

NOMINATION OF CHRIS MAGNUS

HEARING

BEFORE THE

COMMITTEE ON FINANCE UNITED STATES SENATE

ONE HUNDRED SEVENTEENTH CONGRESS

FIRST SESSION

ON THE

NOMINATION OF

CHRIS MAGNUS, TO BE COMMISSIONER, CUSTOMS AND BORDER
PROTECTION, DEPARTMENT OF HOMELAND SECURITY

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OCTOBER 19, 2021
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Printed for the use of the Committee on Finance

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U.S. GOVERNMENT PUBLISHING OFFICE

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**NOMINATION OF CHRIS MAGNUS, TO BE
COMMISSIONER, CUSTOMS AND BORDER
PROTECTION, DEPARTMENT OF
HOMELAND SECURITY**

TUESDAY, OCTOBER 19, 2021

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC.

The hearing was convened, pursuant to notice, at 9:30 a.m., via Webex, in Room SD-215, Dirksen Senate Office Building, Hon. Ron Wyden (chairman of the committee) presiding.

Present: Senators Stabenow, Menendez, Carper, Cardin, Brown, Bennet, Casey, Hassan, Cortez Masto, Warren, Crapo, Grassley, Cornyn, Thune, Portman, Toomey, Scott, Cassidy, Lankford, Daines, Young, and Sasse.

Also present: Democratic staff: Michael Evans, Deputy Staff Director and Chief Counsel; Sally Laing, Chief International Trade Counsel; and Ian Nicholson, Investigator/Nominations Advisor. Republican staff: James Guiliano, Policy Advisor; John O'Hara, Trade Policy Director and Counsel; Mayur Patel, Chief International Trade Counsel; Gregg Richard, Staff Director; and Jeffrey Wrase, Deputy Staff Director and Chief Economist.

**OPENING STATEMENT OF HON. RON WYDEN, A U.S. SENATOR
FROM OREGON, CHAIRMAN, COMMITTEE ON FINANCE**

The CHAIRMAN. This morning the Finance Committee meets to discuss President Biden's nomination of Chief Chris Magnus to lead Customs and Border Protection. I want to thank Chief Magnus for joining the committee today and for his willingness to take on this extraordinarily difficult job.

Chief Magnus is the Chief of Police in Tucson, AZ. He started out in Lansing, MI, and his career in public safety has taken him east, west, north, and south. If confirmed, Chief Magnus would lead an agency with tens of thousands of employees. Customs and Border Protection is responsible for over 300 points of entry into the country, and it enforces the country's immigration laws.

The committee has a special interest in ensuring that Customs and Border Protection's trade mission does not get short shrift. Enforcing trade laws vigorously and working to stay ahead of trade cheats is absolutely key to protecting jobs, businesses, and innovators in America, and Customs and Border Protection is right at the heart of that challenge.

Too often in the past, including during the Trump administration, trade enforcement has been a secondary issue. The committee has worked hard over the last few years to give Customs and Border Protection fresh and modern trade enforcement tools. The goal is to help our trade enforcers work faster and communicate more closely with businesses and other organizations that can spot the trade cheats. And these trade cheats are definitely undercutting American workers, and they are undercutting American jobs.

Those upgrades have already begun to make a big difference over the slower, outdated approach of previous decades. But in my view, there is always room for improvement, so this committee is going to continue to look for ways—and I have discussed this with the Chief—to strengthen our trade enforcement even further.

One such issue that is posing a serious danger to America's values and our jobs is the use of forced labor in China and elsewhere. It is an abhorrent practice—modern-day slavery. The Finance Committee's authority over trade laws is a big part of what needs to be an all-out effort to end that modern-day slavery.

Until just a few years ago, there had been a major loophole in the laws on the books that allowed some products made by forced labor to be imported into the country. Senator Brown and I wrote a law that closed that loophole in 2016. Since then, for example, the United States has taken action to block the import of cotton and tomatoes picked by slave labor in western China. However, there are many more areas and industries in which forced labor continues to be an ongoing threat to American workers. In addition to goods coming from China, Senator Brown and I are concerned about the import of mica, palm oil, and cocoa, which may also be produced with forced labor.

Customs and Border Protection not only investigates allegations of forced labor and demands remediation where appropriate, it also enforces the ban on forced labor products entering the country. This is a hard job, and one that requires quick action, lots of discussion, and communication in an ongoing way with American businesses, human rights organizations, and others.

This committee is going to continue to work on this issue in the months and years ahead, and we look forward to hearing from Chief Magnus on that subject today.

Finally, immigration is not explicitly in the Finance Committee's jurisdiction. It is sure, however, to come up today from members. The Trump administration made it fashionable to believe that enforcing our immigration laws required abusing immigrants and asylum seekers at the border. Recently the American people saw images of what that mindset looks like in the real world. It is absolutely, unquestionably wrong.

I start—and you and I have talked about this, Chief—with the proposition that enforcing our immigration laws, and treating people humanely, those two goals are not mutually exclusive. We can do both, and we are going to insist on both. Embracing immigration and asylum seekers is not only a part of our national character, it is a big economic winner for America. And I appreciate the discussions we have had on that matter.

In closing, my last point is on an issue that dates back to before Chief Magnus's nomination. In the summer of 2020, the Trump ad-

ministration deployed Federal law enforcement troops in cities, including my home town of Portland. As the Chief knows, I was hearing from schools, like the Cottonwood School in Portland, where they got up in the morning and they saw teargas canisters in their sandbox, and clearly there were some major abuses of power at that time.

For many months I demanded review of policies regarding, for example, the use of chemical munitions at schools. There now has been significant progress on these issues.

I want to thank the Secretary, Secretary Mayorkas, for that progress, and I look forward to working with the Secretary and the Department on this subject, because some of my neighbors in Portland are still reeling from the harm that the Trump administration inflicted upon them.

With that, Chief, I want to congratulate you again on your nomination. Thank you for being here. We are going to have a good discussion today.

[The prepared statement of Chairman Wyden appears in the appendix.]

The CHAIRMAN. My friend, Senator Crapo.

**OPENING STATEMENT OF HON. MIKE CRAPO,
A U.S. SENATOR FROM IDAHO**

Senator CRAPO. Thank you, Mr. Chairman. Mr. Magnus, welcome.

U.S. Customs and Border Protection, or CBP, is the Nation's largest Federal law enforcement agency. It needs to be. Its responsibilities are staggering. CBP is tasked with facilitating lawful international trade and travel. The United States is a leader in international commerce, and that leadership depends on ensuring that lawful trade and visits flow smoothly. It also requires that we safeguard our borders from terrorists, drug traffickers, and transnational criminals.

In 2020—a year when the pandemic curtailed trade and travel—the 63,000 men and women of CBP on an average day processed 650,000 passengers and 77,000 truck, rail, and sea containers; arrested 39 criminals at U.S. ports of entry; seized 3,600 pounds of drugs; caught \$3.6 million worth of products that infringe intellectual property rights; and discovered 250 pests that could potentially cause untold damage to U.S. farmers.

But CBP's work is not just point-of-entry inspections. CBP also undertakes sophisticated investigations to ensure our Customs laws are properly enforced. This includes identifying actors who try to smuggle goods made with forced labor into the United States or evade our antidumping or countervailing duties.

Deliberate evasion of antidumping and countervailing duties not only undercuts revenue lawfully owed to the government, but prevents our workers and businesses from redressing unfair trade practices. Softwood lumber producers in my home State of Idaho rely on antidumping and countervailing measures to combat unfair trade—and CBP's work ensures that those measures are effective.

CBP also maintains international operations. CBP operates attaché offices in 23 countries around the world. Its Container Security Initiative screens containers that pose a risk of terrorism

at foreign ports before they are placed on vessels destined for the United States. Through this program, CBP can prescreen over 80 percent of all maritime containerized cargo imported into the United States.

Under normal circumstances, overseeing all of this work would require extraordinary skill, experience, and judgment. But these are not normal times. Specifically, I am referring to the heart-breaking situation unfolding on our southern border.

In August of this year, CBP had over 200,000 encounters on the southwest border, significantly higher than the preceding August that had only 50,000 encounters, which itself was down from 60,000 in August of 2019. In fiscal year 2021 there were 1.4 million encounters, even without accounting for September numbers that are not yet known, which is more than double the 458,000 encounters in fiscal year 2020.

Once in office, the administration's initial approach to this surge was to downplay, or worse, undermine its own tools to address it. It eliminated the successful "Remain in Mexico" policy known as the Migrant Protection Protocols. This program wisely required certain migrants to remain in Mexico while their claims were decided.

The sudden termination of the program was not only rash but, as confirmed by the Supreme Court in August, contrary to law. Moreover, the men and women at the CBP have been left demoralized and adrift by the administration's approach. Indeed, the president of the Federal Law Enforcement Officers Association has written that "the administration needs to stop blaming the Federal law enforcement officers at the border who are over-tasked, under-resourced, and under-appreciated. It is the lack of a coherent strategy that has escalated the crisis at the border, not the border officers," end quote.

In sum, the crisis—and that is precisely what it is—is absolutely unacceptable. This committee must ensure that CBP is headed by someone who has the requisite ability and commitment to end it as soon as possible. Failing to ensure such will only prolong this tragedy.

Accordingly, I look forward to this hearing and the nominee's testimony and his response to our questions.

Thank you, Mr. Chairman.

[The prepared statement of Senator Crapo appears in the appendix.]

The CHAIRMAN. Thank you, Senator Crapo. And as always, I look forward to working with you.

Senator Sinema is here. Senator Kelly is here. Chief, you have the good fortune to be supported strongly by both of your United States Senators. We welcome their remarks, and we will begin with Senator Sinema.

**STATEMENT OF HON. KYRSTEN SINEMA,
A U.S. SENATOR FROM ARIZONA**

Senator SINEMA. Thank you, Mr. Chairman.

I appreciate the opportunity to attend today's Finance Committee hearing and introduce Chief Chris Magnus, an exceptional nominee to be Commissioner of Customs and Border Protection. And I am

very pleased to be joined today by my friend and colleague, Senator Mark Kelly, who will also offer introductory comments.

Chris Magnus has been a police chief in Fargo, ND, Richmond, CA, and currently my home town of Tucson, AZ, and that is where I have gotten to know him. His background as an exceptional law enforcement professional is on both the northern and southwestern borders and has prepared him well to help CBP overcome the many challenges at our borders.

When I judge a border initiative or solution, I examine three main questions. One, will this provision help secure the border? Two, will it protect our communities? And three, will it ensure that migrants are treated fairly and humanely? I know that Chris Magnus will have a similar approach, and that is why he has my support, and it is why I hope he will have the support of this committee and the Senate as well.

As we all know, there have been significant problems along the border in the past years. During that time, the city of Tucson has been on the front lines of responding to and managing the ongoing migrant crisis. Tucson city officials and NGOs have teamed up with the Department of Homeland Security to manage growing numbers of asylum seekers and other migrants arriving in Arizona. This has been a successful partnership that has helped migrants and has protected our communities.

Chief Magnus's role in this partnership shows that he understands the current issues at our borders. He collaborates effectively with various stakeholders to tackle complicated problems, and he is ready to get to work to solve these issues.

Chief Magnus also understands that we need to secure the border. This is a law enforcement challenge that starts at our ports of entry, which is where most of the narcotics that cross the southwest border enter our Nation. CBP needs a Commissioner who understands how to thwart organized criminal networks, while also allowing for the efficient flow of legitimate trade and travel. Arizona, and particularly Tucson, is a critical link in the flow of cross-border commerce along the southwest border.

Chief Magnus has built great relationships through Arizona, and I am certain he will bring that same consensus-building common-sense approach to CBP. And that is what we need at the border right now.

Our Nation faces significant challenges at the border, but the only way we can solve them is by working together. And Chief Magnus has shown the tenacity and the ability to do exactly that at every step of his career, as he has moved up from a police officer in Michigan to a police chief in Arizona, and I have no doubt that he will step up again when he is confirmed as Commissioner of CBP.

It is critical that Customs and Border Protection have a Senate-confirmed leadership position. Today's hearing is an important step towards that goal, a goal that I hope each of us, as Senators, share. Having someone like Chief Magnus leading CBP is the best way our Nation can better secure our border, better protect our communities, and ensure that migrants are treated fairly and humanely.

So, Mr. Chairman, thank you again for the opportunity to speak to the committee today.

The CHAIRMAN. Thank you, Senator Sinema.
And, Chief, you have the support of 100 percent of Arizona's United States Senators, and we will hear from the other one.
Senator Kelly?

**STATEMENT OF HON. MARK KELLY,
A U.S. SENATOR FROM ARIZONA**

Senator KELLY. Thank you, Mr. Chairman. Chairman Wyden, Ranking Member Crapo, and members of the committee, thank you for holding this hearing. I am happy to be here today with Senator Sinema to introduce Tucson Police Chief Chris Magnus, who has been nominated to be the Commissioner of Customs and Border Protection.

As a southern Arizonan, Chris Magnus knows well the importance of this critical post. Arizona shares a 373-mile-long border with Mexico. And Arizonans know that too often Washington is far removed from this reality. Trying to secure the border and fix our broken immigration laws without knowing what is happening on the ground, Washington has failed Arizonans on this issue for decades. And it has eroded trust in the system. That is why we welcome the nomination of Chief Magnus, a Tucsonian and long-time law enforcement leader, to head Customs and Border Protection, because we need a smart approach at the border that is humane, orderly, and secure. And we need someone at the helm with the experience and perspective to implement those smart solutions.

And, as we continue to overcome the COVID-19 pandemic and work to rebuild our economy, it is critical that our trade and tourism economies recover as well. We need a leader at CBP who can undertake the task of ensuring we have the resources, training, and capacity at our borders to process increased tourism and cargo, which our border communities and businesses depend on.

And finally, CBP officers have a difficult job. They are often stretched thin and asked to work long hours in difficult conditions. I appreciate their service. It is critical for Arizona and for CBP to have Senate-confirmed leadership committed to supporting officers and carrying out its mission.

Over his 42-year career in law enforcement, Chief Magnus served as the Chief of Police in three separate police departments across the country. As the son of two police officers myself, I have respected his approach to public service, and his leadership at the Tucson police department. It is clear that he values establishing meaningful connections with folks he works with and serves, regardless of their backgrounds.

He has done this in Tucson, working with and earning the respect of leaders of different political parties, and from different parts of the community. In southern Arizona, we have gotten to know Chief Magnus as a committed public servant with the grit and experience to take on this job.

I know that through this confirmation process, this committee, and the Senate, will see that as well. And when he is confirmed, we in Arizona look forward to continuing to work with him to secure our border and support the men and women of CBP.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Kelly. And I know both of my colleagues have busy days, so you can consider yourself excused. And thank you very much for being here to launch Mr. Magnus's nomination hearing.

Chief, we will now hear from you. Then we have some obligatory questions that we're going to have to ask, but please go ahead, and I very much appreciate the conversation that we recently had, and I look forward to your remarks.

STATEMENT OF CHRIS MAGNUS, NOMINATED TO BE COMMISSIONER, CUSTOMS AND BORDER PROTECTION, DEPARTMENT OF HOMELAND SECURITY, WASHINGTON, DC

Mr. MAGNUS. Chairman Wyden, Ranking Member Crapo, and members of the committee, it really is an honor and privilege to be sitting before you today as President Biden's nominee to serve as Commissioner of Customs and Border Protection. I am very grateful for the support of the President and Secretary Mayorkas.

Originally created in 1789 in order to pay our country's Revolutionary War debts, CBP's modern-day responsibilities—facilitating immigration, protecting our Nation's border security, promoting trade and travel, and more—are as critical now as they were in the early days following our Nation's founding.

CBP is a key part of our immigration system that has welcomed so many families to our country, including my own. My father was an English and art history professor who emigrated to the U.S. from Norway in 1921. My mother, a pianist and a homemaker, was the daughter of German immigrants. I have two sisters, Carol and Beth, and a brother, Gerhard.

My husband, Terrance Cheung, who is with me today, immigrated to the United States from Hong Kong with his wonderful mother, Clara, who has retired after running her own small business for 3 decades. Terrence has been a journalist, Chief of Staff for a Mayor and County Supervisor, and currently works for the Arizona Superior Court in Pima County. I could not ask for a more supportive partner.

As a career public safety officer, there would be no greater privilege than to lead one of the largest Federal law enforcement agencies in the country. As a young man in Lansing, MI, I put myself through college, where I earned degrees in criminal justice and labor relations from Michigan State University. I worked first as a 911 dispatcher, a paramedic, and a Deputy Sheriff. I then came up through the Lansing police department ranks, ultimately attaining the rank of Captain.

My 41-year career in public safety has afforded me the opportunity to work in communities of all sizes and types in different geographic areas of the country—each with its own unique needs and challenges. And all of them provided opportunities to learn, innovate, and work with talented, dedicated people.

But I know all too well the impact that trade and its economic effects can have on America's communities. As a police officer in Lansing, MI, I saw firsthand what happened when the U.S. auto industry struggled during the '80s and '90s. Today, thanks to bipartisan efforts to improve our trade policies, auto plants in Lansing and other American cities not only do business on a level playing

field, but have also been able to expand and flourish. Manufacturing workers throughout the U.S. can now be assured of more pay equity with Mexican and Canadian workers.

I am acutely aware that CBP's role in enforcing trade laws and facilitating trade goes well beyond the manufacturing sector. If confirmed to lead this agency, I will work with this committee and with Congress to protect intellectual property, U.S. agriculture, and the many products that Americans rely upon.

Addressing forced labor would also be one of my high priorities. While it is hard to imagine anything more antithetical to our core values as Americans, eliminating forced labor is more than a philosophical undertaking—it is a moral imperative. We must give full force to laws that punish this modern-day slavery, while simultaneously facilitating trade for the overwhelming majority of companies that do business responsibly.

Today, I live in a city close to the U.S. border with Mexico and consider myself lucky to have visited both borders many times. It is essential to recognize that what we think of as the border is not homogenous, and there is no one solution that will provide us with perfect border security.

So, if confirmed, I will do what I have always done in my professional career, which is to uphold the law. I will also expect—without exception—that all agency personnel be conscientious, fair, and humane when enforcing the law.

Now, more than a few colleagues, friends, and family members have asked me, “What are you thinking?” Why would I choose to take on this important but challenging responsibility of leading CBP at this moment? And here is my answer, which is the same answer I gave when I started my public safety career in 1979: I want to make a difference. CBP is a proud agency with a mission that is vital to this country. I believe that by working with Congress, the men and women who serve CBP, and its public and private-sector partners, can build upon its many strengths to make the agency even better.

I pride myself on being a pragmatic and bipartisan problem-solver. And the principles that have guided me are integrity, accountability, caring, and resolve. I care about innovative ideas, not ideology. I prize and foster continuous improvement, and then I dig in to get the work done.

So, if confirmed, my pledge to this committee and its members is simple: I will have an unwavering commitment to serving the American people and will lead with intellectual humility and enthusiasm every day.

Thank you again for the opportunity to appear before you today and for your consideration of my nomination to this critical role, and I look forward to your questions.

[The prepared statement of Mr. Magnus appears in the appendix.]

The CHAIRMAN. Chief, thank you very much. I heard you say that your friends asked you, “What were you thinking when you decided to be the President’s nominee?” And I said to myself, “I hope he doesn’t shut his binder and walk out,” because we are very glad that you are here.

Now we have some obligatory questions.

First, is there anything that you are aware of in your background that might present a conflict of interest with the duties of the office to which you have been nominated?

Mr. MAGNUS. No, there is not.

The CHAIRMAN. Second, do you know of any reason, personal or otherwise, that would in any way prevent you from fully and honorably discharging the responsibilities of the office to which you have been nominated?

Mr. MAGNUS. No, I do not, sir.

The CHAIRMAN. Do you agree, without reservation, to respond to any reasonable summons to appear and testify before any duly constituted committee of the Congress, if you are confirmed?

Mr. MAGNUS. Yes, Mr. Chairman, I do.

The CHAIRMAN. Finally, do you commit to provide a prompt response in writing to any questions addressed to you by any Senator of the committee?

Mr. MAGNUS. Yes, I do.

The CHAIRMAN. All right. I will begin with just a couple of questions and then yield to my colleague, Senator Crapo.

Now, you will have a significant enforcement role, particularly on the southern border at the ports of entry, and you have a big challenge from a humanitarian standpoint, given what has happened in countries in the Western Hemisphere. We all have seen the images of the Border Patrol agents expelling the Haitian migrants at the border, and nothing about those images is acceptable or appropriate.

Now, during my visit to the southern border, I saw—and we talked about this—Border Patrol agents unable to interpret the immigration laws on the books correctly.

So my question to you is, how are you going to go about making sure that the agents understand the immigration and refugee laws that are on the books, and number two, that they act humanely when enforcing them?

Mr. MAGNUS. Mr. Chairman, thank you very much for the question. I agree that Border Patrol agents, and for that matter all members of CBP, have significant enforcement roles, and that there has to be a balance of law enforcement, but also treating people with humanity. That is exactly what I expect of my own officers, and have, wherever I have worked.

But I also think that training has to go all the way back to the academy level where people first start. In fact, I think you can make a credible case that it goes all the way back to the traits and characteristics that you look for in the people whom you hire. If I was fortunate to be confirmed to this position, I would want to look all the way back to that stage to make sure we are looking for people who have the right qualities and skills to be the best possible members of CBP; that they receive the necessary training to do their jobs; and then the necessary supervision to help them move forward with that. That is exactly the approach that I have always taken.

The CHAIRMAN. I just want you to know that we are going to be following up in this area. Because, as I touched on earlier, I do not believe that enforcement of these laws and treating people hu-

manely are mutually exclusive. We are going to have to insist on both, and we will have further discussions about it.

Let's talk about the supply chain situation, the backlog problems for American businesses, raising costs for our consumers with long waits—for example, CBP X-ray machines. And the Biden administration has engaged in a public-private partnership now to keep U.S. ports open 24/7 to address shipping issues.

We want to ask specifically about your role in this. Because it is clear to me that you are not going to be in a position to deal with all aspects of the supply chain backlog. But improved processing of shipments through ports is clearly part of your portfolio. That is where, in effect, you are the point person. Improving processing of shipments through ports is part of your portfolio.

How would you go about carrying that out?

Mr. MAGNUS. Mr. Chairman, thank you for the question. And I could not agree more that preserving and reinforcing America's supply chain is one of our top priorities—and must be one of our top priorities. It is certainly something that I care deeply about. We see, as we approach the holidays, the impact of a supply chain that is struggling right now.

And so, although CBP is only one actor at the ports—and certainly not the only entity that has responsibility for the smooth movement of goods through the ports—it plays a very important role.

I would want to make sure, if confirmed, that the agency has the appropriate staffing at the ports; that we are working with the President's guidance around hours and different ways that the ports are operational. I also believe that continuing to develop and modernize the resources that CBP has, such as ACE, I think is very important as we move forward. There is definitely work to be done to maintain that, to modernize it, to get it into the Cloud. All of these things will help us through the short run and in the long run, but all are very important.

The CHAIRMAN. One last question to you, quickly. I want to talk to you about e-Passport security. As you know, the Government Accountability Office identified a major security gap at the border. Customs and Border Protection lacked the software necessary to verify that the data stored in passport chips had not been tampered with or forged. The agency initially ignored the report. Then we started putting pressure on the agency—well before your time—urging the agency to address this vulnerability. And the agency began a pilot of the necessary software.

Unfortunately, that software license lapsed after the pilot ended, and now there is no fix on the border. Will you commit this morning to working with us to address the GAO findings and provide Customs and Border Patrol agents with the necessary tools to spot high-tech forged passports that are being used by spies and criminals?

Mr. MAGNUS. Mr. Chairman, thank you for that question. And isn't it a source of frustration in so many of our organizations? I know I have dealt with this over and over again where good pilot programs just sort of seem to somehow never be put into full force, or appropriately implemented. What you describe is a system that makes imminent sense. It is absolutely something that I would

pledge to complete, because I think we need this as part of our national security—

The CHAIRMAN. My time is up. Let's you and I talk about a specific timetable for it, because I think this is a tool that increasingly will be used by people like spies, criminals, and people who threaten our country. We have to get it online.

Senator Crapo?

Senator CRAPO. Thank you very much, Mr. Chairman.

And, Mr. Magnus, Senator Wyden's question on the supply chain and ports was actually my first question too, so I appreciate his raising it and your answer to it.

I am going to move on to some immigration enforcement issues. One of President Biden's first actions upon taking office was to inexplicably announce a 100-day moratorium on deportations, including on individuals subject to a final order of removal. A Federal court quickly issued a preliminary injunction, finding that this was acting inconsistently within our immigration law. Although the Biden administration subsequently agreed to let the moratorium lapse, the precedent is deeply troubling.

If the President does not like the law, he needs to work with Congress. And my question to you is, will you commit to enforce our immigration laws at the border, including using all of the resources available to CBP?

Mr. MAGNUS. Ranking Member Crapo, thank you for that question. And I agree, we have some significant challenges at the border. The numbers are very high, and it is something that has to be addressed. Clearly we have a broken system. So, yes, Senator, I will commit to enforcing the law.

Senator CRAPO. Thank you very much.

And again, at the border the CBP does not routinely test migrants for COVID prior to their release into the United States. Officials in the city of McAllen, TX have said that more than 7,000 out of the nearly 88,000 migrants released by CBP into the city since February have tested positive for COVID-19.

Do you think we should test migrants for COVID-19 before releasing them into the cities?

Mr. MAGNUS. Senator, yes, I absolutely do. And in fact, I appreciate where you are coming from with this question, because as Chief in Tucson, we have also experienced similar challenges. And it puts a great deal of pressure, not only on our NGOs, but on the really dedicated men and women of the Border Patrol, and for that matter ICE, who have to interact with these folks.

So, it is a humanitarian matter, but it is also a public health matter, and I would totally commit to that.

Senator CRAPO. Thank you.

Next, just 2 weeks ago CBP deployed what's called "Simplified Arrival" at the pedestrian border crossings in Sweetgrass, MT and Eastport, ID. Simplified Arrival allows biometric facial technology to replace document checks that are normally used for admission into the United States.

It is good that we are seeing more of this technology for arrivals of our visitors, but what about when our visitors exit? A major source of illegal immigration is visa overstays. Should we deploy bi-

ometric tools for when visitors exit the United States? And if so, do you see this as a priority issue?

Mr. MAGNUS. Senator, thank you for that question.

The issue of biometrics really holds a great deal of potential throughout law enforcement. It is something that has to be put into place with caution, understandably, because there are always concerns about how this data is stored, for how long, the manner in which it is used. But if confirmed, this is something that I want to pursue further and look into more carefully. And I would like to work with you on it, and others who are interested in this issue.

Senator CRAPO [presiding]. Well, thank you very much. As I indicated, Senator Wyden covered my supply chain issues, so I will stop there. And we will go to the next Senator, which is Senator Stabenow, who I believe is with us virtually on the web.

Senator Stabenow?

Senator STABENOW. Well, good morning. Good morning, Senator Crapo, and thank you to you and Chairman Wyden for this really important hearing. And welcome, Chief Magnus. It is good to see you again. And I appreciated our chance to talk, not only about the job for which you are before us, but also about growing up in Michigan.

So I appreciate the fact that Lansing, where I live, was your birthplace. So, welcome. It is nice to see you. You have a very challenging job ahead of you, obviously, with so many ways in which you impact our economy, our people, our safety. It is a very, very important position and, if confirmed, you will certainly have a lot on your plate. You will be responsible for the smooth facilitation of international trade and the enforcement of our trade laws to ensure that our workers and businesses compete on a level playing field. You will also be involved, of course, in efforts with the administration to repair our broken immigration system and create more fair and humane treatment of asylum seekers and immigrants.

I want to first start with something very specific to Michigan. As you know, we have the largest northern border crossing: from Detroit into Canada. We have actually two at the top: the Ambassador Bridge in Detroit, and the Bluewater Bridge in Port Huron. And as you know, construction is underway for a second international crossing in Detroit, the Gordie Howe International Bridge, which is expected to be done in 2024.

The Bluewater Bridge in Port Huron is in the middle of a project to expand their Customs plaza, which frankly has taken way too long. There have been too many stops and starts on this project. It has been extremely frustrating for the community. And it is essential for the community that this project is completed as quickly as possible. And CBP's support will be absolutely critical to get that done.

So, if confirmed, will you commit to working with our local communities in Detroit and Port Huron, working with my office, to ensure that these projects continue to move forward?

Mr. MAGNUS. Senator, thank you for the question. And, as we discussed, I think you appreciate my concern for these ports of entry, and the very important role that CBP plays in managing them. I know that these ports of entry are vital to our American workers, to our American businesses. So, if confirmed, I would ab-

solutely want to visit the Bluewater Bridge port, but there will be a number of other ports that I would want to visit as well.

Senator STABENOW. Thank you. Well, we would welcome you.

Let me take my remaining time and put on my agriculture/nutrition/enforcement hat as chair of the Ag Committee, because CBP plays a critical role in protecting farmers and consumers and the environment from invasive pests and diseases, working closely with the Department of Agriculture's Animal and Plant Health Inspection Service.

And I know in Michigan alone, agriculture is our second largest industry, and producers are facing increased threats every day, from cherry growers grappling with damage caused by the spotted wing drosophila to producers threatened by African swine fever, which was found in the atmosphere for the first time in decades, to the emerald ash borer that has devastated our forests.

If confirmed, will you commit to be a strong partner with the USDA to help protect our producers? And on a related point, let me just say that Senators Peters, Cornyn, Roberts, and I have worked to secure passage of a bill that was signed into law early last year to address an ongoing shortage of inspectors, agriculture inspectors, and canine units. I am wondering what your strategy would be to ensure we have enough agriculture specialists monitoring these challenges?

Mr. MAGNUS. Senator, thank you for the question. And I am grateful I did not have to pronounce that term that you were referring to. Yes, I appreciate the importance of the USDA inspectors and the critical role that they play in working with other CBP personnel.

So, ensuring that there is sufficient staffing of those personnel, and really that their role is appreciated—I do not think it is fully understood by as many people as it needs to be, so this is something I would want to work with you and others on.

Senator STABENOW. Thank you very much.

Thank you, Mr. Chairman.

Senator CRAPO. Thank you.

And now we will go to Senator Grassley.

Senator GRASSLEY. My questions are relevant to someone who has been nominated for a senior leadership position within an agency tasked with securing our border and enforcing our immigration laws.

Do you believe that illegally crossing the border between ports of entry should remain a crime under Federal law?

Mr. MAGNUS. Senator, I do.

Senator GRASSLEY. Do you agree that sanctuary jurisdictions, meaning localities that refuse to comply with ICE detainer requests, are an impediment to enforcing Federal immigration law?

Mr. MAGNUS. Senator, I think it is very important that local communities do work with Federal agencies that include ICE and the Border Patrol, and I appreciate your question. I think there have been some legitimate issues raised about the risk that communities may be in when they are enforcing detainers as opposed to making arrests.

We have been advised in several of the communities I worked in—by our legal advisors and city attorneys—that we should have an arrest warrant to be holding individuals for ICE.

Senator GRASSLEY. What are your views on the notice to report process that has been implemented by CBP in recent months?

Mr. MAGNUS. Senator, I appreciate the question. And obviously the better practice would be to have individuals be noticed to appear, as opposed to notice to report. I understand that because we have not had enough asylum officers, or immigration judges—and that is not just recently; that has been really over the past 4 years. And also, because we have some very long waits for people to come before a proceeding, we have a real challenge on our hands. And so, I think this is something that Congress is going to play a very important role in helping to fix, but I think definitely what we have now is a broken system.

Senator GRASSLEY. On a legal point on the same matter, what in your view is the statutory basis for the notice to report process?

Mr. MAGNUS. Senator, thank you for the question. And that is something I am not knowledgeable about at this time, but that I would want to learn more about. I can tell you this, however: if confirmed, I believe my primary role has to be to enforce the law, and I would make that commitment to you.

Senator GRASSLEY. Since you felt you were not able to answer that question because of not maybe knowing the basis of it, would you respond to that question in writing, then, about the statutory basis for notice to report?

Mr. MAGNUS. Senator, I would be happy to do that.

Senator GRASSLEY. Do you believe that it is necessary to maintain the title 42 public health expulsion order at the border, particularly since about 15 percent of the people crossing the border are positive?

Mr. MAGNUS. Senator, as I think I indicated in my opening statement, as a paramedic for 10 years, public health has always been one of my top concerns. And because of that, I think it is absolutely imperative that we do everything possible to stop the spread of COVID. And title 42 is a CBP authority, and it helps—I think it helps with this. CBP certainly has a responsibility with implementing this policy.

But here is the bottom line, Senator. I will always comply with the law, even as it changes perhaps regarding title 42, no matter what it is that the courts decide.

Senator GRASSLEY. What are your views on the scope of the humanitarian exceptions to title 42 expulsion orders and the extent to which they should be utilized?

Mr. MAGNUS. Senator, I appreciate the question, but again, this is an area that I think, coming in from the outside, I would need to learn more about. I am not aware of as much information as I would like to have in order to answer that question at this stage.

Senator GRASSLEY. My last question will have to be this. At the time you—in regard to the Portland, OR attack on the Federal courthouse, you issued a tweet in *The New York Times* that said, quote, “This activity—I won’t even dignify it by calling it policing—is an affront to constitutional professional law enforcement,” end of quote. You then questioned the officers not having visible patches

or name tags, using unmarked vehicles. Was it wrong for the Federal Government to send its officers to protect the Portland Federal courthouse in July 2020?

Mr. MAGNUS. Senator, thank you for the question. And I think this really comes down to an issue of, was the Governor of the State of Oregon, and was the Mayor of Portland involved in this decision?

I think that is very important, especially given the fact that any Federal law enforcement would need to—in order to be effective, really, and to be seen as legitimate—would need to work with State and local law enforcement.

I do, as a Police Chief of over 21 years, have significant problems with the idea that police officers would be out there in any sort of patrol or other contact with the public without having visible patches or badges. I think that is a serious problem, and it is one that I could not endorse.

Senator GRASSLEY. Thank you very much.

The CHAIRMAN. The time of my colleague has expired.

Senator Menendez?

Senator MENENDEZ. Thank you, Mr. Chairman.

Mr. Magnus, I was deeply concerned by the inhumane treatment of Haitian migrants at the border, and the substandard conditions of the Del Rio encampment. If confirmed, will you commit to providing members of Congress with regular updates on the status and well-being of migrants encountered at the border?

Mr. MAGNUS. Senator, thank you for the question. And like you, I found those images troubling. But I also believe, and I certainly learned this over my career in policing, that a full and thorough investigation is necessary before any final conclusions are drawn.

That said, I would totally support keeping this committee, any member of the Senate, abreast of the progress associated with the investigation.

Senator MENENDEZ. DHS officials reported that multiple agency failures, including a failure to share important intelligence, left the U.S. immigration officials unprepared to adequately respond to the large influx of Haitian migrants that arrived in Del Rio in September. If confirmed, what will you do in your role as Commissioner to address these operational missteps?

Mr. MAGNUS. Senator, thanks for that question. I think—I think we can always do better. And I think part of doing better means that we take a thorough and really thoughtful look back at how a situation was handled and what we can learn from it. What we want to do is, perhaps being more prepared, working with other Federal agencies, working with State and local agencies, including our NGOs, looking at how we anticipate surges coming across the border. These are all things that I think we can plan for better going forward, and are things that I would commit to doing to the best of my ability.

Senator MENENDEZ. Well, one of the things I hope you will do upon your confirmation is work to make sure we have a seamless, you know, horizon of intelligence so that we at least know what we are facing and can prepare for it.

And in that regard, DHS officials are reportedly tracking several additional groups of Haitian migrants, including more than 20,000

migrants currently residing in Colombia, who may also make their journey to our southwest border.

If confirmed, what measures would you take to ensure that the agency is prepared to handle any future influxes of migrants at the border?

Mr. MAGNUS. Senator, thank you for the question. And I think the issue of preparation is critical. One of the things that I would look forward to doing is building the strongest possible relations with my Mexican counterparts and colleagues so that we could have an ongoing line of communication, allowing Mexico to help play a role in addressing some of those issues along with us, to be able to share intelligence as it becomes available—and to again be working at the State and local level, whether it is preparing, being more nimble for example with soft-sided structures, having adequate personnel available.

I am encouraged that the Border Patrol is bringing onboard border protection coordinators. And I think they have brought on about 400 at this point, which would make processing of individuals something much more efficient than what we have now.

So, there are a lot of steps when it comes to preparation. If confirmed, there is plenty to learn. I would want to dig in by talking to not only the section chiefs and others in top leadership positions, but also those at the line level, the rank and file.

Senator MENENDEZ. I appreciate that. One of our challenges—this is probably above your pay grade. If we want to stop the flow of undocumented migrants, we have to deal with root causes, whether that be in Central America or certain instability in Haiti. And unless we do that, we are bound to face continued challenges.

And in the previous administration, the Department made a number of agreements with the Government of Mexico and governments throughout Central America. Would you commit to keeping this committee, as well as the committee that I chair, the Senate Foreign Relations Committee, informed about bilateral agreements or MOUs related to migration cooperations?

Mr. MAGNUS. Yes, Senator, I would.

Senator MENENDEZ. And finally, one of the jobs you will have as CBP Commissioner would be to safeguard Americans from the importation of counterfeit products. If confirmed, will you commit to taking concrete steps to strengthen our anti-counterfeit measures? We faced this in New Jersey in several different instances. The bridal industry is one, where these dresses are made, and people, on the most significant day in their life maybe, buy something that they think is going to be exactly what they saw in their bridal store in New Jersey, and they get it from China and they find themselves ultimately with a quality that suggested something different, and it is far different than what they got, and it is too late. And they appear to be the same exact dress as that which would be purchased domestically.

So, there is a lot of counterfeiting going on in that regard, and I would hope you would make a commitment to strengthening our counterfeit measures.

Mr. MAGNUS. Senator, thank you for that question. The whole area of e-commerce is something that I am particularly interested in. You are right to remind us that these are dangerous items in

many cases, ranging from pharmaceuticals all the way through to flammable mattresses.

So, commerce is an area that I am very excited to delve into further. Obviously, it also involves the theft of intellectual property. We are certainly talking about a lot more than just counterfeit luxury items. These are things that are really potentially dangerous and are ripoffs to the American public.

Senator MENENDEZ. Thank you, Mr. Chairman.

The CHAIRMAN. The time of my colleague has expired. He is making an important point. I am the author, with Senator McCain, of the original Internet tax legislation, and I look forward very much to working with my friend and colleague, Senator Menendez.

Senator Cornyn?

Senator CORNYN. Welcome, Chief. I enjoyed our conversation that has now been, I guess a few months ago, when you were first nominated. Have you had a chance to review the guidelines for enforcement of civil immigration law that were issued by Secretary Mayorkas on September the 30th?

Mr. MAGNUS. Senator, thank you for the question. And at this point, I am still familiarizing myself with some of that information but want to become very familiar with it, if I am able to move forward.

Senator CORNYN. Were you aware that, as a result of these guidelines, the Department of Homeland Security will no longer detain and deport someone who has entered the country illegally if that is their only offense? Were you aware of that?

Mr. MAGNUS. I have heard some information along those lines, Senator.

Senator CORNYN. I think Director Mayorkas made that statement on television one or more times. Are you familiar with any other area of law enforcement, given your extensive law enforcement career, where the enforcer of the law decides which laws they will enforce?

Mr. MAGNUS. Well, Senator, actually there is quite a bit of discretion in policing. And there are decisions made frequently based on resources available about which laws will be enforced, and how they will be enforced. That has especially been the case during COVID when the ability to even put people into jail safely has been—

Senator CORNYN. So a police officer, or an ICE agent, can decide which laws to enforce? It's a matter of their discretion?

Mr. MAGNUS. There are—Senator, there certainly are circumstances where police officers are trained, and in fact encouraged, to use their good discretion in the manner in which they enforce laws. There is a—

Senator CORNYN. Are you familiar with the concept of push-and-pull factors when it comes to illegal immigration; for example, the push factors of poverty, violence, just people wanting to come to the United States for a better life, but also the pull factors, which include a perception that there will be no consequences associated with illegal immigration?

Do you agree with me that the decision by Secretary Mayorkas to no longer detain or deport people who enter the country illegally

is a pull factor which encourages more people to make that long, dangerous trip?

Mr. MAGNUS. Senator, as I think we have discussed, I think there are both strong push and pull factors out there.

Senator CORNYN. I am just asking about the pull factors now. Would you agree with me that a policy of nonenforcement is a pull factor which is encouraging more illegal immigration?

Mr. MAGNUS. Senator, thank you for the question. I think that there are many factors that contribute to this.

Senator CORNYN. Is that one of them?

Mr. MAGNUS. It is certainly one part of it, yes, sir.

Senator CORNYN. Okay. Thank you. And are you familiar—you are a border State police officer and Chief, and I know you know a lot about the border, although I will tell you, in my experience with Senator Sinema flying to Tucson, it is a much different situation in the Rio Grande Valley, for example. But one of the things that I think we share in common is the fact that the cartels have figured out how to overwhelm our border security, including our Border Patrol. And, as a result of the fact that unaccompanied children and families and others require additional processing and care, when the Border Patrol leaves the front lines—in some sectors in Texas, for example, as many as 40 percent of the Border Patrol have left the front lines of border security and are back processing unaccompanied children—that leaves a four-lane highway for the drug cartels to smuggle drugs into the United States.

Mr. MAGNUS. Senator, I agree with the border not being homogeneous. I think there is no question, in some areas more than others—such as the Rio Grande Valley, like you described—we absolutely do need more Border Patrol agents out on the line doing what they were trained to do. And again, this is one of the reasons why I am encouraged about having border processing coordinators come on board who can relieve some of those agents so they can get back to what should be their primary duties.

Senator CORNYN. It is sort of like the cartels are playing three-dimensional chess while we are playing checkers, because this is part of their business model. And of course, last year alone more than 90,000 Americans died of drug overdoses. Most of those drugs came across the southern border, as you know.

Thank you, Mr. Chairman.

The CHAIRMAN. I thank my colleague.

Next is Senator Thune.

Senator THUNE. Thank you, Mr. Chairman. And, Mr. Magnus, welcome.

Let me just start by asking a question dealing with sanctuary cities. You served 10 years in the California bay area next to San Francisco, which is a well-known sanctuary city that flouts U.S. immigration law and refuses to cooperate with Federal immigration enforcement agents. If confirmed, you will be overseeing enforcement of immigration law at our borders. Do you support sanctuary cities? And what message do sanctuary cities send to those seeking to enter the United States illegally?

Mr. MAGNUS. Senator, thank you for the question. As a Chief for 2 decades, my first and foremost priority has always been public safety. And so, I appreciate how decisions around sanctuary cities

are ultimately political decisions. But as a Police Chief, and certainly in this position, were I confirmed, my first and primary obligation is to follow the law. That is what I have done always in the past, and that is what I would commit to do going forward.

Senator THUNE. Let me follow up on the question that Senator Cornyn raised—and this is similar, I think, in some respects to sanctuary cities, but the Biden administration is circumventing immigration law in issuing these so-called notices to report. These documents show that there are tens of thousands of migrants who have been admitted into the United States with few legal requirements other than to check in with Immigration and Customs Enforcement wherever and whenever they reach their destination in the States.

Do you believe that lax enforcement of our immigration laws intensifies those pull factors for immigrants, for migrants who are seeking entry into the United States?

Mr. MAGNUS. Senator, thank you for the question. As we discussed, I think that the issue of notice to appear is something that we want to achieve in any manner we can, certainly by different agencies working together, by having more asylum officers and immigration judges.

This is not a new challenge in many ways. It has been true in multiple administrations, and it is going to take, for the most part, a congressional fix, because we really do have a broken system and, unfortunately, there continue to be very long waits for court dates in order to get people appropriately processed.

So, until those things can be resolved, I fear that we are going to continue to be in a very difficult situation.

Senator THUNE. The system is broken. There is no question about that. And I think everybody would acknowledge that. All you have to do is look at the statistics here in the last few months. It is stunning. It is a staggering, frankly, just disintegration of the border, really for all intents and purposes. It is, as it has been described, an open border which creates all kinds of bad things. Bad things can happen in this country with the wrong types of incentives.

And this issue of not enforcing immigration laws that already exist, to me is a major part of that. I understand your suggestion that we need to fix the broken immigration system, but we do have laws on the books that are not being enforced. And I am simply trying to ask you if you think that the lax enforcement of those immigration laws does intensify that pull factor. People come here. People respond to incentives. It is that simple. And if the incentives suggest that you can come here illegally and there is no consequence to that, then I think more people are going to come here illegally.

Would you not agree with that?

Mr. MAGNUS. Senator, I agree that enforcing the law is necessary and appropriate. The numbers are high. As a law enforcement official, I again will pledge to enforcing the law.

Senator THUNE. All right. Just very quickly, because my time is about out here, the supply chain issue, as you know, has come under unprecedented strain. We have agricultural producers across the country, including in my home State of South Dakota, who con-

continue to harvest their crops and worry that the supply chain constraints could threaten market access for their products.

As Commissioner of the CPB, how would you work with the ports and the various stakeholders to improve fluidity and resolve this issue? And perhaps you could quickly touch on how some of these union rules play into that and are helping to contribute to these systemic delays.

Mr. MAGNUS. Senator, I could not agree more that the supply chain, especially at the time we are in right now, is critical. And so addressing the movement of goods through the ports in any way possible to expedite that is something that is going to be very important.

Obviously, this is going to require working with the port directors. It is going to require close relationships and continued work with groups like COAC and other business groups, both large and small. I do not think there are simple solutions, but if confirmed in this position, CBP is going to continue to work very hard around this issue.

Senator THUNE. Thank you, Mr. Chairman.

The CHAIRMAN. Your time has expired.

Senator Cardin?

Senator CARDIN. Thank you, Mr. Chairman. And, Chief Magnus, first of all, thank you for your public service, and thank you for your willingness to take on this extremely challenging position.

I have listened to your responses to questions in regards to border enforcement. And certainly I agree that we need to enforce our laws. I have also heard your response in regards to the manner in which we enforce our laws. And there are a lot of desperate people who show up at our borders. Many have legitimate claims in entering the United States.

We have families that show up on our borders. We have unaccompanied minors who show up on our borders. So I would just like to give you a chance to explain how you would balance enforcement of our laws with the enforcement of our values, in which America has been the leader of the world during a time when we have more displaced people than we have had since World War II.

So, could you just explain to me your own personal philosophy on how you are going to balance the enforcement of our laws with the enforcement of our values?

Mr. MAGNUS. Senator, thank you very much for that question because, even as we spoke about the numbers being high, there is no question that we have to meet the challenge of asylum obligations as a Nation, and also the security of our borders.

And I think that can be done in a manner that is, yes, absolutely more efficient. We can do a better job with how our individuals are processed. But key to this is that it is done in a humane way. I do not believe that we have to sacrifice efficiency for humanity. And so, I think humanity has to be part of the discussion, again, early and often throughout the careers of CBP members.

This is something we talk a lot about in policing. We do our jobs enforcing the law, but how we engage with the public, even the public that we may be arresting, is what defines us as professionals. And this is something that we have a moral obligation to do.

Senator CARDIN. Thank you for that response. I also heard you respond to the need for training, which I strongly agree with. A lot of times those funds become difficult, and in part it is our responsibility to make sure you have adequate resources.

But I want to just deal with one of the major challenges that we have had in policing in recent decades, and that is, discriminatory profiling. It really turns communities against law enforcement when we use discriminatory profiling. It is inefficient. It is wrong. If you have specific information, obviously the identifiers are important, but to characterize individuals by race or religion, or other discriminatory issues, is just wrong.

I would like, again, to get your view as to how you would proceed with training to make sure that the agency that you lead does not use discriminatory profiling as a method of enforcement?

Mr. MAGNUS. Senator, thank you for the question. And I could not agree more. Profiling is wrong. This is an area where, yes, training is critical. It has to involve more than just a policy on a page. It has to involve scenario-based training. It has to involve discussions. And then people have to see, as they work their way through their careers, that this is something that is modeled appropriately by their supervisors and others.

So I think there are ways to train more effectively that involve including the community in training, making some of these things real, bringing in people who have been profiled and having them share their experiences. These are things that we have done in the departments that I have worked for, and I think we can address this issue.

Senator CARDIN. And lastly, let me just reinforce the comments of the chair and others in regards to border enforcement of our trade laws. Whether it is the antidumping and countervailing duties, whether it is child labor issues, whether it is intellectual property violations, we need to have a working relationship with the agency as to how we strategize in enforcing our trade laws through border enforcement. And I just really want to underscore the importance of us working together on that to develop a strategy, and I would welcome your recommendations to our committee as to what tools you need to better enforce our trade laws.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Carper, I believe, is online.

Senator CARPER. Thanks, Mr. Chairman. Chief Magnus, good morning. Thanks for joining us. Thanks for a lifetime of service, and thank you for your willingness to serve in this important role. Thank you for your patience in waiting for this hearing and to have your nomination debated.

A lot of my colleagues have been trained as leaders since childhood in Boy Scouts, and I have always said that leadership is the most important ingredient in the success of any large or small business, private-sector or government. It is the most important ingredient of all for the success of that organization.

I think, if I am not mistaken, CBP has lacked a leader, at least a Senate-confirmed leader, since April 2019. That is almost 2½ years. And that said, as you know, CBP is our Nation's largest law enforcement agency, with over 60,000 employees, if I am not mistaken. Should you be confirmed, you will be managing those 60,000

men and women, and your leadership will be central not only to those in the CBP workforce, but the success of CBP—and frankly, to the Department as a whole.

And to that end, could you just take a moment to lead us off with sharing how your experience in policing roles has shaped your leadership style and prepared you to take on this role? Go ahead, Chief.

Mr. MAGNUS. Senator, thank you for the question. I have been very fortunate to work in several different police agencies of different sizes in different communities. And one of the things that has been most valuable about that is being able to come in and look at things with a fresh set of eyes, being able to ask the question “why?” Being able to seek out the right people to gain information from. Talking to officers at the ground level. Building new partnerships in each place that I have worked.

These are all things that I would want to bring as a priority, if confirmed, to this position. I think that I am a pragmatic person. I like to take a common-sense approach to things. And I think when you are willing to continually learn, no matter how much time you have in the field—I like to think of it as intellectual humility. I think it makes for an effective leadership style, and I think it helps you to get some exciting things done.

Senator CARPER. Thank you for that response.

The second question I am going to ask you deals with immigration reform, something we have talked about but not done enough about. We have talked about it a whole lot here in recent years. But for years I have worked with colleagues on both sides of the aisle in order to try to achieve comprehensive immigration reform.

Unfortunately, we still face a number of issues in our immigration system that need to be addressed, as you know. Men and women of CBP are on the front line each day, confronting the challenges created by an immigration system in need of reform. And to that end, what issues do you predict CBP will face, given the need to drastically reform our Nation’s immigration policies and procedures? How will you work with your counterparts to make sure that these challenges are heard and addressed at all levels of the agency?

Mr. MAGNUS. Senator, thank you for the question. I think it has been particularly difficult to be a CBP agent, and certainly a Border Patrol agent, in the recent past. I think as laws and policies change, it is necessary to continue to reinforce the idea that professionals, as in policing, enforce the law.

And so, to the degree that I can help depoliticize this process and build in resiliency as a key for helping our men and women, our hardworking men and women of the Border Patrol, be as effective as possible in their jobs, these are things that I would like to tackle.

I think immigration reform is——

Senator CARPER. Chief, I am going to ask you to hold it right there, and we will allow you to answer that for the record.

A really quick question: the Secretary’s September 30th border enforcement priorities include the recent border crossers, do they not?

Mr. MAGNUS. I’m sorry? Could you repeat the question?

Senator CARPER. The Secretary's September 30th border enforcement priorities include, if I am not mistaken, recent border crossers, do they not?

Can you speak to the folks no longer subject to deportation, please?

Mr. MAGNUS. I am sorry, Senator. It is a little difficult to quite make out what you are—

Senator CARPER. The Secretary's September 30th border enforcement priorities include recent border crossers, do they not? That can be a "yes" or "no." And if you do not know, just say "I don't know."

Mr. MAGNUS. No, I am not sure. And because I am having a little trouble understanding the question, I would like to be able to respond back to you.

Senator CARPER. You are more than welcome to do that. Let me just close by saying we are delighted to see you sitting before us for this hearing, and we look forward to being able to debate your credentials. I think they are excellent, and we will have an opportunity to vote here on the floor soon. Thank you so much.

The CHAIRMAN. Thank you, Senator Carper.

Senator Lankford is next.

Senator LANKFORD. Mr. Chairman, thank you.

Chief Magnus, thank you for stopping by the office and giving me a chance to be able to visit yesterday and be able to talk through some things. Let me set a context here, because I want to ask a larger question.

Because really the big issue is, what are you going to do? What is the plan? Right now what we are facing this year is the highest number of illegal crossing interdictions ever in the history of our country—this year. Now that is after October, November, December, January were low numbers, but mysteriously starting in February all the way to the present, the numbers have skyrocketed. We have triple the number of people each month who are crossing the border illegally now than what we had in October, November, December, and January.

We had the highest amount of methamphetamines crossing our border in the history of our country. We had the highest number of fentanyl crossing our border in the history of our country. We have, as you described yesterday, what the public hates, chaos, on our southern border right now.

You have described yourself as not an open-borders guy, which I appreciate. The big question that we've got to resolve here is, stepping into this role, you are walking into a chaotic situation where we have the highest number of illegal crossings in the history of our country. What is your plan?

Mr. MAGNUS. Senator, thank you for the question. And of course, if there was a ready-to-go plan to address all the problems that you just described, my guess is that not only CBP but you all as a body would have seen to it that it was implemented.

I think that key to answering your question is going to be the importance of collaboration, building relationships. I think it is going to be important that the individuals who are making the policy decisions, who obviously include the Secretary, the President, and others, that they get accurate feedback from me based on what

I am seeing in terms of talking to the men and women at the border, in terms of talking to people in border communities.

I think getting that accurate information—and as I pledged to you yesterday, my commitment is to be an honest broker around how this works—is going to be very important in terms of formulating a plan. That is something I want to be part of, those discussions.

Senator LANKFORD. So let me drill down a little bit more on this. That is, how do you evaluate whether it is successful in reducing the chaos? Is that we move people across the border faster? Because when Secretary Mayorkas was in front of the Homeland Security Committee, his statement was, we're getting much better at the border. We are moving people into the country faster. They are not having to stay as long at the border in these camps. We are getting them across the border faster.

So my basic question from a law enforcement perspective is—you are the chief law enforcement officer in this role, leading a lot of law enforcement folks. Is your goal to facilitate faster transition from people crossing the border into our country? Or is it to prevent people that are illegally crossing our country from coming into our country?

Mr. MAGNUS. Senator, thank you for the question. And actually, I think it has to be some of both. We are always going to have some degree of people crossing the border. This has been the case now for years. We have had surges. And so we—

Senator LANKFORD. We have never had a surge like this.

Mr. MAGNUS. Senator, I understand—

Senator LANKFORD. This is the highest number ever in the history of our country.

Mr. MAGNUS. Senator, I understand your concerns, and I do not disagree with you that the numbers are very high. But the bottom line still remains that, you know, first and foremost we need to enforce the law. And secondly, we need to have a process that is humane and efficient so we can deal with those who are coming across the border, whether it be to seek asylum, or for other purposes.

So I think, again, to some degree we have to have both.

Senator LANKFORD. So what I am trying to drill down on is a plan. I understand there is both, but the role of the law enforcement officer is to enforce the law. We do it humanely. We do it better than anyone else in the world.

So for us, we focus on humane treatment of individuals, whether they commit a crime or do not commit a crime. But we also are working the deterrent method. Right now, it does not feel like we are deterring activity. It looks like we are encouraging it. And I will tell you, from the cartel perspective, clearly they are making a tremendous amount of money incentivizing people to be able to come, and we continue to see record numbers, month after month after month.

So the border has large gaps in the fencing just south of your house there in Arizona where, literally, the administration stopped on January the 20th and left huge gaps in the fence there.

The asylum policy is being treated differently. The Federal courts have now stepped into DHS and said they need to put back in the

Migrant Protection Protocols again. The administration has yet to be able to do that.

There has not been a clear way to articulate what is going to happen to asylum, and there seems to be no answer in title 42. All of those things together have left a border that is very porous, and all I am trying to figure out is what is the plan, both with the fencing, how we are going to handle asylum, what is the alternative to title 42? What are we going to do for individuals who are crossing the border as single individuals, families? It is a multifaceted problem, but there does not seem to be a working solution, even when the Federal courts have stepped in and said you have to put in the Migrant Protection Protocols and the administration has yet to do it.

The CHAIRMAN. The time of the gentleman has expired.

Senator HASSAN?

Senator HASSAN. Well, thank you, Chair Wyden and Ranking Member Crapo, for this hearing. And thank you, Chief Magnus, for 42 years of service in public safety, and for your willingness to serve in this critical role as Commissioner of U.S. Customs and Border Protection. And thank you as well to your family, because this kind of service is a family effort. So, I appreciate their sacrifice too.

I want to start with a question on border and immigration enforcement. On September 30, 2021, Homeland Security Secretary Mayorkas issued a memo containing guidelines for border and immigration enforcement. The Secretary's memo provides guidance not only to U.S. Customs and Border Protection, CBP, the agency you have been nominated to lead, but also to Immigration and Customs Enforcement, and U.S. Citizenship and Immigration Services.

In his memo, the Secretary stated that threats to national security, public safety, and border security would be priorities for border and immigration enforcement.

Chief, we talked a little bit about this during our one-on-one meeting. Do you agree that individuals charged with serious crimes, not just prior convictions, can pose a threat to public safety? And do you agree it is important that DHS personnel have the discretion to detain individuals who are a threat to security or public safety?

Mr. MAGNUS. Senator, thank you for the question. And there is no question that when we are looking at this from a public safety standpoint, the answer has to be "yes."

Senator HASSAN. Thank you.

Now, on to an issue of counter-narcotics, a part of the very important CBP mission. As we discussed during our private meeting, the substance abuse epidemic is ravaging my State of New Hampshire. It is ravaging your State of Arizona, and communities all across the country. U.S. Customs and Border Protection has an important role in disrupting international drug smuggling operations and interdicting the flow of drugs and money across the U.S. border. Transnational criminal organizations are adapting and exploiting predictable procedures at U.S. borders. They use rail transportation, pedestrians, unmanned aerial vehicles, and even submersible vessels to smuggle drugs into the United States.

Chief Magnus, as a Police Chief of a border community, how have you prioritized and fought such organizations undermining your community? And if confirmed to lead CBP, what would you do to fight international drug trafficking?

Mr. MAGNUS. Senator, thank you very much for that question. You are touching on an issue here that is really near and dear to my heart, because so many members of our community in Tucson, not to mention across the State and country, have died as a result of opioid overdoses.

I think that this battle has to be fought on multiple fronts. I will tell you, in Tucson we have a collaborative effort called the Counter-Narcotics Alliance that involves not only State and local partners, but our Federal partners as well. And I think this type of collaboration is essential. But I think we also have to use every available means at our ports of entry, where we know the great majority of these drugs are coming across, to use technology and other resources more effectively to address these drugs.

And then there is the area—and I think it was touched on previously—related to e-commerce, where we know that there are many opioids and precursors and such that are coming through in these small packages—and many times through the postal service, because of relationships that are complicated involving China.

And so this is an area I know where Senator Portman and others have put a good deal of work into the STOP Act, and CBP plays an important role in enforcing that act. So, as I said, there are a whole series of ways in which we can, I think, always do more to address this scourge.

Senator HASSAN. Well, thank you. And I was going to ask you about the importance of new technologies on the border, and you have touched on that. And I just will ask you, please, if you are confirmed, to please let Congress know if there are additional resources or technology that CBP needs to strengthen border security, because I think that is going to be critically important, especially in the counter-narcotics mission.

Mr. MAGNUS. Thank you, Senator. I will do that.

Senator HASSAN. Okay; thank you.

One last topic. CBP has two important missions: securing the U.S. border from dangerous people and goods, and facilitating the legitimate flow of commerce and travel. I was pleased that the administration finally heard my calls and those of others to end the travel restrictions at the Canadian border, which is going to help New Hampshire's economy rebound. The reopening of the Canadian border to vaccinated individuals is an important and long-overdue step.

Your background in law enforcement, including your time in a border community, makes you well-suited for the security mission of CBP, but how familiar are you with CBP's important trade mission? And how will you prioritize and manage that mission?

Mr. MAGNUS. Senator, thank you for the question. And you are correct. Not only my time growing up in Michigan, but also in the 6½ years I spent in North Dakota, where cross-border traffic to Canada is also essential for a whole host of reasons, causes me to believe that this is going to continue to be very important, even perhaps as the laws and rules change regarding title 42.

So, whether it is appropriate staffing to address these issues, other factors that need to be considered, I am very committed to this cross-border traffic and trade.

Senator HASSAN. Thank you. And thank you, Mr. Chair.

The CHAIRMAN. Thank you, Senator Hassan. We are going to be following up with you on those issues. They are incredibly important.

Senator Daines is next.

Senator DAINES. Mr. Chairman, thank you.

Chief Magnus, if you are confirmed to this position, you will be at the helm of the largest law enforcement agency in the United States. I have had the opportunity a couple of times to visit the border. I have seen first-hand the heroic efforts that our brave men and women—

The CHAIRMAN. We lost you there, Senator Daines. Senator Daines?

[No response.]

The CHAIRMAN. We will move on.

Senator YOUNG. Mr. Chairman, can you hear me?

The CHAIRMAN. We will bring Senator Daines back as soon as we possibly can.

I believe Senator Young is next.

Senator YOUNG. Thank you, Mr. Chairman.

Mr. Magnus, I would like to start off with a “yes” or “no” question. Do you believe we have a crisis at the southern border, yes, or no?

Mr. MAGNUS. Senator, how much does it really matter whether we call it a “major challenge,” a “crisis,” a “big problem”? I think we—

Senator YOUNG. I think it speaks to a level of urgency and seriousness of purpose and understanding of the gravity of the situation. I mean, presumably one would answer the call of serving in this position because you understand the importance, at this moment in history, of being Commissioner of CBP.

So, do we have a crisis at the border, yes, or no?

Mr. MAGNUS. Senator, let me assure you that no one believes there is greater urgency to this matter than I do. I have been at the southern border—

Senator YOUNG. So, it is “urgent.” I have heard that characterization: “urgent.” It strikes the common ear as less than a crisis. Are you saying there is not a crisis at the border?

Mr. MAGNUS. Senator, no, I do not think that there—I do not speak to urgent as less serious at all. In fact—

Senator YOUNG. Is there a crisis, or is there not a crisis at the border?

Mr. MAGNUS. Senator, I would say that my highest priority is going to—

Senator YOUNG. I did not ask you your priority. I asked you to characterize the situation at the border. Is there a crisis at the border? You have been nominated to serve as Commissioner to the Customs and Border Protection agency at a time that I regard as a crisis. Are you saying there is not a crisis?

Mr. MAGNUS. Senator, what I am certainly trying to convey is how serious I take what is happening at the border, and the amount of work that I want to put into addressing it.

Senator YOUNG. Noted. Noted.

DHS tells us that we have already seen over 1.3 million illegal border crossings so far this year. That is about 1.5 times the population of Indianapolis, IN. I say that is a crisis.

What number of illegal crossings would you consider to be a crisis? What if we were to quintuple that number? Would you then call it a crisis?

Mr. MAGNUS. Senator, I appreciate your question, and I am already doing my best to acknowledge that the situation is very serious. It would be, regardless of what we call it.

Senator YOUNG. I will move on.

Mr. MAGNUS. It is something important to me.

Senator YOUNG. So, despite the 1.3 million illegal border crossings this year, 100,000 unaccompanied minors, a massive uptick in human trafficking and drug trafficking that is taking a toll in my State and all across the country, earlier this month the Department of Homeland Security announced that it will terminate the remaining contracts for the southern border wall and the Rio Grande Valley.

Now I am looking for a series of “yes” or “no” answers from you, sir. Do you believe that canceling such contracts at this time is a prudent choice, given the dire situation on our southern border, yes, or no?

Mr. MAGNUS. Senator, I am not working for CBP right now, so I do not even know exactly which contracts you were referring to. If you—

Senator YOUNG. In preparing for this hearing, you did not familiarize yourself with that, sir?

Mr. MAGNUS. I am sorry, Senator, but I cannot tell you I am familiar with each contract that the Border Patrol has for infrastructure. What I will tell you, sir, is that I think there is a place for infrastructure. And I think that includes, in certain sections, completion of barriers, walls, other things.

So this is an area that I want to learn more about.

Senator YOUNG. Do you think there is a role—would you commit to reinstating the contracts once you become Commissioner, should you be confirmed?

Mr. MAGNUS. Senator, I cannot commit to reinstating a contract, a specific contract, that I am not familiar with.

Senator YOUNG. So you have not familiarized yourself with that? Have you familiarized yourself with title 8, U.S. Code section 1325, sir?

Mr. MAGNUS. I am sorry, Senator, I am not familiar—

Senator YOUNG. This is the operative Federal law that makes it a crime for an individual to enter or attempt to enter the United States at any point other than a border inspection point or other official point of entry. So this is what would basically dictate the laws that you are enforcing, and your actions as Commissioner. So, are you familiar with that law, sir?

Mr. MAGNUS. Sir, my primary responsibility as a Police Chief has been to be as familiar as possible with all of the laws that we are

responsible for enforcing. So I can assure you that if I am confirmed for this position, I will do the same. I will become as familiar with—

Senator YOUNG. All right. Sir, you are the nominee to be the Commissioner of CBP, and you have not familiarized yourself with the operative immigration law. I see that as being a concern.

Thank you.

The CHAIRMAN. The time of the gentleman has expired. We will go to Senator Daines next. I am going to just tell colleagues, we are going to do our best to wrap up before the vote. So, colleagues, just be on notice.

Senator Daines?

Senator DAINES. Thank you, Mr. Chairman.

Chief Magnus, if confirmed in this position, you will be at the helm of the largest law enforcement agency of the United States. I have had the opportunity at a couple of different times to visit the border. I have seen firsthand the heroic efforts our brave men and women put forth each and every day to protect our borders and our country.

Unfortunately, the Biden administration's disastrous border policies have led to a massive surge of illegal immigrants that have overwhelmed our Border Patrol officers. It is quite enlightening to spend time quietly with these officers and to hear firsthand what they see day in and day out.

In fact, just this calendar year there have been more than 1.3 million encounters at the southern border due to ending the successful policies of the Trump administration such as Remain in Mexico, as well as ending Catch and Release.

The migrant crisis has left portions of the border more vulnerable to an influx of illicit drugs that the Mexican cartels produce like meth, fentanyl, heroin, and sadly they are making their way to Montana and ravaging many of our Montana communities.

The administration's public threats of retaliation against Border Patrol officers over this viral horseback whipping, this hoax, has undermined the confidence that those in positions of leadership will have their backs.

Chief Magnus, I appreciate your long career in law enforcement in places like North Dakota as well as in Arizona, but I must say, for this position, I have serious concerns with the nomination.

One thing we know for certain is that the policies enacted under President Trump were successful at stemming the flow of illegal migrants to our borders. Policies which, I must add, were overwhelmingly supported by the men and the women on the ground. You were publicly critical of the Trump administration's policies, notably the efforts to crack down on sanctuary cities.

Chief Magnus, if you look at the crisis we are seeing now at the southern border, would you not agree that the Biden administration is failing, and that we should take a step back and relook at some of the common-sense measures that were working during the previous administration?

Mr. MAGNUS. Senator, thank you for the question. And, as I indicated before, I am pragmatic and common-sense focused, which means I am willing to talk to anybody and everybody related to the

situation, and to relay as best I can that information to policymakers.

I do appreciate the opportunity to clarify, since my first priority as Chief throughout my career has been around public safety, that my advocacy that you are referring to in an op-ed was never political. It was a recognition that every community deserves to receive firm grant funding. This is critical funding that helps communities with their crime-fighting efforts.

And regardless of what any elected body might decide to deem their city as being, I do not believe that the residents of that community should suffer because they lack the resources that are necessary for the police to be able to do their jobs.

So my criticism was simply that any city should be able to have these resources so that the local residents do not suffer. And I think that would be consistent with just about every Police Chief that I know.

Senator DAINES. Well, if there is a place I would agree with you in that statement it is to not politicize these very important issues facing the security of our Nation.

One area that has been very politicized, I think, by the Biden administration is the efforts to build the wall and secure the southern border. And I cannot tell you how many Border Patrol agents I have spoken with face to face who said that was an effective way to help them secure the southern border. So do you believe we should finish building the wall that was started?

Mr. MAGNUS. Senator, I have also—I appreciate the question—I have also had the opportunity to speak to a number of Border Patrol agents and folks on the ground about this. And the agents that I have spoken to, yes, as you say, there are some areas of the border where they think additional barriers or a wall could be useful. I am not taking issue with that.

But they also talk about the need for better technology, better basic resources related to their ability to communicate by radio and by phone. There are—

Senator DAINES. So you are saying there are places you would agree that we should continue to build the wall then?

Mr. MAGNUS. I think there are some gaps where that could make sense.

Senator DAINES. Thank you for that answer.

Recent reports have shown that tens of thousands, perhaps over 100,000, migrants have been released into the interior through Catch and Release.

Do you support Catch and Release? And do you think it is an effective system?

Mr. MAGNUS. Senator, I appreciate the question. The challenge, of course, is we are dealing with a fundamentally broken system. It did not just become broken. It has been broken for many years. And in particular, over the last 4-plus years we have been challenged with not enough asylum officers, not enough immigration judges, long waits for court dates. And these things take a toll. And this has been true in multiple administrations. So it is going to require Congress to make a fix in this area.

And I am very interested in working with the members of Congress. I would like to work with you and others to see how we can best assure that the process works the way it is supposed to.

Senator DAINES. Thank you. I am out of time, Mr. Chairman.

The CHAIRMAN. The time of the gentleman has expired.

Next is Senator Warren.

Senator WARREN. Thank you, Mr. Chairman. And thank you, Chief Magnus, for being here today. It is good to be able to speak with you again.

I am very encouraged by your experience in law enforcement, and your extensive experience with immigration issues. But I think anyone filling the post of CBP Commissioner is going to have a very challenging job. One recent and very high-profile example of these challenges has been the treatment of Haitian immigrants in Del Rio, TX. Border Patrol agents, who are CBP personnel, engaged in cruel and disturbing behavior against these migrants. Inhumane treatment of migrants and asylum seekers is unacceptable in our Nation.

I know DHS has opened an investigation into these interactions. So here is the commitment I would like from you. Will you push for transparency in that investigation, and for public release of all your findings?

Mr. MAGNUS. Senator, thank you for the question, and I think you will find that I have a long history of transparency and sharing things with the public, whatever the outcome may be, because I think this is how you sustain and build trust.

I agree, the images that we saw were troubling. I am grateful that the Secretary opened an investigation. I think it is very important that we be fair and allow the investigation to move in whatever direction it does, as facts are gathered. So I am not going to prejudge. But I think we can safely say that examining tactics and training is certainly appropriate. And after a significant incident, it is something that I have a long history of working towards.

Senator WARREN. Well, and I very much appreciate the history. That is why I am here today. But I am asking, actually, for a commitment. And that is, that you will push for transparency in this investigation and to a public release of all the findings.

Mr. MAGNUS. Senator, I certainly commit to that.

Senator WARREN. Good. That is what I wanted to hear.

Now I know that in response to the negative publicity about what happened at Del Rio, there was a temporary end to the Border Patrol's use of horseback units in the area. But I see this as just a symptom of a broader problem in recent years.

Will you make it a top priority to ensure that all CBP personnel treat migrants and asylum seekers with the dignity as human beings that they deserve, and with proper respect for all of their legal rights, including the legal right to seek asylum?

Mr. MAGNUS. Senator, thank you for that question. And as I have spoken to, I believe that we have asylum obligations as a Nation. And therefore, even as we seek efficiency and to be as effective as possible in working with individuals who seek asylum, we can never bypass the criticality of treating people humanely. These are fellow human beings, and they have to be treated humanely.

Senator WARREN. I appreciate that, and we will work together on that. I am going to hold you to that.

Mr. MAGNUS. Thank you, Senator.

Senator WARREN. Another concern I have is about the effects of the COVID pandemic at immigration detention facilities. As you know, I have been pushing for greater transparency about COVID cases in these facilities. And Congressman Castro and I introduced a bill to help ensure accurate and complete data collection regarding COVID testing, vaccination, and safety protocols at CBP facilities and other immigration detention facilities.

Also, last month DHS's Inspector General released a report that found that CBP does not conduct COVID testing for migrants who enter its custody. The Inspector General recommended that DHS reassess its COVID response framework, and DHS agreed with this recommendation. With that in mind, will you prioritize working with other Federal agencies to ensure accurate and complete data transparency regarding COVID-19 in CBP facilities?

Mr. MAGNUS. Senator, thank you for the question. And without good data collection, I think we are really not in a great position, right? So I support data collection. I support being transparent with that data, particularly as it relates to COVID. I think this is critical.

Senator WARREN. Good. And will you commit to keeping Congress informed about your findings?

Mr. MAGNUS. Senator, I absolutely will.

Senator WARREN. Good. The CBP Commissioner has an obligation to ensure the health and well-being of individuals in his care and custody. Congress and the public have a right to know what is happening. So I appreciate your commitment to making that a priority. Thank you.

And thank you, Mr. Chairman.

The CHAIRMAN. The time of my colleague has expired. We will go now to Senator Cassidy, and then we will go to Senator Bennet, and then I think Senator Scott is also going to be available.

Senator Cassidy?

Senator CASSIDY. Thank you. I enjoyed our phone conversation. I know there has been a discussion of this recently, earlier, but tell me, as regards immunization, why are we not requiring those who are being allowed to come into the United States to be vaccinated for COVID before being released into the United States, particularly in the context that the Biden administration is asking anyone who has a nexus with the Federal Government to require their employees to get vaccinated? I am not quite sure I understand the exception for those who are being allowed to come here illegally.

Mr. MAGNUS. Senator, thank you for the question. And actually, I think any of those individuals, migrants coming into the country, should be immunized.

Senator CASSIDY. Thank you. And should be required to be immunized as a condition of being allowed to continue?

Mr. MAGNUS. Senator, that is something I definitely want to explore. It seems reasonable to me.

Senator CASSIDY. A couple of other issues. Your law enforcement background is without parallel. Let me ask, though, about some other issues. For example, we discussed the Jones Act. CBP has ju-

risdiction over Jones Act trade-based money laundering. What will you do for those areas that, if you will, are kind of gaps in your background but nonetheless are an important portion of the CBP mission?

Mr. MAGNUS. Senator, thank you for the question. I have to tell you, I know that perhaps an assumption has been made that I would be more interested in the border and those functions as opposed to the trade functions of CBP, but I want to assure you that the trade functions are an area where I am both extremely interested and want to commit to learning as much as possible.

The Jones Act, I am sure you realize better than most, is incredibly complex. I am doing my best to learn about it.

Senator CASSIDY. But can I ask, because inevitably you will need a lieutenant who is going to be in charge of that, just because your plate will be full just for the border: do you have the ability to hire your own lieutenants, or will there be someone there who will make this a priority within the considerations of the Department—knowing that you are making an effort to learn, but knowing that the highly technical aspect of it will require somebody with expertise?

Mr. MAGNUS. Senator, thank you for the question. And one of the great things about the process that I have gone through over the last several months is to learn about the number of highly knowledgeable, highly dedicated personnel.

Senator CASSIDY. I am taking that as a “yes.”

Mr. MAGNUS. Right. So you are 100-percent right.

Senator CASSIDY. In your testimony you had a paragraph regarding the desire to address the issue of forced labor. Now, of course I would advocate that that be second and third degree.

There has been a big push in this committee to support battery technology. It is pretty clear that cobalt is being taken out of the Congo using forced labor, which is being employed, if you will, by Chinese companies. It has been pretty well documented. There is a *New Yorker* article about it. There are others in the press.

I have promoted an amendment that was rejected on party lines that we would ask that cobalt being used in batteries be ensured not to come from forced labor. To what degree does your commitment to addressing the use of forced labor include the kind of second degree that is not where the battery is being made but it is where the cobalt is being mined to be used in the battery?

Mr. MAGNUS. Senator, thank you for that commitment. And I would just mention that forced labor is really something I would like to consider as a top trade—

Senator CASSIDY. So that would be a second-degree issue, as well; not just China where it is being used with the Uyghurs, but also in the Congo where it is being used to harvest the cobalt.

Mr. MAGNUS. Absolutely.

Senator CASSIDY. And to put a point on it, it would bring you a little bit in conflict with the emphasis on other parts of the administration to use battery technology, which requires the use of this forced labor mined cobalt. Are you willing to take on that political battle?

Mr. MAGNUS. Senator, it would certainly be something I would want to learn more about, obviously, because—

Senator CASSIDY. Yes, but—and I do not mean to interrupt; I just have 40 seconds left—if you are going to take on forced labor, I can tell you it is hard, with the emphasis upon battery technology, to take it on. Because there are just a lot of folks who want to put their heads in the sand and not notice about child labor being in the Congo, being used by Chinese companies to take the cobalt to be making these batteries.

So a simple answer. You may decide that, no, you do not want to engage in it. But if it turns out what I am saying is correct, will you take that issue on?

Mr. MAGNUS. Yes, I will. It sounds like a very important situation. I am very—

Senator CASSIDY. Thank you, and I will yield back. I thank you for your testimony.

The CHAIRMAN. I thank my colleague.

So now we will go to Senator Bennet, and then we will go to Senator Scott.

Senator BENNET. Thank you, Mr. Chairman, for holding this hearing. And, Chief Magnus, thank you for being here and for your willingness to serve in an extraordinarily difficult position.

As we discussed in our phone call together, I remain deeply concerned about unaccompanied children crossing the border, the high number of children crossing, and their treatment once they are in custody of the United States. It is not a secret that the previous administration did almost everything in its power to dismantle the legal immigration system, and legal services educational programs, and recreation activities for kids in the government's custody. Hundreds of kids were separated from their parents under President Trump's policies and were never reunified—a humanitarian catastrophe. It was heartless, and it was heartbreaking to have babies and infants spend weeks in under-resourced detention centers that were not appropriate for anyone, much less children.

Much was done to deter children from coming, but it did not work. By May 2019, there were almost over 11,800 children apprehended by CBP, and courts had to step in to stop the previous administration from just summarily expelling these kids.

When President Biden was sworn in, he immediately took executive action to revoke President Trump's enforcement priorities. He also took further action to reunify families and care for the other unaccompanied children over the following months. However, in the first 8 months of 2021, over 118,000 unaccompanied children were apprehended. And I continue to hear horror stories about their treatment, both in CBP custody and beyond. There are currently still over 11,000 children in the government's custody, with just under 500 at CBP.

I recognize that this is an incredibly hard issue, and that the numbers are slowly declining, but I have not seen any plan, or any request from the administration outlining their strategy on this.

Should you be confirmed, will you commit to work with Secretary Mayorkas on creating a plan that specifically supports unaccompanied children in CBP custody?

Mr. MAGNUS. Senator, thank you for the question. And there are few things more important to me than how we treat children. This is something that I have carried with me throughout my career.

So the answer is, absolutely “yes.”

Senator BENNET. Thank you, Chief. I appreciate that. Will you commit to immediately investigating any instance of physical, sexual, or other type of abuse that is reported from CBP employees or contractors?

Mr. MAGNUS. Yes, Senator.

Senator BENNET. And will you commit to providing information on investigations to my office and others who may be conducting oversight for the purposes of protecting these children?

Mr. MAGNUS. Senator, the answer is “yes.”

Senator BENNET. Thank you, Chief.

Shifting gears, Chief Magnus, in 2020 drug overdose deaths increased in Colorado by 38 percent over the previous year, the largest year-over-year increase since at least 2000. This increase was worse than the U.S. average.

The highest rates of death due to overdose were in three counties in southern rural Colorado. The overdose and overall mental health epidemic have only gotten worse over the past year, and we need to work at every level to address it.

At the northern and southern borders, fentanyl seizures remain high, and this substance is finding its way into communities and destroying them. How are you planning to address the trafficking of drugs across the northern and southern borders to help prevent these deaths? And what types of technology or resources do you think are needed to better screen at ports of entry where these products are coming through?

Mr. MAGNUS. Senator, thank you for the question. The scourge of fentanyl, of opioids in general that are coming across both borders, is both alarming and deeply troubling. We continue to see the majority of this drug come through the ports of entry. And so the technology that continues to be developed—some of which is coming through the CBP’s Invent office, and there have been some examples of this being piloted—is something I am very excited about learning more about.

Obviously, the challenge is, I am not in the agency at this time, so I do not know the inner workings of what those technology opportunities are exactly, but it is something I want to learn about, because I think this is such a high priority. And I realize it is coming through both borders.

So I think there is a great deal more we can do, and I would like to work with you and others on this.

Senator BENNET. Thank you very much, Mr. Chairman.

The CHAIRMAN. Senator Bennet, before you leave, let me just say how much I appreciate all the leadership you have given, not just today but throughout this Congress, to protect vulnerable children. I want you to know that as long as I am chairman of the Finance Committee, I am going to be backing you up.

Senator BENNET. Thanks, Mr. Chairman. That means a lot.

The CHAIRMAN. Okay. Senator Scott?

Senator SCOTT. Thank you, Mr. Chairman. Mr. Magnus, thank you for being here.

I had a few questions for you, but Senator Bennet’s questions have answered at least one of my questions, which was whether or

not you are unwilling to answer “yes” or “no” questions, or whether or not you were just selective in answering “yes” or “no” questions.

I have come to the conclusion that you are just very selective on the questions that you are going to answer “yes” or “no” to, because both Senator Young and Senator Bennet asked very easy questions to say “yes” or “no” to, and you struggled to come to the conclusion that there is a crisis on our border, which I found fascinating.

Millions of Americans, literally millions upon millions of Americans, have come to the same conclusion that I have, and that Senator Young has, and that frankly I think even the administration is now coming to, that there is a crisis on our southern border. When we have 200,000 folks illegally crossing our border in just July, more than a million in the last fiscal year, there is a crisis on our border.

Why admitting that there is a crisis on our border is a problem, I do not fully appreciate. When the administration finally, after demonizing every single action of the Trump administration as it relates to the border—it is apparent to me that when the Department of Homeland Security reinstates a Remain in Mexico policy, it is because there is a crisis at the southern border.

So I want to ask you, Mr. Magnus, just for clarification. With reinstatement of the policy, with a million-plus people crossing our border, with more than 200,000 just in July, with the actions taken against the border agents, is there a crisis at our border?

Mr. MAGNUS. Senator, thank you for the question. But if I might just make the observation that perhaps, as a Nation and as a group of even electeds, if we spent a little less time debating on what the terminology is and perhaps a little more time trying to fix a broken system and working together, we could address what I have already acknowledged as one of the most serious problems that we face right now in our Nation.

Senator SCOTT. Well, Mr. Magnus, this is frankly where both Republicans and Democrats come to the same conclusion, that there is a crisis at our border. This is the one area, of many areas within the political spectrum, that we would like to see some kind of uniformity in people working together and acknowledging the concerns that we have.

Words have meaning. We are living in a time where we are trying to find our way to redefine words, but the fact that there is a crisis—there is just a crisis, number one. Number two, when Rodney Scott, the former Chief of the Border Patrol who worked for both President Trump and President Biden, says that the administration is abusing its authority as it relates to paroles, I will ask you: with over 30,000 released to be paroled, and so many hundreds of thousands more just released into our communities, do you believe that the administration is abusing their immigration authority?

Mr. MAGNUS. Senator, I appreciate the question. And obviously, this issue of immigration authority, how it is being used, is something that would be very important to me, if confirmed for this position. I am coming into this, obviously, as someone from the outside. My intention would be to learn as much as I can, talk to different parties involved who may have a very different perspective

on this, learn what I can, and then share that information with those above me.

Senator SCOTT. Let me just say it this way. When our American public is watching the reckless actions in Afghanistan, where we are trying to figure out what the vetting process was for those folks arriving here—and we are thankful to those who assisted our soldiers in Afghanistan, and we want to have the folks who deserve to be here, here from Afghanistan. And yet the vetting process was rushed because of the arbitrary nature of the departure. That creates more concern from an immigration standpoint.

This exacerbates the situation when you add on top of those concerns for the average American, seeing more than a million folks coming into our country illegally, which is about 20 percent of all of the citizens in the great State of South Carolina. So you can imagine my concerns that are shared by millions of Americans around this country as it relates to what we are doing on our border. And what we are not doing on our border is very concerning.

Thank you.

The CHAIRMAN. I thank my colleague.

I believe Senator Cortez Masto is on the web. Senator, are you out there?

Senator CORTEZ MASTO. Mr. Chairman, I am. Can you hear me?

The CHAIRMAN. Very well.

Senator CORTEZ MASTO. Wonderful. Thank you.

So, Chief Magnus, thank you for the conversation earlier, and your willingness, let me just say, to serve. I know the fundamental role that U.S. Customs and Border Protection plays in securing our Nation's borders. And believe me, I have traveled to the southern border multiple times—not only as a Senator who represents the State of Nevada, but as the Attorney General for the State of Nevada—to see not only firsthand the challenges the Border Patrol agents face, but also to address what the conversation this morning was on, which is transnational criminal enterprises that continue to engage in drug trafficking, human trafficking, money laundering, and weapons trafficking across the border.

And let us be clear when we talk about borders. My understanding is that my colleagues and everybody are talking about the southern border only. And so let me ask you this, because is it not true that these multinational corporations, these criminal enterprises that we have been trying to address, have been really engaging in this criminal conduct—elicit narcotics trafficking, money laundering, human trafficking, weapons trafficking—really now for decades. Is that not correct, particularly out of Mexico?

Mr. MAGNUS. Senator, I think, based on what I have learned so far, I would share your concerns about this. And I am pleased that what I have also learned is how closely CBP is working with ICE and others to target these criminal networks.

If I am confirmed for this position, this would be something very important to me, because I understand the impact that this has on the supply chain and many other things. So, yes.

Senator CORTEZ MASTO. Thank you. I appreciate that, because it requires our collective effort of State and local partners, and other countries as well, to address this, because it is a challenge and we need to actually have strong border security.

But let me ask you this. When it comes to border security, what resources and technology does CBP need to improve that infrastructure, particularly for our ports of entry? I know you are not there yet. Do you have an idea? Have you looked at this yet?

Mr. MAGNUS. Well, Senator, I appreciate the question because, as I have come to learn so far—and again, admittedly looking at this from an outsider’s perspective—the border security has to be addressed through a combination of things. I think technology is a very important piece, and the use of unmanned aerial surveillance of different types, various sensors that can help us see into Mexico to figure out what may be coming our way; technology that allows our Border Patrol officers to communicate more effectively with each other in difficult terrain, or across longer distances.

I think these are some of the technology pieces. But as I previously mentioned, I also understand the need to address other infrastructure concerns where it makes common sense to do so, as well as to address probably the most important resource that we have, which is our people, making sure they are getting the training and the support that they need to do their jobs.

Senator CORTEZ MASTO. Thank you. I agree with you.

Let me put something on your radar. In 2019, I had the opportunity to visit a Joint Intelligence and Operations Center located in Tucson, AZ, run by the CBP. The center acted as a fusion-style center for many different law enforcement agencies to coordinate operations and communications. I did visit it, but my understanding though is, it has since closed. And I am trying to find out why. This is a perfect example of where you have a collaboration at all levels of government to focus on the needs there at the border.

So my question for you is, if confirmed, would you commit to working with me to get me the answers I am still waiting for on why the center located in Tucson was closed? Because I think it was a perfect example of how this collaboration should continue forward.

Mr. MAGNUS. Senator, thank you for the question. And I will certainly commit to providing you with more information. I think there is good news, which is there is an unusually high level of collaboration between State, Federal, and local partners around many of the issues we have discussed that is going on both in Tucson and throughout Arizona.

Senator CORTEZ MASTO. Thank you. Thank you again for your willingness to serve.

The CHAIRMAN. I thank my colleague, and particularly for her focus on how the spies and criminals are taking advantage of some of the holes in the process of enforcement. And we are going to really zero in on e-passport forgery, and we will talk about that.

Senator Portman, I believe, will be our final questioner. Senator Portman, are you out there?

Senator PORTMAN. Great. Thank you, Mr. Chairman. I appreciate it.

Chief, I appreciate your testimony today. I got to hear some of it off and on with other commitments, and I also appreciated our conversation, which was very frank, about some of the challenges we are facing on the border today.

The crisis at the border continues to, in my view, be based on policy decisions that we are making or need to make, and the big one for me is the pull factor of the asylum system. You and I talked about this at some length.

I just would like to hear from you a little about your perspective on this. We recently saw the surge in Del Rio, but the overall numbers just continue to increase. And for the traffickers and human smugglers who are exploiting people, unfortunately they have a narrative, which is that, if you come up to the border with us, pay us \$10,000 or whatever it is, then we will get you into the United States. Just claim asylum and you will be allowed in for a period of time. With a 1.2-million backlog at least, and with 4 to 5, maybe 6 years before a hearing, and with the acceptance rate being about 15 percent for folks from the so-called Northern Triangle countries, and probably similar for Ecuador and other countries that are increasing their numbers, the system is clearly broken.

Could you speak to that, and what you think about our current asylum system and, if confirmed, how it would make your job harder, and what you think ought to be done about it?

Mr. MAGNUS. Senator Portman, thank you for the question, and also thank you for the conversation we were able to have about some of these things.

We are certainly aligned around the challenges associated with the pull factors. I mean there is no question there are both push and pull factors that are bringing migrants to this country—and asylum seekers—but the pull factors are very evident. And I think there is no one simple solution to this.

Obviously, the message is going to have to be clear that we intend to follow the law. We are going to have to do more clear messaging at every level of government, and that includes even effective social media messaging. We are going to have to do more to anticipate surges and work with the Mexican Government around that.

I am, as I have mentioned, very interested and open to working with my counterparts in Mexico in building the strongest possible relations there. So you know, again, there is no one easy answer to this, but I agree this is part of the challenge.

Senator PORTMAN. Yes. I guess, just quickly, Chief, are you also willing to work with those of us who believe that the asylum system is broken—and I think you are one of them, from our conversations—to come up with a system that makes more sense; as an example, having people apply for asylum from their home country, having an immediate adjudication, allowing for the system to work as it was intended?

Mr. MAGNUS. Senator, I am very interested in working with you and others. I agree that the asylum system absolutely must be improved. As I tried to reinforce several times, I think this requires a bipartisan approach. It requires listening, compromising, sharing. I am very open to doing all of those things, including, frankly, a number of conversations with the men and women at ground level who are dealing with some of these challenges on a day-to-day basis and often have some very strong ideas, and well-thought ideas, about how things could be made better.

So, yes, you have my commitment to that.

Senator PORTMAN. Well, I appreciate that commitment, and I look forward to working with you, should you be confirmed, on that issue.

Another issue you and I talked about is the security along the border, and the fact that, of the roughly 450 miles of fencing that was built by the previous administration, sometimes dubbed “the wall,” only about 10 percent of the technology was put in place prior to the Biden administration coming into office and calling a pause on all construction.

You and I talked about the situation along the border. Certainly you have seen it in Arizona. I was in Del Rio not long ago, looking at the gaps in the border wall, which are, to me, obvious things that should be closed and create a huge problem for the Border Patrol.

But the one that particularly troubles me is the fact that, even though Democrats and Republicans alike talk about the need for sensors and cameras and more sophisticated technology, again only about 10 percent of that was completed, which complements the fence. Would you be supportive of completing the technology part of this? I will not put you on the spot in terms of the so-called “wall.” I believe that fencing ought to be completed as well. I think, it is nonsensical that we paid the contractors to do this and Border Patrol had to stand there 24/7 in order to protect a gap in the wall.

But let’s move on to the technology issue, where I think there is more consensus. Would you be willing to say today that you would support completing the technology—again, sensors, cameras—to be able to give your Border Patrol officers the opportunity to be able to respond more effectively and more efficiently?

Mr. MAGNUS. Senator, thank you for the question. And you are correct. I am interested in providing the agents of the Border Patrol with the best possible resources, which would include improvements in technology, something I am very interested in learning more about, especially because the border is not homogenous and there are different needs along different sections.

The CHAIRMAN. The time of the gentleman has expired.
Senator Brown?

Senator BROWN. I thank you, Senator Wyden, and I am pleased to be able to go right after my colleague from Ohio, whose name I invoked a number of times last week about the infrastructure work we have done together, especially in Buy America.

Chief, congratulations on your nomination. As Chairman Wyden mentioned, this post is critical for addressing issues that the chair and I have worked on. And as Ranking Member Crapo had mentioned in his words earlier, this post is critical to enforce circumvention in our trade remedy laws. We need you to take this post as quickly as possible. My commitment to the chair, and to you, is certainly that.

I hear from businesses across Ohio on issues with dumping of Chinese-sourced product into the U.S. market. We know China has historically used every tool at its disposal to get around our trade laws. That is why I have introduced my bipartisan bill with Senators Portman and Rubio and Casey—a member of this committee—the Leveling the Playing Field Act 2.0, to update trade remedy laws. But to really address these issues, we need the Com-

missioner of Customs and Border Protection to make this issue a priority.

There are a couple of trade enforcement issues I want to flag. The first is on transshipment. The second is on circumvention issues you know well. An Ohio company explained to us that they are seeing increased shipments of products sourced from China, but with port of entry that says “South Korea.” In other words, the shipment will originate in China, make a stop in another country, and it does not get the proper review when it arrives on our shores. Another company explained to us that, despite our 232 tariffs covering electrical steel, China gets around it by creating products used for electric grid transformers and moving that product through Mexico and Canada.

China has a playbook. They build up overcapacity in a specific product. They then target American businesses for illegal dumping in our market. They have done this for steel and iron. They make it so that small businesses cannot compete, and they are about to do it for materials that are sensitive for our national security.

Without proper enforcement of trade laws, we put our industries and jobs at risk. So I have two—sorry for the long intro—I have two questions. Talk about, if you will, how you will take the interests of American workers into account on this job, committing today to putting workers, not just businesses, not just products, but workers as a priority in trade enforcement.

Mr. MAGNUS. Senator, thank you very much for the question, because there is no doubt that what happens in these cases that you have described with transshipments, with the abuse of various trade agreements, with the whole antidumping and countervailing duty situation, that it is not just American businesses but American workers who are really operating on a very unequal playing field.

And so, whether we are talking about ranges from wire hangers to solar panels, these are very real concerns. And I look forward to learning more about how the trade personnel within CBP are addressing these challenges so I can support them, so I can be an advocate for them, so I can work with the business community both large and small. The goal is not only to facilitate business, but to be as transparent as possible about what is going on so we can address these challenges.

Senator BROWN. Thank you. Thank you. And I will, every time you and I interact personally and by mail, or online, I will always bring up the importance of workers—to keep that focus in your job.

Will you commit—and this is a pretty simple “yes” or “no”—will you commit to working with us to make sure that Leveling the Playing Field 2.0 is a priority with the administration?

Mr. MAGNUS. I believe it has to be a priority, Senator, yes.

Senator BROWN. Thank you.

The last question is about immigration. We are seeing, as you know, a dramatic increase of unaccompanied children arriving at the border. It is imperative to who we are as a Nation, who we should be as a Nation, that children are safe and protected while they are in our care. We must ensure agents have the necessary training to process children waiting to be placed with HHS.

Social workers can play a role in supporting agents and the children in their care. I assume you agree with that?

Mr. MAGNUS. I do.

Senator BROWN. Okay; thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. I thank my colleague. Before he leaves, I want to commend him again for all of his leadership on the forced labor issue. And we have been talking to Chief Magnus about it, and he is going to work very closely with us. So we look forward to all that.

So we have a couple of formalities. We want to thank all the members for their participation. We had a very, very high turnout today.

Chief Magnus, thank you for your candid responses.

Regarding questions for the record, the deadline for members to submit their questions will be Sunday, October 24th, at 5 o'clock, with the expectation that members will submit them by close of business Friday, if possible. We really want to move this. This is a very important nomination, and the 5 p.m. deadline for colleagues is firm.

Let me just wrap up with a couple of quick thoughts, Chief Magnus. Colleagues on both sides of the aisle have raised critical issues, particularly humanely addressing immigration on the southern border while we relentlessly tackle illegal drugs and we facilitate legal trade and we investigate and stop goods that are made with forced labor.

So, we have heard a lot of important issues. Senator Cardin made a point which I think was perhaps more eloquent than when I tried to describe it, where he said we do not have to sacrifice efficiency for humanity with respect to your portfolio. That sums it up. We have important work to do. I expect that you will have colleagues on both sides of the aisle supporting you before we are done because of your candor and your professionalism. I strongly support you. I supported you before this morning, and you have given us additional reason to support you.

We will excuse you at this time, and the Finance Committee is adjourned.

[Whereupon, at 11:56 a.m., the hearing was concluded.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

PREPARED STATEMENT OF HON. MIKE CRAPO,
A U.S. SENATOR FROM IDAHO

Thank you, Mr. Chairman. Mr. Magnus, welcome.

U.S. Customs and Border Protection, or CBP, is the Nation's largest Federal law enforcement agency. It needs to be. Its responsibilities are staggering.

CBP is tasked with facilitating lawful international trade and travel. The United States is a leader in international commerce—and that leadership depends on ensuring that lawful trade and visits flow smoothly. It also requires that we safeguard our borders from terrorists, drug traffickers, and transnational criminals.

In 2020—a year when the pandemic curtailed trade and travel—the 63,000 men and women of CBP on an average day processed 650,000 passengers and 77,000 truck, rail, and sea containers; arrested 39 criminals at U.S. ports of entry; seized 3,600 pounds of drugs; caught \$3.6 million worth of products that infringe intellectual property rights; and discovered 250 pests that could potentially cause untold damage to U.S. farmers.

But CBP's work is not just point-of-entry inspections. CBP also undertakes sophisticated investigations to ensure our Customs laws are properly enforced. This includes identifying actors who try to smuggle goods made with forced labor into the United States or evade our antidumping or countervailing duties. Deliberate evasion of antidumping and countervailing duties not only undercuts revenue lawfully owed to the government, but prevents our workers and businesses from redressing unfair trade practices.

Softwood lumber producers in my home State of Idaho rely on antidumping and countervailing measures to combat unfair trade—and CBP's work ensures that those measures are effective. CBP also maintains international operations. CBP operates attaché offices in 23 countries around the world. CBP's Container Security Initiative screens containers that pose a risk of terrorism at foreign ports before they are placed on vessels destined for the United States. Through this program, CBP can prescreen over 80 percent of all maritime containerized cargo imported into the United States.

Under normal circumstances, overseeing all of this work would require extraordinary skill, experience, and judgment. But these are not normal times. Specifically, I am referring to the heartbreaking situation unfolding on our southern border.

In August of this year, CBP had over 200,000 encounters on the southwest border, significantly higher than the preceding August that had only 50,000 encounters, which itself was down from 60,000 in August of 2019. In fiscal year 2021 there were 1.4 million encounters, even without accounting for September numbers that are not yet known, which is more than double the 458,000 encounters in fiscal year 2020.

Once in office, the administration's initial approach to this surge was to downplay, or worse, undermine its own tools to address it. It eliminated the successful "Remain in Mexico" policy, known as the Migrant Protection Protocols. This program wisely required certain migrants to remain in Mexico while their claims were decided. The sudden termination of the program was not only rash, but—as confirmed by the Supreme Court in August—contrary to law.

Moreover, the men and women of CBP have been left demoralized and adrift by the administration's approach. Indeed, the president of the Federal Law Enforce-

ment Officers Association has written that the administration needs to “stop blaming the Federal law enforcement officers at the border—who are over-tasked, under-resourced, and under-appreciated. It is the lack of a coherent strategy that has escalated the crisis at the border, not the border officers.”

In sum, the crisis—and that is precisely what it is—is absolutely unacceptable. This committee must ensure that CBP is headed by someone who has the requisite ability and commitment to end it as soon as possible. Failing to ensure as much will only prolong this tragedy.

Accordingly, I look forward to hearing the nominee’s testimony and his responses to questions.

PREPARED STATEMENT OF CHRIS MAGNUS, NOMINATED TO BE COMMISSIONER,
CUSTOMS AND BORDER PROTECTION, DEPARTMENT OF HOMELAND SECURITY

Chairman Wyden, Ranking Member Crapo, and members of the committee, it is an honor and privilege to be sitting before you today as President Biden’s nominee to serve as Commissioner of Customs and Border Protection. I am grateful for the support of the President and Secretary Mayorkas.

Originally created in 1789 in order to pay our country’s Revolutionary War debts, CBP’s modern-day responsibilities—facilitating immigration, protecting our Nation’s border security, promoting trade and travel, and more—are as critical now as they were in those early days following our Nation’s founding.

CBP is a key part of an immigration system that has welcomed so many families to our country, including my own. My father was an English and art history professor who immigrated to the U.S. from Norway in 1921. My mother, a pianist and a homemaker, was the daughter of German immigrants. I have two sisters, Carol and Beth, and a brother, Gerhard.

My husband, Terrance Cheung, immigrated to the United States from Hong Kong with his wonderful mother, Clara, who is retired after running her own small business for 3 decades. Terrance has been a journalist, Chief of Staff for a Mayor and County Supervisor, and currently works for the Arizona Superior Court in Pima County. I could not ask for a more supportive partner.

As a career public safety officer, there would be no greater privilege than to lead one of the largest Federal law enforcement agencies in the country. As a young man in Lansing, MI, I put myself through college, where I earned degrees in criminal justice and labor relations from Michigan State University. I worked first as a 911 dispatcher, a paramedic, and a Deputy Sheriff. I then came up through the Lansing police department ranks, ultimately attaining the rank of Captain.

My 41-year career in public safety has afforded me the opportunity to work in communities of all sizes and types in different geographic areas of the country—each with its own unique needs and challenges. All of them provided opportunities to learn, innovate, and work with talented, dedicated people.

I know all too well the impact that trade and its economic effects can have on America’s communities. As a police officer in Lansing, MI, I saw firsthand what happened when the U.S. auto industry struggled during the 80s and 90s. Today, thanks to bipartisan efforts to improve our trade policies, auto plants in Lansing and other American cities not only do business on a level playing field but have also been able to expand and flourish. Manufacturing workers throughout the U.S. can now be assured of more pay equity with Mexican and Canadian workers.

I am acutely aware that CBP’s role in enforcing trade laws and facilitating trade goes well beyond the manufacturing sector. If confirmed to lead this agency, I will work with this committee and with Congress to protect intellectual property, U.S. agriculture, and the many products that Americans rely upon.

Addressing forced labor would also be one of my high priorities. While it is hard to imagine something more antithetical to our core values as Americans, eliminating forced labor is more than a philosophical undertaking—it is a moral imperative. We must give full force to laws that punish this modern-day slavery, while simultaneously facilitating trade for the overwhelming majority of companies that do business responsibly.

Today, I live in a city close to the U.S. border with Mexico, and consider myself lucky to have visited both borders many times. It is essential to recognize that what

we think of as the border is not homogenous, and there is no one solution that will provide us perfect border security. If confirmed, I will do what I have always done in my professional career—uphold the law. I will also expect—without exception—that all agency personnel be conscientious, fair, and humane when enforcing the law.

More than a few colleagues, friends, and family members have asked me, “What are you thinking?” Why would I choose to take on the important but challenging responsibility of leading CBP at this moment? And here is my answer, which is the same answer I gave when I started my public safety career in 1979: I want to make a difference.

CBP is a proud agency with a mission that is vital to this country. I believe that by working with Congress, the men and women who serve CBP, and its public and private-sector partners, can build upon its many strengths to make the agency even better.

I pride myself on being a pragmatic and bipartisan problem-solver. The principles that have guided me are integrity, accountability, caring, and resolve. I care about innovative ideas, not ideology. I prize and foster continuous improvement, and then I dig in to get the work done.

If confirmed, my pledge to this committee and its members is simple: I will have an unwavering commitment to serving the American people and will lead with intellectual humility and enthusiasm every day.

Thank you again for the opportunity to appear before you today and for your consideration of my nomination to this critical role. I look forward to your questions.

SENATE FINANCE COMMITTEE

STATEMENT OF INFORMATION REQUESTED OF NOMINEE

A. BIOGRAPHICAL INFORMATION

1. Name (include any former names used): Christopher Jens Magnus.
2. Position to which nominated: Commissioner, U.S. Customs and Border Protection.
3. Date of nomination: May 12, 2021.
4. Address (list current residence, office, and mailing addresses):
5. Date and place of birth: October 26, 1960, Easton, PA.
6. Marital status (include maiden name of wife or husband’s name):
7. Names and ages of children:
8. Education (list all secondary and higher education institutions, dates attended, degree received, and date degree granted):
 - M.A., Labor and Industrial Relations.
Michigan State University.
East Lansing, MI.
09/1988 (estimated) to 12/1990.
 - B.A., Criminal Justice.
Michigan State University.
East Lansing, MI.
09/1979 (estimated) to 12/1986.
 - A.A., Business Administration.
Lansing Community College.
Lansing, MI.
09/1980 (estimated) to 12/1982.

Certifications and Licensures

Paramedic (AEMT) certification and licensure (1982).
 Police Officer Certification, Mid-Michigan Police Academy (1982).
 EMT Instructor-Coordinator (EMT-IC) Certification (1981).
 EMT certification and licensure (1981).

Certificate of Completion

FBI National Executive Institute (NEI) Session 41.
 FBI Training Academy, Quantico, VA (2018).

Senior Executives in State and Local Government Program.
 John F. Kennedy School of Government, Harvard University.
 Cambridge, MA (06/2002).

9. Employment record (list all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment for each job):

Chief of Police.
 Tucson Police Department.
 Tucson, AZ.
 01/2016 to present.

Policing Expert.
 Consultant.
 U.S. Department of Justice.
 Ferguson, MO; Seattle, WA; Baltimore, MD; and others.
 2014 to 2019.

Chief of Police.
 Richmond Police Department.
 Richmond, CA.
 01/2006 to 01/2016.

Instructor (part-time).
 North Dakota State University.
 Fargo, ND.
 Fall 2000.

Chief of Police.
 Fargo Police Department.
 Fargo, ND.
 09/1999 to 01/2006.

Captain.
 Lansing Police Department.
 Lansing, MI.
 1997 to 1999.

Lieutenant.
 Lansing Police Department.
 Lansing, MI.
 1993 to 1997.

Sergeant.
 Lansing Police Department.
 Lansing, MI.
 1990 to 1993.

Police Officer.
 Lansing Police Department.
 Lansing, MI.
 1985 to 1990.

Instructor-Coordinator, Emergency Medical Services (part-time).
 Lansing Community College.
 Lansing, MI (2 years).
 1983 to 1985.

Deputy Sheriff.
 Livingston County Sheriff's Department.
 Howell, MI.
 1983 to 1985.

Deputy Sheriff (Parks Department) (part-time).
Ingham County Sheriff's Department.
Mason, MI.
1983.

Paramedic.
Hayes Green Beach Memorial Hospital.
Charlotte, MI.
06/1982 to 08/1991.

Police Officer (part-time).
Vermontville Township Police Department.
Vermontville, MI.
1982 to 1983.

Emergency Medical Technician.
Hayes Green Beach Memorial Hospital.
Charlotte, MI.
10/1981 to 06/1982.

Police Technician (Dispatcher).
Ingram County Central Dispatch.
Lansing, MI.
1979 to 1981.

Some of my early employment overlaps because I was working multiple jobs at the same time to pay for college.

10. Government experience (list any current and former advisory, consultative, honorary, or other part-time service or positions with Federal, State, or local governments held since college, including dates, other than those listed above):

All current and former positions in Federal or local government are listed above.

11. Business relationships (list all current and former positions held as an officer, director, trustee, partner (*e.g.*, limited partner, non-voting, etc.), proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, other business enterprise, or educational or other institution):

Consultant.
Impact Justice.
Oakland, CA.
10/2020–01/2021.

12. Memberships (list all current and former memberships, as well as any current and former offices held in professional, fraternal, scholarly, civic, business, charitable, and other organizations dating back to college, including dates for these memberships and offices):

Law Enforcement Leaders to Reduce Crime and Incarceration.
Member, 2019 to present.

Arizona Supreme Court Committee on Mental Health and the Justice System.
Member, 2019 to present.

Advisory Board Policing Project, NYU School of Law.
Member, 2018 to present.

Arizona Association of Chiefs of Police.
Member, 2016 to present.

Law Enforcement Immigration Task Force (LEITF).
Member, 2014 to present.

Police Executive Research Forum (PERF).
Member, 2001 to present.
Board of Directors, 2015 to 2019.

International Association of Chiefs of Police (IACP).
Member, 1999 to present.

V.I.P. Tucson Business Network Club.
Member, 2016 to 2018.

Child Advocacy Centers of California.
 President, 2014 to 2016.
 Board of Directors, 2009 to 2016.

West County Family Justice Center, Richmond, CA.
 Member, Board of Directors, 2009 to 2014.

California Police Chiefs Association.
 Member, 2006 to 2016.

West Contra Costa County Police Chiefs Association.
 President 2011 (estimated).
 Member, 2006 to 2016.

Richmond Police Activities League, Richmond, CA.
 Member, Board of Directors, 2006 to 2016.

National Traffic Safety Advisory Committee, International Association of Chiefs of Police.
 Member (appointee) 2005.

Cultural Diversity Resources of Fargo-Moorhead, ND.
 Member, Board of Directors, 2005.

Red River Children's Advocacy Center, Fargo, ND.
 Member, Board of Directors, 2004 to 2005.

Plains Art Museum, Fargo, ND.
 Member, 2001 to 2005.

Big Brothers/Big Sisters, Fargo, ND.
 Member, Board of Directors, 2001 to 2005.

Red River Regional Dispatch Center, Fargo, ND.
 President, Board of Directors, 2001 to 2005.

United Way of Cass-Clay Community Building Commission, Fargo, ND.
 Member, 2001.

Fargo (Noon) Rotary Club, Fargo, ND.
 Member, 2000 to 2002 (estimated).

North Dakota Police Chiefs Association.
 Member, 1999 to 2006.

City of Fargo Liquor Control Commission, Fargo, ND.
 Member, 1999 to 2005.

Michigan Law Enforcement Torch Run to Benefit Special Olympics, Mt. Pleasant, MI.
 Member, Executive Board, 1995 to 1998.

Lansing Police Athletic League, Inc., Lansing, MI.
 Member, Board of Directors, 1992 to 1995.

Lansing Fraternal Order of Police, Lodge 141, Lansing, MI.
 President, 1990 to 1992.
 Member, 1983 to 1992 (estimated).

13. Political affiliations and activities:

- a. List all public offices for which you have been a candidate dating back to the age of 18.
 None.
- b. List all memberships and offices held in and services rendered to all political parties or election committees, currently and during the last 10 years prior to the date of your nomination.
 None.
- c. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$50 or more for the past 10 years prior to the date of your nomination.

Name of Recipient	Amount	Date of Contribution
Actblue/Biden for President	\$100	September 26, 2020
Actblue/Biden for President	\$100	September 12, 2020
Shannon 4 Congress	\$100	November 20, 2019
ActBlue	\$5	November 20, 2019
Andrew Janz for Congress	\$100	February 2, 2018
Doug Jones for Senate	\$50	December 7, 2017
Mark Kelly for Senate	\$100	August 10, 2019
Neighbors of John Gioia	\$100	January 28, 2010
No on 8—Equality California	\$75	September 13, 2008
Equality California Issues PAC	\$50	June 7, 2009
Victory Fund	\$50	April 29, 2007
Human Rights Campaign	\$130	December 17, 2006

14. Honors and awards (list all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognitions for outstanding service or achievement received since the age of 21):

Police Executive Research Forum Leadership Award, 2020.

Proclamation Honoring Dedicated Service from the Richmond City Council, Richmond, CA, 2016.

Certificate of Appreciation for Outstanding Leadership from the Contra Costa Community College District, Martinez, CA, 2016.

Certificate of Recognition for Exemplary Leadership (CA State Senator Loni Hancock), Richmond, CA, 2016.

CA Legislative Assembly Certificate of Recognition for work associated with Richmond's Cinco De Mayo (CA Assembly Member Tony Thurmond), Richmond, CA, 2015.

Recognition of Outstanding Excellence, 23rd St. Business Association, Richmond, CA, 2015.

Mayoral Certificate of Excellence for work associated with 23rd St. Renewal (Mayor Tom Butt), Richmond, CA, 2015.

Certificate of Special Congressional Recognition associated with 23rd St. Development (U.S. Congressman Mark DeSaulnier), Richmond, CA, 2015.

Community Award for Special Partnership with the Community by the Santa Fe Neighborhood Association, Richmond, CA, 2015.

Recognition for Outstanding Service by the West Contra Costa County Unified School District, Richmond, CA, 2015.

Certificate of Honor for Community Partnership from Contra Costa County District 1 (Supervisor John Gioia), Richmond, CA, 2015.

Outstanding Service Award, Police and Fire Toy Program, Richmond, CA, 2010.

Outstanding Law Enforcement Award, Mothers Against Drunk Drivers (MADD), Fargo, ND, 2005.

Recognition of Dedicated Service, Leadership, and Commitment, Fargo Police Department Members, Fargo, ND, 2005.

Lifesaver Award for AED (Automated External Defibrillator) Initiative from the Dakota Medical Foundation, Fargo, ND, 2005.

Certificate of Appreciation for Support of 2000 All-American City Competition, Cities of Fargo, ND and Moorhead, MN, 2000.

Special Recognition for Volunteer Commitment to Special Olympics by the Lansing City Council, Lansing, MI, 1997.

Individual Commendation for Valuable Service to the Lansing Police Department by the Police Board of Commissioners, Lansing, MI, 1994.

Lifesaving Award from the Lansing Police Department, Lansing, MI, 1985 (estimated).

15. Published writings (list the titles, publishers, dates and hyperlinks (as applicable) of all books, articles, reports, blog posts, or other published materials you have written):

I maintain a public Twitter profile (<http://www.twitter.com/ChiefCMagnus>).

Magnus, Chris and S. Rebecca Neusteter, Ph.D. "COMPSTAT360; CompStat Beyond the Numbers." (Contributed book chapter.) Originally slated to be published in March 2020. PDF copy submitted.

Magnus, Chris. "Changing how we handle deaths in custody." *Arizona Daily Star*, July 9, 2020, https://tucson.com/opinion/local/tucson-police-chief-magnus-changing-how-we-handle-deaths-in-custody/article_d3ae6335-29ce-5597-af36-7c78d0404980.html.

Magnus, Chris. "Police Chief: Sanctuary city initiative wrong for Tucson." *Arizona Daily Star*, July 21, 2019, https://tucson.com/opinion/local/opinion-police-chief-sanctuary-city-initiative-wrong-for-tucson/article_4204ef1c-f223-5954-8ff5-8bfcae83c861.html.

Magnus, Chris. "Tucson's Police Chief: Sessions's Anti-Immigrant Policies Will Make Cities More Dangerous." *The New York Times*, December 6, 2017, <https://www.nytimes.com/2017/12/06/opinion/tucson-police-immigration-jeff-sessions.html>.

Magnus, Chris. "TPD Chief Magnus: What Happened to George Floyd in Minneapolis is Indefensible." *Arizona Daily Star*, May 31, 2020, https://tucson.com/opinion/local/tpd-chief-magnus-what-happened-to-george-floyd-in-minnesota-is-indefensible/article_7eb445f0-54bd-54d4-8d39-ebcf55980ee8.html.

Magnus, Chris. "Tucson Police Chief Magnus: We are here 24/7 and we need your help protecting all from COVID-19." *Arizona Daily Star*, March 29, 2020, https://tucson.com/opinion/local/tucson-police-chief-magnus-we-are-here-24-7-and-we-need-your-help-protecting/article_ad257ed2-95ea-56ba-8342-44cf6d2bd796.html.

Magnus, Chris. "We don't do Border Patrol's job; they don't do ours." *Arizona Daily Star*, March 31, 2019, https://tucson.com/opinion/local/tucson-police-chief-we-dont-do-border-patrols-job-they-dont-do-ours/article_849c2858-97ea-51bf-9448-c24f7d059c8a.html.

Magnus, Chris. "TPD Chief: Pima preschool investment will protect long-term public safety." *Arizona Daily Star*, March 15, 2019, https://tucson.com/opinion/local/chris-magnus-tucson-police-department-meeting-the-challenges-of-a-growing-call-load/article_fadd501a-aa91-5db7-b939-7bb9f12d41bb.html.

Magnus, Chris. "Tucson Police Chief: Trump immigration policies make crime-fighting harder." *Arizona Daily Star*, December 7, 2017, https://tucson.com/news/local/tucson-police-chief-trump-immigration-policies-make-crime-fighting-harder/article_ceed3dd4-db6a-11e7-9041-171fca851bd8.html.

Magnus, Chris. "Lawmakers must listen to law enforcement on dangerous gun bills." *Arizona Daily Star*, September 1, 2017, https://tucson.com/opinion/local/chris-magnus-lawmakers-must-listen-to-law-enforcement-on-dangerous-gun-bills/article_50ad9a22-74ba-5c15-acf3-10b22598804a.html.

Magnus, Chris. "TPD Chief Magnus: Immigration status no barrier in protecting Tucsonans." *Arizona Daily Star*, February 28, 2017, https://tucson.com/opinion/column/guest/tpd-chief-magnus-immigration-status-no-barrier-in-protecting-tucsonans/article_fce2a441-a2d6-5790-8f5f-ad2aeb9798aa.html.

Magnus, Chris. "Guest commentary: Richmond police get extensive training in appropriate use of force." *East Bay Times*, May 14, 2015, <https://www.eastbaytimes.com/2015/05/14/guest-commentary-richmond-police-get-extensive-training-in-appropriate-use-of-force/>.

Magnus, Chris. "Defunding first 5 a huge mistake." *Contra Costa Times*, April 5, 2011, <https://www.eastbaytimes.com/2011/04/08/contra-costa-times-readers-forum-defunding-first-5-a-huge-mistake/>.

16. Speeches (list all formal speeches and presentations (e.g., PowerPoint) you have delivered during the past 5 years which are on topics relevant to the position for which you have been nominated, including dates):

To the best of my abilities, I have taken steps to recall and report the formal speeches and testimony I have delivered in the last 5 years and listed the results of my search below.

In my role as Chief of the Tucson Police Department, I am frequently asked to deliver informal remarks to community groups, civic organizations, non-profits, government entities, and at community events on a myriad of social, criminal justice, and public safety issues. I generally do not prepare remarks or talking points ahead of time or speak from notes. Similarly, I have participated in many panels, roundtables, and other forums in my capacity as Chief of Police. My remarks in such venues generally relate to the business, community, and public safety of the city of Tucson.

Testimony before the U.S. Senate Committee on the Judiciary Subcommittee on Border Security and Immigration hearing on "Narcos: Transnational Cartels and Border Security," Washington, DC, December 12, 2018, <https://www.judiciary.senate.gov/download/12-12-18-magnus-testimony>.

17. Qualifications (state what, in your opinion, qualifies you to serve in the position to which you have been nominated):

I am qualified for this position based on my 42 years in public safety, during 22 of which I have served as a Police Chief. During my time in policing, I have worked in cities that have differed geographically, in size, socioeconomically, and in their racial/ethnic diversity. I currently serve as Chief of Police in Tucson, AZ, where I have gained a deep understanding of the unique trade, commerce, and law enforcement challenges and opportunities inherent to life in a border community.

In each of the police departments I have led, my focus has been on maximizing trust between police and community, developing the strongest possible relationships with the public, increasing police professionalism through accountability and transparency, implementing evidence-based best practices, and preserving the best traditions of local policing. I have a strong commitment to treating members of the community based on the principles of procedural justice. Procedural justice is based on four central principles: "treating people with dignity and respect, giving citizens 'voice' during encounters, being neutral in decision making, and conveying trustworthy motives." I am equally committed to internal procedural justice, which involves listening to members of my agency and fairly addressing their needs and concerns.

My educational background is not only criminal justice. My master's degree in labor relations will be very helpful for this position. I have experience on both sides of the bargaining table, representing labor and management in contract negotiations and grievance-handling.

As an active member in the Law Enforcement Immigration Task Force (LEITF) and other policing organizations, I have worked with other chiefs and sheriffs around the country on a broad range of issues. By living and working in Tucson, I also appreciate the impact of Federal, State, and local policies on everyday people. Many residents of Tucson have family on both sides of the border, and nearly every member of the community relies on robust trade, commerce and cooperation between Mexico and the United States as part of their daily lives. Finally, I am a member of the Major City Chiefs Association (MCCA) and the Police Executive Research Forum (PERF) which have dealt extensively with immigration and border security issues.

Especially at this key time in our country's history when immigration, trade, and border protection issues are so critical, I am confident my lengthy experience in dealing with complex, challenging, and multifaceted policy, personnel, and political matters make me the best person for this position.

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections (including participation in future benefit arrangements) with your present employers, business firms, associations, or organizations if you are confirmed by the Senate? If not, provide details.

Yes, except as addressed in my ethics agreement, which has been determined not to adversely impact my ability to serve as Commissioner. These include former and current employer benefits such as the disability award, benefit plans, and interests, which are detailed below.

2. Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, provide details.

No.

3. Has any person or entity made a commitment or agreement to employ your services in any capacity after you leave government service? If so, provide details.

No.

4. If you are confirmed by the Senate, do you expect to serve out your full term or until the next presidential election, whichever is applicable? If not, explain.

Yes.

C. POTENTIAL CONFLICTS OF INTEREST

1. Indicate any current and former investments, obligations, liabilities, or other personal relationships, including spousal or family employment, which could involve potential conflicts of interest in the position to which you have been nominated.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Department of Homeland Security's Designated Agency Ethics Official to identify any potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I signed and transmitted to the Department's Designated Agency Ethics Official, which has been provided to this committee. I am not aware of any other potential conflicts of interest.

2. Describe any business relationship, dealing, or financial transaction which you have had during the last 10 years (prior to the date of your nomination), whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

Any potential conflict of interest will be resolved in accordance with the terms of my ethics agreement, which I understand has been provided to the committee.

3. Describe any activity during the past 10 years (prior to the date of your nomination) in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy. Activities performed as an employee of the Federal government need not be listed.

Tucson PD is a member of the Major City Chiefs Association and the Arizona Chiefs of Police Association, and as Chief of Police, I am an ex officio member of these groups. These groups sometimes take positions on legislation based on public safety concerns.

4. Explain how you will resolve any potential conflict of interest, including any that are disclosed by your responses to the above items. (Provide the committee with two copies of any trust or other agreements.)

As detailed in my ethics agreement, in order to resolve potential conflicts of interest, I have agreed to divest most of the financial interests which pose even the appearance of a conflict of interest. I have agreed to recuse myself from certain other matters where I may have a financial interest, as addressed in my ethics agreement and which has been determined not to adversely impact my ability to serve as Commissioner. This should resolve the majority of the potential conflicts. I will also implement appropriate screening arrangements to en-

sure that even where a remote conflict might arise, it will be appropriately addressed, such as my spouse's employment. Further, I will follow the direction of appropriate Ethics Counsel and my superiors within the DHS and the White House.

5. Two copies of written opinions should be provided directly to the committee by the designated agency ethics officer of the agency to which you have been nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position.

Two copies of written ethics opinions have been provided to the committee.

D. LEGAL AND OTHER MATTERS

1. Have you ever been the subject of a complaint or been investigated, disciplined, or otherwise cited for a breach of ethics for unprofessional conduct before any court, administrative agency (*e.g.*, an Inspector General's office), professional association, disciplinary committee, or other ethics enforcement entity at any time? Have you ever been interviewed regarding your own conduct as part of any such inquiry or investigation? If so, provide details, regardless of the outcome.

No.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority for a violation of any Federal, State, county, or municipal law, regulation, or ordinance, other than a minor traffic offense? Have you ever been interviewed regarding your own conduct as part of any such inquiry or investigation? If so, provide details.

No.

3. Have you ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

In my capacity as Chief of Police, I have routinely been named in lawsuits directed against the departments I have led. Those suits generally do not relate to my individual decisions or actions, but rather to actions ascribed to the Police Department as an entity, over which I am the most senior official.

There were only 4 cases that I recall where I was specifically involved, all resolved without adverse findings: *Booker, et al. v. City of Richmond* (N.D. Cal.) (Filed 03/06/2007) (Case No. CIVMSC07-00408); *Hauschild v. City of Richmond et al.* (N.D. Cal.) (Filed 04/03/2015) (Case No. 3:15-CV-01556 WHA); *Abuslin v. City of Richmond* (N.D. Cal.) (Filed 08/17/2017) (Case No. 4:17-cv-04804-LB); and *Wycinsky v. City of Richmond* (N.D. Cal.) (Filed 05/27/2017) (Case No. 3:16-cv-02873-MMC).

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, provide details.

No.

5. Please advise the committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

I have submitted copies of all letters of support for my nomination to the committee.

E. TESTIFYING BEFORE CONGRESS

1. If you are confirmed by the Senate, are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so?

Yes.

2. If you are confirmed by the Senate, are you willing to provide such information as is requested by such committees?

Yes.

CompStat360: CompStat Beyond the Numbers

S. Rebecca Neusteter, Ph.D.
Executive Director, University of Chicago Health Lab and
prior/founding Policing Program Director, Vera Institute of Justice

Chris Magnus
Chief of Police, Tucson (AZ) Police Department

Abstract

CompStat is often identified as one of the most important innovations in contemporary policing. With its traditional focus on serious violent crime, CompStat was instrumental in many police department's efforts to curb violence. CompStat's push for "numbers" however also resulted in misdirected, unsustainable, and excessive enforcement, most pronounced for certain neighborhoods and people of color. This left CompStat largely at odds with effective and much-needed community policing efforts. Through extensive research, CompStat360 was developed to harness the benefits of both CompStat and community policing. CompStat360 is a tool that goes beyond the numbers by measuring and managing three overlapping dimensions: (1) prevent, interrupt, and solve crime; (2) maximize organizational effectiveness; and (3) integrate community and governmental partners. This chapter describes how we, through our practitioner-researcher partnership, developed and are implementing CompStat360 in the Tucson Police Department. It further discusses the lessons learned that inform police operations and the adoption of evidence-based policing practices.

Introduction

In the early 1990s, New York City (NYC), along with many other jurisdictions across the United States, suffered from spikes in crime (Dance and Meagher, 2016). These crime increases, particularly increases in serious and violent crime, threatened the quality of life for residents and business alike and resulted in intense pressure being placed upon our Nation's police departments, by community members and elected officials, to curb escalating rates of violent crime (O'Connell and Straub, 2007). At that time, not so dissimilar from today, many police departments were criticized for lacking accountability and mission clarity (McGuire, 2000). Responding to these crime and organizational challenges, in 1994, the New York Police Department (NYPD), then led by Police Commissioner William Bratton and in partnership with a key strategist, Jack Maple, developed CompStat (Bratton and Knobler, 1998).

Evolution of CompStat

CompStat, a moniker for Computer Statistics, advanced a near-real-time mechanism for the NYPD to geographically examine crime trends. CompStat also accomplished the related goals of precisely defining the agency's mission—to reduce violent crime—and holding middle-managers accountable in pursuing and achieving this mission (Neusteter and O'Toole, 2019). CompStat rapidly began changing the NYPD's culture through successfully promoting accountability within the organization's hierarchical structure (Bratton and Knobler, 1998; Maple, 2000). In short order, the NYPD's CompStat model was widely recognized as an effective approach for decreasing violent crime, increasing a shared understanding of the department's mission, and establishing an evidenced-based approach to fighting crime (Sherman, 2004; Weisburd, et al., 2004).

CompStat's early successes resulted in its swift adoption in policing and adaptations to other public sectors (Neusteter and O'Toole, 2019). CompStat continues to be replicated and is recognized as one of the most commonly applied evidence-based performance management platforms (Police Executive Research Forum, 2013). CompStat, however, is not without criticisms and challenges. CompStat's sole focus on measuring and directing responses to serious crime can limit police agencies' abilities to comprehensively identify and respond to public safety problems. CompStat's approach to measuring serious violent crime and holding middle managers accountable has also created perverse incentives that have resulted in the suppression of crime reports as well as aggressive, and at times, harmful and unconstitutional, enforcement tactics (Alpert, and Moore, 1993; Eterno and Silverman, 2012; Walsh and Vito, 2004).

By design, CompStat comprises four core components: (1) accurate and timely information; (2) effective tactics; (3) rapid deployment; and (4) relentless follow-up (Police Executive Research Forum, 2013). Building from the NYPD's initial development and deployment of CompStat, these four principles have remained key to CompStat's approach, even among those jurisdictions that have opted to adapt the original model. Operationalizing these principles has resulted in collecting and dissemi-

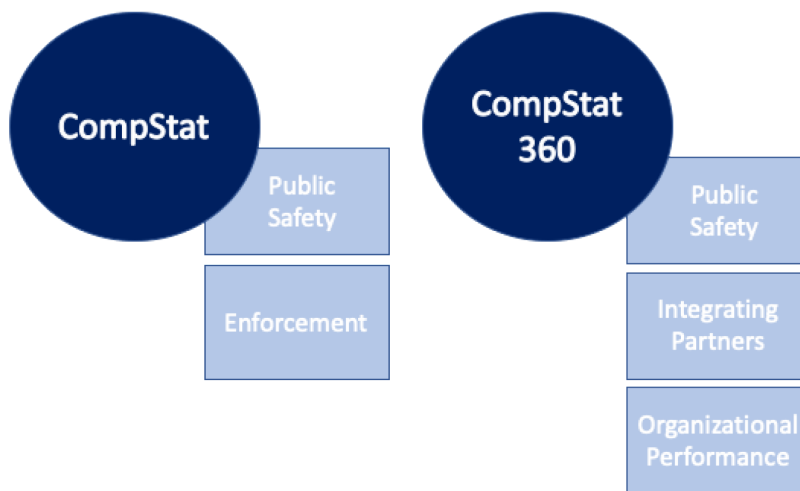
nating real-time data, often presenting it in the form of mapped visualizations. This information is then used to develop a tactical and rapid response plan and also to continuously and relentlessly follow up on the trends, hold middle managers accountable in implementation, and continually assess impacts. In practice, the CompStat process typically uses real-time data as inputs in regularly scheduled CompStat meetings. These meetings have often been described as being adversarial and tense, as stakeholders are called to task and held to account for undesirable results.

CompStat has often been described as being at odds or in tension with community policing, which has created a counterproductive asymmetry in advancing evidence-based strategies that both reduce crime and enhance community-police trust and cooperation (Shah, Burch, and Neusteter, 2018). This is because CompStat has traditionally neglected important indicators such as officer safety and wellness as well as community satisfaction. Without considering these essential aspects, CompStat reinforces a limited and centralized decision-making approach, which can have unintended negative effects on organizational effectiveness and community relations.

In response to concerns about the limitations of the traditional CompStat model and its potential to do more, the National Police Foundation and Vera Institute of Justice (Vera) partnered together and along with nationally recognized police practitioners and researchers to reimagine CompStat. The initiative commenced in 2016 with a convening and by commissioning a series of white papers to explore how best to include community policing in police performance management. In developing this new CompStat model, the National Police Foundation and Vera team also conducted site visits to four cities to observe their CompStat processes in action and met with local community and police groups to learn about any associated benefits or challenges. The model development also included research conducted through phone and in-person interviews, as well as focus groups with a wide variety of CompStat stakeholders based in police agencies, communities, and organizations outside of the site visit locations.

These research activities culminated in the development of the CompStat360 model. Figure 16.1 demonstrates the evolution of CompStat to CompStat360. CompStat360 seeks to harness the effective evidence-based practices germane to CompStat, while recognizing that police departments must monitor interrelated aspects of performance to optimize public safety, organizational effectiveness, and partnerships. Focusing on crime and enforcement alone won't achieve the necessary and desired results for advancing contemporary and democratic policing.

Figure 16.1: Evolution of CompStat



CompStat360

CompStat is a performance management system that is used to reduce crime and achieve other goals identified by the police department. It relies on timely and accurate information and intelligence, the rapid deployment of resources, enforcement tactics, and relentless follow up. As discussed above, CompStat historically has myopically focused on reducing violent crime. Whereas, CompStat360 offers a comprehensive performance management system to respond to crime, promote the co-production of public safety, and maximize organizational effectiveness. CompStat360 emphasizes information sharing and collaboration between the police department and the community. It also builds in mechanisms for responsibility and accountability at all levels of the police department's hierarchy, as well as within the community and with other partnering public agencies. CompStat360 seeks to improve the effectiveness of overall public safety delivery.

Like CompStat, CompStat360, too relies on timely and accurate information; however, the information collected, and priority setting is intended to be a collaborative and iterative process among all related stakeholders, both internal and external to the police department. CompStat360 was developed to serve as a comprehensive strategic management tool that provides a mechanism to regularly review priorities, through triangulated data sources, and coordinated follow up. CompStat360 incorporates a wider range of outcomes into the police department's measurement and management approaches, toward the goal of delivering holistic and quality policing and supporting the department's efforts for continual growth and learning (CompStat360a).

At its highest level, CompStat360 consists of feedback loops between three overlapping dimensions: preventing, interrupting, and solving, crime; maximizing organizational effectiveness; and integrating community support and involvement. These three dimensions are conceptualized via four goals, each made up of various indicators and metrics that are adaptable to any agency and community's specific problems and priorities. The specific strategies employed and measured within the dimensions are designed to shift according to every department's and community's priorities, capacities, and needs. Importantly, each dimension is equally important, and an agency's ability to perform successfully within one should not come at the expense of the others. This is referred to as CompStat360's rule of three. Although distinct, the overlap within and between these dimensions demonstrates the inherent interconnectedness of public safety concerns and efforts.

Figure 16.2 presents the full CompStat360 model. The model visualizes the three interrelated dimensions, feedback loops, and four goals associated with each dimension.

Numerous stakeholders are required to implement and manage the CompStat360 process. These stakeholders include the primary law enforcement agency or police department. Involvement and buy-in from executives, command staff, other managers, and rank-and-file officers are all critical to executing the key roles and responsibilities. These roles and responsibilities include identifying and establishing the CompStat360 priorities, which is similar to decreasing violent crime in the original CompStat model define the CompStat360 approach. The primary law enforcement agency stakeholders must conduct intentional outreach to include a diverse set of representatives to serve on the CompStat360 team, involving both internal and external partners. The agency is also responsible for facilitating the CompStat process, while soliciting and integrating feedback from other stakeholders. The law enforcement agency stakeholders must analyze, present, problem solve, respond to, and learn from the CompStat360 data and ensure that the relevant staff are trained in accordance with the model and its identified priorities.

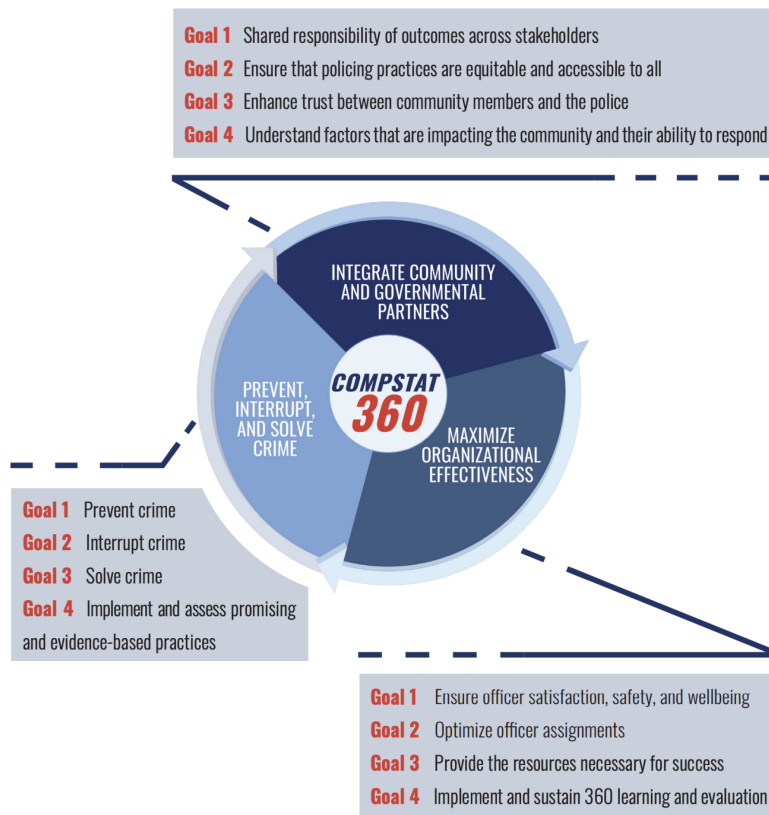
Stakeholders from other law enforcement agencies are also essential to CompStat360's success. These other agencies include neighboring police departments, prosecutors, Federal agencies, and community supervision. These stakeholders are needed to participate in problem-solving workgroups and other CompStat360 meetings, as well as to provide relevant supportive services, information, and data.

The community is central to the CompStat360 approach. The community will be defined locally, but should include community organizations, advocates, individuals (especially those of whom have lived and direct experiences with law enforcement systems, including victims and individuals who have been subjected to arrests), and service providers/organizational representatives related to the CompStat360 approach and priorities. Community stakeholders need to be involved in identifying and establishing CompStat360 priorities. They need also to participate in open law

enforcement meetings and to be involved in problem solving, responding to, and learning from CompStat360 data (CompStat360b).

The CompStat360 process is evidence based, and as such begins with a thorough data scan to apply to each of the CompStat360 dimensions and related goals (CompStat360c). Through this data scanning process, the stakeholders collaboratively determine the priority issues and goals. The CompStat360 organizational management process allows for learning and collaboration to identify, implement, and evaluate problem-solving strategies. All the described stakeholders are necessary to implement and manage CompStat360's strategic approach (CompStat360d).

Figure 16.2. CompStat360 Model, Dimensions, and Goals



CompStat360 Problem-Solving Teams

For this strategic approach to support, foster, and inform the desired problem-solving in policing, CompStat360 relies on problem-solving teams (PST). PSTs institutionalize internal and external problem solving to identify, analyze, and address the priority areas identified through the CompStat360 scanning process. PSTs in CompStat360 represent a major departure from CompStat and are the engine that drives the CompStat360 process and the desired change(s). PSTs are developed by agency decision-makers who identify an area worthy of intensive problem solving. The PST is put in place to study the problem, identify strategies to solve it, make recommendations for implementation, evaluate its impact, and document lessons

learned. PSTs are intended to meet regularly and remain intact until the problem is solved, at which point the PST is reassigned or dissolved.

PSTs may be adapted from existing workgroups. Regardless of whether the body is new or adapted, creating a CompStat360 PST should involve the following considerations:

- A problem is identified and prioritized collaboratively by the internal and external CompStat360 stakeholders.
- Leadership of the primary law enforcement agency directs a coordinator to establish a PST and identifies an Accountable Manager to coordinate between the PST and the agency's executive leadership body.
- PST membership can consist of anyone, internally or externally, with the ability and knowledge to engage in dialogue constructively, conduct research effectively, and contribute successfully to the effort.
- Including individuals with lived experiences in the PST, with the recognition that those who are closest to and most familiar with the problem are also at closest proximity to solution(s).

While still in its infancy, CompStat360 and the PSTs are data-driven approaches that offer great promise to improve evidence-based policing practices.

In the next section of this chapter we turn to an early CompStat360 case study, which offers valuable lessons and insights for advancing not only the CompStat360 model specifically, but also evidence-based practices in policing more generally. The Tucson, AZ Police Department was one of the first agencies to implement CompStat360. This partnership represents a strong practitioner-researcher endeavor, from which to learn about CompStat360 specifically as well as evidence-based policing more generally.

Tucson, AZ: CompStat360 Case Study

Tucson, often referred to as the “old pueblo,” is a city in southern Arizona of approximately 550,000 residents located some 60 miles north of the U.S.-Mexico border. Tucson ranks as the 33rd largest city in the U.S. and the second-largest city in Arizona. From a geographical standpoint, the city stretches across a wide area—approximately 240 square miles—and it continues to expand through ongoing annexation. Hispanic/Latinx residents make up 43 percent of the population (twice the national average), and a large number of the community members speak Spanish.

Tucson's median wage in 2019 registered at \$36,900, nearly \$3,000 below the U.S. median. City government funds derive almost entirely through sales tax, making department budgets and services, including those police related, highly vulnerable to downturns in the State and national economy. The largest employers in Tucson include the University of Arizona, Davis Monthan Air Force Base, and Raytheon Technologies (aerospace and defense corporation).

Founded in 1871, the Tucson Police Department (TPD) has grown from 31 members to its current staffing of 870 sworn personnel. Despite the city's steady population growth, due to city budgetary woes and challenges with recruiting, the department struggles to maintain a sworn staffing level above 800 (down from approximately 1,000 in the early 2000s). Severe economic challenges in 2016 and 2017 resulted in an \$11 million cut to the department's budget.

Most of the department's patrol officers and support staff work in the four field divisions. These include Operations Division West, Midtown, South, and East. Policing in the downtown business and entertainment area is handled by personnel assigned to the Downtown District, which is part of Operations Division West. Neighborhood crimes investigations and traffic services are decentralized to allow for a localized approach to unique division challenges. The department's administration, Office of Professional Standards, Analysis Division, and Central Investigations Division are all based in the agency's downtown headquarters.

Prior to implementing CompStat360, the department lacked a true crime analysis capability. Instead, it relied on a loose-knit group of professional staff (non-sworn) employees referred to as “crime analysts” but whose analytical skills were self-taught or altogether absent. Although dedicated to their work, many of these personnel transitioned from clerical or other administrative roles entirely unrelated to the collection or use of data. Most lacked even bachelor's degrees in criminology, statistics, political studies, social science research, or criminal justice. None possessed advanced degrees. Much of their training came on the job with the occasional short class or seminar on tabulating and presenting crime data.

For many years this group of personnel used department statistics and FBI Uniform Crime Reporting data to assist division commanders in preparing for community presentations. They made charts, put together handouts, and tracked arrests/citations. Some helped detectives with case preparation. Very little of their work involved data analysis, development or measurement of crime-reduction initiatives, or actual program evaluation.

Analysis modernization began in early 2019 with the recruitment of Dr. Jacob Cramer to serve as the first Analysis Administrator in department history, a position placed within the Executive Leadership Team (ELT). Dr. Cramer arrived at the agency with extensive experience conducting data analysis related to violence, crime, extremism, and particular knowledge in social network analyses and quantitative methods. Almost immediately, Dr. Cramer set about overhauling the entire analysis function by creating a new structure and culture. This meant replacing or retraining every member of the analysis team.

The ELT knew well the need for more effective strategies beyond the basic tracking of police arrests and crime data to deal with the city's increasing rate of crime, the high number of traffic crashes, and expansive quality of life concerns. In addition to community concerns, there was also a need to identify and track progress in addressing issues of importance to the agency's rank and file.

The ELT also recognized that a previous CompStat-type initiative known as "Target Oriented Policing" (TOP), utilized between 2010–2014, was mostly ineffective and remembered with disdain and ridicule. Many department members recalled this version of CompStat was time-consuming, purposeless, and centered around meetings that became little more than "show-and-tell" opportunities for ambitious supervisors and commanders. Department leadership was determined not to replicate this version of CompStat.

A Rocky Start

During a meeting of the Police Executive Research Forum's (PERF) Research Advisory Board in 2018, TPD Chief Chris Magnus and researcher Dr. Rebecca Neusteter engaged in a discussion about how CompStat could evolve to become something new and different. During this same time, the National Police Foundation and Vera (where Dr. Neusteter worked at the time) were developing a model known as CompStat360. This 360-degree holistic and more participatory approach to problem-solving and crime-fighting struck Chief Magnus as the kind of methodology the department was looking to achieve.

Determined to innovate, Chief Magnus, ELT, and Dr. Cramer decided to adopt a version of CompStat360. Even with initial support from the Police Foundation and Vera, implementing a new type of CompStat was—and continues to be—a big lift for the department. Despite enthusiasm and commitment from leadership, the agency faced a wide range of challenges in developing its own more relevant and inclusive CompStat program.

As the Analysis Division was trying to launch the new initiative, few members of the rank and file were adept at problem-solving. Additionally, multiple "crises of the day" kept department leadership preoccupied, diverting attention and resources from the new CompStat program. Even the inclusion of the word "CompStat" in the name of this initiative became (and remains) a source of debate because of negative associations with the department's foray into Target Oriented Policing.

Although the new TPD program had similar goals to the CompStat360 model, the leadership team determined that model's prescriptive roadmap, benchmarks, and expectations for departmental and community participation were premature and unrealistic. To outside observers, minimizing both community and department member involvement must have seemed like heresy for a "360" style program but the stakes were too high to move too fast.

There was a clear lack of understanding, capacity, and buy-in among the rank and file, supervisors, and managers. From the perspective of the department leadership, these members of the agency first needed to build problem-solving skills, have access to data, and learn how to use analytic resources.

Adding to the challenge was a significant lack of diversity when it came to the department's community relationships. Meaningful engagement of the public requires working with police department critics, the involvement of young people, and substantial representation from traditionally marginalized neighborhoods and groups in the city. TPD had work to do.

Especially after several high-profile police involved shootings of minorities, as well as several incidents in Tucson that strained relationships between minority communities and the police, relying on the “familiar suspects” to identify new priorities and strategies to address them was a recipe for failure. This new model required engagement from more than police-friendly neighborhood presidents and self-identified community leaders.

CompStat360, to a Degree

The concept of CompStat360 was sound, but through the course of implementation it became readily apparent that many of the model’s substantive details and strategies remained theoretical or conceptual. The department received limited technical assistance (TA) from the Police Foundation and Vera, but much of it seemed incongruent with the agency’s needs, resources, and priorities. In some cases, the TA providers were less knowledgeable than Dr. Cramer and his fledgling team; in other cases, their lack of familiarity with the community limited these providers’ effectiveness and credibility.

The department made incremental progress, despite the lack of a clear roadmap. Personnel from the new Analysis Division convened small working groups, experimented with different approaches, and pushed hard to gain access to the data needed to support the CompStat vision. As in many city governments, access to data requires extensive Information Technology (IT) support. In Tucson, IT is a standalone department separate from the police, which resulted in further delays and difficulties accessing what was needed.

Operations Division Midtown was selected to function as a “beta site” for the department’s CompStat360 style problem-solving. The results were mixed. Some initiatives, like one that assigned officers within the test area to spend 15 minutes a shift parked in convenience store parking lots to reduce crime, were mostly unsuccessful. Yet, even “fails” became opportunities for discussion and learning.

With an eye toward improved outcomes, TPD’s approach incorporated several critical components that are different from more traditional CompStat programs around the country. Step one involved educating a broader scope of department members about the new CompStat model, starting with discussions that only involved sergeants. Typically, upper management received the early introduction to new initiatives, but in this case, they came second. TPD invested first in sergeants, who they believed had the most influence on the success or failure of any project, so they could realize increased buy-in and understanding. Department leadership theorized that if first-line supervisors wrote the new project off as irrelevant, useless, or more of the “same old, same old,” even high levels of enthusiasm from their commanders would do little to change their perspective.

The next step was identifying crime, traffic, and quality of life priorities small teams of department members could address. This engagement process would ensure projects utilized the basic tenets of the program: problem identification, analysis, implementation strategy, partners, benchmarks, metrics, and evaluation. Department priorities, based on previous, albeit imperfectly measured, public feedback, included property crime reduction, decreasing traffic crashes, and homelessness. The role of commanders was to support these efforts, help their personnel stay on track, and otherwise assist as needed.

The small PST leaders were strongly encouraged to meet with the analysis staff to help the team set parameters for their projects, analyze relevant data, and set performance metrics. Teams would then determine how officers would be assigned (often across different shifts), what they would do, and who to involve from the community.

There was no desire to marginalize or disregard short term significant crime increases or trends that fell outside of the areas of property crime, traffic safety, and homelessness. Unexpected but urgent quality of life issues brought up by residents were still addressed as they arose. However, there was a recognition that taking too much on at one time utilizing the new CompStat model could damage the program’s effectiveness and ultimately lead to failure.

Whenever possible, the department’s ELT directed the Analysis Team to play a role in helping officers and supervisors think through what they wanted to accomplish and how they might do it. Problem-solving projects needed to be more than good PR for the department. The ELT hoped that when analysts worked with PSTs more sustainable outcomes would follow and better organizational learning would take place. Over time, department leadership realized that the Analysis Division could

also help teams identify and connect with the right research and academic personnel to work with them on their projects.

Don't Throw the Baby out with the Bathwater

TPD also learned that not every project required crime analysis resources or the use of a rigid problem-solving structure. There were lively discussions with the CompStat360 implementation group about “perfect being the enemy of progress.” New teams were ultimately encouraged to initiate problem-solving projects around key department metrics even if they lacked research, clear benchmarks, or strong partnerships outside the department.

The most important aspect of the culture change was getting officers and their supervisors to identify and start addressing problems in their sectors and divisions. Even if their plans, strategies, and evaluation processes were imperfect, much could still be accomplished. The hope was that practicing, even without a perfected program in place, could lead to more thoughtful and sophisticated work in the future.

Early problems utilized a CompStat360 process that tested using different strategies in small areas, such as specific sectors within divisions, or a single division. The intention was to do projects on a smaller scale to avoid wasting time, effort, and money, as opposed to taking the risks of implementing large scale treatments across the entire city. The department believed this approach would make it easier to acknowledge failure or make significant adjustments to a strategy.

In most police agencies, projects and initiatives get divvied up into various organizational silos based on the structure of the agency. Take the example of a motel that is the source of many police calls for service, drug activity, alleged prostitution as well as human trafficking, and numerous neighborhood complaints. A problem-solving project to deal with this situation would typically fall to officers in the field services (patrol) bureau.

Prior to adopting CompStat360, TPD's approach tacitly encouraged “siloe” problem-solving. Under the new program, commanders were directed to look beyond their bureaus, even beyond the department, in establishing ad-hoc multidisciplinary teams (MDTs) to address problems more holistically. For example, there is likely a role for narcotics detectives from the Investigations Bureau to help with the motel case. Perhaps the Training Division could also play a role in educating officers on how to identify and address human trafficking cases.

Looking beyond the police department, it might make sense to involve other city or county departments such as Code Enforcement and Public Health. Some of the best members of an MDT may not even be within the government. Involving advocates from nonprofit agencies that work with victims of human trafficking or that serve persons with substance abuse disorders could be vital to a project's success.

The Police are the Community; the Community are the Police

The debate, as it were, on involving the public in CompStat generally centers around how open the meetings are to the community. Many police departments' cultures become tainted by a damaging mix of patronizing paternalism and defensive isolation. TPD, both during these early stages and now, believes public participation in CompStat meetings should be a given, especially with the opportunities for virtual participation that have become widely utilized during the COVID-19 pandemic.

TPD is not without its own culture challenges. True community involvement has proved to be hard earned. “*Letting* members of the community *help*” with mostly menial or insignificant duties is not enough. Instead, meaningful inclusion assures community members a voice in developing problem-solving strategies. They must be on equal standing with “the experts” from the department or other government entities. Moreover, they must be fully utilized as advocates for change with their own constituencies outside of city government.

Ultimately the department's priorities must match the community's priorities. members of the department must work closely with community members to identify those priorities. Active community engagement involves more than sending officers to neighborhood meetings. It requires gathering feedback from calls for service, conducting listening sessions and surveys, and seeking participation from community members through advisory boards and committees. These activities take time and involve relationship-building. It is not easy for members of a police department to learn how to listen rather than to talk and prescribe. This kind of learning is a gradual process that requires time and patience.

Opportunity Found

The emphasis on MDTs to do problem-solving has taken on new relevance as many communities move to shift responsibilities away from the police and into the hands of other service providers. TPD's CompStat360 model discourages an "all or nothing" approach. MDTs encourage police, other governmental agencies, nonprofits, and community groups to work together. This type of team allows them to combine their collective resources and expertise to address problems previously too complex or intractable for them to solve on their own.

Unlike traditional CompStat, all commanders and chiefs are not gathered together for tedious monthly meetings focused on recitations about crime data and issues within various divisions. There is an expectation that division commanders be aware of the relevant data about crime in their areas so they can meaningfully contribute to discussions. But the department is determined not to let CompStat360 meetings become "show-and-tell" sessions where commanders make themselves look good at the expense of others.

Instead, monthly meetings are an opportunity to bring middle and upper-level management together to discuss what they're trying to accomplish. They can talk about the approaches and methods they're using. These meetings are also a chance to consider additional data they may need to be successful, their progress in meeting benchmarks, and the overall status of their problem-solving efforts. Describing a failure is just as legitimate as illustrating success. Questions from others, not just the chief running the meeting, are welcome and never meant to make the presenters "look bad" or to embarrass anyone, but rather to promote organizational learning.

The goal of TPD's CompStat360 meetings is to share wins and insights that might be beneficial to the larger group. Commanders are encouraged to bring team members with them to participate in the discussions, answer questions, and receive kudos associated with their work. The CompStat360 process must be recognized by first-line supervisors and mid-managers as relevant, helpful, and pragmatic.

It's also important to note that not all CompStat360 problem-solving initiatives need to be about crime, traffic, or other community issues. TPD has recognized that a critical component of procedural justice is *internal* procedural justice. Addressing the concerns and needs of agency members is paramount. Issues like disciplinary standards, policy changes, and morale are of great consequence to the department's personnel. If the goal of this model is to tackle problems from a "360" perspective, teams must also address these internal considerations.

The future of the "new and improved CompStat" at TPD is both daunting and exciting. The department is committed to continued experimentation, partnerships, and learning. CompStat360-type programs, no matter the name or brand, are essential if police agencies are committed to exceptional responsiveness, transparency, and accountability to their external and internal customers, both now and in the future.

Conclusion

CompStat360 was built on the evidence of what works in policing. This includes lessons from crime suppression, collaborative engagement in co-producing public safety, organizational effectiveness and wellness, as well as performance measurement and management. At its core, CompStat360 is a tool that goes beyond the numbers by measuring and managing three overlapping dimensions: (1) prevent, interrupt, and solve crime; (2) maximize organizational effectiveness; and (3) integrate community and governmental partners.

The research and development that underpins CompStat comprehensively examined literature and models informing the success and failures of the various approaches that have been applied to inform police operations and the adoption of evidence-based policing practices. Examining failed approaches is equally as important as identifying those deemed successful. While the lessons learned from failure tend to be overlooked, quickly buried, and infrequently used to help improve policy and practice, much can be learned from unsuccessful approaches.

The CompStat360 model intentionally sought to not only incorporate the lessons learned from failure, but to privilege this information so as to learn from and build upon this evidence base. Embracing and learning from failure underlines CompStat360's formation and is also reinforced in the adoption and practice of the model itself. Indeed, CompStat360's iterative approach and intentional feedback loops serve as a case study for incorporating evidence-based policing in daily police and public safety functions.

While CompStat360 offers an evidence-based approach, as a theoretical construct and practical model, it does face its own challenges and failures. As the TPD Comp Stat360 case study illustrates, the model presented difficulties in terms of its implementation and operational components. The research-based model left some practitioners' questions and needs unmet. Moreover, from a researcher's perspective, aspects of CompStat360's implementation and adoption may be difficult to isolate and measure, leaving questions about the model's impact and effectiveness unanswered.

CompStat360 does however offer several unique and important contributions to the field of evidence-based policing. CompStat360's origins and early adoption include a practitioner-researcher commitment to learn from success and failure. This open and trusting dialogue allows the involved agency to apply lessons learned in real-time and for the field at large to benefit from the acquisition of this knowledge. CompStat360's collaborative approach in partnering with other agencies and community members directly offers an engagement model that is rooted in evidence. Shared accountability and responsibility are essential to achieving a policing paradigm that embodies the notion that the police are the community and the community are the police. Through problem-solving and multi-disciplinary teams, CompStat360 leverages the evidence base to include stakeholders from rank-and-file officers to community leaders and may in between. This collaborative approach is critically needed in policing.

CompStat360 offers a nimble and collaborative framework that can be adapted to strategically address a wide variety of concerns. With a commitment to learn and grow, CompStat360 contributes to the knowledge of what works in policing, as well as approaches to enhance and co-produce community safety and wellness. Though still in its infancy, CompStat360, and the data-driven approaches that comprise it, offer great promise to incorporate evidence-based policing in daily police practices.

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QUESTIONS SUBMITTED FOR THE RECORD TO CHRIS MAGNUS

QUESTIONS SUBMITTED BY HON. RON WYDEN

COMMITMENT ON FORCED LABOR AND TRANSPARENCY

Question. If confirmed, you will be overseeing the full gamut of U.S. efforts to exclude products made with forced labor from commerce—including investigations, remediation where possible, and prohibiting the entry of products determined to be made with forced labor. In this capacity, you have to work with humanitarian groups, foreign governments, third-party auditors, importers, and others to stop these practices. At the same time, you have to facilitate the flow of legitimate trade.

It is critical that all stakeholders understand what CBP is doing and the magnitude of your work. CBP already provides quarterly data on the number of Withhold Release Orders issued, the number of shipments stopped, and the value of that cargo. That is essentially the final results of your work, but there is very little insight into the front end or investigation stage.

In line with recommendations made to CBP by the Government Accountability Office (GAO) in October 2020, if confirmed, will you commit to provide public summary data describing the number of allegations received, open investigations, suspended or inactive investigations, and other relevant information on a regular basis?

Answer. Forced labor is an assault not only on bedrock American values, but on American companies' ability to compete in a fair marketplace. If confirmed, I absolutely commit to providing the data you request, consistent with GAO's recommendations to CBP.

As we discussed, it is important that CBP strike a balance between, on the one hand, ensuring sufficient transparency so that good actors have the information they need to comply with rules and regulations relating to forced labor content—and on the other hand, protecting the integrity of ongoing investigations into potential bad actors.

I believe that the vast majority of companies want to play by the rules. If confirmed, I will work hard to ensure that these companies, including small businesses and mom and pop shops without the resources of large corporations, have the information they need to succeed in doing so. I appreciate your leadership on this issue, and would look forward to working with your office and this committee, as well as with GAO, to address this critically important issue.

COMMITMENT ON TECH—ELECTRONIC DEVICE BORDER SEARCHES

Question. As Commissioner, you'll have authority over CBP's practices with respect to electronic device searches at the border. As you know, when Americans enter or leave the country, their phones and electronic devices can be searched without a warrant due to something known as the "border search exception" to the Fourth Amendment.

I believe this exception is a load of baloney. Crossing the border shouldn't give the government a free pass to throw out our constitutional rights and thumb through our phones without any suspicion of wrongdoing.

Now, the 9th Circuit has limited CBP's authority to conduct warrantless device searches to illegal content. However, everywhere else in the country, CBP can conduct warrantless searches for anything of interest.

This double standard makes no sense. If confirmed, are you open to considering adopting the same policy, nationwide, that CBP already follows in our home States of Oregon and Arizona?

Answer. Upholding Americans' constitutional rights to privacy is critically important to me. I believe we can respect Fourth Amendment protections against unreasonable search and seizure while ensuring our border is secure against threats to our national security. As a Police Chief in a community near the border, I have heard concerns from community members regarding secondary searches that they felt were not necessary, including seizures of phones and other devices containing their personal information.

If confirmed, I absolutely commit to reviewing CBP's current policies relating to border searches to ensure they are based in evidence and firmly rooted in the Federal Government's statutory authorities. As part of that review, I certainly commit to closely reviewing the standard set by the 9th Circuit, and to considering adoption of that standard at ports of entry nationwide, provided it is feasible to do so without compromising our national security. If confirmed, I look forward to working with your office on this important issue.

TAIWAN

Question. Taiwan is an important partner of the United States in the Indo-Pacific region. It is currently a member of our Visa Waiver program and Global Entry. I believe it is important to continue to strengthen and expand our cooperation with such a strong democratic partner.

Taiwan applied to join CBP's Preclearance program last year. However, its application was rejected earlier this year without any political leadership at CBP.

If you are confirmed, do you commit to review and reconsider Taiwan's application?

Answer. I certainly recognize the importance of the United States' partnership with Taiwan and understand the significance of the relationships that CBP establishes with Taiwanese counterparts. While I'm not familiar with Taiwan's Preclearance application or the reasoning behind CBP's decision, I do know that the Preclearance program is an important tool in CBP's layered and risk-based approach to border and national security. I understand there are a number of standards and thresholds as part of CBP's process to establish a Preclearance location, and if confirmed, I would certainly review the application and decision made on Taiwan's application.

WOMEN IN CBP WORKFORCE

Question. An area of serious concern is CBP's standing as a Federal agency with the fewest women per capita in its workforce. The agency has long struggled to maintain a workforce of women. Recent reporting indicates that women make up 5 percent of CBP agents, while women typically comprise an average of 15 percent of the workforce in every other Federal law enforcement agency. In fact, the ratio of men to women among Border Patrol agents trails behind that of the U.S. Marines. This gender disparity affects CBP's ability to effectively represent the population it serves and may negatively impact the agency's ability to engage with women, families, and children.

If you are confirmed, what steps will you take to address this gender disparity within CBP's workforce? Will you commit to seeking input from women currently and formerly employed by CBP for their insights on how CBP can better recruit and retain women to increase representation?

Answer. I absolutely commit to working to address the significant gender disparity within CBP's workforce if I am confirmed as CBP Commissioner. As a law enforcement officer with 4 decades' experience, I know well the challenges we face in addressing gender disparity in policing. Like you, I believe that law enforcement agencies are at their best when they are representative of the communities and populations they serve. Our practices and policies are enriched and bettered when members of the force understand firsthand the concerns of those we serve. In CBP's case, those communities may be as diverse as the traveling public, the business community, and vulnerable asylum seekers.

If confirmed, I will seek to understand the areas in which CBP may have fallen short in the past, including recruiting, pay, specific benefits and policies, retention, and professional development. I commit to working to identify and address any obstacles to hiring and retaining women in our workforce, including in CBP leadership.

In addition, you have my commitment to seek out input from women who currently serve or have previously served within CBP and other Federal law enforcement agencies to understand what policies and practices may help to address gender disparities. Throughout my career, I have worked closely with many incredible women law enforcement leaders, and would hope to continue to draw on their collective wisdom in this area if confirmed, including when it comes to hiring for key leadership roles.

QUESTIONS SUBMITTED BY HON. CATHERINE CORTEZ MASTO

Question. If confirmed, will you consider placing trained child welfare professionals within CBP facilities that hold children and require proper training for all CBP personnel who interact with children?

Answer. Throughout my career in public safety, few things have been more important to me than how we treat children. If confirmed, I will absolutely consider any and all measures we can take to improve the welfare of children in our care and custody, and that certainly includes requiring proper training and placing specialized professionals in CBP facilities if appropriate.

As both President Biden and Secretary Mayorkas have said, a Border Patrol station is no place for a child. I agree firmly with their statements. My understanding is that this spring, the administration significantly decreased the amount of time children spent in CBP custody by surging vetting and other resources to the border. In addition, I understand that CBP has taken steps to hire contract medical specialists to provide care tailored to children in the agency's custody, and that similar efforts are proposed at our ports of entry. If confirmed, I am interested in learning more about this effort, and certainly support any efforts to ensure that children in CBP's care and custody receive necessary medical intervention and care as early as possible. I commit to making it a priority to understand what treatment is available to children in CBP's care, regardless of the duration of their time in our care, and to requesting additional resources from Congress as appropriate. I would be pleased to work with your office and this committee to do so.

Finally, it is critical that all CBP personnel receive proper training to carry out their roles, especially those who may be coming into contact with vulnerable children. If confirmed, I would be happy to work with your office, and this committee, to identify and address any gaps in training.

Question. If confirmed, how will you balance the need to facilitate efficient trade while keeping our ports safe and secure?

Answer. I recognize that the core of CBP's mission is ensuring the safety and security of the American people, while also facilitating the flow of legitimate trade and travel through our Nation's ports of entry. Enforcing U.S. trade laws, while safeguarding the flow of lawful trade, helps ensure a balanced playing field for American workers, businesses, and consumers.

If confirmed, I will work to ensure that CBP has the appropriate staffing levels at the ports to manage the efficient and secure clearance of cargo, and will not hesitate to advocate within the administration, and with Congress and this committee, for additional resources if necessary. I will also prioritize the development and modernization of technology resources, like the Automated Commercial Environment (ACE) system, inspection equipment, and other tools to meet the demands of both the facilitation and security missions.

I also recognize that CBP's ability to successfully facilitate trade and enforce trade laws requires strong relationships with a wide array of stakeholders. The Commercial Customs Operations Advisory Committee (COAC) and other trade groups, small businesses, labor organizations, Federal, State, and local partners, and many others all have a role in facilitating the flow of legitimate cargo across our borders. I have built relationships with diverse groups of stakeholders throughout my law enforcement career, and would welcome the opportunity to continue to do so if confirmed to lead CBP.

Question. Air travel and transport is crucial to my home State of Nevada's economy and the workers who make it a top global destination for visitors all over the world. We know our local economy still has further to go until we see business and international travel fully come back. As we welcome our international visitors back, we need to ensure that our customs and security operations are running as effectively as possible.

What policies will you include at our airports to restore safe ease of entry to travelers seeking to visit places like Nevada and how will you work with our Airport Authority to ensure efficient transport of goods and trade compliance?

Answer. Ensuring the efficient and secure flow of lawful trade and travel are primary missions for CBP, and are critical drivers for the Nation's economy, particularly at the State and local level. If confirmed, I will focus on staffing and technology to ensure the agency is prepared to meet rising need as international passenger traffic increases. I will review the agency's staffing processes to ensure that CBP is able to meet the passenger and cargo clearance demands across the country. The role of technology and automation in these processes cannot be overlooked, and I will leverage the agency's use of biometrics to speed traveler clearance, promote trusted traveler programs to expedite processing, and look to public-private partnerships to augment CBP's capabilities at key ports of entry.

I will certainly be open to working closely with airport authorities, and other trade and travel stakeholder groups. In the course of my confirmation process, I have had the opportunity to meet with many of these groups and learn from them about the current challenges facing the industry, as well as potential solutions. If confirmed as CBP Commissioner, I will prioritize spending time in the field, meeting with the agency's frontline personnel, as well as the key partners with whom CBP works to efficiently facilitate and secure the movement of cargo and people across our borders. I will also encourage CBP's leaders and personnel in the field to build and expand upon relationships with those key stakeholders, improving communication at the local and regional levels to ensure coordinated facilitation and enforcement are the norm at the Nation's ports of entry.

Question. In addition to ensuring that ports of entry at our domestic airports are adequately staffed to handle the increase in passengers once our international borders reopen, we also must make sure that staffing vacancies are filled at CBP's preclearance locations in Canada, the Caribbean, and elsewhere. These preclearance locations provide strategic screening operations before travelers and their baggage arrive in the United States, which strengthens our risk-based security system, relieves workload pressures at our domestic ports of entry, and expedites arriving passengers continuing on their journey.

With preclearance staffing levels down significantly due to the COVID-19 pandemic, how do you plan to replenish the CBP officers at the preclearance locations?

Answer. I certainly recognize that COVID-19 has dramatically impacted the volumes of international travel, and if confirmed, I will review CBP's staffing levels and processes across the organization. As with any staffing decisions, if confirmed, I will want to balance needs across all U.S. ports of entry and Preclearance locations, and will work closely with air carriers and foreign partners to ensure the agency meets the demands in those Preclearance locations. As you note, the agency must be prepared to meet the increasing volumes in international travel in order to serve our travelers here in the United States, and Preclearance is a key part of the agency's security and facilitation capabilities.

QUESTIONS SUBMITTED BY HON. THOMAS R. CARPER

TRADE AND EXPEDITING GOODS ACROSS THE BORDER

Question. If confirmed, you will oversee the Office of Field Operations within CBP, which conducts inspections and enforces immigration and customs laws at designated ports of entry.

As you know, U.S. ports are facing some of the heaviest congestion they have seen in years, and shipments of goods are being delayed across the country in large part due to the impacts of the pandemic.

Senator Cornyn and I have introduced legislation, the Customs-Trade Partnership Against Terrorism or C-TPAT Pilot Program Act. This bill would expand a successful program within CBP that allows trusted merchants to voluntarily submit themselves to enhanced screening and information sharing in exchange for a fast-track customs clearance process for imported goods.

If confirmed, will you commit to working with me and Senator Cornyn on this legislation?

Answer. If confirmed as CBP Commissioner, one of my top priorities will be to ensure CBP does its part to ease historic congestion brought about by the COVID-19 pandemic at our ports of entry. As you know, the current supply chain challenges will require coordination and cooperation among many public and private sector partners, State and local governments, port authorities and operators, commercial operators in trade, freight, and logistics, and the labor organizations whose men and women transport and unload goods and crew cargo ships. CBP's role in screening and vetting cargo can be made more efficient through pilot programs such as C-TPAT, which allows merchants to provide additional information in order to receive expedited screening, similar to TSA's Pre-Check or CBP's Global Entry program.

I appreciate your and Senator Cornyn's leadership to identify and expand this pilot program within CBP. If confirmed, I certainly commit to reviewing this legislation and would be happy to work with your offices to address this very important priority.

Question. And additionally, if confirmed, what steps would you take to evaluate CBP's work to effectively screen freight at the border?

Answer. If confirmed, I commit to learning as much as I can regarding CBP's freight screening operations at our ports of entry. As you note, historic supply chain difficulties brought about by the pandemic have highlighted the need for CBP to continue innovating to expedite screening at our ports of entry, while ensuring threat detection is not compromised.

I understand that in recent years, significant investments have been made to modernize CBP's vehicle scanning platforms, including in places like the Port of Wilmington. I look forward to working with CBP's Office of Field Operations and INVENT office, among other entities within DHS, to learn more about current freight screening capabilities, as well as what is in development to detect ever-changing threats while ensuring speedy movement of goods through our checkpoints. In addition, I commit to an open dialog with your office, this committee, and CBP's stakeholder community to ensure concerns are speedily and securely addressed.

IMMIGRATION REFORM

Question. For years, I have worked with my colleagues on both sides of the aisle to achieve comprehensive immigration reform. Unfortunately, we still face a number of issues in our immigration system that need to be addressed.

As you know, the men and women of CBP are on the frontlines each day confronting the challenges created by an immigration system in need of reform.

To that end, what issues do you predict CBP will face given the need to drastically reform our Nation's immigration policies and procedures?

Answer. As I noted in my confirmation hearing, I do believe our immigration system is fundamentally broken. Agents trained to secure the border between our ports of entry are often charged with processing vulnerable children and families seeking asylum protections at our borders, often in cramped Border Patrol stations far from needed medical services. In the course of my confirmation process, it has become clear that these concerns are shared by members and stakeholders from all parts of the political spectrum.

Although the men and women of CBP have overwhelmingly risen to meet this incredibly difficult challenge, the current system has no doubt led to issues in terms of safety of migrants, Border Patrol agents, and border communities; border security between the ports of entry; and agent morale.

If confirmed, I would certainly hope to work with Congress on a bipartisan basis to address the current, broken system.

With that said, regardless of whether immigration reform is passed by Congress, if confirmed, I commit to acting as an honest broker to understand the law enforcement, border security, resource, and personnel challenges that CBP faces, and to identifying common-sense solutions wherever possible. As one example, I understand there is bipartisan agreement on the need to recruit and hire Border Patrol Processing Coordinators, a position that would reduce some of the current administrative burden on Border Patrol agents so they can get back to the roles for which they are trained, and to ensure CBP effectively meets its obligations within the asylum process. If confirmed, I would hope to identify solutions like these in a broad range of areas to address our current challenges. I am grateful for your continued

efforts to advocate for bipartisan immigration reform, and if confirmed, I hope to work with you and this committee on commonsense solutions to address the challenges CBP currently faces.

Question. How will you work with your counterparts to make sure these challenges are heard and addressed at all levels of the agency?

Answer. A difficult challenge is that no single agency or even Department within the Federal Government has jurisdiction over the entire system. CBP, ICE, USCIS, HHS, DOJ, and other agencies each play a role in enforcing and administering laws relating to immigration and border security, and in caring for vulnerable children arriving at our borders. And the State Department has a large role to play in helping to address the conditions that lead so many, including from the Northern Triangle region of Central America, to make the journey to the U.S. Interagency cooperation and communication are therefore critically important to addressing the current challenges.

If confirmed, I commit to building close working relationships with partner agencies within and outside of DHS, and to serving as an honest broker when it comes to CBP's needs on the ground. As a police chief, I believe in hearing from front-line officers and the community whenever possible. I will make it a priority to understand issues officers are seeing on the ground, and will share that intelligence to senior levels within the Department as best I can.

QUESTIONS SUBMITTED BY HON. ROBERT MENENDEZ

CARGO SECURITY AND EXAMINATIONS

Question. One third of all containers on the east coast of North America come through Port New York and New Jersey. In 2020 and despite the pandemic, the Port handled a record high 7.6 million TEUs. The Port of Newark is one of the largest ports in our Nation and contains multiple outlets to air, sea, and rail cargo.

What is the percentage, on average, of cargo containers being scanned in our ports today?

Answer. While I'm not aware of the specific percentages, if confirmed, I will certainly look into CBP's scanning capabilities. I look forward to working with your office to understand the specific needs or any gaps that may exist, and to address any concerns.

Question. Non-Intrusive Inspection (NII) Systems are critical for CBP's ability to quickly and effectively examine large volumes of commercial traffic at our ports of entry, what factors are used by CBP to prioritize funding for (NII) systems between our land borders and seaports?

Answer. While I'm not fully versed on CBP's criteria for prioritizing NII investments, I understand that Congress has provided significant funding in recent years to expand NII systems. If confirmed, I look forward to reviewing that process to understand how the agency makes funding decisions for these important systems, and would be pleased to work with your office to learn more about your priorities when it comes to screening at ports of entry.

Question. NII technology is a cornerstone of CBP's multilayered strategy of enforcement. Is muon tomography scanning technology effective at identifying anomalies within the contents of dense cargo containers that enter our seaports?

Answer. I agree that NII technology is a critical component in CBP's cargo security mission. While I'm not currently aware of muon tomography scanning technology's capabilities or effectiveness, if confirmed, I look forward to reviewing the technology to understand how it might augment the agency's current scanning capabilities at our seaports.

CBP OVERSIGHT AND ACCOUNTABILITY

Question. During the hearing, you were asked about the incidents involving border patrol agents using force against Haitian migrants at the border in Del Rio, and about how you planned to make sure agents were following U.S. and international law when encountering asylum seekers and refugees at the border. You responded that you planned to rely on training and hiring practices to address the issue. A

new Human Rights Watch report,¹ details systematic abuses by border patrol agents from 2016–2021, including sexual assault, and a lack of accountability for those responsible for such abuses. The report relied on internal records that were released only as a result of Freedom of Information Act (FOIA) litigation.

What measures would you take as CBP Commissioner to address the concerns raised in this report? Please detail how will you bring specific accountability to individual victims and improve serious deficits in transparency, oversight, and accountability within the agency.

Answer. Humane and respectful treatment of those with whom we interact is CBP’s highest responsibility, and the allegations made in that report represent gross violations of that charge. I agree that a full, fair, and impartial investigation is necessary in any instance in which officers are alleged to have violated the law or policy, or mistreated migrants in any way. If confirmed, I will seek out the status of investigations relating to the allegations you mention, and to ensure action is taken in response to any allegations found to be substantiated.

In my 13 years as a Police Chief, I have worked hard to establish the principle of “internal procedural justice” in each department I have led. This principle says that within a police department, officers should be able to understand the actions of their leadership, and face fair and predictable consequences for their own actions. My officers know that I believe in full, fair, and impartial investigations of any allegations of wrongdoing. They know that if they are found to have acted appropriately, I will stand behind them one hundred percent. Likewise, if they are found to be in the wrong, there will be swift, impartial accountability and consequences up to and including termination. This system provides justice not only for the public, and for the officers, but for the majority of their colleagues who carry out a difficult law enforcement mission under challenging circumstances honorably each day. If confirmed, I will set forth the same expectations for the men and women of CBP.

Finally, I believe in candor and transparency with the public in the agencies I lead. Though this is not always the easiest or most politically advantageous path, I have found that sharing information with the public we serve, including about the challenges we face, is the only way for us to improve. If confirmed, I commit to working with this committee and others to improve oversight of CBP, and to requesting additional resources if needed.

“REMAIN IN MEXICO” POLICY (MIGRANT PROTECTION PROTOCOLS, MPP)

Question. The administration issued a memo to terminate the Trump-era Return-to-Mexico (MPP) program in June of this year, but is now moving to reinstate the program as required by a Federal court order. Since the Biden administration took office, there have been another 6,356 reports of kidnapping, rape, torture, and other attacks against migrants blocked at ports of entry or expelled to Mexico by DHS and forcibly returned to Mexico under MPP.

Earlier this year, I urged the administration to issue a new termination memo for the Migrant Protection Protocols. A new DHS memo will help clarify that the agency was deliberate and thoughtful in its approach to rescission of MPP, and that the agency’s decision was neither arbitrary nor capricious but a sound exercise of judgement after extensive review of both the MPP program’s numerous problems and its fundamental lack of necessity.

Will you work to support the process of issuing a new memo terminating the MPP program? Can you provide a timeline for when this memo will be issued?

Answer. I share your humanitarian concerns regarding the previous iteration of the MPP program, and admire your leadership in encouraging treatment of migrants that upholds our responsibilities to provide asylum protections under the law. If confirmed as CBP Commissioner, I will uphold the law, including our statutory obligation to provide asylum protections to those found eligible and to secure our borders, as well as any court orders by which the Department and CBP are currently bound. I will certainly provide decision-makers within DHS and the administration with any information requested as they develop options to comply with recent court orders, while upholding our asylum obligations under statute.

As I am not yet in the agency, I cannot speak to the timeline for a new DHS memo relating to the MPP program, and would refer you to the Department.

¹ <https://www.hrw.org/report/2021/10/21/they-treat-you-you-are-worthless/internal-dhs-reports-abuses-us-border-officials#6949>.

QUESTIONS SUBMITTED BY HON. MIKE CRAPO

CBP COMMISSIONER DUTIES

Question. If confirmed, you will oversee the largest law enforcement agency and the second largest revenue-collecting source in the Federal Government. Your duties would cover the core missions of counterterrorism, border security, and trade enforcement, and facilitating travel of over 410million people through ports of entry, including managing nearly 60,000 employees and a budget of over \$18 billion—half of which is discretionary.

Are you prepared to lead and carefully carry out these significant responsibilities? If so, can you tell me how your previous experience may qualify you to do so?

Answer. As a Police Chief with 4 decades of law enforcement experience, I have a proven track record of transformational leadership, and a history of building diverse and unexpected stakeholder coalitions to further public safety objectives. I have lived alongside both borders, and have a keen understanding of the various ways trade and immigration can affect communities. And I believe that my reputation for serving as an honest broker, as well as a willingness to take politically unpopular positions, will serve me well in this role.

Like many members of this committee, I am awed by CBP's storied, 230-year history enforcing Customs laws and facilitating trade on behalf of the United States. The men and women I've met in the course of preparing for this role are exceptionally dedicated, knowledgeable, and competent, and I am committed to working hard to gain a fraction of their knowledge on the many complicated issues that make up the agency's trade portfolio. I also look forward to continuing to learn from members of this committee, many of whom have studied these issues for decades, as well as from the many members of CBP's large and diverse stakeholder community with whom I have interacted during this process—and to working together to address the various challenges facing our trade and border communities.

In each of the police departments I have led, I have built relationships with city managers, mayors, and elected officials based on mutual candor and respect, even when we disagree. In negotiations with the union that represents my current officers, I won trust by listening to their needs and acting as an honest broker. Following those negotiations, I led a successful effort to convince Tucson's City Council to give our officers the largest pay increase in the city's history—an ambitious proposal which ultimately passed unanimously. Not only was this the right thing to do by my officers, but I believe it was necessary to ensure our highly trained officers would stay with the Department. If confirmed, I will act as an honest broker on issues affecting CBP's missions, and I will advocate fiercely to ensure the men and women who make up CBP's workforce receive fair pay and have the resources needed to do their jobs.

Currently, I lead a department of over 1,000 employees in Tucson, AZ, less than an hour from the U.S. southern border. During previous surges, I have experienced firsthand the impacts on border communities when Federal agencies lack a plan to coordinate with State and local agencies to care for and house migrants. If confirmed, I would seek to improve those relationships. In addition, I will seek to the best of my ability to depoliticize the mission of CBP, and to reestablish a focus on professionalism, training, and building a culture of leadership and accountability, consistent with the high standard of trust our agents and officers hold with the public.

As I mentioned during my confirmation hearing, there will no doubt be areas in which I take a different view than my colleagues in the administration. Throughout my career, I certainly have not been afraid to advocate politically unpopular positions if I believe they are in the best interests of my workforce and mission. With that said, I also will not shy away from the reality that some facets of our broken immigration system can only be addressed through legislative reform. As an outsider to the agency, I believe my fresh eyes and willingness to question standard practices may prove to be an asset as we look for ways to address the challenges at the southern border.

Finally, I have focused throughout my career on the concept of "internal procedural justice," which says that within a police department, officers should be able to expect fair and predictable consequences for their actions. My officers know that I believe in full, fair, and impartial investigations of any allegations of wrongdoing. They know that if they acted properly, they will have my full support—and if they

acted wrongly, there will be swift, impartial accountability and consequences up to and including termination.

In recent years, much of the good work done by the men and women of CBP has been overshadowed in the public eye by reports of wrongdoing, often without any public resolution. If confirmed, I will work to promote a culture that rewards the overwhelming majority of CBP's workforce who do the right thing every day, while holding bad actors accountable.

TRADE FACILITATION AND ENFORCEMENT

Question. The discussion regarding trade facilitation and trade enforcement is often discussed as a trade-off. In other words, if you want to process trade efficiently, you have to give up something in terms of security.

To me, that's wrong. Trade facilitation and trade enforcement are complementary. Pre-screening at foreign ports, for example, reduces commercial burdens for goods, but also catches threats earlier.

If confirmed, how would you work to address CBP's responsibilities with respect to trade facilitation and trade enforcement? Please include any particular programs or technologies which you think need prioritization, as part of your answer.

Answer. I agree that both trade facilitation and enforcement must be complementary priorities, particularly within CBP's mission and operations. Effectively enforcing U.S. trade laws, while safeguarding the flow of lawful trade, helps ensure a balanced playing field for American workers, businesses, and consumers.

If confirmed, I will ensure that CBP has the appropriate staffing levels at the ports to manage the efficient and secure clearance of cargo. I have heard about staffing needs in conversations throughout the nomination process, and I want to ensure that the agency is best able to meet the facilitation and enforcement needs at ports of entry nationwide. I would also want to extend this conversation to the agency's trade experts and leaders, with proper resourcing for key teams within the Office of Trade, the Centers of Excellence and Expertise, and other key areas that contribute to CBP's enforcement of forced labor, intellectual property rights, anti-dumping and countervailing duty, and other critical trade laws.

I will also prioritize the development and modernization of technology resources, like the Automated Commercial Environment (ACE) system, inspection equipment, and other tools to meet the demands of both the facilitation and security missions. I have been encouraged to hear about CBP's efforts to modernize and innovate in both the facilitation and enforcement areas, particularly with tools like blockchain and data analytics. These tools become more important as our international trade and travel traffic increases, and as CBP staffing demands increase.

I also want to ensure that CBP's efforts to modernize align with the agency's authorities, which is why, if confirmed, I commit to learning more about the 21st Century Customs Framework and how the agency can work with Congress to ensure CBP has the tools and authorities to meet the complex enforcement and facilitation needs of the international trade landscape.

I also recognize that CBP's ability to successfully facilitate trade and enforcement trade laws requires strong relationships with a wide array of stakeholders. The Commercial Customs Operations Advisory Committee (COAC) and other trade groups, small businesses, labor organizations, Federal, State, and local partners, and many others all have a role in safeguarding the flow of legitimate cargo across our borders. I have built relationships with diverse groups of stakeholders throughout my law enforcement career, and would welcome the opportunity to continue to do so if confirmed to lead CBP.

21ST CENTURY CUSTOMS FRAMEWORK

Question. A major CBP initiative is its 21st Century Customs Framework. A key element of it is to improve CBP's visibility into supply chains. Such visibility can help address any number of problems, including attempts to evade antidumping and countervailing duties.

However, I want to make sure we do not simply collect data for the sake of having data. In fact, too much information can be counterproductive and prevent us from identifying threats or challenges. We need to collect the right type of data, and leverage it efficiently, including with stakeholders and our foreign partners.

If confirmed, how would you make sure CBP's data collection efforts are not unreasonably burdensome?

Answer. I agree that data collection and other enforcement efforts must not be overly burdensome, particularly for small businesses that may not have the same level of resources as larger companies. If confirmed, I will seek out input from the stakeholders most likely to be adversely impacted by any CBP data requirements. I know the Commercial Customs Operations Advisory Committee (COAC) plays an important advisory role, and I will engage closely with COAC to understand the impacts of any agency proposals. I would also expand these discussions to include other trade groups, small businesses, labor organizations, Federal agency partners, and many others that might impact or be impacted by CBP's facilitation and enforcement priorities. I have spent much of my career building relationships with a broad range of stakeholders, and would continue to do so if confirmed to lead CBP.

CRITICAL RACE THEORY

Question. On June 10, 2021, the Federal Law Enforcement Officers Association (the Association), which represents Federal law enforcement officers and agents across 65 Federal agencies and supports U.S. Border Patrol Agents and Officers, issued a letter to the chairman and ranking member of the Senate Committee on Homeland Security and Governmental Affairs to express concern over a nominee's "embracement of radical theories such as 'critical race theory.'"

The Association letter called into question the "nominee's ability to neutrality, fairness, and impartiality." It further explained that extremist views have no place in the Federal workforce, and that radical theories "stand in stark contrast to the administration's own positions on wanting to unite our Nation."

Separately, the Association's leadership came out against President Biden's COVID-19 vaccine mandate that includes the Federal workforce, stating that it "villainizes employees" for having concerns or being hesitant to be vaccinated. The Association's President said that "our Federal Government should trust its employees to make their own medical decision under consultation with their doctor, not mandate by their employer." The Association's President is also quoted as saying that "vaccination should be promoted through education and encouragement—not coercion."

Do you agree with the Association's position against President Biden's COVID-19 vaccine mandate, which includes the Federal workforce generally and U.S. Border Patrol Agents and Officers in particular?

Answer. As a former paramedic and emergency medical technician with 4 decades' experience in public safety, I take public health concerns very seriously. I am supportive of any and all appropriate measures necessary to combat the spread of COVID-19, including mandating vaccinations for Federal agents whose jobs entail frequent contact with the public.

With that said, I commit to serving as an honest broker in understanding the concerns of CBP's workforce across all areas. If confirmed, one of my first priorities will be to spend time with front-line agents to get a sense of the issues and concerns they face so that I am better able to advocate for their interests in the future. If there are reasonable steps I can take to show their concerns are being heard, I will always be open to doing so.

Question. Do you agree with the Association's concerns about incorporating what it characterizes as "radical theories such as 'critical race theory,'" given the Association's suggestion that embracing such ideology within the Customs and Border Protection agency could call into question issues of neutrality, fairness, and impartiality?

Answer. If confirmed as CBP Commissioner, I will view it as my responsibility to foster an inclusive and professional environment in which officers, agents, and administrative personnel treat one another with respect, enjoy the support of their respective leadership teams, and feel empowered to contribute to CBP's mission to the best of their ability each day. I believe that the principles of equality, fairness, and mutual respect are critical to such an environment.

Question. The Federal Law Enforcement Officers Association (the Association), on September 28, 2021, issued a press release expressing its support for U.S. Border Patrol Agents and Officers working to maintain safety and security at our borders. According to the press release:

The administration repeatedly claims “the border is not open,” yet the wave of individuals entering the country illegally and the lack of resources and personnel to respond to these entrances makes it clear the border is functionally open. . . . The administration must be honest about the crisis on the ground and give Federal law enforcement officers deployed to our borders the tools to enforce the law. . . . The answer is simple; the administration must reinstitute the border policies that work, including the Remain in Mexico policy and denial of asylum or other claims without the supporting evidence. The safety of all Americans requires a return to rule of law at the border.

Do you agree with the Association’s assessment of a crisis situation at the border and, if not, what, in particular, do you disagree with in the portions of the Association’s September 28, 2021 press release provided above?

Answer. If confirmed as CBP Commissioner, my job will be to enforce the laws as written by Congress and interpreted by the courts. I agree that the current level of encounters at the southwest border presents significant challenges, particularly combined with an immigration system that most members seem to agree is broken. Border Patrol agents are often charged with performing administrative and processing roles they were not hired to do, and for which they may lack training. This situation presents difficulties not only for the agents, who face low morale at a time of very high encounters, but for migrant safety and the integrity of our asylum system, which is not adequately staffed to adjudicate claims quickly.

If confirmed as CBP Commissioner, I will be responsible for enforcing the law and facilitating trade. I will advise decisionmakers regarding what I see on the ground, and will advocate for resources, staffing, training, and support to allow CBP’s workforce to carry out its mission. In some cases, this will mean hiring additional Border Patrol Processing Coordinators to assist in transferring vulnerable minors to HHS custody, or helping ensure asylum seekers are processed in a safe, fair, and orderly manner. In others, it may mean advocating for investments in technology, such as surveillance towers, sensors and other detection capabilities; recruiting and pay incentives; and other resources in order to help agents and officers do their jobs efficiently and safely.

QUESTIONS SUBMITTED BY HON. JAMES LANKFORD

Question. As you are aware, over 1.5 million migrants were encountered by CBP this fiscal year. Of those 1.5 million, 958,795 were processed under title 42 and 582,856 were processed under title 8.

Has title 42 been an effective tool for managing the flow of migrants to the southwest border?

Answer. As you know, title 42 is a public health authority held by the CDC, and my understanding is that it has proven to be an effective and useful tool to limit entry into the country as public health authorities have worked to slow the spread of COVID. With that said, I agree with many who say that we need a plan for when the public health emergency ends, as we cannot rely on this temporary authority on a permanent basis for border enforcement.

Question. What are your plans for managing the flow of migrants to the southwest border after the CDC lifts the title 42 authority?

Answer. If confirmed as CBP Commissioner, my responsibility will be to enforce the law. I agree that public health authorities designed to slow the spread of a pandemic should not be used or viewed as a method to have a functioning immigration system. If confirmed, I commit to quickly review and assess the current planning for the end of title 42, and to working with your office and others as appropriate to ensure CBP has the tools it needs, including through comprehensive reform to fix the current, broken system.

Question. The Obama administration called for certain reforms to the asylum process, including to the Trafficking Victims Protection Reauthorization Act of 2008, to address the treatment of unaccompanied minors who cross the southwest border.

Do you believe that reforming section 235 of the Trafficking Victims Protection Reauthorization Act, specifically the provisions regarding unaccompanied minors from contiguous countries, would make your job more or less difficult? Why?

Answer. I am not intimately familiar with the details of section 235 of the Trafficking Victims Protection Reauthorization Act, but if confirmed, I commit to learning about this legislation, including from my colleagues from the State Department and from your office and others in Congress. Speaking very broadly, it is apparent to me that a severe backlog of cases in immigration courts means we are unable to expeditiously grant asylum protections to those who are eligible, while quickly sending others home—the hallmark of a functioning system. In the course of my confirmation process, it has become clear that these concerns are shared by members and stakeholders from all parts of the political spectrum, and if confirmed, I will continue to urge Congress to take up bipartisan reform, as I believe it is crucial to improving our border security while ensuring fairness for migrants.

Question. During the hearing and in our meeting, we discussed the need to reform the asylum program in order to ensure it works properly.

What specific aspects of the asylum program need reform, and what does that reform look like in your opinion?

Answer. As you and I discussed, it is clear to me that our immigration system is broken. Under the current system, we are unable to expeditiously grant asylum protections to those who are eligible, while quickly sending others home—the hallmark of a functioning system. Agents hired and trained to secure the border between our ports of entry are often charged with processing vulnerable children and families seeking asylum protections at our borders, often in cramped Border Patrol stations far from needed medical services. As we have seen in previous years, as well as this summer, unanticipated surges of large numbers of migrants to our southern border can overwhelm CBP resources and capacity in any given sector, leading to safety and health risks for both migrants and CBP personnel. In the course of my confirmation process, it has become clear that these concerns are shared by members and stakeholders from all parts of the political spectrum.

If confirmed, my responsibility will be to enforce the law and facilitate trade, not to set immigration policy. With that said, I certainly commit to advising decision-makers, including Congress, regarding what I see on the ground, to advocating for adequate resources, staffing, training, and support to allow CBP's workforce to carry out its mission, and to working cooperatively with Congress on a bipartisan basis to provide CBP input on legislative proposals to fix our broken immigration system.

Question. During the hearing, you stated that you believed the border situation was “urgent” but you failed to call the ongoing situation a crisis. Leaked information obtained by *The Washington Post* and NBC News suggests that CBP encountered more than 192,000 migrants during September 2021. Assuming these numbers are accurate, CBP would have encountered over 1.7 million migrants this fiscal year—the most in recorded history.

Can you please share your assessment of this ongoing situation at the southwest border and the administration's response to that situation?

Answer. I agree that the current level of encounters at the southwest border presents significant challenges. Border Patrol agents are often charged with performing administrative and processing roles they were not hired to do, and for which they may lack training. This situation presents difficulties not only for the agents, who face low morale at a time of very high encounters, but for migrant safety and the integrity of our asylum system, which is not adequately staffed to adjudicate claims quickly. What's more, as we have seen in previous years, as well as this summer, unanticipated surges of large numbers of migrants to our southern border can overwhelm CBP resources and capacity in any given sector, leading to safety and health risks for migrants and CBP personnel, increased time in CBP custody for unaccompanied minors, and transportation and logistical challenges that might otherwise be avoided. Although the men and women of CBP have overwhelmingly risen to meet this incredibly difficult challenge, the current system has no doubt led to issues in terms of safety of migrants, Border Patrol agents, and border communities; border security between the ports of entry; and agent morale.

As I noted in my confirmation hearing, I do believe our immigration system is fundamentally broken. In the course of my confirmation process, it has become clear that these concerns are shared by members and stakeholders from all parts of the political spectrum. If confirmed as CBP Commissioner, my job will be to enforce the laws as written by Congress and interpreted by the courts—but I would also certainly hope to work with Congress on a bipartisan basis to address the current, broken system.

Question. If confirmed, you have committed to “making a difference.” What steps would you take to make a difference with regards to the ongoing situation at the Southwest border?

Answer. If confirmed, I commit to acting as an honest broker to understand the law enforcement, border security, resource, and personnel challenges that CBP faces, and to identifying common-sense solutions wherever possible. As one example, I understand there is bipartisan agreement on the need to recruit and hire Border Patrol Processing Coordinators, a position that would reduce some of the current administrative burden on Border Patrol agents so they can get back to the roles for which they are trained, and to ensure CBP effectively meets its obligations within the asylum process. If confirmed, I would hope to identify solutions like these in a broad range of areas to address our current challenges, and to work with you and this committee on commonsense solutions to address the challenges CBP currently faces.

In addition, throughout my career, I have worked hard to improve officer morale in the Departments I’ve led, including by addressing resource issues, as well as tough topics like officer resiliency and mental health. If confirmed, I want to do as much as I can to improve morale, resiliency, and retention within Border Patrol, the Office of Field Operations, Air and Marine Operations, and CBP generally.

CBP’s officers and agents have a challenging job, and remote areas near our borders in particular are difficult areas for recruiting and retaining personnel. As CBP Commissioner, I do not intend to try to lead from my desk, but instead want to get out to the borders and ports of entry to speak with frontline agents and officers, and understand the issues they experience when it comes to resourcing, training, and support from their leadership. In addition, I would look forward to working with your office to better understand the concerns you have heard, and to identify solutions to address them.

Question. Given that around 1.7 million migrants illegally crossed the border this year, what operational or policy changes that have been implemented by the current administration should be changed in order to make a difference and respond to the ongoing crisis? If confirmed, what will your plans be for implementing those policy changes?

Answer. If confirmed as CBP Commissioner, I will be responsible for enforcing the law and facilitating trade. I certainly agree with you that the current level of encounters at the southwest border presents significant challenges. If confirmed, I commit to acting as an honest broker to advise decisionmakers regarding what I see on the ground, including what I’m hearing from frontline Border Patrol agents.

In addition, I will absolutely advocate for resources, staffing, training, and support needed to allow CBP’s workforce to carry out its mission. In some cases, this will mean hiring additional Border Patrol Processing Coordinators to assist in transferring vulnerable minors to HHS custody, or helping ensure asylum seekers are processed in a safe, fair, and orderly manner. In others, it may mean advocating for investments in technology, such as surveillance towers, sensors and other detection capabilities; recruiting and pay incentives; and other resources in order to help agents and officers do their jobs efficiently and safely. Finally, I will continue to urge Congress to take up bipartisan legislative reform, as I believe it is crucial to improving our border security while ensuring fairness for migrants.

Question. The Fifth Circuit ordered that the Biden administration resume the Migrant Protection Protocols. If confirmed, you would be involved in this process.

Have you received any briefings from CBP or DHS on the resumption of the Migrant Protection Protocols?

Answer. The briefings I received from CBP or DHS regarding the resumption of the Migrant Protection Protocols only included publicly available information.

Question. If confirmed, what steps would you take as CBP Commissioner to comply with the Fifth Circuit’s order and resume the Remain in Mexico program?

Answer. If confirmed as CBP Commissioner, I will uphold the law, including our statutory obligation to provide asylum protections to those found eligible and to secure our borders, as well as any court orders by which the Department and CBP are currently bound. I will certainly provide decisionmakers within DHS and the administration with any information requested as they develop options to comply with recent court orders while upholding our asylum obligations under statute.

Question. Have you met with the Border Patrol Council prior to your nomination hearing? If confirmed, what will your relationship to the Border Patrol Council be?

Answer. I have met with the Border Patrol Council prior to my nomination hearing, and they have a standing invitation to come and meet with me in Tucson whenever they would like. In each of the police departments I have led, I have placed great importance on relationships with my officer, including the labor unions that represent them. In negotiations with the union that represents my current officers, I won trust by listening to their needs and acting as an honest broker. Following those negotiations, I led a successful effort to convince Tucson's City Council to give our officers the largest pay increase in the city's history—an ambitious proposal which ultimately passed unanimously. Not only was this the right thing to do by my officers, but I believe it was necessary to ensure our highly trained officers would stay with the Department.

If confirmed as CBP Commissioner, one of my first priorities will be to spend time with front-line agents to get a sense of the issues and concerns they face so that I am better able to advocate for their interests in the future. If there are reasonable steps I can take to show their concerns are being heard, I will always be open to doing so. I will act as an honest broker on issues affecting CBP's missions, and I will advocate fiercely to ensure the men and women who make up CBP's workforce have the resources needed to do their jobs.

Question. During the hearing, Senator Warren asked you about the incident in Del Rio involving horseback units in U.S. Border Patrol. You answered that the "images were troubling" and that you thought it was "very important that we be fair and allow the investigation to move in whatever direction it does as facts are gathered." You then commented that you were not going to "prejudge" the investigation.

As you are aware, President Biden stated in response to the images: "I promise you: those people will pay. . . . There is an investigation underway right now and there will be consequences. . . . It's an embarrassment. It's beyond an embarrassment. It's dangerous, it's wrong. It sends the wrong message around the world. It sends the wrong message at home. It's simply not who we are."

In light of the remarks quoted above, do you believe that President Biden has "prejudged" the investigation? Please answer "yes" or "no."

In light of the remarks quoted above, do you believe that President Biden's comments were "fair" to the parties involved? Please answer "yes" or "no."

Have you received any briefing or information on this investigation or situation prior to your hearing?

If you are confirmed and the parties involved are cleared of wrongdoing upon conclusion of the investigation, will you commit to providing a public apology to the parties involved?

Answer. As a police chief for over 13 years, my job has been to ensure my workforce has the full support of its leadership, while making clear that any allegations of wrongdoing will be swiftly investigated, and substantiated allegations met with swift, impartial consequences. If confirmed as CBP Commissioner, I will make the same commitment to the men and women of CBP. I have not been briefed on any non-public information relating to this incident, but my understanding based on public information is that the investigation is ongoing, and that findings are results have not yet been shared. If confirmed, I am committed to transparency and accountability, and would see no problem with releasing the results of the investigation to Congress, and if at all possible, the public. In addition, you have my commitment that I will fiercely advocate for the independence of internal investigations within CBP.

With that said, in general, I shared the reaction of many to the images we saw from Del Rio. Regardless of whether policies were violated, a discussion about tactics is in order. As a Police Chief, I have long questioned the appropriateness and safety of using horse patrols to apprehend subjects in crowds or within close proximity, rather than for transport through remote areas and tracking and detection. I believe this practice risks the safety of officer and subjects. If confirmed, I commit to better understanding the use of horse patrol in crowds, and would be happy to share my findings with Congress.

Question. There are different technological solutions to addressing drug interdictions at our ports of entry, and these solutions implicate a complex acquisition process.

Can you walk me through your understanding of the technologies that are available for drug interdiction at our ports?

Answer. My understanding is that CBP takes a layered approach to drug interdiction at ports of entry, using an array of technology and capabilities to target, inspect, and ultimately interdict illicit drugs at ports of entry. This includes sophisticated automation and targeting tools, which use intelligence and advance information to identify potential smuggling attempts before even reaching a port. At the ports, technologies like non-intrusive inspection equipment allow CBP personnel to scan cargo containers, vehicles, and packages to detect opioids or other illicit narcotics. I also recognize from my years in law enforcement that other tools and capabilities, like drug-detection canines, are an important and effective complement to higher tech solutions. While all these tools are critical to stopping drugs from entering the U.S., it is important that they be integrated in a way that serves CBP personnel, and allows CBP Officers to quickly clear legitimate cargo and travelers, and focus on the enforcement mission.

If confirmed, I will work closely with your office, the committee, and leaders and experts in the technology sector to understand what other innovations are available and could be effectively and efficiently implemented in the field.

Question. What inspection processes are in place for northbound traffic at our ports of entry, and how would you improve those processes to better catch the drugs that flow through those ports?

Answer. While I am not fully versed on CBP's inspection processes at ports of entry along the southwest border, I know that the agency employs a layered, risk-based approach to inspecting northbound cargo and travelers. This starts with advanced targeting and analytics, using data, intelligence, and information sharing to identify potential bad actors and criminal networks attempting to smuggle illicit narcotics into the U.S. This targeting process, led in large part by the agency's National Targeting Center, puts actionable information in the hands of CBP personnel at the ports, who can use scanning technology, canines, and their training to effectively identify and interdict northbound narcotics smuggling attempts.

If confirmed, I will spend time with CBP's experts to get a better understanding of what needs exist in the field, and to identify gaps where technology, staffing, information sharing, or other tools can enable them to more effectively interdict illicit drugs. I will also establish relationships with my counterparts in Mexico to see where better intelligence and information sharing could support our work at the ports. I will also be eager to learn from you and your staff about what gaps may exist, where technology may be available, and what partnerships could help CBP more effectively stop the flow of drugs into the U.S.

Question. What inspection processes are in place for southbound traffic at our ports of entry, and how would you improve those processes to better catch the firearms and cash that flow through those ports?

Answer. I share your concerns about the southbound flows of cash and firearms from the U.S. If confirmed, I will certainly work with CBP's experts and others to gain a better understanding of the specific inspection and enforcement efforts underway. There is also an important role for CBP's partners at the Federal, State, and local levels. From my time in local law enforcement, I know that departments and agencies at all levels, particularly those operating near the southwest border, have access to information that could be useful to southbound interdiction efforts. I will encourage CBP's field and headquarters leadership to better gather and share information that would enhance the enforcement mission. I would take a similar approach with counterparts in Mexico, working with them to gain a clearer understanding of areas for further collaboration that might enable better southbound enforcement.

Question. What are your plans for addressing the different standards for inspection and for more quickly acquiring and deploying effective tech?

Answer. If confirmed, I will certainly look into inspection standards for both northbound and southbound traffic, as well as the technology acquisition and deployment processes in the port environment. I want to gain a better understanding of where disparities may exist and how improvements can and should be made. CBP's role stopping the smuggling of contraband and illicit goods, in both directions, is critical to communities on both sides of the border. I recognize that the trade and travel communities, State and local stakeholders, congressional offices, and international partners have equities in these standards and deployment of any new tech-

nology. I am also eager to work with you and your colleagues to address any legislative solutions that might be necessary to improve our inspection efforts and secure targeted investment in technology that supports CBP's mission.

Question. U.S. Customs and Border Protection (CBP) and the General Services Administration (GSA) jointly share responsibility over managing our ports. CBP retains some land use acquisition and use authority and through that authority does retain the sole custody over certain ports, but GSA often jointly manages our ports and related with CBP. Further complicating matters, GSA often draws funds from the Federal Building Fund to invest in port modernization projects. The Federal Building Fund also funds Federal office buildings across the states and Federal courthouses.

Can you walk me through your understanding of the relationship between GSA and CBP?

If confirmed, what steps would you take to improve this relationship?

Answer. As you know, GSA's mission is very broad, particularly with regard to maintenance and investment in Federal buildings and facilities. My understanding is that GSA and CBP work together to prioritize port infrastructure projects and investments, and GSA ultimately manages many of these improvement projects. If confirmed, I will meet with GSA leadership to better understand how State and local, along with CBP's priorities at ports of entry fit into that mission. More importantly, I will advocate for infrastructure investments at ports with significant needs nationwide, as I have heard from an array of stakeholders citing concerns about ports in need of critical investment and improvement.

I am eager to work with you, your congressional colleagues, and other stakeholders in the trade and travel communities to better understand the port investment process and support critical modernization where most needed.

Question. You have previously criticized the border wall and have written that you think that there are better ways to address border security. As you are aware, Congress had appropriated a sizeable amount of money to CBP to build the border wall, and around \$1.9 billion dollars remained available for obligation when President Biden took office.

If confirmed, what will your plans for those \$1.9 billion be?

Answer. I am not categorically opposed to any measure, and as you and I discussed, I absolutely think physical barriers play a role in our border security along with technology and personnel. For example, in remote stretches of desert, I understand fencing is useful to slow down vehicles traveling at high speeds so that they can be identified and apprehended. With that said, I believe there are many areas along the border where additional barrier likely does not make sense, either because the environment is too remote, the terrain provides a natural barrier, or technological solutions are more appropriate. In addition, I understand that much of the land along the border in Texas presents legal challenges that were not present in New Mexico, Arizona, and California where more significant sections of wall had previously been completed.

With that said, I am not currently in a position to evaluate how effective or appropriate investments in physical barriers may be, compared with other needed investments, including in technology, such as surveillance towers, sensors and other detection capabilities; recruiting and pay incentives; and other resources in order to help agents and officers do their jobs efficiently and safely. If confirmed, I intend to speak with as many front line Border Patrol agents as possible to understand their needs on the ground, and I commit to seeking the resources and investments needed to ensure they can effectively and efficiently carry out their duties. I would be pleased to work with your office and others to better understand your views on these issues.

Question. If confirmed, will you commit to the following: closing sections of the border wall where the gates still need to be hung; completing sections of the border wall where there are already purchased materials; powering gates in sections of the border wall where ranchers cannot access their lands; rebuilding sections of the border wall where the levees have not been put back in; and carrying out the contracts for and installing fiber-optic cables, lights, cameras, and other technologies across the U.S./Mexico border?

Answer. If confirmed, I am open to considering any option that increases the effectiveness of our Border Patrol agents while maintaining the safety of agents, mi-

grants, and the surrounding communities, and which does not unnecessarily harm the nearby environment, and to advocating for the adoption of such commonsense approaches to the best of my ability. As you and I discussed, I believe technology is a critical piece of our border security mission, and I will not hesitate to advocate for needed resources to assist the men and women of the Border Patrol in carrying out their work. In addition, I understand that you and a number of other members have concerns and questions relating to gates in the wall that remain unfinished.

With that said, I am not yet familiar with the details of all of the contracts or proposals you mention, and am not currently in a position to evaluate how effective or appropriate they may be compared with other needed investments. I am also not aware of the entire universe of considerations that may be present in evaluating some of these options. For example, I understand that much of the land along the border in Texas presents legal challenges that were not present in New Mexico, Arizona, and California where more significant sections of wall had previously been completed.

If confirmed, I intend to speak with as many front-line Border Patrol agents as possible to understand their needs on the ground, and to working with your office and others to understand the concerns you have relating to our border security investments. In general, I hope you will find that I am open to advocating for common-sense solutions regardless of the political implications, so long as these solutions advance agent and migrant safety and do not do unnecessary harm to the surrounding communities. If confirmed, I commit to seeking the resources and investments needed to ensure that the men and women of Border Patrol can effectively and efficiently carry out their duties.

Question. The CBP Preclearance program is the strategic stationing of CBP personnel at designated foreign airports to inspect travelers prior to boarding U.S.-bound flights. Currently, CBP has more than 600 officers and agriculture specialists at sixteen Preclearance locations in Canada, Ireland, the Bahamas, Bermuda, Aruba, and the United Arab Emirates. With Preclearance, travelers bypass CBP and Transportation Security Administration (TSA) inspections upon U.S. arrival and proceed directly to their connecting flight or destination. Preclearance is a key element of our national border and customs strategy that prevents inadmissible travelers and goods from boarding U.S.-bound flights, while also expanding economic benefits of tourism, trade and travel for the U.S. and partner countries.

CBP has been working towards a goal of preclearing as many as one-third of U.S. bound travelers by 2024. Do you intend to continue the agency's pursuit of that objective? What next steps will you take to expand Preclearance access at airports and terminals worldwide?

Answer. I share your view that the Preclearance program is an important and innovative tool for both economic and security partnerships around the world. I recognize the critical role of the Preclearance program in the agency's layered and risk-based approach to border and national security, as well as its impact on the partner nations in which Preclearance locations operate. I understand there are specific standards as part of CBP's process to establish a Preclearance location, as well as any partner country's ability to provide funding and authorities for Preclearance operations. If confirmed, I will certainly review the agency's plans to expand Preclearance operations, while also balancing those needs with staffing demands at U.S. ports of entry.

Question. In 2016, CBP and the Government of Taiwan initiated exploratory discussions about establishing Preclearance at Taoyuan International Airport (TPE), which is the 11th businesses airport worldwide.

In your assessment, would Preclearance at TPE be beneficial to the U.S. economy?

As Commissioner, will you commit to continuing these exploratory discussions and working constructively with Taiwan towards the goal of establishing Preclearance at TPE?

Answer. I certainly recognize the importance of the United States' partnership with Taiwan and understand the significance of the relationships that CBP establishes with Taiwanese counterparts. While I'm not familiar with the details of Taiwan's Preclearance application, I do know that the Preclearance program is an important tool in CBP's layered and risk-based approach to border and national security. I understand there are a number of standards and thresholds as part of CBP's process to establish a Preclearance location, and if confirmed, I will certainly review the application and any decisions made regarding Taiwan's application.

QUESTIONS SUBMITTED BY HON. CHUCK GRASSLEY

Question. During our exchange in your confirmation hearing, you committed to providing a response in writing regarding what, in your view, is the statutory basis for the Notice to Report process that has been utilized by U.S. Customs and Border Protection (CBP) in recent months. Please provide that response here.

Answer. It is my understanding that Notices to Report are a form of prosecutorial discretion.

Question. During our exchange regarding the Notice to Report process during your confirmation hearing, you stated that “Obviously, the better practice would be to have individuals be Noticed to Appear as opposed to Noticed to Report.” That being the case, will you commit to expeditiously terminating the Notice to Report process and returning CBP to the standard practice of issuing Notices to Appear if confirmed as Commissioner of CBP?

Answer. It is my understanding that Notices to Report are not currently being issued by CBP. With that said, if confirmed, I certainly commit to working towards a goal of maximizing issuance of Notices to Appear where warranted, while at the same time minimizing the length of time that individuals spend in CBP facilities.

Question. Earlier this year, the Biden administration announced the creation of “humanitarian exceptions” to the order issued by the Centers for Disease Control and Prevention (CDC) pursuant to sections 362 and 365 of the Public Health Service Act, commonly referred to as the title 42 order.

During our exchange in your confirmation hearing, I asked you for your views on the scope of humanitarian exceptions to the title 42 order and the extent to which they should be utilized. In response, you said that you would “need to learn more about” the exceptions and have more information in order to answer the question.

I hope that you have been able to learn more about the title 42 humanitarian exceptions since that time, and I would like you to provide a response to that question here.

Answer. Thank you for the additional time to respond. As you know, title 42 is a public health authority held by the CDC. It is my understanding that the administration retains the ability to set its own immigration priorities, including providing humanitarian or other exceptions to the rule, if it deems appropriate. I would defer to administration and public health officials as to the appropriate balance between providing some humanitarian relief to vulnerable families, while taking steps to limit the spread of the COVID-19 pandemic. Moreover, if confirmed, I will certainly comply with any decision by the judicial branch related to the implementation of the CDC’s title 42 public health authority.

Question. If confirmed as Commissioner of CBP, will you commit to working faithfully and expeditiously to reimplement the Migrant Protection Protocols (MPP) in compliance with the August 13th Federal district court order from the Northern District of Texas?

Answer. If confirmed as CBP Commissioner, I will uphold the law, including our statutory obligations to provide asylum protections to those found eligible and to secure our borders, as well as comply with any court orders by which the Department is bound.

Question. As you are aware, there have been widespread media reports regarding videos and photographs of mounted Border Patrol agents, who are employees of CBP, positioned on the banks of the Rio Grande River attempting to disperse Haitian migrants who were crossing the river.

These photos and videos led to the creation of a false narrative that mounted Border Patrol agents were engaged in the “whipping” of migrants, a claim the photographer himself has publicly refuted. Despite that, numerous senior administration officials, including Secretary Mayorkas and President Biden, have made harsh public statements about the agents and their actions. DHS is currently undertaking an internal investigation of the matter.

If this internal DHS investigation confirms that the Border Patrol agents involved did not, in fact, whip any migrants, will you—if confirmed as Commissioner of CBP—commit to ensuring that they receive a public apology on behalf of the agency for the way that they have been portrayed in recent weeks?

Answer. If confirmed as Commissioner, ensuring the integrity and fairness of our internal procedural justice process will be one of my highest priorities. This means

that officers should be able to expect a fair, impartial investigation in any instance of alleged wrongdoing. I commit that if the current investigation finds that these officers to have acted properly, they will have my full support. Conversely, if they acted wrongly, they will face swift and impartial consequences.

As I stated during my confirmation hearing, if confirmed, I am committed to transparency and accountability, both for agency leadership and our agents, and would see no problem with releasing the results of the investigation to Congress, and if at all possible, the public.

Question. In written testimony to the Senate Judiciary Committee on December 12, 2018, you said that you agreed with the statement that constructing physical barriers along the southern border was a “medieval solution to a modern problem.”

In 2006, Congress passed the Secure Fence Act, which authorized the construction of hundreds of miles of fencing/physical barriers along the southern border. It passed the U.S. Senate by a vote of 80–19, and was supported by 26 Democratic senators—including then-Senator Barack Obama, then-Senator Hillary Clinton, then-Senator Joe Biden, and Senator Schumer.

Do you believe that, in voting for passage of the Secure Fence Act of 2006, 80 United States Senators, including three future Democratic Party presidential nominees and two future Democratic presidents, voted for a “medieval solution to a modern problem?”

Answer. As you may have seen in the written statement you reference, the quote likening the border wall to a “medieval solution to a modern problem” was by an elected Republican sheriff and colleague of mine here in Arizona, who is responsible for policing a community with 125 miles of border. I believed at the time, and still do, that a physical barrier in itself is an incomplete solution to our border security, and must be combined with technology and people in the right places in order to be effective.

Question. Are you opposed to the construction of any new physical barriers along the southern border?

Answer. I am not categorically opposed to any measure. With that said, I believe there are many areas along the border where additional barrier likely does not make sense, either because the environment is too remote, the terrain provides a natural barrier, or technological solutions are more appropriate.

Question. Do you believe that physical barriers have any role to play in securing the southern border? If not, why not? If so, how and where do you think they should be deployed?

Answer. I absolutely think physical barriers play a role in our border security, along with technology and personnel. For example, in remote stretches of desert, I understand fencing is useful to slow down vehicles traveling at high speeds so that they can be identified and apprehended.

Question. In response to one of my questions during our exchange at your confirmation hearing, you said, “I think it’s very important that local communities do work with Federal agencies that include ICE and the Border Patrol.”

My understanding is that it is commonplace for Chiefs of Police in border communities to have an open working relationship with the Border Patrol Chief in their area. For example, it is my understanding that the Chief of Police in McAllen, TX has an open working relationship with the Chief Border Patrol Agent in the Rio Grande Valley Sector. I believe that similar dynamics exist in the El Paso, El Centro, Del Rio, San Diego, and Yuma Sectors.

Prior to your nomination, how open was your working relationship with the Chief Border Patrol Agent in Tucson Sector?

Answer. As you note, as a local police chief, I have always found relationships with Federal, State, and other law enforcement agencies incredibly important.

There have been several Sector Chiefs in Tucson during my time there. I had a positive relationship with the current USBP Tucson Sector Chief prior to my nomination to this position, and it has remained that way in the 6 months since.

Question. Can you give me specific examples of the times you spoke with and worked with the Chief Border Patrol Agent in Tucson Sector?

Answer. My Department holds monthly meetings with the current USBP Sector Chief, including in the 6 months since I was nominated to serve as CBP Commissioner.

Question. Again, in response to one of my questions during our exchange at your confirmation hearing, you said, “I think it’s very important that local communities do work with Federal agencies that include ICE and the Border Patrol.”

In March 2017, it was reported that the Tucson Police Department, of which you serve as Chief, impeded a Border Patrol operation.

The case involved an individual named Carlos Erazo-Velasquez who escaped from Border Patrol custody after being taken to a hospital for evaluation. Erazo-Velasquez had been taken into custody for illegal entry and assaulting an agent during his initial detention. Some reports indicated that, in addition to ceasing efforts to assist Border Patrol in the case, the Tucson Police Department went so far as to refuse the Border Patrol’s request to set up an incident command post in a police department substation parking lot.

Reports indicated that the Tucson Police Department apparently made these decisions due to the “current political climate” surrounding immigration enforcement.

Given that you were the Chief of Police in Tucson at the time, can you provide an explanation for the Tucson Police Department’s actions in this case?

Answer. In the incident you describe, the Tucson Sector Border Patrol contacted my department to request assistance in locating an individual who had escaped their custody. We worked closely with their officers to search for the individual for over 2½ hours, as well as devoting numerous additional resources to support the search for the escaped individual. I would have to direct you to the source of the story cited above for an explanation as to that version of it.

Question. Do you deny that the “political climate” surrounding immigration enforcement at the time played any role in the Tucson Police Department’s decision-making in this case?

Answer. Yes, I do. The request to set up in a substation parking lot was denied because it was not located near the escapee’s last known whereabouts.

Question. There are approximately 1.2 million illegal immigrants in the United States with final orders of removal, meaning that they have received due process and have been ordered removed from the United States by an immigration judge. Do you agree that they should all be removed from the United States in an expeditious manner?

Answer. I agree that immigrants with final orders of removal are subject to deportation from the United States. With that said, in my experience as a police officer, I am very familiar with the concept of officer discretion, and believe most, if not all, Police Chiefs would say they find it necessary in order to focus on threats to public safety. In relation to the example above, I would defer to ICE as the agency charged with interior enforcement as to whether removal is feasible or appropriate for all 1.2 million individuals referenced here.

Question. If reports are correct, CBP will soon confirm that in Fiscal Year 2021 it had the highest ever number of encounters with illegal immigrants attempting to cross the southern border in any fiscal year since records began. Do you agree with former Border Patrol Chief Rodney Scott that this unprecedented surge at the southern border poses a national security threat?

Answer. I think there’s no question that the current high level of encounters at the southwest border has an impact on Border Patrol resources and bandwidth. It is my understanding that many of those encounters are repeat attempts under title 42 public health authorities and may be a historic anomaly, but that doesn’t reduce the impact of the current situation on Border Patrol’s workforce.

With that said, one of CBP’s core missions is securing America’s borders. I take discussion of potential threats to our national security seriously, and if confirmed, I commit to seeking up to date briefings on the current threat landscape, and to requesting additional support from our partners if appropriate.

Question. Do you believe that COVID-19 vaccines should be mandated for illegal immigrants before they are released from DHS custody into the interior of the United States?

Answer. As a former paramedic and emergency medical technician with 4 decades' experience in public safety, I take public health concerns very seriously. I am supportive of any and all appropriate measures necessary to combat the spread of COVID-19, including but not limited to mandatory testing and vaccinations for migrants in the Federal Government's custody.

If confirmed, I commit to working with partners at the State and local level, as well as within the Federal Government, to ensure we are taking all appropriate steps to mitigate the potential spread of COVID-19.

Question. During an October 20th roundtable event hosted by House Minority Leader Kevin McCarthy, the Mayor of Uvalde, TX—which is within the Del Rio Sector—described how he has repeatedly requested that Border Patrol provide him with data and statistics regarding the illegal immigrant population being encountered by Border Patrol in the area.

According to the Mayor, he received the following response from Border Patrol:

I was told point blank from Border Patrol that they are not going to give me any information—nor are they going to give any Mayor or any county judge any information going forward because they've been told from Washington not to give it to us.

If confirmed as Commissioner of CBP, will you commit to looking into this issue and, if such a policy has been put in place regarding CBP information sharing with State and local partners, will you commit to expeditiously reversing it?

Answer. Yes. In my current roles as a private citizen and Police Chief, I am not aware of any such policy, and in fact I have found CBP's enforcement statistics website to be very comprehensive and informative. If confirmed, I would absolutely set a tone of coordination, cooperation, and mutual respect with State and local governments and law enforcement agencies, as I have enjoyed with State and Federal partners throughout my career in policing.

Question. As you are likely aware, there is currently a crisis in our global supply chains. This crisis has been caused by a number of factors and has resulted in shipping delays, congested ports, a backlog of shipping containers, and increased prices of goods. If confirmed, how do you plan to manage the supply chain crisis and mitigate its effects on American workers and consumers?

Answer. I could not agree more that preserving and reinforcing America's supply chains is one of our top priorities, and is certainly something that I care deeply about. I also recognize, particularly as we approach the busy holiday season, that the urgency surrounding this issue is only increasing. Although CBP is only one actor at the ports, and certainly not the only entity that has responsibility for the smooth movement of goods through the ports, it plays a very important role. If confirmed, I would want to ensure that the agency has the appropriate staffing at ports, and that CBP is working closely with port authorities, carriers, brokers, labor groups, and other key partners in the trade community to meet the increasing cargo screening and clearance demands.

I will also prioritize the continued modernization of technology resources, like the Automated Commercial Environment (ACE) system, inspection equipment, and other tools to meet the demands. These systems can have serious impacts on the flow of cargo, and ensuring that these tools are well-resourced and updated is critical to that facilitation mission. These tools become more important as our international trade and travel traffic increases, and as CBP staffing demands grow.

Question. Trade enables us to engage economically with consumers around the world, which is very important since 95 percent of the world's consumers live outside the United States. However, ports around the globe, specifically in the U.S. are packed with ships waiting to be offloaded. Some of these ships have been sitting for a longer period of time than it took for them to cross our oceans. If confirmed, how will you address this backlog of shipping containers and congestion within our ports?

Answer. I share your concerns about the backlog of cargo ships at ports across the country and recognize the urgency of addressing these delays. As you know, while CBP is critical to the efficient flow of cargo through our ports, the agency is only one piece of this larger situation. If confirmed, I would want to ensure that the agency is staffing the ports at the appropriate levels, and is meeting the demands to process and clear cargo as it arrives. In support of the President's guidance, I would ensure CBP is flexible and proactive, surging personnel or adjusting

hours as necessary. I would also ensure that CBP leadership and staff are working closely with port authorities, local governments, carriers, labor groups, and other key partners in the trade community to respond to existing and emergent needs.

In addition to adjusting operations on the front line, I will prioritize technology and automation that supports the facilitation of legitimate cargo. CBP's ongoing maintenance and improvement of the Automated Commercial Environment (ACE) system is critical to the smooth flow of cargo. Tools like ACE are the critical backbone to the agency's cargo operations, and if confirmed, I will ensure these systems and tools are prepared to meet current and future demands.

QUESTION SUBMITTED BY HON. JOHN CORNYN

BLOOD PLASMA DONATIONS

Question. For over 30 years, Customs and Border Protection has allowed donors with B-1/B-2 visas and border crossing cards to enter the United States for the purpose of donating blood plasma. These donors were able to receive a small payment in connection with their donations—just as any plasma donor residing in the United States would receive. There is urgent need to collect plasma, as it is the essential ingredient used to create therapies in treating an array of rare and serious diseases, many of which are life-threatening. Recently, CBP issued a new policy that finds payment to B-1/B-2 visa holders as equivalent to engaging in labor for hire and, as such, plasma donors are no longer able to rely on B-1/B-2 visas and border crossing cards to enter the United States to donate plasma. Should you be confirmed, would you seek to reverse this recent harmful change in CBP policy and return to the system under which B-1/B-2 visa holders can cross the border, donate life-saving plasma, and receive payment, just as any American citizen would?

Answer. I certainly recognize the importance of blood plasma in an array of medical therapies and interventions. While I am not familiar with the reasoning behind CBP's recent policy guidance on B-1/B-2 visa holders' eligibility to enter the U.S. to donate blood plasma, if confirmed, I will certainly review the decision and share any additional information with your office.

QUESTIONS SUBMITTED BY HON. ROB PORTMAN

Question. If confirmed, do you commit to installing the technology capability already paid for at the border which includes sensors, cameras, communications, and lighting to be able to give your Border Patrol officers the opportunity to be able to respond more effectively and more efficiently?

Answer. If confirmed, I am open to considering any option that increases the effectiveness of our Border Patrol agents while maintaining the safety of agents, migrants, and the surrounding communities, and which does not unnecessarily harm the nearby environment, and to advocating for the adoption of such commonsense approaches to the best of my ability. As you and I discussed, I believe technology is a critical piece of our border security mission, and I will not hesitate to advocate for needed resources to assist the men and women of the Border Patrol in carrying out their work.

Although I am not immediately familiar with each of the specific technology purchases you mention, if confirmed, I would be happy to work with your office to learn more.

Question. From the perspective of safety for both migrants and Border Patrol agents, is it safer or more dangerous for asylum-seekers to pay human smugglers and drug cartels to cross the Rio Grande river in the middle of the night compared to going to a U.S. port of entry?

Answer. Without any additional context, I would say it is certainly more dangerous both for migrants, and for agents, to travel through the Rio Grande in the dark than it would be to approach a U.S. port of entry.

Question. When Customs and Border Protection is asked why the vast majority of alleged asylum seekers are crossing the border avoid the ports of entry, they respond that the ports are not equipped to handle these asylum seekers. If confirmed, do you commit to requesting the resources and cooperation of other agencies of the

Federal Government so that our ports of entry can be equipped to decrease danger to migrants and Border Patrol agents?

Answer. If confirmed, I would certainly be open to considering any solutions that could increase migrant and agent safety while upholding our obligation to provide asylum protections to those eligible under the law. As we have seen in previous years, as well as this summer, unanticipated surges of large numbers of migrants to our southern border can overwhelm CBP resources and capacity in any given sector, leading to safety and health risks for migrants and CBP personnel, increased time in CBP custody for unaccompanied minors, and transportation and logistical challenges that might otherwise be avoided.

With that said, I believe such a proposal would require significant engagement with CBP's Office of Field Operations, as well as our partners in GSA, who I understand hold many of the leases for CBP's land ports of entry, and with Mexican authorities on the other side of the border to ensure the safety and feasibility of such a proposal. From my experience visiting ports of entry in Arizona, many of the traffic lanes around our ports of entry already experience significant pedestrian traffic, which can be dangerous both for the pedestrians and for vehicles attempting to enter and exit the U.S. If confirmed, I would be happy to work with you and others on this committee to learn more about this proposal and understand how it might best be carried out.

Question. Despite the fact that asylum seekers are walking up to Border Patrol agents to turn themselves in, it is estimated that there are still over 1,000 migrants or "got-aways" who evade apprehension each day at the border. If confirmed, will it be acceptable to you that 1,000 people cross daily without authorization or screening into the United States?

Answer. The role of the Border Patrol is to secure the border, including by ensuring individuals who cross between the ports of entry without authorization are apprehended. If confirmed, I will work to ensure that Border Patrol is empowered and resourced to achieve this mission and to reduce the likelihood that unauthorized crossers are able to evade apprehension.

Question. The Department of Homeland Security concluded that border apprehensions decreased by at least 70 percent in the following sectors of the border where a barrier was installed: Yuma, San Diego, El Paso, and the Rio Grande Valley. Do you agree or disagree with the Department of Homeland Security that previous border wall installation has been effective?

Answer. I certainly believe that physical barriers placed in the right areas can be effective elements of an overall border security strategy and help Border Patrol agents carry out their jobs. The construction of limited physical barriers, including in some of the areas you named, likely helped to reduce apprehensions over the last 15 years, especially in concert with other factors including dramatic increases in CBP funding for technology and personnel, and changes in push factors including fundamental changes to Mexico's economy. And I agree that physical barriers, and technology, can help agents decide where migrants cross, which may be important for any number of safety reasons.

Question. Other than public messaging that our borders are not open, what specifically will you do to reverse the trend of rising numbers of migrants arriving from outside of Mexico and the Northern Triangle?

Answer. If confirmed, I will work closely with our partners in the State Department and across the administration to understand what is driving the recent uptick in irregular migration from countries outside the region, and to find ways to address it. In addition, I will work with CBP attachés to build and strengthen relationships with our counterparts in Mexico and Central America in order to share intelligence on mass movements or trends forming south of the U.S. border, and potentially south of Mexico's borders. This recent trend is a tough problem, and I certainly would want to work closely with Congress to find ways to address this issue, as well as on comprehensive reform to fix our current, broken system.

Question. CBP publishes some monthly statistics on migrants' country-of-origin but neglects to list all nationalities of migrants who are encountered at the southwest border, including from special interest areas. If confirmed, will you commit to providing our committee the full data regarding the country-of-origin on a monthly basis?

Answer. Yes. If confirmed, I will seek to be as transparent as possible with Congress. I would be happy to work with you in your role on this committee, as well

as in your capacity as ranking member of the Homeland Security and Governmental Affairs Committee to ensure you receive data on a regular basis.

Question. What role do local police agencies have with their Federal partners on matters involving unlawful migrants who commit crimes here?

Answer. As a local Police Chief, if a crime is committed in my city, my first responsibility is to ensure the public safety of our community by enforcing the laws of Tucson and the State of Arizona, so my role would be to arrest the individual who committed the crime. In addition, my department frequently works closely with Federal law enforcement partners such as DEA on a variety of issues, including assisting in investigations, interdictions, and arrests of subjects involved in Federal crimes, and I consider those partnerships a vital part of our public safety mission.

In Tucson, as in most other local jurisdictions, it is up to the city's elected government, not the police, to set policy related to carrying out enforcement of Federal civil immigration laws. As I mentioned during my confirmation hearing, in the jurisdictions where I have worked, city attorneys have advised the police department not to hold individuals on a request from ICE unless there is a warrant to do so, on the grounds that doing so could violate their constitutional rights.

Question. The Enforce and Protect Act allows Customs and Border Protection (CBP) to investigate companies who evade antidumping and countervailing duties. Do you support the creation of an Administrative Protective Order (APO) process to facilitate confidential information sharing with interested parties under this program?

Answer. CBP plays an important role in enforcing against evasion of antidumping and countervailing duties, particularly in helping level the playing field for American workers, business, and consumers. In my discussions with members of the trade community, I have heard that the Enforce and Protect Act has enabled CBP to make great strides in its overall enforcement and collection of antidumping and countervailing duties, while also providing important transparency to the domestic industry and other impacted by these unfair, illegal practices. While I am not familiar with the Administrative Protective Order (APO) concept in this context, if confirmed, I will certainly look into its potential use for both enforcement and transparency, recognizing the value of sharing information with trade stakeholders impacted by these unfair practices.

Question. Do you believe EAPA should allow petitioners to file allegations when the importer is unknown? Specifically when companies and stakeholders see evasion occurring by tracking prices and market dynamics but do not know who is doing it. This would increase the use of EAPA and avoid delays caused by companies having to hire investigators to track down alleged EAPA violators on their own before coming to CBP with a formal allegation.

Answer. I have heard a lot from members of the trade community about antidumping and countervailing duty collection and enforcement, and understand that it is often the importers and businesses who can first identify unfair practices and potential evasion within their industries. From my career in law enforcement, I also understand the value that leads and evidence from interested parties can provide an investigative agency. If confirmed, I will closely review options for CBP to gather this type of information, as well as any impediments that may exist for interested parties seeking to provide this information for further review by CBP's enforcement experts.

Question. If confirmed, will you support making these improvements to EAPA? Do you believe either of these changes require additional legislation?

Answer. As I have come to understand, EAPA has significantly improved enforcement and transparency around antidumping and countervailing duty investigations, and if confirmed, I would certainly be interested in reviewing these and other proposals to build upon that success. I would be eager to work closely with your office and your congressional colleagues, the trade community, and CBP's trade enforcement experts to understand what changes can and should be made, and what improvements require legislative action.

QUESTIONS SUBMITTED BY HON. PATRICK J. TOOMEY

Question. During your hearing, you noted several times that the immigration system is "broken," but declined to lay out a specific plan for how to address the prob-

lems at the border within the current immigration system. Experts have cited that one of these problems is the admittance of thousands of migrants into the United States, often without adequate procedures to ensure they will pursue their immigration cases in immigration court once they have been released into the country.

Do you agree that there are tools in current immigration law that CBP could use to limit the number of migrants being admitted into the interior of the country?

If yes, please provide two specific examples.

If confirmed, would you use these tools to limit the number of migrants admitted into the interior of the country? Why or why not?

Answer. As I noted during my confirmation hearing, I do believe we have an immigration system that is fundamentally broken. It is apparent that a severe backlog of cases in immigration courts means we are unable to expeditiously grant asylum protections to those who are eligible, while quickly sending others home—the hallmark of a functioning system. In the course of my confirmation process, it has become clear that these concerns are shared by members and stakeholders from all parts of the political spectrum, and if confirmed, I will continue to urge Congress to take up bipartisan reform, as I believe it is crucial to improving our border security while ensuring fairness for migrants.

With that said, in answer to your question, since March 2020, CBP has been effecting removals at the southwest border under title 42 public health authorities held by the Centers for Disease Control. The use of these authorities has dramatically limited the number of migrants allowed entry during the public health emergency, although recently humanitarian exceptions have been made for some families and children. In addition, Border Patrol agents continue to carry out CBP's limited role in the asylum process by issuing Notices to Appear to migrants seeking asylum protections at our ports of entry. If paired with a sufficiently resourced immigration court system under current law, this practice could reduce the number of migrants awaiting court cases in the interior, as those with invalid claims were denied asylum and returned to their home countries.

If confirmed as CBP Commissioner, I commit to continuing to maximize issuance of Notices to Appear while reducing time spent in CBP facilities, particularly during COVID, and to effecting title 42 removals at the border, with humanitarian exceptions, for as long as public health authorities keep the restrictions in place.

Question. Do you agree that there are tools in current immigration law that CBP could use to better ensure that migrants who are admitted into the United States actually pursue their immigration cases as required under immigration law?

If yes, please provide at least one specific example.

If confirmed, would you use this tool to ensure that migrants admitted into the interior of the country pursue their immigration cases in immigration court? Why or why not?

Answer. Yes and yes. If confirmed, I certainly commit to working towards a goal of maximizing issuance of Notices to Appear, while at the same time minimizing the length of time that individuals in our custody spend in CBP facilities. In addition, I would seek to work in partnership with ICE to increase enrollments in Alternatives to Detention, which helps ICE to track individuals awaiting immigration court dates, as well as case management services which help individuals understand and comply with their immigration obligations based on their unique circumstances.

QUESTIONS SUBMITTED BY HON. STEVE DAINES

Question. Do you think title 42 removals have been an effective tool in helping deter illegal migration?

Answer. Title 42 is a public health authority held by the CDC, and my understanding is that it is not specifically intended as a deterrent, but instead provides a tool to limit entry into the country for the duration of a public health emergency. I believe it has proven to be an effective tool for that purpose as we have worked to slow the spread of COVID. With that said, I agree with many who say that we need a plan for when the public health emergency ends, as we cannot rely on this temporary authority on a permanent basis for border enforcement. Moreover, I certainly will comply with any court order relating to the implementation of CDC's title 42 public health authority.

Question. Do you have concerns with the impact President Biden's vaccine mandate will have on the CBP workforce?

Answer. As a former paramedic and emergency medical technician with 4 decades' experience in public safety, I take public health concerns very seriously. I am supportive of any and all appropriate measures necessary to combat the spread of COVID-19, including mandating vaccinations for Federal agents whose jobs entail frequent contact with the public.

With that said, I commit to serving as an honest broker in understanding the concerns of CBP's workforce across all areas. If confirmed, one of my first priorities will be to spend time with front-line agents to get a sense of the issues and concerns they face so that I am better able to advocate for their interests in the future. If there are reasonable steps I can take to show their concerns are being heard, I will always be open to doing so.

Question. How would you seek to address some of the issues around lack of housing in remote border locations that officers are experiencing?

If confirmed, I want to learn as much as I can about this problem. Border Patrol agents have a difficult job, and remote areas are particularly challenging locations in which to recruit and retain officers. They deserve the support of their agency in ensuring housing needs are met. As CBP Commissioner, I do not intend to try to lead from my desk, but instead want to get out to the northern and southern borders, speak with frontline agents and officers, and understand the issues they face. In addition, I would look forward to working with your office to better understand the concerns you are hearing, and to identify solutions to address them.

Question. How will you work to ensure full staffing along the northern border given the large numbers of CBP staff that were relocated to the southern border to deal with the crisis there?

Answer. CBP's mission is to secure our borders regardless of their geographic location. I certainly recognize that current operational demands at the southern border has impacted staffing levels at our northern border. More broadly, I am concerned about the potential impacts on the workforce of repeated transfers to different locations, especially if they are remote. If confirmed, I commit to reviewing CBP's staffing levels and processes across the organization, and to requesting resources as appropriate to carry out our mission at both borders.

Question. With the coming reopening of the U.S.-Canada border, will you ensure that all points of entry return to pre-pandemic hours of operation?

Answer. The recent announcement that the northern border will be reopened to nonessential travel means that CBP must be prepared to meet increasing volumes of travel at northern ports of entry. If confirmed, I would want to ensure that the agency has the appropriate staffing at ports, and that CBP is working closely with local stakeholders, including from the trade and travel communities, to meet the service needs for both travel and cargo screening. I look forward to working with you, Senator Tester, and others along the northern border to ensure staffing needs are met.

Question. How will you work to address some of the challenges with morale in the workforce due to many officers belief that leadership is more concerned with politics than having their backs?

Answer. I have been fortunate enough to serve as a public safety officer for over 40 years. In that time, I have served alongside public safety officers with many different political ideologies and backgrounds. However, despite any differences, my fellow officers and I have found unity in our commitment to protecting our community, serving the men and women within our jurisdiction, and upholding the laws that govern our localities. If confirmed, I intend to work hard to ensure that the men and women of CBP are united and driven by these same commitments.

Question. Will you commit to full transparency and provide briefings to any member who requests one with regard to the work CBP is doing to screen and vet Afghan evacuees?

Answer. Yes. If confirmed, I commit to responding fully to briefing and oversight requests from Congress on any topic in CBP's remit, including its role in screening and vetting Afghan nationals.

QUESTIONS SUBMITTED BY HON. TODD YOUNG

Question. In your discussion with Senator Daines during your hearing, you agreed with the recommendation of operational Border Patrol agents that “additional barrier or wall could be useful” to help secure our border and that there are “gaps where that could make sense.”

During my questioning, you stated that you were not familiar with the Department of Homeland Security’s (DHS) recent announcement about cancellation of the border contracts. I was disappointed that your preparation for this hearing did not include familiarizing yourself with recent U.S. Customs and Border Protection (CBP) decisions regarding our border security.

In preparation for answering the below series of questions, I would ask that you now familiarize yourself with that announcement, dated October 8, 2021, and available here: <https://www.dhs.gov/news/2021/10/08/dhs-terminate-border-barrier-contracts-laredo-and-rio-grande-valley>.

Although the press release is scant on details, it announces the cancellation of “all border barrier contracts located in the Rio Grande Valley Sector” and “the remaining border barrier contracts” within the Laredo Sector. I understand that you are not at CBP and therefore do not know the precise details about these contracts. However, the release clearly identifies the sectors affected by this decision—sectors that alone accounted for nearly half of all encounters by CBP along the southern border in August 2021.²

Do you believe that physical barriers placed in porous areas of the border slow down individuals attempting to enter the United States illegally and help prevent CBP from being overrun, yes or no?

Answer. Yes, I absolutely think physical barriers play a role in our border security, along with technology and personnel. For example, in remote stretches of desert, I understand fencing is useful to slow down vehicles traveling at high speeds so that they can be identified and apprehended.

Question. Given the extreme challenges present in the Laredo and Rio Grande Valley Sectors, including media reports regarding the situation in these and nearby areas, do you believe that it is prudent to cancel border barrier contracts in these sectors, yes or no? Please explain your reasoning.

Answer. In my current role as a private citizen, I have not reviewed the detailed locations and justifications for specific contracts for border barrier. I agree that the current situation at the border presents serious challenges, and if confirmed, I will speak with Border Patrol personnel to better understand needs on the ground, and commit to seeking the resources and investments needed to ensure they can do their jobs.

Question. From an operational lens, would you agree that these regions may in fact be the precise kind of areas that would benefit from a physical border barrier, yes or no?

Answer. If confirmed, I would certainly be open to considering any solutions that could increase migrant and agent safety while upholding our obligations under the law. As we have seen in previous years, as well as this summer, unanticipated surges of large numbers of migrants to our southern border can overwhelm CBP resources and capacity in any given sector, leading to safety and health risks for migrants and CBP personnel.

With that said, I am not familiar with the details of the contracts or proposals you mention, and am not in a position to evaluate how effective or appropriate they may be compared with other needed investments. In general, I understand that much of the land along the border in Texas presents legal challenges that were not present in New Mexico, Arizona, and California where more significant sections of wall had previously been completed. If confirmed, I intend to speak with as many front line Border Patrol agents as possible to understand their needs on the ground, and I commit to seeking the resources and investments needed to ensure they can effectively and efficiently carry out their duties.

Question. If confirmed to this position, do you commit to reinstating the border barrier contracts identified in the above-referenced October 8th announcement, yes or no? If your answer is “no,” please explain.

²<https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters-by-component>.

Answer. If confirmed as CBP Commissioner, my job will be to enforce the law. I commit to looking into any and all tools available to help the Border Patrol do its job safely, humanely, and effectively. With that said, I am not familiar with the details of the border barrier contracts referenced above, or with internal considerations relating to these and other investments, and cannot commit to reinstating them.

Question. Based on media reports and the publicly released DHS data, please identify or elaborate on any other geographic areas or sectors you believe a physical border barrier would aid enforcement.

Answer. In my current role as a private citizen, I have not reviewed the detailed locations and justifications for specific contracts for border barrier. If confirmed as CBP Commissioner, my job will be to enforce the law. I commit to looking into any and all tools available to help the Border Patrol do its job safely, humanely, and effectively.

Question. If confirmed as CBP Commissioner, do you commit to ensuring that policies, tools, and resources utilized by CBP officers will be driven by operational effectiveness rather than political optics, yes or no?

Answer. In my 40 year law enforcement career, I have always been driven by the mission of enforcing the law, and supporting the men and women I lead. Additionally, I have advocated for a number of politically unpopular positions when I believed they were right. If confirmed as CBP commissioner, I am committed to continuing to act as an honest broker in advocating for my workforce and for CBP's missions.

Question. If confirmed to this position, do you commit to being transparent with members of the U.S. Senate, whether in the minority or majority, and provide timely and substantive responses to questions or concerns that are raised regarding border enforcement policy? Please answer yes or no.

Answer. Yes. If confirmed as CBP Commissioner, I will be responsible for enforcing the law, not for setting policy. With that said, if confirmed, I commit to transparency and communications with Congress and the general public regarding CBP's operations, and will do my best to answer any question I can.

Question. I found it troubling during our dialogue at the hearing that in preparation for that hearing that you did not familiarize yourself with 8 U.S.C. § 1325, which is the operative statute criminalizing unauthorized entry into the United States. In preparation for the below questions, I would ask that you now review that statute.

Do you agree that 8 U.S.C. § 1325 makes it a Federal crime for an individual to enter or attempt to enter the United States at any point other than a border inspection point or other official port of entry, yes or no?

Answer. I agree that 8 U.S.C. section 1325 is the operative statute governing unlawful entry into the United States, although the statute appears to impose civil, not criminal penalties and would therefore be a civil violation. With that said, as I stated during my confirmation hearing in an exchange with Senator Grassley, I believe unlawful entry should remain against the law.

Question. Do you believe that the law of the United States should be upheld and that criminals should be handled in accordance to the law, yes or no?

Answer. As a police officer for over 4 decades, I believe that my bona fides in relation to criminals and upholding the law are clear.

Question. In your dialogue with Senator Cornyn during the hearing, you refer to what you call "discretion" by law enforcement relating to "which laws will be enforced and how they'll be enforced."

If confirmed, will you commit to enforcing 8 U.S.C. § 1325 in its entirety on an unbiased and uniform basis, without engaging in selective enforcement?

Answer. If confirmed as CBP Commissioner, my job will be to enforce the law without fear or favor. As I noted in my exchange with Senator Cornyn, I believe most if not all Police Chiefs would say they find the use of officer discretion necessary in order to focus limited resources on threats to public safety. But, I certainly will not be in a role to make policy decisions regarding enforcement, and commit to treating border crossers equally in accordance with the law.

Question. If your answer is “yes,” please explain how you reconcile that response with your decision to refuse assistance to U.S. Immigration and Customs Enforcement, who were presumably seeking to enforce 8 U.S.C. § 1325, among other statutes, while serving as Tucson Police Chief? If your answer is “no,” please explain in detail the legal and public policy rationale for declining uniform enforcement.

Answer. I regret that I am not aware of the incident to which you are referring. In my career as TPD Chief, have worked closely with State, Federal, and local law enforcement, including ICE, DEA, CBP Tucson Sector, and others, to ensure public safety and effect and assist in interdictions, investigations, and arrests, and the like, often in difficult and dangerous circumstances for my officers as well as our Federal partners. I consider those partnerships a vital part of our public safety mission.

With that said, in Tucson, it is up to the city’s elected government, not the police, to determine policies or laws related to using local resources to carry out Federal civil immigration laws. As I mentioned during my confirmation hearing, in Tucson and other jurisdictions where I’ve worked, our attorneys have advised the police department not to hold individuals based on a mere request from ICE, but to require a warrant to do so, on the grounds that detaining individuals for civil violations outside our jurisdiction could violate individuals’ constitutional rights.

Question. Do you believe there is a difference between a law enforcement officer using their “good discretion” in the field, as you referenced officers are trained to do during your hearing, and an agency-wide directive that calls for the nonenforcement of Federal statute, such as the unprecedented guideline released by Secretary Mayorkas on September 30, 2021?³

Answer. If confirmed as CBP Commissioner, I will not have a role in carrying out ICE’s enforcement mission. With that said, my understanding is that the enforcement priorities maintain recent border crossers as a priority, as well as defer to the discretion of field agents when it comes to criminal backgrounds. While I cannot speak to the policy behind this decision, I believe most if not all law enforcement officers would say they find use of officer discretion necessary in order to focus limited resources on threats to public safety, and I certainly support and understand the Secretary’s prioritized approach.

Question. In your dialogue with Senator Menendez during the hearing, you stated that a “full and thorough investigation is necessary before any final conclusions are drawn” regarding the actions of Border Patrol agents that responded to the surge of mostly Haitian migrants in the Del Rio Sector of the Southern Border. I appreciate your commitment to ensuring these agents are given fair treatment, but I have concerns that not all in the Biden-Harris administration share that commitment.

In the wake of footage of Border Patrol agents on horseback attempting to block migrants from entering the county illegally, our country’s leaders were quick to vilify the agents in the press while leaving out key contextual details. President Biden stated, “I promise you, those people will pay. There will be an investigation underway now and there will be consequences. There will be consequences.”⁴ Jen Psaki, the White House Press Secretary, has described the images as “horrible and horrific.”⁵ Vice President Harris said she was “deeply troubled” by the “horrible” incident and planned to discuss the matter with DHS Secretary Mayorkas.⁶ Secretary Mayorkas himself stated he “was horrified” and that the photographs of the incident “troubled him profoundly.”⁷

Do you believe that the Border Patrol agents involved can reasonably expect a fair investigation while the President, Vice President, and DHS Secretary have all but announced their guilt already?

Answer. As a Police Chief for over 13 years, my job has been to ensure my workforce has the full support of its leadership, while making clear that any allegations of wrongdoing will be swiftly investigated, and substantiated allegations met with swift, impartial consequences. If confirmed as CBP Commissioner, I will make the

³ <https://www.dhs.gov/news/2021/09/30/secretary-mayorkas-announces-new-immigration-enforcement-priorities>.

⁴ <https://www.washingtontimes.com/news/2021/sep/24/biden-vows-there-will-be-consequences-after-outrag/>.

⁵ <https://www.nbcnews.com/politics/white-house/white-house-says-horses-will-no-longer-be-used-border-n1279950>.

⁶ https://www.washingtonpost.com/politics/mayorkas-border-patrol-haitians/2021/09/21/fd1fd09c-1ad4-11ec-a99a-5fea2b2da34b_story.html.

⁷ <https://www.forbes.com/sites/jemimamcevoy/2021/09/21/homeland-security-chief-says-vid-eos-showing-migrant-mistreatment-at-border-troubled-me-profoundly/?sh=652b37d92f3f>.

same commitment to the men and women of CBP. My understanding is that the investigation is ongoing, and that findings are results have not yet been shared. As I stated during my confirmation hearing, if confirmed, I am committed to transparency and accountability, and would see no problem with releasing the results of the investigation to Congress, and if at all possible, the public.

With that said, in general, I shared the reaction of many to the images we saw from Del Rio. Regardless of whether policies were violated, a discussion about tactics is in order. As a police chief, I have long questioned the appropriateness and safety of using horse patrols to apprehend subjects in crowds or within close proximity, rather than for transport through remote areas and tracking and detection. I believe this practice risks the safety of officer and subjects. If confirmed, I commit to better understanding the use of horse patrol in crowds, and would be happy to share my findings with Congress.

Based on your decades of experience in law enforcement, do you believe that President Biden and others biased the investigation with their statements?

Answer. I don't know enough to know what impact statements had on this particular case, but if confirmed, you have my commitment that I will fiercely advocate for the independence of internal investigations within CBP.

Question. I have had the opportunity to visit the border and meet some of the brave men and women of Border Patrol, an agency that has long struggled with officer morale due to vilification in the media and by certain elected officials. I worry this challenge with morale has only worsened during the crisis at our southern border this past year.

How do you plan to address the feeling among agents and officers who feel unsupported and under-resourced?

Answer. Throughout my career, I have worked hard to improve officer morale in the departments I've led, including by addressing resource issues, as well as tough topics like officer resiliency and mental health. If confirmed, I want to do as much as I can to improve morale, resiliency, and retention within Border Patrol, the Office of Field Operations, Air and Marine Operations, and CBP generally. CBP's officers and agents have a challenging job, and remote areas near our borders in particular are difficult areas for recruiting and retaining personnel. As CBP Commissioner, I do not intend to try to lead from my desk, but instead want to get out to the borders and ports of entry to speak with frontline agents and officers, and understand the issues they experience when it comes to resourcing, training, and support from their leadership. In addition, I would look forward to working with your office to better understand the concerns you have heard, and to identify solutions to address them.

Question. Do you believe that events such as what we saw in Del Rio—where administration officials made snap judgments, withheld context, and were quick to blame Border Patrol officers based on inflammatory tweets—is worsening this issue and could result in further retention issues at CBP?

Answer. I don't know enough to know what impact statements may have on officer morale. With that said, you have my commitment that if confirmed, I will fiercely advocate for the independence of internal investigations within CBP.

Question. If confirmed to this position, do you commit to ensuring these officers receive a prompt and unbiased investigation into this matter?

Answer. Yes. I believe one is already underway, and if confirmed, I will certainly commit to ensuring that it is concluded promptly and in an unbiased way.

Question. If confirmed to this position, do you commit to restoring mounted patrols to enable Border Patrol officers to efficiently and safely navigate the terrain along the southern border?

Answer. As a Police Chief, I have long questioned the appropriateness and safety of using horse patrols to apprehend subjects in crowds or within close proximity, which I believe risks the safety of officer and subjects, rather than for transport through remote areas and tracking and detection. With that said, my understanding is that mounted horse patrols along the southwest border for the purposes you describe have not stopped, except for temporarily in Del Rio. If confirmed, I commit to better understanding the use of this tactic in crowds, and would be happy to share my findings with Congress.

Question. Of the 30,000 migrants who crossed into the Del Rio Sector during the Haitian migrant surge last month, Secretary Mayorkas confirmed that more than

12,000 have been released into the United States. That's the size of a small city—in fact, it would rank in the largest 10 percent of Indiana communities. The logistical challenge of moving such a crowd is enormous, but what truly concerns me is how the Biden-Harris administration could be caught so off guard.

How does a caravan of illegal immigrants the size of Bedford, IN show up at Del Rio and the U.S. Government is completely unprepared?

Answer. I share your concern regarding the lack of visibility into developing mass movements south of our southern border. If confirmed, I commit to speaking directly with front-line Border Patrol agents to understand what informal intelligence is available on the ground, and to address any breakdowns in the flow of information to decisionmakers in Washington. I will build and maintain open lines of communication with my colleagues in the State Department, ICE-HSI, and my counterparts in Mexico, the Northern Triangle countries and Canada, to improve visibility south of our border to ensure we are better prepared to address surges in the future.

Question. Reports indicate that similar caravans continue to build in Central America and Mexico.⁸ What steps are necessary to ensure that CBP's intelligence is properly tracking and preparing for such waves?

Answer. As a private citizen currently outside the agency, I don't yet know how best to address this question, but agree it is an important one. If confirmed, I will make it a priority to understand how CBP tracks and prepares for mass movements, any efforts underway to improve tracking, and any areas in which we can do more to improve our visibility.

Question. Earlier this month, I joined a number of my colleagues in asking Secretary Mayorkas about DHS's use of title 42 authority,⁹ which permitted the deportation of the vast majority of migrants in this influx due to the public health risks associated with such mass migrations. We are still awaiting Secretary Mayorkas's response to our letter.

Do you agree that title 42 is an important tool to control public health as the world grapples with the pandemic, yes or no?

Answer. Title 42 is a public health authority held by the CDC, and my understanding is that it has proven to be an effective and useful tool to limit entry into the country as public health authorities have worked to slow the spread of COVID. With that said, I agree with many who say that we need a plan for when the public health emergency ends, as we cannot rely on this temporary authority on a permanent basis for border enforcement.

Question. If it is true that over half of the migrants in this migrant surge remain in the United States—either detained or released—does that strike you as DHS utilizing its title 42 authority properly?

Answer. Title 42 is a public health authority held by the CDC. It is my understanding that the administration retains the ability to set its own immigration priorities, including providing humanitarian or other exceptions to the rule, if it deems appropriate. I would defer to administration and public health officials as to the appropriate balance between providing some humanitarian relief to vulnerable families, while taking steps to limit the spread of the COVID-19 pandemic.

More broadly, tools designed to slow the spread of a pandemic should not be what we rely on in order to have a functioning immigration system. If confirmed, I would look forward to working with Congress on comprehensive reform to fix the current, broken system.

Question. If confirmed to this position, do you commit to providing Secretary Mayorkas with the information necessary to respond to our October 6, 2021 letter and encourage him to respond promptly, yes or no?

Answer. Yes. If confirmed, I will work with DHS to ensure it has the necessary data and information from CBP to promptly respond to congressional correspondence, including your letter.

Question. During the past year of record-breaking illegal migration into the United States, over 100,000 of those apprehended by CBP have been unaccompanied

⁸ <https://www.nbcnews.com/politics/immigration/border-apprehensions-hit-new-yearly-high-another-migrant-caravan-gathers-n1281995>.

⁹ <https://www.young.senate.gov/newsroom/press-releases/young-gop-colleagues-press-dhs-for-answers-on-release-of-haitian-migrants-into-us>.

children. This underscores the grave dangers associated with encouraging individuals to seek refuge in the United States through illegal means, rather than by utilizing proper channels. In a chilling report by *The New York Post*,¹⁰ it appears as though the Biden-Harris administration has been flying thousands of underage migrants to New York in the middle of the night, and it has been similarly reported that migrants have been bussed across the Nation. Clearly the border crisis does not just impact border towns along our Nation's southwest border, but it has 50-State impact.

In your decades of experience leading law enforcement departments across the Nation, did you expect consistent openness and transparency from State or Federal agencies whose operations impacted the city you were entrusted to protect? Why or why not?

Answer. Yes. As a Police Chief, cooperation and coordination with Federal agencies relating to operations that would affect my city have always been critically important, particularly with fellow law enforcement agencies. It is not clear whether CBP has any involvement with the reports you describe, but regardless, if confirmed I will strive to ensure that we are maintaining open lines of communication and coordination with the State and local communities in which we work.

Question. Do you believe that it would be improper for the Federal Government to transport migrants from their place of apprehension to a different jurisdiction without full and open cooperation with the relevant governors, mayors, and elected officials?

Answer. During previous surges, I have experienced firsthand the impacts on border communities when Federal agencies lack a plan to coordinate with State and local agencies to care for and house migrants. Transportation of migrants into Tucson in response to the 2018 surge with no coordination with local leaders or plan for their care and housing presented a real challenge for our community and my department, as well as for the migrants. If confirmed, I would want to look into your concern and understand CBP's role, if any, and would certainly commit to working to improve our coordination and communication with State and local governments.

Question. If confirmed to this position, do you commit to providing timely and substantive updates to Senators and members of Congress related to migrants that are relocated into their constituencies, including advanced notice before such relocation occurs, yes or no? If your answer is "no," please explain.

Answer. Yes. If confirmed, I will strive to ensure that we are maintaining open lines of communication and coordination with the State and local communities in which our operations are carried out, and with the congressional delegations that represent them.

Question. In addition to the record number of migrant encounters that CBP has reported in its monthly data releases over the past year, the agency also tracks so-called "got-aways" that refer to illegal crossings that are tracked directly or indirectly—such as through drone surveillance technology—but are never apprehended or pursued for a variety of reasons. Recently, former Border Patrol Chief Rodney Scott, a 29-year veteran of the Border Patrol, stated that there have been over 400,000 documented got-aways over the past year.¹¹ While CBP publishes monthly records of its apprehensions at the border, I would like to see more transparency about the number of individuals CBP is tracking each month that are not apprehended by Border Patrol officers.

If confirmed to this position, do you commit to providing Congress with monthly updates regarding the number of got-aways being tracked by CBP, along with their methods of entry and intelligence related to human or drug trafficking by those who seek to evade ports of entry? Please answer "yes" or "no." If your answer is "no," please explain why Congress and the American people do not deserve this kind of transparency.

Answer. If confirmed, I would be happy to look into how CBP tracks data relating to got-aways, or instances in which individuals evade detection or apprehension at the border, to learn more about the technology and analysis that underlie these estimates, and to provide information to Congress.

¹⁰<https://nypost.com/2021/10/18/biden-secretly-flying-underage-migrants-into-ny-in-dead-of-night/>.

¹¹<https://www.washingtonexaminer.com/news/many-sneaked-over-southern-border-and-got-away-in-past-year>.

Question. I have heard escalating concerns from my constituents regarding the record backlog of processing items for entry into U.S. commerce at the shipping ports. As the most manufacturing intensive State in the country, Indiana manufacturers rely on timely access to inputs. I understand that the pandemic is the cause of some of this congestion. However, many shipping ports suffered chronic gridlock prior to the pandemic that was only exacerbated by supply chain disruptions. Businesses in my State cannot simply endure costly delays that last for months on end. Delays mean that business is lost, perishable goods spoil, seasonal products become unsellable, and major manufacturing processes are put on hold.

If confirmed, how do you anticipate addressing the backlog present at our shipping ports, both in the near term and long-term?

Answer. I could not agree more that addressing supply chain delays and the backlogs at ports of entry is a top priority, and is certainly something that I care deeply about. I also recognize that the urgency surrounding this issue is only increasing, particularly as U.S. manufacturers try to meet strong consumer demand. Although CBP is only one actor at the ports, and certainly not the only entity that has responsibility for the smooth movement of goods through the ports, it plays a very important role. If confirmed, I would want to ensure that the agency has the appropriate staffing at ports, that CBP is working closely with key stakeholders to meet the increasing cargo screening and clearance demands.

I will also prioritize the continued modernization of technology resources, like the Automated Commercial Environment (ACE) system, inspection equipment, and other tools to meet the demands. These systems can have serious impacts on the flow of cargo, and ensuring that these tools are well-resourced and updated is critical to that facilitation mission. These tools become more important as our international trade and travel traffic increases, and as CBP staffing demands increase.

Question. How will you engage the business community to ensure that their concerns are addressed and problems can be tackled?

Answer. Stakeholder engagement has always been a priority for me. If confirmed, I will ensure that CBP leadership and staff are working closely with key partners in the trade community, including the Commercial Customs Operations Advisory Committee (COAC) and other trade groups, small, medium, and large businesses, labor organizations, Federal, State, and local partners, and many others all have a role in the flow of legitimate cargo across our borders. I have built relationships with diverse groups of stakeholders throughout my law enforcement career, and would welcome the opportunity to do so if confirmed to lead CBP.

Question. As you know, an important component of our international air travel security apparatus is the CBP Preclearance process, which allows Americans and foreigners flying into the United States to undergo immigration and Customs screening at their point of departure. This process both allows travelers to expedite their arrival into the United States and allows CBP to stop inadmissible travelers or goods before they step foot on a plane. Because of legal jurisdictional challenges that surround the program, such preclearance systems rely on bilateral agreements between the U.S. and host countries—currently, there are 16 such sites between 6 countries. The last U.S. customs preclearance facility to open was at the Abu Dhabi International Airport in 2014, with dozens of applications having stalled in the meantime.

Are you supportive of expanding U.S. preclearance capabilities as a way to foster commercial and recreational revitalization as the world recovers from the COVID-19 pandemic?

Answer. I share your view that the Preclearance program is an important and innovative tool for both economic and security partnerships around the world. I recognize the critical role of the Preclearance program in the agency's layered and risk-based approach to border and national security, as well as its impact on the partner nations in which Preclearance locations operate. I understand there are specific standards as part of CBP's process to establish a Preclearance location, as well as any partner country's ability to provide funding and authorities for Preclearance operations. If confirmed, I will certainly review the agency's plans to expand Preclearance operations, while also balancing those needs with staffing demands at U.S. ports of entry.

Question. Currently, there are CBP preclearance relationships with nations in North American, Europe, and the Middle East. Do you believe the U.S. should focus

its next preclearance agreements with other regions of the world, such as the Indo-Pacific?

Answer. I recognize the significance and value of CBP's Preclearance locations around the world, and the critical role of the Preclearance program in the agency's layered and risk-based approach to border and national security. I understand there are a number of standards and thresholds as part of CBP's process to establish a Preclearance location, including risk-assessments specific to potential locations and regions. If confirmed, I will review the agency's focus on any regions globally, including the Indo-Pacific. I would also welcome the opportunity to learn more from you and your staff about any specific regions with potential for partnerships.

Question. On September 29, 2020, CBP announced an expansion of the Preclearance program and invited interested foreign airports to apply for partnership. Among those that applied was the Taoyuan International Airport in Taiwan.

Do you believe that Taiwan would be a good fit for the Nation's first preclearance agreement in the Indo-Pacific?

Answer. I certainly recognize the importance of the United States' partnership with Taiwan and understand the significance of the relationships that CBP establishes with Taiwanese counterparts. While I'm not familiar with the details of Taiwan's Preclearance application, I do know that the Preclearance program is an important tool in CBP's layered and risk-based approach to border and national security. I understand there are a number of standards and thresholds as part of CBP's process to establish a Preclearance location, and if confirmed, I will certainly review the application and any decisions made regarding Taiwan's application.

PREPARED STATEMENT OF HON. RON WYDEN,
A U.S. SENATOR FROM OREGON

This morning the Finance Committee meets to discuss President Biden's nomination of Chief Chris Magnus to lead Customs and Border Protection. I want to thank Chief Magnus for joining the committee today and for his willingness to take on this extraordinarily difficult job.

Chief Magnus is the Chief of Police in Tucson, AZ. He started out in Lansing, MI, and his career in public safety has taken him to the east coast, west coast, north, and south. If confirmed, Chief Magnus would lead an agency with tens of thousands of employees. CBP is responsible for over 300 points of entry into the U.S., and it enforces the country's immigration laws.

This committee has a special interest in ensuring that CBP's trade mission doesn't get short shrift. Enforcing trade laws vigorously and working to stay a step ahead of trade cheats is key to protecting jobs, businesses, and innovators in America, and CBP is right at the heart of that challenge. Too often in the past, including during the Trump administration, trade enforcement has been a secondary issue for CBP.

This committee has worked hard over the last few years to give CBP fresh and modern trade enforcement tools. The goal is to help our trade enforcers work faster and communicate more closely with businesses and other organizations that spot trade cheats undercutting American workers and firms. Those upgrades have already begun to make a big difference over the slower, outdated approach of previous decades. But in my view, there's always room for improvement, so this committee is going to continue looking for ways to strengthen our trade enforcement even further.

One such issue that's posing a serious danger to our country's values and American jobs is the use of forced labor in China and elsewhere. It is an abhorrent practice—modern-day slavery. The Finance Committee's authority over trade laws is a big part of what needs to be an all-out effort to end it.

Until just a few years ago, there had been a loophole in the laws on the books that allowed some products made by forced labor to be imported into the country. Senator Brown and I wrote an amendment that closed that loophole in 2016.

Since then, for example, the U.S. has taken action to block the import of cotton and tomatoes picked by slave labor in western China. However, there are many more areas and industries in which forced labor is ongoing. In addition to goods coming from Xinjiang, Senator Brown and I are concerned about imports of mica, palm oil, and cocoa which may also be produced with forced labor.

CBP not only investigates allegations of forced labor and demands remediation where appropriate, it also enforces the ban on forced labor products entering the country. This is a difficult job, and once again, it requires quick action and lots of communication with businesses, human rights organizations, and others. This committee is going to continue working on this issue in the months and years ahead, and I look forward to discussing that with Chief Magnus today.

Immigration is outside this committee's jurisdiction, but it's sure to come up during today's discussion. The Trump administration made it fashionable to believe that enforcing our immigration laws required abusing immigrants and asylum seekers at the border. Recently, the American people saw images of what that mindset looks like in practice. It's absolutely, unquestionably wrong.

Enforcing our immigration laws and treating people humanely are not mutually exclusive—period. Embracing immigration and asylum seekers is not only part of our national character, it's also an economic win for America. I appreciate the discussion I had with Chief Magnus on this issue in our recent meeting.

I'll close with one final point on an issue that dates back to before Chief Magnus's nomination. In the summer of 2020, the Trump administration deployed Federal law enforcement troops in cities including my hometown of Portland, OR. They left Portlanders with serious injuries, and their use of tear gas has created serious health issues. They even left tear gas canisters in a sandbox at a school. Additionally, the conduct of Homeland Security intelligence officials constituted a serious abuse of power.

For many months I'd been demanding reviews of policies regarding DHS's use of force, including use of chemical munitions, as well as the release of a key investigation into what happened. There has been significant progress on these issues.

I want to thank Secretary Mayorkas for that progress, and I look forward to continuing to work with him and the Department on this subject, because my neighbors in Portland are still reeling from the harm that the Trump administration inflicted upon them.

With that, I want to congratulate Chief Magnus on his nomination and thank him once again for joining the committee today. I look forward to the discussion.

COMMUNICATIONS

LETTER SUBMITTED BY LAURA I. DOAN

U.S. Senate
Committee on Finance
Dirksen Senate Office Bldg.
Washington, DC

Re: Hearing to Consider the Nomination of Chris Magnus, to be Commissioner of U.S. Customs and Border Protection, Department of Homeland Security. Date: Tuesday, October 19, 2021.

Dear Senators,

I write with concerns about President Biden's nominee to Commissioner of U.S. Customs and Border Protection, Chris Magnus. Biden has nominated him as the appointee. My concerns are that he is not an appropriate choice given his career and his background. I have followed him closely for the past 5 years while he has been the chief of police in Tucson, AZ. His leadership has shown he lacks the qualities necessary to lead this nation's largest federal law enforcement agency, namely transparency, authenticity, and accountability.

The following are my specific concerns:

As a member of Citizens Against Proposal One committee in Lansing, MI, he organized the opposition to creating a panel to review charges of police misconduct stating that, "A citizen review board proposal for Lansing is dangerous and unwise."

With all the police reforms that Congress is trying to put in place following the death of George Floyd, would he be the appropriate choice for the current environment and the future of the border patrol which is currently in crisis?

(See: Delgado, Vincent. "Police-review issue simmers in Lansing: Proposal 1 on Tuesday ballot calls for citizen's sharing in discipline," *Lansing State Journal*, 1 Nov. 1997, p. B1., Magnus, Chris. "Say 'no' to new board," *Lansing State Journal*, 2 Nov. 1997, p. A11.)

In 2008, as Chief of Richmond Police, Chris Magnus promoted Sgt. Allwyn Brown to Captain, leapfrogging a sergeant over lieutenantcy to Captain. The Richmond Police Managers Association, which included managers suing Magnus and the department for his alleged racist comments and discrimination against them based on race, wrote in a Jan. 8 letter to City Manager Bill Lindsay that he should not allow Magnus to make "any promotions at this time; but especially not interviews/promotions to the rank of captain."

(See: Karl Fischer. "Richmond police chief promotes new captain despite internal objections," *West County Times*, 14 Jan. 2008. Accessed: E-Mail Forum, www.tombutt.com/forum/2008/080117.htm.)

Chief Magnus would eventually hand the reins of the Richmond Police to then Assistant Chief Allwyn Brown when Magnus took the Chief of Police job in Tucson in 2016. The two Chiefs would be named in a 2016 lawsuit that claimed, "On information and belief, defendants *Chief Magnus* and *Chief Brown*, had knowledge of RPD's culture, which included officer's soliciting sex from *Jane Doe* and similarly situated child sex workers and/or adult sex workers like *Plaintiff*." The case goes on to allege: failure to investigate, failure to take action against officer's, failure to supervise. Especially concerning was the accusation of having, "acted jointly in concert, pursuant to agreement, plan and scheme, to hide, conceal, and confine Plaintiff away in Stuart, Florida."

Would this type of witness tampering have happened in a well-run organization set up with checks and balances?

(See: *Jane Doe v. City of Richmond*; Police Chief Chris Magnus; Police Chief Allwyn Brown; LT. Brian Dickerson; Lt. Andre Hill; Sergeant Armondo Moreno; Sergeant Mike Rood, Officer Jerred Tong; Officer Terrence Jackson; and Does 1–200 individually, jointly and severally. United States District Court, Northern District of California. Case 3:17-cv-04804 Accessed: <https://www.kqed.org/news/11612922/teen-in-police-sexual-exploitation-case-files-federal-suit-against-richmond>.)

In Tucson, Chief Magnus promoted Mike Silva, a lawyer, from Legal Advisor to the first civilian Chief of Staff to Assistant Chief. The promotion to Assistant Chief violated the department's general orders and violated a civil service commission rule.

Would a chief of police who broke General Orders without an attempt to revise them before the promotion be an appropriate choice for the largest police agency in the country?

(See: Caitlin Schmidt. "Tucson police union files grievances over desk duty, long internal reviews," *Arizona Daily Star*, 30 April 2019, p. A2.)

He then changed Internal Affairs from reporting to the Deputy Chief to reporting to Assistant Chief Silva.

Would a former Legal Advisor who broke General Orders and violated a civil service commission rule be a good fit to oversee Internal Affairs?

(See: 7/9/18 TPD Organizational Chart, 12/9/19 TPD Organizational Chart)

In 2020, he hid the in-custody death of Carlos Adrian Ingram-Lopez for over two months. He only released it when information was provided to the press by whistleblowing sources. At the press conference, he stated, "This notification should have taken place but I am confident that there was no purposeful or calculated effort to withhold this information. I'll remind you that this incident took place at the start of the most intense period of the COVID-19 pandemic and I believe the notification process to the public could have been missed at least in part due to some of the chaos that was going on during that period. But nonetheless, public notification should have happened. . . ."

Would a man who blames chaos for hiding an in-custody death be the right person to lead an organization that needs to operate effectively and transparently at all times?

(See: Press conference: Death of Carlos Ingram-Lopez in Tucson police custody)

He made a false statement to his peers at a PERF meeting stating that TPD never reported in-custody deaths to the press/public. He also stated, "You don't know what you don't know."

Would a Chief who deliberately kept himself in the dark, only to use the phrase, "You don't know what you don't know," be appropriate to lead an agency that demands you know what's going on on our borders?

(See: PERF Virtual Town Hall June 30th, 2020 (at 1:25), <https://www.policeforum.org/announcements#June2020TH>.)

In July 2020, it was released that there was another in-custody death that had been hidden for over three months, Damien Alvarado. Chief Magnus wrote a column in the *Arizona Daily Star* claiming, "To the best of our knowledge, for at least the last decade, TPD has not previously provided automatic public notifications about in-custody deaths unless requested. . . ."

This is false; the in-custody death of Michael Carbone on March 17, 2012, was reported in the *Arizona Daily Star* on March 19, 2012, and the in-custody death of Benjamin Sotelo on August 22, 2010, was reported in the *Arizona Daily Star* on August 24, 2010.

Chief Magnus continued providing false information stating, "Mr. Alvarado fled the scene of a high-speed hit-and-run collision and fought with a father and son who followed him to prevent his escape." Damien Alvarado did flee the scene of the accident but the father and son did not follow him; the father and son went hunting for him and found him sitting down. The son said in his interview that his father said, "Hurry the fuck up. We're gonna go get him."

Chief Magnus goes on to describe Damien Alvarado pulling the officer's magazine from his duty belt and fighting. He does not talk about the son putting him in a

choke-hold, the father body-slammng him, the multiple times he was tasered, or the officer's body-worn camera shutting down so we can't see the entire incident.

Would a person who plays "choose your own facts" be appropriate to lead the largest police agency in the country?

(See: Chris Magnus: "Deaths in custody to be swiftly disclosed from now on," *Arizona Daily Star*, 10 July 2020, p. A4, 5.)

The Sentinel Event Review Board (SERB) report that resulted from the in-custody deaths does not accurately tell what happened to Damien Alvarado, leaving out the body slam and chokehold done by civilians, and the alleged malfunction of the officers BWC.

This is what the first officer stated in his interview after the incident:

"I would say probably when, when he was sitting and I first got there and he was behind the bush I would I mean if you wanna put something to it I would say passive resistance um, not, not really doing much, I, I was still away obviously um, the defensive resistance when he's trying to go over the wall um, an actual action taken to prevent control without making direct harm um, I would say the defensive resistance to active aggression um, as we were standing and he was not complying and trying to grab at me um, (pause) I noted with his, his demeanor and the look in his face and all that um, essentially the uh, where it says prepares to strike um, even though he made no motion with hands or gestures or that while we were standing um, based on the way I described his face earlier with the, the menacing look the, the teeth clenched and things like that um, he had what I would describe the, the, the, the facial features of which."

A face that looks menacing and a guess from an officer that that might mean a preparation to strike is different from the description given to the SERB. John Hollway from the Quattrone Center at the University of Pennsylvania Carey Law School guided the review process and he said in an e-mail, "He was aggressively engaging the officers, including kicking, throwing punches and biting. We felt the characterization of 'fighting' was accurate in this instance."

(See: Sentinel Event Review Board, https://www.tucsonaz.gov/files/police/SERB/In_Custody_SERB_Final_Report_Sept_2020_Redacted.pdf.)

There is an ongoing investigation from the Arizona Attorney General's Office over destroyed homicide records. The Arizona Secretary of State Office wrote in an e-mail, "TPD didn't contact us to get clearance for the scanning project and they didn't QC their scans prior to destroying the originals (41-151.16 A). There were a number of cases where the scans were so poor, the paper copies of the scans were not legible. For those unreadable records, TPD discovered that a previous Records Supervisor had filled out a notice of Records Destruction Prior to Disposition but never sent it to us. Dennis spoke with the TPD records officer, and she is sending a copy of that notice so we can file it with the other paperwork."

Internal Affairs Case #19-0553 details wildly disorganized cold case homicide and sexual assault records and details boxes of records stored, unsecured, in hallways and on the floor; records stored at risk for water damage, sewage contamination, fire, etc.

Internal Affairs Case #20-0620 confirms that the department was not in compliance with ARS 13-4271 which outlines the various requirements needed to maintain a Cold Case Registry.

At a CPARB meeting, a Lieutenant said of the complainant in the above referenced IA cases, "She is going through and identifying issues that we had with our processes back then and some issues that are still current today and we're making corrections on 'em . . . we are addressing the complaints as they come in and making the corrections."

Can we count on civilians to discover the larger issues on the border and make complaints when rules are systemically broken and standards are not maintained?

In reviewing an internal affairs document, Chief Magnus reduced the punishment for a non-uniformed employee who used a police car to intimidate his Muslim neighbors. Witnesses stated that the employee's wife harassed the Muslim family, telling neighbors that they burned an American flag and were dangerous Muslims and were a threat to the community. The TPD employee also let his pit bull loose on their eight-year-old child. The employee, who allegedly would tell people he was a police officer, had been ordered not to take patrol cars home; he did it anyway. The

employee threatened to grieve his punishment of a week's suspension without pay but his chain of command stood by it. The Chief then overrode the decision and reduced it from orange to yellow and gave him half of the suspension money back for the time he was suspended. I believe he reduced the punishment to avoid a grievance.

I'm concerned for refugee children if he leads the Border Patrol. How is he even being considered for a job where children already get lost in the system?

These are serious issues clouding the nomination of Chris Magnus for an agency that is already under intense pressure due to a surge in refugees. I believe he created a shell that insulated him from what went on underneath his authority. Thus his, "You don't know what you don't know" statement. He is not fit to head the Border Patrol because he turns a blind eye, he hides things, he doesn't take responsibility; he ducks.

A man who just wants the title and protects his own should be disqualified from dealing with a crisis the magnitude of which no one has dealt with before. A man who makes things disappear should not be the leader of an agency from which the public demands transparency. Chris Magnus is not the man to call to respond to the unprecedented masses of humanity huddled together at our border.

Please give this every consideration given the high level of responsibility that the position of Commissioner of U.S. Customs and Border Protection demands.

Sincerely,

Laura I. Doan

EXPRESS ASSOCIATION OF AMERICA
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703-759-0369

Statement of Michael C. Mullen, Executive Director

The Express Association of America (EAA) is providing these comments incident to the recent hearing to consider the nomination of Chris Magnus as Commissioner of U.S. Customs and Border Protection (CBP). We are highlighting issues of particular importance to the express industry that we feel Mr. Magnus should be considering as he prepares to assume his new position, if confirmed. We hope to meet with Mr. Magnus at a mutually convenient time to discuss these issues in more detail.

EAA members are DHL, FedEx, and UPS, the three largest express delivery service providers in the world, providing fast and reliable service to the U.S. and more than 220 other countries and territories. These EAA member companies have estimated annual revenues in excess of \$200 billion, employ more than 1.5 million people, utilize more than 1700 aircraft, and deliver more than 30 million packages each day. EAA members employ nearly 1 million people in the United States, and U.S. employment has grown 27% over the past five years. They plan to add another 160,000 employees for the upcoming peak holiday season.

I. E-commerce and Border Clearance Modernization

With the advent and growth of e-commerce, global trade has changed dramatically since the last comprehensive rewrite of the U.S. customs laws in 1993. For this reason, the express industry welcomes CBP's initiative to address modern trade challenges and opportunities, known as the 21st Century Customs Framework (21CCF) initiative. In particular, it is critical that the 21CCF define responsibilities for newer actors whose business models did not exist in 1993. At the same time, as a world leader in customs administration, there are several parts of the U.S. customs process that should be preserved—and even built upon—in the 21CCF.

- Over the last few decades, the world has witnessed the shift from container-based trade among predominantly large traders to small package-based trade among a whole new host of stakeholders. While presenting challenges for customs administrations around the world, this shift also brings unprecedented opportunities to make global trade more inclusive by encouraging small, and medium-sized enterprises (SMEs) to participate in the global economy.
- On the other hand, the areas where CBP is considering changes could potentially result in a massive reorganization and redesign of current trade prac-

tices. The result of these changes could be the elimination of very successful business models that the express industry and other actors have developed, along with SMEs, to support the entire structure of e-commerce. Where changes are needed, CBP should seek low-cost, technology-driven solutions that make trade easier for SMEs as the agency continues the 21CCF's formulation.

- For example, in requiring new data from actors who already submit data regularly to the agency, CBP should take an extremely collaborative and cautious approach, much like what the agency did for the Air Cargo Advance Screening initiative. The 21CCF needs a “co-creation” solution, where the public and private sectors identify the challenge they are trying to address and leverage the best practices available to develop a feasible joint solution. While CBP deserves credit for its outreach efforts to date, we believe more in-depth and widespread engagement of the private sector is needed as the agency fills in the details behind its proposal.
- CBP correctly recognized long ago that express shipments require customs procedures that help the industry and CBP alike in handling the high volume of time-sensitive shipments. To this day, the express process remains based on shared responsibility, dedicated funding and infrastructure, and technology (*e.g.*, the pioneering use of advanced electronic data). *In other words, the express clearance model is already consistent with the 21CCF's conceptual goals as articulated by CBP.*
- The 21CCF should not negatively impact U.S. exporters, especially SMEs. Governments at the World Customs Organization look to the U.S. for leadership and as a potential global best practice. The U.S. must be mindful that approaches taken on U.S. importing processes could be mimicked by other countries, and the impact on U.S. manufacturers and exporters, notably SMEs, could be significant, with increased costs for goods in each of their export markets. This could further drive down the volume of U.S. exports, particularly from SMEs.
- In crafting a legislative proposal, CBP should take into account competitive considerations. For instance, any new requirements must apply equally to express and international mail shipments.
- We support regulations that enable all supply chain participants, including online marketplaces, online payment providers and others, to be more accountable. We support CBP's goal of obtaining data from parties at earlier stages in the supply chain and ensuring accountability from participants with unique access to information which other filers may not have.
- Platforms should be required to verify their sellers and be the responsible party at the border for any IPR violative products sold on their platform. CBP should establish partnerships with e-commerce platforms and deepen and broaden their partnerships with carriers as a means of identifying and interdicting illicit shipments. CBP could leverage partnerships with e-commerce platforms to more accurately identify shippers who have a long history of compliant behavior, which would allow the agency to provide expedited clearance for products with a history of compliance and focus their resources on less well-known shippers.
- The express industry will continue to provide the significant level of support to CBP IPR interdiction efforts in express facilities, which is a best practice that ensures these operations are particularly effective.

II. New data requirements

The express industry provides a significant level of detailed electronic information on every shipment it brings into the United States. When any doubt exists regarding a shipment's compliance with all laws and regulations, EAA members can provide CBP extensive additional information derived from shipping orders, invoices and other sources. To manage the challenge of increased volumes caused by the rapid growth of e-commerce, CBP has been running the 321 Data Pilot and the Type 86 Entry Test, and, based on lessons learned from those efforts, is considering new regulations requiring additional data elements for e-commerce shipments. EAA members are concerned that the complexities of merging data from newly regulated parties like platforms with manifest information CBP receives from express carriers could cause clearance delays and major backups on the border. Further, including a requirement to submit a Harmonized Tariff System (HTS) number for e-commerce shipments is not necessary and would effectively eliminate the current streamlined clearance process the express industry employs for low value shipments. As the agency noted when promulgating the customs regulations for express clearance, the streamlined nature of this process benefits both CBP and express providers.

Undoing this facilitative process would add undue complexities into logistics and supply chains at a time when the United States is already struggling with these issues. This would be particularly damaging to small and medium-sized enterprises and consumers and, if the same practice is adopted by other countries, would hurt U.S. exporters.

- CBP has not described how they would operationalize having multiple parties submitting data on the same shipment, or even identified which parties would be responsible for each element. CBP must be able to merge information from new parties with the data it already receives from express and other carriers in a way that doesn't undermine current processes, *e.g.*, by jeopardizing the "just-in-time" business model that the express sector built and millions of businesses and consumers rely upon.
- For example, the express carrier, as the initial filer of manifest information, could lose the visibility they currently have in the clearance process and could be stuck waiting for a release message from CBP as the agency awaits data from other parties. The express carrier would have no way to know if the data set is complete and could be forced to collect the data themselves and transmit it to CBP to obtain the shipment's release. This could put the sector at a competitive disadvantage to those companies that act as both a platform and carrier.
- CBP needs to specifically identify the data elements they "need" and justify the need by showing how the data fits into an overall strategic enforcement process. Additionally, the same information should not be required to be provided multiple times by the same submitter in different formats and applications.
- CBP should consider making the provision of new data elements voluntary as opposed to a mandatory requirement. CBP could provide relevant rewards such as more rapid clearances and fewer inspections to incentivize supply chain participants to submit new data voluntarily. This process also would provide more time and experience with the submission of the new data elements and thus allow companies to refine their procedures accordingly in a penalty-free environment.
- CBP has recognized—and commended—the processes put in place by the express industry to provide the agency with additional data to assist in the process of segmenting out risk for shipments. CBP should continue to allow the express industry the ability to utilize these processes as opposed to regulating new requirements for these shipments.

III. Automated Commercial Environment (ACE) Modernization

The ACE system deployed over the past two decades is the technical backbone on which all information processing for shipments entering and leaving the United States relies. It is therefore mandatory that this system includes a robust backup capability to avoid extensive downtimes, and that it provides all the automated functionality both the Government and the trade community require to conduct efficient clearance operations. Since 2016, new development of ACE capabilities has been frozen and an adequate level of resources to support further development is not being provided. Specifically, ACE needs to provide the following functionality:

- CBP needs to focus ACE development on providing a true multi-modal manifest functionality across all modes of transportation for both import and export. The trade community currently faces a series of challenges which ACE was designed to meet, including a lack of capability to handle and track in real time the intermodal transfer of non-U.S.-origin shipments, insufficient functionality to allow the supply chain to efficiently handle in-bond shipment transfer, a lack of integration between the import and export manifest systems, and a lack of necessary visibility and real-time status notifications on shipments for which a trade party has responsibility under its bond.
 - Critical ACE manifest enhancements are needed to adequately address the visibility and oversight gaps that CBP has identified with regard to the agency's efforts to manage shipments arriving in the U.S. through e-commerce business models. The improvements outlined below are the most important steps CBP could take to enhance its ability to interdict illicit shipments coming through e-commerce supply chains.
 - There is particular concern that the ACE development that is taking place currently is not being done with the overall integration needs among the multiple manifest systems in mind. CBP's ACE development process should include substantive and in-depth work with the multi-modal carrier community to understand standard trade processes and

practices, the specific needs/desires of the trade, and the nature of the particular ACE gaps that carriers have identified as deleterious to the efficient movement of cargo.

- CBP needs to provide the functionality to ensure the supply chain can efficiently handle in-bond shipment transfers through a fully electronic process that allows bonds to be transferred between parties seamlessly and coincident with the transfer of the goods. The functionality should include seamless real-time electronic in-bond transfers within and across all modal manifest systems and broker systems when cargo is physically transferred from one party to another.
- CBP needs to create an automated export manifest process as outlined in the COAC White Paper, “Export Operations for the 21st Century,” with the following characteristics:
 - A progressive filing framework that optimizes Government targeting capabilities.
 - Operationally feasible deadlines for data submissions.
 - A mutually supportive approach to conducting inspections.
 - A rational approach to penalties.
 - No paper submissions at any part of the process.
 - Use of U.S. export data as foreign country’s import data.

IV. STOP Act Implementation

As the title of the Synthetics Trafficking and Overdose Prevention Act of 2018 (STOP Act) implies, the law’s primary purpose is to protect the health and safety of the American people by interdicting the importation of illegal opioids and other illicit drugs through the U.S. Postal Service (USPS). The interim final rule (IFR) CBP published in March 2021 falls short of achieving this goal by providing too many exceptions and exclusions for postal shipments that will not be subject to the new regulation. Robust enforcement will be critical to ensuring these loopholes do not result in failing to effectively reduce the threat of fentanyl and other illicit drugs continuing to plague U.S. citizens.

- Additionally, a critical issue with the publication of any new regulation is that the Government ensure the measure does not create competitive disadvantages among the commercial entities affected by the new rule. A new regulation must be consistent with similar rules that already impose specific requirements on private sector parties regarding information that must be submitted to the Government, measures to ensure supply chain security, and steps aimed at interdicting illicit shipments from being imported into the United States. The STOP Act specifically highlights this requirement for parity where it states that the data requirements imposed by the law on USPS will be “comparable to the requirements for the transmission of such information imposed on similar non-mail shipments of cargo.” In short, the Government must at all times ensure a level playing field among competitive supply chain participants is being maintained with regard to the impact of official regulations.
- The regulation published in March falls short in properly identifying and addressing the competitive components among the relevant supply chain participants. The requirements imposed by the rule on postal operators for the submission of advance electronic data—most significantly, the number of exceptions the rule provides—are substantially more lax than the existing regulations with which express consignment operators (ECO) and other air cargo carriers must comply. As CBP knows, the volume of parcels imported into the United States on a daily basis by USPS dwarfs the combined volume of the three ECOs who are members of EAA. Ensuring CBP and all other Government agencies have the full set of data required to determine whether this enormous volume includes any threats to the health and safety of the American people, or the security of the air cargo industry, is thus critically important.
- In publishing a final rule to implement the STOP Act, CBP needs to address the specifics on the significant competitive imbalances created and furthered by the IFR, as well as the vulnerabilities it leaves open.

V. Managing all Government operations on the border

- The increasing expansion of Government agencies’ requirements for information on imports, and the concomitant proliferation of agency inspectional personnel on the border, demands that CBP play a more effective role as the manager of the border clearance enterprise. Up to 40 Government agencies now have some authority for collecting information on imports, and several

have inspectional personnel deployed on the border. This situation is causing backups on the border, and without centralized management of the process it will only get worse.

- CBP needs to ensure that if data being required by other agencies is already resident in ACE as a result of CBP's or another agency's requirements, that information should not need to be reported again through a separate submission.
- Agencies interested in clearance data and conducting their own inspections must do so through ACE manifest and entry functionality and in real time when entries and manifests are submitted, rather than as a post release process when cargo may have already been delivered.
- When CBP is the only agency present in some facilities, such as express hubs, during off hours, other agencies should assign their inspectional responsibilities to CBP officers with the required training to conduct the clearance operations. Any agency which desires to conduct their own inspections must have their personnel available in the facility when CBP is clearing the shipments.
- To begin this process, CBP should undertake a comprehensive review of import and export requirements in conjunction with the other agencies with a view toward streamlining and simplifying requirements.

VI. Forced Labor

The express industry shares the Government's abhorrence of forced and child labor and its determination to ensure no products are entering the United States through supply chains where this crime is being committed. We are best able to meet this goal when CBP identifies specific companies using forced labor, allowing us to avoid shipping any of their products. Complying with the blanket withhold release order (WRO) on all products containing cotton or tomatoes from Xinjiang Province has been more of a challenge, as EAA members do not have visibility back to the origins of supply chains that might contain these products. The Government needs to institute a robust information sharing program with the trade community to meet this challenge, as the Government possesses the most widespread and reliable information sources on the problem. We have found that the most successful approach to interdicting forced labor violative shipments is through extensive dialogue with port level officials and a flexible approach to enforcing existing regulations.

LETTER SUBMITTED BY GEORGE MENIG

Dear Senators,

Watching the Confirmation Hearing for CBP Commissioner nominee Chris Magnus I was stunned by his lack of preparedness for this "job interview". He had 6 months to prepare.

Not being able to speak to laws and topics specific to the position he is seeking was extremely disappointing as he is being considered for appointment to head the largest law enforcement agency in our Country.

As a Tucson, AZ resident I had concerns about his nomination prior to this Hearing. His poor Hearing performance added to my concerns.

He has been the police chief here since 2016. During his tenure violent crime has not just increased, it has skyrocketed.

There were 31 homicides when he took over in 2016. Each year there have been dramatic increases in lives lost to violent crime in Tucson.

Last year (2020) there were 66 homicides.

This year (2021) we are at 80. 80 is a new record and there are two months to go in the year.

Media report: **Violent week pushes Tucson to all-time record for homicides** (*kold.com*), https://www.kvoa.com/news/tucson-breaks-all-time-record-for-homicides-in-a-year-with-80/article_8a5514b0-338a-11ec-9e01-3746632de146.html.

There is a non-fatal shooting at least 3 times a week.

Tucson cops are engaged in gun battles at least once a month.

He has no plan to address the crime issue. He ignores it. On the rare occasion the media asks him about crime he offers lame excuses and dances around the topic with a word salad of nonsense.

Having spent 28 years in law enforcement—20 with the NYPD retiring as a Detective-Lieutenant and 8 with the Cody WYPD as an Assistant Chief—I know police work, leadership, and the human heartbreak of victims of violence.

Change can be affected to address/lower crime.

During my time with the NYPD the City went from having a major crime problem to being the safest city in the Country. NYC went from 2,245 homicides (1990) to below 300 by 2017. There were massive declines in all crime categories. This translated into lives saved and less people being the victim of crimes against person and property. People felt safe. Innovative and effective leadership achieved that success. It is both sad and disgusting that crime is raging here in Tucson. The reason—Chief Magnus is not an effective leader, and the citizens of Tucson have suffered.

He was asked about his leadership style at your hearing. He said all the things an interviewer wants to hear. It is a shame there were no follow-up questions regarding how he has employed his leadership style to solve problems. But why didn't he volunteer any leadership success stories? As a police chief crime IS the main concern as it is a public safety issue. People do not feel safe in Tucson. They fear being a victim. They have every right to feel that way as the dramatic rise in crime has instilled that feeling. He couldn't provide a leadership success story, not with violent crime ravaging the city, not with 2 people a week being murdered.

Magnus refused to acknowledge that the border problem is a “crisis” and instead attempted to deflect away from the issue and engage in semantics. He does the same here in Tucson when the media asks about the rise in homicides. Instead of addressing the question of why and what he is doing about it, he deflects by touting the high solve/arrest rate AFTER a homicide occurs. Engaging in semantics and deflection is not law enforcement executive leadership. Should he be confirmed expect more of the same; a lot more.

In 2020 his officers were involved in a questionable use of force incident in which the subject died. The immediate reaction by Chief Magnus was to offer up his resignation. That is not leadership.

At his hearing he was asked about the incident involving CBP officers on horseback that has raised use of force concerns. Magnus stated that a thorough and complete investigation is necessary before making judgement. An acceptable answer. But his past actions indicate that he would run from the problem instead of facing scrutiny and doing his job.

A further concern is his past interaction with the CBP. The Tucson PD and the CBP interact on a regular basis; not only because of Tucson's proximity to the border, but there is a major CBP facility located here in Tucson. In 2017 there was an escaped CBP prisoner from a Tucson hospital. The CBP set up a temporary command post inside the Tucson PD headquarters to organize and direct a multi-agency response to the escaped prisoner incident. This was standard operation procedure for such an incident. But when Chief Magnus was informed of the situation the CBP were ordered to leave the Tucson PD headquarters and denied further assistance by the Tucson PD. This incident generated media attention and has had a negative impact on the Tucson PD/CBP relationship. Chief Magnus issued a press release stating:

“Due to the current political climate regarding immigration enforcement they refused to assist Tucson Sector Border Patrol.”

Media report: “Exclusive: Tucson PD Evicts Border Patrol Agents Trying to Catch Illegal Escapee,” Observer Politics over public safety. When public safety is minimized lives lost is the cost, <https://observer.com/2017/03/tucson-police-evict-border-patrol-agents-trying-to-catch-illegal-escapee/>.

Expect more of the same from him should he be confirmed.

He has been a police chief of three agencies over his career. Tucson, with 850 officers, is by far the largest agency. It is what career motivated police chiefs do—they build experience and move on to bigger challenges and larger agencies.

For Magnus to be considered for a position of leading 60,000 employees when the largest agency he has led is 850 members is concerning. Maybe if he had a record of impressive achievements or innovativeness for problem solving, he should be de-

serving of consideration. But he has neither. His 5 years at the Tucson police chief have not showcased success. It has been the exact opposite; an abject failure. The Tucson PD crime statistics (open-source material) confirm this.

His performance at this Hearing highlighted concerns regarding someone who is not qualified for this position. He was unable to answer some knowledge-based questions regarding the position, the agency, and applicable laws.

He was unprepared, uninformed and unimpressive. It was an embarrassing performance the residents of Tucson have seen over and over again during his tenure.

I understand the politics regarding this nomination; that this is a Presidential nomination and that some of you in position to decide on his confirmation are of the same political party. The sensitive nature of this post, as CBP Commissioner, especially in today's climate deserve a qualified person to lead the agency regardless of politics.

Magnus is woefully unqualified for the position of CBP Commissioner. The men and women of the CBP deserve better. The American citizens deserve better.

Should Magnus be confirmed HE will be the next crisis at the border. He does not possess the management experience to head a 60,000 person agency with a \$15 billion budget (Tucson PD—850 officers with a budget of \$166 million). Nor does he possess the knowledge and leadership skills to address the diverse and complex issues the CBP is tasked as evident by his inability to answer many agency specific questions and his proven public safety failure as a police chief.

I respectfully request that you do not confirm Magnus for this position.

Thank you.

George Menig

PROTECT AMERICA NOW
530 E. McDowell Rd. #107, Bldg. 252
Phoenix, AZ 85004

May 28, 2021

United States Senator Michael Crapo
239 Dirksen Senate Office Building
Washington, DC 20510

RE: Chris Magnus Nomination for CBP Commissioner

Senator Crapo:

We write today to strongly oppose Chris Magnus for Customs and Border Protection (CBP) Commissioner.

America's Sheriffs are working hard on the front lines to protect their neighbors and communities. Protect America Now believes that the best days of America are still ahead but there are many threats and attempts to make America less safe, less secure, and ultimately less free. Whether the issue is an attempt to trample on our Constitution and reject law and order, infringe on our second amendment rights, tolerate rampant illegal immigration or increasing taxes on working families, all of these issues are attempts to attack our freedoms.

As Police Chief in Tucson, Arizona, Magnus has a proven record of opposing the very mission of the agency to which he is up for consideration. Magnus opposes border protection so much he avoided coordinating with CBP at every turn in his service as Tucson Police Chief.

- "Testifying to a Senate committee in 2018, Magnus called enhancing the border wall a waste of resources better spent on other law enforcement needs."¹
- Magnus is an outspoken opponent of Operation Stonegarden, a federal program that supports state and local law enforcement working along the U.S. border and totaled \$90 million in total funding for fiscal year 2021.²
- "The Border Patrol's union . . . has sparred with Magnus over local enforcement operations as well."²

¹ <https://www.kgun9.com/news/local-news/cbp-candidate-tpd-chief-magnus-critical-of-past-border-policies>.

² <https://frontierdesk.org/content/1674289/tucson-police-chief-tapped-head-customs-and-border-protection>.

Customs and Border Protection officials serve on the front lines enforcing the most critical function of our country: border protection. Without a border we are a nation without law and order and taxpayers deserve agencies that implement laws as written. Magnus has made it clear he does not believe in border protection, so we should not bother him with leading an agency whose mission he opposes.

We strongly ask that you oppose Chris Magnus for CBP Commissioner.

Respectfully,

The Advisory Committee Sheriffs of Protect America Now

Sheriff Mark Lamb of Pinal County, AZ	Sheriff Tom Hodgson of Bristol County, MA
Sheriff Wayne Ivey of Brevard County, FL	Sheriff Jim Arnott of Greene County, MO
Sheriff Tony Childress of Livingston County, IL	Sheriff Scott Jenkins of Culpeper County, VA
Sheriff Mike Lewis of Wicomico County, MD	

