

JOINT TESTIMONY OF

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ON

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Chairman Miller, Ranking Member Jackson Lee, Members of the Subcommittee, it is an honor to appear before you today to discuss U.S. Customs and Border Protection (CBP) and U.S. Immigration and Customs Enforcement (ICE) and our efforts in securing America's borders. We would like to acknowledge and thank this committee for the consistent support and commitment you have shown to the mission and people of the Department of Homeland Security (DHS).

We appreciate the opportunity to talk about the authorization of CBP and ICE — two agencies that share a long and rich history. Our roots date back as far as the 18th century when the First United States Congress established the United States Customs Service, operating out of official U.S. ports of entry (POEs), to be responsible for the collection of duties on imported goods. In the late 19th Century, Congress created the Bureau of Animal Industry, which later became the Animal and Plant Health Inspection Service (APHIS) under the Department of Agriculture, of which part of their responsibility was to support inspection activities at POEs. At approximately the same time, Congress established an immigration office, which later became the Immigration and Naturalization Service (INS), and placed inspectors at major POEs to process immigrants seeking admission to the United States, and to collect a tax on all individuals admitted. Soon after, responding to a need to secure the borders between inspection stations, Congress established the Border Patrol.

Congress created DHS in the aftermath of the September 11, 2001, attacks, and in response to the recommendations of the 9/11 Commission. With the passage of the Homeland Security Act in November 2002, DHS formally came into being as a stand-alone, Cabinet-level department to further coordinate and unify national homeland security efforts, opening its doors on March 1, 2003. DHS brought together 22 agencies from across the executive branch into a unified, integrated department, to prevent terrorism and enhance security; secure and manage U.S. borders; enforce and administer U.S. immigration laws; safeguard and secure cyberspace; and ensure resilience to disasters.

With the creation of DHS, the enforcement and service functions of INS and the U.S. Customs Service were absorbed into the Directorate of Border and Transportation Security, including U.S. Customs, Bureau of Border Security, and Bureau of Citizenship and Immigration Services. In 2003, President George W. Bush submitted a reorganization plan for DHS, renaming the Bureau of Border Security the Bureau of Immigration and Customs Enforcement and the Customs Service the Bureau of Customs and Border Protection. In 2007, DHS changed the name of the Bureau of Customs and Border Protection to U.S. Customs and Border Protection and the Bureau of Immigration and Customs Enforcement to U.S. Immigration and Customs Enforcement.

CBP assumed the Border Patrol and inspections functions formerly conducted by INS, and the agriculture inspection functions formerly conducted by APHIS, while the investigative functions were placed within ICE. The legacy U.S. Customs Service's Air and Marine Interdiction Division was initially transferred to ICE when DHS was created in 2003; however, because CBP also had Border Patrol air and marine assets, the Office of Air and Marine officially became CBP's third uniformed division and consolidated its assets into CBP in 2006.

Today, with 60,000 employees, CBP is one of DHS's largest and most complex components, with a priority mission of keeping terrorists and their weapons out of the United States. It also

has a responsibility for securing the border — approximately 7,000 miles of land borders and 95,000 miles of coastline — and facilitating lawful international trade and travel. CBP takes a comprehensive approach to border management and control, combining customs, immigration, border security, and agricultural protection into one coordinated and supportive activity. On a typical day, CBP processes nearly 1 million travelers, screens more than 67,000 cargo containers, arrests more than 1,100 individuals and seizes nearly 6 tons of illicit drugs. CBP enforces hundreds of U.S. laws and regulations, including customs, immigration, trade, and drug laws. In addition to its own regulations, CBP enforces more than 500 laws for 47 Federal agencies, in coordination with these agencies.

Like its mission, CBP's law enforcement jurisdiction is highly complex and derives authority from a wide spectrum of federal statutes. CBP enforces customs laws<sup>1</sup> related to tariff and revenue protection, and immigration laws<sup>2</sup> related to the admission of individuals to the United States. Additionally, because of its presence at the border and its unique border search authority<sup>3</sup>, which is shared with ICE, CBP has been given the broad mandate to enforce all federal laws — including drug, export control, money laundering, and agriculture laws — at the borders of the United States. This requires ensuring that all persons and cargo enter the United States legally and safely through official POEs, preventing the illegal entry of persons and contraband into the United States at and between POEs, promoting the safe and efficient flow of commerce into the United States, and enforcing trade and tariff laws and regulations.

CBP performs its critical law enforcement mission with three frontline operational offices — Field Operations, Border Patrol, and Air and Marine. CBP's frontline offices receive direct operational support from the Offices of International Trade, Intelligence and Investigative Liaison, International Affairs, and Internal Affairs. Additionally, CBP's mission support offices, as well as our Federal, state, local, tribal, international, and private-sector partners are vital contributors toward CBP's mission.

The Office of Field Operations (OFO), operating at 328 POEs across the United States and 16 Preclearance locations internationally, plays a vital role in preventing terrorists and terrorist weapons from entering the United States and enforcing customs, immigration, and agriculture laws and regulations. At our Nation's POEs, CBP inspects all individuals seeking entry to the United States and determines their admissibility. Expanding the Nation's zone of security, CBP's National Targeting Center (NTC) leverages all available advance passenger and cargo data, previous crossing information, intelligence, and law enforcement information, as well as open source data, to interdict high-risk passengers and cargo at foreign departure locations before they can board or be loaded on a conveyance destined to the United States. In between the POEs, the Office of Border Patrol (BP) prevents terrorists and terrorist weapons, criminals, and drug traffickers from entering the United States; detects and prevents the smuggling and unlawful entry of undocumented individuals into the United States; and apprehends those people found to be in violation of the immigration laws. From the air and from the sea, the Office of Air and Marine (OAM) protects the American people and the nation's critical infrastructure through the

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<sup>1</sup> See, e.g., Title 19, United States Code.

<sup>2</sup> See, e.g., Title 8, United States Code.

<sup>3</sup> See 19 U.S.C. §§ 482, 1461, 1467, 1496, 1499, 1581, 1582, 1583, 1589a, 1595, and 8 U.S.C. § 1357.

coordinated use of integrated air and marine forces to detect, interdict and prevent acts of terrorism and the unlawful movement of people, illegal drugs and other contraband toward or across the borders of the United States.

In addition to its security mission, CBP has direct responsibility for enhancing U.S. economic competitiveness. The Office of International Trade (OT) coordinates CBP's trade policies and strategies. By reducing costs for industry and enforcing trade laws against counterfeit, unsafe, and fraudulently entered goods, CBP works to enable legitimate trade, contribute to American economic prosperity, and protect against risks to public health and safety. In 2013, CBP Officers processed more than \$2.3 trillion in trade and nearly 25 million cargo containers through the nation's POEs, up 1 percent from last year. CBP also conducted more than 24,000 seizures of goods that violated intellectual property rights, with a total retail value of \$1.7 billion, representing a 38 percent increase in value from FY 2012.

The Office of Intelligence and Investigative Liaison (OIIL) supports CBP's mission through a multi-layered approach that includes collecting and analyzing advance traveler and cargo information, using enhanced law enforcement technical collection capabilities, providing timely analysis of intelligence and information, and establishing intelligence-sharing relationships with Federal, state, local and tribal agencies and the Intelligence Community.

CBP's Office of International Affairs (INA) coordinates and supports foreign initiatives, programs and activities within CBP. Through international cooperation and relationships, INA strives to extend U.S. borders by implementing programs and initiatives that promote anti-terrorism, global border security, non-proliferation, export controls, immigration and capacity building.

CBP works to ensure that its officers and agents conduct their activities in a professional and humane manner that promotes the safety of its officers and members of the public it interacts with to build community trust. CBP's Internal Affairs (IA) Office is responsible for ensuring compliance with all CBP wide programs and policies relating to corruption, misconduct, or mismanagement and for executing the internal security, integrity, and management inspections program. Among its responsibilities, IA investigates serious misconduct by CBP employees.

ICE is the principal criminal investigative arm of DHS and one of three DHS agencies charged with enforcing and administering the nation's immigration system. Created through a merger of the investigative and interior enforcement elements of the U.S. Customs Service and INS, ICE's primary mission is to protect national security, public safety and the integrity of our borders through the criminal and civil enforcement of federal law governing border control, customs, trade and immigration. As with CBP, in 2007, DHS changed the name of the Bureau of Immigration and Customs Enforcement to ICE.

Today, ICE has more than 19,000 employees in offices in all 50 states and 48 foreign countries. ICE promotes homeland security and public safety through the strategic and wide-ranging criminal and civil enforcement of hundreds of federal laws governing border control, customs,

trade, and immigration.<sup>4</sup> ICE primarily consists of two operational programs: Enforcement and Removal Operations (ERO) and Homeland Security Investigations (HSI). Guided by ICE's prioritized enforcement principles, ERO identifies and apprehends convicted criminals and other individuals deemed removable, detains or places these individuals in alternatives to detention programs, and removes individuals determined to be illegally present (or otherwise subject to removal) from the United States. HSI is responsible for a wide range of domestic and international criminal investigations arising from the illegal movement of people and merchandise into, within, and out of the United States, often in coordination with other federal agencies.

ERO enforces civil immigration laws in a manner to best promote national security, public safety, border security, and the integrity of the immigration system. To protect public safety and national security, ICE places highest priority on the removal of convicted criminals and those who pose a threat to our communities. The removal of these individuals from the United States is a national priority; and ERO's core functions are executed by a team of deportation officers and immigration enforcement agents that operate in nearly every jurisdiction of the United States. ERO facilitates the processing of individuals in removal proceedings through the immigration court system and coordinates their departure from the country, including the preparation of necessary travel documents.

The establishment of the Fugitive Operations Support Center (FOSC) in 2006 in Williston, Vermont is a key element in ERO's strategy to address enforcement of arrest and removal warrants to include fugitives, individuals who have illegally reentered the United States after removal, and those posing a threat to our communities. Since inception, FOSC, by analyzing and reconciling ICE records pertaining to fugitive and the at-large convicted criminal populations, steadily reduced the number of existing fugitives nationally. In addition, the FOSC provides vital assistance to ICE Fugitive Operations Teams (FOTs) in the field with critical information on the identity, immigration and criminal history, and location of high-priority removal aliens in the United States, thereby resulting in increasing criminal arrest percentages over the last several years. Since 2003, ICE has gone from eight FOTs nationwide to 129 FOTs deployed today. At the end of FY 2013, criminal arrests accounted for 75 percent of overall arrests by fugitive operations, or 23,504 criminal arrests out of the 31,222 total fugitive operations arrests for the fiscal year.

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<sup>4</sup> See, e.g., 8 U.S.C. § 1101 *et. seq.* (especially 8 U.S.C. §§ 1225(b), 1226, 1231, 1324, 1325, 1326, and 1357) (pertaining to general immigration arrest, detention, and enforcement provisions); 8 U.S.C. § 1363a and 19 U.S.C. § 2081 (pertaining to undercover investigative authorities); 15 U.S.C. § 1124, 18 U.S.C. § 2320 (pertaining to importing goods bearing infringing marks and trafficking in counterfeit goods or services); 19 U.S.C. Chapter 4 (the Tariff Act of 1930); 12 U.S.C. § 1829b, 12 U.S.C. §§ 1951-59, and 31 U.S.C. § 5311 *et seq.* (Bank Secrecy Act); 18 U.S.C. §§ 542, 545 and 554 (pertaining to entry by false statements and smuggling goods into and out of the United States); 18 U.S.C. §§ 1590 and 1591 (pertaining to peonage, slavery, and trafficking in persons); 18 U.S.C. §§ 2251, 2251A, and 2252 (pertaining to sexual exploitation and other abuse of children); 19 U.S.C. § 1589a (pertaining to enforcement authority of customs officers); 18 U.S.C. §§ 1956, 1957, and 1960 (Money Laundering Control Act); 19 U.S.C. §§ 2601- 2613 (Cultural Property Implementation Act); 21 U.S.C. §§ 841, 844, 952, and 959 (Controlled Substances Act); 46 U.S.C. §§ 70501-07 (Maritime Drug Law Enforcement Act); 50 U.S.C. §§ 1701-1707 (International Emergency Economic Powers Act).

In addition to the FOSC, the Law Enforcement Support Center (LESC) is a national enforcement operations facility administered by ICE. The center is a single national point of contact that provides timely immigration status, identity information, and real-time assistance to local, state, and federal law enforcement agencies on individuals suspected, arrested, or convicted of criminal activity. The center protects and defends the United States by sharing timely and relevant ICE information with our law enforcement partners around the world. The number of requests sent to the LESL increased from 4,000 in FY 1996 to more than 1.4 million in FY 2013. During FY 2013, agents at the LESL placed 12,289 detainers on aliens suspected of immigration violations. Finally, during FY 2013, Law Enforcement Specialists and Deportation Officers at the center responded to 151,319 calls from law enforcement officers.

While ERO enforces civil immigration laws, HSI's criminal investigators conduct criminal investigations to protect the United States against terrorist and other criminal activity that threaten public safety and national security and bring to justice those seeking to exploit our customs and immigration laws worldwide. HSI is the DHS investigative agency with authority to investigate all violations of federal law. HSI has jurisdiction over crimes with a nexus to the U.S. borders. To accomplish its mission, HSI uses its own legal authorities, and legal authorities shared with other law enforcement entities through cooperative agreements, to investigate immigration and customs violations, including export enforcement, human rights violations, narcotics, weapons and contraband smuggling, financial crimes, cybercrimes, human trafficking and smuggling, child exploitation, intellectual property violations, transnational gangs, and immigration benefit fraud.

HSI protects America's borders, national security, and public safety by targeting transnational threats, both at home and abroad. HSI is a critical U.S. law enforcement asset, responsible for disrupting and dismantling smuggling and all forms of transnational criminal organizations that seek to exploit America's legitimate trade, travel, financial and immigration systems for illicit purposes. As the principal criminal investigative agency within DHS, and with jurisdiction over all crimes with a nexus to U.S. borders, HSI investigates a wide range of financial crimes, which includes money laundering and bulk cash smuggling (BCS). BCS has become the preferred method of moving illicit proceeds by all types of criminal enterprises, and HSI created the National Bulk Cash Smuggling Center (BCSC) in 2009 to proactively identify, disrupt, and dismantle criminal organizations exploiting BCS. The total value of HSI seizures of currency and monetary instruments has increased nearly 400% since FY 2009, from \$276,325,178 to \$1,278,807,524 in FY 2013.

In addition to these financial investigations, ICE is one of the leading agencies in the U.S. Government's efforts to prevent foreign adversaries from illegally obtaining U.S. military products and sensitive technology, including weapons of mass destruction and their components. HSI's Counter-Proliferation Investigations Program (CPI), part of the HSI National Security Investigations Division, oversees a broad range of investigations related to export law violations. CPI targets the trafficking and/or illegal export of conventional military equipment, firearms, controlled dual use equipment and technology, materials used to manufacture weapons of mass destruction, including chemical, biological, radiological, and nuclear materials. HSI enforces U.S. export laws involving military items and controlled dual-use goods, as well as products going to sanctioned or embargoed countries. A part of the President's Export Control Reform

Initiative is to improve law enforcement coordination to investigate violations of U.S. export control laws. In November 2010, President Obama signed Executive Order 13558, creating the Export Enforcement Coordination Center (E2C2) – an interagency de-confliction center consisting of 8 departments and 18 federal agencies. New agency additions to the center have been the Export Import Bank and the U.S. Postal Inspection Service. The Executive Order establishes DHS as the executive agency responsible for managing and operating the E2C2 and further directs that the center is mandated to coordinate and enhance criminal, administrative, and related export enforcement activities thereby protecting national security through greater export enforcement and intelligence exchange. The E2C2 serves as a conduit between federal law enforcement agencies as well as between federal law enforcement and the intelligence community, as the primary point of contact between enforcement authorities and agencies engaged in export licensing, coordinating law enforcement public outreach activities and establishing government-wide statistical tracking capabilities for U.S. criminal and administrative export enforcement activities

ICE is also one of the leading agencies in the investigation of criminal intellectual property violations involving the illegal production, smuggling, and distribution of counterfeit and pirated products, as well as associated money laundering violations. Led by ICE, the National Intellectual Property Rights Coordination Center (IPR Center), located in Arlington, Virginia, brings together 21 Federal and international partners to leverage resources, skills and authorities to provide a comprehensive response to intellectual property theft. The former U.S. Customs Service established the IPR Center in 1999, but following the events of 9/11, priorities were necessarily shifted and the IPR Center could not be adequately staffed. ICE rejuvenated the IPR Center in 2008, and it now stands at the forefront of the U.S. Government's law enforcement response to global IP theft. The mission of the IPR Center is to address the theft of innovation that threatens U.S. economic stability and national security, undermines the competitiveness of U.S. industry in world markets, and places the public's health and safety at risk. The IPR Center brings together many of the key domestic and foreign investigative agencies to efficiently and effectively leverage resources, and promotes the skills and authorities to provide a comprehensive response to IP crime. In FY 2013, the IPR Center received 8,529 new leads, more than five times the number of leads received in FY 2012. Furthermore, in FY 2013, HSI's investigative efforts and collaboration with CBP led to the seizure of counterfeit goods valued at over \$1.7 billion manufacturer's suggested retail price (i.e., the price that the legitimate good would have cost if purchased in the market place).

In addition to HSI and ERO, two other ICE offices have unique operational roles: the Office of the Principal Legal Advisor (OPLA) and the Office of Professional Responsibility (OPR). OPLA, the largest legal program in DHS, provides critical legal advice and counsel to ICE leadership and agency personnel on all matters related to the investigation and enforcement of the nation's customs and immigration laws. Further, OPLA is the federal government's representative in exclusion, deportation, bond, and removal proceedings before the nation's immigration courts, prioritizing litigation of those cases involving convicted criminals, terrorists, and human rights abusers. OPLA also provides critical legal support to ICE components focusing on customs, worksite enforcement, ethics, employment law, tort claims and administrative law issues.

OPR investigates allegations of criminal and administrative misconduct involving ICE and CBP employees. In cases of potential misconduct, OPR prepares reports of its investigations for possible judicial or management action. OPR also provides independent reviews of ICE programs and offices, adjudicates ICE background investigations and issues security clearances for all prospective and current ICE employees and contract staff. OPR also contains an inspection branch that ensures ICE operates consistently with the high standards we promulgate to regulate our program offices and civil detention system. In addition, OPR is also responsible for the employee suitability and security clearance processes.

### **CBP and ICE Enforcement and Facilitation Efforts At and Between POEs**

As the Secretary recently testified, we are gratified by the support Congress has provided to improve security at our borders and POEs and ensure active, worldwide enforcement of our customs and immigration laws. With that support, DHS has made great progress. There is now more manpower, technology and infrastructure on our borders, in the interior and internationally, than ever before, and our men and women are producing results. CBP and ICE play an integral part every day in ensuring the safety and security of the American people.

Every day CBP personnel work to uphold and enforce CBP's authorities and continue to make tremendous progress. For example, in FY 2013, Border Patrol apprehensions totaled 420,789 nationwide, 16 percent above FY 2012, but 42 percent below peak FY 2008 levels. Also in FY 2013, CBP officers and agents seized more than 4.3 million pounds of narcotics across the country. In addition, the agency seized more than \$106 million in unreported currency through targeted enforcement operations. At POEs in FY 2013, CBP officers arrested 7,976 people wanted for serious crimes, including murder, rape, assault and robbery. Officers also stopped more than 132,000 inadmissible aliens from entering the United States through POEs. Additionally, CBP agriculture specialists conducted approximately 1.6 million interceptions of prohibited plant materials, meat, and animal by-products at POEs while also stopping more than 160,000 potentially dangerous pests. Providing critical aerial and maritime domain awareness, in FY 2013, Air and Marine operations contributed to the seizure of more than 1.1 million pounds of narcotics and the apprehension of 63,000 individuals involved in illicit activities.

To protect public safety and national security, ICE prioritizes the removal of individuals who pose a danger to national security or a risk to public safety, including persons convicted of crimes, with particular emphasis on violent criminals, felons, and repeat offenders. In FY 2013, ICE removed 368,644 individuals, of which 98 percent fell into one of ICE's immigration enforcement priorities. Of these removals, 216,810 (59 percent) were convicted criminal aliens, which is an 89 percent increase in the removal of convicted criminals since FY 2008. In FY 2013, ICE also completed the deployment of Secure Communities to all 3,181 U.S. jurisdictions in 50 states, 5 territories, and the District of Columbia.

As the largest investigative arm of DHS, ICE enhances national and border security by interrupting the illicit flow of money, merchandise, and people that support terrorism and other criminal activity. ICE made over 40,000 criminal arrests in FY 2013, and ICE criminal investigators initiated more than 40,000 new investigations. ICE seized \$1.3 billion in currency and other monetary instruments and 1.6 million pounds of narcotics and other dangerous drugs.

## **H.R. 3846 (CBP) and H.R. 4279 (ICE)**

H.R. 3846, The United States Customs and Border Protection (CBP) Authorization Act and H.R. 4279, The U.S. Immigration and Customs Enforcement (ICE) Authorization Act were both drafted to authorize — for the first time — the organization and security functions of CBP and ICE. The bills modernize and clarify current statute, specifically the *Homeland Security Act of 2002*, to remove references and authorities granted to organizations that no longer exist and entrusts them respectively, to the Commissioner of CBP and the Director of ICE.

CBP and ICE support the intent of H.R. 3846 and H.R. 4279, and the Committee's effort to authorize a modern day CBP and ICE and their critical security functions. We thank the Members for their efforts in drafting the bills, which lay a foundation for formally authorizing the missions of CBP and ICE for the first time since the Department of Homeland Security was created in 2002. These authorizations recognize the distinct and important roles that CBP and ICE play, every day, in keeping Americans safe and facilitating legitimate travel and trade.

Additionally, CBP and ICE and the Committee all agree that we need to ensure that both CBP and ICE maintain their existing authorities and responsibilities, without inadvertently disrupting the continuity of current CBP and ICE missions, duties, functions and authorities. We believe the bill provides a solid statutory foundation. It is important that any legislation preserve both agencies' flexibility to reorganize as needed to ensure that they remain dynamic and agile, capable of addressing emerging threats or changing operational environments.

### **Conclusion**

CBP and ICE will continue to work with DHS and our federal, state, local, tribal, and international partners, to strengthen border security. We will remain vigilant and focus on positioning DHS's greatest capabilities to combat the greatest risks that exist today, preparing for emerging threats, and continuing to build a sophisticated approach tailored to meet the challenges of securing a 21st century border.

As Secretary Johnson recently highlighted to the Committee on Homeland Security, more than 100 congressional committees and subcommittees have jurisdictional oversight over the Department of Homeland Security. As such, both CBP and ICE's authorities are spread out across many statutes. We commend the subcommittee's endeavor to authorize CBP and ICE in statute. This pursuit reflects the very spirit and impetus of the Homeland Security Act: to integrate, streamline, and modernize our Nation's security functions into a unified force, a strengthened homeland security enterprise, and a more secure America that is better equipped to confront the range of threats we face today and in the days to come. We look forward to continuing to work with Congress on this endeavor.

Chairman Miller, Ranking Member Jackson Lee, and distinguished Members of the Subcommittee, thank you for this opportunity to testify about the efforts of CBP and ICE in securing our borders. We look forward to answering your questions.