

***Community Workgroup on  
Southern Arizona Checkpoints  
Final Report***

**Presented to:**

**Congresswoman Gabrielle Giffords  
and  
Tucson Sector Chief Patrol Agent  
Robert Gilbert**

**August 21, 2007**

***Community Workgroup on Southern Arizona  
Checkpoints***

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# ***Community Workgroup on Southern Arizona Checkpoints***

## **Final Report**

### **Background**

Congresswoman Gabrielle Giffords and Tucson Sector Chief Patrol Agent Robert Gilbert convened the *Community Workgroup on Southern Arizona Checkpoints* in April 2007. The mission of the Workgroup was to build a better understanding among Southern Arizona communities on checkpoint operations and community impacts and to make recommendations on issues, concerns and ideas regarding the current checkpoint and proposed permanent checkpoints.

In November 2006, the U.S. House of Representatives eliminated appropriations language that prohibited the expenditure of funds on site acquisition, design or construction of any checkpoints in the Border Patrol's Tucson sector. Following this decision, the Border Patrol stopped moving the checkpoint. Community interest in the Border Patrol's operations along the I-19 corridor intensified when the checkpoint location was fixed, and the Border Patrol stated its intent to build a permanent checkpoint.

Congresswoman Giffords gained approval by the House of Representatives in March 2007 to reinstate checkpoint prohibition language in a supplemental appropriations bill. The U.S. Senate, however, rejected the prohibition language, and the language was not reinstated.

During the first four months of 2007, Congresswoman Giffords met with Border Patrol officials and was briefed on their overall border security strategy and the specific role of checkpoints. She and her staff toured the most recently constructed permanent checkpoint in Laredo, Texas, before holding a series of meetings with residents, business people and law enforcement officials from the I-19 corridor to discuss border security and to learn about community safety concerns.

The Border Patrol began meeting and presenting background information on checkpoints in December 2006. These sessions provided information for local communities about the fixed location of the checkpoint, and the Border Patrol's intent to build a permanent checkpoint on I-19. The Border Patrol also presented information on arrests and seizures. (A chart with these statistics is included in the appendix.)

In response to community concerns, Congresswoman Giffords secured an agreement from Border Patrol Chief David Aguilar that no permanent checkpoint would be planned or constructed without significant and direct community involvement. This agreement was approved by the House and Senate and was included in a 2007 supplemental appropriations bill.

The Community Workgroup on Southern Arizona Checkpoints was established in April 2007 to allow direct community involvement in discussions about the proposed permanent checkpoint

### **Mission Statement:**

The mission of the Workgroup was distributed at each of the meetings:

*The mission of the workgroup is to build a better understanding among the Southern Arizona communities on checkpoint operations and community impacts. The Workgroup will make recommendations to Congresswoman Giffords and Chief Patrol Agent Gilbert on issues, concerns and ideas regarding the current checkpoint and proposed permanent checkpoint. Workgroup members will provide information from their respective organizations and communities and will report back to their constituencies on the progress of the Workgroup.*

### **Workgroup Members:**

Co-Chairs for the Workgroup were Ron Barber, District Director, Congresswoman Gabrielle Giffords, and Lisa Reed, Director, Community Relations, Tucson Sector Border Patrol. Support was provided by John Fitzpatrick, Patrol Agent in Charge, Nogales Border Patrol (Agent Fitzpatrick was recently named Assistant Border Patrol Chief, Tucson Sector) and Jacquelyn Jackson, Director, Community Outreach, Congresswoman Gabrielle Giffords

Members represented organizations in communities affected by the checkpoint issue. Members were selected from the Tubac Chamber of Commerce, Green Valley Community Coordinating Council, Tucson Metropolitan Chamber of Commerce, Nogales Chamber of Commerce, Green Valley Chamber of Commerce, Fresh Produce Brokers Association, Santa Cruz County Board of Realtors, Santa Cruz Valley Citizen's Council, Santa Cruz Port Authority, Rio Rico Chamber of Commerce, Governor Napolitano's office, the offices of Sheriff Estrada and Dupnik, the Drug Enforcement Agency and the Arizona Department of Public Safety. In addition, several individual citizens were asked to be members. (A complete list of members is included in the appendix.)

## **Meetings:**

The first meeting of the *Community Workgroup on Southern Arizona Checkpoints*, was held on Monday, April 30 at the Villages Recreation Center in Green Valley, AZ. Subsequent meetings were held on May 14, June 4 and June 18. Congresswoman Giffords attended the April 30 and May 14 meetings via telephone from Washington, D.C. She attended the June 4 meeting in person, along with Chief Gilbert. Chief Gilbert also attended the April 30 meeting in person.

Copies of the minutes from the April 30, May 14, June 4 and June 18 meetings are included in the appendix.

## **Number of Participants:**

More than 500 citizens participated in the four Workgroup meetings. This included the 27 members of the *Community Workgroup on Southern Arizona Checkpoints* and interested citizens from a range of communities including Nogales, Amado, Arivaca, Rio Rico, Tubac, Green Valley and Tucson.

## **Presentations:**

Presentations were included on the agenda at each meeting. Copies of the presentations are included as appendices to this report. They are as follows:

1. U.S. Customs and Border Patrol: *Integrated Approach to Border Enforcement*;
2. U.S. Customs and Border Patrol: *Tucson Sector Checkpoint Update*
3. Gary Brasher, Carol Cullen, Nan Stockholm Walden: *Citizens Delegation to Laredo, TX, on April 30, 2007*
4. Dr. Marcelino Varona: *Community Workgroup Ideas and Observations for the Proposed U.S. Border Patrol Station in Santa Cruz County*
5. Compilation of Information: *Permanent Border Patrol Checkpoints Practicality and Impact on Local Communities and Law Enforcement*
6. Gary Brasher: *Community Concerns About Permanent Checkpoints*
7. Tony Coulson: Drug Enforcement Agency (verbal presentation)

## **Congressional Actions In Response to Community Concerns:**

### ***Written Requests:***

As a result of the community input, Congresswoman Giffords wrote to U.S. Border Patrol Chief David Aguilar on May 14, 2007, urging the Border Patrol to take a number of steps to provide for community safety. These included:

1. Increase the number of border patrol agents staffing the current I-19 checkpoint;
2. Establish a fast response system for residents who need to contact the Border Patrol in emergency situations;
3. Deploy sensors, radar, cameras and other technology to intercept and apprehend individuals who bypass the temporary checkpoint;
4. Move the temporary checkpoint away from the Tubac area where the impact on residents and businesses would be reduced.

**Chief Aguilar** responded on June 4, 2007, to the Congresswoman's letter. He reported that:

1. Additional agents have been assigned to patrol Tubac and Aliso Springs;
2. Four agents per shift will patrol the area north of the I-19 checkpoint;
3. Eleven agents on horseback will cover two different shifts patrolling areas flanking the I-19 checkpoint;
4. Ground sensors have been deployed to the area surrounding Tubac;
5. Sky Watch towers with day and nighttime cameras will flank the I-19 checkpoint;
6. The Tucson Sector will use Ground Surveillance Radar on the west side of the I-19 checkpoint.

On April 11, 2007, Senator John Kyl sent a letter to Senator Robert Byrd, Chair of the Senate Appropriations Committee and Senator Thad Cochran, Ranking Member of the Senate Appropriations Committee. He stated that he opposed *“any provision...that would limit the authority of the U.S. Customs and Border Patrol Protection to maintain a permanent checkpoint in the Tucson Sector of Arizona, or eliminate funding for this authority.”*

Copies of each of these letters were distributed at the April 30, May 14 and the June 4 meetings. They are included in the appendix of this report.

### ***Supplemental Appropriations Language:***

Prior to the first meeting of the Checkpoint Workgroup, Congresswoman Giffords asked that a statement be inserted in a supplemental appropriations bill in the U.S. House of Representatives reinstating the language prohibiting permanent

checkpoints. This statement, which was not approved by the U.S. Senate, extended “until the end of FY 2007 two provisos contained in the FY 2006 Salaries and Expenses appropriation for Customs and Border Protection that relate to Border Patrol checkpoints in the Tucson Sector.” Those provisos are as follows:

*Bill language is continued prohibiting funds for the site acquisition, design, or construction of any permanent Border Patrol checkpoint in the Tucson sector. Customs and Border Protection is reminded that it must relocate a checkpoint no more than seven days after its establishment and may not return to the previous location until at least seven days after relocation. The intent of this requirement is to foster randomness and unpredictability in the location of Border Patrol's checkpoints throughout the Tucson Sector.*

Subsequent to the rejection by the U.S. Senate of the checkpoint prohibition statement, Congresswoman Giffords asked that a new statement be inserted in the supplemental appropriations bill in the U.S. House of Representatives. This language was agreed to by the U.S. Senate. The statement is as follows:

*The conferees understand that U.S. Customs and Border Protection (CBP) agrees that no permanent checkpoint will be planned for Southern Arizona without significant and direct community involvement.*

*Any planned permanent checkpoint must:*

- 1. Be part of an overall network of border security technology and infrastructure, as well as an increase in personnel;*
- 2. Be designed to significantly reduce the number of illegal immigrants and the amount of contraband entering the U.S. through Arizona, and increase the security of our nation by employing technology and capabilities to detect individuals or implements associated with terrorism; and*
- 3. Contain attributes of a possible permanent checkpoint in Southern Arizona, CBP must ensure that any temporary checkpoint be administered in a manner consistent with current case law, and address the checkpoint's impact on residents, legitimate travelers, and public safety.*

## **Subcommittees Formed:**

At the June 18 meeting, two subcommittees of the Workgroup were formed:

- The ***Interim/Permanent Checkpoint Subcommittee***
- The ***Options Subcommittee***

The two subcommittees met a total of seven times during late June and July. The reports from the two subcommittees are included in this report.

## **Subcommittee Reports:**

The following reports were developed and submitted by the individual subcommittees for consideration by the Checkpoint Working Group at its final meeting on August 21, 2007. Both reports are included verbatim as submitted by the Subcommittees:

### **Report of the Interim/Permanent Checkpoint Subcommittee: Checkpoint Workgroup Subcommittee Recommendations**

**Overview:** At the June 18, 2007, meeting of the Community Workgroup on Southern Arizona Checkpoints, two subcommittees of the Workgroup were formed. The ***Interim/Permanent Checkpoint Subcommittee (IPCS)*** was asked to identify areas where the Border Patrol can make operational and non-operational adjustments to the checkpoint facility to improve enforcement and expedite legitimate travelers. The ***Options Subcommittee*** was asked to explore options to an interim or permanent checkpoint in Southern Arizona.

The IPCS met on June 26, July 13 and August 1, 2007. The subcommittee agreed to develop separate recommendations for an interim and a permanent site. The Border Patrol is working towards constructing the interim checkpoint at kilometer marker 50 and/or 52 on I-19 and is estimating it to be operational by the end of 2007. The Border Patrol has also reported that the permanent site would not be operational for approximately 5 years. Following are the recommendations of the subcommittee:

#### **Interim Checkpoint:**

The subcommittee determined that the following operational and non-operational adjustments would enhance the effectiveness of an interim checkpoint:

- Create a safe inspection area to include:
  - Canopies over inspection areas;

- Assure that signage for directing traffic is clearly posted (constructed as to reduce or be glare resistant), and make certain that the signage routes trucks to the farthest right lane;
- Add rumble strips, if feasible, to approaching checkpoint inspection area;
- Implement use of transportable reader boards in approaching communities as well as immediately preceding the checkpoint to advise the traveling public of wait times, heightened alerts, and other public safety announcements. Research the possibility of posting wait times on the internet.
- Add fourth lane if physically and financially possible;
- Monitor wait times closely and provide the necessary resources to reduce wait times for travelers so that any impact on tourism is minimal;
- Adhere to Pima County Dark Night Sky Ordinance;
- Adhere to the Upper Santa Cruz River Habitat Conservation Plan
- Consider stationing a VACIS machine at the interim site and if not feasible, at the rest area for secondary truck inspections so that trucks do not have to return to Nogales for inspection.
- Target DUI in cooperation with other law enforcement agencies at the checkpoint.

### **Baseline Report:**

The subcommittee recommends the preparation of a report on the **tactical** checkpoint prior to the initial operation of the **interim** checkpoint. This baseline data would be requested by the Border Patrol with set guidelines from the U.S. Drug Enforcement Agency (DEA), ICE, local law enforcement, Public Lands Managers, and first responders based on publicly available data.

The intent of this report is to provide a basis for measurement of the impact of the interim checkpoint on drug and human smuggling in Southern Arizona. The report should include the amount of funds spent and specifically how they are spent by local law enforcement agencies on criminal activity directly related to the checkpoint.

### **Status Report:**

After one Fiscal Year of operation of the interim checkpoint, or an equally appropriate length of operational time needed by the Border Patrol to gauge levels of effectiveness, a report would be provided to Congresswoman Giffords that would update data included in the Baseline Report.

The committee recommends that Border Patrol request information from DEA, ICE, local law enforcement, U.S. Forest Service, and first responders attributable to checkpoint operations. The report would also include information of intercepts that take place at the interim checkpoint for federal, state and local violations such as stolen vehicles, DUI's and persons with warrants. Other law enforcement agencies should provide information on the direct impacts of the checkpoints on their operation to include the information requested for the baseline report.

The baseline and status reports to include an impact statement may be shared with Congresswoman Giffords with the exception of any law enforcement sensitive information.

### **Permanent Checkpoint:**

The subcommittee recommends the status report described above be considered as part of the Border Patrol's decision-making process for a permanent checkpoint. If it is determined that a permanent checkpoint is the most effective means of enforcement, the subcommittee developed the following recommendations based upon the footprint of the Laredo checkpoint. According to the Border Patrol, the I-19 Checkpoint will be a station with approximately 150 agents and will consist of 7-8 traffic lanes. Following are the recommendations of the subcommittee:

### **Checkpoint Functionality:**

- Keep expandability in mind;
- Assure there are sufficient traffic lanes and that separate lanes are provided for commercial, common carrier, and commuter traffic;
- Solicit input from identified stakeholders on a commuter lane(s) to be available for local residents or frequent travelers that apply and qualify to use the lane; (Integrate approved SENTRI pass holders)
- Provide a commuter lane for commercial trucks that have already passed inspection at the Customs Port of Entry.
- Assure that signage for directing traffic is clearly posted and are constructed as to reduce or be glare resistant;

- Add rumble strips to approaching checkpoint inspection area;
- Seek to mitigate noise using such things as rubber asphalt pads;
- Create a safe inspection area to include canopies over inspection areas;
- Include a VACIS machine as part of the facility;
- Let contracts to provide at least two refrigerated dock spaces for perishable commodity examinations at the secondary inspection area;
- Monitor wait times closely and provide the necessary resources to reduce wait times for travelers so that any impact on tourism is minimal;
- Post wait times on reader boards in approaching communities as well as immediately preceding the checkpoint to advise the traveling public of wait times and heightened alerts.
- Research the possibility of posting wait times through the Custom & Border Protection website.

#### **Station Functionality:**

- Include adequate dog kennels and administrative facility,
- Provide adequate detention facilities that separate women, children and families etc.;
- Have office space identified for use by other law enforcement agencies and first responders/EMS;
- Station Fire or EMS apparatus on an as needed basis, via pre arranged agreement between agencies.

#### **Enforcement Mechanisms:**

- Provide a full complement of technological support in concert with manpower and other Border Patrol assets for interdiction and to create deterrent measures for circumvention routes;

- Construct a helicopter pad to also facilitate enforcement, medical and firefighter emergency services.
- Utilize state of the art technology at and around the checkpoint;
- Use unmanned aerial vehicles and other air assets in support of checkpoint operations;
- Compliment the Secure Border Initiative (SBI)net) through researching the installation of the Texas 'Virtual Border Watch' System in Arizona;
- Research the strategic installation of emergency call stations or other system to report activity directly to the checkpoint station

**Additional Enforcement:**

- Continue conducting DUI checks at checkpoint in collaboration with other agencies or as identified,
- Fire/EMS can be readily available to address hazmat and medical emergencies
- Request the U.S. Attorney institute a zero tolerance and prosecute all checkpoint drug cases.

**Design:**

- Approval by ADOT for off highway Border Patrol Checkpoint Station in order to mitigate liability issues for safety on the interstate;
- Consider determining appropriate noise emission levels;
- Adhere to Pima County Dark Night Sky Ordinance;
- Consider energy efficiency such as solar (US Green Building & LEED certification),
- Design should reflect the existing architectural and natural environment
- Adhere to the Upper Santa Cruz River Habitat Conservation Plan

- Incorporate desert landscaping to blend the checkpoint with the surrounding landscape and consider xeriscaping or rainwater harvesting systems;
- Name the facility the Amado Station or Amado Checkpoint;
- Promote with signage the dual mission of Customs & Border Protection “Securing America from those who would do us harm while facilitating legitimate travel and trade”.

### **Community Relations:**

- Supplement the 1-877-USBP-HELP with a three digit calling number such as “211” (*as an example*).
- Inform the public they can request a call back when reporting illegal activity
- Compile a pamphlet on Tucson Sector Border Patrol operations. If possible include other agency and emergency numbers and a brief explanation of what the responsibilities are by agency. Post pamphlet in agencies’ websites. Including, Chamber of Commerce and Arizona Department of Real Estate Buyer’s Advisory webpage link.
- Revise the Tucson Sector’s webpage link with information of all the Border Patrol stations within the sector. Include statistics, contact names & numbers. Post positive information of how the Border Patrol works hand in hand with the community.
- Provide relocation information to agents and trainees about local resources as incentives to live in local communities;

**Conclusion:** In summary, the subcommittee endorses checkpoint operations as a critical component to a layered enforcement plan that supports the continuing enforcement operations and apprehension capabilities at the border. The subcommittee believes the recommendations included in this report will help assure that the interim checkpoint at kilometer marker 50 and/or 52 on I -19 will provide optimum benefit for the communities and citizens in the region.

Moreover, the subcommittee believes that the data that will be derived from the Baseline Report and the subsequent Status Report will provide important measurements that will help make more informed decisions on the installation of a permanent checkpoint. In conclusion, if it is determined that a permanent checkpoint is a viable means of curtailing illegal activity, the recommendations

included in this report should assure that the permanent checkpoint is a model of efficiency, effectiveness and aesthetics.

## **Report of the Options Subcommittee:**

### **Options Subcommittee Recommendation:**

#### **INTRODUCTION:**

The Options Subcommittee of Representative Giffords' Community Workgroup on Southern Arizona Checkpoints believes very strongly that the international border can and must be secured at the border. We believe that Border Patrol should be empowered and supported to secure the border at the border and that Congress should provide the funding to achieve this. Furthermore, we believe this is a viable solution that makes sense in terms of border security, the safety of our local communities, and indeed, national security. It is important to note that we support the Border Patrol in their mission, have great respect for all the men and women in uniform, and appreciate their efforts in protecting both public safety and our national interests.

The Options Subcommittee met on June 28<sup>th</sup>, July 20<sup>th</sup> and August 8<sup>th</sup> to identify the problem, discuss solutions, and craft our recommendation. Additionally, members of the Options Subcommittee conducted extensive research into the proposal to build permanent checkpoints in the Tucson Sector, including interviewing key community leaders, hosting community town halls, meeting with local law enforcement and Border Patrol representatives, conducting document research, making two site visits to the Laredo Sector to meet with Border Patrol leaders and local community leaders, and submitting detailed requests for information from Border Patrol HQ in Washington. Throughout the process, we kept in mind Representative Giffords' charge that this Community Workgroup "think outside the box."

Based on our research it is clear to us that the decades-old Border Patrol strategy of building and maintaining permanent interior checkpoints represents incomplete thinking. Furthermore, as a solution to the porous border, we believe it is unworkable. Our research uncovered similar concerns in four distinct regions of the country, where permanent interior checkpoints were being considered or have been around for decades:

- *California* – In 2000, the California State Assembly passed a resolution 71-2 requesting that Congress close down the Southern California checkpoints at Temecula and San Clemente, because of concerns about public safety, traffic congestion, and overall effectiveness.
- *New York* – Congressmen Sweeney and McHugh stopped the I-87 proposed permanent checkpoint from being built in 2006, also citing

- concerns about costs vs. benefits and the fact that no hard data existed to show one way or the other whether the strategy was effective.
- *Vermont* – The Vermont Congressional delegation, including Senator Leahy and former Senator Jeffords, held hearings in 2005 over the perceived ineffectiveness of their permanent interior checkpoint. This checkpoint had been operational for 25 years prior to the hearings, raising serious questions about the argument that permanent checkpoints will eventually prove beneficial to a community. The use of the I-91 checkpoint in Hartford, VT, has been scaled back significantly since these hearings.
  - *Texas* – The Laredo permanent checkpoint on I-35, even though it is located in a very remote area, has created significant concerns. For example, news reports document that new roads going around the checkpoint were created within days of its opening. Other news accounts showed that even coyotes using simple, unsophisticated strategies were able to get their human cargo around the permanent checkpoint.

The Options Subcommittee has three major concerns with the proposal to build permanent interior checkpoints in the Tucson Sector:

- Permanent interior checkpoints have been a central part of the Border Patrol's strategy for more than three decades, yet the growth in illegal immigration and smuggling over the same time period continues unabated. Estimates for the number of undocumented immigrants in the United States today range from 12 million to 20 million; clearly the old strategy is not working.
- It is well documented that permanent interior checkpoints cause an increase in crime in surrounding communities, as illegal immigrants, coyotes and drug smugglers attempt to circumvent the checkpoint. Public safety is further jeopardized by groups of bandits who capitalize on this predictable flanking activity in their attempts to rob the drug smugglers, usually at gunpoint. All of this additional border-related crime – though officially under the jurisdiction of federal law enforcement agencies – falls upon tribal, state and local law enforcement agencies to deal with. We do not believe it is wise to institute federal law enforcement policies that overstretch local law enforcement agencies. Our local Sheriffs agree. Cochise County Sheriff Larry Dever said about Border Patrol checkpoints, "Rather than driving down the highways, these guys start driving through people's backyards."<sup>1</sup> Santa Cruz County Sheriff Tony Estrada stated in February of 2007, just after the roving checkpoint on I-19 had been made stationary at KP42, "We're starting to see violence we never saw before...It's getting much more difficult for our office to deal with it."<sup>2</sup>

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<sup>1</sup> Sierra Vista Herald, 4/25/06

<sup>2</sup> Tucson Citizen, 2/16/07

- Finally, the efficacy of permanent interior checkpoints never has been proven. To date, the Border Patrol still does not gather the necessary data to be able to adequately analyze the costs vs. benefits of permanent interior checkpoints, nor to judge the relative effectiveness of permanent interior checkpoints against “line operations” – Border Patrol operations on the border. This despite the fact that in July 2005, the Government Accountability Office specifically recommended they do so.<sup>3</sup>

**RECOMMENDATION:**

We are convinced that “outside of the box” thinking and comprehensive planning is indeed necessary. We believe there are numerous alternative strategies that can be employed to achieve a secure international border, safer local communities, and increased national security. Furthermore, what we propose below is not just our opinion as private citizens. Our comprehensive border security recommendation has been vetted by various members of local law enforcement as well as retired federal law enforcement officers. They, too, believe it can work if given a chance.

We believe that **bold new initiatives** are called for, initiatives that bring **multiple strategic elements** together in a systematic manner to address these challenges. Community support for this alternative approach is very strong as well. To date hundreds of members of the community – neighbors from throughout the region – have signed a statement to Representative Giffords urging her to find a better way forward. The community is demanding a comprehensive border security solution, one that does not depend on the incomplete and ineffective strategy that relies on permanent interior checkpoints.

The Options Subcommittee respectfully submits the following comprehensive recommendation to Representative Giffords and Tucson Sector Chief Gilbert to achieve the goals of securing the border in the Tucson Sector, protecting national security and protecting local communities’ safety as well. This proposed strategy supports our central objective that the Border Patrol become a more technologically advanced and agile law enforcement agency, capable of both deterring illegal entry and smuggling into this country, and quickly and effectively responding to all incursions and threats:

- 1) Congresswoman Giffords and other members of the Arizona Congressional delegation should provide Customs and Border Protection (CBP) and the Border Patrol with sufficient legislative directives and funding to increase the focus of their enforcement activities on the border. Border Patrol’s resources and efforts should be overwhelmingly directed at preventing terrorists, smugglers and illegal immigrants from entering the U.S., lessening the need to expend so many resources on apprehensions and seizures after the border has been breached.

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<sup>3</sup> GAO Report on Border Patrol Checkpoints (GAO-05-435) July 2005, p.38

2) Congresswoman Giffords and the other members of the Arizona Congressional delegation should provide the Border Patrol with sufficient legislative directives and funding to pursue an enforcement strategy that is more comprehensive and border-intensive than is the permanent interior checkpoint strategy. It is imperative that the strategic elements listed below be considered together, as part of a multi-pronged strategy to effectively secure the border and keep our communities safe. This comprehensive border security strategy should include, but not be limited to, the following components:

- a. Rebuild Ports of Entry in the Tucson Sector based on need, to accommodate increased traffic while better monitoring who and what comes through;
- b. Increase training and use of Unmanned Aerial Vehicles and manned aircraft to monitor the border;
- c. Implement SBI-net at and along as much of the 261-mile Tucson Sector border as is feasible based on topography;
- d. Build permanent road barriers along the border at all locations where penetration by vehicle is possible and/or likely;
- e. Assign more personnel ON and immediately adjacent to the border;
- f. Implement high-tech tactical, roving checkpoints. Utilizing the element of surprise, set up highly mobile tactical checkpoints that can quickly be relocated *based on intelligence*. Tactical checkpoint locations should be predetermined and pre-approved through the use of historical and trend data. Flanking around tactical checkpoints should be addressed using state-of-the-art technology, increased BP personnel and stepped up coordination with other federal, tribal, state and local law enforcement;
- g. Employ mobile rapid deployment units. These vehicle and aircraft units should be coordinated with other federal, tribal, state and local law enforcement, and be capable of intercepting any penetration of the border or flanking of tactical checkpoints;
- h. Increase cross-training of federal, tribal, state and local law enforcement agencies on tactical unit strategies, such as through the Cohort Program;
- i. Institute shared, interoperable communications among federal, tribal, state and local law enforcement agencies – as recommended by the 9/11 Commission;
- j. Institute shared intelligence among federal, tribal, state and local law enforcement agencies;
- k. Broaden the implementation of biometric, verifiable ID cards to facilitate legal, authorized movement of people and goods, and increase capacity to deal with criminals;
- l. Expand the public's knowledge about, and use of, the Border Patrol hotline – 877-USBP-HELP. Devote the resources to ensure every tip call gets a call back if desired, to build people's confidence in the system;

- m. Work to achieve **full** funding for the State Criminal Alien Assistance Program (SCAAP), and fight for the passage of the Border Law Enforcement Enhancement Act (HR 2542), to ensure local law enforcement agencies can recoup the resources spent on immigration and border-related crime. This funding for local law enforcement should in no way decrease resources allocated to Border Patrol.
  - n. With all these measures, encourage the Department of Homeland Security, CBP, and Border Patrol to institute clear and transparent accountability standards.
- 3) Congresswoman Giffords and other members of the Arizona Congressional delegation should immediately seek the enactment of legislation preventing the Border Patrol from expending any funds to construct permanent interior checkpoints in the Tucson Sector. This legislation could be similar to the legislative language included in previously enacted appropriations bills.

**BACKGROUND:**

The Options Subcommittee believes that there must be a systematic approach to defending our international border and protecting the safety of all communities in the border region. This approach must include achieving operational control of the border utilizing not only increased manpower but also the most modern technology available.

The Sandia National Laboratory, commissioned by INS and the Office of National Drug Control Policy in 1991-93 to do a systematic analysis of security along the US/Mexico Border, concluded that “control of illegal alien and drug traffic can be gained.” They noted that the strategy of interior apprehensions “was inefficient and diminished the Border Patrol’s ability to control the border,” and recommended that the Border Patrol change its tactics from apprehending illegal crossers after they have entered the United States to preventing illegal entry into the United States.<sup>4</sup>

In terms of interior “defense-in-depth”<sup>5</sup> strategies, we believe that *permanent* checkpoints are by definition ineffective, and that the Border Patrol should instead implement an updated, more technologically-advanced version of tactical, strategically mobile checkpoints. We strongly urge Congress to provide the necessary funding and guidance to enable Customs and Border Patrol (CBP) to secure the border effectively while also implementing *effective* defense-in-depth strategies. We understand that defense-in-depth is a key objective of CBP; however, we are convinced by the breadth of empirical and anecdotal evidence that permanent checkpoints are not an effective method by which to achieve it. Permanent checkpoints have the fundamental flaw of being obvious

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<sup>4</sup> GAO Report: Border Control, Revised Strategy is Showing Some Positive Results (GAO/GGD-95-30) p. 12

<sup>5</sup> The third line of defense, as defined by Border Patrol in the 2005 GAO report, behind “line watch” and “line patrol.” Defense-in-depth involves interior traffic checkpoints, both permanent and tactical/roving.

fixed landmarks. Furthermore, drug and human smugglers are highly sophisticated and possess advanced communications, transportation and weaponry resources at their disposal. They also have millions of dollars at stake in their operations. In this environment, permanent checkpoints by definition put all adjacent and surrounding communities at serious risk.

Following is a detailed discussion of the strategic elements we propose, in order to effectively secure the border and keep local communities safe:

- 1. Fund and rebuild Tucson Sector Ports of Entry as dictated by need,** with modern technology and expanded commercial and passenger vehicle lanes to alleviate wait times, stimulate local economic activity and growth, enhance detection capabilities, and better secure the border. Such technology should include all Port of Entry customs technology, such as machines to scan biometric ID cards as well as the most up-to-date “flanking” technology, including but not limited to ground sensors, sky watch towers equipped with day and nighttime cameras, ground surveillance radar units, and aerial surveillance equipment such as the RC-7 Airborne Reconnaissance Low (ARL) with Communications Intelligence (COMINT) and Imagery Intelligence (IMINT) and Moving Target Indicator (MTI) technology.

We understand that the Mariposa Port of Entry is slated to be rebuilt by 2012, but that Congress has not allocated to date nearly enough resources to substantiate this reality. Full funding for the very high-volume Mariposa POE must be allocated immediately. Furthermore, we understand there are currently no plans to rebuild or upgrade the DeConcini Port of Entry or other ports of entry in the Tucson Sector, in Douglas, Naco, Lukeville and Sasabe. We urge Congress to act swiftly to appropriate the total amount necessary to evaluate the needs of each port of entry and make high-tech, more secure ports of entry throughout the sector a reality.

- 2. Secure the Border at the Border:** We believe that the most effective way to address drug smuggling and illegal immigration is to stop it at the border. We further believe that the border can in fact be secured through a series of strategic measures. This strategy includes utilizing all roads along and adjacent to the border to facilitate patrolling. It includes building permanent vehicle barriers along the border, any place where penetration by vehicles is possible and/or likely. Currently, only 30 miles of the Tucson Sector border have vehicle barriers in place, and these are not permanent vehicle barriers. It includes increasing Border Patrol presence on the border, both on the ground and in the air, and rapidly implementing available technology such as cameras, ground sensors, radar and satellite communications at various locations along the border. It includes the use of Unmanned Aerial Vehicles (UAVs) in addition to manned aircraft.

The Tucson Sector includes 261 miles of the international border. It is much more efficient and effective to *fully* enforce this entire 261-mile stretch, rather than leave it porous and have to patrol the nearly 8,000 square miles of interior that exist between the international border and the proposed permanent checkpoint locations 30 miles north. We strongly urge Congress to fund, and Customs and Border Protection to implement, stronger measures to effectively seal the border.

Since “Operation Hold the Line” in El Paso, “Operation Gatekeeper” in San Diego and similar beefed up measures were enacted in California and Texas to address what were, in the early nineties, the highest-traffic sectors, a much larger proportion of both illegal immigrant crossings and smuggling activity has been funneled to the Arizona border and the Tucson Sector. In fact, the 2005 GAO report notes: “It is apparent that in recent years far more apprehensions of illegal aliens have occurred in the Tucson sector than in the 8 other [southwest border] sectors.”<sup>6</sup> According to Assistant Chief Fitzpatrick, the Tucson Sector in recent years also has seen a substantial increase in drug seizures, an indication that it is a major drug smuggling route.<sup>7</sup> Finally, since “Gatekeeper” and “Hold the Line” were enacted in California and Texas, deaths of illegal immigrants trying to cross the Arizona Sonoran Desert have gone up dramatically, as hundreds of would-be crossers expire in the Sonoran Desert each year. It is therefore imperative that adequate resources be allocated to the Arizona border to deter illegal immigration, stop drug smuggling, and prevent death and suffering in the desert. It is noteworthy that the success of both “Operation Gatekeeper” and “Operation Hold the Line” was due directly to the placement of more resources *on the border and immediately adjacent to the border*.

3. **Increase CBP manpower in the Tucson Sector – on the border, at tactical, roving checkpoints, and in mobile vehicle and aerial units.** As previously noted, the Tucson Sector accounts for a significant and growing share of CBP’s overall apprehensions and seizures due to an influx of illegal activity here in recent years. Border Patrol Chief David Aguilar’s stated goal is to increase the number of Border Patrol agents from 13,500 today to 18,300 by the end of 2008,<sup>8</sup> representing an increase of 36% nation-wide. Some reports are that Border Patrol plans to bring on 6,000 new agents by the end of 2008, a 44% increase nation-wide. We believe the evidence shows that the Tucson Sector requires a share of that increased manpower commensurate with demand. We therefore propose that CBP manpower in the Tucson Sector be increased by 25% in the next 8 months and 50% by the end of 2008. It should be noted that the promise of new technology, such as SBI-net, ground

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<sup>6</sup> GAO-05-435, p. 13

<sup>7</sup> Agent Fitzpatrick’s comments to Community Workgroup on Southern Az Checkpoints, 6/18/07

<sup>8</sup> REUTERS, *Border Patrol chief sees border control by 2013*, 5/09/07

sensors, radar, unmanned aerial vehicles and the like, is only as good as the personnel that is able to respond to incursions as soon as they occur. Minutes lost because of long travel time for the nearest agent are in fact the difference between an apprehension and no apprehension.

Furthermore, we recommend that Border Patrol implement heightened applicant screening measures and improved training of new recruits to ensure that, as it rapidly staffs up, the possibility of infiltration by human and drug smuggling rings is prevented.

- 4. Institute *advanced* tactical, roving checkpoints across key roadways throughout the Tucson Sector, utilizing the element of surprise and maintaining the agility to relocate where and when necessary.** These tactical checkpoints should utilize the most modern technology available to address “flanking,” including remote video surveillance, electronic sensors wherever possible, SBI-net capabilities where applicable and increased agent patrols in the vicinity. They should also utilize the most modern technology available to be able to more thoroughly inspect suspect vehicles and run identity/background checks on suspected criminals. To accommodate this need, we recommend that strategic tactical locations on various roadways throughout the Sector undergo infrastructural upgrades to permit a tactical checkpoint to “pop up” and still have the electrical, communications, and space needs necessary to have full operational capability, while maintaining the critical strategic advantage of mobility and the element of surprise. Such infrastructural upgrades for each strategic location should include:
  - a. Concrete side aprons off the highway, with one or more additional traffic lanes, to permit more intensive secondary inspections of vehicles and to allow for mobile Vehicle and Cargo Inspection System (VACIS) gamma-ray inspections of trucks;
  - b. The concrete side aprons should also accommodate mobile vehicle checkpoint facilities – i.e. vehicles with multiple internal capacities, including computers with high-speed secured connections, temperature control, and detention space;
  - c. Full electrical and hard-line communications hookups built into each location;
  - d. Accommodations for Border Patrol canines;
  - e. Areas for humane processing and temporary detention of smugglers and illegal immigrants.
  
- 5. Establish highly mobile rapid deployment “strike forces”** that can quickly set up on any roadway to intercept traffic that evades the border deterrents or the tactical checkpoints. These units should be coordinated with other federal, tribal, state and local law enforcement and should be left in place for short periods of time in order to disrupt smuggler cell phone alerts.

- 6. Ensure that Border Patrol, other federal law enforcement agencies, tribal, state and local law enforcement agencies share communications capacity, intelligence and training, such as through the Cohort Program.** All law enforcement agencies need to be on the same page when confronting sophisticated drug smuggling and human trafficking rings. With interoperable communications, sharing of intelligence, and inter-agency cross-training of frontline tactical units, local, state and tribal law enforcement agencies will be in a much better position to be able to support Border Patrol and other federal law enforcement agencies, leading to more arrests and successful prosecutions of drug smuggling and human trafficking rings. It is imperative, furthermore, that all current *systems* for law enforcement's sharing of communications and intelligence, such as PC-Win and I-Win, be made interoperable.
- 7. Facilitate the successful implementation of SBI-net,** tower-mounted sensors, cameras, radar and satellite communications technology, at and along the entire 261 miles of the Tucson Sector's international border, by:
  - (a) ensuring the "Project 28" pilot program near Sasabe, AZ has the resources it needs to succeed;
  - (b) ensuring that the wider implementation of SBI-net, assuming success of the pilot project, is not impeded by undue bureaucratic hurdles;
  - and (c) ensuring that Border Patrol personnel receive adequate and ongoing training to be able to make the best use of this new technology.
- 8. Better Publicize and Brand the Border Patrol Hotline number, 877-USBP-HELP, and research the feasibility of additionally instituting a 3-digit help line the public can call to report non-emergency, border-related activity.** Not many people are aware of the Border Patrol's hotline number, and dialing 9-1-1 does not get a caller directly to the Border Patrol, resulting in unnecessary delay. Contact every household in the Tucson Sector with information on the Hotline number(s), utilizing marketing strategies to "brand" it/them. Furthermore, ensure that Border Patrol has the resources and directive to be able to:
  - (a) ensure a call back whenever it is requested by a member of the public calling with a tip;
  - and (b) institute "reverse-911" protocols as needed to efficiently and effectively alert neighborhoods of Border Patrol actions taking place nearby.
- 9. Immediately implement a tamper-proof, verifiable ID card system.** Such a system should allow documented individuals and legitimate commercial enterprises to navigate the ports of entry and tactical checkpoints more swiftly, while also facilitating Customs and Border Protection's ability to stop illegal activity at and near these locations.
- 10. Call for the Federal Government to fully reimburse local authorities for resources spent addressing this issue.** Rep. Giffords and the Arizona Congressional delegation should work to achieve **full** funding for the State Criminal Alien Assistance Program (SCAAP), and fight for the

passage of the Border Law Enforcement Enhancement Act (HR 2542), to ensure local law enforcement agencies can recoup the resources spent on immigration and border-related crime, without decreasing the resources allocated to Border Patrol.

**11. With all these measures, encourage the Department of Homeland Security, CBP, and Border Patrol to institute clear and transparent accountability standards.** This extends to both contracts issued by DHS to private companies for border-related services as well as to the Border Patrol itself. We urge Rep. Giffords and the Arizona Congressional delegation to push for consistent and reliable public reporting of Border Patrol effectiveness data. As per the GAO's recommendations from July of 2005, Rep. Giffords should urge CBP and Border Patrol to collect the proper data elements necessary to judge overall effectiveness of each part of their enforcement strategy; ensure that BP data are analyzed by a credible, independent third party professional evaluation entity; and further ensure that such effectiveness data are made public in a regular manner.

It is noteworthy that the Community Workgroup on Southern Arizona Checkpoints was not given the opportunity to hear about and consider alternative options to a permanent checkpoint prior to breaking into the two subcommittees, two months into the community input process. We hope, nonetheless, that our multi-pronged recommendation to secure the border and protect local communities is seriously considered and implemented.

Members of the Options Subcommittee are strongly supportive and respectful of the mission and efforts of Border Patrol in protecting public safety and our national interests. That said, it would be ill-advised, even reckless, to support a proposal to build permanent checkpoints in the Tucson Sector when they have caused such diverse and widespread concern in other border regions across the U.S., pose a serious threat to public safety, and have not been proven to work.

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