks. TSA has minor disagreements with the report as it related to how data was analyzed but accepted the IG's recommendations

Outr

- (b)(2)(high)
- 

NOT FOR PUBLIC DISTRIBUTION

NOT FOR PUBLIC DISTRIBUTION

- **3/17:** Office of Civil Rights and Civil Liberties will host its **sixth Immigrant Worker Roundtable** with reps from federal agencies involved in worker rights (i.e. EEOC and National Labor Relations Board) and nonprofits (i.e. National Immigration Forum). Discussion will include alternatives for identity verification in the E-Verify program, security and privacy protections, and redress procedures.

III. Legislative and Policy issues

Congressional testimony/hearings

House Appropriations Homeland Security Subcommittee

- **3/12:** FEMA and TSA on Securing U.S. rail and transit systems.
- **3/17:** FEMA, NPPD Office of Emergency Communications, and S&T on Interoperable Communications.
- **3/19:** US-VISIT Director and representatives from the Screening Coordination Office on biometrics/identity programs.
- **3/31:** TSA Acting Administrator Gale Rossides on TSA's FY10 Budget.

House Homeland Security Subcommittee on Transportation Security and Infrastructure Protection

- **3/18:** TSA Transportation Sector Network Management on 100% Air Cargo Screening.

House Homeland Security Committee, Subcommittee on Emergency Communications

- **3/17:** FEMA and IG on Implementation of the Post Katrina Emergency Management Reform Act.

Senate Homeland Security and Governmental Affairs Committee – Subcommittee on Disaster Recovery

- **3/18:** FEMA will testify on “FEMA Housing – An Investigative Report by the SHSGAC”.

House Homeland Security Subcommittee on Emerging Threats, Cybersecurity, and Science and Technology.

- **3/24:** NPPD National Cyber Security Division on securing the Smart Grid from attack.

House Homeland Security Committee, Subcommittee on Border, Maritime, and Global Counterterrorism

- **3/12:** Operations Director Roger Rufe, Acting Counternarcotics Enforcement Director John Leech, and Attaché Mexico Al Pena on the development of a DHS SW Border Violence Plan.

House Transportation and Infrastructure Committee

- **3/24:** CG Admiral Blore before Subcommittee on Coast Guard and Maritime Transportation on acquisition activity.

House Natural Resources Committee Subcommittee on Fisheries, Wildlife & Oceans

- **3/19:** CG on illegal, unregulated and unreported fisheries.

Senate Judiciary Committee, Subcommittee on Crime and Drugs

- **3/27:** ICE on law enforcement response to Mexican Drug Cartels.

Congressional Briefings

House Homeland Security Committee Staff Briefings

- **3/13:** NPPD Office of Infrastructure Protection to brief staff on recently released National Infrastructure Protection Plan.
- **3/13:** OHA's Dr. Jeff Stiefel and Dr. Terry Adirim briefing Minority staff on the National Biodefense Architecture.
- **3/24:** Acting A/S of Health Affairs Dr. Jon Krohmer meeting with Rep. Yvette Clarke, Chairwoman Subcommittee on Emerging Threats, Cybersecurity and Science and Technology, on organization/ mission of OHA

Senate Homeland Security and Governmental Affairs Committee

- **3/12:** FEMA will brief the Committee on the Louisiana Transitional Recovery Office climate investigation on employee complaints about management and Equal Employment Opportunity violations.
- **3/12:** Staff will receive a brief on DHS approach to SW border violence. This will be the first in a series of monthly briefings, focused on this issue, to take place on the fourth Thursday of each month.
- **3/13:** FEMA to brief the Subcommittee on State, Local and Private sector Preparedness and Integration on the Private Sector Division's roles and responsibilities and how it interfaces with DHS Office of the Private Sector.

House Appropriations Committee Homeland Security Subcommittee

- **3/18:** IG to brief Chairman Thompson's senior counsel on DHS Mission Action Plans, Protection of Petroleum and Natural Gas, Infrastructure Protection Activities Grants Awards, U.S. Coast Guard Acquisition Reorganization, U.S. Coast Guard IT Management, CBP's Use of Container Security Initiative Information, ATS Use in Foreign Ports, Small Vessel Security, DHS Plan for Implementation of Secure Systems of Transportation, and DHS User Fees.
- **3/19:** **DHS Policy and US-VISIT** to testify on Biometrics and Identity Programs.

Senate Appropriations Committee Homeland Security Subcommittee

- **3/13:** FEMA to brief Subcommittee (and Ad Hoc Subcommittee on Disaster Recovery) on Public Assistance Program.
- **3/18:** FEMA will brief the Committee on GAO recommendations related to the National Response Framework.

Other Significant Congressional Briefing

- **House Judiciary Committee, Week of 3/9:** IG updated Minority counsel on Immigration Subcommittee on the report (required by the Non-minister Religious Worker Program Act) on the effectiveness of the regulations to eliminate or reduce fraud related to the granting of special immigrant status for special immigrants. IG anticipates issuing the report in 90 days.

NOT FOR PUBLIC DISTRIBUTION

NOT FOR PUBLIC DISTRIBUTION

- **House Natural Resources Committee, Subcommittee on Insular Affairs, Oceans and Wildlife, 3/12:** FEMA to brief the Subcommittee on USAID-FEMA response/coordination regarding damage from the recent wave surge.

Activity on Legislation or Policy

- **FY 2009 Omnibus Appropriations Bill** signed by the President includes \$100 million for Secret Service and full extensions for E-Verify, EB-5 Visa Program and National Flood Insurance Programs through 9/30/09.
- **3/11:** USCIS met with Jamaican Ambassador Anthony Johnson and representatives from the Ministry of Labor and the Jamaica Central Labour Organization (JCLO) at the Jamaican Embassy to discuss if the fees Jamaican workers paid to JCLO (between 4 and 5% of salary) should be borne by the w

(b)(5)

IV. Legal Issues

Major movement in ongoing litigation/enforcement actions

- **United States v. Arnold:** On 2/23, the Supreme Court denied a petition for writ of certiorari by the defendant, who was seeking review of a 9th Circuit decision affirming his conviction and sentence for offenses related to the transportation of child pornography. The defendant's prosecution was based, in part, on evidence obtained by U.S. Customs and Border Protection (CBP) officers during an examination of the defendant's laptop computer after returning from an international trip. The district court had granted the defendant's motion to suppress the evidence from his computer, concluding that reasonable suspicion was required for the search because a laptop is distinguishable from other containers based on its ability to store greater amounts of information and its unique role in modern life. In reversing that suppression order, the 9th Circuit held that the border search exception to the Fourth Amendment permitted the examination of defendant's laptop without reasonable suspicion. The 9th Circuit decision has generated a considerable amount of interest, and bills have been introduced in Congress that would require reasonable suspicion

(b)(6)

Regulations and Federal Register Notices

- **FEMA Special Community Disaster Loan Notice of Proposed Rulemaking.** DHS is working with OMB to obtain clearance of this proposed rule by the end of the week of March 15. This rule proposes requirements and procedures for Gulf Coast communities to obtain cancellation of Special Community Disaster loans provided by FEMA after Hurricanes Katrina and Rita in 2005.
- The Coast Guard's final rule consolidating Merchant Mariner Credentialing requirements will publish on March 16, 2009 and become effective on April 15.
- TSA posted the Secure Flight Aircraft Operator Implementation Plan (AOIP) to the TSA Web Board on February 10, which includes the schedule for aircraft operators to join Secure Flight. The AOIP will become effective March 12, 2009. Northwest Airlines, Southwest Airlines, United Airlines, Spirit Airlines, and Cape Air submitted petitions for an extension of the AOIP readiness dates.

FOIA

- FOIA request submitted by Glenn Dockham, President, Chapter 142 of the National Treasury Employees Union, requesting all documents regarding the report of investigation for CBP Officer. (NTEU represents the employee).
- FOIA request submitted by Alison Parker, Deputy Director, Human Rights Watch, seeking information about a detainee referenced in a 11/06 IG report, "Review of ICE Tracking Processes." Specifically, Parker requests information regarding from which facility (city and the state) the detainee was transferred.

V. Senior Personnel Announcements

- **3/11:** Phil Reiting announced as Deputy Under Secretary for NPPD; Tony Russell announced as acting director of the Transitional Recovery Office
- **3/18:** Chris Cummiskey will become the Chief of Staff for the Under Secretary for Management.

NOT FOR PUBLIC DISTRIBUTION

VI. Additional items of importance not covered above

- **3/3 – 3/6:** Counternarcotics Enforcement participated in a meeting with the Off
mmittee, ONDCP and Defense, State, and Justice Departments (b)(2)(high)
in order to meet **Western Hemisphere Transit Zone cocaine interdiction** goals for FY 2010-2014. As a
result of the meeting, participants are identifying funding by 4/30 to ensure interdiction goals can be achieved.
- **3/13:** CG Rear Admiral Brian Salerno will speak at National Oceanic and Atmospheric Administration event
commemorating the 20th anniversary of the **Exxon Valdez oil spill response**. The event will focus on the progress made in
spill preparedness, response, and restoration at the federal and local level since the Exxon Valdez spill, and the challenges
facing the nation with regard to energy and marine transportation in the Arctic.
- **Week of 3/16:** Acting FEMA Administrator Nancy Ward will return to the **Gulf Coast Recovery Office** for follow-up
sessions to the Secretary's trip last week. Agenda and exact date TBD.
- **3/17- 3/19:** S&T co-hosting "**Global Security Asia 2009**" conference with Singapore Ministry of Home Affairs (MHA)
in Singapore to address Asymmetric Warfare. Meetings will focus on cooperation in explosives detection, biometrics, and
protecting buildings/infrastructure against blast effects. S&T expects to initiate 2-3 test and evaluation programs with
MHA leveraging their operational screening facilities and partner in areas such as the development of a new composite
container for cargo security, contactless fingerprinting systems to enhance and speed biometric screening, and blast
modeling in urban canyons to improve building design and protect against explosions (b)(2)(high)
- 
- FEMA's **Pilot Approach to Alternative Housing** has starting building seven prototype-housing units at FEMA's
National Emergency Training Center. These housing units will be evaluated for efficacy as future disaster housing.
- **Secure Flight:** A third carrier, Sky King, began sending data to Secure Flight on 3/9 with first passengers flying on 3/12.

I. Recovery, Reform, Efficiency, and Transparency

Secretary Napolitano will announce her 30-60-90-120 day department-wide plan for **Efficiency Review (ER)** on 3/27 at a new state-of-the-art TSA baggage screening facility located at Reagan National Airport. This facility, which opened in February, is being used to test the equipment that will be purchased with TSA's Recovery Act funds (\$1 Billion) and deployed to airports across the country. This testing facility will help streamline security at airports that currently have varying systems/ configurations and ensure the most efficient use of stimulus dollars. The press will see technology including bag RFID and laser readers, conveyor belt systems, and CAT scan explosive baggage detection machines. The facility is a former Post Office warehouse at the airport, an efficiency and example of interagency collaboration, as we worked with U.S. Postal Service to assume their lease.

The **ER Steering Committee** selected six target areas to address in its first round of initiatives (to be included in 3/27 announcement):

Other recent ER initiatives include:

- **Week of 3/16:** USCIS created a new Plain Language Initiative to promote agency-wide use of clear, concise language in all internal products and public documents (regulations, forms, letters, etc). The Secretary plans to implement this initiative department-wide.

II. Press Stories

Recent Media Reports

- **3/12:** CBP continues facilitating interviews on border violence and CBP successes intercepting currency, weapons, and narcotics on the southern border. This week's interviews were with **FOX News** in San Diego and with the **Christian Broadcasting Network** in El Paso.
- **3/12: Federal News Radio** interviewed USCIS about a new E-Verify initiative, which has added passport data to the E-Verify employment authorization program to reduce the number of mismatches among foreign-born U.S. citizens.
- **3/13: Washington Post** story about an alleged incident at Dulles Airport involving Sen. David Vitter and TSA's preliminary review into the matter. Similar stories in **The New York Times** and the **AP**. TSA is not likely to open official Enforcement Investigation Report as the security tape shows Vitter did not go through the security door completely.
- **3/16:** Quebec launched its **Enhanced Driver's License** which is approved for crossing between the U.S. and Canada under WHTI. It has both a scannable bar code and an embedded electronic chip.

Expected Stories

- **3/13:** Civil Rights and Civil Liberties (CRCL) Senior Policy Advisor Shaarik Zafar interviewed by the **Pakistan Post** on outreach and engagement efforts with Pakistani American communities. Article expected to be released 3/18.
- **3/16:** A new documentary film "The Least of These," depicts family detention at the T. Don Hutto Residential Center in Texas before and after a 2007 ACLU lawsuit, which brought about a number of changes to the facility. The video includes footage of ICE facilitated tours of Hutto in 2007 and 2008 and extensive interviews with the attorneys in the ACLU case and former detainees. The film focuses on the detention process in the context of its impact to family life and questions the use of detention for children. The film debuted at the Southwest Film Fest in Austin, TX on 3/16 and is scheduled to appear at the Orleans International Human Rights Film Festival 3/26 to 4/5, the Cine Las Americas Film Festival, and the Jacksonville Film Festival. Film was sponsored by The Women's Refugee Commission and the ACLU.
- **3/16: New York Times** requested information on the number of juvenile criminal aliens referred to ICE by San Francisco authorities over the last nine months. Last summer, there was substantial public outcry when the **San Francisco Chronicle** broke the story about the city's long-standing policy of refusing to refer juvenile alien criminal cases to ICE. In June 2008, the city changed its policy and ICE now receives regular referrals regarding

these cases. ICE provided the reporter with statistics on number of referrals from June 2008 to present as well as additional background information.

- **3/17:** CBP coordinated a visit to Dulles Airport for *The Washington Post* (Ed O’Keefe). The story, which includes a visit to the CBP Canine Training Center in Front Royal, Virginia, will touch on how CBP trains canine teams and their field work post training.
- USCIS Ombudsman will publicly issue a formal study on **3/18** recommending that USCIS develop rules, procedures, and promotional tools to give foreign investors confidence to start businesses in the U.S. through use of **Employment Creation EB-5 immigrant visas**, including offering a special handling package option to EB-5 investors for faster adjudication of their applications, and the establishment of a program to promote the EB-5 program overseas in coordination with the Departments of State and Commerce.
- **3/19:** CBP Director of Field Operations Robert E. Perez and CBP employees from Newark and JFK have been invited to ring the opening bell at the **New York Stock Exchange** for CBP’s 6th anniversary.
- **CNN (Jeanne Meserve)** scheduled interviews with S&T on 3/20 for a potential story on forensic camera project (see last week’s report). **Discovery Channel Canada – Daily Planet** aired a story **3/17** about the forensic camera project.
- FEMA continues **Spring Flooding** messaging and outreach across the nation. Fact sheets were posted on our web site, pushed to Twitter subscribers and provided to key media. This resulted in over 140 media hits across the country including much in the Midwest, AP National, CNN Broadcast, FOX Radio and Twitter replays.
- **Coast Guard** provided **USA Today** (Gary Stoller) reports and statistics on U.S. fishing vessel fatalities and accidents. Complete data provided for 2003-2007 and partial data for 2008 and 2009, due to pending investigations. Mr. Stoller is requesting, via FOIA, statistics on the open cases. Publication date TBD.
- **3/28:** CRCL will submit the Department’s first annual **No FEAR Act Annual Report to Congress, DOJ, EEOC, and OPM**. The No FEAR Act is intended to reduce workplace discrimination within the Federal Government by making agencies and departments more accountable. The Report will describe Department efforts to support merit system principles and diversity management through: recruitment; executive performance plans; the DHS Diversity Council; and improvements in CRCL’s EEO Programs’ Complaint Adjudication Unit.

IG Reports

- Redacted version (due to classified information) of “TSA’s Management of Aviation Security Activities at Jackson-Evers International and Other Selected Airports,” report **posted to website 3/13**. Report said TSA made progress improving its internal covert testing, but can take steps to improve security activities within commercial aviation by eliminating the vulnerabilities associated with current flying armed processes, strengthening covert testing procedures, and improving its processes for reporting security incidents.
- **Issue Date 3/27:** “Federal Emergency Management Agency’s Implementation of the Flood Insurance Reform Act of 2004” includes five recommendations for improving program implementation and oversight and reducing the number of repetitive loss properties insured by the National Flood Insurance Program.
- **Issue Date 3/27:** “Compendium of Disaster Assistance Programs,” an inventory compiled jointly with the Council of the Inspectors General on Integrity and Efficiency, includes 240 federal disaster assistance programs that provide assistance to individuals, states, localities, non-profit organizations, and businesses impacted by a disaster. It is intended as a tool for the Inspectors General to use in identifying similar programs available in other federal agencies.

Outreach/Stakeholder Meetings

- **3/26:** CRCL will host a roundtable discussion in Boston with government officials and leaders from **American Arab, Muslim, Sikh, South Asian, and Middle Eastern communities** regarding immigration enforcement.

Grant Announcements

- **3/12:** USCIS Office of Citizenship posted a competitive grant opportunity for community-based organizations to expand citizenship preparation programs as authorized by the **Consolidated Security, Disaster Assistance, and Continuing Appropriations Act of 2009**. Approximately \$1.2 million is available through twelve \$100,000 awards to serve priority immigrant groups who are eligible, or soon to be eligible, for naturalization. The deadline for submission is 5/15. Grants will be awarded in 9/09.

- **4/8:** Secretary to announce annual **Transit and Port Security grants** as well as ARRA Transit and Port funding.

III. Legislative and Policy issues

Congressional testimony/hearings

House Appropriations Homeland Security Subcommittee

- **3/25:** Secret Service Director Mark Sullivan on Secret Service protection and inaugural problems (hearing specifically requested by full Appropriations Chairman Obey).
- **3/26:** S&T Acting Undersecretary Brad Buswell on S&T Research and transitioning products into use.
- **3/31:** FEMA and TSA Committee on Transit Security Issues (follow-up to 3/12 hearing).
- **3/31:** TSA Acting Administrator Gale Rossides on TSA's FY10 Budget.

Senate Judiciary Committee, Subcommittee on Crime and Drugs

- **3/17:** ICE Office of Investigations Deputy Director Kumar Kibble on Law Enforcement responses to Mexican drug cartels."

House Homeland Security Committee

- **3/19:** ICE Acting Assistant Secretary Torres on recent trends in human trafficking.
- **4/2:** Coast Guard Rear Admiral Watson on the Transportation Worker Identification Credential (TWIC).

House Homeland Security Committee, Subcommittee on Management, Investigations and Oversight

- Subcommittee Chairman Chris Carney (**3/20**) and Ranking Member Gus Bilirakis (**3/23**) will tour St. Elizabeths.
- **3/26:** DHS Chief Administrative Officer on the status of the headquarters consolidation project at St. Elizabeths.

House Homeland Security Committee Subcommittee on Emerging Threats, Cybersecurity, and S&T

3/24: NPPD National Cyber Security Division on methods to ensure the security of Smart Grid technology, which delivers energy-efficient, reliable, and cost-saving electricity from suppliers to consumers.

House Transportation and Infrastructure Committee, Subcommittee on Coast Guard and Maritime Transportation

- **3/24:** Coast Guard Admiral Blore on acquisition activity.
- **4/2:** Rear Admiral Breckenridge and CG Director of Civil Rights before Subcommittee on Civil Rights and Diversity.

Senate Armed Forces Committee

- **3/25:** Coast Guard Rear Admiral May on the implementation of the Commission on National Guard and Reserves, reserve service strength, and future needs. The hearing will address various issues involving the reserve components of the Armed Forces, including the Coast Guard Reserve. This is the first time in several years the Coast Guard has been asked to testify on its reserve component before the Armed Services Committees.

Congressional Briefings

Senate Homeland Security and Governmental Affairs Committee

- **3/19:** CRCL to brief staff of the Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia regarding CRCL outreach with Somali Diaspora Communities.

Senate Appropriations Committee, Homeland Security Subcommittee

- **3/23:** DHS Health Affairs will brief majority and minority staff on the roles and responsibilities of the Office of Medical Readiness and pandemic influenza preparedness.
- **3/25:** DHS Chief Veterinarian McGinn, will brief staff on Food, Agricultural, and Veterinary Defense issues.

House and Senate Intelligence Committee

- **3/20:** I&A and Operations Coordination hosting a Brown Bag lunch for House and Senate Committee staff. The visit will include a tour of the National Operations Center.

Other Significant Congressional Briefing Activity

- **House Agriculture Committee, 3/24 (tent.):** DHS Health Affairs to brief Ranking Member Frank Lucas on the mission of Food, Agriculture, and Veterinary Defense and the potential utility of an Animal ID system for livestock in the event of a homeland security event.

Activity on Legislation or Policy

~~*NOT FOR PUBLIC DISTRIBUTION*~~

- **3/12:** H.R. 1437 introduced to establish a **Southern Border Security Task Force** to coordinate the efforts of federal, state, and local border and law enforcement officials related to border violence.
- **3/12:** H.R. 1448 introduced to authorize the DHS Secretary and the AG to increase resources to identify and eliminate illicit sources of **firearms smuggled into Mexico**.
- **Week of 3/16: Visa Waiver Program (VWP)** statute as amended by the 9/11 Act, requires that all countries participating in the VWP report lost and stolen passport data to the U.S. or make it information available through INTERPOL or other acceptable means. Brunei is currently not compliant with this core requirement as it has not reported this data since 6/07. ^{(b)(5)}
- The **Omnibus Appropriations Bill** signed by the President extended the Lautenberg program, which reduces the burden of evidence that refugees from the former Soviet Union, Vietnam, Laos, Iran, and Cambodia must provide to apply for asylum, through the current fiscal year. The bill also created an "Afghan Allies" program, extended to 2013, under which Afghani nationals may be approved to immigrate to the U.S., or adjust their status to lawful permanent residence, if (1) They have worked for the U.S. Government in Afghanistan for at least one year, (2) They have experienced or are experiencing a serious threat because of that U.S. employment, and (3) They file an I-360 petition (Petition for Amerasian, Widow(er), or Special Immigrant). 1,500 visas are available per fiscal year under this program

IV. Legal Issues

Major movement in ongoing litigation/enforcement actions

- **Union Pacific Penalties & Seizure Litigation** In July 2008, Union Pacific filed a lawsuit against DHS in the U.S. District Court for the District of Nebraska seeking a preliminary and permanent injunction that would preclude U.S. Customs and Border Protection (CBP) from enforcing assessed penalties against Union Pacific and from seizing Union Pacific railcars related to several instances of smuggling. Based on the same subject matter as this pending lawsuit, on 3/18 the Government filed two lawsuits against Union Pacific one in the Southern District of California and one in the Southern District of Texas for recovery of approximately \$37,000,000 in monetary penalties. ^{(b)(5)}
- **Lopez-Rodriguez v. Holder**, On 3/16, the 9th Circuit denied the Government's petition for rehearing en banc of the court's 8/8/08 panel decision, which held that the Fourth Amendment's exclusionary rule applies to immigration removal proceedings when evidence is obtained through conduct that a reasonable officer should have known would violate the Constitution. Four judges dissented from the denial of rehearing.
- **ICE Josias KUMPF:** On 3/18, Josias Kumpf, a former armed SS Death Head's Guard who served at the Sachsenhausen Concentration Camp under the Nazi regime, will be removed to Vienna, Austria via commercial airline or by medical air ambulance. In addition to a physician and nurse, Kumpf will also be accompanied by two ICE Office of Detention and Removal Chicago escort officers and by his son-in-law. Office of the Principal Legal Advisor - Human Rights Law Division is providing assistance on the removal.

Regulations/Rulemakings

- The Coast Guard's "Consolidation of Merchant Mariner Qualification Credentials" final rule was published in the Federal Register on March 16. The rule consolidates four separate credentialing documents into one merchant mariner credential and eliminates redundant credentialing processes to ease the burden on mariners.
- DHS continues to work with OMB to obtain clearance of FEMA's "Special Community Disaster Loan" Notice of Proposed Rulemaking. It is likely that the rule will clear OMB during the early part of the week of March 23. The rule proposes requirements and procedures for Gulf Coast communities to obtain cancellation of special community disaster loans that FEMA provided in 2005 after Hurricanes Katrina and Rita.
- The comment period for the USCIS interim final rule "Documents Accepted for Employment Eligibility Verification" closed on March 4. The rule prohibits employers from accepted expired documents for I-9 purposes. The rule was

~~*NOT FOR PUBLIC DISTRIBUTION*~~

published in December; the original effective date was February 3, but that was extended 60 days pursuant to the White House Chief of Staff Memorandum on regulations. The rule will go into effect on April 3.

V. Senior Personnel Announcements

- **Jason McNamara** began serving as FEMA's Chief of Staff on 3/16.
- **Lauren Kielsmeir** began serving as Senior Advisor to USCIS on 3/16.
- **Kim O'Connor** began serving as Senior Counselor to the Director of Counternarcotics Enforcement on 3/16.

VI. Additional items of importance not covered above

- DHS Budget Office will issue Supplemental Integrated Planning Guidance and Fiscal Guidance 3/20 on the Secretary's priorities for the FY2011-2015 programming and budgeting process. OMB's fiscal guidance for FY2011-2015 is likely to include virtually no annual growth from the FY 2010 budget, meaning that any new FY2011-2015 initiatives will have to be funded by existing programs. This constrained fiscal situation underscores the importance of the Secretary's Efficiency Review initiative.
- **Secure Flight:** Secure Flight will be ready to test with the volunteer eSecure Flight Aircraft Operator on 3/16 and anticipates that Miami Air will be ready to test later this month. eSecure Flight allows an operator who does not already connect directly to DHS with a proprietary network line (most operators do this to satisfy other requirements), to connect through the Internet using a web based portal. Through eSecure Flight, the operator can log on, upload the flight manifest, and get the results back through the website.

I. Recovery, Reform, Efficiency, and Transparency

Recovery Updates included in VP report.

- The Secretary will officially launch the **DHS Efficiency Review (ER) Initiative** on 3/27 at TSA's Systems Integration Facility at Washington National Airport. In her speech, the Secretary will announce the following:

Acquisition Management

- Leveraging buying power and purchase agreements when acquiring office supplies, with estimated cost savings of up to **\$52 million over the next five years**.
- Procuring multi-purpose office equipment, such as combined copier, printer, fax, and scanner all in a single unit, which will save space, reduce service costs, and lead to volume discounts of over **\$10 million over five years**.

Asset Management

- Implementing a new computerized fleet management tracking system to identify opportunities to increase our alternative fuel usage; guard against waste, fraud, and abuse; and optimize how we manage our fleet.
- Acquiring hybrid vehicles and alternative-fuel vehicles in cases where hybrids are not feasible for an **estimated mileage improvement of upwards of 30%**.

Property Management

- Implementing energy efficiencies in buildings for an **estimated cost avoidance of \$3 million per year**.
- Maximizing the usage of government office space for meetings and conferences in lieu of renting facilities.

Employee Vetting and Credentialing

- Developing a process to obtain preliminary security background data for candidates referred for final consideration in the hiring process *before* undergoing the costly and time-intensive background check process, which can cost up to \$5,500 each.

Hiring/Onboarding

- Consolidating new employee orientations and mandatory trainings to eliminate duplicative course offerings and standardize content.
- Developing cross-component training opportunities for employees.

Information Technology

- Acquiring enterprise licenses for commonly used software, which could result in **cost avoidances of over \$283 million over six years**.
- Utilizing refurbished IT equipment by redeploying the current inventory throughout the Department.

Misc.

- Eliminating non-mission critical travel for employees and maximizing the use of conference calls and web-based training and meetings.
- Consolidating subscriptions to professional publications and newspapers to lower costs and reduce duplication.
- Eliminating the printing and distribution of all reports and documents that can be sent electronically or posted online.
- Enacting a moratorium on all external contracts for the design and production of new seals and logos, on which the Department has spent over \$3 million since 2003.
- Conducting an assessment of all full-time/ part-time employees and contractors to better manage our workforce and deliver our core mission.

III. Press Stories

Recent Media Reports

- **3/19: AP** story on TSA conducting more "random screenings" at airport gates. This is simply an additional level of screening conducted at the gate on a random basis to increase safety; it is not the result of any specific threat. *Similar stories ran on various national media outlets.*
- **Week of 3/22:** National media outlets carried stories about Red River flooding in North Dakota and Minnesota. FEMA interviews with **ABC radio**, **CNN radio** and **CNN TV**. Separately, **USA Today** reported on **3/23** that FEMA denied a request made by Gov. John Hoeven in mid-February for a presidential disaster declaration to deal with record snowfall this winter.
- **3/23: AP, USA Today, Wall Street Journal and others reported on the** Secretary's announcement that she will transition management oversight of the Mississippi Long Term Recovery Office (LTRO) from Biloxi, MS to the FEMA regional office in Atlanta as part of her ongoing effort to streamline Gulf Coast recovery. FEMA regional offices typically manage post-disaster recovery operations, but following Hurricane Katrina, LTROs in Mississippi, Louisiana, Alabama and Texas were created under the Gulf Coast Recovery Office.

~~*NOT FOR PUBLIC DISTRIBUTION*~~

- **3/24: Reuters TV** piece featuring interview with Coast Guard Lieutenant Commander Joseph Lally about new technology available for clean up of oil spills and what has changed since 1989 Exxon Valdez incident. Lally spoke to the Coast Guard's faster response time to oil spills, how improved technology aids in response. Very positive story.
- **3/24: BBC** stories featuring interviews conducted on SW Border operations, including briefings and operational tours with the CBP Border Patrol El Paso Sector and the CBP Office of Field Operations.
- **3/24: KTSM News, KDBC News, and El Paso Times** stories on the **Western Hemisphere Travel Initiative** Radio Frequency Identification Go-Live event at the Paso del Norte Port of Entry in El Paso. DHS and DoS representatives gave remarks.
- **3/26: LA Times** editorial on the SW border plan announced this week. Very positive piece.

Expected Stories

- **3/23: CBP and ICE** in Los Angeles donated 153,540 pairs of shoes to Samaritan's Feet, a non-profit charity organization. All the shoes were intercepted and seized by CBP and ICE for bearing counterfeit trademarks.
- **Week of 3/23: ABC TV** affiliate and **ABC News Radio** correspondent toured CBP San Diego operations. **CBS News Radio** correspondent will do a one-day tour of CBP border operations in the El Paso area.
- **3/24: CBP Border Patrol's** Spokane Sector participated in a DEA press conference at the U.S. Attorney's Office for the Western District of Washington. The event covered the recent DEA-led investigation into cross-border air smuggling that led to the seizure of a helicopter and the pilot/smuggler in Idaho.
- **3/26: Telemundo** will visit the San Ysidro port of entry for a story on the basics of traveling across the Mexico-U.S. border, including document requirements, agriculture inspections, and secondary inspection. Air date TBD.
- The DHS Office of Immigration Statistics' 2008 **Annual Report on Legal Immigrants, Naturalizations, and Non-Immigrants** have been cleared by OMB and are in preparation for release on the web. The report states that legal immigration increased 5% from 2007 to 2008. The number of persons naturalized in the United States increased 58% from 2007 to an all-time record in 2008. The increase is primarily attributable to the large volume of naturalization applications received by USCIS in 2007 in advance of a fee increase and in response to special efforts to encourage eligible applicants to apply for U.S. citizenship. Between 2007 and 2008, I-94 admissions (nonimmigrants) increased 6% the largest number of I-94 admissions recorded in a year.
- TSA asked to respond to a previous inaccurate editorial on budget cuts to the Federal Flight Deck Officer (FFDO) program in the *Washington Times*. Story expected to retract inaccuracies in the 3/17 editorial. FFDOs are authorized to use firearms to defend against an act of criminal violence or air piracy attempting to gain control of an aircraft.
- TSA is working with USA Today on two stories to run this week:
 - Story on the TSA Cleared List, which lists the names and identifying information of individuals who have the same name as someone on the Watch List but have already been cleared, in response to the recent announcement that there are 1 million entries on the Consolidated Terrorist Watch List.
 - Story on the SPO-7 passive standoff detection system, which is a millimeter wave based technology for explosives detection. (It is not a whole body imaging technology, and operators do not see raw millimeter wave images as they do with the millimeter wave portal.) Reporter was given a demonstration of the technology.

IG Reports

- **Delivered to Department 3/19; Congressional Distribution 3/27; web posting 4/6: "ICE's Tracking and Transfers of Detainees."** This report presents the results of an audit of ICE's detainee tracking and transfer processes to determine to what extent the agency has: (1) improved its ability to track and monitor detainees; (2) properly notified detainees with timely initial medical screenings and physical examinations. The report contains seven recommendations aimed at improving the tracking and transfers of detainees.
- **Delivering to Department 3/27; Congressional Distribution, 4/3; web posting, 4/8: "FY 2008 Financial Statement Audit report for TSA."** TSA received a qualified opinion on its Balance Sheet as of 9/30/08; meaning the auditors were not able to determine if all of TSA's balances were fairly presented on the balance sheet for property, equipment, and the disclosures related to minimum future lease payments. TSA was not able to assert to both the accuracy and completeness to these balances. Additionally, four material weakness conditions were identified in Financial Reporting, Capital Assets, Informational Technology General and Application Controls and Entity Level controls.

Outreach/Stakeholder Meetings

- **3/19: Acting A/S for Policy** met with **Directors of Homeland Security for the Ports of Long Beach and Los Angeles** discussed 100% maritime cargo scanning and whether the U.S. will scan its own exports (reciprocity). DHS responded that it is still determining a clear path forward. The status of Transportation Workers Identification Credentials (TWIC) was also discussed, with port officials noting their commitment to the program and desire to see the 4/15 implementation deadline held firm.
- **3/23: Director of the Federal Air Marshal Service** had a positive meeting with the president of the Federal Law Enforcement Officers Association, in which a substantial number of Federal Air Marshals are members.
- **3/25: TSA** will meet with Families of 9/11, to discuss behavior detection, TSO workforce and cargo screening.
- **3/26-4/5: CRCL** will conduct roundtables with government officials and leaders from American Arab, Muslim, Sikh, South Asian, and Middle Eastern communities regarding general civil rights issues in Houston, Boston, Chicago, and Los Angeles.

~~*NOT FOR PUBLIC DISTRIBUTION*~~

NOT FOR PUBLIC DISTRIBUTION

- 3/27: CBP Tucson Border Patrol Chief will address the Arizona Association of Chiefs of Police on border violence.
- 4/1–4/2: Secure Flight will conduct working group meetings with the Air Transport Asso

(b)(2)(high)

Grant Announcements

- Emergency Food and Shelter National Board Program: The \$100 million made available to the Emergency Food and Shelter National Board Program through ARRA is anticipated to be awarded no later than 3/31.
- Over \$970 Million will be announced for ten preparedness grant programs on 4/8. The Transit Security Grant Program, the Port Security Grant Program, the Freight Rail Security Grant Program, the Intercity Passenger Rail Program, the Intercity Bus Security Grant Program, the Trucking Security Program, the Buffer Zone Protection Program, the Interoperable Emergency Communications Grant Program, the Emergency Operations Center (EOC) Grant Program, and the Driver's License Security Grant Program.

IV. Legislative and Policy issues

Congressional testimony/hearings

Senate Homeland Security and Governmental Affairs Committee

3/26: Confirmation hearing for Jane Holl Lute as Deputy Secretary of DHS.

House Appropriations Homeland Security Subcommittee

3/31: TSA and FEMA on Surface Grants; follow up to 3/12 hearing.

3/31: TSA Acting Administrator Gale Rossides on aviation security.

4/2: ICE, USCIS, and Chamber of Commerce on immigration enforcement priorities.

House Homeland Security Committee, Subcommittee on Emergency Communications, Preparedness and Response

3/31: ICE on preparedness and coordination efforts of first responders along the southwest border.

House Homeland Security Committee, Subcommittee on Intelligence, Information Sharing and Terrorism Risk Assessment, 4/1:

I&A, CRCL, the Director of the Iowa Fusion Center, and the Los Angeles Sheriff on "The Future of Fusion Centers: Potential Promise and Dangers."

House Transportation and Infrastructure Committee

- 4/1: FEMA on Emergency Management in the National Capital Region.

House Transportation and Infrastructure Committee, Subcommittee on Coast Guard and Maritime Transportation

- 4/2: Rear Admiral Breckenridge and CG Director of Civil Rights before Subcommittee on Civil Rights and Diversity.

Congressional Briefings

House Homeland Security Committee

- 3/20: Minority staff toured CBP and TSA operations at the Dulles International Airport.
- 3/24: CBP briefed staff on the Anti-Gang Initiative to address the growth, migration, criminal activity, and affiliation of gangs who pose a threat to our nation's security.
- 3/24: CBP briefed staff on an Avian Influenza Special Operation recently held in Pennsylvania in which 30 officials from CBP, Philadelphia International Airport, CDC, Department of Agriculture, Pennsylvania Department of Agriculture, Philadelphia Fire Department, and FBI conducted a simulated response to two airline passengers who exhibited physical distress en route to Philadelphia from Hong Kong.
- 3/27: DHS, FBI, and others will brief staff on the Interagency Threat Assessment and Coordination Group.
- 3/30: OHA will meet with majority staff to discuss the Committee's 1/09 report titled: "Getting Beyond Getting Ready for Pandemic Influenza."
- 3/30 (tentative): Dr. Kathy Brinsfield will brief Dr. Asha George reference the recent TB case mentioned in the press.
- 3/30: OHA will brief staff on the potential utility of an Animal ID system for livestock in the event of a homeland security event. Briefing requested in anticipation of the forthcoming Joint House Agriculture-Homeland Security Hearing on Animal ID.

Senate Homeland Security and Governmental Affairs Committee

- 3/24: CBP held a conference call with majority and minority staff to address questions on the Secretary's announcement of increase in CBP resources deployed to the Southwest border.
- 3/27: NPPD to provide a status update on implementation of the Comprehensive National Cyber Initiative (CNCI), with a focus on outreach to the private sector, deterrence milestones (milestones listed in the Deterrence Report that was required under the Cyber Presidential Directive provided to Congress by the Director of National Intelligence several months ago), the Einstein Program, an initiative that builds cyber-related situational awareness across the Federal Government. There will also be a briefing on the Conficker worm – a computer worm that has infected some civilian executive branch computers.
- 4/3: FEMA will brief staff on FEMA's Public Assistance Program

Senate Appropriations Committee, Homeland Security Subcommittee

NOT FOR PUBLIC DISTRIBUTION

~~*NOT FOR PUBLIC DISTRIBUTION*~~

- **3/26:** DHS HQ, CBP, and Office of Finance will brief staff on the status of the 2010 Olympic preparations.
- **3/31:** OHA will brief majority and minority staff on the National Biosurveillance Integration Center.
- **4/3:** FEMA will brief staff on FEMA's Public Assistance Program

House Appropriations Committee

- **3/26:** Acting CIO and Chief Information Security Officer gave Federal Information Security Management Act brief.

Senate Finance Committee

- **3/20:** CBP and the Treasury Department briefed majority and minority staff on CBP's Notice of Proposed Rulemaking regarding goods imported under 9802 of the Harmonized Tariff Schedule. Under the proposed rule, the value of U.S. parts used in the repair, alteration, or processing of an item, and imported back to the U.S., is excluded from the normal duty applied to the U.S.-origin part. The rule provides an incentive to use U.S.-origin parts in the foreign repairs, alterations or processing of articles entered under subheading 9802. This NPRM was withdrawn this morning after discussions with the Treasury Department and the U.S. Trade Representative.
- **3/20:** CBP briefed staff on the User Fee Clarification amendment (the goal of the proposed legislative change is to clarify that, by Congress mandating carriers to collect and remit user fees, it intended carriers to be liable for such fees even when uncollected).

House Ways and Means Committee

- **3/20:** CBP and the Treasury Department briefed majority and minority staff on CBP's Notice of Proposed Rulemaking regarding goods imported under 9802 of the Harmonized Tariff Schedule (see above).

Senate Commerce Committee

- **3/24:** DHS, U.S. Coast Guard, and CBP will participate in a conference call with Committee staff and Senator Graham's staff regarding Project Seahawk. Located at the Port of Charleston in South Carolina, Project Seahawk consolidates the maritime and transportation security functions of multiple Federal agency field offices to facilitate the coordination of resources, operations, and intelligence sharing between these agencies and South Carolina's State and local authorities. DHS will take over responsibility for Seahawk from the Justice Department on 10/1.

House Oversight and Governmental Affairs Committee Briefing

- **3/20:** CBP and ICE briefed the staff on border violence and CBP operations.

House Judiciary Committee, Subcommittee on Crime, Terrorism, and Homeland Security

- **3/26:** ICE, CBP, OPS, and I&A will brief members of the on increased border violence.

House Homeland Security Committee, Subcommittee on Emerging Threats, Cyber Security and Science and Technology

- **3/26:** ICE will brief the majority staff on the NFFTU Tactical Emergency Medical Support Program

Other Significant Congressional Briefing Activity

- **Senate Committee on Judiciary, 3/23:** Briefing to discuss requirement in Kendell Frederick Citizenship Assistance Act of 2008, which requires DHS to use fingerprints provided by an individual at the time of enlistment in the U.S Armed Forces, or at the time the individual filed an application for adjustment of status, to satisfy any requirement for background and security checks in connection with an application for naturalization.
- **3/23:** Representatives from the Federal Air Marshal Service briefed staff for Sens. Barbara Boxer and Jim Bunning on the Federal Flight Deck Officer program (description of program in press clips above).
- **3/24:** CBP, ICE briefed Rep. Raul Grijalva on Mexican violence and border threats.
- **3/26:** TSA Acting Administrator Gale Rossides will discuss the Secure Flight program on a teleconference with GAO officials in advance of the 3/31 DHS Appropriations hearing.

Activity on Legislation or Policy

- **3/19:** H.R. 146, the *Omnibus Public Lands Management Act*, was passed by the U.S. House of Representatives and subsequently amended in the Senate to include the text of the *Omnibus Lands Act* (S. 22), which had previously failed in the House. H.R. 146, as amended by the Senate, must now return to the House for consideration. This bill includes language designating certain areas as "Wilderness Areas" that has the potential to hinder CBP's ability to effectively patrol the border in those areas. CBP continues to work with Congress to address those concerns.
- President Obama signed a memo deferring for 12 months the removal of any Liberian national, or person without nationality who last habitually resided in Liberia who is present in the United States and who is under a grant of Deferred Enforced Departure as of 3/31.

V. Legal Issues

- ***Khouzam v. Att'y Gen.***, On 3/16, the 3rd Circuit denied the Government's petition for rehearing en banc of the court's 12/05/08 panel decision, which held that the Department's procedures for crediting diplomatic assurances and terminating deferral of removal under the Convention Against Torture (CAT) did not comport with constitutional due process requirements.
- ***Ruiz-Diaz v. United States***, On 3/23, the Western District of Washington granted summary judgment in a class action lawsuit to plaintiffs who challenged the Department's regulations at 8 C.F.R. § 245.2(a)(2)(i)(B), which prohibits certain aliens, including religious workers (the plaintiffs' class), from concurrently filing a Form I-360 visa petition and a Form I-485 application for adjustment of status. The district court ruled that the Department's regulations are "an unreasonable and impermissible construction of the governing statute."

~~*NOT FOR PUBLIC DISTRIBUTION*~~

~~*NOT FOR PUBLIC DISTRIBUTION*~~

- **Jose AGUILAR-AQUINO:** On March 12, 2009, the Board of Immigration Appeals (BIA) published a precedential decision, *Matter of Aguilar-Aquino*, 24 I&N Dec. 747 (BIA 2009), in which it held that the imposition of certain terms or conditions of release from custody, particularly the use of electronic monitoring devices and curfews, do not constitute a form of “custody.” Therefore, an Immigration Judge does not have jurisdiction to entertain a request for custody redetermination more than seven days after the alien’s release from ICE detention.

Regulations/Rulemakings

- OMB cleared FEMA’s “**Special Community Disaster Loan**” **Notice of Proposed Rulemaking** on 3/24. The rule proposes requirements and procedures for Gulf Coast communities to obtain cancellation of special community disaster loans that FEMA provided in 2005 after Hurricanes Katrina and Rita. DHS is working on the timing for publication of the rule,
- The **TWIC American Samoa Final Rule** amends a provision of the January 2007 TWIC Final Rule. The amendment changes the definition of “secure area” to state that facilities located in American Samoa do not have secure areas for purposes of TWIC regulations. While American Samoa is part of the United States, it is not currently included in the definition of “United States” for purposes of the Immigration and Nationality Act. Rule is scheduled to publish in the Federal Register on 3/26. DHS is coordinating press with the WH.
- The **TWIC Advanced Notice of Proposed Rulemaking** announces requirements for owners and operators of certain vessels and facilities regulated by the Coast Guard to use electronic readers designed to work with TWIC cards. OMB cleared the rule in late December 2008, but the rule was pulled back from the Federal Register pursuant to the WH COS Memorandum. This rule will publish in the Federal Register 3/27.
- The Secretary has extended the transition date for the **Consolidated Northern Mariana Islands (CNMI)** by 180 days, as authorized by statute. DHS Public Affairs is coordinating Hill notifications and press roll-out. There are three USCIS rulemaking actions that need to be finalized by the 11/28 transition date.
- The comment period for the USCIS interim final rule “**Documents Accepted for Employment Eligibility Verification**” closed on 3/4. The rule prohibits employers from accepting expired documents for I-9 purposes. The rule was published in December 2008; the original effective date was 2/3, but that was extended 60 days pursuant to the WH COS Memorandum. Rule will go into effect on 4/3.
- The chain of custody provisions for **TSA’s “Rail Transportation Security” Final Rule** will go into effect on 4/1. This rule, which was published on November 26, 2008, establishes security requirements for rail operations. The rule went into effect on 12/26/08 except for the chain of custody provision. Following a review of the rule conducted pursuant to the WH COS Memorandum, Secretary Napolitano declined to extend the 4/1 effective date for the chain of custody provision.

FOIA

- FOIA request 2009-077 The Council on American-Islamic Relations, is seeking records related to the federal government’s efforts or policy decisions to indict, prosecute, or extradite foreign nationals participating in, receiving, or performing U.S. government contracts or subcontracts in Iraq, Kuwait, Gulf Region and/or CENTCOM region either as direct contracts or subcontractors to U.S. companies.

VI. Senior Personnel Announcements

- **3/27:** Incoming Deputy Under Secretary for NPPD Phil Reiting will be sworn in.

VII. Additional items of importance not covered above

- **3/16-3/30:** Assistant Secretary Ted Sexton has been traveling throughout the SW Border to meet with various State and Local Law Enforcement agencies. The purpose of the trip is to determine how these areas are being impacted by the violence and get their tactical perspective. Summary of his findings will be included in next week’s report.
- **3/23 – 3/27:** 15 two-person teams of Transportation Security Inspectors will inspect 87 flight schools in Southern Florida. In this exercise, TSA has deployed Inspectors from around the country to pair up with local Inspectors to focus on comprehensive flight school inspections in southern Florida. As a team unit, the Inspectors are able to divide up and accomplish a large number of focused inspections in a short amount of time.
- **3/24:** Vice Admiral Rentzeperes of Greece visited Coast Guard Headquarters, his first visit to the U.S. in this capacity. Meeting focused on interdiction of illegal migrants by the Coast Guard.
- **3/24:** FEMA provided a briefing to a delegation from Tajikistan focusing on helping foreign emergency planners to develop their own national response plans using the lessons learned from our National Response Framework.
- **3/24 - 3/25:** DHS hosted a New Madrid Seismic Zone (NMSZ) Analysts’ Workshop, the first interagency meeting to develop a unified description of the event, its effects, and a framework for assessing risk.
- **3/24 – 3/26:** FEMA will co-host with GSA the annual Emergency Support Function #7 (Resource Support) Summit, a national Logistics summit with Federal partners (FEMA, GSA, DLA, DOD, and others) which focuses on strategic and operational strategies and tactical disaster response initiatives for the 2009 Hurricane Season.
- **3/25-27:** Operations Coordination Deputy Director Robert Cohen visits Joint Task Force North and El Paso Intelligence Center in El Paso in support of DHS Southwest Border planning efforts.

~~*NOT FOR PUBLIC DISTRIBUTION*~~

~~*NOT FOR PUBLIC DISTRIBUTION*~~

- **3/26:** CRCL and Privacy Office will present at the White House 60 Day Cyber Review meeting with Civil Liberties Privacy Community Representatives.
- **3/31:** Secure Flight to launch its public awareness campaign to inform the public that they will soon provide their full legal name, date of birth, and gender to air carriers.

~~*NOT FOR PUBLIC DISTRIBUTION*~~

I. Recovery, Reform, Efficiency, and Transparency

Recovery updates included in VP report.

Department-wide guidance will be issued early next week for the 30-day efficiency review initiatives announced 3/27. Guidance will provide specific details on each initiative including the accountable official in each office and tools to track implementation/ progress- both for internal use and public consumption.

30-day initiatives included: 1) eliminating non-mission critical travel; 2) consolidating journal/ magazine/newspaper subscriptions; 3) eliminating the printing/ distribution of documents that can be sent electronically or posted online; 4) maximizing the usage of government buildings for meetings and conferences in lieu of renting facilities.

Ongoing efficiency and transparency initiatives include:

- FEMA continues to provide public information on the Midwest floods through its multimedia website featuring **YouTube videos and Twitter** highlighting personal preparedness tips, current conditions, and Secretary Napolitano's video message to North Dakota and Minnesota. .
- DHS developed a new, first of its kind **grants management system** based on employee and stakeholder input, which will decrease costs for states by eliminating the need to manage multiple systems, eliminating duplicative efforts in reporting data, and providing easy access to previously submitted grant application information. The system will also expedite the receipt of application materials and other relevant grant information. Released 3/31.
- DHS Policy is leading an effort to **streamline the Security Advisory Opinion screening process** for certain visa applicants, particularly for secondary screening on scientists and technologists. White House Science and Technology advisor John Holdren asked for a briefing about this process and reform options, which will take place 4/3. Many of the pending changes are noncontroversial, e.g., the addition of resources from the intelligence community and new technology to speed the process; these changes are underway.

II. Press Stories

Recent Media Reports

- **Midwestern Flooding:** Widespread coverage of **Disaster Declarations for North Dakota and Minnesota**; Generally positive coverage of the federal response, i.e. *New York Times* (4/1) story, "As States' River Began to Swell, Federal Resources Poured In" on President Obama and FEMA's hands-on involvement. FEMA is coordinating with Disaster Operations and other federal agencies to share still and broadcast imagery among local, state, and tribal partners.
- **3/26: USA Today, UPI** stories on TSA's "cleared list" - for people whose names are confused with suspects on the terrorist watch list - growing to 80,000 names. Related to other stories that the watch list has reached 1 million.
- **3/26: Wall Street Journal** article on TSA statement that the agency has closed its review of Sen. David Vitter's incident at Dulles Airport (see previous reports).
- **3/27:** CBP conducted interviews with **Telemundo National** at San Ysidro Port of Entry regarding entry requirements, agricultural inspections, and general traveler tips. Story aired 3/27.
- **3/27: USA Today** story on Salt Lake City International Airport's pending suit against TSA for trademark infringement for using the term "SimpliFLY" (the term has been used since 2003 by the Airport to promote its toll-free call service that answers travelers' questions). TSA declined to comment on the case but said its use of "SimpliFLY" lasted only through the 2007 holiday travel. TSA was using the phrase in posters and videos in an effort to get passengers to "simpliFLY" while packing to give screeners a better view of what's inside carry-on bags going through X-ray machines. The Salt Lake City Airport seeks royalties for use of the term.
- **3/30: Reuters, Arizona Daily Star** stories on outbound inspections based CBP port tours at Nogales, Arizona.
- **3/31: New Orleans Times-Picayune, AP, and others** on Secretary Napolitano's announcement of the "Special Community Disaster Loan" Notice of Proposed Rulemaking. The rule proposes requirements and procedures for Gulf Coast communities to seek forgiveness of special community disaster loans that FEMA provided in 2005 after Hurricanes Katrina and Rita. The proposed rule will be published in the Federal Register on 4/3.
- **3/31: CNN and several other outlets** on TSA's public announcement that the **Secure Flight Program** began implementation at the end of January and is now operating with four small air carriers after Acting Administrator Gale Rossides testified at a 3/31 hearing before the House Appropriations Subcommittee on Homeland Security.
- **4/1: AP** on ACLU press release urging DHS investigations into five "troubling incidents," mostly stemming from DHS-funded fusion centers." (see outreach section)

~~*NOT FOR PUBLIC DISTRIBUTION*~~

- Widespread coverage of Secretary Napolitano's 3/24 announcement of the planned increased presence on the SW border and 3/25 Congressional testimony on the same topic. Additional details expected to be announced on 4/9.

Expected Stories

- **3/26:** ICE received inquiry from CNN regarding the DHS position and request to interview lawyers associated with the Zeituni Onyango (President Obama's aunt) case scheduled for 4/1. ICE does not comment on individual cases.
- **3/27:** EFE photojournalist David Maung toured San Ysidro Port of Entry for a story on increased border security efforts, including X-ray screening of southbound rail cars. EFE is the major Spanish-language multimedia news agency. Story has not run yet.
- **3/30:** DHS announced the release of a DHS-developed detection tool that can be used by the federal government, commercial vendors, state and local governments, and critical infrastructure owners and operators to scan their networks for the **Conficker/Downadup computer worm**. The tool has been made available to federal and state partners via the Government Forum of Incident Response and Security Teams Portal, and to private sector partners through the IT and Communications sector Information Sharing and Analysis Centers. **As of 4/2**, the worm continues to spread and the infection rate is estimated at more than 15 million machines in the U.S. US-CERT is focusing efforts on cleanup and continues to reach out to departments and agencies to assist with the use of the Conficker Detection tool, assess patch and anti-virus status, and assist in cleanup. US-CERT is also working with industry to monitor Conficker behavior and collaborate on detection and cleanup methodologies. US-CERT has an unconfirmed report that Belarusian law enforcement agencies, working with Interpol, apprehended two men suspected of being the authors of the Conficker worm. FBI has requested confirmation from Interpol.
- **4/1: ITN Channel 4 News** (primetime network news show in the UK, syndicated on CNN International and in the U.S. through NBC and PBS Newshour) requested an interview with CBP personnel in Tucson, Arizona regarding increased security measures on the border.
- **4/1: Homeland Security Today** to interview the DHS National Coordinating Center for Communications regarding the National Communications System and its emergency response preparation for the 2009 hurricane season.
- Multiple **KVOA (local NBC affiliate)** stories to run 4/3 on interview at Nogales Port of Entry on outbound operations.
- **The Washington Post** will post a blog story featuring the canine training program at Front Royal, Virginia and the El Paso Canine Center program, highlighting how CBP trains its canine teams and their work in the field once they complete the training program at CBP's Canine Centers. Story expected during the week of 3/30.
- **AP** story expected the week of 3/29 regarding CBP's improvements in border security as it relates to keeping terrorists from entering the country at and between the ports of entry. Story has not run yet.
- **Bloomberg News** covering a story of the escalating violence along the southwest border and how the U.S. will respond. Story expected within the week. Story has not run yet.
- Coast Guard provided **WORKBOAT magazine** with background material, news releases, and interview with Lieutenant Commander Brian Robinson for an article about Self-Propelled Semi-submersibles used in drug trafficking. Publication expected in next month's issue.

IG Reports

- **Final report delivered to the Department 3/24; Congressional Distribution 4/1; Web posting 4/9: "Investigation Concerning TSA's Compromise of Covert Testing Methods."** This report highlights a dispute between the IG and TSA, with the TSA asserting it followed all procedures while the IG claims TSA comprised the IG's covert testing methods in April 2006.
- **Delivered to the Department 3/25; Congressional Distribution 4/2; Web Posting 4/10: "Review of Customs and Border Protection's Certification of Automated Targeting System-Passenger (ATS-P) Enhancements."** Pursuant to congressional requirements accompanying the FY 2009 *Consolidated Security, Disaster Assistance, and Continuing Appropriations Act*, the IG reviewed the certification by CBP that proposed enhancements to ATS-P will fully comply with all laws, including privacy protection laws. IG does not foresee any significant risks to the personal data being collected and stored within ATS-P brought about by the proposed system enhancements.
- **Delivered to the Department 3/26; Congressional Distribution 4/3; Web Posting 4/13: "FEMA's Implementation of the Flood Insurance Reform Act of 2004,"** includes five recommendations for improving program implementation and oversight and reducing the number of repetitive loss properties insured by the National Flood Insurance Program by applying actuarial insurance rates to properties on leased federal land and implementing regulations to expand the use of increased cost of compliance coverage for all qualifying FEMA mitigation programs.

Other Significant Reports

- Office of Counternarcotics Enforcement (CNE) will send the following reports, mandated in the FY2009 DHS Appropriations Bill, to Congress on 4/6:

~~*NOT FOR PUBLIC DISTRIBUTION*~~

~~*NOT FOR PUBLIC DISTRIBUTION*~~

- **FY 08 CNE Achievements:** Summarizes CNE's FY 2008 achievements, including continued facilitation and expansion of an interagency effort with the National Joint Terrorism Task Force (the Drug-Terror Nexus Project), the National Southwest Border Counternarcotics Strategy and Implementation Plan, counternarcotics strategies for the southern, northern, and maritime borders of the U.S., working with Canada on the fight against illicit drug abuse and production in both countries, and supporting the Executive Office of the President in a variety of counternarcotics efforts.
- **FY 09 CNE Performance Goals:** Describes major engagement areas where CNE is working with DHS components and interagency partners in FY09 to maximize the efficiency of personnel and resources focused on supporting investigations, interdictions, apprehensions, and prosecutions of illegal drug smuggling into the U.S.
- **An Analysis of Efforts to Track and Sever Drug-Terror Links:** Describes how CNE has facilitated and expanded an interagency effort with the National Joint Terrorism Task Force, as well as other Federal, State, and local law enforcement organizations and members of the intelligence community, to gather information and intelligence which identifies the current and emerging nexus between drug traffickers and terrorist organizations.
- **An Update on National Southwest Border Counternarcotics Strategy Implementation:** Provides an update on DHS' implementation of 49 objectives outlined in the 2007 National SW Border Counternarcotics Strategy and Implementation Plan (an interagency document led by ONDCP with participation by the NSC and the State, Justice, Treasury, and Defense Departments) which directs the coordination of counterdrug and border security initiatives to address the drug trafficking threat while enhancing overall border security along the SW Border.
- **Submersible Vessel and Low-Flying Aircraft Interdiction Strategies:** Describes DHS' approach to countering the increased usage of these conveyances to smuggle illegal drugs.
- CNE, along with other interagency partners, was also tasked by NSC to identify new policies/initiatives and prioritize existing ones, both short and long term, that would **support or complement the Merida Initiative and the recently released Southwest Border Security Policy**. Due to NSC on 4/6.

Outreach/Stakeholder Meetings

- **3/27:** CRCL received five letters from the **ACLU** requesting investigations into the following matters: a North Central Texas Fusion Center "Prevention Awareness Bulletin" that described a purported conspiracy by Muslim civil rights organizations; a Missouri Information and Analysis Center "Strategic Report" describing the "modern militia movement"; FEMA's Threat Assessment on environmental extremists which allegedly includes information on the Sierra Club, the Humane Society, and the Audubon Society; DHS allegedly monitoring and disseminating the communications of peace activists to Maryland State Police; and a Federal Protective Service Intelligence Bulletin containing a "civil activists and extremists action calendar." CRCL is currently reviewing these complaints.
- **3/27:** TSA hosted a meeting with **Women in Federal Law Enforcement** Executive Director Margie Moore and Vice President Monica Rocchio on issues involving employment of women at TSA as part of TSA's Diversity Initiative.
- **Week of 3/30:** TSA participated in the second of three regional meetings with freight rail and mass transit security stakeholders to discuss the implementation of new TSA regulations in rail. These rules took effect in December and require providers to report security points of contact and other security information to TSA. The rules also set standards for risk reduction from toxic inhalation of hazard materials transported by rail (e.g., chlorine and ammonia).
- **3/31:** USCIS attended meetings with DoS with Vietnamese Vice Minister of Justice Dinh Trung Tung. The meetings underscored **U.S. Government support for Vietnamese steps to accede to the Hague Adoption Convention** and provide an opportunity to exchange information on inter-country adoptions.
- **3/31:** Incoming A/S for Intergovernmental Programs Juliette Kayyem held a conference call with **Homeland Security Advisors from AK, TN, SD, CO, NJ, NE, WA, AZ, and MI**. (All states were invited. Another call taking place 4/2).
- **4/3:** ICE Office of Intelligence will meet with **Europol officials** to determine if the Europol Information System contains information that may be of interest to ICE, specifically whether the Europol Information System has data from sources not found in the Interpol systems.
- **4/7:** CRCL will conduct its regular conference call with **Somali American community leaders**. CRCL will brief on recent CRCL activities with Somali American communities as well as upcoming outreach activities.
- **4/8:** FEMA will be holding the second **National Level Exercise 2009 Seminar** on Air, Border, and Maritime Security, which aims to educate, identify and raise awareness of the key issues that confront government officials, international partners, private sector entities and NGOs involved in these preparedness activities and to take action on challenges faced. Presentations will focus on programs in place to combat threats faced in air, land, and maritime borders, including port security, terrorist screening activities, and interagency cooperation.
- **4/8 – 4/10:** Acting FEMA Administrator Nancy Ward to Austin, Texas for the **National Hurricane Conference**. Ward will speak on 4/8 regarding FEMA preparedness for the 2009 Hurricane Season.
- **4/10 – 4/11:** Ward to New Orleans to conduct a follow-up visit with **FEMA's Gulf Coast Recovery Office**.

~~*NOT FOR PUBLIC DISTRIBUTION*~~

Grant Announcements

- **Week of 4/6:** Potential announcement with the Secretary and the Emergency Food and Shelter National Board on the \$100 million ARRA funding for shelters across the country. United Way is the current chair of the Board. Possible event at a DC shelter.
- **4/8:** Over \$970 Million will be announced for ten preparedness grant programs. The Transit Security Grant Program, the Port Security Grant Program, the Freight Rail Security Grant Program, the Intercity Passenger Rail Program, the Intercity Bus Security Grant Program, the Trucking Security Program, the Buffer Zone Protection Program, the Interoperable Emergency Communications Grant Program, the Emergency Operations Center (EOC) Grant Program, and the Driver's License Security Grant Program.

III. Legislative and Policy issues

Congressional testimony/hearings

House Homeland Security Committee

- **4/2:** Former Homeland Security Advisors to President Bush on "Homeland Security Policymaking: HSC at a Crossroads and Presidential Study Directive 1." No DHS witnesses.

House Transportation and Infrastructure Committee, Subcommittee on Economic Development, Public Buildings, and Emergency Management

- **4/3:** FEMA on emergency management in the National Capital Region.

House Energy and Commerce Committee, Subcommittee on Oversight and Investigations

- **4/21:** Coast Guard Rear Admiral Watson on Bayer Crop-science Facility Explosion.

Congressional Briefings/Travel

House Homeland Security Committee

- **3/31:** Chief David Aguilar from the Border Patrol and others briefed Chairman Bennie Thompson and Ranking Member Peter King regarding SW violence. I&A, ICE, Alcohol Tobacco and Firearms, and the DEA will also participate.
- **4/2:** TSA to brief Chairman Thompson on Transportation Worker Identification Credential program status.
- **4/3 - 4/4:** Chairman Bennie Thompson, along with Rep. Loretta Sanchez, Rep. Sheila Jackson-Lee, and Rep. Pete Olsen, to El Paso Sector to tour CBP operations. Focus of this tour will be border violence.

Senate Homeland Security and Governmental Affairs Committee

- **4/1, 4/3:** FEMA will brief staff on the National Disaster Housing Strategy and on FEMA's Public Assistance Program.
- **4/17:** FEMA, Office of Infrastructure Protection, DHS Private Sector Office, and S&T will brief staff on the implementation status of the Voluntary Private Sector Preparedness Accreditation and Certification Program (PS-Prep). FEMA developed the PS-Prep Program in response to the Implementing the Recommendations of the 9/11 Commission Act of 2007, requiring DHS to establish a common set of criteria for private sector preparedness in disaster management, emergency management, and business continuity. The Committee has requested status briefings every 45 days.

Senate Appropriations Committee, Homeland Security Subcommittee

- **4/1, 4/3:** FEMA and the NPPD Offices of Infrastructure Protection and Emergency Communications will brief staff on the infrastructure grants being announced on 4/8.
- **4/1- 4/3:** The majority staff will receive briefings and tours of ICE Detention and Removal programs at York County Jail, Berks County Family Shelter, and the Justice Prisoner and Alien Transportation System flight; ICE Special Agent-in-Charge Offices in Philadelphia, Newark, and New York; the Border Enforcement Security Task Force in Newark; and the El Dorado Task Force (a money laundering investigative group).

House Oversight and Governmental Affairs Committee

- **3/30 - 4/3:** Committee staff will travel to Laredo, El Paso, and San Diego Sectors to tour CBP and ICE operations.

Other Significant Congressional Briefing Activity

- **3/26:** DHS Acting Deputy Secretary Rand Beers and CBP held a conference call with Rep. Solomon Ortiz on the construction of fencing in the city of Brownsville, Texas. Rep. Ortiz was pleased with DHS's willingness to take Brownsville's concerns under consideration, and asked DHS to assist the City to find the funds necessary to complete the proposed levee/barrier project.
- **4/1 - 4/3:** USCIS Congressional Relations will host an "Immigration 101 Conference" for Congressional staff.
- **4/2:** CRCL to brief Sen. Brownback's staff on efforts to engage the Somali community. I&A to also provide staff with a SECRET level threat briefing on Al-Shabaab - a violent Islamic extremist organization in Somalia.
- **4/3:** CBO will meet with several CBP offices to discuss SBInet, fencing, and other issues.

Activity on Legislation or Policy

~~*NOT FOR PUBLIC DISTRIBUTION*~~

- **3/26:** Rep. Loretta Sanchez re-introduced H.R. 1726, the Border Security Search Accountability Act of 2009, requiring that not later than 180 days after the date of the enactment, the Secretary issue a rule with respect to the scope of and procedural and recordkeeping requirements associated with border security searches of electronic devices. Specifically the bill requires the rule to ensure privacy is respected, physical and intellectual property is not damaged or stolen, and that safeguards and redress procedures are in place. DHS does not yet have an official position on this bill.
- **3/26:** Rep. Ginny Brown-Waite introduced H.R. 1753, the One Strike Act, a bill to amend the Immigration and Nationality Act to include in the definition of the term "aggravated felony" a criminal violation committed by an alien who illegally entered the U.S. DHS does not yet have an official position on this bill.
- **H.R. 1746** to reauthorize the pre-disaster mitigation grant program, set to expire on 9/30, will be marked up next week.
- **S.713**, The FEMA Accountability Act of 2009, was reported out of Committee to the full Senate on 4/1. The Act requires the FEMA Administrator to assess the number of temporary housing units purchased by FEMA and the number FEMA needs to address emergencies. FEMA communicated extensively to staff that this is duplicative of existing authority; however, it was deemed that opposition on these grounds was not worth formally opposing the bill.
- **National Cyber Security Center** drafted a response to Sen. Susan Collins letter regarding concerns she has about the Department's National Cyber Security Center. The response, to be sent early next week, assures Collins of the Secretary's commitment to keeping cybersecurity in the forefront of the DHS mission. The response includes number of documents Collins requested (i.e. canceled contracts, MOAs with the Defense Information Systems Agency, e-mail records, and budget numbers).

IV. Legal Issues

Regulations/Rulemakings

- USCIS's **Liberian Deferred Enforced Departure (DED) Notice** was published in the Federal Register on 3/30. USCIS extended employment authorization for Liberian nationals covered under DED in response to President Obama's recent Memorandum. The Federal Register Notice provides instructions on how these individuals should obtain employment authorization for the 12-month DED extension.
- The USCIS **"Forwarding of Affirmative Asylum Applications to the Department of State"** Final Rule will publish in the Federal Register on 4/6. This final rule amends existing regulations to alter the process by which USCIS forwards Form I-589, Application for Asylum and Withholding of Removal (for asylum applications filed affirmatively with USCIS) to DoS. This rule provides that USCIS will no longer automatically forward all affirmative asylum applications to DoS. Instead, USCIS will send affirmative asylum applications to DOS when USCIS believes DOS may have relevant country conditions information. This change will increase efficiency of DoS's review of asylum applications.

V. Senior Personnel Announcements

- A/S for Private Sector Al Martinez-Fonts' last day was **3/27**. Bridger McGaw is now the Acting A/S for Private Sector.
- A/S for State and Local Law Enforcement Ted Sexton submitted his resignation on **3/30**.

VII. Additional items of importance not covered above

- The Federal Law Enforcement Training Accreditation Board re-accredited DHS' Federal Law Enforcement Training Center Academy on 4/2. FLETC was first accredited 3 years ago
- **Global Entry**, a pilot program designed to expedite clearance of pre-approved low-risk air travelers entering the U.S., plans to begin a reciprocal pilot with the Netherlands on **4/23** which will link the U.S. Global Entry system with a pre-existing Dutch system.

~~*NOT FOR PUBLIC DISTRIBUTION*~~

I. Recovery, Reform, Efficiency, and Transparency

Recovery updates included in VP report.

Secretary Napolitano will be issuing guidance on the the four 30-day Efficiency Review initiatives related to eliminating non-mission critical employee travel, consolidating newspaper and journal subscriptions, eliminating the printing of hard copy documents that can be posted/distributed online, and maximizing the use of DHS and other federal facilities to minimize rental costs. **The Secretary will present this guidance to the heads of the seven major DHS components on 4/10.** Additionally, components and offices throughout the Department have submitted employee engagement plans for gathering employee input on potential efficiency initiatives. Employees have already begun to submit ideas, including suggestions for increased information security, improved processes for suitability screening, and resource conservation, which are currently under review.

II. Press Stories

Recent Media Reports

- **3/30 – 4/3: BusinessWeek, The Los Angeles Times, and others** on the Obama Administration's resistance to changing policies regarding the H-1B visa program. Most of the articles focused on critics' claims that the shortage of skilled high-tech workers is a myth and H-1B visas lead Americans to lose their jobs to foreigners. USCIS issued a release on 4/8 stating that they have not yet filled the 65,000 H-1B allocation and will continue accepting applications past the initial five-day period.
- **4/2: AP, Wall Street Journal, and others** on the Conficker/Downadup computer worm not causing nearly as much damage on 4/1 (April Fool's Day) as was feared.
- **4/2:** Coast Guard hosted a Bloggers roundtable to provide a general update on acquisition. The following blogs participated: Puget Sound Maritime, gCaptain, CG Blog, War is Boring, and Information Dissemination blog. Very positive coverage from the Information Dissemination blog; limited coverage otherwise.
- **4/2: eWeek** on "The Cybersecurity Act of 2009," introduced by Senators John Rockefeller and Olympia Snowe, which would allow the President to shut down private Internet networks and allow the government, if necessary, to demand security data from private networks regardless of any provision of law, regulation, rule or policy restricting such access. Article notes that while much attention has focused on the President's intention to appoint a cybersecurity czar, this bill could have far more significant implications. DHS has significant concerns with this bill, as it would shift current DHS cyber security and private infrastructure activities to the Department of Commerce.
- **4/2:** USCIS' Gregory B. Smith in *Homeland Security Today* on the USCIS-FBI Partnership, outlining the joint efforts of the two agencies to eliminate background name check backlogs.
- **4/3: FOXNews.com** and **MSNBC.com** on millimeter wave technology pilot programs at airports, noting that the method could become a popular alternative to body searches, but has also prompted some privacy concerns.
- **4/5: Washington Times** profile of Secretary Napolitano. Extremely positive.
- **4/5: USA Today** story on the ACLU and Republican groups/officials finding common ground in opposing state intelligence fusion centers (which receive funding from DHS). The piece discusses the ACLU's recent request for DHS to investigate two fusion centers reports that revealed that the centers were investigating the activities and characteristics of "right-wing extremist movements" and "'far Left groups.'"
- **4/6: New York Times** interview with Secretary Napolitano on SW border policy and her recent trip to the region. Very positive.
- **4/6: Washington Times** story on the detention and harassment of a Ron Paul organization official by airport screeners, an incident that was caught on tape at a St. Louis airport. The official was selected for additional screening after officials spotted a metal box in his luggage that contained a large amount of cash and checks made out to the campaign. TSA is conducting an investigation. TSA also issued a statement confirming that the metal box triggered the "need for additional screening," but said the tone and language used by the TSA employee was inappropriate.
- **4/7: Multiple outlets** on a flight student stealing a single-engine plane in Canada and flying across the border into the U.S. CBP's Air and Marine Operations Center tracked the aircraft and coordinated law enforcement response once the plane landed.
- **4/7: CNN** story on DHS-funded project that could potentially stem overflowing water from breached levees.

~~*NOT FOR PUBLIC DISTRIBUTION*~~

- **4/8: Multiple outlets** reported that the U.S. electric grid has been targeted for attacks by foreign governments. In response, Secretary Napolitano noted that, at this point, “the problem is theoretical,” as no services have actually been affected.
- **4/9: San Diego Union-Tribune** editorial commending Secretary Napolitano for her knowledge of and commitment to the fight against drug cartels in Mexico.
- **Washington Post Federal Eye** blog story on CBP canines expected posted on **4/8** (see previous reports).

Expected Stories

- **The Governors of Alabama, Florida and Georgia declared emergencies this week for flooding.** Although FEMA Post Disaster Assessments are possible, no major FEMA involvement is currently required.
- FEMA Public Affairs responded to an inquiry from **CTI Taiwan broadcasting** for a series of stories on the New Orleans recovery process since Katrina. Interview topics included description of the magnitude of Hurricane Katrina, U.S. response to the disaster, types of assistance FEMA has provided to affected families and communities, and FEMA’s views regarding criticisms of the agency. Air date TBD.
- **AP** story on CBP’s improvements in keeping terrorists from entering the country at and between the ports of entry. Publication date TBD.
- Associate Chief Medical Officer for Medical Readiness **Dr. Til Jolly** will discuss DHS’s role in the event of a catastrophic incident with **The History Channel** on **4/13**. Air date TBD.
- **Government Executive Magazine** (Robert Brodsky) interviewed the Inspector General to discuss the Recovery Accountability and Transparency Board and DHS OIG’s oversight of Recovery funds for the **May issue**.
- **Bloomberg News** story on SW border violence and the U.S. response. Publication expected within a week.
- **Chemical & Engineering News** (Rochelle Bohaty) interviewed S&T Explosives Division Director James Tuttle on **4/3** for a story about explosives detection using chemical signatures. The reporter will also visit the Transportation Security Laboratory in Atlantic City for a tour and interview with Lab Director Susan Hallowell this week on the various technologies being investigated there. Publication date TBD.

IG Reports

Delivered to the Department 4/1; Congressional Distribution 4/9; Web posting 4/17: “Management Letter for the FY 2008 DHS Financial Statement Audit.” This report presents more than 90 internal control weaknesses in areas such as management of environmental liabilities; unbilled reimbursable revenue; depreciation of newly capitalized property, plant, and equipment; and untimely disbursement of payments to vendors. None rise to the level of a significant deficiency. The report includes recommendations for improving financial management.

Other Significant Reports

- An Interagency Working Group, co-chaired DHS Counternarcotics Enforcement, will finish updating the Southwest Border Counternarcotics Strategy by 4/29. The Strategy is being expanded so that it addresses all threats, as opposed to just illegal drugs and bulk cash, and reflects the Administration’s emphasis on attacking northbound smuggling of illegal drugs, southbound smuggling of bulk cash and weapons, and the transnational criminal organizations which are involved in those activities. The **2009 National Southwest Border Strategy** will:
 - Direct the coordination and facilitation of U.S. Government counterdrug and border security initiatives to achieve a comprehensive national effort involving Federal, State, local, and private sector entities.
 - Include a new chapter on “Weapons Smuggling” identifying the threat posed by the linkage between drug trafficking organizations and arms trafficking, and its impact on violence along the U.S. Mexico border.
 - Include a new “Tunnels Appendix,” which includes a strategy to end the construction and use of tunnels and subterranean passages.
 - Include a “Resource Appendix,” which includes out-year resource requirements for enhancing overall border security along the Southwest Border (this portion of the document will be kept within the Executive Branch for use as a budgetary planning tool).
- **GAO-09-492, “Transportation Security: Comprehensive Risk Assessments and Stronger Internal Controls Needed to Help Inform TSA Resource Allocation”:** Both versions (public and SSI) of the report, based on field research that ended in late 2008, issued to Congress 3/27. Congress has placed a 30-day hold on the report, and will likely issue it following the current recess. GAO’s key finding is that TSA has not completed National Infrastructure Protection Plan compliant risk assessments for each mode of transportation, and argues that because it has not, it cannot make fully informed decisions on allocating resources between modes of transportation. TSA responded that the assessments are in progress, and it has not completed them because they were required to build and operate the agency while developing them. In the meantime, TSA has used the available information it has on risk to make resource decisions as part of a comprehensive suite of information inputs, including intelligence and covert testing. Going

~~*NOT FOR PUBLIC DISTRIBUTION*~~

~~*NOT FOR PUBLIC DISTRIBUTION*~~

forward, TSA will pursue a risk-informed strategy and will implement the assessments as they are completed over the next several years.

- **4/3:** Pursuant to the Implementing Recommendations of the 9/11 Commission Act of 2007, CRCL delivered its **FY09 First Quarter Report to Congress** on the 26 new complaints received, mostly regarding ICE and CBP, and types of review of Department actions undertaken (predominantly issuing reports and recommendations); the type of advice provided and the response given to such advice; the number and nature of complaints received by DHS for alleged violations; and a summary of the disposition of such complaints, the reviews and inquiries conducted, and the impact of these activities. Report does not include findings or conclusions.

Outreach/Stakeholder Meetings

- **4/6:** TSA held the first of several planned stakeholder meetings with the **Aircraft Owners and Pilots Association** to discuss possible alternatives related to the Large Aircraft Security Program regulation. Both sides promised closer collaboration in the future.
- **4/9:** TSA Acting Administrator Gale Rossides and Federal Air Marshal Service Director Robert Bray will meet with Joseph McMillan, President of **National Organization Black Law Enforcement Executives** at TSA HQ.
- **4/9 – 4/11:** FEMA Acting Administrator Nancy Ward will travel to New Orleans to conduct a follow-up visit with **FEMA's Gulf Coast Recovery Office**.
- **4/10:** CRCL will conduct a roundtable with members of **Columbus, Ohio Somali American communities**.
- **4/15:** Acting Assistant Secretary for Health Affairs Dr. Jon Krohmer to discuss OHA's role in emergency preparedness at the **World Health Care Congress**, which features top health care officials from the U.S. and around the world.

Grant Announcements

- **4/8:** Secretary Napolitano announced over \$970 Million for ten preparedness grant programs (see last week's report).
- **4/9:** Announcement of \$100 Million in Emergency Food and Shelter grants funded by ARRA, which funds local programs that provide food and shelter for families in need across the United States

III. Legislative and Policy issues

Congressional testimony/hearings

House Appropriations Committee, Subcommittee on Homeland Security

- **4/22:** Coast Guard Commandant Admiral Allen on FY10 budget.

House Energy and Commerce Committee, Subcommittee on Oversight and Investigations

- **4/21:** Coast Guard Rear Admiral Watson on Bayer CropScience Facility Explosion regarding an explosion that killed a worker. The Chemical Safety Board initiated investigation and Bayer said that some information the board either requested/ intended to share publicly fell under the umbrella of security sensitive information. Because Bayer has a strained relationship with the community, some suspected they were trying to hide damaging or embarrassing information. CG was asked to testify to verify what is/is not sensitive security information.

Congressional Briefings/Travel

House Homeland Security Committee

- **4/20:** Office of Emergency Communications will brief staff on current issues, legislative initiatives, and general updates.
- **4/30:** Office of Emergency Communications will provide Majority Members and staff with an introductory briefing.

Senate Homeland Security and Governmental Affairs Committee

- **4/14:** FEMA will brief staff on the Status of the Catastrophic Incident Supplement, which provides the operational framework for accelerating the delivery and application of Federal and Federally-accessible resources and capabilities in response to a catastrophic event.
- **4/15:** Staff will tour US-Computer Emergency Readiness Team facilities and meet with officials from the National Cyber Security Division to discuss its activities.
- **4/17:** FEMA, Office of Infrastructure Protection, DHS Private Sector Office, and S&T will brief staff on the implementation status of the Voluntary Private Sector Preparedness Accreditation and Certification Program (PS-Prep). FEMA developed the PS-Prep Program in response to the Implementing the Recommendations of the 9/11 Commission Act of 2007, requiring DHS to establish a common set of criteria for private sector preparedness in disaster management, emergency management, and business continuity. The Committee has requested status briefings every 45 days.

Senate Appropriations Committee, Subcommittee on Homeland Security

- **4/23:** OHA and FEMA will brief the staff on Nuclear Preparedness, receiving a progress update on the supplemental funding for Nuke Modeling (OHA) and Nuke Planning (FEMA).

~~*NOT FOR PUBLIC DISTRIBUTION*~~

~~*NOT FOR PUBLIC DISTRIBUTION*~~

- **4/27:** Office of Infrastructure Protection (OIP) Protective Security Coordination Division (PSCD) will brief staff on the West Virginia National Guard agreement, vulnerability assessments, and the Regional Resilience Assessment Program. OIP has a Memorandum of Agreement with the National Guard Bureau for 15 National Guard teams to work with PSCD on vulnerability assessments. Currently the MOA is being amended to add additional teams. Appropriations gave OIP a \$6 million plus-up for the National Guard.
- **4/28:** Office of Infrastructure Protection's Office for Bombing Prevention will brief staff on OBP and gaps in bombing prevention.
- **4/29:** Office of Emergency Communications will provide staff with an introductory briefing.

Senate Intelligence Committee

- **4/15:** Staff will tour US-Computer Emergency Readiness Team and meet with officials from the National Cyber Security Division.

Senate Agriculture Committee

- **4/14:** OHA will meet with Majority staff to discuss the mission of OHA and the potential utility of an Animal ID system for livestock in the possibility of a homeland security incident.

House Agriculture Committee

- **4/15:** OHA will brief staff on the National Biosurveillance Integration Center (on-site).

Other Significant Congressional Briefing/Travel Activity

- **4/13:** Rep. Mike Rogers will visit the Center for Domestic Preparedness.

V. Legal Issues

Major Movements in Litigation

- ***Columbia Venture LLC v. South Carolina Wildlife Federation***, On 4/3, the 4th Circuit reversed a decision of the district court, which had vacated the 2001 base flood elevation determinations adopted by FEMA for Richland County, South Carolina which are used in connection with the National Flood Insurance Program because of a failure to timely publish the determinations in the Federal Register. In reversing the decision, the 4th Circuit noted that a failure to timely publish does not automatically result in nullification of the agency action. Rather, the party challenging the action must demonstrate prejudice from the deficient notice. Because the developer challenging FEMA's determinations was deeply involved in the administrative process from the outset, the court ruled that it could not demonstrate the required prejudice.
- ***Orantes-Hernandez v. Holder***, On 4/6, the 9th Circuit issued an unpublished opinion affirming the decision of the district court, which had denied the Government's motion to dissolve an injunction issued in 1987 concerning removal (deportation) practices as applied to Salvadoran nationals. In its decision, the 9th Circuit held that the district court did not abuse its discretion in finding that current conditions justify continuing application of the injunction.
- ***Castellano v. Napolitano***, On 4/1, a purported class action lawsuit was filed in the U.S. District Court for the Central District of California alleging various statutory and constitutional violations occurring at the ICE downtown Los Angeles immigration detention facility, known as "B-18" or the "L.A. Staging Area." The lawsuit alleges that detainees are "shuffled" in and out of this facility for extended periods of time, which prevents them from being provided showers, soap, paper, clothes changes, beds, and recreation. Additionally, it is alleged the plaintiffs do not have access to legal representation, medical care, telephones, mail, or law libraries. The lawsuit also alleges that ICE fails to comply with the *Orantes* injunction pertaining to Salvadoran nationals and fails to process timely bond determinations within 48 hours. Plaintiffs are seeking various forms of injunctive relief.
- ***Kiyemba v. Obama***, On 4/7, the D.C. Circuit issued a 2-1 decision reversing a decision of the district court, which had required the Government to provide 30 days advance notice to the court and the attorneys for several Uighur detainees held at the U.S. military detention facility in Guantanamo Bay in the event the Government intended to transfer the aliens from that facility. In reversing that decision, the D.C. Circuit held that the aliens could not demonstrate a likelihood of success on their legal claims that would justify the injunctive relief, because, among other reasons, courts generally are precluded from reviewing the Executive Branch's determination that an alien is not likely to be tortured if removed to a particular country.

Regulations/Rulemakings

- **4/7:** The City of Laredo, Texas approved a 10-year easement that will allow CBP to eradicate Carrizo cane along an approximately 1.1 mile stretch of the Rio Grande in the City of Laredo. Last week CBP announced publicly that, largely because of concerns that had been expressed by local citizens and City officials, CBP would not use aerial spraying as a means of cane eradication. Although the easement does not allow CBP to use aerial spraying as a means of eradication, it will allow CBP to cut or mechanically remove Carrizo cane and then apply herbicide by hand, either by "roll" or "spray" methods.

~~*NOT FOR PUBLIC DISTRIBUTION*~~

- The comment period for the USCIS interim final rule “**Documents Accepted for Employment Eligibility Verification**” closed on March 4, and the rule went into effect on April 3, 2009. The rule prohibits employers from accepting expired documents for I-9 purposes. The rule was published in December 2008; the original effective date was February 2, but that was extended 60 days pursuant to the White House Chief of Staff Memorandum on regulations. USCIS has posted an Update to their website and FAQs and has made significant stakeholder/constituent outreach.

IV. Senior Personnel Announcements

4/6: Juliette Kayyem started as Assistant Secretary for Intergovernmental Programs.

4/7: Jane Holl Lute sworn in as Deputy Secretary.

4/8: President Obama announced his intent to nominate **Rand Beers** as Under Secretary of the National Programs and Protection Directorate.

V. Additional items of importance not covered above

- **4/12:** USCIS and the Abraham Lincoln Bicentennial Commission will hold a **naturalization ceremony at the Lincoln Memorial** in Washington, DC for approximately 200 citizenship candidates. Deputy Secretary Jane Lute and retired Army General Colin Powell will participate in the ceremony.
- **4/16-17:** S&T will host the **DHS S&T U.S.-UK Bilateral Conference** in Washington, D.C. Areas of cooperation include stand-off explosives detection, chemical, biological, radiological, and nuclear detection, infrastructure protection, and radicalization and other human factors issues. Closed press.
- CRCL’s Office of Accessible Systems & Technology evaluates DHS Web sites quarterly for accessibility to disabled persons. Second quarter results just published show that accessibility of DHS Web sites continues to improve, increasing overall accessibility by 42% since this program started two years ago. Five components, USCIS, NPPD, ICE, S&T, and USSS received perfect scores.

I. Recovery, Reform, Efficiency, and Transparency

Recovery updates included in VP report.

On 4/17, the Secretary will release the final policy and implementation guidance on the four 30-Day Efficiency Review initiatives, which relate to eliminating non-mission critical employee travel, consolidating newspaper and journal subscriptions, minimizing the printing of hard copy documents that can be posted/distributed online, and maximizing the use of DHS and other federal facilities to minimize rental costs. Already, the Office of Counternarcotics Enforcement (CNE) has determined it will save \$1600 by reducing staff attendance at an upcoming interagency counterdrug conference in Florida.

Additionally, component-specific initiatives are being implemented and recognized, including:

- TSA's Environmental Management Program and FLETC are receiving the EPA's **2009 Federal Electronics Challenge Gold Level Awards** for outstanding overall environmental stewardship, including buying "green" desktop computers and utilizing Energy Star technology in all three phases of electronics acquisition, energy efficient utilization, and disposal. Last year, TSA received the Gold Level Award and FLETC received Silver. Fewer than ten agencies/offices typically receive the Gold Level Award annually.
- TSA recently merged its operational offices in Tokyo, Japan with ICE and CBP, reducing operating costs by more than \$7000 annually and encouraging interaction between the collocated agencies..

II. Press Stories

Recent Media Reports

- **4/9: CBS' "60 Minutes"** received a CBP Secure Border Initiative briefing for a potential story on SBInet.
- **4/9: BBC News** and **CNET News** reported that the **Conficker/Downadup computer worm** has started to update infected machines with a "mystery package" of data. This newest activity was discovered on 4/7 through a device placed on a computer network specifically designed to capture malicious network traffic. Nefarious activity has not been detected to date, but the possible uses of this worm range from data theft, phishing/spam, and denial of service attack.
- **4/10: North Dakota and Minnesota** approved for Individual Assistance add-ons to their Major Disaster Declarations.
- **4/10: UPI** on Liberia participating in the Aviation Security Sustainable International Standards Team program, which involves a team of TSA security experts traveling to Liberia to help assess and strengthen security at Liberian airports.
- **4/10: Atlanta Journal-Constitution** op-ed by Bob Barr criticizing millimeter wave machines, Secure Flight, TSA employees at checkpoints, and the interrogation on 3/29 of a Ron Paul Campaign for Liberty official.
- **4/12: USA Today, Washington Post** on DHS naturalization ceremony at the Lincoln Memorial. USCIS Acting Deputy Director Aytes administered the Oath to 200 new citizens. Dep. Sec. Lute and Gen. Colin Powell participated.
- **4/14: NBC Nightly News** aired a story on a tour of the Laredo Port of Entry for a piece on southwest border outbound operations. Additional live broadcasts aired on **MSNBC** on 4/16.
- **4/14: ICE** executed the order of removal for accused Nazi death camp guard John Demjanjuk and was placing him into deportation proceedings when a stay of deportation was issued by the 6th Circuit Court of Appeals. **Many outlets covering this story**; Public Affairs from ICE and DOJ are coordinating media inquiries.
- **4/15: Fox News Channel** aired a piece on a CBP Air and Marine operations boat tour of San Diego for a 3-part series on Mexico narcotics trafficking. Began airing 4/15.
- **4/15: Extensive media coverage** of the Secretary's trip to the Southwest border, including interviews with Alan Bersin, the new Special Representative for Border Affairs.

Expected Stories

- Disaster declaration decisions are pending for flooding in **Georgia, Florida, Alabama, and Louisiana**.
- Texas and Oklahoma have received Fire Management Assistance Grants for wildfires, but due to increasing severity the states may require additional assistance. FEMA is standing by for requests for Emergency/ Major Declarations.
- The current program for **FEMA Temporary Housing Assistance** for applicants of Hurricanes Katrina and Rita expires on 5/1 for Louisiana, Mississippi, and Alabama (which has 19 units left). The closing date has already been extended more than two years beyond the statutory 18-month limit for housing assistance. Occupants of FEMA-provided

~~*NOT FOR PUBLIC DISTRIBUTION*~~

temporary housing were issued termination for end of program notices prior to 4/15. FEMA has contacted every household currently residing in a temporary housing unit and hotel/motel in the Gulf Coast to make them aware of available housing resources and offered them at least three rental resources.

- **Federal Computer Week** interviewed NPPD officials on **4/10** about cybersecurity in the procurement process, DHS' efforts on software assurance (a program that seeks to reduce software vulnerabilities, minimize exploitation, and address ways to improve the routine development and deployment of trustworthy software products), and establishing cybersecurity procurement language for control systems. Publication expected **4/20**.
- **Navy Times** working on a likely neutral story about the status and stock of Coast Guard housing. Publication TBD.
- **4/13:** Associate Chief Medical Officer, **Dr. Til Jolly** discussed DHS' role in the event of a catastrophic incident with **The History Channel**. Air date TBD.
- **4/14:** **New York Times** Mexico City-based correspondent visited the Laredo Port of Entry for a story on narcotics and human smuggling interdiction. Publication date TBD.
- **4/16:** CBP facilitating the **CNN** Larry King show broadcast from the San Diego border.
- **4/27:** USCIS is expected to announce the intent to rescind the No-Match rule and amend Executive Order 12898 so that federal contractors that enroll in E-Verify are required to screen only new hires, not existing hires.
- **USA Today** (Rick Jervis) requested information on U.S. law enforcement agents involvement in corruption on the border after noting an increase in the number of U.S. Attorney press releases about arrests/convictions of U.S. border officials and what action the IG is taking to combat the problems. IG informed Jervis that it investigates 100% of all allegations of border corruption and is analyzing intelligence gleaned by such investigations and successful prosecutions to help predict and prevent future corruption and detect on-going corruption cases. Publication date TBD, expected soon.
- **Northwest Arkansas Morning News** (John Henley) inquiring about the IG's inspection team visit to Northwest Arkansas (Benton County and Washington County Sheriff's Offices and City of Springdale Police Departments) to review 287(g) agreements. This general review of 287 (g) agreements was mandated by the FY 2009 Appropriations bill. The IG responded to the reporter that this was a congressionally mandated review, and communicated an excerpt from their Annual Performance Plan on the project. Final report on this review expected 8/09.
- **New York Times, Binghamton Press and Sun Bulletin, and others** submitted inquiries for and were provided with Alien File information concerning Jiverly Wong - the alleged shooter in the Binghamton, NY immigrant counseling center shootings that occurred on 4/3. Wong was naturalized in 1995. Deceased person's information is not protected under the Privacy Act, which led USCIS to release the Alien File information. An Alien File contains copies of all transactions pertaining to an individual who passes through the immigration and inspection process. **USA Today** reporter asked why, according to DHS reports/testimony, ICE removals have increased from 2002 to the present, and why many of the removals are non-criminals. ICE explained that enhanced enforcement has resulted in increased removals, and also highlighted efforts to target criminal aliens. Publication TBD, but expected soon.
- G-8 countries conducted an **unprecedented multilateral bulk cash smuggling operation** targeting illicit cash couriers traveling on commercial airlines to locations in the Middle East and Asia, specifically Iran, the United Arab Emirates, Qatar, China, and Vietnam. During the 3-day operation, G8 members examined approximately 515 international flights, and collectively made more than 60 cash seizures with an approximate value of \$3 million. This is a joint ICE and CBP operation. Public release, coordinated by DOS, is expected at the G8 meeting at the end of May.
- **April:** USCIS will announce a new program, JobLock, a free and voluntary service that mitigates identity theft in conjunction with E-Verify by allowing identity theft victims to voluntarily "lock" their Social Security numbers in the E-Verify system, preventing fraudulent employment authorization. JobLock will initially be open to identity theft victims, then to the general public.

IG Reports

- **Delivered to the Department 4/7; Congressional Distribution 4/15; Web Posting 4/23: "Compendium of Disaster Assistance Programs."** IG and the Council of Inspectors General on Integrity and Efficiency developed an inventory of 240 federal disaster assistance programs that provide assistance to individuals, states, localities, nonprofit organizations, and businesses impacted by a disaster.
- **Delivered to the Department 4/7; Congressional Distribution 4/15; Web Posting 4/23: "Federal Protective Service Contract Guard Procurement and Oversight Process."** Notes that the Federal Protective Service did not use consistent selection practices to award guard contracts. Also, the Federal Protective Service contract oversight activities did not ensure that contractors were deploying qualified guards to satisfying contract requirements. The report contains recommendations which should strengthen policies and procedures for the contract guard program. In response to the OIG report, ICE is developing a Mission Action Plan to address the recommendations which will be complete within 90

~~*NOT FOR PUBLIC DISTRIBUTION*~~

NOT FOR PUBLIC DISTRIBUTION

days (ICE also had initiated corrective action during the course of the audit as issues were determined). IG has accepted ICE's corrective action plan and all of the recommendations are considered resolved and open.

- **Delivered to the Department 4/9; Congressional Distribution 4/17; Web Posting 4/27: "Information Technology Management Letter for the Coast Guard Component of the DHS Financial Statement Audit" and "Information Technology Management Letter for the FEMA Component of the FY 2008 DHS Financial Statement Audit."**

Notes that the Coast Guard took corrective action to address nearly half of their prior year IT control weaknesses and FEMA made improvements in access controls and the change control process. The remaining weaknesses limit FEMA and the Coast Guard's ability to ensure that critical financial and operational data are maintained in such a manner to ensure adequate confidentiality, integrity, and availability of Coast Guard/FEMA data. Coast Guard has briefed the DHS CFO and CIO on its corrective efforts the week of 4/13, which focus on root cause and enterprise-wide solutions versus one time system "fixes." FEMA is developing a Corrective Action Plan that it will implement within 90 days.

Outreach/Stakeholder Meetings

- **4/11 - 4/19:** TSA meeting with Kenyan government and law enforcement officials to discuss a pending MOU relating to the deployment of Federal Air Marshals to and from Kenya.
- **4/13:** CRCL hosted a meeting with Deputy Secretary Jane Holl Lute, and several NGO partners involved in CRCL's engagement activities, including the **American Arab Anti-Discrimination Committee; the American Institute; Muslim Advocates; the Muslim Public Affairs Council; the Pakistani American Public Affairs Committee; the Sikh American Legal Defense and Education Fund; and the Sikh Coalition.**
- **4/13 - 4/16:** CNE presented at the **National High-Intensity Drug Trafficking Area Program Intelligence Managers and Nationwide Domestic Highway Enforcement Meetings** in Las Vegas, enhancing CNE's strategic outreach to federal, state, and local entities and improving the exchange of information on drug-terror linkages.
- **4/15:** Acting Under Sec for S&T Bradley Buswell met with new head of **Australia's Defence Science and Technology Organization** to discuss opportunities to leverage Australian investments in areas such as explosives detection and blast protection for U.S. security applications under the 2005 U.S.-Australian agreement for science and technology.
- **4/16:** Assistant Secretary for State and Local Law Enforcement Ted Sexton will be the keynote speaker at the **Spring Colloquium on National Security Studies at Arizona State University**, sponsored by the Director of National Intelligence Centers of Academic Excellence.
- **4/17:** Office of Health Affairs and FEMA are hosting an interagency (Energy, Health and Human Services, Justice, Defense, State, Transportation, USDA, WH Office of Science and Technology, HSC, and EPA) **workshop at the Homeland Security Institute** in Arlington, VA focusing on improvised nuclear device communication and a new national approach to creating all hazards communication.
- **4/20 - 4/24:** Acting Assistant Secretary for Health Affairs Jon Krohmer and Domestic Nuclear Detection Office Acting Director Gallaway will be attending a **joint exercise in Haifa, Israel** that will focus on respective U.S. and Israeli responses to an attack involving a radioactive dispersal device. They are part of a larger U.S. delegation including representatives from the Departments of Energy, Defense, State, Health and Human Services, the FBI, the EPA, and the Nuclear Regulatory Commission.
- **4/20 - 4/24:** S&T's Explosives Division will participate in the **NATO Science for Peace and Security Committee** meeting in Brussels, Belgium to discuss a collaborative R&D program focused on the development of laser and microwave explosives detection devices and the integration of off-the-shelf camera systems that could assimilate data coming from different sensors and track potential explosive threats. Tests at a mass transportation location will follow (France has offered a subway stop that serves over million people a day, but the location is NOT finalized). Closed press.
- **4/21:** CRCL attending an interagency meeting, hosted by DOJ on the concerns of Muslim, Sikh, Arab and South-Asian leaders regarding the **National Security Entry-Exit Registration System, transportation security officer behavior, and naturalization backlog.** Participants include the **American-Arab Anti-Discrimination Committee; Sikh American Legal Defense and Education Fund; Muslim Public Affairs Council; and the Sikh Coalition.**
- **4/21 - 4/24:** CNE will participate in the **Joint Interagency Task Force Counter Narco-Terrorism Planning Conference** in Key West, FL, which facilitates the planning, coordination, integration and synchronization of international counter narco-terrorism operations in the Western Hemisphere drug transit and source zones.
- **4/22:** CRCL will be featured at the international **"Terrorism and Communication" conference** sponsored by the Danish Security and Intelligence Service, which will focus on communication methods and techniques employed by militant Islamists and how international governments can respond.
- **4/27 - 4/28:** TSA will attend the **U.S.-European Union Transportation Security Cooperation Group** to discuss harmonizing checked baggage screening processes; air carrier assessments; air cargo screening; developing a method to screen instead of limiting liquids on aircrafts; harmonizing lists of prohibited items; and enhancing information exchange on potential land transportation security measures. U.S. Coast Guard will also attend to discuss maritime security issues.

NOT FOR PUBLIC DISTRIBUTION

III. Legislative and Policy issues

Congressional Testimony

House Appropriations Committee, Subcommittee on Homeland Security

- **4/22:** Commandant Thad Allen on Coast Guard procurements/acquisitions.
- **4/28:** NPPD and S&T will provide a classified briefing to Members on DHS' cybersecurity efforts.

House Committee on Energy and Commerce Subcommittee on Oversight and Investigation

- **4/23:** Coast Guard Director of Prevention Policy Rear Admiral James Watson on the explosion and fire at Bayer Cropscience facility in West Virginia, on 8/28/08 (see last week's report).

Senate Homeland Security and Governmental Affairs Committee

- **4/20:** Field hearing in Phoenix to examine the national and homeland security consequences of violence along the SW border. No DHS witnesses.
- **4/22:** FEMA Administrator-Nominee Craig Fugate to testify at confirmation hearing; committee markup expected 4/24.
- **4/22:** Assistant Secretary for ICE-designate John Morton will testify at confirmation hearing; committee markup expected 4/24. Morton will then be referred to Senate Judiciary Committee.
- **4/29:** Tim Manning (FEMA Deputy Administrator for National Preparedness-designate) and Ivan Fong (General Counsel-designate) will testify at their confirmation hearings.

Senate Judiciary Committee

- Nomination of Assistant Secretary for ICE-designate John Morton expected to be marked up by 4/30.

Senate Homeland Security and Governmental Affairs Committee, Subcommittee on State Local and Private Sector Preparedness and Integration

- **4/21:** CNE Acting Director John Leech on state, local, and private sector preparedness and integration.

Senate Commerce, Science & Transportation Sub-Cmte on Oceans, Atmosphere, Fisheries and Coast Guard

- **5/12:** CG Commandant Thad Allen at the request of Sen. Jay Rockefeller to discuss the FY10 budget and a possible Coast Guard reauthorization bill.

Congressional briefings/meetings

House Homeland Security Committee

- **4/20:** NPPD Office of Emergency Communications will brief staff on current issues and general updates.
- **4/22:** Acting Under Secretary for S&T Bradley Buswell to meet with Rep. Yvette Clarke to discuss the S&T Directorate (Clark sits on the Transportation and Infrastructure Protection and Management, Investigations, & Oversight Homeland Security Subcommittees). Closed press.

Senate Committee of Homeland Security and Governmental Affairs, Subcommittee on State, Local, and Private Sector Preparedness and Integration

- **4/16:** CNE will accompany staff members on a visit to the El Paso Intelligence Center for briefings on EPIC tactical operations and DHS Homeland Intelligence Support Team support.

Senate Homeland Security and Governmental Affairs Committee

- **4/17:** FEMA, Office of Infrastructure Protection, DHS Private Sector Office, and S&T will brief staff on the implementation status of the Voluntary Private Sector Preparedness Accreditation and Certification Program (PS-Prep). FEMA developed the PS-Prep Program in response to the Implementing the Recommendations of the 9/11 Commission Act of 2007, requiring DHS to establish a common set of criteria for private sector preparedness in disaster management, emergency management, and business continuity. The Committee has requested status briefings every 45 days.

Senate Homeland Security and Governmental Affairs, Subcommittee on Contracting Oversight

- **4/21:** IG Richard Skinner to testify on the abilities of inspectors general to detect contracting fraud.

House Appropriations Committee, Subcommittee on Homeland Security

- **4/15 - 4/16:** S&T hosted briefings with staff on basic research, product transition, laboratory facilities, and homeland security science and technology capabilities in chemical and biological security, human factors, explosives, counter-IED, border and maritime security, critical infrastructure protection, and preparedness and response. Open press.

Senate Appropriations Committee, Homeland Security Subcommittee

- **4/12 - 4/18:** Staff will tour DHS and CBP operations in Los Angeles, San Diego, and the Tucson areas.
- **4/20:** DHS Acting Deputy Assistant Secretary for Health Affairs Dr. Til Jolly will provide Sen. Sam Brownback's staff with a briefing on the responsibilities, mission, and activities of OHA. Brownback's staff has expressed interest in learning about OHA's interface and collaboration with the Department of Health and Human Services.
- **4/23:** Office of Health Affairs with FEMA will brief the staff on Nuclear Preparedness. The Committee will receive a progress update on the FY 2007 Warfighter Supplemental funding for Nuke Modeling (OHA) and Nuke Planning

NOT FOR PUBLIC DISTRIBUTION

(FEMA). In FY 2009, FEMA was allocated \$6 Million to takeover the OHA program. Specific plans for FY09 funding include \$2 Million for R&D to improve understanding of the impact of improvised nuclear devices and institutionalize planning efforts at the FEMA Region, State, and local levels for an improvised nuclear devices.

- **4/27:** Office of Infrastructure Protection will brief staff on the West Virginia National Guard agreement, vulnerability assessments, and the Regional Resilience Assessment Program. See previous report.
- **4/28:** Office of Infrastructure Protection's Office for Bombing Prevention to brief staff on gaps in bombing prevention.
- **4/29:** Office of Emergency Communications (OEC) to brief staff on the basic roles and responsibilities of the OEC.

House Energy and Commerce Committee

- **4/22:** Staff will tour the ICE Intellectual Property Rights (IPR) Center in Herndon, VA, a state-of-the-art center that brings together every government agency in the IPR enforcement arena. Federal officials use the center to provide training in IPR issues for industry representatives and partners in domestic and foreign law enforcement.

Senate Commerce Committee

- **4/16 (tentative):** TSA Large Aircraft Security Program update for staff.
- **4/17:** Briefing for staff on Security Directive 8F, which set standards for issuing, controlling, and auditing badging systems at commercial airports and expanded the population for which operators must submit information to TSA for security threat assessments (e.g., watch list checks).

House Oversight and Government Reform Committee

- **4/16:** Staff will tour the CBP National Targeting Center in Herndon, Virginia, which provides 24/7 tactical and strategic cargo targeting and analytical support for CBP's global anti-terrorism efforts, coordinates information exchange, improves CBP's control and facilitation of cargo, and fosters fellowships with domestic and international partners.

Other Relevant Congressional Briefing/Travel

- **4/11:** USCIS Acting Deputy Director Michael Aytes joined Sen. Bernie Sanders for a town hall in St. Albans, VT to discuss moving USCIS data entry work from St. Albans to a facility in South Burlington, VT as part of USCIS's new Lockbox network. USCIS plans to move all application receipt and data entry services from all four USCIS Service Centers to the Department of Treasury-supported Lockbox network. This project is underway, and is expected to be completed by the end of 2010. USCIS made the decision in 2007 to change its intake process because a Lockbox operation enhances security and controls over the fee collection process, ensures timely deposit of the fees and allows for improved consistency and efficiency in processing. No government employees are affected by this shift because the Service Center receipt and data entry services are performed under contract. As the shift occurs, there will be opportunity for some of the contract employees at the Vermont Service Center to find positions with the Lockbox facility in South Burlington, VT. Sen. Sanders was very appreciative of USCIS's participation in the town hall meeting.
- **4/20:** Rep. Dina Titus will tour Las Vegas McCarran International Airport operations.
- **4/22:** CRCL to brief Sen. Sam Brownback's staff on CRCL outreach and engagement efforts to the Somali Diaspora Community. I&A will also provide a SECRET Level threat briefing on Somalia and Al-Shabaab.

IV. Legal Issues

Major Movements in Litigation

- **Aranov v. Napolitano**, On 4/13, the 1st Circuit, sitting *en banc*, reversed the decision of the circuit court panel, which had upheld the district court's award of attorneys' fees under the Equal Access to Justice Act (EAJA). Plaintiff had filed a mandamus action against U.S. Citizenship and Immigration Services (USCIS) for delay in adjudicating his naturalization application. Rather than defending the suit, USCIS reached a settlement with plaintiff and the parties filed a joint motion with the district court for remand to USCIS. Following the remand, plaintiff sought and was awarded EAJA fees by the district court. In reversing the panel decision, the *en banc* court held that plaintiff was not a "prevailing party" under EAJA, because he did not receive a judgment on the merits or obtain a court-ordered consent decree. The court further held that plaintiff was ineligible for attorneys' fees under EAJA because USCIS' position was substantially justified.
- **Lockhart v. Napolitano**, On 4/8, the 6th Circuit affirmed a decision of the district court, which had ruled that an alien whose U.S.-citizen spouse dies prior to the Government's adjudication of a Form I-130 (petition for alien relative) and where the couple had not been married for two years nonetheless is a "spouse," and thus qualifies as an "immediate relative" under the Immigration and Nationality Act (INA). In its decision, the 6th Circuit followed the holding of the 9th Circuit in *Freeman v. Gonzales*, and rejected the recent decision of the 3rd Circuit in *Robinson v. Napolitano*, in reasoning that the statutory two-year marriage duration requirement only applies to those aliens whose U.S.-citizen spouse did not file the Form I-130 prior to his or her death.
- **Youssef Megahed**, On 4/14, a lawful permanent resident from Egypt appeared before an immigration judge at the Krome Processing Center. On, April 6, 2009, ICE agents arrested Megahed in a Wal-Mart parking lot in North Tampa,

NOT FOR PUBLIC DISTRIBUTION

NOT FOR PUBLIC DISTRIBUTION

FL, three days following his acquittal by a jury on federal explosives charges. Megahed is charged administratively with violations of INA Section 237(a)(4)(B), 8 U.S.C. § 1227(a)(4)(B), as an alien the Government has reason to believe is engaged, or is likely to engage after entry, in terrorist activity. The case has received significant media attention from the **AP, Tampa-area publications, and other outlets.**

Regulations/Rulemakings

- TSA published a Notice titled “Alien Flight Student Recurrent Training Program Recurrent Training Fees” on 4/12. The Notice announces the imposition of fees for processing alien flight students who take recurrent, required training to cover the cost of the security threat assessments. Section 543 of the 2009 Appropriations Act, which amended 6 U.S.C. 469, authorized TSA to establish these fees by notice. Notice goes into effect 30 days after publication.
- On 4/17, a Final Rule extending the applicability date for the E-Verify FAR regulation, from 5/21 to 6/30 will be published in the Federal Register, effective immediately.

FOIA

- **FOIA request 2009-083:** Reporter with the Center for Investigative Reporting seeks documents related to corruption investigations of ICE, CBP, and CIS employees for FY 2008 and FY 2009. Response expected within 90 days.
- **FOIA request 2009-085:** American Federation of Government Employees and AFL-CIO, are jointly seeking a list containing the position titles and position locations of civilian employees employed by DHS who have been designated as “exempt” from the Fair Labors Standards Act. Response expected within 90 days.

V. Senior Personnel Announcements

- **4/13:** Alan Bersin started as Assistant Secretary for International Affairs and Special Representative for Border Affairs
- **4/14:** Kristin Lee named TSA’s Assistant Administrator for Strategic Communication and Public Affairs.
- **4/14:** President Obama announced his intent to nominate David Heyman as Assistant Secretary for Policy.

VI. Additional items of importance not covered above

- **4/16 - 4/17:** S&T will host an interagency workshop on the use of **Case Study Methodologies in terrorism research.** The workshop, which will be attended by academic researchers and representatives from DHS, DoD, FBI, and NCTC, will explore best practices in research, data sources, coding systems, and analysis. Closed press.
- **4/15 – 4/17:** FEMA will meet with NORTHCOM to discuss possible joint training opportunities between **NORTHCOM and Center for Domestic Preparedness** to achieve more robust national preparedness in chemical, biological, radiological, and explosives threat hazards. The goal of the meeting is to agree to integrate NORTHCOM, National Guard Bureau, FEMA/National Preparedness response elements with federal, state, local, tribal sector responders through improved training and exercise opportunities.
- **4/16 – 4/17:** CNE will participate in the **Defense Intelligence Agency Arms for Drugs Working Group**, which will focus on the transnational arms trade, its relationship to drug trafficking, and the movement of drugs and weapons through South America, Central America and the Caribbean.
- **4/29:** S&T will conduct a demonstration of the **Unified Incident Command and Decision Support (UICDS) Program** at the Virginia Emergency Operations Center. UICDS is an innovative new system that provides seamless data sharing and situational awareness throughout all stages of incident response and recovery. Closed press.
- USCIS has received 43,559 Non-masters H-1B visa petitions as of 4/14, well below the 65,000 Non-masters cap. Daily intake has been 300-500 since 4/8. 21,915 Masters petitions have been received (category capped at 20,000).

~~***NOT FOR PUBLIC DISTRIBUTION***~~

I. Recovery, Reform, Efficiency, and Transparency

Recovery updates included in VP report.

DHS offices and components have begun implementing the first four Efficiency Review (ER) initiatives. Initial results include:

- The National Cyber Security Division (NCS) is using **teleconferences** and **webinars** in lieu of **flying to events** for approximately ten individual trips, which will result in approximately \$10,000 - \$15,000 in savings for FY 2010.
- The Office of Counternarcotics Enforcement **eliminated its annual subscriptions to general interest newspapers**. This is the first step to reduce and consolidate subscriptions to professional publications and newspapers.

DHS is currently preparing guidance for the 60-Day ER initiatives, including tracking fleet fuel use electronically to increase efficiency and eliminate fraud and abuse, conducting an assessment of all employees and contractors to better manage the DHS workforce, utilizing refurbished IT equipment and redeploying it throughout the Department, leveraging buying power to acquire software licenses for Department-wide uses, and a new initiative eliminating all branded knick knacks (i.e. pens, key rings, etc.). The Secretary will issue this guidance by 5/27.

III. Press Stories

Recent Media Reports

- **4/16: AP, CNN, The Hill and others** on the appointment of Alan Bersin as Assistant Secretary for International Affairs and Special Representative for Border Affairs.
- **4/16: Phoenix Business Journal, AP and others** on additional DHS personnel being deployed to the Southwest border following Secretary Napolitano's 3/24 announcements.
- **4/16: Buffalo News, AP and others** on Deputy Secretary Lute's visit to Buffalo, N.Y., and her statement that Western Hemisphere Travel Initiative implementation on 6/1 will go smoothly.
- **4/17: NBC, CBS, ABC, CNN, Fox and MSNBC morning shows**, live from Mexico City, on Secretary Napolitano's trip to the Southwest border and Mexico.
- **4/18: National Journal** on ICE's key role in the fight against violent drug cartels due to access to export and cash declaration information and border search authority.
- **4/19: CNN, AP and others** on Secretary Napolitano's comment that the Administration is "actively considering" a deployment of National Guard troops to the Southwest border.
- **4/19: ABC, NBC, AP and others** on Deputy Secretary Lute's visit to Oklahoma City for the tenth anniversary of the Oklahoma City bombing.
- **4/21: Washington Post** on the signing of an agreement between the Army Reserve and CBP to create a partnership to fill some of CBP's 11,000 job openings with Army reservists. CBP is the first federal entity to join the Army Reserve's Employer Partnership Initiative, a collaborative project established last year to place reservists with public and private employers.
- **4/21: New York Times and other outlets** on Holocaust Remembrance Day repatriation ceremony, hosted by ICE at the Museum of Jewish Heritage in New York. ICE recently recovered a 17th century painting taken from a Jewish family by the Nazis.
- **4/21: Specialty blogs and trade publications** on Coast Guard Commandant's statement on piracy explaining the CG's tactics to reduce vulnerability to attack and the Commandant's view that piracy is a complex issue where long-term solutions must address political stability and economic opportunity in Somalia.
- **4/22: CQ Homeland Security** on Secretary Napolitano's remarks to the Anti-Defamation League, in which she outlined five main missions for DHS: guarding against terrorism, securing our borders, enforcing smart and tough immigration laws, preparing for, responding to, and recovering from natural disasters, and unifying and maturing DHS.
- **4/22: TSA Secure Flight Program Director Paul Leyh on Federal News Radio** to discuss Secure Flight.

Expected Stories

- **Confirmation hearings** for FEMA Administrator-designate Craig Fugate (4/22), Assistant Secretary for ICE-designate John Morton (4/22), General Counsel-designate Ivan Fong (4/29), and FEMA National Preparedness Directorate Deputy Administrator-designate Tim Manning (4/29).

NOT FOR PUBLIC DISTRIBUTION

- **4/19: USA Today** interview on criminal vs. non-criminal removals and how more non-criminal aliens are being removed than criminal aliens. Publication date TBD.
- **4/21:** A joint news conference with CBP, GSA, and the U.S. Consulate General in Vancouver, BC addressed the Western Hemisphere Travel Initiative (WHTI) documentation deadline, preparations for summer travel, Summer World Police and Fire Games, 2010 Winter Olympics, and progress of Peace Arch construction project at the Blaine, Washington Peach Arch Crossing.
- **4/22 - 4/24: Pentagon Channel** filming of Naval Criminal Investigative Service agents who are attending advanced training at Federal Law Enforcement Training Center; focus of the feature is on crime scene investigation techniques.
- **4/23:** DHS will formally launch a new **U.S.-Netherlands initiative to open membership in their expedited air travel programs** to citizens of both countries in an effort to streamline entry processes for pre-screened fliers.
- **4/24: "America's Most Wanted"** will film a show featuring CBP San Diego air assets, highlighting how they are used to target Mexican drug cartels. The show is slated to air 5/16.
- **4/24:** DHS Attaché in Hong Kong anticipates possible press inquiries about a former ICE fugitive and Taiwan national, Yen Ching Peng, who pled guilty for conspiracy to commit violations of the Arms Export Control Act by trying to sell a fighter-jet helmet, thermal weapon sight, and various night vision goggles.
- **4/27:** DHS Efficiency Review press release on the first four Department-wide initiatives (30-day mark).
- **4/28:** DHS press release on DHS/ Frontex agreement in Prague.
- **4/29:** DHS press release first 100 Days of DHS in the Obama Administration.
- **USA Today** is expected to release a piece on passive millimeter wave technology in advance of a SPO-7 pilot in Boston. The SPO-7 uses passive millimeter waves to measure density through a camera/meter. The technology is designed to help identify IEDs on travelers.

IG Reports

- **Delivered to DHS, 4/15; Congressional Distribution 4/23; Web Posting 5/1: "Management Letter for the TSA's Consolidated Balance Sheet as of September 30, 2008 (FY 2008)."** Presents internal control weakness that KPMG identified while performing TSA's FY 2008 Consolidated Financial Statement audit that do not rise to the level of a significant deficiency. Includes recommendations for improving financial management.
- **Delivered to DHS, 4/17; Congressional Distribution, 4/27; Web Posting, 5/5: "Independent Auditors' Report on TSA's FY 2008 Balance Sheet."** TSA received a qualified opinion on its consolidated balance sheet as of 9/30/08 because TSA's records did not allow the auditors to complete all the planned audit tests of general property and equipment, or of the calculation of future minimum lease payments. The auditor's report discusses three material weakness, one significant deficiency in internal control, and four instances of noncompliance with laws and regulations. TSA is developing a plan of action for every material deficiency and audit.
- **Delivered to DHS, 4/15; Congressional Distribution, 5/1; Web Posting, 5/8: "ICE Detention Bed Space Management."** Recommends ICE update its plan for improving bed space acquisition prior to its implementation to reflect the current emphasis on alien removal versus detention. ICE will submit its corrective management action plan by 6/10. ICE has also already initiated a comprehensive review of Jail Cost Service Statements when negotiating for bed space, recruiting personnel to monitor bed space management at Intergovernmental Service Agreement facilities, and launching the ICE Integrated Decision Support system, which provides ICE with the capability to acquire and report data that's needed to conduct bed space management performance analysis and forecasting.
- **Delivered to DHS, 4/17; Congressional Distribution, 4/27; Web Posting, 5/5: "FEMA's National Flood Insurance Program Management Letter FY 2008."** This report presents internal control weaknesses that do not rise to the level of a significant deficiency that were identified while performing DHS' FY 2008 Consolidated Financial Statement audit related to the National Insurance Flood Program. The report includes recommendations for improving financial management.
- **Delivered to DHS, 4/15; Congressional Distribution, 4/23; Web Posting, 5/4: "IT Management Letter for the FY 2008 DHS Financial Statement Audit."** Provides an evaluation of the effectiveness of general IT controls supporting DHS' financial processing environment and related IT infrastructure. The significant weaknesses include (1) excessive unauthorized access to key DHS financial applications; (2) application change control processes that are inappropriate, not fully defined, followed, or effective; and (3) service continuity issues impacting DHS' ability to ensure financial data is available when needed. Collectively, the IT control weaknesses identified are of such significance that they constitute a material weakness under generally accepted accounting standards. CIO and CFO have responded by making significant progress in developing an integrated approach toward incorporating the CIO's FISMA compliance framework with their internal control assessment process. Major activities completed to date include: issuing an Information Technology General Controls Implementation Guide to document and test the financial system; assessing the design effectiveness of key financial system internal controls at DHS HQ and five DHS Components, issuing the DHS Information Security Performance Plan which includes the requirement to ensure key financial system security controls are tested annually, and making significant improvements to

NOT FOR PUBLIC DISTRIBUTION

~~*NOT FOR PUBLIC DISTRIBUTION*~~

CIO's Information Assurance tools to ensure they provide the functionality needed to identify and track compliance with requirements for CFO designated systems.

- **Delivered to DHS, 4/16; Congressional Distribution, 4/24; Web Posting, 5/4: "IT Management Letter for the FY 2008 CBP Financial Statement Audit."** Provides an evaluation of the effectiveness of general IT controls supporting DHS' financial processing environment and related IT infrastructure. The most significant weaknesses are inadequate controls over access to programs and data and steps are currently underway to address these.
- **Delivered to DHS, 4/17; Congressional Distribution, 4/27; Web Posting, 5/5: "Better Monitoring and Enhanced Technical Controls are Needed to Effectively Manage LAN-A."** Overall, DHS has implemented effective system controls to protect the information stored and processed by the LAN-A system (the DHS HQ network). OIG recommended that additional monitoring of the contract is needed to ensure that the contractor is providing adequate services and the required deliverables. In addition, DHS can make improvements in managing its privileged and inactive accounts. Finally, program officials should ensure that LAN-A is re-certified and accredited according to DHS security policy. The CIO will formally respond within 90 Days, but has already provided extensive feedback during the draft phase of this report, and notes that, at the time of the IG inspection, LAN-A was accredited as meeting NIST standards.
- **Delivered to DHS 4/16; Congressional Distribution 4/24; Web Posting, 5/4: "Efforts to Address Lessons Learned in the Aftermath of Top Officials Exercise (TOPOFF 4)."** Examined DHS' process to determine, formulate, and address lessons learned and corrective needs identified during previous Top Officials exercises and recommended that DHS seek assistance from high-level agency and interagency committees, and amend national exercise program guidance, in order to (1) implement the Corrective Action Program, (2) increase the level of participation by top officials in all phases of the exercise, and (3) disseminate After Action Reports, best practices, and lessons learned to a broad national audience.
- **Delivered to DHS, 4/17; Congressional Distribution, 4/28; Web Posting 5/5: "Independent Auditors' Report on FLETC's FY 2008 Consolidated Financial Statement."** FLETC received an unqualified opinion on its consolidated financial statements for FY 2008 which discusses three significant deficiencies, two of which are considered material weaknesses (financial reporting and environmental liabilities), and one instance of noncompliance with laws and regulations. In addition, FLETC management identified a matter that has been reported as a violation of the Anti-deficiency Act related to the classification of a building lease. With regard to Environmental liability, FLETC is required to disclose its environmental liability on its annual financial statement. Due to a disagreement with the KPMG Audit Firm, FLETC revised its liability amount and has now reported the correct liability, so this is a closed issue. The Anti-deficiency Act: is as a result of entering into a 20-year lease-build dormitory. Secretary Chertoff declared the Anti-deficiency in FY 2008 with follow-up to be provided to the Congress after the internal investigation was completed. The internal investigation concluded that all believed they were following the advice of the GSA experts, no one intentionally committed any wrongdoing, and no adverse consequences resulted from these actions. W. Ralph Basham was at the time FLETC Director and he accepted full responsibility for the anti-deficiency.
- **Delivered to DHS, 4/17; Congressional Distribution, 4/27; Web Posting, 5/5: "Progress in Addressing Secure Border Initiative Operational Requirements and Constructing the Southwest Border Fence."** Presents the results of OIG review to determine CBP progress in addressing Secure Border Initiative requirements including construction of tactical infrastructure fencing to secure the SW border, documentation requirements, supply-chain management process, staffing needs, and updates to the information management systems. CBP concurred on all four recommendations, and is putting in place action plans to ensure the recommendations are implemented by the end of the year.
- **Delivered to DHS, 4/17; Congressional Distribution, 4/28; Web Posting, 5/5: "DHS' Progress in Disaster Recovery Planning for Information Systems."** Generally, the department has made progress in establishing an enterprise-wide disaster recovery program, including establishing two new data centers but more work is needed. For example, the two new data centers need interconnecting circuits and redundant hardware, not all critical departmental information systems have an alternate processing site, and risk assessments of the data centers did not include all relevant information. CIO is currently composing a formal response to the final report's recommendations, which it will submit within 90 days.

Outreach/Stakeholder Meetings

- **4/16:** DHS met with representatives from **the new EU Visa Waiver Program countries (Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, and Slovakia)** to discuss Electronic System for Travel Authorization compliance rates and enhanced outreach initiatives to sustain, if not increase compliance rates. The current rates for these countries are around 95%.
- **4/20:** Acting TSA Administrator Gale Rossides met with John Prater of the **Airline Pilots Association** on the extension of the CrewPASS Pilot Program, which permits registered pilots to pass through expedited screening at three airports: Baltimore, Pittsburgh, and Columbia, SC. TSA had previously agreed to extend the pilot program through July. Rossides and Prater discussed the future of the program and how to build a national system, which would include flight attendants and biometric data.

~~*NOT FOR PUBLIC DISTRIBUTION*~~

~~*NOT FOR PUBLIC DISTRIBUTION*~~

- **4/20 - 4/23:** TSA will attend the **G-8 Transportation Security Subgroup** in Naples, Italy (Canada, France, Germany, Italy, Japan, Russia, UK, and U.S). Topics include explosives detection, vehicle-borne improvised explosive devices and canine teams. TSA will be reporting on two U.S. sponsored projects: "Research and Development in Explosives Detection Technologies," whose goal is to collate R&D on explosives detection and other technologies, and "Canine Detection of Explosives," a project which TSA hopes will lead to international guidance material on training and certification of canine teams in the aviation sector.. TSA will also informally propose two new projects: "The Insider Threat" and "Public Outreach." The Insider Threat Project will survey G-8 members to determine best practices to mitigate the threat from terrorist exploitation of new or current employees in the airport environment. The Public Outreach project will focus on public outreach activities and best practices aimed at raising public awareness, acceptance of, and compliance with transportation security requirements.
- **4/20-4/24:** OPS Director Roger Rufe traveled to Israel to participate in the **U.S.-Israeli joint exercise** focusing on responses to an attack involving a radioactive dispersal device (See last week's report for other DHS attendees).
- **4/20 - 4/25:** Chief Privacy Officer Mary Ellen Callahan traveled to Paris, Berlin, and Brussels to meet with European counterparts to discuss privacy issues in the 2007 US-EU Passenger Name Record Agreement, the High Level Contact Group, and to provide public outreach to the European public on DHS redress. DHS had previously been in a defensive position vis-à-vis EU policymakers in the negotiation of information sharing agreements. Because the Privacy Act of 1974 applies only to US persons, EU interlocutors have argued against information sharing agreements with DHS because EU citizens allegedly did not have judicial redress for Privacy Act violations. Callahan articulated that in fact, DHS offers multiple effective administrative and judicial redress options for non US persons to officials responsible for data protection at Ministries of Justice and Interior and through press events in Paris and Brussels.
- **4/20 - 5/1:** TSA will provide **Airport Security Management Training to Nigeria** in advance of expanded service to the U.S. from Africa. Delta Airlines has indicated an intention to begin service to six airports in Africa: Monrovia, Liberia; Nairobi, Kenya; and Abuja, Nigeria transiting through Dakar, Senegal (June 2009) and Luanda, Angola; Malabo, Equatorial Guinea; and Sal, Cape Verde (September 2009).
- **4/22 - 5/1:** Coast Guard Commandant Thad Allen travels to **Greece, Djibouti, India, Bahrain, Kuwait, and Ireland** where he will meet with government and maritime industry leadership to discuss broad regulatory issues, anti-piracy efforts, small vessel security standards, CG efforts in Operation Iraqi Freedom, and the LORAN-C program, which provides navigation, location, and timing services for both civil and military air, land and marine users..
- **4/22 - 4/24:** Office of Emergency Communications will host the **National Conference on Emergency Communications**, highlighting implementation of the National Emergency Communications Plan, in Chicago. Open press. Assistant Secretary for Intergovernmental Programs Juliette Kayyem will provide keynote address on 4/23.
- **4/23:** USCIS Acting Deputy Director Aytes will participate in an open press panel discussion with executive leadership from **American Immigration Lawyers Association, ImmigrationWorks USA, the Center for Immigration Studies and PEW Hispanic Center** regarding immigration reform. The discussion will focus on the challenges immigrants face and the role USCIS plays as an immigration facilitator.
- **4/27:** Acting Under Secretary for S&T Bradley Buswell will meet with **Chairman of the International Institute for Comparative Government and European Policy Joachim Jens Hesse** in Berlin, to discuss improvement of international co-operation between DHS S&T and European countries, particularly on issues that require transnational response. -.
- **4/27 - 4/28:** S&T will host the **Singapore Ministry of Home Affairs** delegation for a visit to the University of Maine's Advanced Structures and Composite Center (non-DHS facility) and a visit to DHS' Transportation Security Laboratory in Atlantic City, NJ. These visits are being conducted to collaborate and share information under the March 2007 U.S.-Singapore Agreement on Cooperation in Science and Technology for Homeland/Domestic Security Matters.
- **4/28:** Under Secretary for S&T Bradley Buswell will meet with **incoming president of the EU Håkan Jevrell** to discuss efforts to enhance transatlantic cooperation on homeland security, and to follow-up on the bilateral S&T cooperation with Sweden (U.S. and Sweden signed an agreement in April 2007 to share information in order to better protect both nations.)
- **4/28:** CRCL's David Gersten will moderate a panel discussion on how the protection of individual rights is both a mandate and a means to enhance mission performance and overall security at the **2009 National Forum on Information Sharing and Collaboration.**, a conference for DHS' federal, state, local, tribal, and territorial partners.
- **4/28:** CRCL will host a meeting, also attended by DOS, with the **Somali Transitional Federal Government Minister for Diaspora Affairs** to discuss his recent three week tour of North American cities with high concentrations of Somalis, including Toronto, Minneapolis, and Columbus.
- **4/28:** S&T's Knowledge Management Tools (KMT) program will moderate a panel discussion about analytical tools at the **2009 National Forum on Information Sharing and Collaboration** in Washington, D.C. focused on developing methods to process and analyze massive amounts of information that are widely dispersed and in multiple forms. The KMT program area develops analysis tools and resources to support ICE investigations and intelligence analysts in their mission to prevent

~~*NOT FOR PUBLIC DISTRIBUTION*~~

~~*NOT FOR PUBLIC DISTRIBUTION*~~

terrorism and also provides analysis tools to local, tribal, and state responders who work in partnership with ICE and CBP on the SW Border

- **4/28 - 4/30:** Acting Under Secretary for S&T Bradley Buswell and the Commander of U.S. Joint Forces Command will co-sponsor a three day conference on **Small Unit Excellence** in Alexandria, VA focusing on enhancing team and unit performance in high stress, complex operational environments. The conference is expected to result in a significant DOD initiative in which DHS can be a partner. Specifically, DOD is looking at training techniques that will help very junior personnel in combat and intense peacekeeping operations, since actual combat is conducted mostly by very junior personnel. Particular attention will be given to cognitive research on how humans function under extreme stress and how training can be do to help the human brain cope better. This initiative may also help our first responders. Closed press.
- **4/29:** CRCL will provide training to staff from the Maryland Fusion Center on the privacy and civil liberties issues associated with their work with DOJ, FBI, and state police participation. This training is pilot for a national training program jointly developed by CRCL, Privacy, and the DOJ/Bureau of Justice Assistance.
- **4/29 - 4/30:** S&T's Explosives Division Electronic Countermeasures Working Group (ECMWG) will establish a **National Electronic Countermeasures (ECM) Pilot Program** to overcome Radio Controlled Improvised Explosive Devices in partnership with state and local bomb squads. . The ECMWG has representatives from the FBI, DHS OBP, Technical Support Working Group, National Institute of Justice, the Hazardous Devices School, and the National Bomb Squad Commanders Advisory Board.
- **5/1:** S&T's National Biodefense Analysis and Countermeasures Center (NBACC) will host Biological Weapons Convention (BWC) Chair, Canadian Ambassador Marius Grinius. The BWC has a current focus on improving the safety and security of biological agents, and to ensure oversight mechanisms to prevent the misuse of biotechnology for hostile purposes. S&T will provide overviews of the DHS process for conducting BWC compliance reviews and NBACC programs on bioforensic analysis and biological threat characterization.
- **5/1 - 5/2:** S&T's Office for Interoperability and Compatibility will demonstrate **Multi-Band Radio (MBR) technology** at the Kentucky Derby. The MBR technology is the first-ever radio prototype that allows emergency responders to communicate with partner agencies - regardless of the radio band on which they operate. Open press.
- DHS Attaché Tokyo, in conjunction with CBP Honolulu and DOJ has initiated the Yakuza Documentation Center Project to identify and investigate the activities of **Japanese organized crime** members and their associates (Yakuza is a nickname for a Japanese organized crime member). To date, several Yakuza members attempting entry into the U.S. under the Visa Waiver Program have been refused entry as a result of information developed by the center.

Grants

- Program guidance for \$565 million in non-ARRA Assistance to Firefighters Grants released; grant application period is open 4/15 - 5/20.

IV. Legislative and Policy Issues

Congressional Testimony

Senate Homeland Security and Governmental Affairs Committee

- **4/29:** Confirmation hearings for General Counsel-designate Ivan Fong and FEMA National Preparedness Directorate Deputy Administrator-designate Tim Manning.

House Transportation and Infrastructure Committee

- **4/29:** FEMA will submit a written statement for the record on ARRA implementation for programs within the Committee's jurisdiction, including the \$210 million FEMA received for Fire Station Construction grants. Coast Guard will submit a written statement for the record on ARRA implementation thus far, currently under review by General Counsel.

House Transportation and Infrastructure Committee, Subcommittee on Coast Guard and Maritime Transportation

- **5/13 (tentative):** Rear Admiral Baumgartner on piracy on the high seas.

House Oversight and Government Reform Committee, Subcommittee on Government Management, Organization, and Procurement

- **5/5:** Office of Cybersecurity will testify at a hearing on "Cybersecurity: Emerging Threats, Vulnerabilities, and Challenges in Securing Federal Information Systems." OMB, GAO, DOD, and DOS also invited.

Senate Commerce, Science and Transportation Subcommittee on Oceans, Atmosphere, Fisheries and Coast Guard

- **5/12:** CG Commandant Thad Allen at the request of Sen. Jay Rockefeller to discuss the FY10 budget and a possible Coast Guard reauthorization bill.

Congressional briefings/meetings

House Homeland Security Committee

~~*NOT FOR PUBLIC DISTRIBUTION*~~

~~*NOT FOR PUBLIC DISTRIBUTION*~~

- **4/23:** I&A, CRCL and ACLU will brief staff on the process at I&A for clearing documents and products for release.
- **4/24:** I&A, the National Counterterrorism Center, the FBI, and the Office of the Director of National Intelligence will brief staff on the Interagency Threat Assessment and Coordination Group.
- **4/24:** Majority staff requested briefing to discuss OIG oversight of ARRA funds.
- **4/24:** US-VISIT and CBP will brief staff on the H-2 Land Exit Pilot program, which establishes a land border exit registration procedure to record the departures of temporary workers from the U.S. at the completion of their work authorizations. The pilot program will include nonimmigrant classifications: H-2A (temporary agricultural workers) and H-2B (temporary nonagricultural workers). The pilot begins on 8/1 at the San Luis and Douglas Ports of Entry in Arizona.
- **4/27:** FEMA will update staff on the Integrated Public Alert and Warning System, the U.S.'s next generation public communications and warning capability developed by FEMA's National Continuity Programs in partnership with multiple Federal departments and agencies
- **4/30:** Office of Emergency Communications will provide Majority Members and staff with an introductory briefing.
- **5/27-6/1:** Chairman Bennie Thompson to lead a congressional delegation to Brazil, Argentina, Peru and Panama to examine counterterrorism cooperation, emerging threats, maritime security, border security and DHS operations.

Senate Homeland Security and Governmental Affairs Committee

- **4/24:** CBP Office of Finance will brief staff on port of entry infrastructure projects funded through ARRA.

House Appropriations Committee, Subcommittee on Homeland Security

- **4/23:** FEMA IT provides quarterly update briefing on their Business Systems Investments that are underway focusing on changes that have occurred since the last quarterly briefing.
- **4/27:** FEMA will brief on efforts to measure preparedness and how homeland security grant funds and other activities (such as training and exercises) have enhanced the nation's overall preparedness.
- **4/28:** The Office of Cyber Security and Communications in NPPD and S&T will provide a classified briefing to Members on DHS' cybersecurity efforts.

Senate Appropriations Committee Homeland Security Subcommittee

- **4/23:** FEMA IT provides quarterly update briefing on their Business Systems Investments that are underway focusing on changes that have occurred since the last quarterly briefing.
- **4/24:** CBP will brief staff on the Corrective Action Plan for Drawback. (Drawback is a refund/ remission of a customs duty or fee which was imposed on the imported merchandise, in cases where the merchandise has been subsequently exported.) Since FY2006, Drawback simplification has been one of CBP's priorities as the drawback program has regularly been identified by auditors of CBP's financial statements as having significant deficiencies, and presenting a material weakness in CBP's statements. Many of the deficiencies identified will be remedied by the implementation of the Automated Commercial Environment Drawback module, expected by 2012.
- **4/27:** FEMA will brief on efforts to measure preparedness and how homeland security grant funds and other activities (such as training and exercises) have enhanced the nation's overall preparedness.
- **4/27:** Office of Infrastructure Protection will brief staff on the West Virginia National Guard agreement, vulnerability assessments, and the Regional Resilience Assessment Program. See previous report.
- **4/28:** Office of Infrastructure Protection's Office for Bombing Prevention (IP-OBP) to brief staff on gaps in bombing prevention. These gaps are outlined in the recommendations in the HSPD-19 Report to the President as well as the accompanying HSPD-19 Implementation Plan.
- **4/28:** FEMA began the process of developing an accreditation program for its employees and surge personnel and plans to give the Committee a semiannual status update on progress and milestones set.
- **4/28:** S&T will brief staff on the Biodefense Net Assessment completed in 2008.
- **4/29:** Office of Emergency Communications (OEC) to brief staff on the basic roles and responsibilities of the OEC.
- **5/1:** FEMA Logistics will provide quarterly update on changes that have occurred in FEMA's Logistics Management Directorate since last brief, including performance and lessons learned regarding disaster response.

House Ways and Means Committee

- **4/24:** CBP will brief committee members on merchandise processing fees, a user fee assessed on the declared invoiced value of formal merchandise entering the US.

Other Relevant Congressional Briefing/Travel

- **4/23:** Border Patrol Chief David Aguilar and others will meet with Rep. Lucille Roybal-Allard regarding unaccompanied minors (detention, special needs, etc.).
- **4/24:** Sen. Claire McCaskill will meet with TSA officials on explosive detection systems for St. Louis International Airport.

Major Movements on Legislation or Policy

~~*NOT FOR PUBLIC DISTRIBUTION*~~

~~*NOT FOR PUBLIC DISTRIBUTION*~~

- **H.R. 1746 Pre-Disaster Mitigation Act of 2009, Oberstar (D-Minn.)** may move out of the House next week. This bill would reauthorize the FEMA Mitigation Pre-Disaster Mitigation Grant (PDM) program, enabling first responders to better focus on what is unpredictable in a disaster rather than on what is preventable beforehand.

V. Legal Issues

Major Movements in Litigation

- ***Nken v. Holder***: On 4/22, the U.S. Supreme Court issued a decision concerning the standards that govern motions to the appeals courts by aliens requesting a temporary stay of removal pending judicial review of an immigration court decision. In its decision, the Supreme Court held that traditional factors such as the alien's likelihood of success on the merits, whether irreparable injury will result, and the public interest apply to motions for a stay of removal, and not a more stringent standard at 8 U.S.C. § 1252(f)(2) that would require an alien to demonstrate by "clear and convincing evidence" that the execution of a removal order is "prohibited as a matter of law."
- ***Savantage Financial Services, Inc. v. United States***: On 4/15, the U.S. Court of Federal Claims dismissed the plaintiff's complaint, which alleged that DHS did not follow a previous protest decision to compete the Transformation and Systems Consolidation (TASC). TASC consolidates and integrates mission-essential enterprise financial, acquisition and asset management systems. The decision will be publicly released after redactions are completed, which is anticipated to be after 4/22. With dismissal of this litigation, the Department can proceed with Phase II of the procurement.

Regulations/Rulemakings

- **Temporary Protected Status (TPS) for Burundi** TPS for Burundi expires on May 2, 2009. USCIS has posted an advance Update to their website and will work with community based organizations to notify the affected Burundi nationals. Estimates are that 20 to 30 individuals are registered under the TPS designation for Burundi.

FOIA

- CRCL received a FOIA request from Anthony Kimery of *Homeland Security Today* for "copies of all memos, documents, correspondence, studies and other materials relevant to the Office of Civil Rights and Civil Liberties' objections and concerns about assertions, positions, assessments, wording, etc. concerning the Department of Homeland Security's recent intelligence assessment, *"Rightwing Extremism: Current Economic and Political Climate Fueling Resurgence in Radicalization and Recruitment."* CRCL is retrieving all related correspondence for the FOIA request. CRCL anticipates collecting all responsive documents by 4/23.
- The City of Chicago, Aviation, Environment and Regulatory Division requested OIG audit report DD-16-03 and all documents related to the report. This is an audit of public assistance funds awarded to the City of Chicago by FEMA for snow removal. The report concludes that City did not expend and account for FEMA funds according to federal regulations and FEMA guidelines.

VI. Senior Personnel Announcements

- **4/23 (tentative)**: President Obama to announce his intention to nominate Philip Mudd as Under Secretary for Intelligence and Analysis. Secretary Napolitano to announce Bart Johnson as Deputy Under Secretary for I&A.

~~*NOT FOR PUBLIC DISTRIBUTION*~~

DHS H1N1 Activities

DHS has been leading the U.S. Government's overall response to the recent outbreak of H1N1 flu virus. Secretary Napolitano, as the Principal Federal Official, has been coordinating with the Department of Health and Human Services, the Centers for Disease Control and Prevention, and other federal departments and agencies to ensure a smooth, swift, and effective response.

- **Interagency Operations Coordination Task Force:** On 4/28, Secretary Napolitano announced the establishment of the DHS-led Operations Coordination Task Force comprised of chiefs of staffs from many of the key agencies responding to the current H1N1 virus including State, Treasury, Defense, Justice, Interior, Agriculture, Commerce, Labor, HHS, Transportation, Education, Veterans Affairs, EPA, OPM, and Chairman of the Joint Chiefs of Staff.
- **Secretary Napolitano** has personally spoken to Texas Gov. Rick Perry, California Gov. Arnold Schwarzenegger, Kansas' then-Gov. Kathleen Sebelius, Ohio Gov. Ted Strickland, Arizona Gov. Jan Brewer, Illinois Gov. Pat Quinn, Indiana Gov. Mitch Daniels, Massachusetts Gov. Deval Patrick, Michigan Gov. Jennifer Granholm, Maine Gov. John Baldacci, Nebraska Gov. Dave Heineman, Nevada Gov. Jim Gibbons, New York City Mayor Michael Bloomberg, Chicago Mayor Richard Daley, Los Angeles Mayor Antonio Villaraigosa, Speaker Nancy Pelosi, Majority Leader Steny Hoyer, Chairman Joe Lieberman, Chairman Bennie Thompson, Ranking Member Peter King, the Senate Democratic Caucus, the Senate Republican Caucus, and joint House Caucus regarding the current federal government response to the H1N1 virus.
- **Public Outreach:** DHS has initiated extensive outreach to homeland security advisors, state and local elected officials, tribal governments, health professionals, school officials, fusion centers, the private sector, infrastructure protection partners, Congressional representatives, and international allies to ensure a collaborative and coordinated response to the H1N1 flu.
- **CBP** personnel continue to look for signs of illness in individuals entering the U.S. at ports of entry, and have protocols in place with public health officials for evaluations as needed. As of 4/29, CBP has referred a total of 94 suspected cases to the CDC or state and local health officials. All samples that have been processed have been negative. Seventeen are currently pending.
- **TSA** Officers remain watchful for signs of illness while conducting passenger screening. If an officer encounters an individual displaying symptoms, the passenger is directed to local health officials for evaluation. TSA has posted the CDC Traveler's Health Alert Notice at all security checkpoints and is currently working with airports and airlines to post the notice at all gates, ticket counters, and reservation Web sites. TSA is also posting the notice at high-traffic areas at other modes of transit. In addition, TSA is rapidly deploying personal protection equipment to 54 airports along the border.
- **ICE** has pre-positioned personal protective equipment for its law enforcement and mission-critical personnel throughout the U.S. In addition, mobile trailers with emergency supplies have been pre-staged at various ICE field offices throughout the country.
- **Coast Guard** has directed all field personnel to be alert for people exhibiting flu-like symptoms on vessels encountered during safety and security operations and to strictly follow existing communicable disease response and notification protocols. The Coast Guard has engaged the maritime industry to ensure vessel operators, crews, and maritime entities are aware of the situation, taking action to prevent the spread of illness, and following existing protocols requiring notification to the CDC of ill personnel on board prior to arrival in U.S. ports.
- **FEMA** is reviewing plans, outcomes, and lessons learned from previous FEMA pandemic influenza exercises to assist in the decision-making process for the current situation. FEMA is also supporting DHS, HHS and CDC emergency messaging through Twitter updates to its 3,000+ subscribers.

- USCIS posted an announcement on of its Web site, www.uscis.gov, informing customers that all USCIS facilities are open for interviews, appointments, and ceremonies.

I. Recovery, Reform, Efficiency, and Transparency

Recovery updates included in VP report.

Efficiency Review (ER) Initiative

ICE personnel taking advanced firearms training through the National Firearms and Tactical Training Unit began utilizing U.S. Army lodging facilities in lieu of hotels to reduce travel costs. To date, more than 460 ICE personnel have stayed in base housing instead of local hotels, resulting in a year-to-date savings of \$140,192.

DHS is currently preparing implementation guidance for the 60-Day ER initiatives, including tracking fleet fuel use electronically to increase efficiency and eliminate fraud and abuse, conducting an assessment of all employees and contractors to better manage the DHS workforce, utilizing refurbished IT equipment and redeploying it throughout the Department, leveraging buying power to acquire software licenses for Department-wide uses, and a new initiative eliminating all branded trinkets purchased with taxpayer money. The Secretary will issue this guidance on 5/26.

III. Public Affairs

Recent Media Reports

- **4/23: AP, CNN, Miami Herald and others** on positive reception of FEMA Administrator-designate Craig Fugate and Immigration and Customs Enforcement Assistant Secretary-designate John Morton at their confirmation hearing.
- **4/23: New York Times Magazine** on self-propelled, semi-submersibles (handmade submarines that can avoid radar and are thus almost impossible to detect) that carry huge quantities of drugs.
- **4/23: New York Times, BBC, AP and others** on comments by Acting Senior Director for Cyberspace, Melissa Hathaway, that the White House should coordinate and ramp up cybersecurity efforts. Articles noted DHS role in ensuring Internet safety for civilians.
- **4/24: El Paso Times and other El Paso outlets** on grand opening/ribbon cutting ceremony for the \$26.6 million Paso Del Norte international crossing redesign project that will make entering the U.S. smoother and quicker and in turn hopefully aid the local economy.
- **4/24: Valdosta Daily Times and others** on Acting FEMA Administrator Nancy Ward's announcement that federal disaster aid has been made available for Georgia to supplement state and local recovery efforts in areas struck by severe storms, flooding, tornadoes and straight-line winds beginning on 3/26.
- **4/24: Boston Globe, Washington Times and others** on announcement of Philip Mudd as undersecretary for Intelligence and Analysis.
- **4/26-4/29: All major outlets** are reporting continuously on the H1N1 flu outbreak and U.S. declaration of public health emergency.
- **4/27: Federal Computer Week** on DHS opening its international trusted traveler program to Netherlands, the first European partner.
- **4/27: Detroit Free Press and other Detroit outlets** positive stories on Rep. Candice Miller's event on the SBInet Northern Border Project, highlighting 11 surveillance towers, equipped with high-tech cameras, that will be erected in upcoming months along the St. Clair River to detect human smuggling and drug trafficking.
- **4/28: Los Angeles Times** ran a positive profile on Secretary Napolitano for managing the H1N1 flu outbreak with a calm and "no-nonsense" attitude.
- **4/28: ICE Special Agent in Charge New York** spoke to the *Foreign Press* about ICE operations, focusing on human trafficking and alien smuggling. Publication date TBD.
- **4/29: AP** on Deputy Secretary Lute meeting with the European Union's Justice Commissioner Jacques Barrot and other officials to exchange new versions of an extradition treaty and a legal assistance treaty between the U.S. and Europe.
- **4/30: NYT** story on new ICE worksite enforcement protocols. Very positive. Additional stories likely to follow.

Expected Stories

- **Wall Street Journal** (Stephanie Simon) writing a story on the R&D of future border security technologies. S&T Borders and Maritime Division Director Anh Duong interviewed week of 4/27. Anticipate positive story.
- **4/27: Swiss TV** footage of biometric processing at Dulles Airport for piece to educate Swiss public on the biometric processing they will encounter upon entry to the U.S.

~~*NOT FOR PUBLIC DISTRIBUTION*~~

- Disaster declaration requests for several Southeast states for storms and TX, OK for wildfires currently under review.
- Katrina temporary housing program ends 5/1. Continued media interest is likely during the coming weeks.
- **4/28 - 4/29:** Fort Dix defendants will be sentenced in the District of New Jersey for violations of conspiracy to murder members of the U.S. Military. Three defendants are illegally present in the U.S., and one is a lawful permanent resident.
- **4/29 – 4/30:** ICE agents in Los Angeles interviewed by **FOX 11 News** and **AP** regarding the recently launched Border Enforcement Security Task Force at the Los Angeles seaport. No publication/air dates at this time.
- **5/1:** Rear Admirals Blore and Salerno and Sen. David Vitter scheduled to speak at ceremony commemorating the 75th and final Marine Protector-class Coastal Patrol Boat at Bollinger Shipyards in Lockport, Louisiana.
- **5/1:** TV piece on CBP outbound inspection efforts at Port of El Paso airing on KHOU (CBS-affiliate) in Houston.
- **5/4:** Assistant Secretary for International Affairs Alan Bersin, Acting Assistant Secretary for ICE John Torres, and Acting Commissioner for CBP Jayson Ahern will hold a press conference at Otay Mesa Port of Entry to highlight southbound inspections into Mexico and increased cooperation with Mexican Government.
- **5/6:** Coast Guard will be taking public comment on a Notice of Proposed Rulemaking for Transportation Worker Identification Credential card readers at the Sheraton Crystal City Hotel in Arlington, VA. Open press. (The TWIC NPRM announces requirements for owners and operators of certain vessels and facilities regulated by the Coast Guard to use electronic readers designed to work with TWIC cards. This rule published in the Federal Register 3/27.)
- **5/7:** DHS FY 2010 budget rollout.
- **5/8:** Retirement ceremony in Woods Hole, MA for the last Coast Guard 44-foot motor lifeboat in service. These lifeboats, able to be capsized, recover and continue on the mission, are fabled throughout the Coast Guard and have been the platform for thousands of storm rescues during the last 46 years. Open press.

IG Reports

- **Final Report Delivered to the Department, 4/22; Congressional Distribution, 4/30; Web Posting, 5/8: “National Flood Insurance Program Management Letter DHS FY 2008 Financial Statement Audit.”** This report presents internal control weaknesses that do not rise to the level of a significant deficiency that were identified while performing DHS’ FY 2008 Consolidated Financial Statement audit at FEMA related to the National Insurance Flood Program. Report includes recommendations for improving financial management.
- **Final Report Delivered to the Department, 4/24; Congressional Distribution, 5/1; Web Posting, 5/11: “IT Management Letter for the FY 2008 TSA Financial Statement Audit.”** This report addresses the effectiveness of general IT controls supporting TSA’s financial processing environment and related IT infrastructure. Collectively, the IT control weaknesses constitute a significant deficiency under generally accepted accounting standards. The Coast Guard provides TSA’s financial services processing. Though all deficiencies have plans of action for resolution, some of the IT system weaknesses will only be rectified once Coast Guard upgrades their systems.

Other Reports

- **GAO report, “Transportation Security: Comprehensive Risk Assessments and Stronger Internal Controls Needed to Help Inform TSA Resource Allocation”:** GAO criticized TSA’s failure to have completed risk assessments across the modes of transportation. TSA responded that all of the risk assessment work is in progress under the management of their Executive Risk Steering Committee and accepted all GAO’s recommendations.

Outreach/Stakeholder Meetings

- **4/23:** Assistant Secretary for International Affairs Alan Bersin met with the **U.S. Mexico Border and Immigration Task Force**, a coalition from the Southwest border states comprised of local elected officials, law enforcement officers, faith leaders, business representatives, labor, academics, and community advocates. The task force offered recommendations on border policy, including the creation of a commission to assess, monitor and investigate border enforcement policies, programs, and projects; improved training for border personnel, especially in civil rights and human rights; a more transparent and effective complaint process; strict guidelines limiting the role of state and local police in the enforcement of immigration laws; and increased funding for the ports of entry.
- **4/23:** TSA Secure Flight representatives met with the **American Society of Travel Agents, Air Transport Association, International Air Transport Association**, and the **Interactive Travel Services Association** to discuss stakeholder concerns and explain processes and schedules.
- **4/27:** Acting FEMA Administrator Nancy Ward held annual meeting with representatives of the **Sacramento, CA Metropolitan Chamber of Commerce** to discuss mitigation issues and transportation including indicating the decertification/reaccreditation of some of the levees in Sacramento on new flood maps.

~~*NOT FOR PUBLIC DISTRIBUTION*~~

~~*NOT FOR PUBLIC DISTRIBUTION*~~

- **4/27:** ICE Attaché Paris, DOS, and the French National Police Human Trafficking Unit met with a French NGO, **Bus des Femmes**, to discuss best practices for the establishment of a Victim Assistance Unit within the French National Police, such as the ICE Victim Witness Program.
- **4/27 – 4/30:** ICE Attaché Moscow will meet with **FBI Director Robert Mueller** as part of an embassy-wide law enforcement briefing and will briefly discuss ICE's role within the embassy. (ICE Attaché offices work with foreign law enforcement counterparts and assist domestic offices in gathering information for their ongoing cases.)
- **4/28:** OHA Branch Chief for Food Defense/Preparedness Coordination John Sanders spoke on a panel on tracking potential food contaminants at the **11th Annual Food Safety Summit**.
- **4/29:** Rear Admiral Blore and Rear Admiral Justice spoke at the **Institute for Defense and Government Advancement's 7th Annual Maritime Homeland Security Summit** in Jacksonville, Florida on Coast Guard's commitment to efficiency and modernization.
- **4/30:** S&T will host a **Blast Mitigation Workshop** at the University of Rhode Island to identify new research areas in Counter-Improvised Explosive Device (IED) capabilities. Discussion will focus on technology that can resist blast damage, from mitigation of shock wave on advanced materials to examining blast vulnerability of civil structures. Attendees are from academia, national laboratories, government, and industry. Closed press.
- **4/30:** **British Home Secretary for Security, Baroness Pauline Nevil-Jones**, will visit FEMA to discuss preparedness.
- **4/30:** CRCL will provide training on civil rights and civil liberties at the **Basic Intelligence and Threat Analysis Course**, sponsored by the DHS Intelligence Training Branch, for new DHS intelligence analyst personnel.
- **4/30:** CRCL will host a meeting with Special Assistant to the President for Disability Policy and members of the **Interagency Coordinating Council (ICC) on Emergency Preparedness and People with Disabilities** to inform the new Administration of disability and special needs emergency preparedness efforts and initiatives being led by ICC federal agencies.
- **4/30:** Acting Assistant Secretary for ICE John Torres to speak at the **DOJ Law Enforcement Coordination Conference** in Colorado on behalf of Secretary Napolitano.
- **5/1:** S&T is holding a workshop on **Real-Time Respirator Mask Monitoring**, new technology that alerts emergency responders of equipment failure and inward leakage. Open press.
- **5/5:** S&T's Command, Control and Interoperability Division will speak at the **Rural Law Enforcement Technology Institute** in CA on key strategies and technologies developed to improve emergency response communications in rural regions. Open press.
- **5/6:** Acting Associate Chief Medical Officer Terry Adirim will speak to a joint meeting of the **Association of State and Territorial Health Officials Policy Committee** on how public health and DHS intersect.
- **5/6:** S&T will participate in Phase II blast tests for a **"Novel Blast-Resistant Glass Window Panel"** under an S&T grant to the University of Missouri and the University of Sydney (Australia). Initial blast tests in December 2008 showed this new panel is both lighter and thinner than current blast resistant glass standards and was able to withstand a larger blast. Open press.
- **5/6:** S&T will moderate panel discussion on all hazards at **2009 Association of Public Health Laboratories** meeting in AK. The panel is comprised of federal and state public health lab representatives who will present findings on testing unknown hazards (chemical, biological, radiological) in environmental samples. Panelists include representatives from the EPA, FBI, Virginia, New York, Minnesota, and Florida, and Michigan public health departments. Closed press.
- **5/13 – 5/15:** CBP Assistant Commissioner Daniel Baldwin is keynoting the 2009 International Anti-Counterfeiting Coalition Spring Annual Conference. Baldwin will highlight CBP's efforts to protect intellectual property rights through effective targeting of high risk shipments; sophisticated risk modeling; and use of audit and enforcement resources to identify patterns of illicit conduct.
- **5/16:** DHS Acting Chief Medical Officer to speak at the **Society for Academic Emergency Medicine's Annual Conference** on the potential of regionalized care to improve the delivery of emergency health care, reduce emergency department crowding, enhance efficiency, promote patient safety, and improve coordination and cooperation among local, state and regional medical systems.
- **5/18 – 5/21:** **2009 Homeland Security S&T Stakeholders Conference East**, which informs the members of all the components of DHS, as well as first responders, emergency management personnel, state, local and Federal government personnel, industry, and academia, of the direction, scope, and status of the research investments by the S&T Directorate, with particular attention to investments in support of first responders.

Grants/Awards

- **5/1(tentative):** ICE will announce a \$2 million contract for review of its detention facilities' medical services to Synergy Enterprise, Inc., in Silver Spring, MD (per a specific Congressional appropriation for an independent review results of the review will remain internal).

~~*NOT FOR PUBLIC DISTRIBUTION*~~

~~*NOT FOR PUBLIC DISTRIBUTION*~~

- TSA awarded a contract to Reveal Imaging Technologies Inc. to purchase **54 CT-80 Standalone Reduced Size Explosive Detection System units** and other related equipment for distribution to small airports throughout the country. The award was a \$19,890,390 competitive, fixed price award. (Non-ARRA funding, though ARRA funding will support additional units- see VP report)

IV. Legislative and Policy Issues

Congressional Testimony

Senate Homeland Security and Governmental Affairs Committee

- **4/30:** Confirmation hearings for FEMA Assistant Administrator, National Preparedness Directorate-designate Tim Manning and General Counsel-designate Ivan Fong.
- **5/14 (tentative):** Confirmation hearings for Under Secretary of National Protection and Programs Directorate-designate Rand Beers and Assistant Secretary for Policy-designate David Heyman.

Senate Judiciary Committee

- **5/6:** Secretary Napolitano on immigration, border security, and general oversight of DHS.

House Appropriations Committee, Subcommittee on Homeland Security

- **5/12 (tentative):** Secretary Napolitano on DHS' annual budget.

Senate Appropriations Committee, Subcommittee on Homeland Security

- **5/13 (tentative):** Secretary Napolitano on DHS' annual budget.

House Transportation and Infrastructure Committee

- **5/1: (Field Hearing)** FEMA will testify in Miami, FL on hurricane preparedness.

House Transportation and Infrastructure Committee, Subcommittee on Coast Guard and Maritime Transportation

- **5/5:** Commandant Thad Allen on the Coast Guard reauthorization bill.
- **5/20:** Rear Admiral Salerno on piracy.

House Transportation and Infrastructure Committee, Subcommittee on Economic Development, Public Buildings, and Emergency Management

- **5/1:** FEMA Region IV Administrator Major Phil May on Region IV Preparedness for the 2009 Hurricane Season.

House Oversight and Government Reform Committee, Subcommittee on Management, Organization, and Procurement

- **5/5:** US-Computer Emergency Readiness Team (US-CERT) Director Mischel Kwon on cybersecurity; specifically emerging threats, vulnerabilities, and challenges in securing federal information systems.

House Foreign Affairs Committee, Subcommittee on International Organizations, Human Rights, and Oversight

- **4/30:** Coast Guard Rear Admiral William D. Baumgartner on International Efforts to Combat Maritime Piracy.

House Agriculture Committee, Subcommittee on Livestock, Dairy and Poultry/House Homeland Security Committee, Subcommittee on Emerging Threats, Cybersecurity and Science and Technology

- **5/5:** DHS Chief Veterinarian Dr. Thomas McGinn on a national animal identification system and associated homeland security implications. McGinn will note that a comprehensive national animal identification system would help to mitigate the damage of a catastrophic animal disease outbreak as the ability to identify, locate, and track diseased animals could limit the spread of the contagion, safeguard the food supply, and avert disruptions to trade and commerce.

Senate Commerce Committee, Subcommittee on Surface Transportation and Merchant Marine Infrastructure, Safety, and Security

- **5/5:** Rear Admiral Salerno on Piracy.

Senate Commerce Committee, Subcommittee on Oceans, Atmosphere, Fisheries and Coast Guard

- **5/12:** Coast Guard Commandant Thad Allen to discuss the FY10 budget and possible Coast Guard reauthorization bill.

Congressional briefings/meetings

House Homeland Security Committee

- **4/30:** Briefing to discuss draft of the TSA Authorization Act for Fiscal Year 2010.
- **4/30:** I&A and OPS to brief on Suspicious Activity Reports for Members and staff (unclassified).

Senate Homeland Security and Governmental Affairs Committee

- **5/4:** FEMA to brief staff on Assessment of the Hurricane Ike Texas Housing Mission and the Individual Assistance Technical Assistance Contract II (IA-TAC II). IA-TAC II functions as a collective of stand-by contractors able to expedite Individual Assistance after a disaster; FEMA will provide an overview of recommendations, findings, and corrective actions taken as a result of an internal assessment conducted on the performance of the two IA-TAC II contractors, CH2MHill and PBS&J, after Ike. Recommendations include implementing simple corrective measures to enhance temporary housing mission responsiveness and additional planning for the 2009 hurricane season.

~~*NOT FOR PUBLIC DISTRIBUTION*~~

- **5/4:** FEMA to brief on lessons learned from 2008 disaster season and how they are being implemented for 2009

Senate Appropriations Committee, Subcommittee on Homeland Security

- **5/1:** Office of Health Affairs' Director of the National Biosurveillance Integration Center (NBIC), Eric Myers will provide a tour of the NBIC and briefing for the majority and minority staff.

Other Significant Congressional Briefing/Travel

- **4/23:** USCIS and DOS met with Rep. Albio Sires's staff to discuss current anti-fraud efforts in international adoptions.
- **4/27:** Congressional Research Service briefing on FEMA's floodplain mapping program and financial condition of the National Flood Insurance Program (the program is \$19 Billion in debt, with current borrowing authority of \$20+ Billion, and estimated yearly interest of \$400 million resulting from 2005 Hurricanes Katrina, Rita, and Wilma recovery).
- **5/1:** CBP to brief Sen. Feinstein's staff on progress of agriculture quarantine inspection activities. A recent audit of agriculture inspection activities concluded that CBP has appropriately addressed or is adequately in the process of addressing all deficiencies identified in 2007 GAO and OIG reports. In addition, CBP has made great progress towards integrating agriculture targeting capabilities into the automated systems utilized by CBP to address high risk pathways and enhance inspection activities.

Major Movements on Legislation or Policy

- **H.R. 1746 Pre-Disaster Mitigation Act of 2009, (Oberstar)** passed the House on 4/27; currently in Senate Homeland Security and Governmental Affairs Committee. This bill would reauthorize the FEMA Mitigation Pre-Disaster Mitigation Grant program.

V. Legal Issues

Major Movements in Litigation

- ***Kucana v. Holder***, On 4/27, the U.S. Supreme Court granted *certiorari* to resolve a circuit split regarding application of the jurisdiction-stripping provision in Section 242(a)(2)(B)(ii) of the Immigration and Nationality Act (INA), 8 U.S.C. § 1252(a)(2)(B)(ii). The question presented in the case is whether the circuit courts of appeals have jurisdiction to review denials of motions to reopen filed with the Board of Immigration Appeals (BIA). In its opposition to the petition for writ of *certiorari*, the Office of the Solicitor General (OSG) sided with the alien on the legal question that is, the Government agreed that circuits courts have jurisdiction over denials of motions to reopen (at least in certain circumstances). Provided that OSG does not modify its position on this question, the Supreme Court will appoint an attorney to defend the decision by the Seventh Circuit, which held that the circuit court lacked jurisdiction.
- ***Texas Bio- & Agro-Defense Consortium v. United States***, On 4/23, a consortium of public and private entities advocating for the location of the National Bio- and Agro-Defense Facility in the State of Texas filed a lawsuit in the Court of Federal Claims challenging DHS' decision to locate the facility in the State of Kansas. Although styled as a bid protest, the lawsuit raises claims under the Administrative Procedure Act and the National Environmental Policy Act, alleging various flaws in the Department's site selection process.

VI. Senior Personnel Announcements

- **4/24:** President announced his intent to nominate Alejandro Mayorkas as USCIS Director. (4/30 DHS press release)