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REPORT

ONE FACE AT THE BORDER:

Behind the Slogan

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I. INTRODUCTION

On September 2, 2003, nearly one year after the Department of Homeland Security (DHS) was established through the Homeland Security Act of 2002, then-DHS secretary Tom Ridge announced the "One Face at the Border" (OFAB) initiative. The initiative was designed to eliminate the previous separation of immigration, customs, and agriculture functions at US land, sea, and air ports of entry and institute a unified border inspection process. This unification was an outgrowth of the merger of border-related agencies previously housed in several different cabinet-level departments into DHS's Border and Transportation Security (BTS) agency. DHS views One Face at the Border as a way to follow through on its commitment "to unify this system to process travelers more rapidly and conveniently while simultaneously identifying and addressing potential risks."[1]

Proposals to merge border-related agencies number in the dozens and date back nearly one hundred years.[2] Yet it took the dramatic events of September 11, 2001, to overcome bureaucratic inertia and begin making unified port management a reality.[3] Has this merger been a success? Have the previously separate functions truly merged? What have been the advantages and disadvantages of the attempted integration to date? And most importantly, what obstacles need to be overcome to more fully achieve stated goals?

This report provides the first analysis of the implementation and impact of One Face at the Border. It analyzes the strengths and weaknesses of

1 US Department of Homeland Security Office of the Press Secretary, *Homeland Security Announces New Initiatives*, news release, September 2, 2003, http://www.dhs.gov/dhspublic/display?content=1435.

2 Demetrios G. Papademetriou, T. Alexander Aleinikoff, and Deborah Waller Meyers, "Selected Government Reports on Structural Reform," in *Reorganizing the US Immigration Function: Toward a New Framework for Accountability* (Washington, DC: Carnegie Endowment for International Peace, 1998), Appendix C.

3 The United States was not the only country to make changes to its border-related institutions after 9/11. See sidebar on p. 9 (The Canadian Border Management Model) for information on the Canadian system.

the initiative and makes recommendations for addressing existing challenges and for enhancing the effectiveness of this new unified border management effort.

II. PROJECT DESCRIPTION AND METHODOLOGY

This report is one of three papers in the Migration Policy Institute's project Assessing Selected Border Control Measures After September 11.[4] The genesis for this particular research was twofold: first, an ultimately fruitless search for information and analysis about the merger of the border agencies to date, and second, an interest in visiting border communities in the post-9/11 era to follow up on field research I had conducted along the northern and southern US borders in the late 1990s.[5] While in those communities, I had toured the infrastructure at the ports of entry and interviewed many of the government, private sector, and community-based stakeholders. Having gained an understanding of the complexities of border management and the institutions involved and having seen the massive and continuous volumes of traffic processed at ports of entry,[6] I was curious about how these communities and entities had fared with the creation of the Department of Homeland Security (DHS) and in particular with the placement of all inspection-

4 See also report by Rey Koslowski, *Real Challenges for Virtual Borders: The Implementation of US-VISIT*, Migration Policy Institute, February 17, 2005, and Stephen Yale-Loehr, Demetrios G. Papademetriou, and Betsy Cooper, "Secure Borders, Open Doors: Visa Procedures in a Post-September 11 Era," draft manuscript, February 17, 2005.

5 Demetrios G. Papademetriou and Deborah Waller Meyers, *Caught in the Middle: Border Communities in an Era of Globalization* (Washington, DC: Carnegie Endowment for International Peace, 2001).

6 DHS handled 433 million inspections in FY 2004, 337 million at the land border, 77 million at airports, and 14 million at seaports. DHS Office of Immigration Statistics, "Inspections," *Immigration Monthly Statistical Report*, December 2004, http://uscis.gov/graphics/shared/aboutus/statistics/msrdec04/insp.htm.

related functions within one agency.[7] Having found no such assessment, I began to undertake one myself.

Research began with a review of existing literature in the spring of 2004, at which time little had been written on One Face at the Border, though there were some articles and reports on management challenges for DHS more generally. These assessments left little doubt that DHS would face significant challenges in its efforts to implement major policy changes while undergoing institutional restructuring.[8] During the summer and fall of 2004 I visited three areas with significant international arrivals and various ports of entry: Detroit-Windsor, San Diego/Tijuana, and Miami. During these site visits I toured land and sea ports of entry, undertook multiple border crossings, visited foreign consulates, and conducted more than eighty interviews in the United States, Canada, and Mexico on a not-for-attribution basis.[9]

The interviews included local planning agencies, facility operators (e.g., airport and seaport authorities and bridge and tunnel operators), researchers, private sector interests, representatives from two bureaus within the Border and Transportation Security directorate—Customs and Border Protection (CBP) and Immigration and Customs Enforcement (ICE)—Canadian and Mexican officials, immigration

7 DHS was created by the Homeland Security Act (P.L. 107-296), signed by President Bush in November 2002. Among the twenty-two agencies and 180,000 personnel it incorporated were the US Customs Service, the Animal and Plant Health Inspection Services, and the Immigration and Naturalization Service (INS), which was abolished as of March 1, 2003. The three DHS bureaus that absorbed former INS functions are Customs and Border Protection, Immigration and Customs Enforcement, and Citizenship and Immigration Services.

8 Examples include Government Accountability Office, *Major Management Challenges and Program Risks: DHS*, GAO-03-102, January 2003; David Martin, "Immigration Policy and the Homeland Security Act Reorganization: An Early Agenda for Practical Improvements," *Insight* (Migration Policy Institute), no. 1 (April 2003); Michael Scardaville, "Principles DHS Must Follow for an Effective Transition," *Heritage Foundation Backgrounder*, February 2003; Ivo Daalder et. al., *Assessing the Department of Homeland Security* (Washington, DC: Brookings Institution Press, 2002); and Ivo Daalder et. al., *Protecting the American Homeland: One Year On* (Washington, DC: Brookings Institution Press, 2003). Magazines such as *Government Executive* and the *National Journal* also were tracking impacts of the reorganization.

9 I was unable to secure permission to visit airport inspection areas during this research. The visits to land ports of entry included seeing the US, Canadian, and Mexican facilities.

attorneys, unions, community-based organizations, school board officials, and service providers. These interviews were supplemented by telephone interviews with individuals in other border communities as well as a significant number of interviews in Washington, DC, with representatives of business, labor, and foreign governments, current and former government officials, Congressional staffers, and researchers. I updated the literature review and conducted final interviews in winter 2004.[10] The report was reviewed by the project's advisory board and selected government officials in February 2005, and additional information, including that provided by CBP, was then incorporated along with revisions.

The findings and recommendations in this report are drawn primarily from information gathered in the interviews. In that sense, this report is a snapshot of what was occurring at the time of the field research, approximately twelve to fifteen months after the announcement of One Face at the Border. While the integration of the legacy agencies into DHS remains an evolving process, some generalizations and inferences can be drawn from the findings. Though no formal baseline exists against which to measure changes since implementation of One Face at the Border, I was able to draw on my knowledge and experience from previous field research as well as on the judgments of long-time observers. In addition, the information gathered from the interviews was supplemented and confirmed, when possible, by information from CBP and from publicly available sources, including government reports and Web sites, media accounts, and congressional testimony.

10 Two that actually discussed OFAB were Ruth Ellen Wasem, Jennifer Lake, and Lisa Seghetti, *Border Security: Inspections Practices, Policies, and Issues* (Washington, DC: Congressional Research Service, May 2004); and Representative Jim Turner, *Transforming the Southern Border: Providing Security & Prosperity in the Post 9/11 World* (Washington, DC: Minority Staff of the House Select Committee on Homeland Security, September 2004). See also Donald Kerwin, "The Canada-US Border: Balancing Trade, Security, and Migrant Rights in the Post 9/11 Era," *Georgetown Immigration Law Journal* 19, no. 2 (2004-05).

III. THE MERGER OF INSPECTORS

Under US law, people and goods can be denied admission to the United States for a variety of reasons. Officials at the border must perform inspections at ports of entry to ensure that all persons and the goods they bring with them can lawfully enter the country. In the past, inspections fell into one of three categories: (1) immigration inspections to ensure that the person had valid documentation and was legally entering the United States, (2) customs inspections to ensure the legality of the goods being brought into the United States; and (3) agriculture inspections to ensure the legality and health of plants and farm products being transported across the border. Prior to the creation of the Department of Homeland Security (DHS), which for the first time in history placed all these functions under one roof, three different agencies in three different cabinet-level agencies were in charge of these inspections. Immigration inspections were handled by the Immigration and Naturalization Service (INS) in the Department of Justice, customs inspections were handled by the US Customs Service in the Department of the Treasury, and agriculture inspections were handled by the Animal and Plant Health Inspection Service in the Department of Agriculture.

The Department of Homeland Security Reorganization Plan submitted to Congress in November 2002 as part of the Homeland Security Act that created DHS brought these three border inspection functions together under the auspices of Border and Transportation Security (BTS), one of DHS's five new major directorates. In January 2003 President Bush submitted a modification of the DHS Reorganization Plan to establish an organizational framework for BTS. The plan created two new bureaus within BTS: the Bureau of Customs and Border Protection (CBP), which was created to handle border management, and the Bureau of Immigration and Customs Enforcement (ICE), which was created as the investigative arm of the directorate.

CBP was created in March 2003 and included approximately 42,000 employees (one-quarter of all DHS personnel) from the three legacy

agencies, including inspectors and Border Patrol agents.[11] CBP's creation was undertaken to help DHS "meet the strategic goals of improving border security, while at the same time facilitating the unimpeded and reliable flow of commerce …" It also was intended to "provide the opportunity to reduce duplication of efforts and to ensure improved information sharing."[12] CBP began to direct border management from one chain of command, designating interim port directors and centralizing public affairs offices.

Organizationally, CBP also includes the Border Patrol, whose agents work between (rather than at) ports of entry to detect and prevent terrorist weapons, illegal immigrants, drugs, currency, and other contraband from entering the United States.[13] The Border Patrol had long maintained some independence and a distinct identity within the INS, and they continue to do so within CBP through a separate chain of command and through retention of their flag, their green uniforms, and other historical traditions.[14]

One Face at the Border, announced in September of 2003, was a significant step forward in the attempt to integrate border functions. Under One Face at the Border, legacy agency designations were dropped as employees became CBP officers, expected to "perform the critical, priority mission of preventing terrorists and terrorist weapons from entering the United States, while facilitating the flow of legitimate trade and travel."[15] DHS's goal was for travelers to meet a single, primary inspection officer who would be cross-trained to handle all immigration, customs, and agriculture inspection functions and be able to determine the need for a secondary inspection, which would also eventually be handled by a cross-trained CBP officer.[16] Passenger analysis units from the legacy agencies would be combined, and joint secondary inspection would occur for those deemed at high-risk for terrorism.[17] In other words, OFAB was to unify the inspection process by cross-training officers to perform all three functions: immigration (people), customs (goods), and agriculture (farm products) inspections.

DHS asserted that the ability to use employees interchangeably for all three primary functions would allow the agency to more effectively utilize its personnel, targeting additional resources toward potential risks and thus enhancing efforts to secure the homeland. It also asserted that OFAB would accelerate the processing of legitimate travel.[18]

In addition to creating a single chain of command, CBP began unified, primary inspections at selected airports for US citizens and legal permanent residents, later expanding them to all major US airports. (At land borders, both legacy customs and immigration inspectors already worked the primary inspection lanes.) All inspectors received additional antiterrorism training, and CBP developed a combined, antiterrorism

11 Robert Bonner, *Hearing on Customs Budget Authorizations and Other Customs Issues*, House Committee on Ways and Means Subcommittee on Trade, 108th Cong., 2nd sess., June 17, 2004, http://waysandmeans.house.gov/hearings.asp?formmode=detail&hearing=152.

12 US Department of Homeland Security Press Office, *Border Reorganization Fact Sheet*, news release, January 30, 2003, http://www.nbpc.net/hls/fact%20kit.html.

13 US Customs and Border Protection, *US Border Patrol Overview*, February 21, 2003, http://www.cbp.gov/xp/cgov/enforcement/border_patrol/overview.xml. See also statement of David Aguilar before the House Select Committee on Homeland Security Subcommittee on Infrastructure and Border Security, June 15, 2004, http://hsc.house.gov/files/Testimony%20Aguilar.doc.

14 The Border Patrol's twenty-one sector chiefs report directly to the chief of the Border Patrol at CBP headquarters rather than to the local Field Operations offices. Agents also retain their status as full-fledged law enforcement officers, as their primary duties include investigations of crimes and apprehension and detention of criminals or individuals suspected of criminal activity. (Most CBP officers are not covered by the current statutory definition.)

15 US Customs and Border Protection, *CBP Officer Fact Sheet*, July 12, 2004, http://www.cbp.gov/xp/cgov/toolbox/about/mission/oneface/oneface_officer_factsheet.xml.

16 Less than one percent of all travelers between FY1998 and FY2002 were subject to a secondary inspection, according to Wasem, Lake, and Seghetti, *Border Security* (see n. 10). Secondary inspections were to be handled by "Counter-Terrorism Response" inspectors, integrated passenger rover teams, and analysis units, which would conduct the interviews and coordinate with the National Targeting Center. Little mention has been made of Counter-Terrorism Response inspectors since. See US Customs and Border Protection, "Achieving One Face at the Border Through Training," *CBP Today*, September 2003, http://www.customs.ustreas.gov/xp/CustomsToday/2003/september/one_face.xml.

17 Bonner, *Hearing on Customs Budget Authorizations* (see n. 11).

18 US Department of Homeland Security, Office of the Press Secretary, *Secretary of Homeland Security Tom Ridge at Dulles Airport*, news release, September 3, 2003, http://www.dhs.gov/dhspublic/display?theme=44&content=1441&print=true.

secondary inspection for those deemed at high-risk for terrorism.[19] New uniforms and patches were designed for a unified CBP appearance, replacing those of the three legacy agencies.

New inspectors were hired as CBP officers beginning in September 2003, and as of October 2003 the agency stopped training new immigration and customs officers, instead training and creating a cadre of new CBP officers.[20] Establishment of the new position of CBP officer was a key step in the attempt to unify the inspection function, as CBP officers were to be "the principal front line officer carrying out the priority mission and the traditional customs, immigration, and some agriculture inspection functions which are now the responsibility of CBP."[21] Legacy inspectors were converted to the new CBP officer position by July 2004, with cross-training beginning in spring 2004.[22] Despite the focus on integration of the legacy functions, CBP did create a specialty position in addition to the new CBP officer position—CBP agriculture specialist—concluding that agriculture inspectors were technicians and scientists rather than armed law enforcement officers.[23]

Although One Face at the Border was portrayed initially as a specific initiative, for CBP it has come to represent the broader unification effort, ranging from budgeting to programmatic reviews and including

19 Asa Hutchinson, *DHS's Plan to Consolidate and Co-Locate Regional and Field Offices*, House Committee on Government Reform Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs and Subcommittee on National Security, Emerging Threats, and International Relations, 108th Cong., 2nd Sess., March 24, 2004, http://reform.house.gov/uploadedfiles/hutchinson%20testimony%20final.pdf.

20 The Transition Management Office had concluded that one officer could and should perform the full range of duties in passenger operations and most duties in cargo operations.

21 Federal Register 69, no. 121 (June 24, 2004): 35229-35235.

22 US Customs and Border Protection, *US Customs and Border Protection Presents First Department of Homeland Security Badges*, news release, August 6, 2004, http://www.cbp.gov/xp/cgov/newsroom/press_releases/08062004.xml.

23 US Customs and Border Protection, "Introducing the New CBP Agricultural Specialist," *CBP Today*, May 2004, http://www.customs.gov/xp/CustomsToday/2004/May/agSpec.xml. CBP agriculture specialists are required to have a BA in biological sciences, agriculture, natural resource management, chemistry, or a closely related field, and they do not staff primary lanes. Their expertise lies in determining the admissibility of agriculture commodities while preventing the introduction of harmful pests, diseases, and potential agro/bioterrorism into the United States. Agriculture specialists have responsibility for agriculture inspection of passengers and cargo as well as analysis of agriculture imports.

all efforts to increase efficiencies, eliminate redundancies, and harmonize conflicting policies. Ultimately, CBP is aiming to create an agency-wide law enforcement and national security culture in this new, unified border agency.

The Canadian Border Management Model

The Canadian border management system has been studied in the past as a potential model for the United States due to its consolidated primary inspections. Prior to recent changes, the Canadian Customs and Revenue Agency (CCRA) performed primary inspections, and individuals selected for secondary inspection were referred either to CCRA customs officers or Citizenship and Immigration Canada (CIC) officials for additional questioning. There were no immigration officials on the primary enforcement line.[24] A separate Immigration Intelligence branch focuses on preventing travel document fraud, and Canada also has forty-five "migration integrity officers" stationed overseas to combat irregular migration, including people smuggling and trafficking.[25]

The United States appears to have borrowed some Canadian ideas in developing One Face at the Border, while Canada further consolidated its border management structure in December 2003 in response to US changes. CBP's Transition Management Office hosted a visit by officials from Canada Customs and Revenue (CCRA) on May 28-29, 2003 at which CCRA representatives shared their experiences and "lessons learned" from two major reorganizations/transitions.[26] These lessons included the following:

- Create a shared vision and shared values
- Demonstrate clear accountability
- Identify early results and quick hits; celebrate wins early and often

24 Papademetriou and Meyers, *Caught in the Middle* (see n. 5).

25 Canada Border Services Agency, Fact Sheet: *Immigration Intelligence—Irregular Migration*, news release, January 2004, http://www.cbsa-asfc.gc.ca/newsroom/fact-sheets/2004/0128migration-e.html.

26 International Federation of Customs Brokers Associations, "Customs and Border Protection (CBP) hosts visit from Canadian Customs and Revenue Agency," June 2, 2003, http://www.ifcba.org/ccrauscs.htm.

- Acknowledge the "grieving" process that employees go through during endings/good-byes
- Establish new traditions
- Keep in mind what is important to the individual employee ("what will happen to me?")
- Make adjustments and course corrections—recognize it is an evolutionary process. Admit problems and fix them

On December 12, 2003, the Canadian government created a new Ministry of Public Safety and Emergency Preparedness headed by Deputy Prime Minister Anne McLellan, whose position most closely corresponds to that of the DHS secretary. The ministry includes a Canadian Border Services Agency (CBSA) to consolidate border functions previously spread among three organizations: the customs program of CCRA (since renamed the Canada Revenue Agency); the Intelligence, Interdiction and Enforcement program of CIC; and the Import Inspection at Ports of Entry program of the Canadian Food Inspection Agency.[27] The CBSA brings together all the major players involved in facilitating legitimate cross-border traffic and supporting economic development, while stopping people and goods that pose a potential risk to Canada. CIC also established a new Admissibility branch to be responsible for enforcement activities that remain within CIC.[28]

The CBSA completed its reorganization in October 2004 by transferring the immigration inspection functions at ports of entry from CIC to CBSA, the same way that immigration inspectors in the United States are now located within DHS. CIC retains the functions of preremoval risk assessments and responsibility for policy development for border inspections. The decision was made after CBSA completed comprehensive consultations with interested stakeholders and determined that similar activities should be grouped in the same department.

27 Migration Policy Institute, "The Americas," in *World Migration 2005* (International Organization for Migration), forthcoming.

28 Public Service Alliance of Canada, "Main Restructuring Initiatives by Agencies and Departments," January 26, 2004, http://www.psac.com/issues/govtrestruct/restructuring_initiatives-e.shtml.

IV. FINDINGS

The effects of One Face at the Border may be most noticeable to travelers through the visual unification that has occurred. CBP officers (inspectors and supervisors alike) at air, land, and sea ports of entry have been outfitted with dark blue uniforms, new patches, and new caps, all with the CBP logo. Previously, immigration, customs, and agriculture inspectors wore different colored shirts and different patches reflecting their three distinct cabinet agencies. But is the integration more than simply visual? What is the substance that lies behind the symbolism of one uniform at the border?

This section will provide a deeper understanding of One Face at the Border, including the realities of implementation, what can be achieved through this initiative, and what obstacles need to be overcome to help it reach that potential. Some of these obstacles may prove to be transitional in nature, while others may pose longer-term challenges. As might be expected with any attempted merger of agencies and functions, the implementation of OFAB has resulted in changes for the better and for the worse and, in some cases, in no discernible change at all.

A. Improvements

Port Management

One Face at the Border has created some welcome efficiencies. Respondents inside and outside the government uniformly agreed that there are advantages to having one agency and a single port director responsible at the border. These advantages include a single point of contact for outsiders, a reduction in duplicative efforts, and the ability to allocate more resources to facilitating trade and travel and to antiterrorism efforts, including having ports operate under the same alert level and the same set of guidelines. There is also now a single policy regarding use of force, firearms, kenneling of canines, and personal search. Such gains in efficiency may continue to increase over time as additional training modules are rolled out and as facilities are retooled to accommodate the organizational changes—for instance, a combined

location for secondary inspection (rather than three) or a primary inspection area that increases throughput.

Staffing

Increased congressional appropriations have allowed for the hiring of additional staff. In the past, staffing shortages were prevalent, particularly at land borders and with regard to immigration processing. Prior to the consolidation of the inspection agencies, there were approximately 10,000 customs inspectors, 6,500 immigration inspectors, and 1,500 agriculture inspectors, giving CBP a total of approximately 18,000 inspectors.[29] An additional 2,136 officers had completed the new CBP training as of December 2004. CBP inspectors along the northern and southern borders increased to 2,900 (from 1,600) and 4,900 (from 4,371), respectively, between September 11, 2001, and October 2003.[30] The additional staff has been utilized differently in various locations. In some ports their presence has speeded up the crossings, while in others they have prevented delays that otherwise would have occurred due to new security measures, more thorough inspections, and increased levels of traffic.

Port directors have also gained greater flexibility in staffing with the creation of one labor pool and a single staffing schedule (rather than three).[31] Previously, for example, customs could not open another inspection lane if immigration lacked the staff to do the same. Now, with CBP officers performing multiple functions, and particularly with legacy customs inspectors able to perform primary passenger processing, port directors can more easily open lanes as necessary. Furthermore, this flexibility has allowed port directors to tailor the work schedule to meet the unique needs of their port, reducing overtime costs and increasing

29 Stephen Barr, "Opinion is Split on Homeland Security's Job Consolidation," *Washington Post*, September 5, 2003.

30 Robert Bonner, *Testimony of Robert C. Bonner before the House Select Committee on Homeland Security Subcommittee on Infrastructure and Border Security*, House Select Committee on Homeland Security Subcommittee on Infrastructure and Border Security, October 16, 2003, http://www.cbp.gov/xp/cgov/newsroom/commissioner/speeches_statements/archives/2003/oct162003.xml.

31 One issue that still needs to be addressed is the fact that legacy immigration, customs, and agriculture inspectors who now are CBP officers continue to be represented by their former unions, and new CBP officers are not represented at all.

efficiency. For instance, agriculture inspectors at the Miami airport previously were scheduled to work from 9 a.m. to 5 p.m., even though agricultural produce does not necessarily arrive during those hours. Similarly, cruise ships arrive at the terminal in Miami only in the morning on certain days of the week. With more personnel available for primary inspection, it is far easier to staff appropriately for arrivals.

Equal Pay

After the merger, inspectors from the three legacy agencies were initially still being paid and scheduled for work, including overtime work, according to the policies of their previous agencies, resulting in different pay for the same work. The Customs Officer Pay Reform Act (COPRA) adopted on July 25, 2004, created a single overtime and premium pay system for inspectors at the ports of entry instead of three.[32] This eliminated the administrative inefficiencies and disparities in pay and scheduling that were having a negative impact on morale. Moreover, there was an upgrade in GS (General Schedule) level for many legacy INS inspectors to reach parity with their colleagues from the Customs Service.

Clarity of Mission

The integration of the legacy inspectors under OFAB has been enhanced by the clarity of the CBP mission. Though some new morale problems have arisen for reasons to be discussed later, the primacy of the antiterrorism mission has motivated and united many of the inspectors. CBP states, clearly and often, that its priority is preventing terrorists and terrorist weapons from entering the United States, while also facilitating the flow of legitimate trade and travel. To many in the CBP workforce, that is far more motivating than their previous administrative enforcement responsibilities. Moreover, the cross-training that has occurred to date, while not yet fully implemented, has given legacy employees a window into the world of those who used to be in other agencies and thus more respect for the complexity of the work, the mission, and the necessary knowledge base.[33]

32 Federal Register 69 (see n. 21).

33 See sidebar on p. 23 (CBP Training) for information on cross-training.

Inspection Authority

CBP officers now benefit from the ability to use immigration, customs, and agriculture authorities in their inspections rather than being limited to the rules in their particular mandate. The creation of DHS and merger of the inspection agencies did not change the underlying laws or regulations that govern inspections in each area, between which there are differences. For instance, the Customs Service was not required to inspect every arriving individual and piece of baggage (though officers had the authority to check anyone that they wanted), whereas every arriving traveler needed to be checked by INS to determine citizenship status and admissibility.[34] INS, however, could not search a US citizen, while the Customs Service could. The agencies also had different definitions of residents and of ports of entry.

At the time of the merger, inspectors were told to continue operating according to existing policies and procedures until notified otherwise. Indeed, because the law has not changed, inspectors still are required to do customs, immigration, and agriculture inspections. However, a single CBP inspector now does them all at once on the primary line. Current CBP search authority is derived through 19 USC 1467 and 19 CFR 162.6, which states that "all persons, baggage and merchandise arriving in the Customs territory of the United States from places outside thereof are liable to inspection by a CBP officer." Unless exempt by diplomatic status, all travelers entering the United States, including US citizens, are required to participate in CBP processing.[35]

Technology

Respondents indicated that the consolidation has led to better incident reporting, data management, automation, and travel and payroll systems. Moreover, the infusion of resources into CBP has led to the procurement of security-oriented technology such as radiation portal monitors and

34 According to Section 235 of the Immigration and Nationality Act, codified as 8 USC 1225, "An alien present in the United States who has not been admitted or who arrives in the United States … shall be deemed … an applicant for admission," and "All aliens … who are applicants for admission or otherwise seeking admission or readmission to or transit through the United States shall be inspected by immigration officers."

35 US Customs and Border Protection, "Authority to Search," *CBP Travel Spotlight*, http://www.customs.ustreas.gov/xp/cgov/travel/admissability/authority_to_search.xml.

personal radiation detectors, license plate readers, and video surveillance at and between ports. Combined with other measures such as additional canine enforcement, x-ray machines (VACCIS) that can scan cargo-laden trucks, the US-VISIT entry-exit registration program, and access to the National Targeting Center, there is a feeling that security at ports has indeed been enhanced. Access to the National Targeting Center, created in the aftermath of September 11 by the Customs Service to provide tactical targeting and analytical research in support of its antiterrorism efforts, was mentioned as a particularly useful resource, with its access to staff and data from other agencies and its focus on terrorism targeting. NTC screens incoming persons and goods using risk assessment criteria and watch lists. CBP is also utilizing advance information that is now electronically available for screening cargo, passengers, and imported food prior to arrival in the United States.[36]

Professionalism

Another improvement, at least from the perspective of outside observers, if not from all inspectors,[37] is the effort to increase professionalism among the CBP corps. In September 2004 the CBP Professionalism Initiative was begun with eight-week musters (training sessions) highlighting the importance of first impressions and of the impact of an individual's conduct on the organization. CBP stressed

36 Section 115 of the 2001 Aviation and Transportation Security Act (P.L. 107-071) mandated advance electronic transmission of passenger and crew manifests for international flights. CBP has established an Immigration Advisory Program to expand cooperation with airlines and foreign governments overseas with regard to advance information on potentially inadmissible travelers. CBP also has made significant progress in prescreening cargo through partnerships with the trade industry and with other governments. For additional information on these programs, see US Customs and Border Protection, *Customs-Trade Partnership Against Terrorism*, http://www.cbp.gov/xp/cgov/import/commercial_enforcement/ctpat/ and *CSI in Brief*, http://www.cbp.gov/xp/cgov/border_security/international_activities/csi/csi_in_brief.xml.

37 Jim Leusner and Pedro Ruz Gutierrez, "Security at airports sees slow change: System called 'overwhelmed' after post 9-11 reorganization," *Orlando Sentinel*, December 26, 2004, http://www.orlandosentinel.com/news/nationworld/orl-aseccbpadmit26122604dec26,1,3395357.story. There were 1,700 complaints against officers nationwide from October 2003 to July 2004. Some felt it was an overreaction, given the millions of entrants processed, and expressed concern the requirements would distract inspectors from their main focus of determining admissibility. Others argued that stricter appearance standards have nothing to do with their ability to prevent terrorists from entering and that discretion for technical violations undermines their ability to enforce the law.

treating people with courtesy, dignity, and respect, as well as exercising discretion for those with technical immigration violations who pose no threat.[38] The specific elements of professionalism included appearance, etiquette, demeanor, communication, conduct, environment, and discretion. Included in the communications muster, for instance, was the instruction to greet entrants by saying, "Hello, welcome home," or "Welcome to the United States;" to say "thank you" when the transaction is finished; to use phrases such as "if you could," "would you please," or "may I have" when requesting documentation; to keep one's voice steady; to use eye contact and good posture; and to smile when greeting people.[39] The Professionalism Initiative also includes a revamped complaint/compliment process.

B. Weaknesses

Despite the many important improvements noted above, interviewees also described ways in which they believe OFAB has had a negative impact on the functioning of CBP and on its ability to successfully achieve its stated goals.

Insufficient Expertise

There is widespread concern (for reasons of security and system integrity) about the lack of immigration expertise in the agency, both at headquarters and in the field. For example, some officials stated that at ports of entry there are shifts in which no supervisor with immigration expertise is on duty, resulting in wrongful returns to other countries, mistakes on I-94 entry forms, unnecessary detentions, and otherwise delayed resolution of immigration matters.[40]

38 US Customs and Border Protection, *US Customs and Border Protection Vows a Total Commitment to Professionalism*, news release, August 26, 2004, http://www.cbp.gov/xp/cgov/newsroom/press_releases/archives/2004_press_releases/08302004/08262004.xml.

39 Jerry Seper, "Border agents put on happy face," *The Washington Times*, August 27, 2004; and US Customs and Border Protection memorandum, author copy.

40 Some of the effects of the institutional changes and uncertainties may diminish over time. Canadian officials, for instance, described how they used to know when the newly hired and trained CBP officers were on duty because the lines would start to back up as the inspectors methodically asked every possible question, lacking the experience to know what they did and did not need to ask. American officials and other observers noted similar impacts, with inspectors trying to prove themselves through tougher questioning or more seizures and with more travelers being sent into secondary inspection.

The reasons for these concerns appear to be threefold. First, there is a perception that CBP headquarters has failed to use and does not seem to value the expertise of employees from the legacy agencies and does not really understand the jobs in the field. Whether true or not, this message has trickled down to the field. As an example of this, field officers frequently mentioned that the head position of the Immigration Policy Office in the Office of Field Operations at CBP headquarters had not been filled on a permanent basis in over eighteen months and that the office is short staffed.[41] In another example, the job description for deputy port director of a particular location failed to include the word "immigration" even once, discouraging the long-serving legacy INS employee who had been acting in that position from even applying. Respondents also mentioned that only four out of twenty-one Field Operations Offices nationwide are headed by legacy INS employees, reflecting perceptions of the limited value placed on immigration expertise and the inequity in promotion opportunities.

Concerns about the value placed on legacy missions are not limited to immigration. The number of agriculture inspectors declined by one-third between their transfer to DHS in June 2003 and October 2004. Also, during the last two years the number of agriculture inspections at ports of entry has declined.[42]

Indeed, there is a sense both inside and outside the agency that the face of CBP is basically a "customs" face due to the imposition of the customs management system, team, and culture on the agency, as well as the fact that former customs inspectors far outweigh immigration and agriculture inspectors in numbers. Some even described the integration as a farce, frustrated by changes that, based on their

41 In one recent change, CBP's Office of Policy and Planning added an immigration policy person in March 2005. Though a single hire is unlikely to change perceptions agency-wide, and such perceptions need to be addressed by headquarters, it may be a sign of greater attention to immigration-related issues in the future.

42 Vacancies for agriculture inspectors were not filled after the merger because DHS thought the cross-training of OFAB would provide sufficient inspectors, but this proved not to be the case. Full staffing is now expected by April 2006. See Ira Dreyfuss, "Staff Shortages Hurt Ag Port Inspections," *Associated Press*, August 6, 2004.

experience and understanding at the time of the interviews, seem to be more about appearances than substance.[43]

Ironically, while the introduction of new uniforms and patches may have eliminated the overt differences between the former legacy inspectors, it may have simultaneously reinforced the view (among those who had not yet received additional training, those who had not been informed of training plans and priorities or of other impending changes, and those resistant to change more generally) that change was merely symbolic.[44] Many also acknowledged, however, that imposition of the Customs Service management system and culture (which in some cases may have been an improvement over the other systems) occurred for very understandable reasons, including the impossibly short transition time frame, legacy leadership, and the abolition of the INS.

The second reason for concern about a lack of expertise is the result of specialized knowledge being lost through attrition. Respondents described employees who were disenchanted with the lack of channels for input (which will be discussed later), who had left out of frustration because decisions were being made by those with little subject matter expertise, and who believed there would be little opportunity for promotion in the future. Further, respondents reported that the attrition is not limited to legacy employees taking early retirement, but is also occurring among new hires. The agency's expertise has been further diluted because many of those with immigration backgrounds and many former INS headquarters personnel, including those in the general counsel's office, ended up elsewhere in DHS. They now work for agencies including US Citizenship and Immigration Services, Immigration and Customs Enforcement, or the US-VISIT program, leaving CBP thinly staffed in terms of immigration expertise. These trends may well hold serious consequences for US security and for CBP itself in the long term and the short term.

43 A few respondents felt that the immigration functions had taken over in the sense that former customs inspectors now perform immigration processing.

44 A few even asserted that the unification was a marketing tool designed to create the impression among the American public that the government was taking action to enhance security at the border. In retrospect, some of those interviewed may not have undergone any training other than the antiterrorist training at the time of the interview and likely were unaware of any impending changes, partially explaining the cynicism.

The third reason for concern is that new expertise is not being developed. Many officials interviewed believe that the new integrated training is creating generalists who lack the specialized knowledge or expertise necessary to engage in even one, much less all three, of the legacy missions. Examples included the lack of training in port-of-entry adjudications such as TN (Trade NAFTA) or L-1 (intracompany transferee) visas and the lack of across-the-board Spanish language training for all CBP officers, which previously was standard for INS but not Customs. At least 10 percent of those interviewed independently used the phrase "jack of all trades, master of none" in describing the new training and the impact they believe this lost expertise will have on the agency.

Inconsistency

Comments regarding inconsistency and unpredictability in policies, application, and adjudications at the border were widespread. Though this is perhaps only a transitional problem, it nevertheless presents challenges to the integrity of the immigration system, for US security, and for individual travelers who must deal with the consequences. When asked about One Face at the Border, one respondent replied, "How about one policy at the border?" In some examples of this, one land border crossing is keeping its own list of frequent crossers who are subject to NSEERS (National Security Entry-Exit Registration System) because of their country of origin and telling them that they need not reregister with every entry. It is unclear, however, whether that is in fact true, and if not, who has the authority to make that decision. A failure to register could pose serious consequences for the individual at a later date, particularly when the person lacks proof of having been told not to register.

Differences in locations and facilities also play a role in perceptions of inconsistent policies, as cruise line inspections in Miami are handled in a terminal similar to that of an airport, whereas in San Diego, with a much older and smaller facility, the inspections of arriving passengers are handled on the ship. Moreover, advance passenger manifests are not yet standard for cruise ship arrivals, as they are for airline arrivals. At land crossings for individual travelers, officers also lack the benefit of advance passenger information, and name checks are not even run on most entrants. Similarly, CBP officers at one port of entry scan every rail car on its way in and out, yet at others this

procedure does not occur. Such inconsistencies may lead to potential security vulnerabilities.

An additional and serious security vulnerability is posed by the occasional practice of traffic flushing, the waving through of cars and people at land ports or airports with little or no inspection. Though not a result of OFAB (traffic flushing predates 9/11), neither the added focus on security nor the efficiencies gained through the integration appears to have brought an end to this troubling practice. First- and second-hand reports from various locations noted that flushing continues at present, generally as a response to direct or indirect pressure from supervisors, port directors, headquarters, local businesses, facility operators, or others—pressure that the officers resent.[45]

Beyond inconsistency in policies, there is also inconsistency in application, in part due to lack of knowledge. Examples include a family of four admitted for two years except for the fifteen-year-old daughter who was inadvertently admitted for only one year, an inspector who was unfamiliar with "Optional Practical Training" for foreign student visa holders, and a woman from a Latin American country who had a NSEERS stamp (for nonimmigrant aliens from countries deemed high-risk from a security standpoint) in her passport even though she was not from a designated NSEERS country). One Mexican professor commuting to teach a class in the United States asked at primary inspection whether a special document was needed. The inspector did not know and referred him to secondary inspection. The secondary inspector was unsure as well and told the professor to just go ahead, leaving the professor unsure about what to do for future crossings.

Immigration attorneys across the country reported that more people than ever before are not being issued the right visa for the right time period during primary inspection and that more individuals are being referred

45 One printed reference to this pressure was found in Leusner and Ruz Gutierrez, "Security at airports" (see n. 37). One respondent indicated that port directors were required to send a report to headquarters if the wait at the port was more than an hour, so if it was getting close, officers would just wave cars through for fifteen to thirty minutes, perhaps placing roving canine teams among the vehicles awaiting inspection.

to immigration secondary inspection. There were other reports of inexperienced inspectors failing to refer travelers to secondary inspection. The attorneys speculate that this is occurring because new CBP hires or former customs inspectors working primary lanes lack the expertise to address immigration issues in the primary lane.[46] Another possible reason for the inconsistency in application is that some primary inspectors appear to be making admission decisions based almost solely on whether or not a person is a potential terrorist (generates a watch list hit), regardless of whether the individual actually qualifies for entry according to one of the admission categories in the immigration law.

One area of particular sensitivity relates to the treatment of asylum seekers. Generally, officials were not aware of any significant impact of OFAB on asylum seekers, though one individual indicated that there were delays in "credible fear" interviews. For the most part, CBP primary inspectors seemed to know enough to refer asylum seekers to secondary inspection, where the process proceeded with Immigration and Customs Enforcement (ICE) handling the detention and US Citizenship and Immigration Services (USCIS) handling the asylum interviews.[47] Following completion of the field research, however, there was a report that the Florida Immigrant Advocacy Center had found delays in credible fear hearings, long detention at airports, and asylum seekers being criminally charged for false papers or treated with disdain.[48]

Most recently, a study by the US Commission on International Religious Freedom found "frequent failure on the part of CBP officers to provide required information to aliens during the secondary inspection interview and occasional failures to refer eligible aliens for credible fear interviews when they expressed a fear of returning to their home countries."[49]

46 This has implications for the additional staffing that is needed in immigration secondary, but such expertise is dependent on former immigration inspectors, as no new personnel are being given this training.

47 One notable exception was the initial reaction to Cubans who had begun to arrive at ports of entry along the US-Mexico border. Inspectors now are familiar with the appropriate response to that situation.

48 Alfonso Chardy, "Report: US is 'waging war' on immigrants," *Miami Herald*, December 28, 2004.

49 United States Commission on International Religious Freedom, *Report on Asylum Seekers in Expedited Removal* I and II (February 2005): 3, http://www.uscirf.gov.

The study included visits to six airports and one land port of entry, including access to primary and secondary inspections. It is impossible to speculate whether these findings would have been the same had the research been undertaken prior to the abolishment of INS and to the formation of CBP. Moreover, at the time of that research, CBP had not yet rolled out the training for secondary inspection at airports. However, the findings highlight some of the complexities of inspection and emphasize the importance of officer expertise, procedural consistency, training, and professionalism as One Face at the Border moves forward.[50]

The inspectors themselves are also concerned with the problems of errors and inconsistencies. As dedicated professionals who take pride in their work, they expressed discomfort with being asked to do their jobs without full training, particularly after having been told there is zero tolerance for errors.[51] There were also stories of frustration among job training instructors with some trainees' lack of baseline knowledge necessary for additional training. This situation was in direct conflict with initial CBP statements that legacy officers would not carry out new responsibilities until they had received the appropriate training and that they would receive extensive cross-training on all aspects of the CBP officer position for which they had not been previously responsible. Such training had not been completed at the time of this research, nor did respondents appear to be aware of the training timeline and priorities. CBP has since developed additional training modules and a schedule for delivery that appears more realistic than initial promises.[52]

Input from the Field

CBP appears to run a very centralized administration, more so than when the Customs Service was in the Treasury Department and much more so than the legacy INS operation. While certain aspects of this

50 CBP noted that the INS had provided training and extensive reference materials related to "expedited removal," and CBP is now focusing on ensuring adherence to those procedures as well as developing additional training.

51 Stephen Barr, "Ridge says Homeland Security Employees' Job Performance Must Be Perfect," *Washington Post*, July 28, 2004.

52 Elysa Cross, "The US Customs and Border Protection Officer," *CBP Today*, March 2004, http://www.customs/gov/xp/CustomsToday/2004/March/kmfusion.xml.

CBP Training

Overview

CBP Commissioner Robert Bonner stated his commitment to investing in the CBP workforce and providing employees with necessary skills through a comprehensive training program.[53] CBP has developed an agency-wide training plan that is being rolled out based on operational priorities and workforce needs. CBP plans to deliver the training in a staged manner on a just-in-time basis. Its first training priority was Antiterrorism training for new and old officers, with academy training for new officers the second priority (begun in September 2003). The third priority was cross-training for "immigration primary," which began in 2004. Cross-training in agriculture and customs, the fourth and fifth priorities, will become available in 2005. For each of these functions, training is specialized based on the particular needs of air, land, and sea operations. "Advanced immigration secondary" training will be the last module to be developed. CBP now plans to have all modules developed and available for delivery by December 2005 and expects full cross-training to be completed within two years.[54]

CBP Academy

New CBP hires generally spend ten days of pre-academy orientation at their future port before beginning the CBP integrated basic training program at the Federal Law Enforcement Training Center (FLETC) in Glynco, Georgia.[55] The course is developed jointly by CBP (through its on-site CBP Academy and the Office of Training and Development at headquarters) and FLETC and is taught by instructors from each.

FLETC, formerly part of the Treasury Department, is now a part of DHS, with its director reporting to the BTS undersecretary. FLETC trains law enforcement officers from seventy-five other agencies and teaches the

53 Robert Bonner, "CBP Today Commissioner's Message: CBP – a Learning Organization," *CBP Today*, June 2004, http://www.customs.gov/xp/CustomsToday/2004/June/commsg062004.xml.

54 US Customs and Border Protection, PowerPoint presentation for the Migration Policy Institute, March 3, 2005.

55 US Customs and Border Protection, *"One Face at the Border" – Questions and Answers*, Reprinted at http://afge.org/Documents/CBP_FAQ.doc.

items that are "common and basic," including behavioral sciences, computer and financial investigations, counterterrorism, driver training, enforcement techniques, firearms, legal, physical techniques, and others. The other courses are taught by CBP Academy instructors, many of whom have field experience themselves along with instructional training.

FLETC typically holds a curriculum development conference for new courses and a curriculum review conference every few years. Both of these occurred for the new CBP course. One change resulting from this process is that starting with the February 2005 class, a six-week Spanish add-on is to be offered after every third class for those who know they will be working on the US-Mexico border. It will involve complete immersion, with separate living and eating from others at FLETC and Spanish-only TV and newspapers. In addition, FLETC has a Research and Evaluation unit that sends questionnaires to former students and their supervisors six months after graduation to gain feedback on how well prepared they are and on what should be added, changed, or deleted from the course to make it more meaningful.

The new CBP course is twelve weeks (six days per week), or approximately seventy-two days, of training that includes 584 hours, of which 196 are taught by FLETC instructors and the rest by CBP academy instructors. As of December 2004 there were 2,136 graduates of the CBP integrated training. This compares to approximately sixteen weeks of training for legacy INS personnel (including six weeks of Spanish) and approximately nine weeks for legacy Customs personnel. The Border Patrol training, which takes place at a facility in New Mexico, lasts nineteen weeks.[56] The goal of the integrated basic course is to provide "the training necessary to conduct primary processing and have a familiarity with the secondary processing of passengers, merchandise, and conveyances, in all modes of transport—air, sea, and land."[57]

56 US Customs and Border Protection, "Commissioner Bonner Dedicates New CBP Border Patrol Academy in New Mexico," *CBP Today*, October/November 2004, http://www.customs.ustreas.gov/xp/CustomsToday/2004/oct_nov/bonner_dedicates.xml.

57 Bonner, *Hearing on Customs Budget Authorizations* (see n. 11). Commissioner Bonner testified before the House Select Committee on Homeland Security Subcommittee on Infrastructure and Border Security on October 16, 2003, that the basic customs and immigration inspector courses had been fifty-three days and fifty-seven days, respectively (not including language training), and that the new integrated course was seventy-one days. In December 2004, FLETC indicated the training was seventy-two days.

Initially, all post-academy training for new CBP officers was to be completed in the first year, but that has since been extended to two years. During the first year, in addition to the pre-academy training and the basic integrated course described above, new CBP officers undergo on-the-job training (OJT) for "primary," "customs secondary," and "combined land border" inspection. During the second year, officers are scheduled for "unified immigration processing land," "unified immigration secondary air and sea," "unified customs passenger secondary," "unified customs cargo/trade," and "antiterrorism cargo" training.[58]

Cross-Training

Cross-training for legacy inspectors is being handled at the ports as OJT.[59] The training began in spring 2004. CBP held a field training officer conference in Washington, DC, in late January 2005 and at that time rolled out the overall training schedule.[60] Although CBP was supposed to provide training to all CBP officers on processing all visa categories by the end of 2004, former immigration inspectors had not yet received training in customs law, and former customs inspectors had not yet undergone training for "immigration secondary" as of December 2004. Many former Customs Service officers did, however, receive training in immigration fundamentals in order to increase the number of inspectors available for primary processing.[61] Current projections are that the cross-training should be completed by the end of 2006.

The training that has been completed has consisted of antiterrorism training, training on new equipment and technology such as US-VISIT, and one module on agriculture fundamentals. Much of this has been computer based, though in-port training does include a combination of classroom, computer-based, and on-the-job training. In addition, as set out in

58 US Customs and Border Protection, PowerPoint presentation for the Migration Policy Institute, March 3, 2005.

59 Neither the INS nor Customs Service had standard on-the-job training programs. See Richard Stana, *Challenges Facing the Department of Homeland Security in Balancing Its Border Security and Trade Facilitation Missions*, House Select Committee on Homeland Security Subcommittee on Infrastructure and Border Security, GAO-03-902T, June 16, 2003, http://www.gao.gov/new.items/d03902t.pdf.

60 A January 16, 2005, column in the *Washington Post* mentioned that of thirty-seven training modules planned for One Face at the Border, fewer than half have been delivered.

61 Kathleen Millar, "Fusion of Talent and Cultures Spells Mission Success for CBP," *CBP Today*, March 2004, http://www.cbp.gov/xp/CustomsToday/2004/March.

the priorities listed earlier, former customs inspectors have undergone basic immigration training (described as a day of learning to detect altered, counterfeit, or fraudulent documents; to conduct a primary interview; and to access some of the necessary data systems), and they staff primary inspection lanes.[62] These customs inspectors believe, however, that they lack the training necessary to know the regulations or to be able to determine admissibility for the myriad visa categories in immigration law, a belief seconded by former immigration inspectors and immigration attorneys. CBP will continue to develop additional training modules, as training is an ever-evolving process. A recently developed class, for instance, will focus on behavioral analysis training as part of CBP's broader antiterrorism training. The material will be incorporated into the integrated basic training for new officers and will be added into other cross-training courses.

Agriculture

CBP agriculture specialists have their own forty-three-day training program at the USDA Professional Development Center in Frederick, Maryland. They are taught both by CBP and USDA inspectors. In addition, they are scheduled to receive eight weeks of training in passenger processing and ten weeks in trade processing once in port. CBP agriculture specialists also receive training in antiterrorism, risk targeting, systems access, and fraudulent document detection. Increased training in agriculture inspection has been included in the basic training course for new CBP inspectors.[63]

increased control are seen as a positive, both for management reasons and given the national security mission of the agency, many respondents feel centralization has gone too far. Of particular concern are the micromanagement of personnel choices at the field level, the required pleasantries and appearance standards resulting from the professionalism musters, and the top-down desire to "control the message." For example, field offices must now refer local newspapers to the regional public affairs person and refer local congressional offices to the congressional relations office at headquarters. Previously, field offices were able to share purely local data or information with local newspapers, congressional offices, and stakeholders as appropriate, though such access admittedly also resulted in huge management challenges and political pressure. Discretion has been returned to the field, however, with regard to the use of discretionary humanitarian parole.[64]

In an organization big on command and control, it is not surprising that there is little back and forth on decision making, certainly not between the field and headquarters. This disconnect was discussed widely. There have been some specific processes in which headquarters incorporated field input, such as in developing training modules, but there is a general sense that ideas are not going up and down the chain of command within CBP and, in fact, are not even being asked for. This leaves those in the field with the task of implementing programs or policies they know do not make sense.[65] Indeed, there is a sense of frustration that experienced personnel are being marginalized and that headquarters is not even aware of what it does not know.[66] Many feel that the lack of internal feedback mechanisms and the failure to solicit expertise is serving the agency poorly, both in terms of policy decisions and employee morale as they relate to building a unified, highly professional agency.

62 For additional information on counterterrorism airport primary training for supervisors and inspectors, see US Customs and Border Protection, *Achieving One Face at the Border* (see n. 16).

63 US Customs and Border Protection, "CBP Agricultural Specialist Graduation: Not an End but a Beginning," *CBP Today*, July/August 2004, http://www.customs.ustreas.gov/xp/CustomsToday/2004/Aug/agspecialist_graduation.xml.

64 In May 2003 CBP reinstated authority for port of entry managers that had been removed following September 11 with regard to parole, waivers, and deferred inspection. Authority for such decisions has since been delegated to port directors, assistant port directors, and GS-13 chiefs. In addition, an Admissibility Review Office was created in January 2005 to consolidate the decision-making process on waivers of inadmissibility, waiver requests from posts overseas, boarding letters, and other related matters.

65 A top-down approach was noted by the department's inspector general in connection with watch list integration, where "the concept of operations was pushed out rather than built on input from working group participants." US Department of Homeland Security Inspector General, *DHS Challenges in Consolidating Terrorist Watch List Information*, OIG-04-31, August 2004, 21-22.

66 Some of these perceptions date back to the transition, when multiple respondents reported that decisions were made not by long-term immigration, customs, or agriculture personnel but by detailees from other agencies who lacked the substantive and institutional expertise that would have proven helpful. The value of drawing on existing staff expertise was emphasized by the Government Accountability Office, *Homeland Security: Management Challenges Remain in Transforming Immigration Programs*, GAO-05-81, October 2004.

Atmosphere of Fear and Uncertainty

Some new CBP-specific personnel policies as well as DHS-wide changes are contributing to fear and uncertainty within the agency. While each of the legacy agencies had operated under certain standards of conduct, CBP issued its own on June 21, 2004. Employees perceive the new standards as stricter than previous ones, with offenses seeming more subjective and punishments more severe. Rules against unauthorized disclosure of sensitive or classified information are understandable, but the language is so broad that it could include almost anything. This has had a chilling affect on CBP employees, even those who allegedly have free speech protections as union leaders, and has drastically reduced inspectors' willingness to talk with anyone outside the agency, even with official authorization and certainly not without it.[67] The rule on disclosure reads as follows:

> *Employees will not disclose official information without proper authority. Examples of official information include information that is protected from disclosure by statute, Executive Order or regulation; proprietary business information; and sensitive information retrieved from CBP automated systems. Even information not within these categories may constitute official information for purposes of this section. Official information includes any information that an employee acquires by reason of CBP employment, that he or she knows, or reasonably should know, has not been made available to the general public.*[68]

Many in CBP resent the attempts to restrict privacy and free speech, especially when such speech or dissent might enhance security. Moreover, the anxiety employees feel about the loss of protections or other benefits in the name of national security has been exacerbated by the lack of resolution of other important issues that affect inspectors' status and careers. As discussed earlier, former INS inspectors fear they will have no promotion opportunities because they lack, and are not

67 Some concern was expressed publicly in William Finn Bennett, "Border Patrol agents fear coming retribution," *The North County (CA) Times*, September 3, 2004.

68 US Customs and Border Protection, "Disclosure and Safeguarding of Official Information," in *CBP Standards of Conduct*, section 6.5 (June 2004), author copy.

being given, proper customs experience. Former customs inspectors are overwhelmed by the complexity of the immigration law, annoyed that they are saddled with immigration responsibilities, and frustrated that although they did not do anything "wrong"—unlike INS, whose mistakes, in their view, were responsible for the agency's abolishment—their agency was still split apart. They also fear that dealing with immigration issues will only bring them problems, the way it did for the INS.

Moreover, although the legacy inspectors now have one job title and are being paid more equitably, they continue to be represented by three different unions and operate under preexisting contracts.[69] New CBP officers are not represented at all at present, a situation unlikely to change until the issue is resolved. DHS petitioned the Federal Labor Relations Authority (FLRA) in May 2004 to determine the most effective method of representation for the unions.[70] A decision has not yet been made. The FLRA could decide that one union should represent all employees, that joint representation of several unions is most appropriate, or that continuing the current structure would be most appropriate.

The fears and uncertainties of CBP employees described above have been compounded by two particular DHS-wide policy changes, particularly during the timeframe of the interviews. The first was the initial requirement that employees sign a secrecy pledge, which acted as a gag order on inspectors unwilling to risk their jobs. The three-page nondisclosure agreement prohibited the sharing of "sensitive but unclassified information" and was part of the May 2004 Management Directive 11042 "Safeguarding Sensitive But Unclassified (For Official Use Only) Information." To ensure compliance, the agreement would have allowed the government to "conduct inspections, at any time or place," and violators risked "administrative, disciplinary, criminal, and civil penalties."[71] DHS received a great deal of negative

69 See sidebar on p. 32 (Unions) for more information.

70 Stephen Barr, "Homeland Security Moves to Consolidate Unions in Customs and Border Protection Bureau," *Washington Post*, May 18, 2004, http://www.washingtonpost.com/wp-dyn/articles/A34855-2004May17.html.

71 Spencer S. Hsu, "Homeland Security Employees Required to Sign Secrecy Pledge," *Washington Post*, November 16, 2004. See also NTEU/AFGE letters to DHS General Counsel Joe Whitley and DHS Secretary Tom Ridge, November 23, 2004.

publicity about this policy beginning in November 2004, including from the House Homeland Security Committee (whose staff refused to sign the agreement), from the Federation of American Scientists, and from a suit threatened by the National Treasury Employees Union and the American Federation of Government Employees. DHS rescinded the policy effective January 6, 2005, planning instead to "develop and implement an education and awareness program" for its employees. Previously signed nondisclosure agreements were invalidated, but the damage may already have been done in terms of the impact on employees.[72]

The second policy change that has compounded anxieties is the revamping of the DHS human resource system, proposed in February 2004 and issued in final form on February 1, 2005.[73] The regulations replace the "general schedule" of pay with a pay-for-performance system (creating new pay, evaluation, and promotions systems), modifying the appeals process for disciplinary action, and reducing the topics about which unions may bargain.[74] Union leaders were engaged in the process, but remain concerned that the regulations will "result in serious diminishment or elimination of federal employee substantive and procedural statutory and administrative due process rights, leaving

72 Chris Strohm, "Homeland Security reverses secrecy policy, but protests persist." *GovExec.com*, January 12, 2005, http://www.govexec.com/dailyfed/0105/011205c1.htm. See also Janet Hale, DHS Undersecretary for Management, *Management Directive on Safeguarding Sensitive but Unclassified Information*, January 11, 2005, http://www.fas.org/sgp/othergo/dhs20050111.pdf.

73 Federal Register 70, no. 20 (February 1, 2005): 5271-5347. The authority to make major changes to civil service rules on these issues came from the Homeland Security Act itself (see n. 7).

74 Ibid. See also Shawn Zeller, "Unions seek to force DHS to keep negotiating on personnel rules," *GovExec.com*, August 25, 2004, http://www.govexec.com/dailyfed/0804/082504sz1.htm, and American Federation of Government Employees, "AFGE Guide to DHS's Proposed Human Resources System," July 19, 2004, http://www.afge.org/Index.cfm?page=HomelandSecurity&Fuse=Document&DocumentID=483.

75 Peter E. Maguire, "Impact of the US Department of Homeland Security's Federal Personnel System Reform on the Merit Principle and the Federal Service Labor-Management Relations Act," National Border Patrol Council (originally prepared for the National Labor College Advanced Programs), June 2004. See also Stephen Barr, "Homeland Security's Personnel Rules Overhaul Will Proceed Without Ridge," *Washington Post*, December 2, 2004.

employees vulnerable to arbitrary or abusive personnel management practices."[75] Inspectors and supervisors know that despite the message of zero tolerance for errors from headquarters, perfection is impossible when dealing with hundreds of millions of admissions and only seconds to make decisions.

Morale problems among employees are to be expected with any merger of this size, given a natural resistance to change and employees' concern about the impact on them personally. Even among those who believed One Face at the Border to be well-intentioned and who acknowledged the many improvements articulated earlier, skepticism remained as to whether the institutional upheaval would be worthwhile in the long term in terms of contributing to greater security or facilitation. But the fear and uncertainty described above that result both from CBP-specific measures as well as DHS-wide changes seem to extend beyond the norm and indicate a need for proactive efforts to address this issue.[76]

Public Outreach

Another unfortunate change has been a decline in proactive outreach efforts. Despite the frequent use of the One Face at the Border slogan by CBP and DHS, a surprising number of community-based stakeholders are completely unfamiliar with it (though they all knew about US-VISIT) or with the vision it represents, though most at least know that the INS no longer exists. Formal liaison meetings that used to take place between the INS and immigration attorneys, community-based groups, and other stakeholders either have been eliminated or greatly

76 For additional information on the morale and views of CBP officers, see the August 2004 survey of 250 CBP inspectors and 250 Border Patrol agents by Peter Hart Research Associates. Two-thirds said they were only somewhat or not really satisfied with the tools, training, and support they need to be effective, and others felt disenfranchised and disheartened. One-quarter did not feel satisfied with the access they had to the most up-to-date databases of terrorists, with another 31 percent only somewhat satisfied. Fifty-two percent said efforts to consolidate unions and make changes in personnel regulations will make it more difficult to accomplish their mission. Overall, 53 percent said OFAB has had a negative impact, with 26 percent believing it had no real impact and 17 percent saying it has been a positive development. Hart, "Attitudes Among Front Line Border Personnel," August 2004, http://www.afge.org/documents/execsummaryv3with%20graphs.doc.

Unions

A union is an association of workers that promotes and protects the welfare, interests, and rights of its members. On the broadest level, a union can be a *bargaining unit*, or group of unionized employees defined by the government to be represented under a *union contract*. A union contract is the governing agreement between labor and management. At a narrower level, *locals* are organizations with their own governing structure, largely determined by geographic region. A large bargaining unit can have its own local (for example, Local 1199), or several bargaining units in the same geographic region can be in the same local.

On the national level are *national/international unions*. These are collections of locals on the national level, usually identified with some common cause (e.g., the United Auto Workers or the National Treasury Employees Union), though not restricted only to members of that particular job description. At the top level are *conglomerates* and *federations* of national unions. The AFL-CIO in the United States is the largest and most well-known conglomerate of national unions, though some operate independently of it.

Partnerships
A requirement for labor management partnerships was instituted by President Clinton through Executive Order 12871 in 1993 and was reaffirmed in a presidential memorandum in late 1999. The Office of Personnel Management (OPM) stated in a December 2000 report that federal labor-management relations had improved substantially since the executive order and that "we believe there has been a sizable shift toward labor-management cooperation and away from the mutually destructive, adversarial relationships common in the past."[77] The executive order and the accompanying presidential memorandum were rescinded by President Bush in 2001, one month after his inauguration and two months after issuance of the OPM report.[78]

77 US Office of Personnel Management, *Labor-Management Partnership: A Report to the President*, December 2000, http://www.opm.gov/lmr/report/index.htm.

78 Kellie Lunney, "Bush dissolves labor-management partnership council," *GovExec.com*, February 19, 2001, http://www.govexec.com/dailyfed/0201/021901m1.htm.

Federal Employees
At present, eight separate bargaining units represent CBP employees, three of which are affiliated with the AFL-CIO. They include the American Federation of Government Employees (AFGE), the AFGE National Immigration and Naturalization Service Council (renamed the National Homeland Security Council), the AFGE National Border Patrol Council, the National Treasury Employees Union, the National Association of Agriculture Employees, and the National Association of Plant Protection and Quarantine Office Support.

The National Labor Relations Board (NLRB), the governing body for labor relations issues, has jurisdiction over all union-related activities in the private sector and also is in charge of enforcing the National Labor Relations Act (NLRA), the governing legislation for labor relations issues in the United States. However, the governing statute for Federal labor relations is the Federal Service Labor-Management Relations Act (part of the Civil Service Reform Act of 1978), and the relevant body is the Federal Labor Relations Authority (FLRA). The FLRA, a panel that adjudicates representation and unfair labor practices, is charged with safeguarding the public interest, facilitating effective public sector business practices, and promoting the settlement of labor-management disputes concerning conditions of employment.[79] All employees affected by One Face at the Border fall under the federal statute.

Almost all federal contracts contain a no-strike clause (strikes are a method of pressure frequently used in the private sector), and federal labor organizations are not allowed to bargain over wages, benefits, and hours of work. (Those are set by statute or regulation such as the General Schedule (GS) pay system.) The organizations also face strict rules over negotiability, meaning that frequently public sector unions negotiate over the "impact and implementation" of management decisions, whereas in the private sector they may be able to bargain over the decision itself. In addition, public labor organizations are not allowed to negotiate a "union security clause," which would require all members of the bargaining unit to join the union and pay union dues.

79 For additional information about the FLRA see http://www.flra.gov.

Collective Bargaining
Once a union gains recognition through an election or card-carrying campaign, it becomes the exclusive representative of the workers. This means that all workers, whether or not they voted for the union, get to participate in the union and have all the same rights. However, the union must then negotiate a contract on behalf of the workers in the bargaining unit. Contracts can be short or long-term, and cover a range of issues, from pay increases to seniority and health care. They also cover work hours, overtime, and a number of other issues. Every contract is different, with provisions based on the needs of the workforce and the negotiations between management and union. If parties in the negotiation reach an *impasse* (are unable to come to agreement over an issue or over the contract in general) and have been *bargaining in good faith* (making a conscientious effort to bargain), management's last offer is implemented.

Consolidating CBP Unions
A *clarification of unit petition* occurs when management files a request to recognize some form of changed circumstances in union activity. This could include adding new categories to the bargaining unit or changing titles within the unit due to management restructuring. With the merger of the border agencies through OFAB, the Department of Homeland Security filed a petition with the Federal Labor Relations Authority (FLRA) to determine the most effective method of representation for the unions.[80] Most professional and nonprofessional employees of CBP would be covered by the bargaining unit, with Border Patrol employees a notable exception. It is likely that if the FLRA determined that one union was best, a *forced representation election* would be necessary to identify which union would continue representing the workers.

reduced.[81] Meetings of an airport/seaport committee that initially continued under CBP later were cancelled with the explanation that the group was not formally chartered.

80 Stephen Barr, "Homeland Security Moves to Consolidate Unions," (see n. 70).

81 There is unevenness within DHS in terms of outreach. USCIS continued these meetings, while ICE eliminated them. CBP put them on hold for a long time, though in some cities occasional meetings have resumed. The Office of Field Operations in headquarters also engages in occasional meetings with stakeholders. Some Field Operations offices are considerably more responsive than others. In contrast, the US-VISIT office has engaged in a significant outreach effort, hiring a public relations firm, traveling to various cities around the country, sending a message of openness to stakeholder groups, and proactively requesting outside input and feedback.

The Data Management Improvement Act (DMIA) Task Force, authorized through the end of 2004, was abruptly disbanded as of January 2004 with no alternative forum for stakeholder input. It was created by legislation in 2000 to "evaluate how the flow of traffic at US airports, seaports, and land border ports of entry can be improved while enhancing security, improving coordination among agencies and governments, and implementing systems for data collection and sharing" and could have been extended further.[82] The task force, comprised of seventeen representatives from six federal agencies, two state and local government groups, and nine private industry trade and travel organizations, issued detailed and constructive reports in December 2002 and December 2003. Regular contact with border agencies in other countries, even those just across the other side of a bridge, has diminished as well, with officials lacking the names and contact information for their counterparts.

The integration of the legacy agencies increased the number and variety of stakeholders and observers with which CBP has to interact, a particularly difficult challenge given the limited policy staff and the myriad other CBP priorities. Nevertheless, reduced outreach seems particularly detrimental given the negative impact of post-9/11 changes on local border communities more generally.[83] For instance, even before the creation of DHS, a stricter interpretation of the immigration statute following September 11 meant that a busload of Mexican schoolchildren no longer could enter the United States on a blanket waiver to tour museums in San Diego's Balboa Park, but instead needed individual passports or border crossing cards. The city of Miami has lost business and tourism following Iberia Airlines' closure of its only US hub in the aftermath of policy changes that prevented it from being able to meet the ninety-minute transfer times for its passengers.

82 Data Management Improvement Act Task Force, "First Annual Report," (December 2002): i-v.

83 For detailed information on the impact of border-related changes on border communities and their local economies, see Randel K. Johnson, US Chamber of Commerce, *Protecting the Homeland: Building a Layered and Coordinated Approach to Border Security*, House Select Committee on Homeland Security Subcommittee on Infrastructure and Border Security, June 15, 2004, http://hsc.house.gov/files/Testimony%20Johnson.pdf.

In the Detroit area, discretionary cross-border travel has declined by approximately 20 percent,[84] at least in part from the sense of apprehension and intimidation that people now face when crossing the land border. Even those who cross daily, working in one country and living in the other, and are members of special preclearance commuter crossing programs that give them quicker access in return for advance background checks, say they have eliminated weekend and other unnecessary crossings. This has significant implications for border communities that traditionally have family and friends on both sides who cross for restaurants, entertainment, employment, and tourism. Moreover, it has implications for certain industries and even public health, as approximately one-third of nurses in the Detroit area commute daily from Windsor, Ontario.

Accessibility and Evaluation

As mentioned earlier, access to people and information has become more difficult both from within and outside of the agency. Getting access to CBP facilities and staff for the purpose of this report was no exception. Some of the most extreme examples included formal letters of request that never received responses despite follow-up, a public affairs phone number that was never answered by a live person, and an e-mail (denying a request) from a public affairs officer that included no phone number or other means of contact.[85] This, unfortunately, is not unique. Other researchers, other governments, and even congressional staffers have expressed similar frustrations. Even facility operators such as airports, who are required to provide the space for the inspection agencies, have a difficult time finding out such necessary information as how many inspections staff the agency has at a certain port, how

84 Paul Egan, "Border traffic drop hits business," *Detroit News*, October 20, 2003, http://www.detnews.com/2003/business/0310/20/a01-302075.htm.

85 Despite following stated procedures, giving advance notice, and having contacts and meetings both at CBP headquarters and in local Field Operations offices, I was unable to gain approval to visit any CBP airport facilities during my research. In one city I was allowed to visit only one of multiple ports of entry requested. Without contacts inside and outside the government and nearly obsessive persistence, it seems unlikely I would have received the meetings or responses I did. Some requests to meet with key officials in the field and at headquarters were denied or simply ignored, though some meetings were granted with lower-level supervisors. This was completely different than the response of the Canadian and Mexican governments to similar requests during this research and my experience with the US government in similar field research five years ago.

many they would need to be fully staffed, and the types of new programs or technology that might be forthcoming. It is important to note, however, that some offices in the field and at headquarters were quite responsive and even helpful, both during the initial research and after the sharing of a draft version of this report.

The reduced transparency does not apply only to those on the outside. To date there have been no internal evaluations of One Face at the Border.[86] During his tenure as DHS secretary, Tom Ridge stated that "unifying the face at all our borders is one of the highest priorities of this new department."[87] Yet there is little evidence about the positive or negative impact of the merger. How does the merger stop terrorists from entering the country? Does OFAB allow CBP to better target its resources against the terrorist threat? Has the merger decreased security by placing less knowledgeable inspectors at the border, or increased it by making more inspectors available for primary inspection? Without internal metrics, it is difficult to evaluate program effectiveness in terms of meeting stated goals or finding unintended impacts. It also is difficult to ensure that resources are being well spent or to develop necessary policy adjustments. Moreover, the lack of evaluation lends fuel to the fire of perceptions, legitimate or not, that CBP hands down policies without explanation or review and without input from field experts.

While some respondents believe the reduced transparency has resulted from benign neglect, others believe it to be intentional, asserting that CBP is misusing security justifications to prevent any outside analysis or unauthorized disclosure, even of information that is not sensitive or used to be freely shared. The fear induced by the new standards of conduct and the secrecy pledge discussed earlier certainly reduced the information shared by employees. An overabundance of caution about

86 Insufficient policy staff, inadequate planning opportunities, and financial resources are among the likely factors for the lack of evaluation to date. At the time of this report, no reviews of OFAB or CBP's border management efforts more generally had been undertaken by DHS's Office of the Inspector General or by the Government Accountability Office (GAO). CBP has engaged in specific programmatic reviews such as on the use of discretion at ports of entry. CBP also undertook a few employee surveys early during the transition.

87 Office of the Press Secretary, "Secretary Ridge at Dulles Airport," (see n. 18).

public information was understandable in the immediate aftermath of 9/11 and even with the initial creation of DHS, given CBP's responsibilities of protecting US borders. Yet in the long run it is equally important to ensure that controls on information do not preclude either the transparency and accountability that are part of good governance and the American system or the outside partnerships that are necessary to achieving greater security and greater facilitation of legitimate travel, trade, and commerce. It appears that the correct balance has yet to be struck.

Overpromising and Overselling

One final weakness has been the unfortunate tendency to create unrealistic expectations and make unsubstantiated assertions. Whether promising a unified inspection and interchangeable officers when existing infrastructure and complex laws that require specialized knowledge preclude it, or making false promises that inspectors will be asked to take on the new missions only after full training when staffing shortages require more immediate deployment, such statements are misleading and set the organization up for failure. They create unachievable goals and false expectations and harm workforce morale.

Furthermore, although there are valid institutional reasons for integrating the various border inspection agencies, and many management-related gains clearly have been realized, it is important to disaggregate these and other justifications of the merger from the security-related ones. CBP has described OFAB as "a powerful weapon in the war on terrorism."[88] Commissioner Bonner stated in congressional testimony just one month after the integration (and the then DHS undersecretary Asa Hutchinson repeated the assertion in March 2004) that "America's borders are safer and more secure than we were when border responsibilities were fragmented among different agencies in three different departments of government…"[89] And yet so far it is unclear what the

88 US Customs and Border Protection, *Department of Homeland Security Launches "One Face at the Border,"* Reprinted at http://afge.org/Documents/CBP_OneFaceAtThe Border_An_Overview.doc.

89 Bonner, *Hearing on Customs Budget Authorizations* (see n. 11) and Hutchinson, *DHS's Plan to Consolidate* (see n. 19).

security-related benefits of One Face at the Border have been, as no evidence has been publicly presented to support that claim.[90]

Indeed, the lack of performance metrics, combined with limited external oversight and restrictions on information sharing and employee disclosure, have combined to prevent any analysis of the value of the merger with regard either to facilitation of legitimate travel or to increased security. Unfortunately, this lack of knowledge has not prevented CBP from touting OFAB as having contributed to enhanced US security. This tendency to assert, and perhaps exaggerate, the security impacts of a program that may well stand on its own, nonsecurity merits is quite troubling both from a public policy and homeland security prospective.

Moreover, the inclination to consistently present a positive public face in congressional testimony and other public affairs statements, reality notwithstanding, has been a missed opportunity to engage in true partnerships with the Congress and with stakeholders and to make adjustments that might strengthen programs or operations. While it is understandable that officials want the agency to appear well-managed and competent, such an approach may not best serve the public interest, agency employees, or policy goals. It is far better to admit early on, when it is easier and cheaper to address, that more time is needed to achieve a particular goal or that a program has not been as effective as expected.

C. External Obstacles

Despite the advantages and disadvantages of the merger described above, many respondents commented that it is difficult to tell that operational or institutional changes have actually occurred at the border.[91] When people enter the United States, for instance, they are still stopped by a government official and asked to state their citizenship and/or show a document. Lines are not drastically longer or shorter than

90 This statement is not meant to imply that CBP has not enhanced its security-related efforts. Its National Targeting Center, discussed earlier, is a centralized point of access for CBP's antiterrorist efforts and is well regarded.

91 Jim Leusner and Pedro Ruz Gutierrez, "Security at airports" (see n. 37). To better understand the scenario at airports, see Thomas J. Shea, "CBP Inspections at JFK," *Immigration Daily*, August 10, 2004, http://www.ilw.com.

they were previously, with insufficient staffing still reported in certain locations, and predictable crossing times (important both to commercial and passenger traffic) remain an elusive goal. Most travelers at the land borders never knew which agency was conducting the primary inspection, and there were no indications of drastic increases or decreases in the number of complaints regarding treatment at the border.[92]

At the land border in particular, both immigration and customs inspectors worked the primary lanes previously, just as they do now as CBP officers. Local officials do seem to value the specialized knowledge of long-time inspectors and take this into account when doing the scheduling, particularly given that full cross-training has not yet been completed. This is why immigration, customs, and agriculture-related issues are handled, with limited exceptions, by inspectors from the legacy agencies. Commercial facilities such as Otay Mesa, for instance, continue to be staffed by former customs officers, along with some newly minted CBP officers, but no former immigration officers are stationed there, as they lack the necessary expertise to engage in that work.

In many ways, the "business as usual" approach is impressive. CBP has been able to continue its significant day-to-day responsibilities without operational impact while simultaneously undergoing institutional change. Yet the lack of visible change on the ground should be a signal to CBP that the presumed benefits of the merger related to increased security and facilitation, or even reduced duplication, have not yet been fully realized and will take years to complete. Clearly, integration remains a work in progress.

Several factors have contributed to the apparent lack of change at the borders and could impede the success of OFAB and of CBP. They include physical infrastructure, complex laws, inadequate security-related information, and interdependence with actors outside CBP.

92 Customs had a customer satisfaction unit, comment card program, and passenger service representative that were transferred into CBP, but no data was provided regarding these programs. US Customs and Border Protection, *How CBP Handles Traveler Complaints*, http://www.cbp.gov/xp/cgov/travel/customerservice/handle_complaints.xml. Interestingly, throughout the interview process, individuals of Arab or Hispanic descent consistently expressed perceptions of much tougher inspections at the border in the last year or two than did others.

Physical Infrastructure

The physical infrastructure at the border remains similar to that of the past with regard to bridges, tunnels, and access to border crossings from highways or other roads. Even with the tremendous growth in North American trade, the increased ease of international travel, and the attacks of September 11, there have been no significant and continuous investments in infrastructure at or approaching ports of entry, and the footprints of many of the crossing points, particularly those near urban areas, leave little room for expansion. For instance, both the bridge and tunnel that connect Detroit and Windsor are approximately seventy-five years old, and an additional crossing in the area, despite numerous discussions and proposals over the years, does not appear likely in the near future. The infrastructure leading to and from border crossings, that is to say, access to the crossing points, is also a factor. When inspection lanes in the United States can be accessed only from a two-lane rural highway in British Columbia or from local roads that go right through congested downtown areas such as Tijuana, policy changes themselves are unlikely to have a significant impact on operations.

The inspection facilities also face physical limitations, as they were built according to specifications of the legacy agencies, and physical layouts cannot be easily or cheaply accommodated to policy shifts.[93] For example, although there is now supposed to be a single inspection at airports, international arrival terminals at airports were set up to accommodate multiple inspection areas. In many cases travelers still have "to run the gauntlet" through these areas even if the primary immigration, customs, and agriculture inspections are handled by a single CBP officer in the former immigration processing area. The placement of baggage retrieval areas requires travelers to be checked again to ensure that they were not supposed to go to secondary inspection and are free to depart the airport.

93 Immigration inspectors needed many more booths than customs or agriculture to meet their inspection requirements, and the logistics of baggage claim meant that inspection areas often were located on different levels in airports.

The inflexibility of the physical infrastructure poses a real barrier to the integration of inspections at airports and seaports. Building new facilities, or even reconfiguring existing ones, takes a significant investment of time and money. Such challenges are exacerbated by the significant differences in requirements for air, land, and sea ports of entry and by other factors. These factors include the tendency of airlines to schedule international arrivals around the same time and an inability to predict traffic flows at land borders, multiplying the planning and resources needed to address these differences.[94] Clearly, the desire to merge three inspections into one and add new post-9/11 requirements is not so easily implemented and may be precluded by facts on the ground.

The new requirements, though, can and are being built into new facility designs that are being undertaken by county governments and by CBP. These include a new terminal at the Port of Miami, a new terminal at the Miami airport, and a plan for a redesigned inspection area in San Ysidro, California, that will provide fifty-two booths instead of twenty-four. In fact, CBP has developed a model (Facility for the Future) for unified primary processing that aims to facilitate travel and commerce and improve security, incorporating technological advances such as registered traveler programs and radio frequency identification (RFID) technology. CBP also recently issued consolidated technical airport design standards for public comment, and they have designed a concept for unified secondary processing. In the interim, the directors of field operations are developing recommendations that incorporate the concept into existing facilities to the extent possible.

Complex Laws

Even if inspection facilities could magically adjust to "one-stop shopping," it is not clear that inspectors can, if only because of the laws. While most inspectors seem willing to learn additional laws, they also find it a bit intimidating, and understandably so. There are so many potential travel documents, and forgeries have become so sophisticated,

94 In FY2002, 15 percent of travelers entered at airports, 1 percent at seaports, and more than 80 percent at land ports. Wasem, Lake, and Seghetti, *Border Security* (see n. 10), 31-34.

that identification can be challenging even for experts.[95] Inspectors also need to be familiar with a variety of different data systems, at least until technology is implemented that allows access to all relevant information held by the government with one query.

Many respondents noted that there are significant differences in dealing with goods and people, and in the approach and expertise that are needed to do so. These differences cannot be ignored or transformed by decree. Even CBP's Frontline Officer Working Group made the assessment that each of the legacy agencies had a distinct body of knowledge (laws, procedures, policies), though it also concluded that officers shared a certain skill set that could be transferable to different functions.[96] However, the assumption that additional specialized subject matter "is not more difficult or more complex to apply" may not be correct.[97] Just as agriculture law had its own complexities and was given a specialized position as a result, so too are immigration and customs laws complex. Inspectors in the field and outside observers alike place great value on specialized knowledge. Respondents reported that it takes years for inspectors working in each of those fields to feel confident about their knowledge and even then only after receiving more in-depth courses and in-port training than new inspectors and legacy inspectors are receiving now.[98] At present, CBP is considering some job specializations, though not necessarily as a substitute for the CBP

95 This challenge should not be underestimated. Former DHS assistant secretary Verdery testified that within the United States alone, there are 240 different types of valid drivers licenses and 50,000 versions of birth certificates. *Testimony before the House Select Committee on Homeland Security*, Subcommittee on Infrastructure and Border Security and Subcommittee on Intelligence and Counterterrorism, 108th Congress, 2nd Sess., September 30, 2004, http://hsc.house.gov/files/Testimony%20Verdery04.doc.

96 US Customs and Border Protection, CBP Frontline Officer Working Group, *Summary of Job Analysis*, June 2003, author copy.

97 US Customs and Border Protection, *"One Face at the Border" - Questions and Answers*, (see n. 55).

98 In a few examples of required technical knowledge of immigration law where errors have been made at ports of entry, E (treaty trader) visa holders should be admitted for twenty-four months, not the date of the visa's expiration, and H (temporary worker) and L (intra-company transferee) visa holders should be admitted for the period of the validity of the underlying petition, not the period of the visa. Mastery of such expertise would require specialized and intensive training in immigration law. FLETC staff apparently used to joke that they could determine who the immigration trainees were because they were the ones walking around campus loaded down with books.

officer position. In addition, opportunities for specialization may be available in intelligence, K-9, enforcement and investigation, training, firearms, and CSI (Cargo Security Initiative)/international.

Inadequate Security-Related Information

Most importantly, despite the stated focus on efficiency and security, respondents indicated that One Face at the Border has not in and of itself helped improve communication between ports of entry, integrate databases, or increase the information available to inspectors.[99] This is not particularly surprising given that CBP inherited legacy data systems and their notorious problems and given that such problems are being faced by many other agencies within and outside of DHS. Yet it is worrisome. The Government Accountability Office (GAO) has listed "establishing appropriate and effective information sharing mechanisms to improve homeland security" as a new high-risk area, noting that it faces formidable challenges.[100]

The integration of information systems was deemed a high priority after 9/11 and was a key concept underlying the creation of DHS. Nevertheless, upon arrival at ports of entry, most visitors are not checked against the entire FBI criminal file but only against abstracts that are not updated daily or even weekly (though there is no guarantee that terrorist biographic or biometric information would be in FBI criminal files).[101] In one case, a threat to a particular port could not be shared with the port director because the individual lacked the appropriate security clearance. Another respondent reported that although there was appreciation that multiple systems are now located in the same room, former customs inspectors lacked the passwords necessary to access all the relevant information located in eight separate databases, passwords that change every thirty days. A third respondent explained how one major crossing lacks passport readers and has a secure phone line that has not functioned in more than one year, making it difficult to receive certain pieces of information even if they were available.

99 Similar sentiments were reported in Hart, "Attitudes Among Front Line Border Personnel," (see n. 76).

100 Government Accountability Office, *High Risk Series: An Update*, GAO-05-207, January 2005.

101 Department of Justice (DOJ) Inspector General, *Follow-up Review of the Status of IDENT/IAFIS Integration*, Report Number I-2005-001 (December 2004): i-x.

Congress mandated interoperable systems along with an integrated watch list in the 2001 USA Patriot Act and the Enhanced Border Security and Visa Entry Reform Act of 2002.[102] However, the failure to accomplish this crucial function—or to be able to accomplish this any time soon—has been well documented.[103] DHS's own inspector general admits that DHS is not playing a lead role in watch list consolidation due in part to lack of internal resources and infrastructure, and that "in the absence of central leadership and oversight for the watch list consolidation, planning, budgeting, staffing, and requirements definition continue to be dealt with on an ad hoc basis, posing a risk to successful accomplishment of the goal."[104]

A new report by the Justice Department's Inspector General states that "efforts to achieve the fully interoperable biometric fingerprint identification system directed by Congress have stalled. Despite months of efforts, the DHS, the Department of State, and the Justice Department disagree on a uniform method for collecting fingerprint information or on the extent to which federal, state, and local law enforcement agencies will have direct access to biometric fingerprint records." The report urged that high-level policy decisions be made on these issues, noting that the government may face significant costs in the future and that "the inability of immigration and law enforcement fingerprint identification systems to share information prevents law enforcement agencies from identifying criminals and wanted aliens in their custody, and has led to tragic results in some cases."[105] Surely, such a statement applies to potential terrorists as well.

Indeed, the 9-11 Commission could not have been clearer in highlighting the importance of constraining terrorist travel as a crucial element

102 P.L. 107-73 and P.L. 108-228.

103 National Commission on Terrorist Attacks Upon the United States, *The 9/11 Commission Report* (W.W. Norton and Company, June 2004); and William J. Krouse, *Terrorist Identification, Screening, and Tracking Under Homeland Security Presidential Directive 6*, Congressional Research Service, October 21, 2004.

104 DHS Inspector General, *DHS Challenges* (see n. 65).

105 DOJ Inspector General, *Status of IDENT/IAFIS* (see n. 101).

of counterterrorism. They recommended not only that border inspectors obtain information from the intelligence community and enhance detection of terrorist travel documents, but also that officials at the border collect and disseminate intelligence on terrorist travel indicators. In its final report, the 9-11 Commission stated the following:

> *"Better technology and training to detect terrorist travel documents are the most important immediate steps to reduce America's vulnerability to clandestine entry. Every stage of our border and immigration system should have as a part of its operations the detection of terrorist indicators on travel documents. Information systems able to authenticate travel documents and detect potential terrorist indicators should be used at consulates, at primary border inspection lines, in immigration services offices, and in intelligence and enforcement units. All frontline personnel should receive some training. Dedicated specialists and ongoing linkages with the intelligence community are also required."* [106]

The 9-11 Commission found that prior to September 11, inspectors at the border were not considered partners in counterterrorism efforts and that as of June 2004, "new insights into terrorist travel have not yet been integrated into the front lines of border security."[107] Unfortunately, it seems that at the time of this writing, not much has changed in terms of true partnership between the intelligence community and CBP or in terms of greater information and access for inspectors on the line.

In what appears to be a very positive development, however, CBP has recently taken action on the 9-11 Commission's recommendations to study terrorist travel indicators. In January 2005 CBP established a Fraudulent Document Analysis Unit (FDAU) and will begin to remove the fraudulent documents it encounters from circulation. It will work to identify and analyze travel patterns and other links for individuals—including but not limited to suspected terrorists—intercepted at ports of entry with fraudulent, counterfeit, altered, or improperly presented documents. The unit has become operational with detailed personnel and

106 National Commission, *The 9/11 Commission Report* (see n. 103): 385.

107 Ibid.

will begin with passports, adding other documents over time. According to CBP, the FDAU will prepare tactical intelligence information for CBP ports, prepare strategic intelligence assessments for use by CBP and other agencies, maintain statistics of document use/abuse, and develop a database search engine that will allow all information on fraudulent documents to be linked and analyzed.[108]

Interdependence with Multiple Actors

A final challenge for CBP in achieving and measuring success is that its effectiveness depends in part on the actions/initiatives of a wide range of other players both within and outside the government. Inspections are only one component of border management. One Face at the Border, for instance, is subject to the success or failure of other initiatives that are part of DHS's larger effort to secure the homeland against terrorism and over which CBP does not have complete control, including database integration and access to the data. Inspectors' success will be derived in large part from the effective deployment of integrated systems and the accuracy and timeliness of information in the system.

There are also many other players outside the government whose actions impact CBP. These include facility operators, city and state governments, planning agencies, private sector companies (airlines, cruise lines, automakers) and labor unions. Traffic flows, intelligent transportation systems, infrastructure, geography, financial considerations, and governance issues also impact CBP's success.[109] In some cases, players have the public interest at heart, and in fact, may be filling a vacuum left by the lack of government action. But in other cases they

108 Information provided by CBP to author in March 2005.

109 One example of how many players often are or need to be at the table to discuss or take action on various issues is the San Diego Association of Governments (SANDAG), a regional decision-making forum. In addition to the eighteen local city and county governments it represents, its binational network includes the Mexican Consul General, who sits on its advisory board; the Border Environmental Cooperation Commission; the North American Development Bank; the International Boundary and Water Commission; and the US-MX Binational Group on Bridges and Border Crossings. US-based partners include the GSA-FHWA Border Coordination Conference, the CBP Ports Working Group, the GSA Community Representative Committee, the Border Trade Alliance, and the International Community Foundation.

do not. Thus, CBP is only one piece of a very complex and interdependent puzzle of players, none of whose actions, on their own, may achieve desired outcomes.

Initiatives by Private Sector and Community Actors: Spotlight on Michigan

When there is a vacuum in federal policy, other actors often take the lead. Some private sector actors in border communities have rolled out initiatives to help address the challenges at the border. Below are a few examples.

Facilities Operators

The Detroit-Windsor Tunnel is the busiest northern border passenger crossing, averaging 6.5 million passenger vehicles annually for the last two years.[110] Tunnel traffic includes commercial traffic that supports the integrated US-Canadian automobile industry as well as thousands of daily commuters such as Canadian nurses, IT professionals, and other visitors. However, the tunnel has lost about 20 percent of its business since September 11, 2001 and is unable to expand the crossing or inspection areas due to its landlocked crossing in the center of downtown. The tunnel's smaller traffic flow is primarily due to a decline in discretionary travel, but it can also be linked to new laws such as the 2002 Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (the Bioterrorism Act).

To try to make tunnel crossing more convenient, the Detroit and Canada Tunnel Corporation (DCTC) worked with the city and transportation officials to create a dedicated approach on city streets during commuting times for travelers enrolled in the NEXUS[111] program as well as a dedicated lane on the plaza. Only 8,000 individuals are enrolled in NEXUS locally, but 35 percent have signed up for NEXPRESS already.[112] Users

110 Bridge & Tunnel Operators Association, "Traffic Report for the Month Ending December 2003," author's copy.

111 For information on NEXUS, see US Customs and Border Protection, *United States–Canada Nexus Program*, http://www.cbp.gov/xp/cgov/travel/frequent_traveler/nexus.xml.

112 In contrast, NEXUS enrollment in Blaine, Washington, is 70,000 and is 12,000 at the Peace Bridge in Buffalo. A similar program on the southern border, SENTRI, has 56,000 participants in San Ysidro.

interviewed said the program has provided significant added value for NEXUS, with some saying it is the only thing that makes the program worthwhile. (Among other challenges, NEXUS users still had to wait in line to access their special lane and the low enrollment meant they were more likely to undergo a random inspection than travelers in non-NEXUS lanes.) Additional measures to enhance crossings at the tunnel include a move toward electronic tolling using proximity card technology, addition of a lane for motor coaches and buses, creation of a second NEXUS lane, implementation of ITS technology on the approaching freeway, and addition of a closed-circuit digital camera to monitor the incoming traffic. The tunnel operator only knows about lineups now by looking out the window). DCTC posted toll-free numbers on each tolling booth in early 2005 so that travelers could comment, positively or negatively, on operations at the tunnel (potentially an interesting model for CBP).

The Ambassador Bridge is the single largest crossing point on the US-Canadian border, with 9.6 million crossings in 2003.[113] It singlehandedly carries 25 percent of total US-Canadian trade. The bridge is privately owned, and its discretionary travel is down 20 percent, with trade traffic back to 2000 levels. The bridge company has undertaken its own initiatives to facilitate cross-border travel across the four-lane bridge. The first was building additional booths on the bridge, without waiting for GSA approval. There had been six booths at the time of the terrorist attacks. Three more, which were already under construction, opened a few weeks after the attacks, and another four were finished the following year. In addition, the Ambassador Bridge's Gateways project, which recently received government approval, will double the size of the plaza by fall 2007 and provide a direct connection from the highway, which it now lacks. Truck traffic was separated from car traffic in 1992, and twenty passenger booths will be available after the renovation, compared to thirteen at present. The bridge company is putting $30-50 million into the renovation, with additional funding coming from the Federal Highways Administration in the US Department of Transportation and the Michigan Department of Transportation. Waits have become rare since the addition of the new booths. The bridge company asserts that the bridge is carrying only 55 percent of its capacity, though officials are concerned that infrastructure will prove inadequate once the traffic

113 Bridge & Tunnel Operators Association (see n. 110).

rebounds. One potential innovation for the area to increase throughput and decrease congestion is one-way tolling. This has been under discussion, but ultimately would work only if implemented regionally as a joint effort of the Ambassador Bridge, the Detroit-Windsor Tunnel, and the Blue Water Bridge in Port Huron, Michigan/Sarnia, Ontario.

Community-Based Organizations

Innovative efforts are not limited to bridge and tunnel operators. In May 2003 community and law enforcement leaders in southeastern Michigan announced a group called BRIDGES (Building Respect in Diverse Groups to Enhance Security).[114] The Arab community in southeastern Michigan is the second largest outside the Middle East, and the formation of BRIDGES resulted from monthly discussions between the community and the US attorney's office that had begun after September 11.[115] The US attorney and the executive director of the American-Arab Anti-Discrimination Committee (Michigan) co-chair monthly, invitation-only meetings that include twelve community groups and six federal law enforcement executives. By creating direct access between community and law enforcement representatives, BRIDGES helps ensure that the community voice is heard while also providing the government with some political cover in terms of receiving input into program implementation (though not necessarily into policy decisions). In one example, when the government decided to do some additional interviewing of the Arab-American community in the Detroit area, it waited to begin the process until after notifying community representatives at the BRIDGES meeting and taking some process-oriented concerns into account.

Business Community Interests

In the private sector, the Detroit Regional Chamber of Commerce organized a group called the Northern Border for Economic Security and Trade (NBEST) following the attacks of September 11. The binational

114 Deborah A. Ramirez, Sasha Cohen O'Connell, and Rabia Zafra, *Developing Partnerships Between Law Enforcement and American Muslim, Arab, and Sikh Communities: A Promising Practices Guide* (Boston: Northeastern University, 2004): 17-31.

115 There was a local precedent for this type of cooperation in organizations such as the Advocates and Leaders for Police and Community Training (ALPACT). ALPACT began in 2000 to focus on police-community relations, in particular racial profiling. It included Muslim, Arab, and Sikh representatives, along with federal, state, and local law enforcement representatives.

group, comprised of knowledgeable representatives from business organizations and the government, aimed to create a strong, unified voice in support of improvements at the Michigan/Ontario border that would help ensure safe, seamless, and efficient flows of people and goods. These improvements included increasing staffing levels, expanding the use of technology to expedite low-risk passenger and commercial traffic, identifying needed infrastructure improvements, coordinating border management practices among the various agencies, and providing information to border users.[116] Examples of those who attend the regular meetings are representatives from CBP, the Canadian Consulate, the mayor's offices in Detroit and Windsor, the Ambassador and Blue Water Bridges, the Detroit-Windsor Tunnel, the Michigan Congressional delegation, the auto companies (Ford, General Motors, and DaimlerChrysler), the Southeastern Michigan Council of Governments, and state and local law enforcement. The meetings are oriented toward information sharing and practical problem solving.

V. CONCLUSIONS AND RECOMMENDATIONS

The One Face at the Border initiative is a positive step toward creating a single, unified, efficient, and professional border agency, though its contribution to enhancing security is unclear. The challenges outlined in this report must be addressed to ensure they do not undermine CBP's mission (security vulnerabilities can result from inconsistencies and insufficient expertise) or its ability to perform that mission (organizational problems can result from limited transparency, poor employee morale, or unrealistic promises). Indeed, the goal of this assessment from the outset was a constructive one, to make recommendations for midcourse corrections that might help CBP more fully achieve its goals.

116 Detroit Regional Chamber of Commerce, "Challenge & Response," news release, October 29, 2003.

The short timeline by which DHS and CBP had to become operational after passage of the Homeland Security Act resulted in a lost opportunity to carefully design a border management agency for the future—and likely to avoid a number of the challenges that have since arisen. Little advance planning was undertaken about how things would actually work, not for lack of good intentions, but for lack of time. The long-discussed merger of the border agencies could have been an opportunity to craft a new approach to border management, create the organizational structure needed to implement it, and build a new culture. Instead, legacy systems (for data, for management, for payroll, etc.) had to be used for lack of realistic alternatives, and transition teams had no time for careful analysis, much less for enhanced training of inspectors prior to the merger.[117]

As Richard Falkenrath, former deputy Homeland Security advisor to the president, testified with regard to the start-up of DHS generally, "…the time frame for action was tight and unforgiving; the daily operational and policy demands were relentless; the interagency environment could be treacherous; the external constituencies, perpetually discontented."[118] As a result, the organization was addressing issues as they arose rather than engaging in careful planning. The lack of a sufficient number of policy staff within CBP, BTS, and DHS more generally likely intensified the challenge.[119]

Despite the missed opportunities, CBP can still remedy many of the weaknesses and help OFAB reach its potential by leveraging expertise, delivering necessary training, deepening partnerships with employees and stakeholders, building a culture of transparency, engaging in

117 Jason Peckenpaugh, "Foiled by Fences," *GovExec.com*, September 15, 2004, http://www.govexec.com/features/0904-15/0904-15s2.htm.

118 Richard A. Falkenrath, *Present and Future Challenges Facing the Department of Homeland Security*, Senate Committee on Homeland Security and Governmental Affairs, January 26, 2005, http://www.brookings.edu/views/testimony/fellows/falkenrath20050126.htm.

119 For further discussion of this issue see James Jay Carafano and David Heyman, "DHS 2.0: Rethinking the Department of Homeland Security," The Heritage Foundation, December 13, 2004; and John Mintz, "Infighting Cited at Homeland Security," *Washington Post*, February 2, 2005, http://www.washingtonpost.com/ac2/wp-dyn/A55552-2005Feb1?language=printer.

strategic planning, and taking other measures to address known or potential weaknesses.

A. Retaining and Developing Specialization and Expertise

CBP should create additional areas of specialization for CBP officers in both passenger and cargo processing. In its eagerness to unify the agencies and gain efficiencies, CBP may have inadvertently minimized the complexity of the various bodies of law and regulation and the value of specialized expertise. Specializations in passenger and cargo processing, modeled after the CBP agriculture specialist position, are needed, particularly for secondary inspection. This would help CBP reap the benefits of unified management while still possessing and valuing the knowledge and expertise necessary for the integrity of the system. Following this model, CBP officers would continue to receive basic integrated training in all CBP functions at the academy as well as basic cross-training in the field. In addition, they would be encouraged to develop a specialization within CBP to master the complexities and intricacies of the laws, regulations, and practices relating to one of the three CBP inspection areas or other areas of expertise. (Inspectors believe it takes three to five years to really learn the substance of a specific area.) Acceptance of officers for such specializations would be based on the results of an aptitude test, previous experience, organizational needs, and/or preference. Training in and rotations through the other functional areas and other ports of entry should be required, as should mentoring by more experienced staff. In fact, CBP could designate "master mentors" for this purpose, similar to the concept of master teachers in schools. Development of inspectors who are interchangeable at primary inspection and who also have specialized knowledge for secondary inspection should help CBP retain necessary expertise in traditional areas despite natural and transition-related attrition.

CBP should continue to develop in-house expertise on fraudulent documents and on terrorist travel indicators and to enhance counterterrorism training for all of its inspectors. CBP has developed plans to place dedicated officers for fraudulent documents at key ports of entry. Their expertise should go beyond simply identifying such documents and include gathering and disseminating

the information about fraudulent documents and terrorist travel indicators. According to CBP, these specially trained officers will coordinate port activities and ensure that all primary line officers are aware of current trends as well as any specific information that may become available.[120] Getting such knowledge to each and every inspector in an accurate and timely manner is of increasing importance. To expand knowledge of fraudulent documents to more officers, CBP has incorporated fraudulent document detection modules, along with antiterrorism passenger training, into the CBP course for new officers. To date, 7,700 CBP employees have undergone the fraudulent document detection training, and 4,972 have undergone antiterrorism passenger training for land ports of entry, with air and sea antiterrorism training soon to be piloted.[121] CBP needs to ensure that all those who need security clearances at ports of entry have them so that inspectors on the line or supervisors in secondary inspection can access up-to-date information in real time. FBI and Secret Service agents, for instance, receive top secret clearances when leaving their academies, clearances that get reviewed every five years. Such a model would be worth exploring.

CBP should build additional training time into its personnel system, incorporate additional subject matter expertise into the training of new CBP officers, and accelerate delivery of cross-training for incumbent inspectors. The training given to CBP officers will be the single most important factor in determining the ultimate success of One Face at the Border and should be the highest priority for the agency. Training is the most effective way to address two of the major weaknesses to date—inconsistency and lack of expertise—and to maximize the potential benefits of new technologies. It is also the most effective way to build confidence, reduce frustration, and improve morale among officers (CBP's most valuable asset), thus improving border security and the flow of legitimate travel and trade.

120 The Forensic Document Lab (FDL), formerly part of INS and currently housed within ICE, will continue to take the lead on technical issues related to the forensic examination of documents. FDL will assist in training CBP officers on forensic examination, and CBP and others will continue to be able to refer questionable documents to FDL for confirmation of fraud or alteration.

121 US Customs and Border Protection, PowerPoint presentation to Migration Policy Institute, March 3, 2005.

As part of this process, CBP should take the opportunity to gather feedback from new CBP officers, their supervisors, and their coworkers to gauge the effectiveness of the training to date. This should include consideration of the appropriate balance between computer-based and classroom or on-the-job training. CBP should also gather input from knowledgeable observers and experts such as immigration attorneys who might be able to provide additional technical knowledge or observations based on their experience. For instance, CBP could consider reinstating training in port of entry adjudications, expanding the language training requirement, or enhancing training on expedited removal. Finding the time to match the training to the mission no doubt is a tremendous challenge, as training may well reduce the number of inspectors available for staffing in the short term, particularly given the number of inspectors who require cross-training and the variety of modules that need to be delivered.[122] But the long-term value is immeasurable, both in terms of substance and symbolism and likely is the only way to ensure that the merger of these agencies has an enduring positive impact.

CBP should reconsider the minimum requirements for the CBP officer position, comparing them to those required for similar government positions, particularly consular officers who screen visa applicants overseas. The demands being placed on inspectors at the border today are greater than ever in terms of mastery of complex laws and analytical and technical skills. At the same time, the stakes are higher than ever. Defining the appropriate pay grade and qualifications for these jobs would help improve consistency and quality across the talent pool and minimize turnover. The timing of such an effort is also good given the new human resource system that will be implemented in DHS.

New CBP inspectors are hired at the GS-5/7 level, with salaries ranging from the mid-$20,000s to high-$30,000s range.[123] Applicants may

122 The personnel system does not allocate time for training. In comparison, Navy officers may spend up to 40 percent of their time in training or education. See testimony of Stephen Flynn, Senate Committee on Homeland Security and Governmental Affairs, January 26, 2005.

123 Office of Personnel Management, *Salary Table 2005-GS*, http://www.opm.gov/oca/05tables/html/gs.asp.

qualify based on either education, work experience, or some combination thereof. For the GS-5 position, applicants may possess a bachelor's degree in any field; three years of general experience, which may have involved meeting and dealing with people and learning and applying a body of facts or which may have been in customer service, claims adjustment, or as an information receptionist; or an equivalent combination of education and work experience. For the GS-7 grade, applicants are required to have either a bachelor's degree in any field with superior academic achievement, or one full year of graduate-level education and one year of specialized experience equivalent to at least a GS-5, including inspection work at ports of entry and/or work involving preliminary screening of persons for entry and immigration status, or compliance/regulatory work, or the equivalent combination of experience.[124]

In contrast, entry-level foreign service officers, including those assigned to consular work, earn salaries ranging from the mid-$30,000s to high-$60,000s range. Although there is no set educational level for foreign service officers, more than 75 percent of recent hires have advanced degrees (often in public administration, international relations, history, or law), and most officer candidates have a bachelor's degree. Moreover, candidates must pass a written exam (only one-third do) and then pass a day-long oral assessment (only one in five passed in the first half of 2004), in addition to the standard medical and background exams.[125] Those who ultimately pass are ranked, and they remain eligible for hire

124 US Customs and Border Protection, *Qualifications Comparison for CustomsInsp/ImmigInsp/CBPO*, received March 31, 2005, document provided to author electronically. The qualifications for CBP officers are very similar to those used previously for Customs Service inspectors and INS inspectors. The one exception appears to be for work experience among immigration inspectors, which was previously "progressively responsible experience" rather than CBP's requirement of "general experience," though the educational requirements were the same.

125 US Department of State, *Foreign Service Officer FAQs*, http://www.careers.state.gov/officer/faqs/index.html, and Oral Assessment Summary, http://www.careers.state.gov/officer/assess/index.html. The written exam includes job-related knowledge, a biographic inventory, an English usage section, and an essay. The oral assessment measures written and oral communication, information integration and analysis, judgment and resourcefulness, planning and organizing, initiative and leadership, experience and motivation, working with others, composure, quantitative analysis, objectivity and integrity, and cultural adaptability.

for twenty-four months, after which they must begin the process anew.[126] New hires generally are in training for three to twelve months prior to deployment for their first assignment.[127]

CBP should appoint a permanent head of the Immigration Policy Office within its Office of Field Operations and expand the office to ensure sufficient expertise on immigration issues within CBP headquarters. Moreover, CBP should focus on achieving greater equity in the leadership and promotion opportunities available to former immigration employees in the field. Respondents both inside and outside the government expressed concern about the lack of immigration policy guidance and the neglect of immigration issues and expertise more generally. Permanently filling the Immigration Policy Office position and enhancing the office's staff with additional individuals experienced in immigration law and policy more generally should address the current policy vacuum. It also would facilitate coordination of policy and legal guidance with the other DHS agencies that absorbed immigration-related functions.[128] Moreover, in combination with attention to equal promotion opportunities for all legacy agency employees, it would send the message to CBP employees that legacy missions remain a priority and that expertise in those areas is valued. This should help with retention and with the development of new expertise at headquarters and in the field. If the legacy missions were without merit today, Congress could have abolished (or greatly simplified) immigration and customs laws, but it did not. Admissions decisions for both people and cargo involve more than a simple yes or no based solely on security concerns, and the integrity of the immigration system needs to remain an important consideration.

126 US Department of State, *How to Become a Foreign Service Officer*, http://www.careers.state.gov/officer/join/index.html.

127 US Department of State, *Orientation and Training*, http://www.careers.state.gov/officer/assign/orientation.html.

128 See Carafano and Heyman, "DHS 2.0" (see n. 119); and T. Alexander Aleinikoff, "Immigration," in *The Department of Homeland Security's First Year: A Report Card*, ed. Donald Kettl (Washington: Century Foundation Press, 2004).

B. Building a New Institutional Culture

CBP must prioritize the building of its institutional culture. According to GAO, successful transformations of large organizations take five to seven years, and productivity and effectiveness often decline in the interim. Yet DHS's mission is so important that "the failure to address its management challenges and program risks could have consequences on our intergovernmental system, our citizens' health and safety, and our economy."[129] Thus, while CBP, admittedly and understandably, has been very focused over the past year or two on organizational change and continuing operations, it has come at the expense of developing a new agency culture that values its own employees and transparency, among other priorities.

CBP should deepen the partnership with its employees by keeping them better informed and enhancing mechanisms for employee feedback. Much of the cynicism about the changes and anxiety over potential impacts might have been avoided had the employees had a better understanding of the plans and how they fit into them. For instance, because training was rolled out port-by-port on an as-needed basis and because the training plan was not widely distributed, those who had not undergone cross-training were understandably skeptical about the impact of One Face at the Border and about their new responsibilities. CBP could do a better job articulating and communicating to employees its plans and the process for implementing them.

In addition, CBP needs to send a message to its employees that it values their input and their feedback based on experience and expertise. The GAO cited the involvement of employees and incorporation of their ideas in a report on best practices related to management change and encouraged two-way communication, early and often, as a way to build trust, meet the needs of employees, and develop shared expectations.[130] CBP should therefore consider conducting a survey of employees to

129 Stana, *Challenges Facing the Department of Homeland Security* (see n. 59): 14-15.

130 General Accounting Office, *Results-Oriented Cultures: Implementation Steps to Assist Mergers and Organizational Transformations*, GAO-03-669 (July 2003); and Government Accountability Office, *Homeland Security: Management Challenges* (see n. 66).

gather feedback as to what is working, what is not, what tools they need to do their jobs, and any additional ideas that should be considered.[131] Alternatively, CBP could create a specific feedback mechanism for its employees in the field that bypasses field-level supervisors and managers to ensure the information is received by an office designated to review such comments and suggestions. A few respondents cited the 1990s Reinventing Government effort as a model of how employee-agency cooperation could proceed.

CBP needs to resolve the outstanding personnel-related issues relating to the merger, including the issue of union representation and the effects of the new personnel regulations, as part of this effort. CBP must resolve the personnel issues that have distracted employees from focusing solely on their duties and hampered the integration of personnel and the development of a single institutional culture. Fair and consistent pay, work, training, and promotion opportunities under one set of rules and one union should ameliorate concerns about job security and rights and facilitate an integrated workforce. CBP should urge the Federal Labor Relations Authority to make a decision and end the uncertainty regarding union representation and then work in concert with the unions to implement the decision.

CBP must also proactively address the climate of fear among its employees. CBP should promise to support rather than scapegoat inspectors who follow the guidelines even if decisions later turn out to be problematic. CBP also should continue to return some discretion and authority to managers in the field as appropriate.[132] Further, it should

131 Specific tools that were mentioned include security clearances for those who need them, sufficient staffing and expertise at secondary inspections, additional training, and access to secure phone lines at ports of entry. Other items on some inspectors' wish lists include centralized information on fraud, birth certificates, drivers' licenses, passports, and visa stamps. Additional suggestions include spending money on facial recognition, bringing terrorist experts together, and getting the right information to inspectors.

132 In one positive and innovative example, CBP officials have cooperated with the bridge and tunnel operators in Detroit to facilitate a unique binational marathon. The Detroit Free Press/Flagstar Marathon, which takes place on a Sunday in October, begins in Detroit. Runners cross the Ambassador Bridge into Windsor (the bridge gives the runners two of the four lanes) and end the marathon by returning to Detroit via the two-lane Detroit-Windsor tunnel, which closes for a few hours.

encourage rather than repress the sharing of concerns about perceived security vulnerabilities. It would be helpful for CBP to review the standards of conduct to ensure the disclosure provisions are not unnecessarily broad. Congress also has a role to play on this issue by protecting those who do speak out in a responsible manner to enhance security.[133] Suppression of whistle-blowing or discouragement of dissent may undercut security goals.

CBP needs to build a culture of transparency, including developing evaluations that are publicly available and ensuring access to outsiders for input and review. This should include reinstatement of the DMIA Task Force. An organization that is open to the principle of transparency realizes that its success can be enhanced by engaging those most interested in its work and even developing partnerships with them. As a recent Heritage Foundation report states, "Oversight and transparency lend credibility to the exercise of homeland security authorities and instill confidence in the American people. Conversely, without strong oversight, even well-intended initiatives and programs may be weakened or discontinued out of suspicion, ignorance, and lack of credibility with the public."[134]

Customer satisfaction programs make it relatively easy to track and quantify various aspects of efforts to facilitate traffic, handle complaints at the border, or redress errors.[135] In general, however, the development

133 Perhaps recognizing this need, the Senate Homeland Security and Governmental Affairs Committee approved a bipartisan bill to strengthen whistle-blower protections for federal employees. Stephen Barr, "Senate Committee Approves Greater Protections for Whistle-Blowers," Federal Diary, *Washington Post*, April 14, 2005.

134 Carafano and Heyman, "DHS 2.0" (see n.119).

135 It is unclear how widely known and utilized existing customer satisfaction programs are among stakeholders and travelers. None of the programs were mentioned by even a single respondent at any of the sites I visited despite inquiries about the tracking of complaints following the merger, nor were the comment cards visible during the author's border crossings or visits to the inspection areas. I was told that CBP policy directives require the cards to be in locations visible and accessible to travelers. Individuals who have undergone a secondary inspection at airports or a personal search at an air, land, or sea port of entry are supposed to be handed comment cards. During field research five years ago, I recall being briefed with great pride by Customs Service officials on their comment card and passenger services representative programs as well as seeing comment cards displayed. See Papademetriou and Meyers, *Caught in the Middle* (see n. 5): 68.

of mechanisms for evaluation is not easy, particularly when trying to measure the effectiveness of preventive security measures. Yet lack of internal assessment prevents CBP from ensuring that its efforts and resources are well spent and from making midcourse corrections that would help CBP maximize the potential of One Face at the Border. Moreover, limited external oversight and severe restrictions on employees' ability to share information reduces the opportunities to present positive public information about the initiative and the agency. GAO and Inspector General reports are extremely valuable, but the agency should not rely on them as the sole mechanism for review.[136] One potential evaluation model is the planning and review process used by the Federal Law Enforcement Training Center for its courses to ensure that the training meets the needs of officers in the field.

CBP should exercise greater caution in public statements about the potential benefits of any particular program and about its achievements so as not to create unrealistic expectations. One component of transparency is truth in advertising, and CBP can help itself by doing just that. Trying to justify every action with a security rationale is less than helpful, as is overselling the security value of a program. It is important to disentangle the immigration system's integrity from antiterrorism programs. Some initiatives may well stand on their own merits. Attempts to attribute security benefits or rationalizations to programs that do not have them simply lead to unnecessary criticism and reduced credibility, as expectations cannot possibly be met.

C. Increasing Public Outreach

CBP should increase its outreach efforts, drawing on the traditions of its predecessor agencies in actively seeking input from and partnership with a broad range of actors and stakeholders at the local and national levels. The inward focus of CBP has precluded concerns about the perceptions of its programs (inside and outside the agency) and consideration of plans by outside actors. Given the

136 A senior CBP official stated in March 2005 that the agency will be expanding its capacity to evaluate its programs and operations to ensure they are meeting the stated goals and objectives.

multiplicity of actors and interdependence at the border, it is in CBP's own interest to engage potential stakeholders in the change process since some may simply take unilateral actions that will impact the agency. The US-VISIT outreach model and the DMIA model discussed earlier could also be studied by CBP as potential models for broadening cooperation, as could efforts by coalitions along the US-Canadian and US-Mexican borders that predate 9/11.[137]

Proactive outreach provides CBP with an opportunity to share its positive accomplishments and gather feedback or suggestions about some of the challenges. Moreover, cooperation on certain projects generally builds trust and relationships between parties, laying the groundwork not only for long-term planning, but also for times when action must be taken immediately or a situation is very sensitive. For example, binational border groups organized by the San Diego Regional Chamber of Commerce and the Detroit Regional Chamber of Commerce, inclusive of a wide range of local interests and able to spot trends and solve problems, are models that could be replicated elsewhere.[138] In addition, outside organizations may at times be more effective in getting a message out to the general public (marketing a program for frequent travelers or shippers for instance) or be freer to lobby Congress on behalf of the agency (regarding staffing, for example) than the agency itself. At the same time, communication needs to flow in both directions. States, localities, and other actors need to take it upon themselves to educate the federal officials about their local issues rather than assume this knowledge already exists or is being addressed at CBP headquarters.

137 Examples of government-based efforts include the *1995 Shared Border Accord* and *1999 Canada-US Partnership Process*. See United States Embassy, Ottawa, Border Help, http://www.usembassycanada.gov/content/content.asp?section=can_usa&document=borderissues. Examples of two business-oriented coalitions include the Border Trade Alliance (http://www.thebta.org) and the Can-Am Border Trade Alliance (http://www.canambta.org).

138 See sidebar on p. 48 (Initiatives by Private Sector and Community Actors) for Michigan-specific examples. The San Diego Alliance for Border Efficiency is a public/private partnership whose members include the cities of Chula Vista and San Diego, the San Diego Association of Governments, the Institute for Regional Studies of the Californias at San Diego State University, the Otay Mesa and San Ysidro Chambers of Commerce, and the San Diego Dialogue. Its partners include the Federal Highway Administration, the California Department of Transportation, the US Chamber of Commerce, Comite de Turismo y Convenciones de Tijuana, and COPARMEX Tijuana.

A more inclusive view of interested parties and potential partners also should involve Canadian and Mexican officials across the border. Such basic actions as notifying colleagues on the other side of a bridge about important personnel changes or providing a list of key contacts appear not to have been undertaken independently.[139] Yet, as the sidebar on p. 9 (The Canadian Border Management Model) indicated, the United States and Canada benefit from a bilateral exchange of ideas on border agency management. Success on certain border-related issues or initiatives is unlikely to occur without the support of the border, inspection, and intelligence agencies of these other countries.

CBP should develop a formal liaison mechanism, similar to that of the Office of Trade Relations for the business community, for the community that deals with the movement of people. CBP needs to go beyond its customs-based experience in consulting with the business and trucking communities to involve a broader range of stakeholders, including native and foreign-born communities, Congress, and other observers that may have an interest in one of the three legacy missions. Knowledge about One Face at the Border and other CBP initiatives was very uneven in border communities. Organized business groups, facility operators, and immigration attorneys generally were familiar with the programs, but community residents, key social service agencies, local planning organizations, transportation agencies, and ethnic-based organizations generally were not, even if they could be affected by such programs.[140] Such groups bring ideas and interests to the table that might not otherwise be considered. In one example, bridge and tunnel operators asked why airline travelers must undergo security screenings *prior* to getting on an airplane, while cargo-laden trucks and passenger cars are checked *after* the traveler has crossed the bridge or

139 For additional information on cooperation with US neighbors, see Deborah Waller Meyers, "Does 'Smarter' Lead to Safer? An Assessment of the Border Accords with Canada and Mexico," *Insight* (Migration Policy Institute), no. 2 (June 2003).

140 This was the case regardless of whether people were US citizens or permanent residents or representing a US citizen client or temporary visitors. US citizens in San Diego or Detroit, even those who are not frequent cross-border travelers, need to be just as aware of changing requirements at the border as do Mexican or Canadian citizens. For instance, they might cross once a year for a vacation or sporting event, or invite family or friends from the neighboring country to visit, or bring foreign visitors from another part of the world across the border for a few hours for a good restaurant or a tourist attraction.

tunnel, with no consideration given to protecting the infrastructure. CBP needs to expand its traditional base of stakeholders, as far more players now have interests in their operations—players that may not be as easily organized or represented as the customs clientele had been.

D. Addressing Systemic Obstacles and Thinking Long Term

Although One Face at the Border may not reach its full potential in the near term because of some of the external factors discussed earlier, CBP nevertheless should do what it can to advance consideration and resolution of those issues. At the time of this writing, CBP is finalizing a strategic plan. Its completion should clarify CBP priorities and ensure that substance, rather than the timing of the transition, drives programs and planning in the future.

CBP should undertake a review of statutory requirements and mandates that govern inspections to determine whether they could be simplified and/or could better reflect the new agency structure and the new homeland security priorities. In particular, consideration should be given to measures that would increase CBP's flexibility to test various approaches to inspection or enhance its ability to fulfill its responsibilities. Border security is more than simply entries at official crossing points, as the government has recognized in its discussion of a layered approach to security.[141] Similarly, CBP should work with other areas of DHS to develop an integrated border management vision, looking at the interaction between CBP-related changes and others such as revised visa procedures and the US-VISIT program.[142]

CBP should advocate within the government for database integration and adequate access to that information. CBP could ensure that its border system is tied in with the FBI and CIA and that thumbprints are scanned into a national terrorist database. It also could push for a single repository for information on stolen passports.

141 Bonner, *Hearing on Customs Budget Authorizations* (see n. 11).

142 OFAB is only one part of a layered approach to border security that includes immigration security officers overseas, preinspection programs overseas, advance passenger information, joint passenger analysis units, registration programs, and visa policy.

Moreover, CBP should proactively educate the intelligence community and others about its potential contributions to counterterrorism efforts and further develop those relationships.

CBP should assess infrastructure needs and capabilities both at and approaching ports of entry in conjunction with facility operators, with the General Services Administration, and with the Department of Transportation, cooperatively developing a long-term plan for infrastructure enhancement. For too long, the government has failed to make the significant investments in infrastructure that are necessary to keep up with the law and policy changes and with cross-border traffic. Failure to invest adequately in infrastructure improvements prevents security-oriented programs such as US-VISIT and facilitation-oriented programs such as preclearance lanes from functioning as well as they could, creating unnecessary burdens on travelers, businesses, communities, and inspectors.[143] Such a process also should include consultation by Canadian and Mexican officials across the border, given the binational nature of infrastructure and border crossings.

To enhance both security and facilitation, CBP should actively seek to expand and promote preclearance programs for frequent border crossers (referred to as SENTRI on the Southern border and NEXUS on the Northern border). These programs reduce the burden on infrastructure and are a positive interim solution. Even more importantly, they are consistent with CBP's risk-management approach because they reduce the size of the haystack in which they are searching. That is to say, by reducing the time inspectors need to spend on known and frequent travelers, these programs increase the attention that can be spent on those who pose potential risk. At present, these programs are greatly underutilized in the passenger environment, though greater progress has been made with similar programs such as FAST and C-TPAT in the commercial environment.[144] An expanded out-

143 Data Management Improvement Task Force, *Second Annual Report to Congress*, December 2003, http://uscis.gov/graphics/shared/lawenfor/bmgmt/inspect/dmia.htm.

144 For additional details on these programs, see US Customs and Border Protection, *United States–Canada NEXUS Program* (see n. 111) and US Customs and Border Protection, *Customs-Trade Partnership Against Terrorism*, http://www.cbp.gov/xp/cgov/import/commercial_enforcement/ctpat.

reach effort should include educating a broader range of potential registrants about the program, funding sufficient staff to engage in such a marketing effort, and providing potential users with visible incentives to participate in the programs. At present, the disincentives to use such programs far outweigh the incentives, including cost, inadequate supporting infrastructure, and limited flexibility for use.[145]

CBP must explore and address systemic weaknesses that have led to traffic flushing at ports of entry. Waving cars through with little or no inspection in response to pressures generated by long waits seems completely inconsistent with the agency's mission and even undermines its efforts. Contributing factors may include inadequacy of staffing levels, infrastructure, stakeholder or politician expectations, inspection requirements, and the underlying laws that affect traffic flow at ports of entry; these need to be explored and addressed. As part of this review, CBP also should consider security vulnerabilities beyond official air, land, and sea ports of entry, such as entry via private boats or planes.

Finally, CBP should designate one individual in each region along the border to be responsible for pulling together all the relevant public and private sector actors. Not every community is fortunate enough to have private sector actors willing to take the initiative. Even in those that do, some coalitions may be focused on a particular issue or area of interest and may not be as inclusive as they could be. In the past, US Customs had northern and southern border coordinators. Given the proliferation of actors and the fact that what happens at the border is as much a result of everything leading to it as it is of

145 The disincentives are many. Registration is expensive, the process can take a long time, and the card can be used only at a particular port of entry because databases are local rather than nationwide. All of these need to be remedied. In addition, some individuals do not want their entries and exits tracked, do not want to undergo a criminal background check, and are reluctant to provide biometric information. Moreover, SENTRI cards currently are tied to vehicles rather than persons, the way NEXUS is, though there are indications that will be changed. NEXUS has its challenges too. Low enrollment means that NEXUS users may be more likely to undergo a random inspection than travelers in regular lanes (frequent traveler programs require inspection of a certain percentage of travelers), and some locations lack the necessary infrastructure that would enable users to reap the benefits.

the inspection itself, it would be useful to reinstate such functions, either nationally or at the local level. The creation of a broader regional authority in each locality to guide and manage border-related issues should also be considered. Such an authority would encompass the relevant US government actors as well as state or provincial agencies, transportation authorities, and others.

VI. FINAL THOUGHTS

One Face at the Border is both more and less important than initially hypothesized when the project began. It is less important because in many ways day-to-day operations at the port of entry have not changed in ways noticed by travelers, stakeholders, and even some employees. Yet it is more important than expected because of the management efficiencies gained, because of its internal impact on CBP employees and organizational capacity, and because of the implications that its implementation to date, particularly in terms of expertise and consistency, holds for security at the border in the future.

Having accepted the basic paradigm of a unified inspections workforce, particularly for primary inspections, however, it is clear that OFAB, which has been primarily an organizational and management change, cannot enhance facilitation or security on its own. In fact, one challenge in attempting to analyze implementation of One Face at the Border is the difficulty in disaggregating its effects, or lack thereof, from the multitude of government policies, organizational changes, and private actor initiatives implemented in the last year or two. As long as there are realistic expectations within CBP about what OFAB alone can achieve and as long as CBP communicates its vision and plans effectively, it can contribute to the achievement of those security and facilitation goals in concert with others and as one component of a much broader effort.

One Face at the Border is, without a doubt, an ambitious undertaking. Integrating inspectors from three agencies, harmonizing legacy policies,

and providing additional training while continuing to carry out significant operational responsibilities is a daunting task. For the most part, the agency and its employees seem to have risen to the challenge and successfully planted the seeds of change. The next challenge, however, is to help those changes take root so that OFAB reaches its potential. With sufficient knowledge and expertise, clear policies and consistent implementation, partnership with employees and with outside stakeholders, a long-term vision, and a willingness to make necessary adjustments, success is possible. CBP is still only two years old. Now is the time to make changes and to flesh out the details of its vision.

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This report is the second in a series of three released by MPI for its project Assessing Selected Border Control Measures After September 11.

The aim of this project is to evaluate the implementation and impact of border-related changes to date, comparing the outcomes against stated goals. In doing so, the authors hope to fill a vacuum in independent research and provide the analytical backbone for policy discussions on issues that need to be addressed as the government presses forward with sweeping changes. The reports highlight areas in need of improvement and make constructive suggestions for mid-course corrections that are critical to the long-term success of the programs and for US security. Other releases in this series include:

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