

Border Security: Key Agencies and Their Missions

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Summary

After the massive reorganization of federal agencies within the United States government precipitated by the creation of the Department of Homeland Security (DHS), there are now four main federal agencies charged with securing the United States' borders: the Bureau of Customs and Border Protection (CBP), which patrols the border and conducts immigration, customs, and agricultural inspections at ports of entry; the Bureau of Immigration and Customs Enforcement (ICE), which investigates immigration and customs violations in the interior of the country; the United States Coast Guard, which provides maritime and port security; and the Transportation Security Administration (TSA), which is responsible for securing the nation's land, rail, and air transportation networks. This report is meant to serve as a primer on the key federal agencies charged with border security. As such, it will briefly describe each agency's role in securing the borders of the United States.

In the wake of the tragedy of 11 September 2001, the U.S. Congress decided that enhancing the security of the United States' borders was a vitally important component of preventing future terrorist attacks. Before the events of September 11, responsibility for border security was divided piecemeal under the mandate of many diverse federal departments, including (but not limited to): the Department of Justice (the Immigration and Naturalization Service); the Department of the Treasury (the Customs Service); the Department of Agriculture (the Animal and Plant Health Inspection Service); and the Department of Transportation (the Coast Guard).

The Homeland Security Act of 2002 (P.L. 107-296) consolidated most federal agencies operating along the U.S. borders within the newly formed Department of Homeland Security. Most of these agencies were organized under the Directorate of Border and Transportation Security (BTS), which was charged with securing the borders, territorial waters, cargo terminals, waterways, and air, land, and sea transportation systems of the United States, as well as managing the nation's ports of entry.¹ The lone exception is the U.S. Coast Guard, which remained a stand-alone division within DHS. The BTS was composed of three main agencies:

- The Bureau of Customs and Border Protection (CBP), which is charged with overseeing commercial operations, inspections, and land border patrol functions

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¹ For more detailed information on DHS, see Jennifer Lake, *Department of Homeland Security: Consolidation of Border and Transportation Security Agencies*, CRS Report RL31549 (Washington, D.C.: Congressional Research Service, Library of Congress, 2005).

- The Bureau of Immigration and Customs Enforcement (ICE), which oversees investigations, alien detentions and removals, air/marine drug interdiction operations, and federal protective services
- The Transportation Security Administration (TSA), which is charged with protecting the nation's air, land, and rail transportation systems against all forms of attack to ensure freedom of movement for people and commerce.

On 13 July 2005, the Secretary of DHS, Michael Chertoff, announced the results of the months-long Second Stage Review (2SR) that he undertook upon being confirmed as secretary. One of Secretary Chertoff's main recommendations, which was agreed to by the DHS Appropriations Conferees, was the elimination of the BTS Directorate. Chertoff announced the creation of a new Directorate of Policy (subject to legislative approval), which would, among other things, assume the policy coordination responsibilities of the BTS Directorate. The operational agencies that compose BTS (CBP, ICE, TSA) will now report directly to the secretary and deputy secretary of DHS. The goal of this reorganization is to streamline the policy creation process and ensure that DHS policies and regulations are consistent across the department. Additionally, the Federal Air Marshals program was moved out of ICE and back into TSA, in order to increase operational coordination between all aviation security entities in the department.

Conceptually speaking, CBP provides the front-line responders to immigration and customs violations, and serves as the law enforcement arm of DHS, while ICE serves as the department's investigative branch.² TSA is charged with securing the nation's transportation systems, whereas the U.S. Coast Guard also serves an important border security function by patrolling the nation's territorial and adjacent international waters against foreign threats. Combined FY2006 appropriations for BTS and the Coast Guard equaled USD 21.3 billion,³ while their combined full-time equivalent (FTE) manpower totaled 155,928 employees.⁴

The Bureau of Customs and Border Protection

The Bureau of Customs and Border Protection combined all the previous border law enforcement agencies under one administrative umbrella. This involved absorbing em-

² Many argue that the State Department's Consular posts abroad provide the first line of defense by reviewing visa applications and determining which foreign nationals will be provided with the documentation required to legally enter the country.

³ This number, and all the budget numbers in this report, represents the department's net appropriation; total budget authority for these key agencies in FY2005 was USD 25.58 billion. For a more detailed breakdown of DHS appropriations, see Jennifer Lake and Blas Nuñez-Neto, Coordinators, *Homeland Security Department: FY2006 Appropriations*, CRS Report RL32863 (Washington, D.C.: Congressional Research Service, Library of Congress, 2005).

⁴ All manpower estimates are taken from the U.S. Department of Homeland Security, *Congressional Budget Justification, Department of Homeland Security Fiscal Year 2006*.

ployees from the Immigration and Naturalization Service (INS), the Border Patrol, the Customs Service, and the Department of Agriculture. CBP's mission is to prevent terrorists and terrorist weapons from entering the country, provide security at U.S. borders and ports of entry, apprehend illegal immigrants, stem the flow of illegal drugs, and protect U.S. agricultural and economic interests from harmful pests and diseases.⁵ As it performs its official missions, CBP maintains two overarching and sometimes conflicting goals: increasing security, and facilitating legitimate trade and travel.⁶ In FY2006, CBP appropriations totaled USD 5.99 billion, and its manpower totaled 40,872 FTE.

Between official ports of entry, the U.S. Border Patrol (USBP) enforces U.S. immigration law and other federal laws along the border. As currently constituted, the USBP is the uniformed law enforcement arm of the Department of Homeland Security. Its primary mission is to detect and prevent the entry of terrorists, weapons of mass destruction, and unauthorized aliens into the country, and to interdict drug smugglers and other criminals. The USBP is thus vitally important to our nation's defense against terrorists and all others attempting to bring goods or persons into the country illegally. In the course of discharging its duties, the USBP patrols over 8,000 miles of our international borders with Mexico and Canada and the coastal waters around Florida and Puerto Rico.

At official ports of entry, CBP officers are responsible for conducting immigration, customs, and agricultural inspections on entering aliens. As a result of the new "one face at the border" initiative, CBP inspectors are being cross-trained to perform all three types of inspections in order to streamline the border crossing process. This initiative unifies the prior inspection processes, providing entering aliens with one primary inspector who is trained to determine whether a more detailed secondary inspection is required.⁷

CPB inspectors enforce immigration laws by examining and verifying the travel documents of incoming international travelers to ensure they have a legal right to enter the country. On the customs side, CBP inspectors ensure that all imports and exports comply with U.S. laws and regulations; collect and protect U.S. revenues; and guard against the smuggling of contraband. Additionally, CBP inspectors are responsible for conducting agricultural inspections at ports of entry in order to enforce a wide array of animal and plant protection laws. In order to carry out these varied functions, CBP

⁵ U.S. Congress, House Appropriations Committee, *Department of Homeland Security Appropriations Bill, 2005*, 108th Cong., 2nd sess., H.Rept. 108-541.

⁶ U.S. Bureau of Customs and Border Protection, *Performance and Annual Report: Fiscal Year 2003*, 25.

⁷ U.S. Department of Homeland Security, Office of the Press Secretary, "Homeland Security Announces New Initiatives," press release, 2 September 2003.

agents have a broad range of powers to inspect all persons, vehicles, conveyances, merchandise, and baggage entering the United States from a foreign country.⁸

To execute its various missions, CBP maintains and utilizes several databases. CBP also administers the U.S. Visitor and Immigrant Status Indicator Technology (US-VISIT) program, which requires all incoming non-immigrant aliens to submit to a biometric scan.⁹ Additionally, CBP administers the Container Security Initiative, a program in which CBP inspectors pre-screen U.S.-bound marine containers at foreign ports of loading around the world for hazardous materials, particularly those that could be used in weapons of mass destruction.

Bureau of Immigration and Customs Enforcement

The Bureau of Immigration and Customs Enforcement merged the investigative functions of the former INS and the Customs Service, the INS detention and removal functions, most INS intelligence operations, and the Federal Protective Service. This makes ICE the principal investigative arm for DHS. ICE's mission is to detect and prevent terrorist and criminal acts by targeting the people, money, and materials that support terrorist and criminal networks.¹⁰ As such, they are an important component of our nation's border security network, even though their main focus is on interior enforcement. In FY2006, ICE appropriations totaled USD 3.19 billion, and the agency had 15,440 FTE employees.

Unlike CBP, whose jurisdiction is confined to law enforcement activities along the United States' borders, ICE special agents investigate immigration and customs violations in the interior of the United States. ICE's mandate includes uncovering national security threats, such as weapons of mass destruction or potential terrorists; identifying criminal aliens for deportation; probing immigration-related document and benefit fraud; investigating work-site immigration violations; exposing alien and contraband smuggling operations; interdicting narcotics shipments;¹¹ and detaining illegal immigrants and ensuring their departure (or removal) from the United States.¹² ICE is also responsible for the collection, analysis, and dissemination of strategic and tactical intelligence data pertaining to homeland security, infrastructure protection, and the ille-

⁸ For a more detailed analysis of inspection practices along the U.S. border, including the legislative foundation for CBP powers, a history of inspection practices, and the policy issues involved, refer to Ruth Ellen Wasem, coordinator, *Border Security: Inspections Practices, Policies, and Issues*, CRS Report RL32399 (Washington, D.C.: Congressional Research Service, Library of Congress, 2004).

⁹ For further discussion and analysis of the US-VISIT program, see Lisa Seghetti, *U.S. Visitor and Immigrant Status Indicator Technology Program (US-VISIT)*, CRS Report RL32234 (Washington, D.C.: Congressional Research Service, Library of Congress).

¹⁰ Bureau of Immigration and Customs Enforcement, Border Security and Immigration Enforcement Fact Sheet, at www.ice.gov/graphics/news/factsheets/061704det_FS.htm.

¹¹ Bureau of Immigration and Customs Enforcement, Office of Investigations Fact Sheet, at www.ice.gov/graphics/news/factsheets/investigation_FS.htm.

¹² Bureau of Immigration and Customs Enforcement Organization, at www.ice.gov/graphics/about/organization/index.htm.

gal movement of people, money, and cargo within the United States.¹³ Lastly, ICE policies and secures more than 8,800 federal facilities nationwide via the Federal Protective Service.¹⁴

The United States Coast Guard

The Coast Guard was incorporated into DHS as a stand-alone agency in 2002. Their overall mission is to protect the public, the environment, and U.S. economic interests in maritime regions—at the nation’s ports and waterways, along the coast, and in international waters.¹⁵ The Coast Guard is thus the nation’s principal maritime law enforcement authority, and the lead federal agency for the maritime component of homeland security, including port security. Among other things, the Coast Guard is responsible for evaluating, boarding, and inspecting commercial ships as they approach U.S. waters; countering terrorist threats in U.S. ports; and helping to protect U.S. Navy ships when docked in U.S. ports. A high-ranking Coast Guard officer in each port area serves as the Captain of the Port, and is the lead federal official responsible for the security and safety of the vessels and waterways in their geographic zone.¹⁶ In FY2006, Coast Guard appropriations totaled USD 7.84 billion, and the agency had 47,112 FTE military and civilian employees.

As part of Operation Noble Eagle (military operations in homeland defense and civil support to U.S. federal, state, and local agencies), the Coast Guard is at a heightened state of alert, protecting more than 361 ports and 95,000 miles of coastline. The Coast Guard’s role in homeland security includes:

- Protecting ports, the flow of commerce, and the marine transportation system from terrorism
- Maintaining maritime border security against illegal traffic in drugs, immigrants, firearms, and weapons of mass destruction
- Ensuring that the U.S. can rapidly deploy and resupply military assets by maintaining the Coast Guard at a high state of readiness, as well as by keeping marine transportation open for other military needs
- Protecting against illegal fishing and indiscriminate destruction of living marine resources

¹³ Bureau of Immigration and Customs Enforcement, Office of Intelligence Organization, at www.ice.gov/graphics/about/organization/org_intell.htm.

¹⁴ Bureau of Immigration and Customs Enforcement, Organization, at www.ice.gov/graphics/about/organization/index.htm.

¹⁵ U.S. Coast Guard, Overview, at www.uscg.mil/overview/.

¹⁶ For an in-depth discussion of the Coast Guard and port security, see Ronald O’Rourke *Homeland Security: Coast Guard Operations—Background and Issues for Congress*, CRS Report RS21125 (Washington, D.C.: Congressional Research Service, Library of Congress, June 2006); and John Frittelli, *Port and Maritime Security: Background and Issues for Congress*, CRS Report RL31733 (Washington, D.C.: Congressional Research Service, Library of Congress, May 2005).

- Preventing and responding to maritime spills of oil and hazardous materials
- Coordinating efforts and intelligence with federal, state, and local agencies.¹⁷

The Transportation Security Administration

The Transportation Security Administration was created as a direct result of the events of September 11, and is charged with protecting the United States' air, land, and rail transportation systems to ensure freedom of movement for people and commerce. The Aviation and Transportation Security Act (ATSA, P.L. 107-71) created the TSA and included provisions that established a federal baggage screener workforce, required checked baggage to be screened by explosive detection systems, and significantly expanded the Federal Air Marshals program (FAMS). In 2002, TSA was transferred to the newly formed DHS from the Department of Transportation; as previously noted, in 2003 the Federal Air Marshal program was taken out of TSA and transferred to ICE; in FY2006, the program was transferred back to TSA. In FY2006, TSA appropriations totaled USD 3.93 billion, and the agency had 52,504 FTE employees.

To achieve its mission of securing the nation's aviation, TSA assumed responsibility for screening air passengers and baggage—a function that had previously resided with the air carriers. TSA is also charged with ensuring the security of air cargo and overseeing security measures at airports to limit access to restricted areas, secure airport perimeters, and conduct background checks for airport personnel with access to secure areas, among other things.¹⁸ However, an opt-out provision in ATSA will permit every airport with federal screeners to request a switch to private screeners commencing in November 2004.¹⁹ Additionally, as a result of the 2SR, the Federal Air Marshals program has been transferred back to TSA. FAMS is responsible for detecting, deterring, and defeating hostile acts targeting U.S. air carriers, airports, passengers, and crews by placing undercover armed agents in airports and on flights.

ATSA authorized the TSA to create a Computer-Assisted Passenger Prescreening System (CAPPS II), a program that would compare the basic personal information provided by airline passengers to varied commercial databases in order to confirm their identity. However, due to mounting privacy concerns and operational problems, TSA scrapped its plans to implement CAPPS II, and is designing a new program called Secure Flight in its stead.²⁰

¹⁷ U.S. Coast Guard, Homeland Security Factcard, at www.uscg.mil/hq/g-cp/comrel/factfile/Factcards/Homeland.htm.

¹⁸ U.S. General Accounting Office, "Aviation Security: Efforts to Measure Effectiveness and Address Challenges," GAO-04-232T (5 November 2003), 5–6.

¹⁹ See Bartholomew Elias, *A Return to Private Security at Airports?: Background and Issues Regarding the Opt-Out Provision of the Aviation and Transportation Security Act*, CRS Report RL32383 (Washington, D.C.: Congressional Research Service, Library of Congress, May 2004).

²⁰ Chris Strohm, "DHS Scraps Computer Pre-Screening System, Starts Over," *Government Executive Online* (15 July 2004), at www.govexec.com/dailyfed/0704/071504c1.htm.

Conclusion

This essay has briefly outlined the roles and responsibilities of the four main agencies within the DHS charged with securing the United States' borders: the CBP, the ICE, the U.S. Coast Guard, and the TSA. It should be noted, however, that although the Homeland Security Act of 2002 consolidated all the agencies with primary border security roles under the umbrella of DHS, many other federal agencies are involved in the difficult task of securing the nation's borders. Although border security may not be articulated in their central mission, they nevertheless provide important border security functions. These agencies include, but are not limited to, the Bureau of Citizenship and Immigration Services within DHS, which processes permanent residency and citizenship applications, as well as asylum and refugee processing; the Department of State, which is responsible for issuing visas overseas; the Department of Agriculture, which establishes the agricultural policies that CBP inspectors execute; the Department of Justice, whose law enforcement branches (the Federal Bureau of Investigation and Drug Enforcement Agency) coordinate with CBP and ICE agents when their investigations involve border or customs violations; the Department of Health and Human Services, through the Food and Drug Administration and the Centers for Disease Control; the Department of Transportation, whose Federal Aviation Administration monitors all airplanes entering American airspace from abroad; the Treasury Department, whose Bureau of Alcohol, Tobacco, and Firearms investigates the smuggling of guns into the country; and, lastly, the Central Intelligence Agency, which is an important player in the efforts to keep terrorists and other foreign agents from entering the country. Additionally, due to their location, state and local responders from jurisdictions along the Canadian and Mexican borders also play a significant role in the efforts to secure the borders of the United States.

Bibliography

Elias, Bartholomew. *A Return to Private Security at Airports?: Background and Issues Regarding the Opt-Out Provision of the Aviation and Transportation Security Act*. Washington, D.C.: Congressional Research Service, Library of Congress, 2004.

Frittelli, John. *Port and Maritime Security: Background and Issues for Congress*. Washington, D.C.: Congressional Research Service, Library of Congress, 2005.

Lake, Jennifer. *Department of Homeland Security: Consolidation of Border and Transportation Security Agencies*. Washington, D.C.: Congressional Research Service, Library of Congress, 2005.

O'Rourke, Ronald. *Homeland Security: Coast Guard Operations—Background and Issues for Congress*. Washington, D.C.: Congressional Research Service, Library of Congress, 2006.

Strohm, Chris. "DHS Scraps Computer Pre-Screening System, Starts Over." *Government Executive Online* (2004).

Wasem, Ruth Ellen. *Border Security: Inspections Practices, Policies, and Issues*. Washington, D.C.: Congressional Research Service, Library of Congress, 2004.