

**OPENING THE FLOOD GATES:
BIDEN'S BROKEN BORDER BARRIER**

JOINT HEARING
BEFORE THE
**SUBCOMMITTEE ON
BORDER SECURITY AND ENFORCEMENT**
AND THE
**SUBCOMMITTEE ON
OVERSIGHT, INVESTIGATIONS, AND
ACCOUNTABILITY**
OF THE
**COMMITTEE ON HOMELAND SECURITY
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OPENING THE FLOOD GATES: BIDEN'S BROKEN BORDER BARRIER

Tuesday, July 18, 2023

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOMELAND SECURITY,
SUBCOMMITTEE ON BORDER SECURITY AND
ENFORCEMENT, AND THE
SUBCOMMITTEE ON OVERSIGHT, INVESTIGATIONS,
AND ACCOUNTABILITY,
Washington, DC.

The subcommittees met, pursuant to notice, at 2:02 p.m., in room 310, Cannon House Office Building, Hon. Clay Higgins [Chairman of the Subcommittee on Border Security and Enforcement] presiding.

Present from the Subcommittee on Border Security and Enforcement: Representatives Higgins, Guest, Greene, Luttrell, Breechen, Correa, Thanedar, Garcia, and Ramirez.

Present from the Subcommittee on Oversight, Investigations, and Accountability: Representatives Bishop, Greene, Ezell, Strong, Crane, Ivey, Thanedar, and Clarke.

Also present: Representatives Green, Pfluger, Thompson, and Jackson Lee.

Chairman HIGGINS. The Subcommittee on Border Security and Enforcement and the Subcommittee on Oversight, Investigations, and Accountability will come to order.

Without objection, the Chair is authorized to declare the committee in recess at any point.

Without objection, the gentleman from Texas, Mr. Pfluger, is permitted to sit on the dais and questions of both panels and witnesses will be allowed.

The purpose of this hearing is to investigate the Biden administration decision to cancel border barrier contracts and the negative impacts on local contractors and communities. Cancelling border contracts has led to a substantial waste of resources, taxpayer funds, and time. Today, our subcommittee will investigate this decision and its effects on the American communities and businesses that have been impacted.

I now recognize myself for an opening statement.

Well, welcome to the Subcommittee on Border Security and Enforcement and Subcommittee on Oversight. The two subcommittees that are joined to address this important matter and we will have two panels before us today. This joint hearing is to examine the effectiveness of the border barrier system and the effects of the Biden administration's cancellation of border wall contracts on the safety

and security of the American people. I would like to thank our witnesses for being here today, some of which traveled extensively to join us to discuss this important topic.

Simply put, physical barriers work to deter and delay any form of criminal intent. In areas along the Southwest Border where there is some kind of physical barrier, illegal border crossings have decreased by up to 87 percent. From fiscal year 2017 to fiscal year 2020, during the construction of the border barrier system we will be discussing today, the Department of Homeland security never reported more than 1 million yearly encounters of illegal aliens at the Southwest Border. The border barrier system also allows Customs and Border Protection agents to respond and to detect threats or breaches using surveillance technology in places along the barrier instead of relying on manned patrol and other limited surveillance efforts. This is why earlier this year I introduced the Finish the Wall Act, requiring the Biden administration to resume construction of the border barrier system.

In the 2½ years since President Biden was inaugurated, there have been more than 5 million illegal border crossings and over 1.5 million gotaways, criminal runner gotaways. If this trend continues, the Biden administration is expected to reach nearly 2.5 million alien encounters at the Southern Border by the end of September for this year alone. The truth of the matter is that my colleagues and friends across the aisle find it difficult to deny that walls work. In fact, there is a long history of bipartisan Congressional support in securing the border using physical barriers, such as fencing, innovative technologies, all-weather access roads, and lighting. Many of my colleagues across the aisle, including some members currently on this committee, voted in favor of the Secure Defense Act of 2006. This has long been a bipartisan understanding that physical barriers work and they are integral to effective security of any perimeter. So certainly our Southern Border is no exception to that simple fact.

Until recent years, it has been clearly understood and accepted beyond the political divisions that we face, that physical barriers work. Unfortunately, when President Biden paused and eventually canceled all border wall construction projects in 2021, he demonstrated to the American people that he would prefer to engage in partisan politics over prioritizing our Nation's sovereignty and our national security and deterring those who break our laws by conducting illegal activity at our Southern Border. Fencing and border wall construction has ceased to be a bipartisan security tool and the American people are suffering for the sake of this political posturing.

In addition to the human cost of these cancellations, it is apparent this administration did not stop and think about the consequences and the impacts that cancellation of border barrier projects would have on American small businesses who had a contract for and had completed work on the border wall system. One of our witnesses here today, Jim De Sotle, his company was hired in 2019 by the Federal Government to conduct work on the border barrier system. To this day, Jim's company, LoneStar Pipes, has yet to receive any payment or reimbursement for the work that they did. Another witness with us today, Mr. Russell Johnson, is

a former Border Patrol agent, returned to ranching along the New Mexico border. As border wall construction expanded, he and his family saw illegal traffic pushed to other sections of the border without a wall, showing that the border wall system is a force multiplier so that the United States Border Patrol can focus agents in areas where a wall might not be logical or possible. Border Patrol agents and the recently-retired chief of Border Patrol, Raul Ortiz, have repeatedly stressed the importance of the border wall for the Border Patrol to do its job.

The border wall system should not and did not, prior to the recent years, was not used as a partisan issue. But over the past few years every detail of border security has become a political playground, including paying our contractors for work that has already been done. These are American citizens, American companies that engaged in good faith in contractual agreements with the U.S. Government and performed their work and have not been paid. It is shameful.

Completing the border wall system is critical to our Nation's safety, security, and sovereignty. We, the people, demand a resolution to this crisis. Order must be restored, and this is the first step. [The statement of Chairman Higgins follows:]

STATEMENT OF CHAIRMAN CLAY HIGGINS

Good afternoon and welcome to the Subcommittee on Border Security and Enforcement and Subcommittee on Oversight, Investigations, and Accountability joint hearing to examine the effectiveness of the border barrier system and the effects of the Biden administration's cancellation of border wall contracts on the safety and security of the American people. I would like to thank our witnesses, especially those who traveled from New Mexico and New Jersey, for being here today.

The simple fact is that physical barriers work to deter and delay any form of criminal intent. That is why earlier this year, I introduced the "Finish the Wall Act" which required the Biden administration to resume construction of the border barrier system.

When I first introduced this bill in the 115th Congress during the Trump administration, the border was more secure than ever. From fiscal year 2017 to fiscal year 2020, during construction of the border barrier system, the Department of Homeland Security never reported more than one million encounters of illegal aliens at the Southwest Border.

Since Biden was inaugurated in January 2021, we have lost all operational control of our Southern Border. In just 2½ years, we've had more than 5 million illegal border crossers, and over 1.5 million gotaways—and if current trends continue, the Biden administration is expected to reach nearly 2.5 million alien encounters at the Southern Border by the end of fiscal year 2023.

Who could forget that there is a long history of bipartisan Congressional support in securing the border using physical barriers, such as fencing, innovative technologies, access roads, and lighting.

In fact, this committee introduced and led the bipartisan "Secure Fence Act of 2006" (Pub. L. 109-367) which authorized the Department of Homeland Security to achieve and maintain operational control over the border and authorized construction of 700 additional miles of fencing along the United States and Mexico border. Sixty-four Democrats voted for the measure in the House, and 26 Democrats voted for the passage of the bill in the Senate. In 2013, House Democrats also supported a measure that would have authorized \$8 billion to repair and reinforce certain sections of the border barrier.

The truth of the matter is that my colleagues and friends across the aisle cannot deny that walls work. In areas along the Southwest Border where there is some kind of physical barrier, illegal border crossings have decreased by XX percent. The border barrier system allows Customs and Border Protection agents to not only gain effective control of the border, but agents are able to respond to and detect threats or breaches using surveillance technology.

Unfortunately, when President Biden paused and eventually canceled all border wall construction projects in 2021, he showed the America people he would rather

engage in partisan politics over prioritizing our Nation's national security and stopping those who break our laws by conducting in illegal activity at our Southern Border.

It is apparently, he did not stop and think about the consequences of his Presidential proclamation and the impacts the cancellation of border barrier projects will have on American small businesses who had a contract and completed work on the border wall system.

One of our witnesses here today, Jim De Sotle, his company was hired in 2019 by the Federal Government to conduct work on the border barrier system. To this day, Jim's company, LoneStar Pipelines, has yet to receive a single reimbursement for any of the work they did.

Another witness with us today, Mr. Russell Johnson, was a former Border Patrol agent turned rancher.

The most serious consequence of Biden's Executive Order is the gaps that were left when the administration abruptly canceled border barrier projects. On Mr. Johnson's ranch for example, there is a gap—this gap has been exploited by illegal border crossers and transnational criminal organizations.

This is why completing the wall is critical to our Nation's safety.

America demands and deserves border effective border security and House Republicans will hold the Biden administration accountable for failing to defend our Nation's sovereignty at the Southern Border.

Chairman HIGGINS. I now recognize the Ranking Member, my colleague, Mr. Correa, the gentleman from California, for his opening statement.

Mr. CORREA. Chairman Higgins and Chairman Bishop, I want to thank you both for holding this most important hearing.

I am glad that we all agree here today that we need to secure our borders. I don't however believe that building a wall is the best way to achieve that. The wall is a Clinton-era, Bill Clinton-era project from 30 years ago. The challenges today look very different than they did 30 years ago. I think the question before us is, what we have to be asking ourselves is, does a border wall fit into the challenges that we are seeing today? Our world has changed since Bill Clinton and since post-COVID-19. Many here in this room actually voted to end a COVID-19 public health emergency, thereby ending Title 42. These same individuals predicted the demise, a chaos at the border, which is yet to materialize. Because the reality is, after Title 42 went out, Title 8 has been imposed, and Title 8 has with it severe criminal sanctions against immigrants who cross between ports of entry. This administration has in place a policy that does deter people from crossing between ports of entry. Let me be clear, I don't agree with that policy. But it is hard to argue with the facts and the numbers. The numbers are challenges at the border have dropped. Those numbers have dropped since the ending of Title 42. It didn't take building a wall to make that happen.

Bottom line, the world today is experiencing a migratory crisis, a refugee crisis like we have never seen in the history of this world. I have to reiterate, the challenges that we face today require worldwide solutions, not regional solutions. Let's be clear as well, the wall is not preventing migrants from coming to the United States, but rather the wall is directing migrants to cross in more remote and dangerous areas of the border. It is no surprise then that the Border Patrol has seen more deaths and assisted in more rescues as a result of this policy. We have also seen more injuries, traumatizing families and costing our hospitals millions of dollars. As we will hear today from our witnesses, a local hospital in the San Diego sector has witnessed an unprecedented increase in traumatic brain injuries and spinal injuries from border wall falls since 2019.

To address border security, we need to address the push factors that are driving people to move north. No one wants to pick up and leave their homes and families. I ask you, if thousands of families are willing to trek through the dangerous Darién Gap to get to the United States, like the little girl in this photo behind me, you really think that a wall is going to stop a family from going north? Of course it won't. That is why we need partnerships with Mexico and countries in Latin America and Central America.

This following chart shows the magnitude of the refugee challenge we are facing just in this region alone. Countries south of the border are stepping up to help us. Colombia, for example, has taken in 2.5 million refugees. Others, like Guatemala, are allowing new migrant processing centers to be established in Guatemala. Mexico is also hosting thousands of refugees in Mexico.

The wall never helped with cooperation in the region. Refugees are not just our problem or their problem, refugees are our collective challenge and opportunity. Today we are seeing the full integration of the North American markets. Let me repeat, today we are seeing the full integration of the North American markets. Some of my colleagues will argue that the wall is an important deterrent for smugglers and criminals unlawfully entering the United States. But you can't fix a problem using a 30-year-old solution.

We heard last week during the hearings that transnational criminal organizations are exploiting legitimate private-sector trade to move fentanyl precursors and fentanyl presses and fentanyl across China, Mexico, and the United States. Now we are seeing precursors coming into the United States through our seaports. A border wall does not address this kind of a challenge. Cartels today are smuggling the overwhelming majority of drugs through our ports of entry, using very creative ways to smuggle. Just last month, CBP officers seized 900,000—900,000 fentanyl pills concealed in a porcelain sink at the Otay Mesa port of entry—at the port of entry. I really don't see how a border wall will help us tackle the drugs coming through our ports of entry. In addition, we heard last week on how cartels are now using drones, some drones that cost \$200, with a payload of \$1 million value of fentanyl to cross the border. How is a border wall gonna stop a drone?

The fact that my colleagues continue to focus on the wall again and again and again puts this committee and this Congress out of touch with what we really need to secure our country. Instead of spending taxpayer dollars, or like previous administration did, shifting money from drug-counteracting missions, let's invest in ports of entry, additional CBP personnel, and the root causes of why refugees continue to move north.

Again, today we are seeing tremendous integration of trade between Canada, the United States, and Mexico. The trade across our borders is unbelievable. We have to invest in the technology to make sure that we stop drugs from coming into this country and make sure we continue to preserve the free flow of goods and services that help American consumers on a daily basis. Between ports of entry we can deploy innovative technologies like sensors, autonomous towers to detect and identify threats. Some of these technologies are actually being manufactured in my district today.

Let me conclude by saying that the Biden-Harris administration has engaged in these solutions. I am sad to say that my colleagues across the aisle voted against funding these initiatives to combat modern threats against proven solutions that are working today. Just ask the folks at the border. I hope that going forward, this committee can work together with others to combat not only the threats of today, but also the threats of tomorrow, and that we move beyond the solutions that were put in place 30 years ago.

Thank you, Mr. Chairman, and I yield back.

[The statement of Ranking Member Correa follows:]

STATEMENT OF RANKING MEMBER J. LUIS CORREA

JULY 18, 2023

I am glad that we all agree on the need to effectively secure our border. I don't, however, believe that a border wall is the best way to achieve that. The wall is a Clinton-era project from 30 years ago. But the challenges of today look very different than they did 30 years ago. I think the question we should all be asking ourselves is how the border wall fits into the challenges we are seeing today. Our world has changed since the Clinton era, particularly with the COVID-19 pandemic.

Many in this room voted to end the COVID-19 public health emergency, thereby ending Title 42. They also predicted border chaos, which has yet to materialize. Now many seem disappointed that numbers have dropped. That our border is under control. Because the reality is that Title 8 imposes criminal consequences on migrants who cross between ports of entry. This administration has in place a policy to deter people from crossing between ports of entry.

To be clear I don't agree with that policy. But it's hard to argue with the fact that numbers have dropped since the end of Title 42. It didn't take building a wall to make that happen. The world is experiencing an unprecedented migratory crisis like no other since World War II. As I have reiterated in the past, the challenge we face is a world-wide issue that requires worldwide solutions.

Let's be clear—the wall is not preventing migrants from coming to the United States, but rather directing migrants to cross in more remote and dangerous areas of the border. It's no surprise then that Border Patrol has seen more deaths and assisted in more rescues as a result. We've also seen more injuries, traumatizing families, and costing our hospitals millions of dollars.

As we will hear today, a local hospital in the San Diego Sector witnessed an unprecedented increase in traumatic brain injuries and spinal injuries from border wall falls in 2019. This is neither humane nor effective.

To address border security, we need to address the push factors driving people to migrate. No one wants to pick up and leave their homes and families. If thousands of families are willing to trek through the dangerous Darién Gap to get to the United States, like the little girl in this photo, do we really think that a wall is going to stop them?

It won't. That's why we need partnerships with Mexico and countries in Latin America and Central America.

This chart shows the magnitude of the refugee challenge we are facing just in this region. That countries are stepping up. Colombia, for example, is accepting millions of Venezuelans. Others, like Guatemala, are allowing new migrant processing centers to be established in their countries. The wall never helped with cooperation in the region. Refugees are not just our problem or their problem.

Refugees are our collective challenge and opportunity. Today, we are seeing the full integration of the North American markets.

Some of my colleagues will argue that the wall is an important deterrent for smugglers and criminals unlawfully entering the country. But can we solve a 21st-Century problem with a Bill Clinton solution? As we heard during last week's hearing, transnational criminal organizations are exploiting legitimate private-sector trade to move fentanyl precursors and pill presses between China, Mexico, and the United States. And, we're now seeing precursors move through our seaports. A border wall doesn't address this trade.

Cartels are smuggling the overwhelming majority of drugs through our ports of entry, using creative methods of concealment. For example, just last month, CBP officers seized 900,000 fentanyl pills concealed in porcelain sinks at the Otay Mesa port of entry. I don't see how a border wall helps us tackle the drugs coming through our ports of entry. In addition, we heard last week how cartels are using

drones that cost \$200 to send million-dollar payloads of drugs high over any border barrier. The fact that my colleagues continue to focus on the border wall again and again makes our committee look out-of-touch with reality.

Instead of spending taxpayer dollars—or in the previous administration’s case—shifting money from countering drug missions—let’s invest in our ports of entry, in our CBP personnel, and, importantly, in addressing the root causes to migration with our international partners.

In a time of exponential growth in cross-border trade, let’s dedicate resources to inspection technology to interdict dangerous drugs like fentanyl. Let’s keep the bad stuff out, and let the good things in. Between the ports of entry, we can deploy innovative technologies like sensors and autonomous towers to detect and identify threats. Some of these technologies are even being made in my district.

The Biden-Harris administration has engaged in these solutions. I’m sad to say that my colleagues across the aisle voted against funding these initiatives to combat modern threats against proven solutions that are working. I hope that going forward, this committee can work together to combat not only the threats of today, but also those of tomorrow.

Chairman HIGGINS. Thank you, Ranking Member Correa.

I now recognize the Chairman for the Subcommittee on Oversight Investigations and Accountability, the gentleman from North Carolina, Mr. Bishop, for his opening statement.

Mr. BISHOP. Thank you, Mr. Chairman, and I am glad to extend my welcome also to those who are attending today’s hearing.

I have to take a point of departure from the opening statement of the Ranking Member just articulated. Barriers are not some old technology. They aren’t from some long-ago thing from the Clinton administration. The Secure Fence Act was 2005, 2006. The progress that was made was interrupted by the Obama administration first and then, of course, all know that in 2019, President Trump declared a national emergency in recognition of the security and humanitarian crises at our Southern Border, but on the very first day in office, President Biden terminated President Trump’s proclamation and halted construction of the border wall. While this purely political decision appeases a radical-left open-borders advocacy, it does nothing to enhance the security of Americans.

The numbers do not lie. Since the 2018 election and the year following, border encounter numbers reached 20-year highs, broke records for encounters of aliens from countries other than Mexico, and more than doubled in every sector along the U.S.-Mexico border. Today, our crisis is at a boiling point. We just heard that the numbers have fallen. A boiling point with over 200,000 encounters in the month of May alone. Who is out of touch? Yet President Biden refuses to budge on restarting construction of a border barrier, wasting taxpayer dollars, encouraging illegal traffic at gaps at our border, and endangering the safety and security of Americans.

A physical border barrier slows down those seeking to illegally cross the border and enhances Border Patrol agents’ ability to apprehend those individuals. It is simply common sense and any Border Patrol agent you find will tell you that. President Biden’s failure to complete the border barrier system unquestionably hinders Border Patrol’s efforts to control the border.

As then-Chief Patrol Agent for the Del Rio sector, now chief of Border Patrol, Jason Owens, testified to this committee in a transcribed interview, a “physical barrier extends the amount of time that I and my team have to respond to and interdict, and it increases the certainty of arrest.” Another sector chief logically explained in his transcribed interview that the presence of a border

wall leads individuals to cross at areas without a barrier, which allows Border Patrol to focus resources in response. Since President Biden halted border wall construction, Border Patrol recorded more than 1.5 million gotaways who crossed illegally into the United States without being apprehended. Not being apprehended because they weren't diverted to the places where they could be apprehended or deterred or slowed. We don't know who the gotaways are. We don't know what they are doing and what they are bringing across the border. To speak of fentanyl, they catch it at the port of entry in the sink, but we don't even have any idea. It is the same small quantities that can poison hundreds of thousands or millions of Americans and we don't even know. We don't know their intentions. But we do know that cartels traffic fentanyl across the Southern Border and Americans are dying of fentanyl overdoses at historic levels.

These are among the reasons Congress acted to enhance physical infrastructure along the Southern Border. For example, Section 3 of the 2006 Secure Fence Act requires, "At least two layers of reinforced fencing, installation of additional physical barriers, roads, lighting, cameras, and sensors." Since 2006, Congress appropriated funding explicitly to construct the barrier system on the Southern Border. In fact, just 1 month before President Biden halted border wall construction, Congress included almost \$1.4 billion for the border barrier system in the Consolidated Appropriations Act for Fiscal Year 2021. It makes a mockery of the duty faithfully to execute the law.

Notwithstanding legal requirements and Congressional appropriations to build a barrier system, President Biden's Department of Homeland Security is instead spending tax dollars on environmental remediation projects. President Biden's irresponsible decision left stacks of unused construction materials exposed to the elements to rust away at project sites along the border. Reckless cost to the Federal Government, reckless waste of resources. Private citizens on the border found themselves left with the inconvenience, hazard, and expense of these materials remaining abandoned on their properties for now over 2 years. No resolution, just abandoned. That is the policy of the administration. We bought materials, we signed the contracts, but now we are getting nothing for it, just unprecedented levels of illegal immigration.

The suspension and termination of contracts also placed contractors in an untenable position. Contractors made business plans and took on expenses to fulfill their contracts. They were then forced to wait on hold for months without any clear decision while the Biden administration decided whether to honor contractual obligations. When that became something that even the Biden administration couldn't contend that they were doing any longer, they terminated contracts and contractors now, 2 years later, are saddled with the need to attempt to at least recover some of their costs. This is some madness.

With the on-going border crisis of historic proportions, we need to equip our Border Patrol agents with all tools possible to secure our border. Congress has spoken and passed laws, but the Biden administration has wasted hundreds of millions of American taxpayer dollars in canceling contracts that would finish the job. In-

stead of getting what Americans paid for, we are left with wall panels to bake in the desert and a wide open border. President Biden's unconscionable decision compromises national security.

Thanks to all for joining this hearing. I look forward to the testimony from our witnesses.

I yield back.

Chairman HIGGINS. Thank you, Chairman Bishop.

I now recognize the Ranking Member for the Subcommittee on Oversight, Investigations, and Accountability, gentleman from Maryland, Mr. Ivey, for his opening statement.

Mr. IVEY. Thank you, Mr. Chairman.

In 2015, former President Trump vowed to build a wall. He said, and I quote: "We're going to build a wall and it's going to be impenetrable. It will be a real wall." That same year, he also said, and by the way, Mexico will pay for it. It is going to be a great wall because I do, I know how to build. Absolutely none of that turned out to be true.

The border wall never even got close to being impenetrable, even the parts that had been built. I think it has been pointed out lately, because the Republican Presidential campaign has kicked off, that during President Trump's 4 years in office, only about 50 miles of the wall got built. The rest of what was done was repairing the wall that, yes, the Obama administration had put up. I also need to point out too that during that time period, the Government spent \$2.6 million to repair border wall breaches from years 2019 to 2021. The maintenance records show wide-spread damage demonstrating the wall's limitation as an impediment to illegal crossing. It didn't even stand up to winds. Sometimes it was knocked over by flooding and the like. The CBP discovered 40 tunnels from 2017 through 2021, with the greatest number being discovered in 2020. So not only were the cartels going over the wall, as Mr. Correa pointed out, and they are doing that in increasing amounts with the drones that they are now using, and they were driving around the walls. We went down to look, the walls don't do anything to block off traffic going up and down the streets, and they are certainly going under the walls as well. Don't forget the cheap ladders used to climb over the wall. We had photographs that I have seen about this. Even though they raised the height of the walls, people were still able to go over the walls or sometimes just buy, you know, Home Depot kind of saws and cut through it.

So to build his wall, since Mexico didn't pay for it, between 2017 and 2020, Congress appropriated \$4.5 billion for the construction of the new and replacement barriers along the Southwest Border. Then former President Trump pulled \$10.5 billion, diverted it, \$6.3 billion from the Department of Defense for its counter-drug programs, \$3.6 billion from military construction projects, including schools and day care centers for military families, and \$600 million from the Department of Treasury's forfeiture of funds. As I mentioned, that led to the building 52 miles over the years. That amount of money, the result at the end of the Trump administration was 52 miles of new wall.

When President Biden got into office, the remaining funds he sent back to where they were supposed to have gone to start with. But it is clear, and the GAO reported in 2021, that Mr. Trump's

desire led to a great deal of waste. One of the issues—and we will be able to talk about the contracting issue later on, but rather than doing competitive contract bids, because they had declared an emergency, were moving quickly, they did sole-source and direct-let contracts, which led to, in some instances, contracts that weren't competitively bid and didn't necessarily get the best results for dollars and cents for the American people. Because the way the Federal contracting system is structured, you want to have competition whenever you can so that you can get the best price. But the way President Trump ran these programs, it bypassed those and other issues too, like environmental protections, in order to “address the emergency” that he needed to do to build the wall.

I think along the lines—and I will shorten it up because Mr. Correa said a lot of the things that I wanted to hit on too. I think it is pretty clear at this point that building the wall, and I believe H.R. 2, which is passed by my Republican colleagues, I believe it came out of this committee with no Democratic support, calls for the construction of 900 more miles of wall. Now, at the rate that President Trump was going, I guess it will take like 45 years to do that. The cost would be astronomical. I think it is clear at this point that because the cartel is already, just from a technological standpoint, bypassed the type of protections that a wall could have provided maybe 20 or 30 years ago, putting that kind of money into those programs, as opposed to the things that meet head-on what they are doing in the cartels to get fentanyl into the United States, since 92 percent of it comes through the ports of entry, not where the walls are or even in between the ports of entry. I think we need to focus on that.

I did want to make one last point, though, to Mr. Jefferis of the Army Corps of Engineers. In reading the testimony, I did have concerns about what had happened with LoneStar Pipeline contractors. So I do want to have a chance to ask you about that. I think he raised—he sent a letter, he didn't send testimony, but that is fine. The point is the same. I do want to make sure that to the extent innocent contractors got caught up in the changes of the politics that come out of Washington, DC, they don't suffer for it.

So with that, Mr. Chairman—oh, and I did have two articles I wanted to offer to the record. We will come back to this in a minute. “Southern Border Eerily Quiet After Policy Shift on Asylum Seekers”, this is out of the *Washington Post* on July 12, and also from the *Post*, an opinion piece on “Biden's Border Policy Critics, Both Left and Right Were Wrong.”

Chairman HIGGINS. Without objection.

[The information follows:]

SOUTHERN BORDER ‘EERILY QUIET’ AFTER POLICY SHIFT ON ASYLUM SEEKERS

By Nick Miroff and Toluse Olorunnippa, *The Washington Post*

July 12, 2023 at 6 o'clock a.m. EDT

EL PASO—On the border bridge from Mexico, about 200 asylum seekers lined up on a recent morning with their phones open to a Customs and Border Protection mobile app, ready for appointments at a reception hall on the U.S. side.

Thirty miles north, the Biden administration provided a different reception for those attempting to enter the United States illegally, bringing them to a massive tent complex in the desert for migrants facing deportation. The new 360,000-square-foot facility's shelves were stocked with diapers, snacks and baby formula, signs of

the administration's efforts to meet the changing demands of U.S. immigration enforcement.

The two locations illustrate the extent to which Biden administration officials have begun transforming the way asylum seekers and migrants are processed along the southern border since May 11, when the White House lifted the pandemic policy known as Title 42. The policy had allowed quick expulsions of migrants who entered the United States illegally but no penalty for those who tried to get in again and again.

Now the administration is allowing tens of thousands of migrants to enter the United States legally each month through the mobile app CBP One, while those who don't follow the rules face ramped-up deportations and tougher penalties.

The preliminary result is a nearly 70 percent drop in illegal entries since early May, according to the latest U.S. Customs and Border Protection data. After 2 years of record crossings and crisis-level strains, the Biden administration appears to have better control over the southern border than at any point since early 2021.

The president's critics continue to depict his border policies as too permissive—geared more toward accommodating mass migration than deterrence. But the decline in illegal crossings undermines a key line of attack for President Biden's Republican critics and bolsters Democrats' argument that the pandemic expulsion policy was partly to blame for record numbers of border arrests.

Administration officials acknowledge it is too soon to tell whether their new approach can achieve lasting effects. Republican State officials are suing in Federal court to block Biden's policies expanding legal entries through CBP One. At the same time, immigrant advocacy groups have filed challenges in Federal court to Biden's new border restrictions on asylum seekers who cross illegally.

The recent drop in illegal crossings does not mean fewer than half as many migrants are coming to the United States. President Biden is allowing roughly 43,000 migrants and asylum seekers per month to enter through CBP One appointments and accepting an additional 30,000 through a process called parole. The new legal channels appear to be absorbing many of the border crossers who for years have entered unlawfully to surrender in large groups, overwhelming U.S. border agents.

U.S. agents made about 100,000 arrests along the Mexico border in June, the first full month that Biden's new measures were in effect, down from 204,561 in May, according to the latest CBP data. It was the largest 1-month decline since Biden took office.

Imelda Maynard, the legal director of Diocesan Migrant & Refugee Services in El Paso, which aids migrants, described the past several weeks in the city as "eerily quiet." The number of migrants released by CBP onto the streets of El Paso dropped to zero in recent days, according to the city.

"We've been so used to putting out fire after fire, we're like: Where are all the people?" Maynard said.

'We're so close'

On the outskirts of El Paso, where for much of the past 2 years migrants have attempted to enter illegally each day through the steep canyons of Mount Cristo Rey, a CBP helicopter and a team of agents gave chase one recent morning to a single border-crosser. He turned back south.

With CBP using more contractors at its facilities to help perform tasks such as data entry, medical screening and child care, Biden officials say more U.S. agents can return to patrol duties. That appears to be making it harder for border-crossers to sneak through.

The factors that have fueled migration to the United States remain largely unchanged, but for the first time since Biden took office, the President's team is testing a new border-management strategy, one it considers a more humane and effective alternative to the Trump administration's approach. At the heart of the strategy is a belief that reducing the chaos and illegality of migration is more feasible than trying to stop it.

Legislative proposals to overhaul the U.S. asylum process continue to face steep odds in a polarized U.S. Congress, which hasn't passed significant immigration legislation in nearly two decades.

Blas Nuñez-Neto, the top border policy official at the Department of Homeland Security, said the Administration's measures remain vulnerable to adverse court rulings because they rely on executive actions rather than congressional fixes, which remain stalled.

The fact that the new Biden system is working as intended is encouraging, Nuñez-Neto said in an interview. "But it's still too early to draw any definitive conclusions about what we're going to see in the coming weeks and months."

For migrants in Mexican border cities trying to secure a CBP One appointment, the wait can be harrowing.

Jose Ricardo Pimentel, a 33-year-old Venezuelan, stood on the bridge on a recent morning. Lowering his voice to a whisper, he acknowledged that he'd slipped into the line without an appointment that day because he was so desperate to leave Mexico.

"I was kidnapped along the highway to Ciudad Juárez and held for 22 days," he said. "I'm scared."

Pimentel reached the front of the line to plead his case, but U.S. officers saw his name wasn't on their list. They turned him back.

Pimentel fell in behind other families who lacked appointments but were clinging to faint hopes the CBP officers would allow them to enter anyway.

Leidimar Muñoz; her husband, Alexander Gonzalez; and their 7-year-old daughter, Yefreannys, waited there, too, but they gave up after 5 hours in the 100-degree heat.

"My daughter couldn't stand it any longer," said Muñoz, also from Venezuela. "She was hungry and asking to use the bathroom."

The family walked back down the bridge into Ciudad Juárez, then laid out a blanket under the bridge's shade, sharing a plate of chicken and fried rice from a foam container. Yefreannys took out Play-Doh and Barbie dolls from a dusty backpack with a cat face.

Muñoz had registered the family for a CBP One appointment 8 days earlier. The average wait for an appointment was 4 to 6 weeks, but she didn't want to move into a shelter farther away from the border bridge. They were spending nights under the bridge, sleeping outdoors on the patio of a Mexican migrant services center.

Downtown El Paso seemed within grasp, its skyline visible past the border wall and the spools of concertina wire.

"We're so close," Muñoz said.

Before May 11, the family could have joined the tens of thousands of other Venezuelans crossing illegally and surrendering to border agents with an expectation they'd be quickly released into the United States. Now doing so would risk deportation back to Mexico and ineligibility for asylum. Muñoz had to wait, glued to the mobile app.

Criticism from all sides

The drop in illegal crossings has given Biden a reprieve on one of his most vulnerable issues ahead of next year's Presidential election. White House officials expressed a sense of validation at seeing the border numbers fall after the expiration of the pandemic restrictions—noting how Republican politicians had been warning of impending chaos after May 11.

But even as Biden's aides expressed relief, the president himself has largely refrained from calling out his detractors over the issue. The challenges with border enforcement have vexed his administration since its earliest days, with fast-changing migration patterns, court orders that kept Title 42 in place and criticism from both liberals and conservatives.

The issue is bound to remain a sticking point during the 2024 campaign. Former president Donald Trump—who initiated the Title 42 policy and predicted that its end would lead to record migration—has accused Biden of deliberately undermining border security by lifting the restrictions.

Recent polling indicates that immigration is one of Biden's biggest political liabilities, with 6 in 10 adults saying they disapprove of his handling of the border, according to a recent AP-NO RC poll. In the aftermath of Title 42's lifting, several Republican candidates have announced Presidential bids—and almost all of them have used their campaign launches to attack Biden on immigration.

In some cases, the disapproval is coming from Biden's side of the aisle—with Democrats criticizing him as being too harsh toward migrants.

Crystal Sandoval, director of strategic initiatives for Las Americas, an advocacy group working on both sides of the border, said Biden's restrictions have effectively "ended" access to asylum. Though the administration is allowing tens of thousands to enter with CBP One appointments to live in the United States while their protection claims are pending in U.S. courts, asylum seekers who might be fleeing immediate danger face new hurdles if they cross the border illegally.

"Is it really due process?" said Sandoval, whose organization has been helping migrants in Ciudad Juárez fix errors to their CBP One registrations.

"I expected more," she said. "We can and should do better."

A floating city

The deceased man lay facedown in a sandy berm about five miles north of the border wall and 100 yards from a highway.

A CBP helicopter first spotted him, sending agents on horseback. They estimated he'd been there about a week. Pieces of sponge were glued to his boot soles, a tactic used to mask footprints. The sun had left his limbs the color of charcoal.

He was one of two deceased migrants recovered in the Santa Teresa, N.M., area, just outside El Paso, on a recent morning.

Crossings have historically dipped during the peak summer months when temperatures along the border soar past 100 degrees. But as migrants trying to evade capture face tougher odds to sneak through, they often resort to more remote areas with greater risk. They may be U.S. deportees, or have criminal records, making them ineligible for CBP One.

Border agents in CBP's El Paso sector are still averaging 400 to 500 arrests per day, bringing detainees to the sprawling new detention facility comprising brightly lit, climate-controlled tents that resemble puffy clouds. The size of six football fields, it is the largest and perhaps least harsh CBP facility ever built, with capacity for more than 2,500.

The Border Patrol supervisor running the facility likened it to a cruise ship—a small self-contained city floating on the desert. With hot showers, onsite laundry and scores of private booths where migrants can videoconference with attorneys, asylum officers and immigration judges, the facility's operating costs exceed more than \$1 million per day.

Border Patrol officials said the facility allows them to manage detainees using far fewer agents. They can reserve the more austere, jail-like detention cells at Border Patrol stations for migrants considered security risks. Family groups, unaccompanied minors and others deemed lower risk can be held at the tent complex, where contractors perform administrative and custodial tasks that have long grated on agents.

Rep. Tony Gonzales (R-Tex.), a border-district lawmaker who criticized the new facility's price tag after a recent tour, said 100,000 illegal crossings a month still add up to more than a million annually, near historic highs. Asylum seekers who are released into the United States while their claims are pending rarely end up deported, even though the majority of their cases are rejected in U.S. immigration court, he said.

"If this is what the administration thinks is a win, they're on the complete wrong path," Gonzales said.

He said he is concerned that the arrival of tens of thousands of migrants through CBP One has effectively "streamlined and normalized illegal immigration."

"So they won't be deported, but they'll be living in the shadows all their lives," Gonzales said. "It's wrong to funnel them down a dead end."

Under CBP policy, 72 hours is the maximum amount of time migrants should remain in the agency's custody before they are released or transferred to another agency such as Immigration and Customs Enforcement for longer-term detention. The 3-day window is generally too short to resolve asylum seekers' claims of persecution in their home countries.

The Biden administration appears to be using the new tent complex to hold detainees longer, allowing more time for the government to apply the new asylum restrictions and deport those who disregard the CBP One route.

Border Patrol officials providing a tour of the facility did not allow interviews with detainees. But one man lining up for a shower said he'd been there 18 days.

Olorunnipa reported from Washington.

OPINION: ON BIDEN'S BORDER POLICY, CRITICS BOTH LEFT AND RIGHT ARE WRONG

By the Editorial Board, The Washington Post

July 14, 2023 at 7:30 a.m. EDT

Uncontrolled migration across the U.S.-Mexico border is not in anyone's interest except, perhaps, for the smugglers who profit by charging people to make the difficult and dangerous trek. After much hesitation, during which unauthorized attempted border crossings reached an all-time high of 2.76 million in fiscal 2022, the Biden Administration acted to stem the flow and redirect it into lawful, more manageable channels. Initial data from the Department of Homeland Security shows progress: Daily Border Patrol encounters with migrants fell from 10,000-plus just before May 11, when the policy went into effect, to 3,400 in early June. Set forth

in regulations finalized May 10, the plan seems to be preventing the border chaos many had feared would follow expiration of emergency powers under Title 42, a public health law that had allowed Federal authorities to expel migrants summarily during the pandemic.

There's a catch, though: President Biden's policy has to be consistent with Federal law. And critics from both ends of the political spectrum have gone to Federal court arguing that it's not. On July 19, a judge in Oakland, Calif., is set to hear a coalition of immigrants' rights advocates, headed by the American Civil Liberties Union, who claim, in effect, that the Biden plan unlawfully truncates the right to asylum. Meanwhile, red States, headed by Texas, accuse the administration of the opposite: letting in hundreds of thousands of migrants without sufficient legal authority.

The courts should let the administration's approach, which includes a 2-year time limit, run its course. Some of the legal arguments against it are serious. Yet, so is the Biden administration's case: that the President is trying to address a major problem through a pragmatic exercise of his existing authority.

Essentially, the new policy offers migrants incentives and disincentives—carrots and sticks—the net effect of which is to discourage irregular border-crossing. The disincentive, framed as a “rebuttable presumption” against entry, is swift expulsion and a 5-year bar on reentry for those who cross between ports of entry without first seeking asylum in a third country en route. The incentive is that these tough conditions do not apply to migrants who first make appointments using a cellphone app to apply for asylum at ports of entry and wait in Mexico for their turn. The rule contemplates advance processing for asylum in a third country as well. Separately, it offers 30,000 people per month from Venezuela, Nicaragua, Cuba, and Haiti—main sources of the 2022 border surge—direct access to the United States via 2-year humanitarian parole, provided they have a U.S. sponsor.

Mr. IVEY. Thank you, Mr. Chairman.

With that, I yield back.

Chairman HIGGINS. The gentleman yields.

Other Members of the committee are reminded that opening statements may be submitted for the record.

[The statement of Ranking Member Thompson follows:]

STATEMENT OF RANKING MEMBER BENNIE G. THOMPSON

JULY 18, 2023

We are here today to focus on a policy that has little to do with border security, and that's Donald Trump's border wall. Trump's wall has not only been ineffective in providing security at the border, but it's also had a devastating financial and humanitarian cost. Financially, this wall has been a disaster for the American people.

Former President Trump promised Mexico would pay for this wall. Mexico has not paid one penny toward the wall. Instead, former President Trump and Republicans have left American taxpayers to foot the bill.

Let's remember, the strategy to build the border wall had so little support that the Trump administration had to divert billions of dollars away from the Department of Defense to build a small part of the ineffective border wall. This ill-conceived plan resulted in the previous administration building only 52 miles of new border wall when the regional plan called for 1,000 new miles.

These 52 miles of new wall cost taxpayers billions of dollars. In fact, some segments cost the American taxpayers up to \$46 million per mile. The billions of dollars spent on this wall have not made the border more secure or stopped migrants from coming to our border.

Numerous reports suggest individuals are using \$100 power tools to breach the wall. CBP reports the border wall was breached over 4,000 times in just fiscal year 2022. As a result, CBP spent \$2.6 million from fiscal years 2019 to 2021 to repair damages to parts of the wall that were breached by individuals. Again, at the expense of American taxpayers.

Costly repairs also occurred due to weather damage. High winds and flooding have caused parts of the wall to fall or separate, creating huge openings in the barrier. It's clear the border wall has serious flaws and limitations as a deterrent. The financial cost to build and maintain Trump's wall is exorbitant, but nowhere near as damaging as the humanitarian cost it has created.

A record number of people world-wide are being forcibly displaced. People are fleeing war-torn countries, persecution, and human rights abuses. Individuals fleeing these terrible situations come to America in their most desperate hour. When we

only have restrictive border policies, and no realistic pathway to legal immigration, migrants cross illegally out of desperation.

These are families willing to brave the Darién Gap and the treacherous journey to the border to seek help and opportunity. It should be no surprise that they are also willing to climb a 30-foot wall and risk injury or death to get to America. Tragically, we are seeing more injuries and deaths. There have been at least 28 deaths as a result of falls from border walls and fences from 2019 to 2022. The wall indirectly causes injuries and deaths by pushing individuals even further out into remote areas and treacherous conditions to cross. Clearly, the 30-foot border wall is inhumane, in addition to being ineffective.

In addition, it's ironic that the Republicans titled this hearing "Opening the Flood Gates: Biden's Broken Border Barrier" when a storm in Arizona blew the flood gates in Trump's wall off their hinges. And when flooding in Nogales, Mexico has been tied to the border wall. If we want to be serious about securing our border, let's look at things that actually work like providing better technology and more personnel.

I urge my Republican colleagues to join Democrats in finding effective and humane measures to secure our border.

Chairman HIGGINS. I am pleased to welcome our first panel of witnesses.

Let the record reflect that the witnesses have answered in the affirmative. Thank you. Please be seated.

[Witnesses sworn.]

Chairman HIGGINS. I would like to now formally introduce our witnesses.

Ms. Ntina Cooper serves as the acting deputy executive assistant commissioner for enterprise services at the United States Customs and Border Protection, Colonel Jason Jefferis graduated from West Point Military Academy in 1996 and currently serves as the head of contracting activities for the United States Army Corps of Engineers. Ms. Rebecca Gambler is the director of the U.S. Government of Accountability Office's Homeland Security and Justice Team, where she leads projects concerning border security, immigration, and election issues.

I thank the witnesses for being here today. The witnesses' full statements will appear in the record.

I now recognize Ms. Cooper for 5 minutes to summarize her opening statement.

STATEMENT OF NTINA K. COOPER, ACTING DEPUTY EXECUTIVE ASSISTANT COMMISSIONER FOR ENTERPRISE SERVICES, UNITED STATES CUSTOMS AND BORDER PROTECTION

Ms. COOPER. Thank you. Chairman Higgins, Chairman Bishop, Ranking Member Correa, Ranking Member Ivey, and distinguished Members of the subcommittee, thank you for the opportunity to testify today about CBP's use of physical barriers as part of the U.S. Border Patrol's critical role in securing the Southwest Border between the ports of entry.

As these committees know, the Southwest Border environment in which CBP works is complex and requires continual adaptation to respond to dynamic threats and changing operational environments. CBP's multifaceted approach to border security not only prioritizes investments in personnel, modern technology, and infrastructure, but also non-materiel capabilities including domestic and foreign partnerships, as well as intelligence and information sharing. Additionally, the immense diversity of terrain, threats, and operational conditions across each Border Patrol sector along the Southwest Border requires that CBP acquire and deploy the right

combination of resources, including physical barriers and related attributes, tailored to address specific operational requirements, and enhance our detection and interdiction of unlawful cross-border activities.

Today I would first highlight how CBP uses border barriers along the Southwest Border, then describe our requirements and acquisition process for deciding where and what type of barrier and attributes to use, and finally, share the status of current barrier and system attribute-related projects.

First, CBP uses barriers to impede unlawful entries into the United States and to provide agents additional time to effectively and safely respond to incidents that require a law enforcement resolution. Barriers are most effective when used as part of a border barrier system that incorporates other critical attributes, including surveillance and detection technology to provide domain awareness, and roads and lighting to provide Border Patrol agents with improved access, mobility, and visibility. The Border Patrol evaluates each unique operating environment and utilizes a rigorous requirements management process, including the capability gap analysis process that we refer to as CGAP. This larger process engages Border Patrol field personnel at all levels, soliciting input that is used to identify capability gaps, generate operational requirements, and ultimately inform the identification of effective and efficient solutions, such as technology or the deployment of physical barrier system to meet those requirements.

USBP uses its requirements development process, including a complementary decision support tool, to prioritize investments in border barrier solutions. The tool takes into account quantitative and qualitative operational factors, everything from vanishing times, total known flow, narcotic seizure information, and agent assaults, to the ability to contain and deny entries, and many other factors. The scoring created by this tool supports the prioritization and decision making process. Through an established governance structure, USBP layers the latest intelligence on changing operational conditions over the raw scoring of the tool to finalize a prioritized list. Once the prioritized list is established, CBP applies land acquisition, engineering feasibility, environmental factors, and cost considerations in developing its border barrier system acquisition approach. The comprehensive approach is critical for ensuring CBP makes informed decisions relating to acquiring the most effective system solutions tailored to specific locations along the Southwest Border.

Consistent with the guiding principles in the Department of Homeland Security Border Wall Plan, which provides for the use of prior year border barrier funding, CBP is currently moving forward with several border barrier projects across the Southwest Border, including actions to construct border barriers and system attributes in the Rio Grande Valley sector, and complete fence replacement in the Yuma and El Centro sectors. These projects are designed to ensure that the previously-installed border infrastructure functions as it was intended, address enforcement vulnerabilities, and improve operational conditions for Border Patrol agents, make the project areas safe for agents, migrants, and

adjacent communities, and prevent further environmental degradation in areas impacted by border barrier construction.

As with all major acquisition programs, CBP's border barrier system requirements development process is continuous, meaning we conduct assessments of new acquisitions and perform periodic assessments of deployed materiel and non-materiel solutions to evaluate how well a deployed solution meets and continues to meet technical parameters and identified requirements. While Border Barrier is a valuable tool, it is one of many investments in personnel, technology, and partnerships that all work together to create the right combination of resources in the right locations to help Border Patrol agents gain operational advantage while supporting the daily enforcement of immigration laws and counteracting illegal activity along the Southwest Border.

I thank you for the opportunity to testify today and look forward to your questions.

[The prepared statement of Ms. Cooper follows:]

PREPARED STATEMENT OF NTINA K. COOPER

JULY 18, 2023

INTRODUCTION

Chairman Higgins, Chairman Bishop, Ranking Member Correa, Ranking Member Ivey, and Members of the subcommittee, thank you for the opportunity to discuss U.S. Customs and Border Protection's (CBP) use of physical barriers as part of the U.S. Border Patrol's (USBP) critical role in securing our borders between the ports of entry along the Southwest Border.

The border environment in which CBP works is dynamic and requires continual adaptation to respond to emerging threats and changing conditions. CBP's multifaceted border security approach along the Southwest Border not only prioritizes investments in personnel, modern technology, and infrastructure, but also non-material capabilities such as domestic and foreign partnerships, and efficient intelligence and information sharing, critical to addressing the complex border environment and enhancing our detection and interdiction of unlawful cross-border activities. These investments increase CBP's ability to detect illegal activity along the border, increase our operational capabilities, and improve the safety of frontline law enforcement personnel.

Each USBP sector along the Southwest Border is different, with different terrain, natural barriers, egress routes from the immediate border area, and varying threats and operational conditions. While some sectors may be better served by more personnel, others might benefit from increased technology, such as Autonomous Surveillance Towers, that could monitor remote areas more easily, or counter-unmanned aerial system (C-UAS) technologies to detect and mitigate the illicit use of drones. When placed in strategic areas, physical barriers work in conjunction with detection technology and other attributes to support USBP's ability to protect the border against unlawful entries into the United States, often providing agents additional time to carry out law enforcement resolutions. USBP evaluates each unique operating environment and consults with field commanders on what is necessary in their particular area of responsibility to allow for the best mix of resources in any given sector.

BORDER BARRIER SYSTEM

As part of an integrated "border barrier system," physical barriers, whether in the form of a steel bollard, levee fencing, or other designs, are typically complemented by attributes such as a tailored array of surveillance and detection technology, and all-weather roads and lighting. These system components work together to increase USBP's domain awareness, access and mobility, and ability to impede and/or deny unlawful entries.

Border Barrier Requirements and Acquisition Process

USBP leverages a robust requirements management process, including the Capability Gap Analysis Process (CGAP), to identify areas of the border where gaps in

capability create vulnerabilities or risks to border security or border security operations. The process engages USBP field personnel at all levels, soliciting input that is used to generate operational requirements and, ultimately, inform the development of effective, efficient, material, and/or nonmaterial border security solutions. USBP continues to mature its requirements management capability, which began with CGAP in 2014, to identify capability gaps, generate requirements to address those gaps and ultimately identify solutions, such as technology and/or the deployment of border barrier system, to meet those requirements.

Assessments of new attributes as well as periodic assessments of deployed material and nonmaterial solutions help CBP better evaluate how well a deployed solution meets technical parameters and addresses identified requirements. This process is critical for ensuring CBP makes informed decisions related to acquiring the most effective and best value technology and barrier solutions and attributes tailored to specific locations along the Southwest Border.

CBP has also implemented a complementary Decision Support Tool 2 (DST2) to prioritize investments in border barrier system solutions to address identified vulnerabilities across the Southwest Border. The tool applies several weighted categories that address operational needs and takes into account the current infrastructure laydown as well as metrics of known flows of unlawful cross-border activity. The tool is comprehensive considering both quantitative and qualitative operational factors, everything from vanishing times,¹ total known flow, narcotics seizure information, agent assaults, to ability to contain and deny entries and many other factors. The scoring created by this tool supports the prioritization and decision making process through an established governance structure that layers the appropriate strategy and latest intelligence on changing operational conditions over the raw scoring of the tool. Once the prioritized list is established, CBP considers land acquisition, engineering feasibility, environmental factors, and cost/affordability in developing its acquisition approach.

Using the identified and prioritized border barrier system requirements, CBP executes a deliberative acquisition program in accordance with DHS's acquisition management directives and processes.² The process also breaks down the acquisition program into stages allowing for approval (or disapproval, as appropriate) of procurement recommendations and close oversight of the execution of contracts and the deployment of infrastructure and technology by the Acquisition Decision Authority.

BORDER WALL PLAN

On January 20, 2021, President Biden issued Presidential Proclamation 10142, Termination of Emergency with Respect to the Southern Border of the United States and Redirection of Funds Diverted to Border Wall Construction. Since that time, DHS issued its Border Wall Plan Pursuant to Presidential Proclamation 10142 (the Plan)³ and has authorized CBP to resume several barrier projects necessary to address life, safety, environmental or other remediation measures in accordance with the Plan.

DHS approved an amendment⁴ to the Plan on July 11, 2022, that allows for additional uses of fiscal year 2018–2021 appropriations to prioritize environmental remediation and mitigation, as well as to install system attributes such as lighting, cameras, and detection technology in places where barrier was constructed but the planned system attributes were left incomplete at the time of the pause. Procurement actions and construction projects are under way across 7 of USBP's Southwest Border sectors to support this work. As of July 1, 2023, CBP has closed 68 gates and gaps in the border barrier, and we are working to close an additional 61 gates and gaps along with life, safety, environmental, and other remediation activities at incomplete border barrier construction sites.

Furthermore, CBP has been able to use some of the previously-procured construction materials for current projects. For example, CBP has been able to utilize previously procured steel bollards for projects such as the Yuma Hill Gap Closure Project. CBP is also using other materials such as rip-rap (rock/aggregate), gate hardware and operators, and some concrete culvert pipes for make-safe projects at

¹ The amount of time an individual who has unlawfully crossed the border generally has before they have access to shelter and/or transport. Depending on the operational environment, this could vary from minutes to hours.

² DHS Directive 102–01, https://www.dhs.gov/sites/default/files/2022-03/22_0321_cio_acquisition-management-directive.pdf.

³ <https://www.dhs.gov/publication/department-homeland-security-border-wall-plan-pursuant-presidential-proclamation-10142>.

⁴ <https://www.dhs.gov/publication/amendment-dhs-border-wall-plan-pursuant-presidential-proclamation-10142>.

incomplete former Department of Defense project sites. In accordance with the Plan, CBP will continue to evaluate if remaining materials from former projects will be disposed of or used for any possible future projects.

Consistent with the guiding principles in the Plan, on June 30, 2023, DHS announced that it had authorized CBP to move forward with the planning and execution of up to approximately 20 miles of border barrier system in the USBP Rio Grande Valley (RGV) Sector, as mandated by the DHS fiscal year 2019 border barrier appropriation.⁵

As required by DHS's fiscal year 2019 appropriation, CBP will be using 18-foot steel bollard fence panels placed in removable concrete jersey barriers, as the steel bollard design remains the most operationally effective design and has been tested and evaluated over the last several years. This project will also include the installation of system attributes, such as detection technology, lighting, and access roads. The proposed project, which does not involve the use of U.S. Fish and Wildlife refuge tracts, is located within Starr County, Texas, which is USBP's highest-priority location within the RGV Sector.

In addition, DHS authorized CBP to move forward with the Yuma Andrade and El Centro Calexico Fence Replacement Projects. Both projects will replace dilapidated segments of legacy fencing that presently create potential safety and security concerns for USBP agents, migrants, and the surrounding community. The decision to proceed with these replacement projects, similar to previously-approved projects, prioritizes the completion of activities and projects needed to address life, safety, and operational risks—including the safety and security of individuals, Border Patrol agents, migrants, and nearby communities.

Environmental and Community Impact

As set forth in the Plan, CBP has prioritized efforts to address safety hazards and remediate and mitigate environmental damage from incomplete construction at border barrier project sites. Activities include, but are not limited to, remediating temporary use areas such as staging areas, haul roads, and project areas impacted by construction, completing erosion control measures, repairing drainage gates to prevent flooding, and addressing other environmental requirements, such as installing small wildlife passages. The remediation work is intended to ensure that the previously-installed border infrastructure functions as it was intended, improve operational conditions for USBP, make the project areas safe, and prevent further environmental degradation in areas impacted by prior border barrier construction.

CBP and the Department of the Interior (DOI) have developed a plan and are implementing mitigation projects to address impacts to cultural and natural resources associated with past barrier construction projects. Mitigation projects may include actions to address impacts to Tribal cultural resources, restoring or replacing habitat, offsetting damaged cultural sites and studies to assess impacts of barrier construction on threatened or engaged species. These activities are intended to identify and address long-term impacts from the barrier on cultural and natural resources.

As part of environmental planning efforts for new construction projects, CBP consults with Federal, State, local, and other relevant stakeholders to identify potential resources that may be present within a planned project area to avoid these resources or develop measures to offset or mitigate potential impacts, to the greatest extent possible, while still meeting operational requirements. CBP is committed to limiting the impacts of border barrier construction on sensitive lands and wildlife along the Southwest Border including in national wildlife refuges, national forests, national monuments, wilderness areas, and on imperiled species.

CBP works diligently to integrate responsible environmental practices, including incorporating sustainable practices, into all aspects of its decision making and operations.⁶ Working closely with the U.S. Fish and Wildlife Service, the Bureau of Land Management, the U.S. Forest Service, and the National Park Service, CBP implements best management practices that are designed to minimize or avoid impacts to sensitive biological, cultural, and natural resources during construction, to the greatest extent possible, while still meeting operational requirements. Where avoid-

⁵ <https://www.cbp.gov/newsroom/local-media-release/cbp-moves-forward-rgv-barrier-and-yuma-andrade-and-el-centro-calexico>.

⁶ CBP's environmental planning includes the preparation of an Environmental Assessment or Environmental Impact Statement, in compliance with the National Environmental Policy Act (NEPA). For some projects, the DHS Secretary may determine it is necessary to exercise authority in Section 102(c) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to waive certain environmental laws, including NEPA, to expedite construction of border infrastructure. In this case, CBP seeks to accomplish responsible environmental planning within a managed time frame to meet operational needs and prepares and implements an Environmental Stewardship Plan.

ance is not possible, CBP consistently demonstrates our strong commitment to environmental stewardship by evaluating and identifying possible mitigation measures for implementation to offset impacts.

Throughout the planning, design, and construction process, CBP completes project, budget, real estate, and environmental planning to maximize transparency and accountability and to ensure the most effective and efficient solutions are deployed to meet requirements. CBP is committed to ensuring that all stakeholder communities, including Federal partners, State, local, and Tribal officials, and impacted communities, are kept informed and engaged throughout this process.

CBP continues to review border barrier projects presenting life, safety, environmental, or other remediation needs and will continue to conduct environmental planning activities for planned projects. Any future construction will be conducted in accordance with enacted appropriations and in line with the intent to utilize a range of tools including smart border technology to enhance security along the border as warranted by requirements in specific areas.

CONCLUSION

Infrastructure is just one piece of the border security enterprise. While infrastructure acts as a tool that allows our agents time to respond to activity, it is not the only operational resource. Investments in personnel, technology, and partnerships all work together to help CBP gain situational awareness, mitigate the flow of irregular migration, and protect our borders between the ports of entry along the Southwest Border.

All of these improvements and investments have helped CBP provide a greater response to border incursions, while supporting the daily enforcement of immigration laws and counteracting other illegal activity along the Southwest Border.

Thank you for the opportunity to testify today. I look forward to your questions.

Chairman HIGGINS. Thank you, Ms. Cooper.

I now recognize Colonel Jefferis for 5 minutes to summarize his opening statement.

STATEMENT OF COLONEL JASON K. JEFFERIS, HEAD OF CONTRACTING ACTIVITIES, UNITED STATES ARMY CORPS OF ENGINEERS

Colonel JEFFERIS. Chairman Higgins, Chairman Bishop, Ranking Member Correa, Ranking Member Ivey, and distinguished Members of the subcommittees, thank you for this opportunity. My name is Colonel Jason Jefferis.

I'm here today in my capacity as the head of contracting for the U.S. Army Corps of Engineers. As an organization entrusted with the responsibility of managing a large, complex portfolio of infrastructure projects to include those with border security, we truly appreciate the significance of an efficient and transparent contracting process and ensuring the successful execution of our Nation's priorities. We take this responsibility seriously.

The Corps has a long-standing relationship with Customs and Border Protection. From 2003 to 2018, the Corps partnered with CBP under various authorities, to include the Secure Fence Act of 2006. During this time, we completed approximately 650 miles of border barrier consisting of approximately 350 miles of pedestrian and another 300 miles of vehicular. Since that time, three distinct authorities have guided USACE's involvement in border wall construction. Support to Homeland Security under the Economy Act and then later support to DoD under 10 U.S. Code Sections 284 and 2808. Regardless of the authorities and the appropriations used, the Corps has acted as the design and construction agent for all three programs, including the requisite acquisition support. In performance of these duties, USACE prioritized competition to the extent practical, while ensuring the contracting process is con-

ducted fairly and transparently. In recent years, there has been significant interest in these contracts, including from the U.S. Government Accountability Office, who found that the Corps conducted these acquisitions consistent with applicable laws and regulations.

On January 25, 2017, the President of the United States issued Executive Order 13767 titled “Border Security and Immigration Enforcement Improvements”, requiring Secretary of Homeland Security to take all the appropriate steps to immediately plan, design, and construct a physical wall along the Southern Border. USACE received this mission to support these efforts under the Economy Act. On 15 February 2019, the President declared a national emergency on the Southern Border, making certain emergency authorities available to the Department of Defense, including 10 U.S. Code 2808 and Section 284. On February 25, Homeland Security requested DoD assistance in securing the Southern Border. On March 25, USACE received formal designation as the construction agent for these programs with the direction for the construction to begin at the end of that fiscal year. In response, we immediately proceeded with the development and award of contracts under the 284 program while simultaneously continuing the execution of contracts under the DHS annual appropriations.

On September 3 of that year, the Secretary of Defense provided specific guidance on the undertaking of emergency military construction projects pursuant to 10 U.S. Code 2808. USACE awarded contracts in response to this guidance beginning in November 2019.

On January 20, 2021, the President terminated the National Emergency Declaration with respect to the Southern Border and directed the secretaries of both departments to pause construction and obligation of funds and to create respective implementation plans.

On January 23, the deputy secretary of Defense directed the immediate pause of all construction and on April 30 the Secretary of the Army directed the Corps to cancel all construction undertaken with DoD authority. The Corps terminated those contracts the next day pursuant to Federal Acquisition Regulation Clause for termination for convenience to the government. This termination process has numerous steps, including a receipt of termination settlement proposal from each prime contractor, followed by an audit of these proposals by the Defense Contract Audit agency. Only then can the contracting officer begin negotiating final contract settlement amounts. This is a lengthy process and is still on-going and projected to continue into 2024 for some contracts.

DHS directed the Corps to begin the process for partially canceling some of the border wall program on September 17 of 2021 with the continuation of certain life safety activities for certain levy and non-levy projects. The Corps began the partial termination convenience process for the affected contracts in October 2021.

Again, I want to thank you for the opportunity to be here today and thank you for your continued support for the soldiers and civilians of the Army Corps of Engineers.

I look forward to your questions.

[The prepared statement of Colonel Jefferis follows:]

PREPARED STATEMENT OF COLONEL JASON K. JEFFERIS

JULY 18, 2023

Chairman Higgins, Chairman Bishop, Ranking Member Correa, Ranking Member Ivey, and distinguished Members of the subcommittees, thank you for the opportunity to address you today on behalf of the U.S. Army Corps of Engineers (USACE).

The Contracting Activity for USACE is entrusted with executing contracts to manage complex infrastructure projects. We understand the significance of an efficient and transparent contracting process to ensure the successful execution of our Nation's priorities, and take this responsibility seriously.

USACE has a proud history of delivering critical infrastructure projects with the highest standards of quality, cost-effectiveness, and integrity. We recognize that the border wall project has garnered substantial attention, both in terms of its nationally-prominent mission and the associated challenges it presented.

USACE plays a critical role in the planning, design, and construction of various infrastructure projects across the United States, including those related to border security. In the context of the border wall, USACE has a long-standing relationship with the Department of Homeland Security (DHS), Customs and Border Protection (CBP). From 2003 until 2018, USACE partnered with CBP to complete approximately 653 miles of border barrier, which included approximately 353 miles of pedestrian barrier and 300 miles of vehicular barrier. Our efforts associated with this work included real estate planning, environmental mitigation, and design and construction. These efforts were under various authorities including the Secure Fence Act of 2006. In 2017, USACE assisted CBP by providing engineering subject-matter expertise to assist with the solicitation of prototype border barriers and the evaluation of prototype construction methods proposed by CBP contractors. In relation to border wall construction, three distinct authorities guided USACE's involvement; support under the Economy Act to CBP utilizing CBP appropriations, and later, USACE's support to the Department of Defense (DoD) under 10 U.S.C. § 284 and § 2808. Regardless of the authorities and appropriations used, USACE acted solely as the design and construction agent for CPB and DoD/Army, meaning USACE provided design and construction services, to include contract award and oversight and acceptance of the contracted work. In performing duties under these authorities, USACE ensured that the contracting process was conducted fairly, transparently, and in accordance with applicable laws and regulations.

Transparency and accountability are fundamental principles within the Federal Acquisition system and guide USACE's contracting practices. Throughout the procurement process, we prioritized open competition to the maximum extent practicable given program requirements.

Over the past several years, there has been significant interest in our border barrier procurements, including from the U.S. Government Accountability Office (GAO). The GAO found that USACE conducted its acquisitions consistent with applicable laws and regulations.

On January 25, 2017, the President of the United States issued Executive Order 13767, titled, "Border Security and Immigration Enforcement Improvements," requiring the Secretary of DHS to take all appropriate steps to immediately plan, design, and construct a physical wall along the Southern Border. USACE received the mission to support DHS's Border Infrastructure Program under the Economy Act. The program anticipated approximately \$20 billion of border infrastructure construction to be executed over a 10-year period, using both Design-Build and Design-Bid-Build delivery methods to execute various requirements such as fence, wall, patrol roads, access roads, lights, gates for access to border monuments, maintenance, and for Border Patrol operational use, drainage improvements, levee walls, and other miscellaneous improvements, repairs, and alterations. USACE used a mix of existing contracting tools to execute immediate and near-term actions, while completing the acquisition planning process to create two to four separate Design Build Multiple Award Task Order Contracts targeted for award in 2019.

On February 15, 2019, the President of the United States declared a national emergency on the Southern Border making available certain emergency authorities to include 10 U.S.C. § 284 and § 2808.

On February 25, 2019, pursuant to 10 U.S.C. § 284, DHS, through CBP, requested that DoD assist DHS in its efforts to secure the Southern Border.

On March 25, 2019, the Acting Secretary of Defense designated USACE as the Construction Agent for these programs and directed that construction begin by the end of the fiscal year. In response, USACE immediately proceeded with the development, solicitation, evaluation, and award of contracts for construction under the

§ 284 program, while simultaneously continuing execution of contracts under DHS annual appropriations. On September 3, 2019, the Secretary of Defense provided guidance for undertaking Military Construction Projects pursuant to 10 U.S.C. § 2808. USACE awarded contracts in response to this guidance beginning in November 2019.

On January 20, 2021, the President of the United States terminated the national emergency declaration with respect to the Southern Border of the United States and directed the Secretaries of DHS and DoD to create an implementation plan for re-directing funding and repurposing contracts.

On January 23, 2021, the deputy secretary of defense directed implementation of the pause of construction pursuant to the Presidential proclamation. USACE subsequently issued suspension of work letters to pause all construction until USACE received applicable implementation plans.

On April 30, 2021, the Secretary of the Army directed USACE to take immediate action to cancel all construction undertaken pursuant to 10 U.S.C. § 284 and § 2808. USACE then terminated those contracts pursuant to Federal Acquisition Regulation Clause 52.249-2, Termination for Convenience of the Government, by May 1, 2021. The termination for convenience process has numerous steps including, making work sites safe, disposing of excess materials, receiving a termination settlement proposal from affected contractors, auditing proposals by the Defense Contract Audit Agency, and negotiating final contract settlement amounts. This process is on-going and is projected to continue through 2024.

On September 17, 2021, DHS directed USACE to begin the process for partially canceling the DHS border wall program while completing certain life safety activities for levee and non-levee projects as directed in the DHS Secretary's exception memo dated April 30, 2021, and the subsequent Decision Memo signed July 24, 2021. In October 2021, USACE began the Termination for Convenience process for the affected contracts under the DHS program. USACE follows all applicable laws, regulations, policies throughout the contract termination process.

Thank you for the opportunity to present this testimony about USACE's contracting support to border wall construction operations before your combined subcommittees, and for your continued support for the soldiers and civilians of USACE.

Chairman HIGGINS. Thank you, Colonel Jefferis.

I now recognize Ms. Gambler for 5 minutes to summarize her opening statement.

STATEMENT OF REBECCA GAMBLER, DIRECTOR, HOMELAND SECURITY AND JUSTICE, UNITED STATES GOVERNMENT OF ACCOUNTABILITY OFFICE

Ms. GAMBLER. Good afternoon Chairman Higgins, Chairman Bishop, Ranking Member Correa, Ranking Member Ivey, Members of the subcommittees. I appreciate the opportunity to testify at today's hearing to discuss GAO's work on Federal agencies' efforts to contract for and deploy barriers along the Southwest Border.

In recent years, Federal agencies have obligated billions of dollars to construct border barriers. Within the Department of Homeland Security, U.S. Customs and Border Protection, or CBP, is responsible for the overall management of border barriers. Within the Department of Defense, the U.S. Army Corps of Engineers has served as the design and construction agent for border barriers.

GAO has issued numerous reports over the years addressing the deployment of barriers to the Southwest Border. Today I'm going to summarize GAO's most recent reports on the contracting and procurement process for border barrier construction. I'm going to focus my remarks on the key areas.

First, the Army Corps' contract obligations and awards in fiscal years 2018 through 2020; second, the factors that drove the Army Corps' acquisition approach; and third, the status of barrier completion as of January 2021 and subsequent DHS planning efforts.

First, the Army Corps obligated more than \$10 billion in both DHS and DoD funding for construction contracts from fiscal years 2018 through 2020. The Army Corps obligated funds for specific construction projects under 13 contract awards.

Second, expediency drove the Army Corps' approach to border construction contracts. In particular, the Army Corps' approach was shaped by senior DoD leadership direction, the time frame for obligating funds before they expired, and the prior administration's goal to complete at least 450 miles of border barriers by the end of 2020. Under this approach, the Army Corps, for example, used non-competitive awards to a greater extent than initially planned. In some instances, it authorized or expanded work without full and open competition and authorized contractors to begin work before defining key requirements. In addition, contracts awarded with DoD funds were used for border barrier construction projects on Federal lands. This allowed the Army Corps to proceed without acquiring real estate from private landowners, a process that can take years.

Based on our reporting, we recommended that the Army Corps conduct an assessment of the approaches it used to build the border barriers and as appropriate reassess its acquisition strategy going forward. Such an assessment would provide, among other things, an opportunity for the Army Corps to determine how best to reduce the use of contracting approaches that limit competition. The Army Corps agreed with this recommendation and implemented it by conducting an after-action review of the contracting process.

Finally, with regard to the status of barrier construction, from fiscal years 2018 through 2020, the Army Corps contracted for more than 600 miles of border barriers. Approximately 32 percent of the miles to be built under these contracts were new barriers in areas where no barriers had previously existed, while about 68 percent of the miles were to replace existing barriers. As of January 2021, when the new administration issued a proclamation pausing on-going construction for the border contracts, the Army Corps had approximately 450 miles of barriers. However, about 85 percent of the miles constructed represented the installation of barrier panels rather than the completion of the full barrier system, which includes technology, lighting, and roads for maintenance and patrolling. This was because the Army Corps had structured many of its DoD-funded awards to prioritize the construction of barrier panels rather than the full barrier system.

Following the January 2021 pause, DHS suspended performance on border barrier contracts and construction activities, with the exception of activities related to ensuring project sites were safe and secure. DHS also developed a plan for the use of border barrier funds as called for in the Presidential proclamation. Under this plan, DHS noted its intent to use funds to continue addressing safety hazards, identify actions to address environmental damage from past barrier construction, and install system attributes.

Thank you again for the opportunity to testify at today's hearing. This concludes my prepared statement and I would be happy to answer any questions members may have.

[The prepared statement of Ms. Gambler follows:]

PREPARED STATEMENT OF REBECCA GAMBLER

JULY 18, 2023

GAO HIGHLIGHTS

Highlights of GAO–23–106893, a testimony before the Subcommittees on Border Security and Enforcement, and Oversight, Investigations and Accountability, Committee on Homeland Security, House of Representatives

Why GAO Did This Study

A January 2017 Executive Order directed the Secretary of Homeland Security to immediately plan, design, and construct a wall or other physical barriers along the Southwest Border. From fiscal years 2017 through 2021 DHS received funding to construct border barriers. A 2019 Presidential Declaration of National Emergency directed DOD to support barrier construction and USACE awarded billions of dollars in construction contracts. In January 2021, a Presidential Proclamation paused border barrier construction to the extent permitted by law.

This testimony discusses: (1) USACE's contract obligations and awards in fiscal years 2018 through 2020 to support barrier construction on the Southwest Border, (2) the factors that drove USACE's acquisition approach, and (3) the status of barrier completion as of January 2021 and subsequent DHS planning efforts.

This statement is based on 7 reports GAO issued between 2017 and 2023. For that work, GAO analyzed DHS and USACE documents and data and interviewed agency officials. GAO also conducted selected updates.

What GAO Recommends

GAO made 5 recommendations in prior reports related to the deployment and contracting process for border barrier construction. DHS and DOD concurred and fully addressed 4. For the recommendation related to analyzing costs associated with future barrier segments, DHS noted that it conducts cost estimates as part of the acquisitions process.

SOUTHWEST BORDER.—AWARD AND MANAGEMENT OF BARRIER CONSTRUCTION CONTRACTS

What GAO Found

GAO's past work has highlighted the increased investment associated with construction and deployment of barriers on the Southwest Border. For example, in June 2021 GAO reported that the U.S. Army Corps of Engineers (USACE)—the construction agent—obligated \$10.7 billion to support the border barrier efforts from fiscal years 2018 through 2020, almost all of which was obligated on construction contracts. More than 70 percent of the funds obligated on construction contracts during this time were Department of Defense (DOD) funds made available following the President's 2019 National Emergency Declaration. During this time period, USACE awarded 39 construction contracts, primarily DOD-funded, to build more than 600 miles of border barriers. Approximately 32 percent of the miles to be built under these contracts were new barriers in areas where no barriers had previously existed, while about 68 percent of the miles were to replace existing barriers.

In June 2021, GAO also reported that USACE's acquisition approach, among other things, was driven by the need to obligate DOD funding before it expired. In response to the 2019 National Emergency Declaration and with the influx of DOD funds, USACE changed its planned acquisition approach to expedite construction. For example, USACE used noncompetitive awards to a greater extent than originally planned. In addition, USACE structured many of its DOD awards to prioritize the construction of barrier panels, rather than the full barrier system (which included panels and supporting attributes, such as technology).

Border Barrier Construction in South Texas


Source: GAO photo taken in February 2020. | GAO-23-106893

As of January 2021, when the new administration directed the Department of Homeland Security (DHS) and DOD to pause on-going construction for the border contracts to the extent permitted by law, USACE reported that it had completed approximately 450 miles of barriers. Most of these miles represented the installation of panels, rather than the completion of the full barrier system. Less than 69 of these miles—or about 15 percent—were for completed barrier system as of January 2021. Since that time, DHS issued and updated a plan for use of border barrier funds. DHS intends to use its funding to continue addressing safety hazards, identify actions to address environmental damage from past barrier construction, and install system attributes for DHS- and DOD-funded projects, such as lighting and technology.

Chairmen Higgins and Bishop, Ranking Members Correa and Ivey, and Members of the subcommittees, thank you for the opportunity to discuss our work covering Federal agencies' efforts to deploy border barriers along the nearly 2,000-mile Southwest Border. Within the Department of Homeland Security (DHS), U.S. Customs and Border Protection (CBP) is responsible for securing the border from illicit activity while facilitating legitimate travel and trade. As part of its border security mission, as of fiscal year 2015, CBP had built more than 650 miles of barriers along the Southwest Border of the United States.¹ In addition, within the Department of Defense (DOD), the U.S. Army Corps of Engineers (USACE) has a long-standing role in supporting DHS along the Southwest Border, including providing project and contract management support. USACE's role was expanded in 2019 when it was tasked to help expedite the construction of border barriers using billions of dollars in DOD funding made available following a 2019 Presidential National Emergency Declaration.

My statement today focuses on the contracting and procurement process for border barrier construction. Specifically, it discusses: (1) USACE's contract obligations and awards in fiscal years 2018 through 2020 to support barrier construction on the Southwest Border; (2) the factors that drove USACE's acquisition approach, and (3) the status of barrier completion as of January 2021 and subsequent DHS planning efforts.

This statement is primarily based on 7 reports we issued between February 2017 and April 2023 on the increased investment in barriers and the acquisition approach for construction and deployment of barriers on the Southwest Border. For these products, we analyzed DHS and USACE documents and data, conducted site visits to locations along the Southwest Border, and interviewed agency officials. We also conducted selected updates to those reports regarding DHS and USACE efforts to address our previous recommendations.²

¹ For the purposes of this testimony, we generally use the term "barrier" to refer to a physical structure, such as a pedestrian fence, vehicle barrier, or wall, or any combination of these structures intended to impede the movement of people or vehicles.

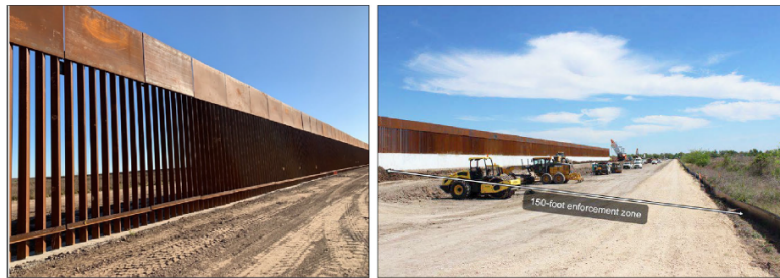
² We made a total of 5 recommendations to DHS and USACE related to the deployment and contracting process for border barrier construction. The agencies concurred with the recommendations and fully addressed 4. For the remaining recommendation for CBP to analyze the costs associated with future barrier segments and include cost as a factor in its prioritization strategy, CBP noted that it conducts detailed cost estimates as part of the acquisitions process. For more information on this recommendation and its status, see <https://www.gao.gov/products/gao-18-614>.

More detailed information on the objectives, scope, and methodology for our work can be found in the issued reports listed in Related GAO Products at the conclusion of this statement. We conducted the work upon which this statement is based in accordance with generally accepted Government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

BACKGROUND

In January 2017, an Executive Order directed the Secretary of Homeland Security to immediately plan, design, and construct a contiguous wall or other impassable physical barrier at the Southwest Border.³ In response, CBP initiated the Border Wall System Program to replace and construct new barriers along the Southwest Border.⁴ CBP uses the term “wall system,” or barrier system, to describe the combination of physical barriers, technology, and other infrastructure used at the Southwest Border. Physical barriers and other elements of the system vary, in part, based on the terrain. For example, pedestrian barrier fencing may consist of steel bollard panels, ranging from 18 to 30 feet, constructed at ground-level. CBP uses supporting attributes such as technology (e.g., surveillance cameras), lighting, and roads for maintenance and patrolling to establish varying enforcement zones as part of the barrier system. Figure 1 shows an example of bollard panels and barrier construction in south Texas, constructed atop levee walls, and a 150-foot wide border enforcement zone on the river side of the barrier.

Figure 1: Border Barrier Featuring Steel Bollards in Starr County, Texas (Left), and Border Barrier and Enforcement Zone under Construction in South Texas (Right)



Source: GAO photos taken in February 2020. | GAO-23-106893

From fiscal years 2017 through 2021, DHS's CBP received a total of \$5.9 billion in appropriations to construct border barriers.⁵ Beginning in 2019, the Department of Defense (DOD) also provided funding for barrier construction. In particular, in February 2019, the President issued a Declaration of National Emergency regarding the border security and humanitarian crisis at the Southern Border, and provided

³Border Security and Immigration Enforcement Improvements, Exec. Order No. 13767, § 4, 82 Fed. Reg. 8793, 8794 (Jan. 30, 2017) (issued Jan. 25). Executive Order 13767 defines “wall” as a “contiguous, physical wall or other similarly secure, contiguous, and impassable physical barrier.” See id. § 3, 82 Fed. Reg. at 8794. In February 2021, this Executive Order was revoked by the President. See Creating a Comprehensive Regional Framework To Address the Causes of Migration, To Manage Migration Throughout North and Central America, and To Provide Safe and Orderly Processing of Asylum Seekers at the United States Border, Exec. Order No. 14010, 86 Fed. Reg. 8267 (Feb. 5, 2021) (issued Feb. 2).

⁴We have regularly reported on DHS's Border Wall System Program as part of our annual assessment of DHS acquisition programs. For the most recent report, see GAO, *DHS Annual Assessment: Major Acquisition Programs Are Generally Meeting Goals, but Cybersecurity Policy Needs Clarification*, GAO-23-106701 (Washington, DC: Apr. 20, 2023).

⁵As we noted in November 2020, the funds provided through each year's DHS appropriations acts came with various provisos, including certain restrictions. For example, funds could not be used for the construction of barriers in the Santa Ana National Wildlife Refuge in Texas. See GAO, *Southwest Border: Information on Federal Agencies' Process for Acquiring Private Land for Barriers*, GAO-21-114 (Washington, DC: Nov. 17, 2020). In fiscal year 2021, DHS received \$1.375 billion in appropriations for construction of barrier system along the Southwest Border. In April 2023, we reported that DHS had not identified the scope of work for those funds. See GAO-23-106701. DHS's CBP received no new funding for border barrier construction in fiscal years 2022 or 2023.

additional authority to DOD to support the Federal Government's response to the emergency.⁶ Following the 2019 Declaration, the administration identified additional funding sources for border barrier construction, including under the following DOD statutes:

- *Drug Interdiction and Counterdrug Activities (counterdrug) funds.*—Under 10 U.S.C. § 284, DOD is authorized to support the counterdrug activities of other Federal agencies, if requested. DHS requested DOD's counterdrug assistance in the form of construction of fences and roads and installation of lighting to block drug smuggling corridors.⁷ DHS selected the barrier projects to support with counterdrug funds. The funding was available to DOD for obligation for 1 year, after which the funding expired and could no longer be used for new obligations.⁸
- *Military construction funds.*—Under 10 U.S.C. § 2808, the Secretary of Defense is authorized to undertake military construction projects in certain circumstances, including a National Emergency Declaration.⁹ DOD selected the barrier projects that it undertook with military construction funds from a DHS-provided list.¹⁰

For most contracts, USACE served as the design and construction agent supporting border barrier activities.¹¹ Between fiscal years 2017 and 2020, USACE awarded contracts to construct the border barrier system using several types of contracting vehicles and approaches. These included stand-alone contracts, which USACE can use when the exact quantities and timing of delivery are known at the time of award.¹² USACE also used multiple-award, indefinite-delivery, indefinite-quantity contracts, which it may award to one or more contractors when the exact quantities and timing of products and services are not known at the time of award.

In January 2021, after a change in administrations, a Presidential proclamation terminated the emergency at the Southwest Border and paused border barrier construction to the extent permitted by law.¹³ The proclamation also directed the Secretaries of Defense and Homeland Security, consulting with the director of the Office of Management and Budget and other agencies, to develop a plan within 60 days for redirecting border barrier funding, as appropriate and consistent with applicable law. After developing this plan, DHS and DOD were to take appropriate steps to resume, modify, or terminate projects and to implement the plan, as discussed later in this statement.¹⁴

⁶Declaring a National Emergency Concerning the Southern Border of the United States, Pres. Proclamation No. 9844, 84 Fed. Reg. 4949 (Feb. 20, 2019) (issued Feb. 15). The National Emergency Declaration required the use of the armed forces and invoked various statutes to address the border security and humanitarian situation at the border.

⁷See 10 U.S.C. § 284(b)(7). While the President's National Emergency Declaration on February 15, 2019, did not expressly invoke section 284, following a February 25 request from DHS to DOD for assistance under section 284, the Acting Secretary of Defense authorized the U.S. Army Corps of Engineers to begin planning and executing support to DHS pursuant to section 284. DOD's authority under section 284 is not dependent on a National Emergency Declaration.

⁸In September 2019, GAO concluded that DOD's transfer of funds into its Drug Interdiction and Counterdrug Activities, Defense, account for border fence construction was consistent with DOD's statutorily-enacted transfer authority, and that use of these amounts for the purpose of border fence construction was permissible under various statutory provisions. GAO B-330862, Sept. 5, 2019.

⁹10 U.S.C. § 2808.

¹⁰See GAO, *Southwest Border: Schedule Considerations Drove Army Corps of Engineers' Approaches to Awarding Construction Contracts through 2020*, GAO-21-372 (Washington, DC: Jun. 17, 2021).

¹¹USACE has a long-standing role in supporting DHS along the Southwest Border, including providing project and contract management support.

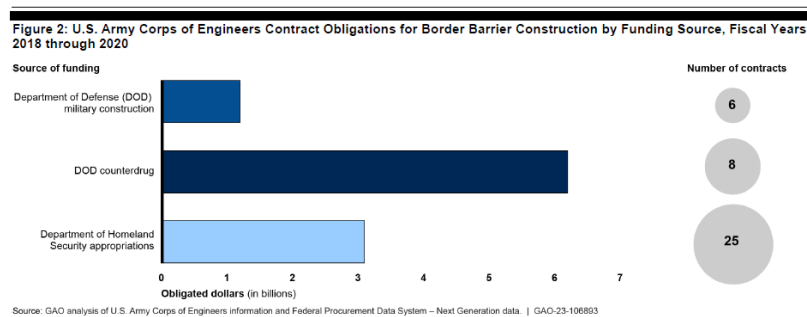
¹²Stand-alone contracts, also called "definitive contracts," are contracts other than an indefinite delivery vehicle that must be reported to the Government-wide database used to report data on Government procurements. Federal Acquisition Regulation 4.601.

¹³Termination of Emergency With Respect to the Southern Border of the United States and Redirection of Funds Diverted to Border Wall Construction, Pres. Proclamation No. 10142, 86 Fed. Reg. 7225 (Jan. 27, 2021) (issued Jan. 20). The Presidential proclamation paused all border barrier construction pending development of a plan by the Secretaries of Defense and Homeland Security that, among other things, was to address the potential redirection of border barrier funds while ensuring funds Congress explicitly appropriated for barrier construction were expended.

¹⁴We separately reviewed the pause in border barrier construction and obligations of funds as a result of the January 20, 2021 proclamation and determined that it did not violate the Congressional Budget and Impoundment Control Act of 1974. GAO B-333110, June 15, 2021.

USACE OBLIGATED MORE THAN \$10 BILLION TO SUPPORT BORDER BARRIER
CONSTRUCTION FROM FISCAL YEARS 2018 THROUGH 2020

Following the President's February 2019 National Emergency Declaration, the White House announced that military construction and counterdrug activities funds would be used for border construction. In June 2021, we found that USACE obligated \$10.7 billion to support the border barrier efforts from fiscal years 2018 through 2020, almost all of which—\$10.6 billion—was obligated on construction contracts.¹⁵ More than 70 percent of the funds obligated on construction contracts during this time—\$7.5 billion of the \$10.6 billion—were DOD counterdrug and military construction funds. In total, USACE awarded 119 construction contracts and orders during this time frame, and obligated funds for specific construction projects under 39 of these awards.¹⁶ Figure 2 shows the number of USACE contracts and obligated amounts in fiscal years 2018 through 2020 for barrier construction broken down by DOD military construction, DOD counterdrug, and DHS (CBP barrier construction) funding.



EXPEDIENCY DROVE USACE'S APPROACH TO BORDER CONSTRUCTION CONTRACTS AFTER
THE 2019 NATIONAL EMERGENCY DECLARATION

In June 2021, we found that USACE's ultimate acquisition approach was driven by senior DOD leadership direction, the time frame for obligating funds before they expired, and the prior administration's goal to complete at least 450 miles of border barriers by the end of 2020.¹⁷ In response to the 2019 National Emergency Declaration and with the influx of DOD funds, we found that USACE changed its planned acquisition approach to expedite construction. In particular, USACE had initially planned for a three-phase acquisition approach for border barrier construction to support CBP's 5-year border security investment plan. In the first phase, USACE planned to use existing or planned indefinite-delivery, indefinite-quantity contracts to award certain projects. In the second phase, USACE intended on using a prequalified source list to make additional awards, and in the third phase, planned on establishing new indefinite-delivery, indefinite-quantity contracts.¹⁸

Following the declaration, USACE changed this acquisition approach to move more expeditiously. For example, USACE used noncompetitive awards to a greater extent than originally planned. Federal law and acquisition regulations generally require that contracts be awarded on the basis of full and open competition. However,

¹⁵ USACE obligated the remaining \$102 million to provide services related to border barrier efforts—primarily architecture and engineering services. See GAO-21-372. For that report we selected fiscal year 2018 to start our data collection so as to capture changes in contract data associated with the 2019 emergency declaration, and ended our data collection at fiscal year 2020 as it was the most recent year for which we could obtain a full year of data at the time of our review.

¹⁶ The other 80 were a combination of base indefinite-delivery, indefinite-quantity contracts and orders. The orders reported in the Government-wide database used to report data on Government procurements were for \$2,500 or less and were not for specific construction projects, so we did not focus on these in our June 2021 report. For purposes of our report, we focused on the 39 construction contracts and orders awarded for specific border barrier construction projects, unless otherwise noted. All 39 were firm-fixed price awards, meaning a contractor has full responsibility for the costs of performance and the resulting profit or loss.

¹⁷ GAO-21-372.

¹⁸ For use of a prequalified source list, defense and USACE acquisition regulations allow potential vendors, with proven competence, to prequalify for work on specific construction contracts when necessary to ensure timely and efficient performance.

contracts may be awarded without full and open competition under certain circumstances, such as an unusual and compelling urgency where a delay in contract award would seriously injure the Government.¹⁹ USACE also used various contracting authorities to start construction quickly. In particular, we found that USACE authorized or expanded work without full and open competition and authorized contractors to begin work before defining key requirements. Using these flexibilities, USACE awarded four counterdrug-funded contracts valued at more than \$4 billion without full and open competition.

USACE also used another flexibility—DHS’s February 2020 waiver of procurement competition requirements—to help expedite construction efforts.²⁰ Specifically, USACE obligated an additional \$1.6 billion for new projects, totaling about 60 more miles of construction using fiscal year 2020 counterdrug funds. Generally, modifying an existing contract could be considered out of scope and, if so, the new requirement would need to be competed. However, the USACE determination to use the waiver stated that the new projects were located relatively close to where the contractors were already working, and were in line with the Secretary of Defense’s directive to begin construction on these projects as quickly as possible.

We also found that USACE structured many of its DOD-funded awards to prioritize the construction of barrier panels, rather than the full barrier system. All 13 DOD-funded contracts were required to complete some or all of the barrier panel construction by the end of 2020.²¹ For example, in some cases, these contracts were awarded or modified to extend deadlines so that contractors could prioritize barrier panel construction, resulting in longer time frames to produce a complete barrier system.

We also found that the projects’ location on Federal lands facilitated USACE’s approach for DOD construction, allowing construction to begin quickly. Contracts awarded using DOD counterdrug and military construction funds were used for border barrier construction projects on Federal lands. This allowed USACE to proceed without acquiring real estate from private landowners—a process that CBP said could take years, as we reported in November 2020.²² However, because CBP and DOD focused on building on Federal lands to facilitate beginning construction quickly during the national emergency, DOD border barrier construction projects did not consistently align with the projects CBP had originally prioritized for construction.

In our June 2021 report, we recommended that USACE conduct an assessment of the approaches used to build the border barriers and, as appropriate, reassess its acquisition strategy going forward.²³ We noted that such an assessment would provide, among other things, an opportunity for USACE to determine how best to reduce the use of contracting approaches that limit competition. Without doing so, USACE would miss opportunities to strengthen its future acquisition approaches in furtherance of its long-standing support for CBP on the Southwest Border.

USACE concurred with our recommendation and stated that it would conduct after-action reviews to identify lessons learned from its approaches to respond to the national emergency. USACE noted it would also consider additional tools it could create to respond to similar, less-predictable emergencies in the future. In December 2021, USACE officials conducted an after-action review of the contracting response. As part of this review, USACE considered actions required to improve contracting methods for future national emergency declarations, such as having comprehensive contracting tools in place prior to emergencies. In doing so, USACE should be better-positioned to support future national emergencies.

¹⁹Office of Federal Procurement Policy guidance has stated that competition is the cornerstone of the Government’s acquisition system and can obtain the best return on the Government’s investment. Office of Federal Procurement Policy, Memorandum for Chief Acquisition Officers and Senior Procurement Executives: Enhancing Competition in Federal Acquisition (Washington, DC: May 31, 2007).

²⁰In February 2020, the Acting Secretary of Homeland Security issued a waiver determination pursuant to a 2005 law that allows the Secretary to waive legal requirements to ensure the expeditious construction of barriers and roads along the Southwest Border. See 85 Fed. Reg. 9794, 9796 (Feb. 20, 2020). The REAL ID Act of 2005 amended the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 by expanding the authority of the Secretary of Homeland Security to waive all legal requirements, as determined to be necessary, in the Secretary’s sole discretion, to ensure expeditious construction of barriers and roads along the border. Pub. L. No. 104–208, div. C, tit. I, subtit. A, § 102(c), 110 Stat. 3009, 3009–555, as amended by Pub. L. No. 109–13, div. B, tit. I, § 102, 119 Stat. 231, 306 (classified, as amended, at 8 U.S.C. § 1103 note).

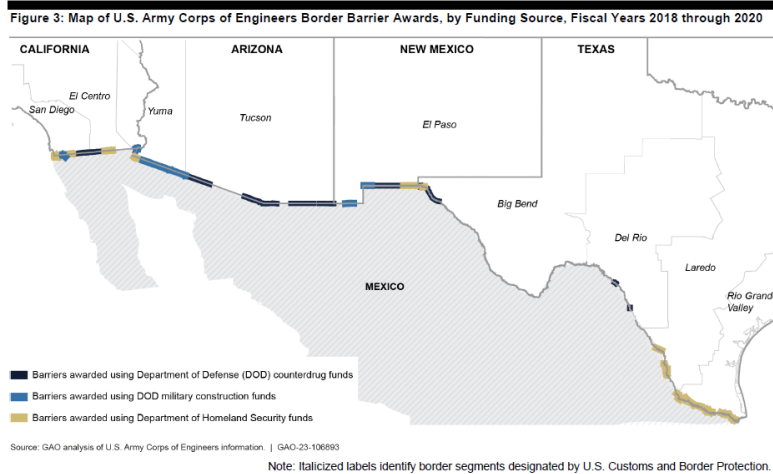
²¹USACE terminated one of the DOD-funded contracts at the Government’s convenience shortly after award. Officials said it was terminated due to an administrative error and that they later awarded a new contract for the same work.

²²GAO–21–114.

²³GAO–21–372.

USACE COMPLETED BARRIER PANELS AND DHS DEVELOPED PLANS FOR THE USE OF FUNDS

In June 2021, we found that USACE met the goal of completing approximately 450 miles of border barriers, and, in March 2022 and April 2023, we reported that DHS developed plans for the use of border barrier funds.²⁴ From October 1, 2017, through September 30, 2020, USACE contracted for more than 600 miles of primary and secondary border barriers—primarily through DOD-funded contracts (see fig. 3).²⁵ Approximately 32 percent of the miles to be built under these contracts were new barriers in areas where no barriers had previously existed, while about 68 percent of the miles were to replace existing barriers.



As of January 2021, when the new administration issued a proclamation pausing on-going construction for the border contracts, to the extent permitted by law, USACE reported that it had built approximately 450 miles of barriers. Most of the 450 miles constructed represented the installation of barrier panels, rather than the completion of the full barrier system. In addition, slightly less than 69 of these miles—or about 15 percent—were for completed barrier systems, as shown in table 1.

Funding source	Contracts awarded ^a	Miles under contract	Barrier panels complete	Barrier system complete (contract complete)	Funds obligated	Funds disbursed
Department of Defense (DOD) counterdrug	7	295 miles	258 miles	0 miles	\$6.3 billion	\$4.0 billion
DOD military construction	6	96 miles	87 miles	0 miles	\$1.2 billion	\$0.9 billion
Department of Homeland Security	18	240 miles	112 miles	69 miles	\$3.0 billion	\$1.8 billion
Total	31	631 miles	458 miles	69 miles	\$10.5 billion	\$6.6 billion

Source: GAO analysis of U.S. Army Corps of Engineers (USACE) documentation and data from the Federal Procurement Data System – Next Generation. | GAO-23-106893

Note: Numbers may not sum due to rounding.

^aThis includes 31 of the 39 contracts we reviewed. Six of the remaining contracts were exclusively for roads or gates, and therefore do not count toward the total miles of border barrier constructed. The two remaining contracts were terminated shortly after award.

²⁴See GAO, *DHS Annual Assessment: Most Acquisition Programs Are Meeting Goals Even with Some Management Issues and COVID-19 Delays*, GAO-22-104684 (Washington, DC: Mar. 8, 2022); and GAO-23-106701. Department of Homeland Security, *Border Wall Plan Pursuant to Presidential Proclamation 10142* (June 9, 2021); and *Amendment to DHS Border Wall Plan Pursuant to Presidential Proclamation 10142* (July 11, 2022).

²⁵The primary barrier is the first barrier encountered when moving into the United States from the border and the secondary barrier is located behind the primary barrier on the U.S. side of the border.

As noted above, the January 2021 Presidential Proclamation required development of a plan for redirecting border barrier funding, as appropriate and consistent with applicable law. In June 2021, DHS announced its plan for the use of border barrier funds in response to the Presidential proclamation.²⁶ As we reported in March 2022, this plan outlined how DHS intended to use funds the previous administration was planning to use for border barrier construction.²⁷ DHS suspended performance on border barrier contracts and construction activities, with the exception of activities related to ensuring project sites are safe and secure.

The January 2021 Presidential Proclamation also states that the Secretaries of Defense and Homeland Security may make an exception to the border barrier construction pause for urgent measures needed to avert immediate physical dangers, or where an exception is required by Congressional appropriation. In June 2021, DHS reinitiated activity on two projects under the exception for urgent measures, as we reported in March 2022.²⁸ One project was to construct or remediate approximately 13 miles of compromised levee in south Texas, and the other was to address erosion control in the San Diego segment.

In July 2022, DHS issued an amendment to its June 2021 plan, stating its intention to prioritize expenditure of appropriations received for the barrier system, as we reported in April 2023.²⁹ Specifically, DHS intends to use fiscal year 2018 and 2019 appropriations to continue addressing safety hazards, identify actions to address environmental damage from past barrier construction, and install system attributes. According to the amended plan, DHS plans to use fiscal year 2020 and 2021 appropriations to close out the projects funded by DOD by, for example, completing construction of roads; installing system attributes; and addressing environmental damage caused by past barrier construction. We have on-going work reviewing the effects of border barrier construction on natural and cultural resources, and we plan to report on the results of that work later this year.

Chairmen Higgins and Bishop, Ranking Members Correa and Ivey, and Members of the subcommittees, this concludes my prepared statement. I would be pleased to respond to any questions that you may have at this time.

Chairman HIGGINS. Thank you Ms. Gambler.

Members will be recognized by order of seniority for their 5 minutes of questioning. An additional round of questioning may be called after all Members have been recognized.

I now recognize myself for 5 minutes of questioning.

The Ranking Member, my friend, Representative Correa, who is my friend, and he and I have spoken for, I would say, cumulatively, scores of hours about our endeavor to—

Mr. CORREA. Conservatively, yes.

Chairman HIGGINS [continuing]. Work together over the course of the last 7 years to seek resolutions for the challenges of our country within the parameters of this committee's jurisdiction. We are each frustrated regarding some of the political barriers that have been well-established that we have to cross in order to confront the true issues. So I am going to effort today, as somehow during the course of my 62 years of life the Lord has illuminated this path for me and here I sit. So I am going to ask Members on both sides of the aisle to let's truly listen to the expertise of the witnesses today, Majority and Minority witnesses. None of us should claim to know greater than the witnesses that we call before our committees when they are specifically chosen for their history and their area of expertise.

Physical barriers have worked to deter criminal action since the dawn of man. They continue to work. It is not reflective of intellec-

²⁶ Department of Homeland Security, *Border Wall Plan Pursuant to Presidential Proclamation 10142* (June 9, 2021).

²⁷ GAO-22-104684.

²⁸ GAO-22-104684.

²⁹ See GAO-23-106701 and Department of Homeland Security, *Amendment to DHS Border Wall Plan Pursuant to Presidential Proclamation 10142* (July 11, 2022).

tual soundness to just deny the fact that physical barriers work to restrict criminal activities. The systems we had designed in 21st Century technology, some of which we cannot even discuss, but the technologies that were built into the physical barrier systems that were planned during the Trump administration would most certainly have allowed us to view up to 5 miles into the Mexican territory, our Southern Border. It is a great deterrence for intended criminal crossings.

I ask Ms. Cooper, CBP has been on record affirming the effectiveness of barriers. You have made that clear. Yet the policy decision was made to cancel construction of the barriers on the President's first day in office. Does CBP believe this is an effective policy decision?

Ms. COOPER. With respect to the policy decision, I will have to defer to my DHS colleagues. However, I am more than able to speak to the efficacy of border barrier system in the places where it makes sense for our operation.

Chairman HIGGINS. Yes ma'am. So none of us are suggesting that we put a 30-foot wall on top of a 200-foot cliff. Are we? God already put a 200-foot wall there. So where barriers are effective. But regarding the policy, this committee had endeavored very hard to ask the Biden administration to provide a witness from the Department of Homeland Security Office of Strategy, Policy, and Plans. I want all of us to grasp where we are here. It is really so indefensible that the Biden administration has put this policy in place from Day 1 to stop construction of a border barrier system that had proven to be incredibly effective with embedded technologies that would enhance that effectiveness. This is their response. This is an actual email redacted to protect the innocent, as we used to say, thanks for the phone call on Friday to discuss the scope of the proposed hearing and for your engagement throughout the development of this hearing. After careful consideration, DHS is unable to provide a headquarters witness for this hearing. It would not provide a witness to speak to the policy that was established by the administration. CBP is unable to respond to policy questions because it is not their area.

We have further questions for the witnesses, and I intend to go into a second round if my colleagues will participate.

My time has expired for this round and I recognize my colleague Mr. Correa for questioning.

Mr. CORREA. Thank you Mr. Chairman. I want to thank you also for framing this debate as it should be framed, which is our common interests and protection of our country, protection of our citizens. Although we may disagree in a lot of ways of doing it, the bottom line is we have the same objectives.

My issue, sir, if I may call you, my good friend, Mr. Higgins, is not with national security, it is with the way to approach it. I have lived most of my life near the border, native Californian. I have seen things change, re-change. When I mentioned a border wall security concept that is 30 years old, I didn't mean that we had stop working on it 30 years ago, but rather questioning its effectiveness moving forward.

Post-COVID, China is no longer our top trading partner, Mexico is now our trading partner at the top. Canada tells me that the

flow of goods and services into this country is unbelievable. That is just based on yesterday's statistics from a month or 2 ago or 3 months ago. God knows what those statistics are going to be today.

We are going to continue to trade with our partners. If we think about our border, border to stop refugees, border to stop illegal drugs, we are forgetting about the other borders in this continent. Mexico's Southern Border, Guatemala's border, the Darién Gap in Panama, where Panama's beginning to engage with us, is engaging with us, in addressing that refugee flow in that very dangerous area. I mentioned Colombia, many other countries that are working with us. I would argue that border security is not our Southern Border. As General Kelly, the former Secretary of Homeland Security would say, our border security does not start and end at our border. That is just the refugee challenge. Again, record number of refugees in the world as well as this hemisphere.

Shifting to fentanyl issue, I have gone to the border numerous times since I discovered that I would be the Ranking Member on this committee to educate myself on the facts. Go back and kick the tires to make sure that the policies that we are engaged in are going after the right elements. Talk to those border agents. I have gone to those ports of entry. Only 2 percent, 2 to 4 percent of the vehicles, passenger vehicles, are inspected, looked at, when they go north. Something like 15 percent of the huge semis coming across the border are actually inspected as well. If you really want to put a dent on the illegal drug trade on fentanyl, go where that gusher is. It is our ports of entry. We can talk about gotaways all you want to talk about. When you look at the record seizures by our good men and women at the border, it is at the ports of entry.

We all have priorities. We all have a limited number of dollars to spend. We can prioritize.

Ms. Cooper, you have said a lot of things in your testimony—I have about a minute left here—but given the nature of the ever-evolving environment, how important is it that the United States engage—and I would call them now our allies south of the border because their interest is like ours, commerce. Anything that slows down commerce, they don't want to see happen. So how would you say the new environment of integration of these markets, how does that factor into how we address refugees, illegal drug business?

Thank you.

Ms. COOPER. Ranking Member Correa, I believe you're flagging an important point with respect to the larger security strategy that CBP is engaged in.

With respect to our relationships with many of our foreign partners, continued engagement with many of the countries you named, and certainly with others, are a critical part of our larger strategy. As you said, and we've said within CBP for many years, border security is not simply at the border, it begins far outside of that. Our continued collaboration at multiple levels of leadership with offices across many foreign partners is a critical layer of our strategy.

Chairman HIGGINS. The gentleman yields.

I now recognize my colleague, Chairman Bishop, for his questioning.

Mr. BISHOP. Thank you, Mr. Chairman.

Colonel Jefferis, I have an understanding that the administration since January 2021, since late I guess in 2022 or maybe even this year, agreed to permit some progress on some border wall construction to fill in gaps or something of the kind. Do you administer that process? Am I correct first of all and do you administer that process?

Colonel JEFFERIS. Sir, thank you for the question.

Regarding whether the administration has opened up additional construction for the fill in the gaps, as you say, I would have to go back to the program office, but the Corps of Engineers does provide oversight as the design construction agent for those contracts or those projects they've been designated whether it's been through DoD or DHS. When they're designated, they do provide that oversight, yes, sir.

Mr. BISHOP. All right. Are you able to quantify what portion of construction activity that represents in relationship to the contracts that had been let and were pending at the time the Biden administration took office and stopped them?

Colonel JEFFERIS. Again, Chairman, based on the number of miles that you're referring to, not having that specific knowledge, I cannot answer specifically what percentage you're referring to. We can take that back for the record.

Mr. BISHOP. Well, that regardless, you can answer specifically. It is my understanding that it was just a relatively—just a very small percentage. Isn't that correct?

Colonel JEFFERIS. That is my understanding, but I don't have enough qualification.

Mr. BISHOP. Yes. Are you able to say what border materials are in possession of any of the contracting Government agencies under these contracts that have been suspended then canceled?

Colonel JEFFERIS. Yes, Chairman, we've got—you know, started off with \$262 million worth of materials left over from these various contracts. We've currently gotten it down through the disposition process to where we've got the border bollard panels still on the ground out there in some locations. We do have some of the other materials, whether it be electrical equipment for the fiber optic cabling or lighting, that is in the disposition process, but that's not on the ground with the contractors in my understanding at this—

Mr. BISHOP. How are you disposing of it?

Colonel JEFFERIS. At this point, Chairman, there's two different processes, one for the DoD, one for the DHS, both of which are similar, but it goes through a defined process through which it is inventoried at the contract level and the Government validates that inventory and then reviews it to determine whether it can be reusable or must be thrown to scrap. Then through that process, if it's DoD, the Defense Logistics Agency will manage that process from start to finish all the way through and it'll go through multiple entities of can DLA use it, can another DoD entity use it before it'll go to Federal or State agencies, and then finally out for sale. If none of that works, then it goes to scrap.

On the DHS side, GSA will facilitate that and it will go first to another agency if there's a requirement and then we work that

with GSA by notifying them. Then if not, then GSA will help facilitate the process of advertising and then final disposition.

Mr. BISHOP. What value of American-taxpayer-paid-for supplies has been disposed of as scrap?

Colonel JEFFERIS. I am sorry, Chairman. I don't have that exact number on me right now.

Mr. BISHOP. Does any of the witnesses know the answer to that, whether precisely or roughly?

Ms. COOPER. I do not, sir.

Mr. BISHOP. So none of the witnesses here can tell us how much of the American taxpayers' precious dollars spent on first quality goods have been disposed of as scrap, is that correct?

How many unused border wall panels are in the possession of DoD?

Colonel JEFFERIS. Currently in possession of DoD, we have 20,822 at various storage locations.

Mr. BISHOP. What is the cost to DoD to store and secure unused border materials per day?

Colonel JEFFERIS. So that's a very interesting question in the fact that we don't get in—we don't incur the cost by day. Those contracted storage rates are valued inside their termination proposals because the contractors are required for that. So that—

Mr. BISHOP. Are you able to provide any stat here about cost of storage?

Colonel JEFFERIS. Yes, sir. At this point in time, we've run a running point-in-time estimate. It constantly changes based on what we've turned in. We currently believe that based on the amount of disposition or the disposition that's been conducted and the amount of materials still on the ground, we're looking at about \$160,000 a month for the storage of the material on the DoD process at this time.

Mr. BISHOP. How much did DoD spend on storing unused border materials in fiscal years 2021 and 2022?

Colonel JEFFERIS. Sir, again, that would be wrapped inside the fixed-price contracts and I can't provide that cost.

Mr. BISHOP. All right.

Ms. Gambler, I don't know if you can speak to this. I understand that that GAO at one point said this was a mere programmatic delay, didn't violate the Impoundment Control Act, but that was in 2021. What about 30 months later? Is that still the contention of GAO, that this doesn't violate the Impoundment Control Act for the Biden administration unilaterally to disregard Congress' appropriation?

Ms. GAMBLER. Yes, thank you for the question, Chairman.

As you noted, that was GAO's legal decision at the time in the summer of 2021. We have not done an additional review of the facts and circumstances at this point. If that's something that the committee is interested in, we'd be happy to talk with you about that going forward, Chairman.

Mr. BISHOP. It might be interesting, but I don't really care. I know what the violation of law looks like.

I yield back, Mr. Chairman. My time has expired.

Chairman HIGGINS. The gentleman yields.

I now recognize Ranking Member Ivey for his line of questioning.

Mr. IVEY. Thank you, Mr. Chairman, and I appreciate your comments a moment ago about how we approach this hearing. I certainly agree that we want to be careful about stepping on the opinions of our witnesses here. We want to make sure we take it all in.

I did want to raise some data, though, today. I mean, I think one of the points that has been made in two of the articles that I mentioned earlier and wanted to make a part of the record is the drop-off in these encounters since the Title 42 regime was taken out of play. I understand we have got differences of views about how impactful a wall might be, but I think it is clear that the wall isn't there now, but we are seeing tremendous drop-offs and encounters almost immediately, based on some policy changes and some strategic changes. So I don't necessarily want to say that a wall could never be a barrier to people coming, I am just saying that 900 miles of wall at—I think the estimate was \$24 million per mile last I saw, and that is a total of \$22 billion, I think the money could be better spent.

I think we can show by some of the—in fact, from hearings in this room, some of which that you led, that there are other ways that we could go about reducing some of the challenges we face there. In fact, I think it was your hearing last, where there was testimony about China, and that one of the major reasons we had such a big spike in fentanyl was because the foreign policy relationship between the United States and China with respect to suppressing the precursors coming from China had fallen off. Therefore people were sending the precursors out of China into Mexico at an accelerated rate. That one of the ways we could address that problem is to see if we could reestablish the relationship with China in addressing those concerns. I think that would be a great step forward.

I also wanted to say, too, Ms. Gambler, I appreciated the testimony from GAO about, well, frankly, the waste to some extent in the way the contracting was done. It was rushed, we will say expedited, but that doesn't keep in place the protections of competitive bidding and the like that ought to make sense here.

I will say this too—I want to get to the LoneStar issue—but before I move off of that, I do want to say this. I mean, I think I appreciate the comments about wanting to have open hearts and minds as we approach this issue and see if we can just do it based on the evidence and the facts that come before us. I will say this, before I even got to Congress to become a Member of this committee, we had Members of this committee talking about—well, frankly, calling for the impeachment of Secretary Mayorkas. That kind-of puts things in a different context, I think, than if we were just sitting here and talking about the best ways to try and address this issue. We got the 55-page document in support of that effort, which we hadn't seen in advance on the Minority side and so we didn't really have a chance to respond to it. But I appreciate your comments and as we move forward hopefully we can do it in a spirit of bipartisanship that you expressed here today.

Colonel, I want to ask you quickly about LoneStar. I took a quick look. I am not a Government contracting expert, but if I understood the gentleman's letter correctly, who is the interim CEO, LoneStar

is a subcontractor for a prime. The Government decided to terminate the prime contract for convenience. Then LoneStar began its efforts to get compensation back and filed the documents to do so. But before that was completed and they could have been compensated, there was a decision made, according to his testimony, to in some way reinstate the prime contractor. So that left LoneStar in a position where they couldn't get compensation for termination of the contract because the contract had been reinstated. So even though they weren't actually doing any work and getting paid, they weren't able to get compensated either. That doesn't sound right to me. What am I missing here?

Colonel JEFFERIS. Thank you, Congressman Ivey, for the question.

Without having the insight into the specifics of that one subcontractor—I didn't have the chance to deep dive into that. I can speak to subcontracting relationships in general.

The Government's contract is with the prime. The prime is who we interface with and they're responsible for all their subs. In this particular case, what I was able to determine is that LoneStar is on the DHS side, so some of those contracts are partially terminated for the border wall construction while other efforts were ongoing. Again, not being able to speak to what they could do specifically, but the process is laid out in Part 49, 112 when it comes to partial payments and those types of things. When the prime contractor is ready for an interim termination settlement, they can submit their interim proposal, we will review it, analyze it, and then provide payment accordingly if it is in league with what's going on. In this particular case, because I don't have or the Government does not have privity of contract into the relationship between the prime and LoneStar, the Government does not pay subcontractors directly. We highly encourage our primes, we hold them accountable for not doing what they're supposed to, but we still can't force them to use the money that we pay for them. It's their business arrangement back down to the subcontractor.

Mr. IVEY. Could I do just a—I know I am over, but just a quick follow-up on that? It has been 30 years since I have done Government contracting, but I thought there was a flow-through, flow-down provision so that if a prime got paid, the Federal Government could require them to pay the sub. So, you know, I don't want to cross any ethics lines here, this isn't a company that has asked for my assistance, they are not in my district, and I am certainly not trying to leverage an adjudication of this in a hearing room where I don't know all the details, but it does seem to me that companies in this scenario, we ought to be able to find a way to try and make them, if not whole, at least find some degree of compensation, because they have gone, apparently, a couple of years without being able to do the work that they could get paid for, even though they legitimately relied, reasonably relied, on the fact that the prime had gotten the contract and they had been given a subcontract to perform certain work.

So if you could follow up, perhaps, with the committee on the status of that to the extent you can, we would appreciate it.

Colonel JEFFERIS. Absolutely. Yes, sir.

Mr. IVEY. Thank you, Mr. Chairman.

Chairman HIGGINS. The gentleman yields.

We have all witnessed 2 minutes and 8 seconds of bipartisan cooperation.

I recognize my colleague, the gentleman from Mississippi, Mr. Ezell—

Mr. EZELL. Thank you, Mr. Chairman.

Chairman HIGGINS [continuing]. For 5 minutes of questioning.

Mr. EZELL. Thank you.

The evidence is clear that a wall at our Southern Border will deter illegal immigration and stop the flow of drugs into this country. It is frustrating to see that the Biden administration end policies that would protect American citizens. On top of this, the cancellation of border wall construction has cost the taxpayer millions of dollars and has harmed many small businesses.

Ms. Gambler, it is well-known that the termination of the border wall system has wasted millions of taxpayers' dollars. Specifically, the halted contracts caused construction materials to go unused, costing the taxpayers \$6 million a day. Has GAO estimated the Federal Government's stated cost of storing these unused materials?

Ms. GAMBLER. We have not, but I would just note, as we've been discussing, Federal agencies are required to compensate or to pay contractors for goods and services rendered and any costs associated with terminating contracts. So while we haven't estimated some of the costs associated with storing goods or termination of contracts, Government agencies are required to pay those costs to contractors.

Mr. EZELL. Thank you.

We have talked about some options that the Federal Government has to dispose of these unused construction materials. Are there any avenues for CBP or the Army Corps of Engineers to transfer materials to State or local governments?

Ms. GAMBLER. That is something that GAO has not looked at, and I would defer to my co-witnesses on the panel to give more insight to that question, sir.

Mr. EZELL. Sir.

Colonel JEFFERIS. Yes, sir. Thank you for that question.

The disposition process I had defined a little bit earlier is unique to the system that we're talking about, whether it's DHS or DoD, but yes, throughout the process, if it goes into the DoD—ultimately after DLA, DoD, and other Federal agencies, the State or another municipality would be one of the potential receipt of that—those panels, if it made it that far. Yes, sir.

Mr. EZELL. Thank you.

Do you believe it is more expensive for the Federal Government to cancel existing border wall contracts or is it more expensive to resume the construction?

Ms. GAMBLER. Again, that is not an area that GAO has looked at. Again, I would defer to the witnesses on the panel with me in case they have more detailed information on costs.

Mr. EZELL. Anybody.

Colonel JEFFERIS. Sir, that's a question that gets into the eaches of depending on which contract and which area we're talking about,

so it's a tough one to answer. I can't give you a definitive yes or no.

Mr. EZELL. OK.

Ms. Cooper, what is the cost to the Government of canceling the contracts and re-competing them to undertake their current activities, including adding attributes and addressing environmental damage?

Ms. COOPER. Thank you for that question.

With respect to the cancellation of the contracts, I have to defer to my colleague at the Army Corps. As we've discussed with respect to the companies that were bid for that work, making sure that the negotiation for termination is conducted appropriately so that they can be compensated is a process that the Corps manages on behalf of U.S. Customs and Border Protection.

Mr. EZELL. Colonel, anything?

Colonel JEFFERIS. Sir, can I ask you to repeat the question real quick?

Mr. EZELL. Anything you could add to that? The cost to the Government—what is the cost of the Government canceling contracts and re-competing them to undertake their current activities, including adding attributes and addressing environmental damage?

Colonel JEFFERIS. Again, Congressman, that's a tough one to answer because we have to have individual contracts that we're referring to before we can get into the estimation, but I can't really give you a specific on that one.

Mr. EZELL. Thank you, Mr. Chairman. I yield back.

Chairman HIGGINS. The gentleman yields.

I recognize Mr. Thanedar for 5 minutes for questioning.

Mr. THANEDAR. Thank you, Chairman Higgins. I appreciate it.

Well, here is another quote from President Trump in 2016. The President said we will use the best technology, above- and below-ground sensors, towers, aerial surveillance, and manpower to dislocate tunnels and keep out criminal cartels. One of the first trips I took after joining this committee was to go to the Southern Border and look at the wall with my own eyes. Looks like the reality is, despite replacing 250 miles and building 50 new miles of wall in 2020, nearly one new tunnel per month was discovered by CBP that year. In fact, Trump administration had the highest number of tunnels. I believe there were 40 tunnels, including one touted as the longest ever discovered.

As clear as day, the wall falls short when it comes to tackling illegal crossings.

Ms. Cooper, can you provide more details on the discovery of tunnels during the Trump administration years?

Ms. COOPER. Congressman, with respect to the tunnel program, unfortunately, I am not an expert and would be happy to take that question back.

What I can tell you is that the application of border security technology, the application of barrier system in those locations where it makes sense, allows our agents—it frankly, delivers capability to our agents that then allows them to be responsive to new threats as our transnational criminal organizations continue to adapt. That's applicable in the context of cross-border tunnels, and

that's certainly applicable in other contexts we see in our enforcement environment.

Mr. THANEDAR. Thank you, Ms. Cooper.

Also, how would you respond to the argument that using taxpayer funds to construct the wall is a more effective approach than implementing comprehensive border security measures, including enhanced intelligence interdiction efforts to combat illegal activities, such as drug smuggling and human trafficking through the tunnels?

Ms. COOPER. As I'm certain you've heard from my colleagues in Green, including former Chief Ortiz and others, there is no single solution for the border security challenges that we face. The implementation of infrastructure and the associated attributes provides capability, the continued partnership with foreign governments to do what we can to reduce the global migration that we are seeing, the information sharing again with those governments and certainly internal to our own Government, all play a role in continuing to deliver capability for our agents and our officers at the ports of entry.

Mr. THANEDAR. All right. Thank you, Ms. Cooper.

Chairman, I yield back.

Chairman HIGGINS. The gentleman yields.

I recognize the gentlewoman from Georgia, Ms. Greene, for questioning.

Ms. GREENE. Thank you, Mr. Chairman.

In looking at the wall situation, the headline speaks for itself. DHS announces steps to protect border communities from wall construction. Yes, I will read that again. DHS announces steps to protect border communities from wall construction. I don't know who wrote this, but they probably should have been fired for writing that headline. That is pretty bad.

Let's talk about walls. Walls are very important for most countries. There are many countries with walls. I have one article here that comes from earlier this month that says—talking about 65 countries have erected fences on their borders, also talking about walls, talking about security fears, wide-spread refusal to help refugees, have fueled a new spate of wall building around the world. They include Israel's apartheid wall, India's 2,500-mile fence around Bangladesh, and Morocco's huge sand berm. So many countries around the world agree that walls are important in protecting the people within the country, protecting their national security interests.

I would also like to really praise President Trump's administration that the contractors completed most of the DoD-funded border barrier bollards by the end of December 2020 as scheduled. I am impressed with that because I own a construction company and I love to see a project completed on time. They truly did a remarkable job and it is unfortunate it is unfinished.

In my district alone, we have fentanyl deaths and that is what really upsets me. We have had many fentanyl deaths, but the El Paso sector, with the border—El Paso sector has experienced a significant reduction in drug and smuggling activities in areas where the border wall system was built. Most notably, in two separate zones, apprehensions decreased by 60 percent and 81 percent from

the beginning of fiscal year 2020 to the end of it. So, walls work and they protect people. We have 300 Americans dying a day, so I think having a wall to protect people from deadly fentanyl is the greatest thing we can do.

Ms. Cooper, CBP has been on record affirming that the border barrier has been effective and allowed CBP to readjust their agents to more pressing areas. If CBP said that the border barrier system is effective, why did DHS cancel the border wall contracts on the first day of this administration?

Ms. COOPER. I certainly can't speak to the policy decisions. However, I can certainly speak to those locations in which border barrier has been deployed historically and the success with which our agents have seen a growth in capability. As you mentioned, the El Paso sector, currently there's a GAP project, a gaps and gates project, that was approved by Secretary Mayorkas that has completed 68 of those gaps and gates. An additional 61 are on-going, some of which are in the El Paso sector. In addition, with the fiscal year 2020 and fiscal year 2021 appropriations that Congress provided, CBP will be able to go back and add the system attributes to the barrier that was previously constructed by DoD in locations again, such as El Paso, that will provide for protection—

Ms. GREENE. OK.

Ms. Cooper, can you tell me—I have got the Biden administration plans here—does any of this include—these were many of the categories of things that they—they used the money that was supposed to go for the wall. They turned it into things like habitat fragmentation and wildlife impacts, restoration of disturbed areas, invasive species control and monitoring, erosion concerns, low-water crossing, lighting and light pollution, border burial removal or completion—not sure what that means—impact to cultural resources. This is a list of projects that the Biden administration decided to take wall money that was set aside and contract money, and they canceled the contracts to build the wall and they canceled building the wall and they took this money and moved it to things like erosion control and invasive species control. So with the new wall building or project that you are talking about, are they still going to be addressing invasive species to protect our States and protect our border towns and communities? Or are they actually interested in building a legitimate wall that will stop the invasion into the United States?

Ms. COOPER. As part of barrier construction, for as long as I've been working on barrier programs, which is about 15 years, we have had a long-running relationship with the Department of Interior to ensure that environmental resources are considered as a part of that barrier construction. Those types of projects that you just referenced are not new to this type of work and in fact, have been on-going with every border project that I've been involved in.

Ms. GREENE. Well, protecting the land from invasive species, will that save the 300 Americans that are dying from fentanyl at all? I don't think so.

I yield back, Mr. Chairman.

Chairman HIGGINS. The gentlewoman yields.

The gentleman from California, Mr. Garcia, is recognized for questioning.

Mr. GARCIA. Thank you, Mr. Chairman.

I know we are talking a lot about walls today and I definitely have some comments and questions about the border wall, but I just want to just kind-of just restate a few facts for the record.

First, just as a reminder, and for this subcommittee and for a greater committee, when all the kind-of cheering went about, folks trying to really, I think, encourage chaos during the end of Title 42, I just want to really note that there was no chaos happening. The administration has actually done a fairly good job of this transition. I also want to confirm that Border Patrol chiefs have confirmed for Congress that the present situation is actually manageable. We have heard this time and time again. They have said in many of their own words, there is no crisis at the border. DHS has never been given any kind of stand-down order as well, as has been stated by some in the Majority. We have a shared mission of a secure and orderly border.

Third thing I want to say is that Democrats have been saying for years legal pathways have been critical to providing order at the border, especially after Title 42. I just also want to note that Donald Trump's border wall has always been, in I think my opinion and many others, an anti-American monument and not a real solution to actually any of our issues at the border.

Now, we know as has been stated by our Ranking Member and others, walls can be climbed, they can be jumped, they don't meaningfully disrupt the flow of fentanyl in this country. Know that fentanyl is coming in from legal ports of entry. While walls can't solve our problems, they actually do create serious concerns in many cases. I want to bring up one in particular.

I want to raise a case that has been deeply troubling back in California, certainly to me and many of my colleagues. Recently, the *San Diego Union Tribune* reported a nearly week-long incident in which approximately 150 asylum seekers were trapped between the layers of border wall near the San Ysidro port of entry adjacent to San Diego. Now, according to eyewitness reports from the *Union Tribune*, reporter on the ground, that migrants tried to leave, but Border Patrol herded them back into spaces between the fences, and migrants at the time believed that they were in custody. Now, CBP detention standards require people in custody must be supplied with basic hygiene items, food at regular intervals, and that water must always be available. But migrants did not receive any of these things. In fact, it was just one plastic water cooler for around 150 people between these two fences. Now, this does not appear to be an isolated incident. My office and other offices have received reports that migrants are frequently stranded between border walls for extended periods of time. Many of them, of course, are suffering from hunger and dehydration. An article in the *New York Times* confirmed that this situation has actually played out in other sectors of the border as well.

To the committee and to our Chairman, to our witnesses, now I wrote the Border Patrol to ask what policies guided Border Patrol response in situations when migrants may be trapped in portions of the wall. We received a reply just last week. Border Patrol told me and my colleagues, and I quote, "The individuals in question had not made contact with U.S. Border Patrol and were not con-

strained from further movement.” This is actually from the letter. But now I want show you actually a photograph and you can see for yourself, absolutely there is contact being made and the *San Diego Union Tribune*, the editorial board themselves, said that Border Patrol claims that the incident was a collective hallucination and that this was absolutely not the case.

So I hope that there is some better communication from Border Patrol to Members of this committee on exactly what happened and what is continuing to happen along this incident. CBP’s response, it is not even touching on the questions we raised about the conditions, guidance, and protocols that exist in this situation and others.

Now, Ms. Cooper, as a leader within CBP and certainly someone that is involved, I know that you necessarily don’t oversee this exact sector, but I would like to ask you to please take these concerns back to your leadership and CBP leadership. We have been given no adequate response so far. Is that something that you would be willing to do?

Ms. COOPER. Thank you for the opportunity to respond, Congressman.

I can assure you that our U.S. Border Patrol agents take the safety and security of those who come into our custody with great seriousness and I’m happy to take that question back.

Mr. GARCIA. Thank you.

Because right now Border Patrol leadership is telling us that they are not interacting with these migrants but there are reporters on the ground that are reporting that this is actually happening. So it is actually a grave concern.

I just want to just close, you know, this is an incredible country. I am proud to have migrated here myself as a young child. This is a country that does not leave women and children in the desert without food and water. We have to do better as a country. Certainly as we discuss things like walls, we should also understand what the impacts are to people that are trying to seek asylum that is actually legal in our country.

So with that, Mr. Chairman, I yield back.

Chairman HIGGINS. The gentleman yields.

The Chair recognizes my colleague from Alabama, Mr. Strong, for questioning.

Mr. STRONG. Thank you, Chairman Higgins.

Colonel Jefferis, Texas acquired 1,700 used border wall panels from the Federal Government in 2021 to build the border wall. However, the Federal Government continues to store a significant amount of border wall material that will not be used as a result of President Biden’s decision to halt the border wall. Have any State governments contacted the Corps to express interest in acquiring the unused border wall material?

Colonel JEFFERIS. Representative, thank you for the question.

I cannot answer whether any other States have reached out to us specifically. As I mentioned earlier, the disposition process is managed by the Defense Logistics Agency. So once we receive disposition instructions, DLA would be the ones that would manage that coordination on the DoD-specific contracts.

Mr. STRONG. Thank you.

I know earlier you mentioned that you are paying about \$160,000 per month to store some 20,822 panels. With this in mind, I know that I have received information from the DoD that says that \$130,000 a day, or \$47 million annually, is being spent to store material and wall panels. Have you heard of these numbers? Your numbers are absolutely different than DoD's. How much is it costing to store 20,822 panels along with the material to do that?

Colonel JEFFERIS. Congressman, thank you for the opportunity to address the question of storage costs or estimates in that case.

As I mentioned earlier, the costs of storing those are still currently with the contractor. So we had an estimate at a point in time when we terminated these contracts and the full amount of the material for the DoD side, \$262 million worth of equipment and material. That was what the first estimate was, was a point in time when we had all of that. As one would suspect through the disposition process, the inventory and the number of locations goes down. So it's much closer and continues to drop. That's where the \$160,000 a month comes from. That's current estimate.

Mr. STRONG. Thank you.

There is a big discrepancy in \$130,000 a day and \$160,000 a month. But no matter what it is, is this responsible? You think this is responsible to pay this kind of money to store this border fence? Is that responsible when the taxpayers of America have a \$32 trillion dollar debt?

Colonel JEFFERIS. Again sir, thank you for the question.

At this point without disposition instructions, it is responsible for us to pay for the storage of those. At this point those are estimated costs, so we won't know the finalized costs until later.

Mr. STRONG. Thank you.

Has the Army Corps of Engineers decided a strategic plan to use the remaining construction material? If so, can the Army Corps of Engineers commit to sharing that plan with the Members on this committee?

Colonel JEFFERIS. Again sir, as the design and construction agent, the Corps of Engineers has not come up with the plan to re-utilize that equipment. We have a requirement owner that supports that. At this point in time, I'm not aware of any decision yet to re-utilize that material.

Mr. STRONG. Thank you.

What is the cost to the Government of canceling the contracts and re-competing them under their current activities?

Colonel JEFFERIS. That is one of those questions that it's very challenging to answer because we're talking about a unique process and each contract would be different depending on what the requirement is. So I cannot provide a specific answer.

Mr. STRONG. Thank you.

I know that it was also mentioned about, I think, in some of our testimony that we are looking at about 17-to-1 drones. I know that the other side of the aisle mentioned the cartel and the 17-to-1 drones.

I can tell you this, my hometown of Huntsville, Alabama could neutralize this in a matter of days. In a matter of days, they could neutralize these drones that are flying in U.S. air space. I commit

to both sides of this aisle, let's get to work. We are willing to do it. They are dropping fentanyl across the U.S. border and they are destroying a generation of Americans.

Mr. CORREA. Will you yield?

Mr. STRONG. I yield to Mr. Correa.

Mr. CORREA. Thank you, sir.

I think you might have heard my statement that we actually have a firm in my district that is actually working to implement that technology. Should they win a contract with Homeland Security, they will be implementing that technology.

Mr. STRONG. I can tell you I witnessed it first-hand with SAIC and multiple companies in Huntsville, Alabama. I will promise you this right here, it is a cost-effective way to neutralize it. We can jam them, we can drop them, whichever way it is, but it is unacceptable to have drones coming into U.S. air space to destroy the children of our country. I will tell you this right here, I will work with anybody, I will work with the President, I will work with Democrats, I will work with Republicans, because it is time to address it. They are fixed to destroy a generation of our children.

Mr. CORREA. Mr. Strong, I welcome you to my districts and take a tour of this contract that is doing a great job and concur with you to stop these drones wherever possible.

Thank you.

Mr. STRONG. Thank you.

I yield back.

Chairman HIGGINS. The gentleman yields.

The gentlewoman from New York, Ms. Clarke, is recognized for 5 minutes for questioning.

Ms. CLARKE. I thank you, Mr. Chairman. I thank both Chairman Bishop and Higgins and Ranking Members Ivey and Correa for convening this today's hearing.

I would like to thank our panel of expert witnesses for joining us on this very important subject matter.

Speaking up on Mr. Strong, it is very clear that we have reached a technological age where we can address a number of the issues on our border. I am just thinking that the—I understand the concerns and the way folks are wedded to this idea of a wall, but it seems a bit antiquated at this stage, given where we are with respect to technology and our ability to manage affairs with a lot more expertise, a lot more technology on our border. Besides, I thought Mexico was supposed to pay for it. But that is beside the point.

As you may know, I represent a district that has long served as a safe haven for migrants. As the daughter of immigrants myself, I am deeply vested in protecting our immigrants and seeking accountability for those without a voice.

It is crystal clear that after over 30 years that we have to assert an urgent need for comprehensive immigration reform. Our immigration system has proven to be woefully inadequate and the consequences are dire. Let me be clear, no individual seeking safety, freedom, and the pursuit of a better life should be compelled to endanger their own lives or the lives of their loved ones.

Customs and Border Protection personnel regularly engage with Americans who live and work around the Southwest Border to

monitor migration trends and how they affect local communities. While my colleagues on the other side of the aisle often try to paint the picture of dangerous lawlessness in these communities, it is just simply not the case. Most frequently, community leaders work closely with CBP and Immigration and Customs Enforcement to welcome migrants while keeping communities safe, clean, and prosperous. Many landowners along the border are against the construction of a new border wall.

So I want to ask, Ms. Cooper, can you describe some of the feedback that you have heard from border communities about why they are not excited about supporting the construction of new border barriers?

Ms. COOPER. Thank you for the opportunity to speak a little bit about the work that we do to collaborate with communities across the board.

As laid out in the plan that DHS issued in June 2021, we have been engaged in robust community engagement with respect to the border barrier projects that were planned. That community engagement begins with consultation letters that go to—in fact, in the last 2 years, more than 2,000 consultation letters have been sent out. We’ve engaged in more than 1,700 meetings with community members. We hear a variety of feedback. We hear support, we hear concern. One of the things that we are able to do through that consultation process is understand what affects each community and to the degree that we can, make adjustments to be able to address those things, whether that is with respect to previously-constructed barrier system, adjust alignments, in some cases with respect to environmental concerns, create gaps. We’ve done everything from lizard gaps that allow for migratory species and a variety of other things to be able to address community concerns.

Ms. CLARKE. Very well. I think that is a very good approach, and if we dial down the rhetoric a bit, perhaps we can get to a solution that we can all agree to.

With that, Mr. Chairman, I yield back the balance of my time. Chairman HIGGINS. The gentlewoman yields.

The gentleman from Oklahoma, Mr. Brecheen, is recognized.

Mr. BREECHEN. Thank you, Mr. Chairman.

I appreciate you all taking the time to be with us today.

For years, United States citizens have been clamoring to find a solution for the border. It is not just about the fentanyl, which is the leading cause of death, we know from 18- to 45-year-olds. It is absolutely heavily correlated to what is being allowed at that Southern Border, but it is also weapons and human trafficking. There is a movie, a little-known movie being out right now that you may have heard about called the *Sound of Freedom*. I think the American people know what a tragedy we have.

President Trump’s administration, they responded. They built physical barriers. It has been cited that there were many people, some on this committee, on the other side of the aisle that voted for the 2006 Secure Fence Act. President Biden voted for the Secure Fence Act. But yet, as President, he took office and said, not another foot, shut down the \$15 billion that was to be allocated as mandated by Congress, appropriated under the rule of law, and he, with the stroke of his pen, said, not another foot.

In the context of 2021, I am in the construction business, I have a little small business, I found myself in Washington, DC, and I found myself outside of a physical barrier in the fall of 2021. That physical barrier had been put in place by Speaker Pelosi. Quite a contrast that months before the President had said physical barriers, they don't work, Nancy Pelosi employed them.

So, Ms. Cooper, here is what I would ask you is, if physical barriers, as my Democrat colleague a minute ago said, are 30-year-old outdated systems, why did Nancy Pelosi employ them at the same time we are canceling contracts on the Southern Border around the Capitol building?

Ms. COOPER. Respectfully, Congressman, I can't speak to the decision to employ barriers in that context.

Mr. BREECHEN. Do you see a conflict, I mean, in terms of ideology to say on one side we don't think physical barriers work, 65 countries, to my colleague's point a minute ago, $\frac{1}{3}$ of all countries, the United States have physical barriers on their borders. There is this floating thought pattern out there that physical barriers don't work, they are outdated. Do you see the hypocrisy when they are used to surround the Capitol building by Speaker Pelosi at the same time we are canceling contracts to stop the flow of drugs coming into our country?

Ms. COOPER. Again, with respect, Congressman, I can't speak to that.

Mr. BREECHEN. Let me pivot.

Two hundred sixty-two million dollars, Mr. Jefferis, you cited, was the amount of total expense of the material out of the \$15 billion that was laying dormant after President Biden said not another foot, \$262 million, 20,000 panels. Someone that comes from the heavy equipment world, there is kind-of a few things you can do with big pieces of metal. I find it astounding that we don't know if there are some States that wanted those materials when the disposition process is to include either Fed or State entities first, prior to scrap. It is astounding to me that between GAO and the Corps of Engineers that we don't know, especially with the Texas LoneStar Program. They are spending \$4 billion a year in Texas, they are putting rent-a-fence up. They are actually putting up physical barriers called rent-a-fence. Why are we not diving in with the State of Texas that has the largest mileage that is lacking physical barriers and asking these strong questions? Hey, we have got material, 20,000 panels. Instead of us looking at scrap, would you be interested in erecting physical barriers? Because they will all tell you that they work. Is that not something that we need to become more insightful about?

Colonel JEFFERIS. Congressman, thank you for your question and your concern about the barrier material.

Your numbers are correct. We have 20,000 panels in the storage facility process right now, but we have not received disposition instructions. As the head of contracting, as part of the design and construction agent, we're not part of that decision making. I can't speak to who's having those conversations or where but I can just speak to the amount of material we currently still have.

Mr. BREECHEN. Well, I just—look, I want to end with this. I have got 23 seconds.

Senator Langford from my home State, United States Senator Langford, he has information come out, \$6 million a day was wasted because of this situation of contracts and place that we are having to lease to put material. That number then——

Mr. CORREA. The gentlemen yield for a second?

Mr. BREECHEN. Well, can I finish the thought?

Then there was \$3 million a day, then it became \$130,000 every day, and now it is \$160,000 a month. It is just a moving target. Regardless, it is such waste. I think the taxpayers are so disheartened by the waste.

I would yield for the extra 18 seconds that I have gone over.

Chairman HIGGINS. The gentleman yields and the gentleman's time has expired.

The Chair recognizes the gentlewoman from Texas, Miss Jackson Lee, for a questioning.

Ms. JACKSON LEE. Did you need some seconds, Mr. Correa?

Mr. CORREA. Thank you.

Just trying to figure out your comment about comparing the fence around the Capitol and border wall, to work or not. I think there is a lot more order now that that fence around the Capitol is gone, right?

Ms. JACKSON LEE. Reclaiming my time.

Mr. CORREA. Thank you.

Ms. JACKSON LEE. Thank you.

Let me thank Mr. Higgins, Mr. Correa, Mr. Ivey, Mr. Bishop for their courtesies on this committee that I have been the Ranking Member of on this full committee.

I think this idea, Mr. Correa, of technology is being ignored. I think it is important that the obligated funds are not wasted. They are either in DHS or they are either in DoD, waiting for Congress to do its job of re-appropriations. But I think that the technology is worthy. Some of what the administration has done with some of the funds has helped the State of Alaska with missile field expansion and 2nd Radio Battalion in North Carolina, an Elementary School for U.S. military children, firecrafts, rescue station, etc. So it is not wasted.

I think we have a general disagreement on the value of the wall. I will say to the gentleman that spoke about fentanyl, I don't think there is one person on this committee, on this panel that would not join you in a major effort. I for one, I have introduced a fentanyl bill. I know that the House had one. It wasn't quite my cup of tea, but I am ready for the fight. So I hope that we will have an opportunity to do some of the things that might be within our democratic principles, when I say democracy, and within the justice principles, let's try to do some things together.

But I quickly want to just ask a question of Ms. Cooper. What is the current state of the Southern Border in terms of migrant numbers? Have those numbers gone down? Do you have knowledge of that?

Ms. COOPER. I do not have the most recent numbers in front of me. We have seen, in fact, as of the end of the fiscal year, we have seen approximately 1 million encounters. That is a——

Ms. JACKSON LEE. OK, you don't have the current.

What about you, Ms. Gambler, GSA? Do you have some information about numbers going down or not?

Ms. GAMBLER. We can follow up and provide specific numbers for your office.

Ms. JACKSON LEE. OK, let's do that.

But let me ask both Ms. Cooper, because you are Government right before me, DHS, and Ms. Gambler, I don't think because we do not have a wall that this kind of behavior that I am about ready to report is appropriate. I think we can find ways of dealing with this as we have done before and certainly we should not be in the category of doing inhumane items.

The Department of Public Safety trooper sent an email because he was very concerned about actions happening at the Texas border, where the Governor has placed wire and buoys in water that brought about a pregnant woman having a miscarriage, was found late last month, caught in the wire, doubled over in pain, a 4-year-old girl passed out from heat exhaustion as she tried to go through it and was pushed back by Texas National Guard, a teenager broke his leg trying to navigate the water around it. Then the incident of a pregnant woman—excuse me, on a series of previously-reported drownings in the river during 1-week stretch earlier this month, including a mother and at least one of her two children who Federal Border Patrol agents spotted struggling to cross the Rio Grande, and my understanding is—and given medical care before being transferred to EMF or later declared deceased in the hospital, the second child was never found.

This is a DPS trooper providing an email because of his concern of what is happening in forcing people with the buoys and the wire to go into deeper water and therefore drowning. Yes, they are illegally crossing. This is a country of immigrants, but it is a country of laws, and I do understand that. But we have to—the question is that immigration is a Federal issue, and it needs to be investigated as to the appropriateness of this kind of action and whether this action is truly left to the States where you wind up with this continued loss of life. So, I would like this—Ms. Cooper, you have a comment?

Ms. COOPER. While I can't speak to the policies or actions of the State of Texas, I would like to reassure the Congresswoman and the committee that our Border Patrol agents, as they meet migrants in those locations, take their safety and security as they come into our custody very seriously and ensure to the greatest extent possible that they are taken care of at that moment.

Ms. JACKSON LEE. I would expect to do so. I have seen them and I know they do, but I am asking that you carry this request for an investigation from me regarding the actions that this DPS agent—trooper, excuse me, has suggested. We can provide you additional information. I would ask Ms. Gambler, I know that you are in GAO, that we provide you with information. I have only cited what the trooper has cited in terms of maybe Border Patrol agents being forced to try and help these people. I think that is what I indicated. They were trying to help someone drowning in the middle of buoys and wires, but I would like to have an investigation in that.

Ms. GAMBLER. Congresswoman, thank you.

Well, we would be happy to talk with your office after this hearing.

Let me also just note that GAO has done prior work looking at CBP's provision of care for individuals in its custody and we've made recommendations to CBP in those areas. We'd be happy to brief your office on that work as well.

Ms. JACKSON LEE. Let me just finish one sentence, Mr. Chairman. Thank you for your indulgence.

I think I was specifically making the point of how difficult it makes—whether CBP or in essence Border Patrol, which is at the border, make their job difficult when State actions like this cause what this trooper has suggested has occurred. Loss of life, miscarriage, 4-year-old broken leg, and a mother and her two children, one missing, mother and child dead.

So I think that we have established that immigration and border security is a Federal issue. Whether we agree or disagree with the wall, it is a Federal issue, and this should be investigated whether a State is intrusively, wrongly engaging in immigration responses.

I yield back. Thank you.

Chairman HIGGINS. The gentlewoman yields.

With respect to her request, I feel compelled to state that the State's actions—the State is not here today to speak on their behalf. I would ask that the gentlewoman's questions regarding State law enforcement actions be appropriately directed whereby she may receive the answers she seeks. This committee does not have a witness here today from the State of Texas.

The Chair recognizes the gentleman from Arizona, Mr. Crane, for questioning for 5 minutes.

Mr. CRANE. Thank you, Mr. Chairman.

Today in this committee hearing I have heard that walls will not stop the immigration crisis that we see today. I have heard that walls also will not stop a drone. I have also heard that people are tunneling under walls, and let's not forget the ladders that people are using to climb over the walls.

I want to remind this committee that this committee is called the Homeland Security Committee. It is not called the Homeland wall construction committee. Why do I point this out? Because real security, whether at your house or on the Southern Border or in a prison or at a military base overseas, has always been and will always be protected by overlapping deterrents. I will say it again, real Homeland Security is supported by overlapping deterrents. Now a wall is simply just one of those deterrents that overlaps and works in conjunction with well-trained agents, technology, intelligence, and more. Because you can't just say that one security element is going to keep you safe in any of those environments that I pointed out. It is kind-of like saying, I am not going to use a lock on my front door because it is antiquated and people can go through the window, they can climb the backyard. It would be the same to say I am going to use a lock on my front door, I am going to use an alarm system, and I am also going to use a camera system. That is overlapping deterrence at your own home. Any professional that came in and gave you a site security assessment on your home would advise you to use overlapping deterrents.

I think it is sad that we are still talking about very rudimentary, basic, simplistic, common-knowledge security measures when we know what we are trying to protect. We are trying to protect our citizens, our constituents from all over the country who vote different ways, who think different things, but we know that they are being harmed by everything that we have been discussing in this chamber for months. They are harmed by the fentanyl, they are harmed by the MS-13 gang members, they are harmed by sex trafficking and everything that comes over that Southern Border. I will acknowledge again, we all know that there are people that come over that Southern Border who just want a taste of the American dream and to work hard and to raise a family. We can all acknowledge that. But if we are ever going to get serious about security, we have to quit pointing out that a wall isn't by itself security. We all know that. Real security is always, always, always contingent on whether you have overlapping security elements and every Border Patrol agent will tell you that.

I want to turn now to Mr. Jefferis.

Mr. Jefferis, in your professional opinion, just because something is antiquated like a lock or a wall, do you believe that we should discard it in trying to secure what we want to protect?

Colonel JEFFERIS. With respect to your question, Congressman, I believe that we should look at all opportunities that are out there without giving a definitive answer for my position as a contracting agent.

Mr. CRANE. Thank you.

What about you, Ms. Cooper?

Ms. COOPER. It's been my privilege to support the U.S. Border Patrol for the last 5 years. And in my role, one of my chief responsibilities has been working with each sector to identify their full suite of gaps and requirements. Those come in the form of a dozen different master capabilities, including some of the things you mentioned, additional communications capability—I should say requirements that ultimately lead to solutions such as additional communications capability, additional technology, additional roadways, partnerships, and in certain contexts, barriers, intelligence and information sharing. All of those, when appropriately combined, the right mix in the right place, can add value to our border security enterprise.

Mr. CRANE. Thank you, Ms. Cooper.

I guess what I am trying to say is this, this situation at our Southern Border will not change until my colleagues on the other side, and even those of us on this side, start implementing overlapping deterrents at our Southern Border just like we would at our own homes.

Thank you so much, Mr. Chairman. I yield back.

Chairman HIGGINS. The gentleman yields.

The first series of questions having been completed, we are going to forego a second round of questions for this panel. I very much appreciate the dedication of time that this panel has given the committee today.

The Members of the committee may have some additional questions for these witnesses and we ask that the witnesses respond to

those questions in writing. They will be properly submitted. The witnesses are dismissed.

Mr. IVEY. Mr. Chairman, if I might, before you dismiss the witnesses?

Chairman HIGGINS. The gentleman is recognized.

Mr. IVEY. Thank you, sir.

Colonel, if you could send the responses to the questions we raised to the Chair and Ranking Member as opposed to me or someone else, that would be appreciated.

Is that fine, Mr. Chairman?

Chairman HIGGINS. The gentleman's comment is appropriate.

Mr. IVEY. Thank you, Mr. Chairman.

Chairman HIGGINS. So we are going to recess for 5 minutes and I will gavel in in 5 minutes.

Ms. JACKSON LEE. Mr. Chairman, just a small moment.

Chairman HIGGINS. Another bipartisan moment.

The gentlewoman is recognized.

Ms. JACKSON LEE. Mr. Chairman, with respect, you assessed the witnesses in front of us. I accept that. But for whatever witnesses that might be able to respond to my inquiries, I would like them not to be hindered and to be able to get back with me on that, Mr. Chairman.

Chairman HIGGINS. Noted.

Ms. JACKSON LEE. Thank you so very much.

Chairman HIGGINS. Noted and agreed, good lady.

Ms. JACKSON LEE. Thank you.

Chairman HIGGINS. The witnesses are greatly appreciated and are dismissed.

The committee will be in recess for 5 minutes and I will gavel in in 5 minutes.

[Recess.]

Chairman HIGGINS. The Subcommittee on Border Security and Enforcement and Subcommittee on Oversight, Investigations, and Accountability will come to order.

I am pleased to welcome a compelling panel of witnesses before us today to provide insight on this important topic.

[Witnesses sworn.]

Chairman HIGGINS. Let the record reflect that the witnesses have answered in the affirmative.

Thank you and please be seated.

I would like to now formally introduce our second panel of witnesses.

Mr. Ron Vitiello, in his over 30 years of public service, has served as chief of the United States Border Patrol, acting deputy commissioner of Customs and Border Protection, and director of Immigration and Customs Enforcement. Mr. Jim De Sotle, currently serves as the chief executive officer of LoneStar Pipeline contractors, a Texas-based pipeline and facility company contracted to assist in the construction of the border barrier system. Mr. De Sotle has substantial experience in infrastructure, construction, and technology. Mr. Russell Johnson is a fourth-generation cattle rancher from New Mexico who has experienced first-hand the impact of an unsecure border and the repercussions of the decision to cancel construction of the border barrier system. Mr. Johnson also previously

served as a United States Border Patrol agent. I have Mr. Tenorio. I thank you for being here, Mr. Tenorio. I do not have a summary of your background.

I will recognize the Ranking Member to introduce his witness.

Mr. CORREA. Thank you, Mr. Chairman, for the honor.

Let me introduce neurosurgeon at UC San Diego, Dr. Alexander Tenorio. Dr. Tenorio has been on the front lines treating traumatic brain injuries caused by border wall falls. Mr. Tenorio has published multiple studies documenting the tragic increase in the number of traumatic injuries and mortality caused by the decision to increase the border walls height to 30 feet. Dr. Tenorio has also focused on the economic burden that the increase in traumatic injuries falls have created for hospitals in the San Diego area. Sir, Dr. Tenorio, thank you for being here today with the subcommittee and look forward to hearing your testimony.

Thank you, sir.

Chairman HIGGINS. I thank Ranking Member Correa.

I thank all the witnesses for being here today.

I now recognize Mr. Vitiello for 5 minutes to summarize his opening statement.

**STATEMENT OF RONALD D. VITIELLO, PRIVATE CITIZEN,
FORMER CHIEF OF THE UNITED STATES BORDER PATROL**

Mr. VITIELLO. Good afternoon Chairman Higgins, Chairman Bishop, Ranking Members Correa and Ivey. I'm glad to be with you today and look forward to discussing my experience in border and national security and all things related to my 34 years as a public servant.

I entered on duty in the Border Patrol in Laredo, Texas. I first took the oath in 1985 and reaffirmed it in action, as I worked my way up the chain of command, serving in Texas, Arizona, Vermont, and holding leadership positions as chief patrol agent, the chief at headquarters, I served at CBP's acting deputy commissioner for over a year and served as the acting ICE director while seeking confirmation, being nominated by President Trump. In 2019, I chose to retire from Federal service and now I'm happily in the private sector.

While in headquarters as a chief and as the chief in Rio Grande Valley sector, I was responsible for evaluating and setting requirements for border wall in the front line and served at headquarters during the implementation of the 2006 Secure Fence Act, which deployed 700 miles of border barrier. As the deputy at CBP, I also oversaw the team that set requirements and estimates for the border wall system in 2017 and 2019. The team at CBP and I delivered several prototypes in 2017, giving the operators and builders more knowledge of the best kinds of wall attributes, including anti-breach and anti-climb features. Wall is not the full solution. Wall must be augmented with sensors and all weather access roads and a sufficient number of agents to safely patrol and apprehend smugglers and contraband and criminals that will still cross the border illegally. By combining physical barriers with state-of-the-art—sorry—technology works until it doesn't.

Chairman HIGGINS. Take your time, good sir.

Mr. VITIELLO. The construction of wall and the augmentation of advanced technology in our Southern Border would significantly enhance our national security, control immigration flows, combat criminal activities, ensure public safety, and promote fiscal responsibility by combining physical barriers with cutting-edge surveillance and detection systems. We can effectively address the challenges posed by unauthorized border crossings while maintaining the integrity and sovereignty of our Nation.

Border wall system works, front-line agents know it, and the data shows it. Walls provide agents and operators with an anchor to place technology and patrol assets which can operate more safely and effectively. Securing the homeland is the responsibility of the Executive branch policies. By combining physical barriers with cutting-edge surveillance, border wall systems work, front-line agents know it and the data show it. Walls provide agents and operators with an anchor to place technology and patrol assets which can operate more safely and effectively. When we talk about border wall system, I was implementing on the front line for Secure Fence Act in the Rio Grande Valley sector. I was at headquarters during the Trump administration when we did the combined wall requests that he made to Congress and eventually got funded and accessed funding for. This is an important distinction. Wall by itself isn't going to help the Border Patrol agents, the men and women that are out there on the front lines each and every day. It's a system. Cameras, sensors, all weather access roads, and a sufficient number of agents to do the work that we ask them to do each and every day. It keeps them safe, it keeps the community that they live in safe, and it protects us all. Border security is national security.

I thank you and look forward to your questions.

[The prepared statement of Mr. Vitiello follows:]

PREPARED STATEMENT OF RONALD D. VITIELLO

JUNE 18, 2023

Good afternoon Chairmans Higgins, Bishop, Ranking Members Correa and Ivey. I'm glad to be with you today and look forward to discussing my experience in border security, homeland security, and all things related to my 34 years as a public servant. I entered on duty in the Border Patrol in Laredo, Texas. I first took the oath in 1985 and reaffirmed it in action as I worked my way up the chain of command serving in Texas, Arizona, Vermont, and holding leadership positions as a chief patrol agent, the chief at headquarters. I served as CBP's acting deputy commissioner for over a year and served as acting ICE director while seeking confirmation, being nominated by President Trump. In 2019 I chose to retire from Federal Service, and now I'm happily in the private sector.

While in headquarters and as chief in the Rio Grande Sector I was responsible for evaluating and setting requirements for border wall on the front line, and served at headquarters during the implementation of the 2006 Secure Fence Act which deployed 700 miles of border barrier. As the deputy at CBP I also oversaw the team that set requirements and estimates for the border wall system in 2017–2019. The team at CBP and I delivered several prototypes in 2017, giving the operators and builders more knowledge of the best kinds of wall attributes including anti-breach and anti-climb features. Wall is not the full solution. Wall must be augmented with sensors and all-weather access roads and a sufficient number of agents to safely patrol and apprehend smugglers and contraband that criminals will still cross illegally. By combining physical barriers with state-of-the-art surveillance and detection systems, we can effectively mitigate risks, enhance law enforcement capabilities, and protect the sovereignty of our Nation.

1. Enhancing Border Security.—The construction of a wall provides a tangible physical barrier that deters unauthorized border crossings. It limits the ease of entry for individuals attempting to cross our border illegally, reducing the bur-

den on law enforcement agencies and enhancing the overall security of our Nation. By physically impeding illegal border crossings, we create a first line of defense that allows Border Patrol agents to focus their efforts on detecting and apprehending those who pose a genuine threat.

2. Regulating Immigration.—A secure border is essential for ensuring an orderly and legal immigration process. By deterring illegal border crossings, we can better allocate resources toward processing and vetting individuals who seek lawful entry into our country.

3. Combatting Criminal Activities.—Our Southern Border is unfortunately susceptible to criminal activities such as drug smuggling, human trafficking, and illegal firearms trade. By implementing a wall and advanced technology, we can significantly impede the operations of criminal organizations. Enhanced surveillance systems, such as drones, cameras, and ground sensors, would provide real-time situational awareness to law enforcement, enabling them to respond quickly and effectively to potential threats.

4. Public Safety.—A secure border is synonymous with public safety. By strengthening border security, we can prevent the entry of individuals with criminal backgrounds, thereby reducing the potential for crime within our communities. Furthermore, an increase in technological infrastructure would allow for swift detection and interdiction of potential security threats, ensuring the safety of both our citizens and those seeking legal entry.

5. Fiscal Responsibility.—Contrary to misconceptions, investing in border security measures can lead to long-term cost savings. By reducing illegal border crossings, we alleviate the strain on our immigration enforcement agencies, reduce the burden on the judicial system, and limit the costs associated with detention and deportation. Additionally, technological advancements provide efficient and cost-effective surveillance and detection mechanisms, optimizing resource allocation and reducing operational costs over time.

The construction of a wall and the augmentation of advanced technology on our Southern Border would significantly enhance our national security, control immigration flows, combat criminal activities, ensure public safety, and promote fiscal responsibility. By combining physical barriers with cutting-edge surveillance and detection systems, we can effectively address the challenges posed by unauthorized border crossings while maintaining the integrity of our Nation.

Border Wall System works; front-line agents know it and the data shows it. Walls provide agents and operators with an anchor to place technology, and patrol assets which can operate more safely and effectively.

Securing the homeland is the responsibility of the Executive branch. Policies that promote large-scale illegal migration puts, everyone at risk. Those in the pipeline are trafficked and abused, our cities and towns are burdened with large numbers of low-skilled workers who may have health issues. It overcrowded schools and stresses public health and law enforcement resources. You must get the border controlled physically but if there is no consequence to entering illegally and not following requirements to claim asylum or go to immigration proceedings, we'll continue the lawlessness and significant illegal flow we see today.

Chairman HIGGINS. Thank you, Mr. Vitiello.

I now recognize Mr. De Sotle for 5 minutes to summarize his opening statement and also to correct our pronunciation of your name, good sir, if I haven't gotten it right thus far.

Mr. De Sotle, you are recognized.

STATEMENT OF JAMES DE SOTLE, INTERIM CHIEF EXECUTIVE OFFICER, LONESTAR PIPELINE

Mr. DE SOTLE. Thank you.

Well, it depends on which side of the family. It is either De Sotle or De Sotle. So, De Sotle is what I pronounce it as.

So, Chairman Higgins, Chairman Bishop, Ranking Member Correa, Ranking Member Ivey, and distinguished Members of the subcommittee, I want to thank you for allowing me to testify in front of your subcommittee today regarding our experiences as a subcontractor on the Southern Border wall.

So as an overview, in July 2019, Posillico Contractors of Long Island, New York, contracted PLC Group, D/B/A LoneStar, regarding

potential work on the border wall that was being constructed along the U.S.-Mexico border. LoneStar immediately engaged in discussions with Posillico and ultimately signed a subcontract with Southern Border contractors to provide loose concrete, aggregate, and aggregate for Sections 08 and 09 in McAllen, Texas. So SPC was a joint venture between Posillico and SPC.

So LoneStar was responsible for providing loose concrete for the footings of the border wall, as well as grout and necessary aggregate for temporary roads, drainage, and other applications. LoneStar purchased 2 mobile cement plants, 7 cement trucks and various other equipment necessary to fill the contract. So at this point in time we were just getting into heavy civil. We were a pipeline contractor in Midland, Texas. We chose this opportunity to actually get into heavy civil. So we went out and spent a lot of money on equipment in order to make that happen. We won the contract. We were very excited about it.

July 2020, LoneStar commences work on the border wall in sections 08 and 09 in McAllen, Texas. In January 2021, President Biden took office and issued a suspension of work order for the border wall construction. Contractors were actually required to stand by per our contract, so we had to keep our equipment and our labor on-site.

There was no indication of how long this was going to be taking place, so we were left in the dark. There was really no communication around how long we would have to have that equipment and that labor on-site. One other note, we were not able to submit any invoices during this period. So we're paying for labor, we're paying for equipment, no invoices will be submitted. The Army Corps of Engineers would not accept invoices.

I want to be clear, the Army Corps of Engineers was not the issue here. The Army Corps of Engineers was simply following their orders, OK. This went far higher than the Army Corps of Engineers. So I have no animus toward the Army Corps. This is something that I think the administration and Congress in general needs to look at when it comes to small contractors like ourselves, put in situations like this that ultimately put us into a position where we're nearly bankrupt.

May 2021, we sent a letter to the Army Corps of Engineers requesting guidance. To date, we've received no communication back on that letter. LoneStar retained in May 2021 Williams Mullen, a law firm actually out of Washington DC, Dixon, Hughes, Goodman, which are accountants. So we went and found proper lawyers and the proper accountants to actually deal with these Federal contracts. We knew as a subcontractor that we're limited in what we do with the Government. As Colonel Jefferis actually stated, as a subcontractor, I do not have the right that a prime has. I basically have no voice with the Federal Government, period, end of sentence. So we hired these law firms, we brought them in, they worked with our primes, law firms, and accounting firms in order to try to shepherd us through this process. So this is May 2021.

In September 2021, we sent a second letter to the Army Corps of Engineers requesting guidance on payments and monies owed. No response.

October 2021, the Army Corps officially canceled the border wall contract. As I spoke to Colonel Jefferis after his testimony, what ended up happening here, and I will speak further to Colonel Jefferis about this, is the contract was canceled and then it was reinstated and our law firm and our accounting firm both said the same thing, they've never seen this happen before. So now I'm in a position as a subcontractor, my primes contract is now put back into into operation, if you will. I cannot submit a termination settlement proposal because we still have an active contract. So now I'm stuck in a catch-22 in this lurch, and again, time is moving on.

October 2021, SPC's notified that the contract was reinstated for purposes. I just went through—they actually had to go back to the border to actually—they were contracted to go back and deal with safety issues. So when we stopped construction, there were many holes in the wall, there's ditches, there's all kinds of safety issues there. To prevent people from injuring themselves, they went back to actually cure these issues. So that's why they were actually—and they're still down there by the way, they're still working on this to this date.

November 2021 through July 2022, LoanStar works with SVCs, attorneys, Southern Border contractors, attorneys and accounting firms, as well as its own attorneys, to put together our TSP. So this is November 2021 through July 2022, so months and months go by, we're paying our attorneys, we're paying our accountants six figures to make this all happen. July 2022 on the advice of our attorneys, LoneStar finally submitted the TSP. So basically what we did is we went to our prime and we said we cannot wait any longer. We're going to submit. If the Army Corps throws it back at us, they throw it back. We're hopeful that they see the urgency here and they actually take it.

October 2022, so now we're almost 2 years into this. So January '21 to October '22, nearly 2 years, we finally get an official meeting with the Army Corps of Engineers and that started the audit process. So November 2022, the audit process officially started. July or June 2023, or actually today, we are still in that audit process, OK. So we are now 2 years, 7 months without payment from July 21st of 2021. So we're in 2 years, 7 months. We're a small construction company. This is \$3.6 million. That's a lot of money for a company of our size. That has had a substantial impact on our business. It's hurt us with our vendors, it's hurt us with potential contracts. The sad thing is we were literally trying to get into heavy civil. This actually killed it. So we were actually moving, we're trying to diversify, we were getting into renewables. This actually you know put a period on that sentence. We no longer can do that, so.

I thank you for your time. I thank you for listening to my testimony, and I look forward to your questions.

[The prepared statement of Mr. De Sotle follows:]

PREPARED STATEMENT OF JAMES DE SOTLE

JULY 13, 2023

OVERVIEW

In or around July 2019, Posillico contractors of Long Island NY contacted PLC Group ("LoneStar") regarding potential work pertaining to the border wall being constructed along the U.S./ Mexico border. LoneStar immediately engaged in discus-

sions with Posillico and ultimately signed a sub-contract with Southern Border Constructors, (SBC) to provide loose concrete and aggregate for sections 08 and 09 in McAllen TX. SBC is a joint venture that Posillico has ownership in.

LoneStar was responsible for providing the loose concrete for the footings of the border wall as well as the grout and necessary aggregate for temporary roads, drainage, and other applications. LoneStar purchased 2 mobile cement plants, 7 cement trucks and various other equipment necessary for fulfillment of our contract.

July 2020.—LoneStar commences work on border wall sections 08/09 in McAllen TX for SBC.

January 2021.—Biden administration issues a suspension order for work pertaining to the border wall construction. Contractors are required to “Stand By”. This required our company to continue to maintain a presence onsite and incur daily labor and equipment costs without the ability to invoice. We had NO indication of when or how this suspension would be resolved.

May 2021.—LoneStar sends a letter to the ACoE requesting guidance. To date we have received NO communication from the ACoE.

May 2021.—LoneStar retains William and Mullen law firm and Dixon, Hughes, and Goodman accountants.

September 2021.—LoneStar send a second letter to ACoE requesting guidance on payments of monies owed.

October 2021.—The ACoE officially cancels the border wall contracts.

October 2021.—SBC is notified that its contract is reinstated for the purposes of addressing “Safety” issues as a result of construction being halted. Because our prime had its contract reinstated, we were not able to file our termination settlement proposal (TSP) which further delayed our ability to recoup our losses. Our attorney noted that he had never seen a Federal contract canceled and subsequently reinstated. This put us in an untenable situation.

November 2021–July 2022.—LoneStar works with SBC’s attorneys/accounting firm as well as its own attorneys and accounting firm to complete our TSP. During this time we are being advised that the TSP cannot be submitted because SBC is still under contract.

July 2022.—On the advice of our attorneys, LoneStar submits our TSP to the ACoE for \$3.6 million.

October 2022.—LoneStar begins the audit process with the ACoE on its TSP.

November 2022–June 2023.—ACoE is in contact with LoneStar throughout the audit process.

June 2023.—ACoE completes its audit and proposes paying LoneStar 50 percent of the submitted costs.

July 2023.—LoneStar is awaiting a date for the “Exit” interview from the ACoE.

Two years and seven months after the suspension of the border wall project, LoneStar has not received a single payment for services rendered.

Impact on PLC Group

The border wall cancellation has had a significant impact on PLC Group. COVID-19 caused a severe downturn in our industry. This downturn was exacerbated by the current administration’s policy toward domestic oil and gas production. The combination led to almost 30 months of limited work in the industry. During this downturn our company was subjected to \$100 thousand in attorney and accounting fees, and over \$1.8 million in capital outlays for the border wall project including startup costs and carrying costs during the suspension, (January–September 2021).

The overall cost to our company is \$3.6 million. Construction companies require a significant amount of capital to start and complete a project. Having our capital tied up within this project for 3 years has reduced the number of opportunities our company could pursue. Most recently, in March 2023, we lost a \$24 million opportunity with a large producer due to a lack of funding. We were forced to sell our assets in order to keep operations going and as a result, were not able to pursue further civil work. This effectively shut down the civil division.

Chairman HIGGINS. Thank you Mr. De Sotle.

I now recognize Mr. Johnson for 5 minutes to summarize his opening statement.

STATEMENT OF RUSSELL A. JOHNSON, PRIVATE CITIZEN, FORMER AGENT, UNITED STATES BORDER PATROL

Mr. JOHNSON. Chairman Higgins, Chairman Bishop, Ranking Member Correa, and Ranking Member Ivey, and distinguished

Members of the subcommittees, thank you for the opportunity to testify today on the Biden administration's decision to stop border wall construction and the effect that it has had on Americans like me who live and work on or near the Southern Border. It is an honor to share my story with you all today, but also disappointing that this issue still exists.

I'd like to speak briefly about my background and my relationship with the border. I was born and raised in southern New Mexico on a cattle ranch that borders Mexico for approximately 8½ miles. This ranch has been in my family since 1918. Border issues are nothing new to me or my family. For example, my dad and my uncle had a pickup stolen from them at gunpoint by young men who had been guarding a drug field in Mexico. Cattle thieves have crossed into the United States to steal our cattle and illegal immigrants have caused property damage, left trash, and broken into the homes of several of my family members.

I also served 5 years in the United States Border Patrol as a patrol agent in El Paso, Texas. During my service, I worked along the Rio Grande River as well as spent 2 years with Air and Marine Operations. I resigned from the agency in 2016 in order to return to the family business.

This experience has given me a unique perspective on the border as I have seen it through the eyes of a stakeholder as well as a law enforcement officer. For over 100 years, our entire section of border was no more than a five-strand barbed wire fence that my family and I maintained at our own expense. This fence was constantly damaged by illegal traffic, and no Government agency would accept responsibility for this international boundary.

In 2008, a Normandy-style vehicle barrier was installed along roughly half of our border. Though an improvement, it did not solve the problem. The remaining border was still barbed-wire fence and this left us vulnerable to illegal foot traffic and vehicle drive-throughs. In April 2020, wall construction had begun on our neighbor's ranch. Finally, a sense of security and relief from an open border was being provided. Normandy barrier and barbed wire fence was going to be replaced by a 30-foot-tall concrete reinforced steel barrier with stadium-style lighting and sensor technology that provide agents real-time data on attempted crossings. This project came hot on the heels of the surge of traffic we had seen in 2019. As construction began on our ranch, illegal traffic was pushed to areas without the wall. The wall system was going to be the force multiplier that Border Patrol needed to gain operational control of the Southern Border.

When President Biden signed the Executive Order to halt border wall construction, we were left with a ¾-mile gap, one border monument access gate that hadn't been installed, and a few miles of wall that had not been filled with concrete or welded together. Contractors were told to stand down, leaving their equipment, material, and debris scattered along the border.

It's important to note that in New Mexico the wall was built on the Roosevelt Reservation. For this reason, my family and I were never approached by the Federal Government nor given any information regarding wall construction. All information I received was from talking to contractors or the United States Army Corps of En-

gineers. Contractors were eventually told to just make things safe. In doing so, wall panels were consolidated into two different areas, one on our ranch and the other on our neighbor. We were also left with two areas of massive piles of gravel and rock left over from the construction in the mountains. The above-mentioned locations on our ranch are on Bureau of Land Management land and my family owns a grazing lease on said land.

This material has been sitting on the border for over 2 years. Taxpayer dollars are being stockpiled rather than being utilized for their intended purpose. Contractors are now telling my family that these wall panels are going to be hauled off for scrap. If anyone ran their business as inefficiently as the Federal Government has handled this project since the shutdown, they would all be broke.

In the months leading up to January 2021, there was little illegal traffic through our area. When the project was shut down, we saw an immediate increase in traffic. We continued to see this upward trend until Title 42 was lifted. Border Patrol agents tell me that the traffic in my area is slow, but remains steady.

In closing, our Government does not have operational control over our Southern Border. I rarely see an agent on the border in our area. If you do see an agent, they're further north chasing groups of people that have already made it several miles into the United States. I've traveled over 2,000 miles and left my family and business to be here today. Every time I leave, I fear for what my wife and kids may encounter because of our open border. These are fears I shouldn't have as an American living on American soil. My Government is failing to protect this country, and the fiscal irresponsibility is appalling.

I'd like to thank the committee for allowing me to testify today and look forward to answering any questions.

[The prepared statement of Mr. Johnson follows:]

PREPARED STATEMENT OF RUSSELL A. JOHNSON

JULY 18, 2023

Chairman Higgins, Chairman Bishop, Ranking Member Correa, and Ranking Member Ivy, and distinguished Members of the subcommittees, thank you for the opportunity to testify today on the Biden administration's decision to stop border wall construction and the effect it has had on Americans like me who live and work on or near the Southern Border. It is an honor to share my story with you all today, but also disappointing that this issue still exists.

I would like to speak briefly about my background and my relationship with the border. I was born and raised in southern New Mexico on a cattle ranch that runs along the U.S./Mexico border for approximately 8.5 miles. This cattle ranch has been in my family since 1918. I am very familiar with all that happens along the border. My family has experienced very little good, but just about all the bad one can wish to experience regarding the border. My dad and uncle had a pickup stolen from them at gunpoint by young men who had been guarding a drug field in Mexico. We have had cattle thieves cross into the United States to steal our cattle and drive them into Mexico. My parents, uncles and cousins have all had their homes broken into by illegal immigrants. Property damage and trash left behind by illegal immigrants are also things that my family and I deal with.

I served 5 years in the United States Border Patrol as a Border Patrol Agent in El Paso, Texas. In my 5 years of service, I worked along the Rio Grande River as well as spent 2 years as a Supplemental Aircrew Member with Air and Marine Operations. I resigned from the agency in 2016 in order to return to the family business, which was more conducive to raising a family. All my experience from where I grew up to my time served in the United States Border Patrol has given me a

unique perspective on the border as I have seen it through the eyes of a stakeholder as well as a law enforcement officer.

Prior to 2008, our entire 8.5-mile section of border was nothing more than a 5-strand barbed wire fence that my family and I maintained at our expense. This fence was constantly damaged by illegal traffic crossing into the United States. My family and I maintained the fence at our own expense because no Government agency would accept responsibility for it. In 2008, Normandy-style vehicle barrier was constructed and installed along roughly half of that 8.5 miles. This was an improvement over barbed wire, but did not deter vehicle drive-throughs, or human foot traffic. The remaining border was still barbed wire through the mountainous portion of our ranch. This left us vulnerable to illegal traffic, vehicle drive-throughs, not to mention the fact we still had to maintain the barbed wire fence which was serving as the international boundary line.

Fast forward to April 2020. I had been back on the family ranch for a little over 3 years after having resigned from my position with the United States Border Patrol. Border wall construction had begun on our neighbor's ranch and was coming east in our direction. Finally, a sense of security and relief from an open border was being provided. A large, 30-foot-tall concrete reinforced steel barrier, stadium-style lighting and sensor technology that would provide Border Patrol agents real-time data on attempted crossings was going to be erected in place of the barbed wire fence my family had been maintaining for over 100 years. This project came hot on the heels of the surge of traffic we had seen in 2019 when caravans had formed, and groups of illegal immigrants were giving themselves up en masse at Antelope Wells, New Mexico and other ports of entry.

As construction began on our family ranch, illegal traffic was pushed off our ranch and to areas without a border wall. No longer did we have to worry about vehicle drive-throughs and car chases through our ranch. Cattle theft by individuals from Mexico would be a thing of the past. The border wall system was going to be the force multiplier that Border Patrol needed to gain operational control of the southern border. All of that ended January 20, 2021.

As you know, when President Biden took office, one of his many Executive Orders was to halt border wall construction. Construction sure enough stopped on a dime. Not a screw was turning on the border. On our ranch unfortunately, the contractors hadn't finished installing all of the wall. We were left with a $\frac{3}{4}$ -mile gap, one border monument access gate hadn't been installed and a few miles worth of wall had not been filled with concrete or the wall panels welded together.

Contractors working on the wall did not know what was going on, they were just told to stand down. This went on for several weeks with little to no information on what was going to happen. Construction equipment, materials and debris were scattered up and down the border through our ranch and on our neighbor's ranch. This is a good opportunity to explain how the United States Government did not communicate with my family regarding wall construction.

The Roosevelt Reservation gives the Federal Government a 60-foot easement along the Southern Border in New Mexico, Arizona, and California. This easement was established to keep public lands in the respective States free from obstruction for the purpose of border security. For this reason, my family and I were never approached by the Federal Government, nor given any information regarding wall construction. All information I received was from me reaching out to contractors or the United States Army Corps of Engineers working in our area.

Eventually, all the contractors were told to "make things safe" and remove all of their equipment. In doing so, wall panels were consolidated into two different areas, one on our ranch and the other on our neighbor's ranch. Along with the wall panels, we were left with two different areas where rock crushers had been set up to crush gravel from pilings left over from wall construction in the mountains. Massive piles of gravel and rock remain in these two locations on our ranch. All of the above-mentioned locations on our ranch are on Bureau of Land Management land and my family owns the grazing lease on said land.

I mentioned earlier that I was disappointed that this was even an issue. What I have just mentioned regarding the material left behind is nothing new. This material has been sitting on pastureland all over the Southern Border for over 2 years. Taxpayer dollars are rusting away in stockpiles rather than being utilized for their intended use. Contractors are now telling my family that these wall panels are going to be hauled off for scrap. Brand-new, American steel with all of the costs in getting that wall panel fabricated and it's going to scrap. If anyone ran their business as inefficiently as the Federal Government has handled this wall project after the shutdown, they would be broke.

I have yet to mention the effect shutting the wall project down has had on illegal immigrant traffic. In the months leading up to January 2021, there was very little

illegal traffic through our area. As soon as the wall was shut down, we immediately saw an increase in traffic. We continued to see this upward trend until Title 42 was taken away in May of this year. Though we did not see the surge of traffic like we expected to, Border Patrol agents tell me that the traffic in my area is slow, but steady. Our Government does not have operational control over the Southern Border. With very few Border Patrol agents in the field, you will rarely see an agent on the border in our area. If you see an agent, they are further north chasing groups that have already made it several miles into the United States.

I have travelled over 2,000 miles to be here today. I left behind my wife, two young children, my parents, and my business. Ranching on the U.S./Mexico border is not for the faint of heart. Every time I must leave, I fear what my wife and kids may encounter because of our open border, and I'm not there to protect them. I often get asked, "Why don't you just move?" or "If it's so bad, I'd just pack up and leave." Maybe I'm crazy for not entertaining those two ideas, but the way I see it, I am an American. The last time I checked, I still live in the United States and therefore entitled to life, liberty, and the pursuit of happiness. All of which should be protected by my Government who at this time is failing to do so.

In closing, I want to thank the committee for allowing me this opportunity to testify today and I look forward to answering any questions you might have.



Barbed Wire Fence serving as US/Mexico Boundary



Normandy Style Vehicle Barrier



$\frac{3}{4}$ mile gap over the mountain



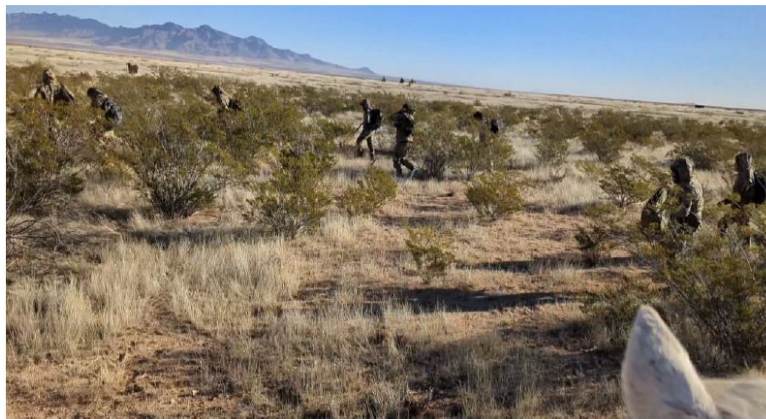
Wall panels left behind near $\frac{3}{4}$ mile gap



Wall panels left behind on neighboring ranch



Large pile of rock to be crushed for gravel



Large group of illegal immigrants encountered while horseback

Chairman HIGGINS. Thank you, Mr. Johnson.
I now recognize Dr. Tenorio for 5 minutes to summarize his opening statement.

**STATEMENT OF ALEXANDER TENORIO, M.D., RESIDENT
PHYSICIAN, NEUROLOGICAL SURGERY, UC SAN DIEGO**

Dr. TENORIO. Good afternoon, Chairmen Higgins and Bishop, Ranking Members Correa and Ivey, and Members of the subcommittee. It is an honor to testify before you today about the humanitarian toll and the economic burden imposed by increasing the border wall heights across the Southern region.

I am a fourth-year neurological surgery resident physician at UC San Diego Health. As part of my duties, I treat patients with devastating neurological conditions, including injuries to the brain and spinal cord. This often requires emergent and life-saving treatment of injuries that also includes traumatic injuries after border falls. I have been at the front lines and witness to the devastation that these raised border walls have caused every single day.

During my tenure at UC San Diego, my trauma colleagues and I have observed an unrelenting increase in traumatic injuries after these falls. We're the first institution to describe this phenomenon and have published several peer-reviewed articles detailing this emergent public health crisis. Our research shows that since the U.S.-Mexico border wall was raised up to 30 feet in 2019, there have been a record number of traumatic injuries from border falls. Hospital admissions from border falls at our two major trauma centers have increased almost ten times when comparing 2021 to 2016. Not only has the frequency increased, but the severity and mortality have risen significantly. There have been 16 deaths after the border wall was raised compared to 0 prior. We are also now seeing record number of severe injuries to the spine, the brain, and even the brain's blood vessels, which otherwise can only happen with high-impact trauma. Research from our colleagues in Texas also shows significant increases in border trauma admissions, indicating to us that this is widespread.

In addition to the profound human cost, there has been increased economic burden to our health care system. At our hospital, charges for each patient suffering a spine injury after a border fall increased 70 percent since the border wall was raised. At our two major trauma hospitals, total hospital costs due to all traumatic injuries after border falls increased by 636 percent, from \$11 million during the 2016 to 2019 period, compared to \$72 million during the 2020 to mid-2022 period.

Now, these are individuals with families, escaping violent threats, untenable economic conditions, and political upheaval. I am reminded of a young patient of mine who had suffered a severe spinal injury and would require surgery. He was a farm laborer back home who had lost his job and his home. He had a young daughter and a young wife and he was now unemployed living in the streets. He came to the United States to escape extreme poverty and feed his family. Now, as I attended to him at our trauma bay and described the extent of his injury, his response wasn't whether he would be able to walk again, but rather he responded, [Speaking foreign language]—when will I leave the hospital to see my family?

Now, I ask the subcommittees to consider the following. Do you believe this individual left his family, risked his life, and climbed that 30-foot barrier due to trivial circumstances? As the son of a

father who escaped violent threats in his hometown, and now a witness to these stories, I can assure you that these people I care for are searching for the same things we all do, safety, security, and a chance for a better life for their family.

Ultimately, these raised border walls have resulted in a record number of traumatic injuries, increased severity and mortality, and increased economic burden to our hospital systems. As a neurosurgeon, I must reveal this untold human suffering and strain on financially-strapped hospital systems to our Nation. I fear this trend will only get worse until we further study the full extent of the humanitarian and economic costs from our current border infrastructure. Only then can we determine sensible alternative solutions.

Thank you to both subcommittees for inviting me to testify today and I hope you do all within your power to recognize the harms of the raised border wall.

I look forward to your questions.

[The prepared statement of Dr. Tenorio follows:]

PREPARED STATEMENT OF ALEXANDER TENORIO

JULY 18, 2023

INTRODUCTION

Good afternoon Chairmen Higgins and Bishop, Ranking Members Correa and Ivey, and Members of the subcommittees. It is an honor to testify before you today about the humanitarian toll and economic burden imposed by increasing border wall heights across the southern region.

My name is Alexander Tenorio and I am a 4th-year neurological surgery resident at UC San Diego Health. As part of my duties, I treat patients with neurological conditions. This involves injury to the brain and spinal cord, which often require emergent and life-saving treatment of devastating injuries. This includes traumatic injuries that occur after border falls. I have been at the front lines, and witness to the devastation that the raised border wall causes every single day.

During my tenure at UC San Diego, my trauma colleagues and I have observed an unrelenting increase in traumatic injuries as a result of border falls. We were the first institution to describe this phenomenon and have published several peer-reviewed articles in academic journals detailing this emerging public health crisis.

SIGNIFICANT FINDINGS

Our research shows that since the U.S.-Mexico border wall was raised up to 30 feet, there have been a record number of traumatic injuries from border falls. Hospital admissions from border falls in California have increased almost 10 times compared to 2016.

Not only has the frequency increased, but the severity of injuries and mortality have risen significantly, with 16 deaths after the border wall was raised compared to 0 deaths prior. We are also now seeing more severe injuries to the spine, brain, and even the brain's blood vessels, which are otherwise uncommon and can only result from high-impact trauma. These are injuries that will leave people unable to work and care for their families. Research from colleagues in Texas also shows significant increases in border trauma hospital admissions, indicating that this issue can be seen across the Southern Border region where the border wall height has also been raised.

In addition to the profound human cost, there has been an increased economic burden to our health care system. Our hospital costs have increased by 636 percent from \$11 million prior to the border height increase to \$72 million afterwards.

These are young individuals with families escaping violent threats, untenable economic conditions, and political upheaval. I am reminded of one of my patients, a 25-year-old man who had suffered a severe fracture to the spine that would require surgery. He was a farm laborer who had lost his job and his home. He was unemployed, living in the streets with his wife and young daughter. He came to the United States to escape extreme poverty and to feed his family.

While he laid on a stretcher in our trauma bay, I could sense his fear and despair. He was now in another country being held in custody with a severe injury. As I described to him his injury and that he would need surgery, his response wasn't about whether he would be able to walk again. He responded, "Cuando voy a salir del hospital para ver a mi familia?" When will I leave the hospital to see my family?

Now, I ask the subcommittees to consider the following: Do you believe this individual risked his life, left his family, and climbed that 30-foot barrier due to trivial circumstances?

As the son of a father who escaped violent threats in his home town as a teenager and now a first-hand witness to these stories, I can assure you that these people that I care for are searching for the same things that my parents did and that we all do: safety, security and a chance for a better life for their children.

CONCLUSION

Ultimately, these raised border walls have resulted in a record number of traumatic injuries, increased severity and mortality, and increased economic burden to our hospital systems.

As a neurosurgeon, I must reveal this untold human suffering and strain on financially-strapped hospital systems to our Nation. I fear this trend will only get worse without any current system in place to analyze the full extent of the humanitarian and economic costs of border infrastructure policies to help determine sensible alternative solutions.

Thank you to both subcommittees for inviting me to testify today, and I hope the subcommittees do all within their power to recognize the harms of the border wall on human lives and our hospital systems.

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Chairman HIGGINS. Thank you, Dr. Tenorio.

Members will be recognized by order of seniority for 5 minutes of questioning. An additional round of questioning may be called after all Members have been recognized.

I now recognize myself for 5 minutes of questioning.

Mr. Johnson, you stated you had massive piles of rock and gravel and material. I am not talking about the steel, I am talking about massive piles. Describe what you mean by that.

Mr. JOHNSON. Thank you for the question, Chairman Higgins.

In a portion of the area where the border wall was constructed on our ranch was through a slightly mountainous area, and so the mountains had to be taken down to certain grades to accommodate the wall. In doing so, all that rock was taken and piled up, but rather than wasting that rock they were going to crush that rock

into using on the all-weather access roads that were to be constructed.

Chairman HIGGINS. Understood. It was byproduct of of the construction effort. Give us an idea, when you say massive, the size of a suburban or the size of this committee hearing room?

Mr. JOHNSON. Probably two to three times the size of this room, sir.

Chairman HIGGINS. OK. There you go. So America can get an idea. It is on a man's private land. It is left behind by the Government. You are not going to clear that with a shovel and a wheelbarrow.

Mr. JOHNSON. No, sir. Mr. Higgins, if I may, that is on Bureau of Land Management land, but we own the lease of that land.

Chairman HIGGINS. Oh, I understand.

Mr. JOHNSON. It's not private property.

Chairman HIGGINS. But certainly it is not usable.

Mr. JOHNSON. Correct.

Chairman HIGGINS. Right. Are you being compensated at all for the materials left behind, including the steel and anything else?

Mr. JOHNSON. No, sir, not compensated. Like I mentioned in my testimony, we've never been reached out to by any Government entity regarding this project. It's always been us reaching out to them.

Chairman HIGGINS. Have you invoiced the Government?

Mr. JOHNSON. No, sir.

Chairman HIGGINS. I suggest that you do. I would like to see us discuss that in appropriations.

Tell us about the steel, Mr. Johnson. When you say that you have—you described it in your opening statement, but tell us how much steel has been left behind.

Mr. JOHNSON. I haven't gone out and actually counted it, just because of the vast quantities of it. But in the pictures that were up here a minute ago was the section that is on our property. It's probably more than enough panels to fill that $\frac{3}{4}$ -mile gap. Then the storage yard on our neighbor's ranch has probably 3 to 4 times that in panels.

Chairman HIGGINS. By your observations, the steel, how would you grade the quality of that steel?

Mr. JOHNSON. This grade A top American made steel. When it was brought in for fabrication, it was brand new, hot off the presses.

Chairman HIGGINS. You were a border agent at one time, sir?

Mr. JOHNSON. Yes, sir.

Chairman HIGGINS. You recall the original wall construction, those sections made from surplus DoD panels from the Vietnam era?

Mr. JOHNSON. Yes, sir.

Chairman HIGGINS. So relative to that, what my colleagues have said, old technology and physical barriers as a concept for security shouldn't be quantified as old or new. It is a moving target. Would you describe this steel that is left behind as modern steel and robust steel as compared to the old steel that you that you witnessed and encountered when you were a border agent, the original wall?

Mr. JOHNSON. There's truly no comparison. Those bollard wall square tubings are half an inch thick with two joints of rebar and filled with concrete. There's absolutely no——

Chairman HIGGINS. Are you familiar with the concrete that we had anticipated filling those bollards with?

Mr. JOHNSON. In what sense, sir?

Chairman HIGGINS. The kind of sense I can't even explain to you right now.

So you have traveled a long way, and I want to acknowledge, Mr. Johnson, that you have dedicated a great deal of personal time to get here and we thank you for that.

I would like to close by just asking Mr. Vitiello, you had three significant leadership roles in the Department of Homeland Security. How do you think things are going down there?

Mr. VITIELLO. Well, we're in the middle of the worst border crisis than we've ever seen. This administration chose to make incredibly bad choices about the policies that exist at our border today versus what they inherited. Just as an example, illegal migration along the Southwest Border when this President took over was at 45-year lows. Now we're seeing the worst surge ever. Even at half as what it was before Title 42 ended, it overwhelms the system that exists.

Chairman HIGGINS. My time has expired.

I thank the panelists. I recognize the Ranking Member for a questioning.

Mr. CORREA. Thank you, Mr. Chairman. I also want to thank the panelists for traveling far to be with us today. It is important that we, as policy makers, are informed of what is going on out there. So thank you for being here today.

Start out with Dr. Tenorio, San Ysidro area. Last time I was out there, I believe I counted three walls. How many walls do you have out there?

Dr. TENORIO. From my understanding, currently there's an 18-foot barrier and there's a 30-foot barrier that was also constructed afterwards.

Mr. CORREA. Those have been there for a while and yet you still have these issues of people trying to cross, crossing and major injuries resulting?

Dr. TENORIO. Correct. So the border walls were—the construction was ended in the year 2019, at the end of 2019. So all of our studies and research shows that after that, meaning starting in 2020, we started seeing these record number of traumatic injuries. As a neurosurgeon I treat some of the most devastating injuries to the brain and the spinal cord and even the brain's blood vessels. A lot of these injuries, of course, we started seeing them after it was raised.

Mr. CORREA. Mr. Chairman, I would like to submit for the record, 20 minutes ago, CBP just released their June 2023 monthly update. I would like to submit that for the record.

Chairman HIGGINS. Without objection.

[The information follows:]

CBP RELEASES JUNE 2023 MONTHLY UPDATE

STATISTICS SHOW LOWEST SOUTHWEST BORDER ENCOUNTERS SINCE FEBRUARY 2021

WASHINGTON.—U.S. Customs and Border Protection (CBP) today released operational statistics for June 2023, which show a significant and continuing decline in migrant encounters along the Southwest border as well as successful drug interdiction efforts resulting from new enforcement initiatives. CBP's total encounters along the Southwest border in June were the lowest in over 2 years, dropping nearly a third from May.

"Our sustained efforts to enforce consequences under our longstanding Title 8 authorities, combined with expanding access to lawful pathways and processes, have driven the number of migrant encounters along the Southwest Border to their lowest levels in more than 2 years. We will remain vigilant," said Troy A. Miller, CBP Senior Official Performing the Duties of the Commissioner.

"As our June statistics show, CBP's mission is vast, and thanks to the dedication of our personnel and Federal partners, we are delivering results that keep the American people safe: ensuring border security, seizing drugs, stopping the flow of illicit weapons, rescuing people in distress, facilitating lawful travel and trade, and stopping the entry of harmful agricultural pests."

Below are key operational statistics for CBP's primary mission areas in June 2023.

Ensuring Border Security and Effectively Managing Migration

CBP is processing all migrants under Title 8 immigration authorities, and generally placing individuals who cross the border unlawfully into Expedited Removal or Section 240 Removal Proceedings. Noncitizens who cross between the ports of entry or who present at a port of entry without making a CBP One appointment, are subject to the lawful pathways rule, which places a condition on asylum eligibility for those who fail to use lawful processes, with certain exceptions.

In June—the first full month since the lifting of the Title 42 Public Health Order—the U.S. Border Patrol recorded 99,545 encounters between ports of entry along the Southwest Border: a 42 percent decrease from May 2023. Total Southwest Border encounters in June, including individuals who presented at ports of entry with or without a CBP One appointment, were 144,607, a 30 percent decrease from May 2023. These are the lowest monthly Southwest Border encounter numbers since February 2021.

People who made the dangerous journey to cross the Southwest Border unlawfully have died of dehydration, starvation, and heat stroke. Smuggling organizations abandon migrants in remote and dangerous areas. To prevent the loss of life, CBP initiated a Missing Migrant Program in 2017 that locates migrants reported missing, rescues individuals in distress, and reunifies decedents with their families in the border region. In June 2023, the U.S. Border Patrol conducted nearly 1,700 rescues, bringing the total number of rescues in fiscal year 2023 from 24,056 at the end of May to 25,735 at the end of June.

Safeguarding Communities by Interdicting Dangerous Drugs

CBP continues to interdict the flow of illicit narcotics across the border. CBP has significantly increased non-intrusive inspection scanning capabilities and forward-operating labs to swiftly identify suspected drugs and recognize trends. CBP has found packages of narcotics in roofs, floorboards, door panels, bumpers, tires, gas tanks, car batteries, seats, speaker boxes, false floors, drones, and more.

Nation-wide in June, seizures of cocaine, methamphetamine, heroin, fentanyl, and marijuana (combined, by weight) increased 7 percent from May. To date in fiscal year 2023, CBP has seized more than 22,000 pounds of fentanyl—compared with 8,300 pounds over the same period in fiscal year 2022.

To disrupt supply chains used in the development and movement of fentanyl, CBP launched two new interagency operations in June: Operations Artemis and Rolling Wave. A parallel intelligence and analysis operation, Operation Argus, is providing trade-focused analysis. These efforts build on the success of Operations Blue Lotus and Four Horsemen, which seized nearly 10,000 pounds of fentanyl.

Operation Artemis began on June 5 and has made over 130 seizures, which include:

- 21 pill presses and 54 pill molds
- More than 5,000 pounds of precursor chemicals
- More than 300 pounds of methamphetamine
- And over 5,000 pounds of other drugs.

The U.S. Border Patrol is concurrently running Operation Rolling Wave, surging inbound inspections at Southwest Border checkpoints. This operation has seized:

- More than 1,500 pounds of fentanyl
- More than 1,000 pounds of cocaine
- More than 8,000 pounds of marijuana
- More than 6,500 pounds of meth.

Under Operation Blue Lotus 2.0, which launched on June 12, CBP and HSI have also continued to surge resources to Ports of Entry, where 90 percent of fentanyl is trafficked primarily in cars and trucks. This operation has seized over 1,500 pounds of fentanyl and over 23,000 pounds of other narcotics like cocaine, methamphetamines, and heroin.

Facilitating Lawful Trade and Travel and Promoting Economic Security

To improve the traveler experience while maintaining the highest levels of security, CBP has increased the deployment of technology that provides a more seamless and faster entry into the United States by air, land, and sea. In June, CBP announced the deployment a new Electronic System for Travel Authorization mobile application. CBP continues to improve the travel experience and reduce wait times while enforcing over 400 laws for 40 other agencies and stopping thousands of violators of U.S. law.

Travel volumes continue to rebound globally from pandemic lows. Travelers arriving by air into the United States increased 20 percent from June 2022 to June 2023, and pedestrians arriving by land at ports of entry increased 12 percent over the same period. Passenger vehicles processed at ports of entry increased 11 percent and commercial trucks increased 2 percent from June 2022 to June 2023.

CBP works diligently with the trade community and port operators to ensure that merchandise is cleared as efficiently as possible, and to strengthen international supply chains and improve border security. In June 2023, CBP processed more than 3.1 million entry summaries valued at more than \$278 billion. CBP identified an estimated \$7 billion of duties to be collected by the U.S. Government. In June, trade via the ocean environment accounted for 39.5 percent of the total import value, followed by air, truck, and rail.

CBP One App

The CBP One mobile application remains a key component of DHS efforts to incentivize migrants to use lawful and orderly processes and disincentivize attempts at crossing between ports of entry. In June, more than 38,000 individuals who scheduled appointments through the CBP One app were processed at a POE.

Since the appointment scheduling function in CBP One was introduced in January through the end of June, more than 170,000 individuals have successfully scheduled appointments to present at a POE using CBP One. The top nationalities who have scheduled appointments are Haitian, Mexican, and Venezuelan. Beginning on July 1, CBP announced the expansion of available appointments for noncitizens through the CBP One app to from 1,250 to 1,450 per day.

Protecting Consumers and Eradicating Forced Labor from Supply Chains

CBP continues to lead U.S. Government efforts to eliminate goods from the supply chain made with forced labor from the Xinjiang Uyghur Autonomous Region of China.

In the year after the agency began implementing the Uyghur Forced Labor Prevention Act on June 21, 2022, CBP has reviewed a total of nearly 4,300 shipments valued at nearly \$1.4 billion. In June 2023, CBP stopped 405 shipments valued at more than \$239 million for further examination based on the suspected use of forced labor.

Intellectual property rights violations continue to put America's innovation economy at risk. Trade in counterfeit and pirated goods threaten the competitiveness of U.S. businesses, the livelihoods of American workers, and the health and safety of consumers. In June, CBP seized 1,709 shipments that contained counterfeit goods valued at more than \$120 million.

Defending our Nation's Agricultural System

Through targeting, detection, and interception, CBP agriculture specialists work to prevent threats from entering the United States.

In June 2023, CBP issued 5,400 emergency action notifications for restricted and prohibited plant and animal products entering the United States. CBP conducted 97,101 positive passenger inspections and issued 678 civil penalties and/or violations to the traveling public for failing to declare prohibited agriculture items.

CBP

U.S. Customs and Border Protection is the unified border agency within the Department of Homeland Security charged with the comprehensive management, con-

trol, and protection of our Nation's borders, combining customs, immigration, border security, and agricultural protection at and between official ports of entry.

Mr. CORREA. The number showed lowest Southwest Border encounters since 2021, February, 2021. In June, the first full month since the lifting of Title 42, the U.S. Border Patrol recorded 99,545 encounters between ports of entry along the Southwest Border. That is a 42 percent decrease from May 2023. Total Southwest Border encounters in June, including individuals who presented at ports of entry were 144,000, about a 30 percent decrease from May 2023. These are the lowest monthly Southwest Border encounters since 2021. I would like to present this for the record.

Mr. JOHNSON, if I can turn to you, sir. First of all, I want to say that you and your family should not be living in fear. You should not have those metal items left on your property, whether it is your private property or lease. Just unacceptable. How long did you say, Mr. JOHNSON, that you have been living there your family?

Mr. JOHNSON. I was born and raised there, but I've been back since 2016 when I left the Border Patrol.

Mr. CORREA. So generationally you have been there for—you were born there so you have been there how many—your family how many years?

Mr. JOHNSON. We've been there for 105 years this year. I'm the fourth generation.

Mr. CORREA. When you were in CBP in El Paso, you are green or blue uniform?

Mr. JOHNSON. Green.

Mr. CORREA. Green uniform, OK. I am trying to, in my mind, trying to figure out what is going on in that area. Was it this unsafe 100 years ago?

Mr. JOHNSON. That's kind-of a catch 20–20 on that question. The dynamic—

Mr. CORREA. Would you feel less safe today than your family did 50 years ago?

Mr. JOHNSON. The demographic of the people crossing today versus 20, 50 years ago is completely different. Twenty, 50 years ago, the people crossing were legitimately trying to look for a better way of life. That's not—

Mr. CORREA. Legitimate, undocumented, looking for a job.

Mr. JOHNSON. Right.

Mr. CORREA. Today you have those refugees, you have others that maybe are not?

Mr. JOHNSON. We don't have any refugees coming through in our area. These people are all wearing camouflage, concealing their footprints with booties. They do not want to be apprehended. They do not want to be part of the system. They're trying to slip through the cracks.

Mr. CORREA. I would probably say there are probably some there also that have been pushed in your area given other activities along the Southern Border. So I think you are kind-of bearing the brunt of a lot of things converging on your area of the country, I believe. Would you say that is possibly true?

Mr. JOHNSON. To the best of my knowledge, sir, we're the first gap in the wall coming west out of El Paso, Texas, which is about

90 miles from us. So I would say, yes, we're catching a lot of the extra activity that's being diverted around the wall.

Mr. CORREA. Thank you.

I don't have a lot of time left here, 25 seconds, but I just want to say that—I want to thank you for being here. Again, I just think our policies need to be designed to make sure that as we try to address these management issues at the border, people like you are not put in harm's way, so to speak. My earlier testimony was directed really at trying to make the point that we got to work with a whole lot of other factors, a lot of other solutions, a lot of other governments too, and try to make sure we are addressing these issues. I think that you are here, you made the trip to testify, and I bet you there are folks out there that are also in your situation that couldn't afford to be here today to tell us what is going on. A lot of those people are north of the border and south of the border. Public safety, I think, is an issue that is relevant to all of us, north and south of the border and other regions of the world. So, got to work together to make sure Johnson families, your challenges are addressed.

Thank you, Mr. Chairman, and I yield.

Chairman HIGGINS. The gentlemen yields.

I recognize Chairman Bishop for questioning for 5 minutes.

Mr. BISHOP. Mr. Johnson, since the Biden administration ordered a stop to the border wall construction that was in process, as you have described, what has the Biden administration done to protect you from the consequences that you have described?

Mr. JOHNSON. In our area, the only thing that has changed is there's been one of the fixed integrated camera towers put in and then they're also discussing putting in a rescue beacon on our ranch that will help migrants that they get lost and give up. They can push a button on this rescue beacon. But I'm not quite sure what that has to do with border security.

Mr. BISHOP. How has that helped you?

Mr. JOHNSON. It has not.

I was interested, would you elaborate a little bit more? You said the people who come across are in camo?

Mr. JOHNSON. Yes, sir. It literally looks like a military invasion in the sense that they're all wearing the same camouflage, the same boots, the same backpacks, the same booties to conceal their foot tracks. They do not want to be caught.

Mr. BISHOP. Is this something that has happened only once or twice, or is it a pattern?

Mr. JOHNSON. It's a pattern that started probably in the last, probably about 8 years.

Mr. BISHOP. Whose responsibility is it to protect you from that?

Mr. JOHNSON. Last I thought it was the U.S. Government.

Mr. BISHOP. Why should you be subjected to that kind of invasion across your private property simply because you live and own property at the border of the United States?

Mr. JOHNSON. I thought I should feel just as safe and secure 300 miles inland than where I'm at 3 miles off of the border where my house is located.

Mr. BISHOP. Folks have opined on this panel, these guys up here are all experts you know, that that border walls, barriers don't work.

Mr. Vitiello, do they work? You seem to have had a fair amount of experience with that.

Mr. VITIELLO. They absolutely work. Anybody that's been in the Border Patrol for more than 5 minutes knows that it's much easier to control an area when you have a barrier technology and a sufficient number of agents, plus access to the border to make it more secure. It provides an anchor for those agents to patrol and control area much more efficiently, much more effectively, and safer.

Mr. BISHOP. So how do these folks come up with this, or where is the expertise these folks are drawing on when they keep telling us border walls don't work?

Mr. VITIELLO. I'm here to tell you that they do work. Spent a lot of time setting requirements, watching how it works, talking to agents, did a lot of planning around how we were going to protect that border and they absolutely work.

Mr. BISHOP. So you have witnessed that they work to help interdict people who are crossing illegally. How about effects on communities adjacent to the border wall?

Mr. VITIELLO. So it's a good question.

So it's an anchor for all of the things you must do to control the border. You said earlier about overlapping deterrence. That's a good phrase for it. There is a particular community near San Ysidro, Chula Vista. Back in the 1990's, before the national strategy and what Border Patrol was trying to elaborate across the Southwest Border, that was a lawless area. They had a chain link fence. It has been described by reporters, it was so badly overrun that it looked like a hammock. Just north of that area of the border was a no man's land. It was a big open area where nobody wanted to be. When the sun went down, bad things happened inside of that small canyon.

After 1994, the initial fence that was talked about, the Vietnam landing mat, done by Border Patrol, very DIY project, but immediately after that barrier was installed, people started investing in that area just north of the border. Right now, if you go to that area, it has some of the best strip malls, outlet malls, restaurants, and homes that are worth multi-million dollars just north of the U.S.-Mexico border. Twenty-five years ago people would not go anywhere near that place when the lights were off, when the sun went down, and now it's one of the best neighborhoods in the region.

Mr. BISHOP. Mr. Johnson's family might be envious of that.

Mr. De Sotle, what are the consequences for your business, for your family, of the Federal Government's unbelievably reckless means of curtailing this construction, ending this construction?

Mr. DE SOTLE. Thank you.

The impacts have been primarily financial, stress-related as well. It's put a significant financial burden on our business. So we have, you know—

Mr. BISHOP. Are you going make it or are you going to fail?

Mr. DE SOTLE. Well, I never like to quit. I like to think that we will make it. It's not easy, though. But the reality is right now, it's fairly complicated. Our financial situation is fairly complicated. Ac-

tually involves the Federal Government and involves a Main Street loan, which is very difficult to deal with. The Main Street loan is not something I can go and renegotiate like I could have at a bank. So my debt is with the Federal Government, which does not allow me to renegotiate. So it's not going to be easy to make it to be quite honest. Yes that's the honest truth.

Mr. BISHOP. God bless you, sir.

Mr. Johnson your family as well. My sympathies are with you. My time has expired.

Chairman HIGGINS. The gentleman yields.

Ranking Member Ivey is recognized for 5 minutes.

Mr. IVEY. Thank you, Mr. Chairman.

I did want to follow up on Mr. Correa's point with respect to the new information that just came from CPB, that in the new numbers for June 2023, 144,607, looks like that is roughly—I guess in May 2019, the number was 144,116. So I guess it is comparable to where it was during that time in the Trump administration.

I also want to mention, just ironically, this morning I mentioned my appreciation for the Chair's comments and mentioned that, yes, working together is a good thing. let's see if we can do that. Then I stopped by my office a few minutes ago and I got an article from, looks like the *Daily Caller*, Jennifer Taer. It says, exclusive House GOP is about to drop a massive report alleging that Biden's DHS chief broke the law. I guess this is a build on to the 55-pager that we got. The morning it was released a few weeks ago, the Chairman, Chairman Green, the full committee Chairman, goes through and discusses what is in it and, you know, the dereliction of duty claims and the like. I guess this is more efforts at the trying to push this toward the effort to impeach the Secretary. I don't know who has filed which articles of impeachment for who over there, but this is kind-of the same thing I was talking about a few minutes ago.

So, Mr. Chairman, I appreciate the way you have run this hearing, I really do, but there is a context to this, and that is kind-of a disappointing piece.

Mr. Vitiello, I have got, what is this, NeoKlanist party? I guess this isn't new to you. I guess Senator Peters questioned you about this previously. Apparently, this is a statement that you made on a social media platform. Is that right?

Mr. VITIELLO. It was brought up during the confirmation hearing for the ICE director position before the vote at the committee in which I got bipartisan support. Yes, it was brought up then.

Mr. IVEY. OK, I mean, what does that even mean? What are you saying with a comment like that?

Mr. VITIELLO. My statement is on the record at the hearing. I thought I was making a private communication with an entertainment show. I was wrong about that. That was a public tweet. It was my novice ability of using Twitter back then. I apologized to the committee at the time and said I meant no offense to anyone, and we left it there.

Mr. IVEY. Well, look, I mean I appreciate the fact that you thought it was a private comment, although I can't say I find that particularly reassuring, the fact that you would—

Mr. VITIELLO. It was based on the context that was in the program.

Mr. IVEY. What program was that?

Mr. VITIELLO. It was the Mark Levin show.

Mr. IVEY. OK, I am not really familiar with that, so I guess I will leave it alone. But I will move on.

I want to say this to Mr. De Sotle. I apologize if I mispronounced your name. I was studiously saying LoneStar earlier in the hearing, so I wouldn't mess it up. But as I said earlier, I don't know if you were in the room or not, but I really think it is important—And I guess this would apply to you too, Mr. Johnson, that the Government takes steps to make sure that you are made whole as much as possible. I find your scenario particularly troubling because you are a business trying to act in good faith, contract with the Government through a prime contractor, but that really shouldn't expose you to the type of scenarios that you have described here today. So I do hope that steps will be taken to address that, and we should be getting a response from the Army Corps. That was promised to us.

Mr. Johnson, I am not as clear on what to do for you. I don't know if that is an Army Corps deal or not, but I do hope that we can try and take steps to address what has happened with you.

But, look, this is real people, real businesses getting caught in the crossfire, political disagreement in Washington, DC. That is unfortunate that you are in the middle of that. I don't agree with the desire to spend whatever that number was—I think it was \$22 billion to build 900 more miles of wall, because I think there are more effective and efficient ways to protect the border. My colleagues over here disagree. Let's shake it out. But I don't like having civilians get caught in the crossfire. So whatever we can do to try and correct this, I will work with whoever wants to do it to try and make it happen.

So with that, I yield back.

Chairman HIGGINS. The gentleman yields.

The gentlewoman from Georgia, Ms. Greene, is recognized for questioning.

Ms. GREENE. Thank you, Mr. Chairman.

Mr. Vitiello, I would like to thank you for your service as our former U.S. Border Patrol chief. I really appreciate the job you did there. I would like to apologize to you on behalf of the committee for the accusation that just came against you. You were confirmed in a bipartisan Senate, so just wanted to extend that to you.

Mr. VITIELLO. Thank you very much. I had a good run in Government. Got cleared through the committee and was very close to a full confirmation. So, thank you.

Ms. GREENE. Yes.

Also, I would like to point out, it was said on this committee earlier that the border wall was an anti-American movement. That was said by a Democrat Member earlier. I think that is an egregious thing to say. The border wall was being built to protect our country, protect our border, help our Border Patrol agents. I think the most anti-American moment in this country was when a giant fence was erected around the Capitol and left there for months. Our U.S. military was brought in and forced to sleep on the floor

in parking garages for months at a time. I think that is an anti-American moment. But I will move on.

The CBP One app——

Mr. IVEY. Will the gentlelady yield?

Ms. GREENE. No, she will not. I will not.

Mr. IVEY. All right.

Ms. GREENE. CBP One app is now allowing the orderly invasion of 1,500 illegal aliens per day into our country. This is a serious problem.

Mr. JOHNSON, as you live, you said, is it 3 miles from the border?

Mr. JOHNSON. Yes, ma'am.

Ms. GREENE. Has the CBP One app, with its orderly invasion, sending people to ports where they can make an appointment in their convenient time and choose a port of entry where they show up and then they are allowed to come into the United States at the expense of the United States taxpayer, has this slowed down or stopped people from crossing the border and coming onto your land?

Mr. JOHNSON. I can't speak to how the apps really helped because up until just a few months ago I wasn't even aware of this, but we still have traffic coming through. It has slowed since Title 42 was lifted, but it has never stopped completely.

Ms. GREENE. So it has never stopped. So people are still crossing the border illegally onto your land.

This headline, I read it on our earlier panel, DHS Announces Steps To Protect Border Communities From Wall Construction. This was an actual headline from 2021, April 30, 2021. Did the wall construction or the border wall, did you feel threatened? Was your safety threatened by the wall?

Mr. JOHNSON. It was quite the opposite. We were so glad to see it. It was, like I say, an answer to our prayers because that was going to be some safety and security we had never seen before.

Ms. GREENE. That is what I thought. It seems like it was a very good thing. It was actually helping.

We had a Democrat amendment on this committee to disarm Americans 200 miles into the United States, taking away their guns. That would be you, it would take away your guns if that were to make law. Do you think taking away your guns would help keep you and your family safe from the people that are constantly invading, coming across the border onto your land? Would taking away your guns help keep you safe?

Mr. JOHNSON. Absolutely not. In our area, we are so rural, the only law enforcement we have is Border Patrol. Sheriff's departments stretch thin, response times are well over an hour. You have to rely on yourself for your own safety.

Ms. GREENE. So the Second Amendment, your right to bear arms, is your first line of self-defense?

Mr. JOHNSON. It's not just a luxury, it's a necessity.

Ms. GREENE. Thank you, Mr. Johnson.

In my district, Georgia's 14th District, which is in northwest Georgia, this is far away from Texas, far away from the border, the fentanyl-involved deaths in Georgia alone, have increased by over 230 percent, but in my district, fentanyl-involved deaths have increased by over 350 percent. This looks to be—it has to be a direct

result of the Biden administration's policies. You can't help but to wonder what would it be like in my district? What would it be like in Georgia? What would it be like in the rest of the country if 300 Americans weren't dying every single day from fentanyl?

So Mr. Vitiello—I am sorry if I keep saying it wrong, I apologize—would it be fair to describe the border wall, had it been completed, or at least what we have, as a force multiplier for Border Patrol in areas where it was installed?

Mr. VITIELLO. One hundred percent. Where you have that barrier, you have an anchor for all of the technology and all of the operations that need to occur in that place in the world. So when you control that area, that gives agents more opportunity to find and rescue people that are in distress, to find and rescue people who are being trafficked, to stop fentanyl from coming into the United States. It's a terrible situation that we're in.

We talked a little bit about smuggling through these areas. All smuggling is organized, whether it's narcotics or people. These cartels are being enriched because the pipeline that was opened up at the beginning of this administration is still open, regardless of CBP One, regardless of the number of people, the reduced apprehensions, the reduced encounters. There's still thousands and thousands of people coming to the border every 24 hours. Having the right kind of infrastructure, having enough and sufficient agents, well-trained, and having the technology to support them is still important and always will be.

I did this work for a long time. The American people have demanded a secure border in—for the entirety of my career, most acutely after 9/11, but that desire still continues, and it hasn't been addressed in a sufficient way. There was a lot of progress made in the last administration. That's all been ripped down now.

Ms. GREENE. Thank you.

I yield, Mr. Chairman.

Chairman HIGGINS. The gentlewoman yields.

The gentlewoman from New York, Ms. Clarke, is recognized for 5 minutes.

Ms. CLARKE. Thank you, Mr. Chairman.

I want to yield some time to the Ranking Member of the O&I Subcommittee.

Mr. IVEY. Thank you, ma'am.

I just had two quick comments. One was it was surprising for me to hear that suggestion that putting up a fence around the Capitol after the invasion and raid that led to the deaths of several police officers was more dramatic or less dramatic than the actual invasion itself.

Ms. GREENE. Walls work, apparently.

Mr. IVEY. Hopefully we—

Ms. CLARKE. Reclaiming my time. The time is for Mr. Ivey, not Ms. Greene.

Mr. IVEY. Yes, hopefully we don't have Sinaloa trying to come into the Capitol. But what we had happen on January 6 was sufficiently bad. I appreciate the Department of Justice prosecuting the 700-plus that have done so, so far.

I yield back.

Ms. CLARKE. My question is actually for Dr. Tenorio. Migrants who cross the Southwest Border in search of a better life in the United States face a perilous journey across rocky and dangerous terrain. All too often, Border Patrol agents find migrants who have been injured, dehydrated, or even drowning in the rivers along the journey. But just as dangerous are attempts to climb and breach the border wall, particularly since the Trump administration increased its height. The walls, no matter the height, do not deter migrants, they simply make it more deadly in their attempts to cross.

So Dr. Tenorio, can you describe the nature of the injuries you have seen in your time at UC San Diego hospital and how increasing the height of the border will increase the number of fatal or near-fatal accidents?

Dr. TENORIO. Thank you for the question.

So as a neurosurgeon I see some of the most devastating neurological injuries to the spine and the brain, which as I mentioned often require life-saving treatment. Since the border wall is raised, from our research and what I've observed at the hospital, taking trauma call at this trauma center, there have been a record number of spine injuries. They've increased five-fold since the border wall was raised.

Now, more alarmingly, there has been an increase in the amount of brain injuries, and now we're seeing even injuries to the brain's blood vessels. Now, let me say that with these brain injuries and brain blood vessel injuries, we don't see these unless they're suffering from high-impact trauma. A lot of these patients, that doesn't get captured in the fatality rate or the mortality rate, are these are devastating injuries, so these patients often can't—you know, no longer interact with their family. So they're not counted as a fatality, but again, they're left without being able to interact with their families or unable to walk. You know, they can't support their families anymore.

Now, going to the mortality aspect, as I mentioned in my opening statement, there were zero instances of fatalities after border falls. Now, after the border wall was raised, there's been 16. Now, let me mention that this only captures a fraction of what's going on, because these are only fatalities that are recorded or captured, but I'm sure there's more that are happening that we don't know about either.

Ms. CLARKE. Well, I think, Doctor, we have really got to find a way to address what has become a challenge to our Nation and to those migrants who are seeking a better life. Certainly climbing a border wall only to drop to your death or to a brain injury is not what they had in mind. They just wanted some freedom.

With that, Mr. Chairman, I yield back.

Chairman HIGGINS. The gentlewoman yields.

The gentleman from Mississippi, Mr. Ezell, is recognized for 5 minutes.

Mr. EZELL. Thank you, Mr. Chairman.

Mr. Johnson, during my first few months in office I visited the border and saw first-hand the impacts of the Biden administration's refusal to resume border wall construction. In front of the mile-long gaps in our border system, there is steel that is literally

rusting away. You said the Federal Government is treating your land like a warehouse because of canceled border wall contracts. Have these abandoned construction materials impacted your ranching business?

Mr. JOHNSON. The areas where these materials are located are impacting us minimally in the sense of like cattle grazing, but it's more aesthetically displeasing. But it's more troublesome that it's sitting there on the ground instead of up in the air, serving its purpose as a wall.

Mr. EZELL. What is the Government telling you about the steel bollards they left on your ranch? What are they telling you about it?

Mr. JOHNSON. There's been zero contact about any plans for removal. What we've heard is just from contractors in passing saying that it's going to be hauled off for scrap.

Mr. EZELL. So the Government hadn't contacted you, said anything?

Mr. JOHNSON. No, sir.

Mr. EZELL. Mr. De Sotle, if that is how I pronounce your name, details surrounding the cancellation of contracts have not yet been disclosed. But it is our impression that the Government intends to continue the terminations for convenience. Can you talk about what the impact has been on your company while being on standby, waiting for the resolution? How did these additional costs add up?

Mr. DE SOTLE. So the additional costs were in excess of almost \$1.5 million dollars that we had to absorb as part of our business. So that was capital outlay at a time when—if you remember this is during COVID, so our industry was impacted fairly significantly and the border wall as I mentioned earlier was our first foray into heavy civil. So this was a line of business that we're looking to go into. We were actually excited when we got the contract because we assumed that this was actually going to help through COVID. It was something that was going to continue to be operational. So the impact has been significant. I'm not going to sit here and lie. It's not been the only impact. I'm not going to tell you that either. However, it has not helped at all.

The most concerning thing for me was the lack of communication. The Federal Government simply can ignore you. They can ignore me whenever—you know, I can't invoice them. I have no recourse whatsoever. Even my prime had no recourse with the Federal Government. So that was what was most concerning. The Federal Government simply would not communicate.

Mr. EZELL. No engagement, No help, no anything.

Mr. DE SOTLE. No. I mean other than, quite frankly, Congressman Pfluger's office, there was no communication from the Government. Congressman Pfluger's office actually helped us through a lot of the difficulty, but—I mean there was no payment, but they helped to shepherd us in the right direction on many occasions.

Mr. EZELL. Is there any way to renegotiate a settlement?

Mr. DE SOTLE. We are currently—we finally got the audit completed. They're offering 50 cents on the dollar for our submission. So that is where we stand right now. So we are actually literally next week probably going to negotiation with the Army Corps of

Engineers. Then from there we'll see how that goes. It's gonna be back and forth, I'm sure, for quite a while.

Mr. EZELL. Please stay in contact with our office so that we can try to help you with this.

Mr. DE SOTLE. I appreciate that.

Mr. EZELL. With that Mr. Chairman I yield back.

Mr. DE SOTLE. Yes, I do appreciate it.

Chairman HIGGINS. The gentleman yields.

The gentleman from California, Mr. Garcia, is recognized for 5 minutes.

Mr. GARCIA. Thank you Mr. Chairman and thank you to our witnesses that are here.

I just want to also be clear. I think we have not heard real solutions along our border. I don't believe that our colleagues on the other side of the aisle have proposed real solutions. What we have had and what I have heard over the last few months are some really out there and crazy ideas. We have heard everything from invading northern Mexico to the assertion that we should be sending missiles into Mexico. A member suggested we should maybe build an alligator moat to protect the border along the Mexican border. Of course, Donald Trump famously said that maybe we should even be shooting migrants in the legs to stop them from coming over the border. So these are actually all ideas that have been brought forward to address our border crisis, all of which are incredibly inhumane.

But today I want to address some horrific news that is coming out of Texas. This has been reported by the *Houston Chronicle* about the Governor. Now, the Governor's border security initiative, according to the *Houston Chronicle*, has ordered State troopers in the Department of Public Safety to push small children and nursing babies back into the Rio Grande River. They have been told not to give them water, to these asylum seekers, even in extreme heat.

So I want to submit this article for the record. This actually just came out. I know it is getting a lot of attention. If I can please submit this article into the record.

Chairman HIGGINS. Without objection.*

Mr. GARCIA. So State troopers on this detail have raised concerns that the policies were over the line and inhumane. These are accounts from the State troopers in Texas. The individual reports themselves are horrific. A pregnant woman having a miscarriage was found late last month caught in a wire doubled over in pain. A 4-year-old girl passed out from heat exhaustion after she tried to go through it and was pushed back by the Texas National Guard soldiers. A trooper suggested that Texas had set "traps of razor wire wrapped barrels in parts of the river with high water and low visibility". A trap as we know isn't something that deters migrants; it is something designed to hurt animals.

I want to quote from this article directly. "The trooper's email sheds new light on a series of previously-reported drownings in the river during a 1-week stretch earlier this month including a mother and at least one of her two children who Federal Border Patrol agents spotted struggling to cross the Rio Grande on July 1st." It

*The information was not available at the time of publication.

continues, “According to the email, a State police boat found the mother and one of the children who went under the water for a minute. They were pulled from the river and given medical care before being transferred to EMS, but were later declared dead at the hospital. The second child was never found, the email said.” Never found. Now, this is sickening, it is un-American, and Governor Abbott’s stunts have consequences.

On another shift, medics said they found about 120 people camping out, including nursing babies and other young children, exhausted, hungry, and tired after a day where the temperature reached 108 degrees. Now, the medics were ordered to push these people back into the river. The medics said that this was, “Not the correct thing to do” and that it could have led to a risk of drowning or great injury. They were told to leave the area.

Now, these aren’t reports, by the way, from activists or human rights groups, which could just be ignored by some, these are actually quotes and statements from front-line law enforcement officials that are working there along the border.

Another front-line law enforcement official said, and I quote: “I believe we have stepped over a line into the inhumane. We need to operate correctly in the eyes of God.”

Now, the United States, as far as I am concerned, should not be leaving babies to die in the desert or forcing pregnant women back into rivers. We don’t order our law enforcement officials to leave people to drown or die. We all want a secure and orderly border, but Governor Abbott’s brutal orders aren’t accomplishing that and that needs to be brought up today in this hearing. This conduct is disgusting and these issues around this incident should be brought forward into this committee to answer questions. That Governor needs to be held accountable.

I yield back.

Chairman HIGGINS. The gentleman yields.

The gentleman from Oklahoma, Mr. Brecheen, is recognized for 5 minutes.

Mr. BREECHEN. Thank you, Mr. Chairman.

So under the Trump administration, build a wall. Common theme, build a wall. Illegal immigration was at a 45-year low. Biden takes office. President Biden says, not another foot. We now have historic numbers of illegal immigration occurring at our Southern Border. It is not a coincidence. The thoughts on physical barriers go hand-in-hand with what we see as the consequence, the fruit of the decisions. Are you going to be serious about the rule of law, or are you not?

We talk about deaths. I think all of us, in our humanity, our heart goes out to people that undergo hardship, but where is the hardship coming from? What is causing people to drown as they cross the Rio Grande? It is because of a message that says our border is open, increases the number, increases those people that are drowning.

We talk about things that are happening, 18- to 45-year-olds, leading cause of death is fentanyl. That is happening now under the not-another-foot thought. What about human trafficking? What about the 85,000 children that we can’t account for in the last 2 years? “Sound of Freedom” is a movie that is getting a lot of atten-

tion. We know that people, those single adults, are using children and they are sending them back across to bring across another single adult. We don't have any idea how many of these children are being utilized for a sex trade. I mean, that is the real tragedy of this, is that we are, by our dereliction of enforcing the rule of law, we are compounding the problems.

So, Mr. Tenorio, as the Democrat-invited witness to come before us who is contending—just to make sure I am understanding this—your contention is because people have fallen off the wall and you have, as a doctor, have seen more accidents and incidents, you are contending that that is justification for bringing down the wall. Am I understanding that correctly?

Dr. TENORIO. Let me clarify that for you, Representative. So I'm here as a neurosurgeon speaking on my experience as a neurosurgeon at a level one trauma center near the border. What—

Mr. GARCIA. Reclaim my time. But your contention is because of the incidents of the accidents, the wall should come down, they are causing more injury. Yes or no?

Dr. TENORIO. That is not my contention, no.

Mr. GARCIA. So you believe we should continue the wall construction?

Dr. TENORIO. You know, I came here,—I'm not a border policy expert, and that's outside of my expertise.

Mr. GARCIA. But I have heard you imply that because of people falling off the wall we should tear down the wall. I mean I have heard that implication. Am I wrong in understanding you?

Dr. TENORIO. I did not make that statement.

Mr. GARCIA. Is that your thought?

Dr. TENORIO. As I mentioned I'm not a border policy expert.

Mr. GARCIA. I think you are—

Dr. TENORIO. I came here as a neurosurgeon to speak on what I've seen at the hospital.

Mr. GARCIA. I understand. I have heard the implication. I think it is pretty clear to those of us that you don't support walls because people are falling off walls and they are getting hurt.

Here is where I want to go with this. For all of us, just make a sound judgment call, OK. Mr. Johnson, I read from 1918 your family has had a ranch, fourth-generation rancher. Same situation, except I live in Oklahoma. Nineteen-eighteen, my great-grandfather moved in and started a family ranch. I don't have to deal with what you have to deal with. I don't have to go climbing in the deer woods and worry about if I am out there deer hunting if I could be the one that could be the prey because somebody that is running a cartel ring could shoot me deer hunting on my own place. That is the kind of—what I understood from what you described, you deal with that. That is a sad reality.

I want to go back to this thought though. I mean if somebody cuts the fence and is stealing your cattle, I mean given what you described, they are not having to cut the fence to steal your cattle, and they slice their hand, should you be responsible for their medical bills?

Mr. JOHNSON. No, sir.

Mr. GARCIA. OK, so same train of thought. Airport parking has barriers around it. If somebody climbs over that wall and breaks

the law, is it my responsibility to be liable because that business owner was trying to protect my property? I mean, if somebody is trying to break into my home, should I tear the door down to make it easier for them the next time so they can come inside my door? Because we are talking about lawlessness. Our heart goes out to people that are harmed, but we are talking about people who are breaking the law. Someone said a while ago, they are just trying to get freedom. Then do it legally. Go through a port of entry. There are many people who do that.

With that, I yield.

Chairman HIGGINS. The gentleman yields.

The gentleman from Arizona, Mr. Crane is recognized for 5 minutes.

Mr. CRANE. Thank you, Mr. Chairman. Thank you to all the witnesses on our panel for coming today and testifying.

I want to start with Mr. Vitiello real quick. Sir, you and I, we are talking about similar things. You called it a security system, I was talking about overlapping deterrence. Either way, it is really the same thing, right? It is just multiple overlapping deterrents that work in conjunction to create the most security possible for whatever institution we are talking about, whether it is a country, a prison, a school, right?

Mr. VITIELLO. I agree with you.

Mr. CRANE. How long were you in the Border Patrol, sir? Was it 33 years?

Mr. VITIELLO. I wore the uniform for 33 years and I was in ICE for almost the last year I was in Government.

Mr. CRANE. You were a chief, is that correct, Mr. Vitiello?

Mr. VITIELLO. I was a chief in two locations on our Northern Border and in the Rio Grande Valley in Texas, and then I was chief at headquarters for a time.

Mr. CRANE. Sir, knowing what you know about border security, what does it make you think when you sit in this chamber and you hear individuals attacking one part of that security system or one of those deterrents, like the wall?

Mr. VITIELLO. It's a little bit frustrating. We should be agnostic about whether walls work or not. It's not a partisan issue. Walls work. Everybody that's been in the Border Patrol for more than 5 minutes recognizes it's easier to control a territory on the border when you have infrastructure that goes along with it. Not just wall. We talked about the comprehensive nature of it. I was thinking through this just a couple of minutes ago. We often talk in this chamber and others in this building about comprehensive immigration reform. Let's talk about comprehensive border security, which talks about our foreign relations overseas, which talks about what Mexico and Canada can do for us to help secure our border. Let's talk about what the State and locals can do and what communities can be active and talk about. Then you have to have physical infrastructure if you want to be successful, especially in the urban areas.

Mr. CRANE. Thank you, sir.

I want to transfer real quick to Dr. Tenorio. Doctor, thank you for coming. I also want to say thank you for your service. I was listening to your testimony, it must be really hard to watch somebody

a young kid or even a mom or a dad come in to your emergency room or your hospital and see a leg broken or a stress fracture a spinal injury or a TBI. Is it pretty pretty tough to watch that, sir?

Dr. TENORIO. Yes, it is. Thank you for the comment.

Mr. CRANE. Yes, sir. Doctor, I wanted to ask you, because I noticed you were getting teared up. I can tell that witnessing these injuries really affect you. But I did want to know, Doctor, have you ever seen an American who has overdosed on fentanyl? Have you ever had to treat one of those?

Dr. TENORIO. I have not had to treat one of those as of today, no.

Mr. CRANE. How about any of your colleagues? Any of your colleagues ever have to treat anybody that has overdosed on fentanyl?

Dr. TENORIO. Yes, they have. I haven't spoken to them about the specifics and what the experience is like though.

Mr. CRANE. OK. Doctor, do you know how many Americans every day—or I should say every year, are dying of fentanyl in the United States?

Dr. TENORIO. No, I do not.

Mr. CRANE. OK. It is about 70,000 right now.

Mr. CORREA. Will the gentleman yield?

Mr. CRANE. Yes. Go ahead, sir.

Mr. CORREA. I just want to say, Mr. Crane, totally agree with you in the fentanyl challenge. That is why we are trying to figure out the priorities in my mind right now. If we want to keep fentanyl out, you go work on, make sure our ports of entry are much more secure because that is where 90 percent of the problem is.

Mr. CRANE. OK, thank you, sir. I appreciate it.

Mr. CORREA. Thank you.

Mr. CRANE. I yield back—take my time.

The reason I am pointing it out, Mr. Ranking Member, is because obviously you guys called him here to talk about the injuries that he has witnessed from the extended height of our walls, right? But I want to point out, again, this is the Homeland Security Committee. Our primary job in this committee is to make sure that our Homeland Security units have the necessary resources, funding, and equipment to make sure that Americans are safe. So the doctor was talking about 16 people that he knows of that have died because they fell off that wall. That is horrible. That is horrible, Doctor. But since the Biden administration took office, Doctor, do you have any idea how many Americans have died because of fentanyl? I just gave you the 1-year number. Any idea how many have died in the 3 years?

Dr. TENORIO. I cannot speak to that, no.

Mr. CRANE. Three hundred thousand, Doctor. How would you like to treat one of those individuals? How would you like to break the news to those family members that—and I know you—I know you are a man, you have a heart. I could see that. But I am asking, do we care about those individuals as well?

Dr. TENORIO. Absolutely. As a physician, I took an oath to take care of every patient that comes to our hospital and I treat every patient the same.

Mr. CRANE. I appreciate that, Doctor. I think that is great.

The last thing I want to say is, Mr. Johnson, how does it make you feel when you hear politicians that you know have camera systems, locked doors, walls, security system, and often armed personnel sit here and talk about how walls don't work? Do you think that they might change their tune a little bit, Mr. Johnson, if they lived at your ranch?

Mr. JOHNSON. I think that's a big issue is nobody truly knows what's going on on the border. Ports of entry, there's more assets allocated there than there are in between the ports. I know that from a professional career as a Border Patrol agent versus my point of view as a stakeholder now.

I would like to take this time to—opportunity to invite any Member of this committee to come down to my ranch and I will show you first-hand what we are dealing with.

Mr. CRANE. Thank you Mr. Johnson.

I yield back.

Chairman HIGGINS. The gentleman yields.

I thank the witnesses for their testimony today and Members for their questions.

The Members of the subcommittees may have additional questions for the witnesses, and we would ask that the witnesses respond to these in writing.

Pursuant to committee rule VII(D), the hearing record will be held open for 10 days.

Without objection, the subcommittees stand adjourned.

[Whereupon, at 5:25 p.m., the subcommittees were adjourned.]

