

U.S. Department of Homeland Security
Homeland Security Advisory Council (HSAC) Meeting- Open Session
Public Teleconference Call re: CBP Integrity Advisory Panel Interim Report
June 29, 2015

EXECUTIVE SUMMARY

4:00 p.m. to 5:00 p.m.

The open session of the Homeland Security Advisory Council (HSAC) meeting was convened on June 29th, 2015 from 4:00 p.m. to 5:00 p.m. via teleconference call. The meeting was open to members of the public under the provisions of the Federal Advisory Committee Act (FACA), P.L. 92-463 and 5 U.S.C. § 552b.

The following individuals were announced as on the call:

HSAC Members

Judge William Webster, <i>Chair</i>	Mr. John Magaw
Commissioner Bill Bratton, <i>Vice-Chair /</i> <i>(Co-Chair CBP IAP)</i>	Mr. David A. Martin
Mr. Stephen Adegbite	Ms. Farah Pandith
Admiral Thad Allen	Ms. Annise Parker
Hon. Ron Barber	Mr. John Pistole
Mr. Lee Hamilton	Chief Charles Ramsey
Ms. Elizabeth Holtzman	Mr. Robert Rose
Hon. Jim Jones	Mr. Harold Schaitberger
Ms. Juliette Kayyem	Mr. Ali Soufan
Mr. Wilson “Bill” Livingood	Dr. Lydia Thomas

CBP Integrity Advisory Panel Member

Ms. Karen Tandy, Co-Chair
Judge Robert Bonner
Assistant Chief Matthew Pontillo
Inspector James Sprague
LT. Patrick Thornton
Chief Roberto Villasenor

Also Present

Ms. Sarah Morgenthau, Executive Director, Homeland Security Advisory Council, DHS
Mr. Timothy Quinn, Acting Chief of Staff, U.S. Customs and Border Protection
Mr. Philip LaVelle, Assistant Commissioner, U.S Customs and Border Protection

Coordinator:

At this time all lines are in listen only mode for the duration of today's conference. This call is being recorded. If you have any objections, you may disconnect. I will now turn the call over to our speaker today, Ms. Sarah Morgenthau. Ma'am, you may begin.

Sarah Morgenthau:

Thank you. Good afternoon everyone and thank you for joining us today. This is Sarah Morgenthau and I am the Executive Director of the Homeland Security Advisory Council.

I would like to welcome members of the Customs and Border Protection Integrity Advisory Panel, senior leadership from the Department of Homeland Security, Customs and Border Protection, and other participants on the call this afternoon.

This meeting is convened pursuant to a notice that appeared in the Federal Register on June 12, 2015. As a way of background, the Homeland Security Advisory Council, or HSAC, is one of 27 federal advisory committees at the Department of Homeland Security.

Under the Federal Advisory Committee Act, or FACA, these meetings are open to the public. Executive summary and meeting minutes will be posted on the DHS Web site at www.dhs.gov and the public FACA database within 90 days of today's meeting.

The Council is the Secretary's go-to group of senior advisors, his kitchen cabinet so to speak. He relies on the Council to provide him with candid feedback, keep him on track and to provide a vehicle to allow in fresh ideas.

Advisory committees have played an important role in shaping programs and policies of the federal government from the earliest days of the Republic. The government, as you know, can get stale very quickly.

The Customs and Border Protection Integrity Advisory Panel, is a subcommittee of the Homeland Security Advisory Council which will be reporting out today on the recommendations. For members of the public, we will have an open line for comments after the panel has finished presenting their interim report and recommendations.

For the record, we have 21 members of the Council participating in today's meeting which is a quorum. I will now turn it over to the chairman of the Council, Judge William Webster.

Judge William Webster:

Good afternoon and thank you, Sarah. My name is William Webster, Chairman of the Homeland Security Advisory Council, or HSAC, for short. I hereby convene this meeting.

This is a public teleconference call of the Homeland Security Advisory Council and we appreciate those members of the public, the government and the media have joined us.

I also would like to welcome the members of the HSAC and the members of the Customers and Border Protection Integrity Advisory Panel on the call today.

Our purpose today is for the Council to be briefed and deliberate on the recommendations from one of our subcommittees, the Customs and Border Protection Integrity Advisory Panel.

Over the past few months the Panel has held several in person meetings in Washington, DC, convened numerous Council conference calls and heard from 26 subject matter experts including operators, executives from across training, internal affairs and support elements of the agency.

There was also a large group of NGOs that were able to voice issues to the Panel. The Panel is co-chaired by New York's Police Commissioner, William Bratton, who is also Vice-chair of this Council and former head of the Drug Enforcement Administration, Karen Tandy.

I thank the members of the Panel for your efforts and the subject matter experts for their input. And now, I'll turn it over to the Panel's co-chairs, Commissioner Bratton and Karen Tandy. (Ms. Tandy).

Karen Tandy:

Thank you, Judge Webster. On behalf of Commissioner Bratton and myself, I certainly - we both want to extend our appreciation for this opportunity to address these very important issues as part of the Integrity Advisory Panel for Customs and Border Protection.

I want to start just by noting that there are seven members of this panel, three of whom, including Commissioner Bratton, are actual members of the HSAC, all of whom, however, are either current or former heads of law enforcement agencies at the federal, state and local level. The work of this panel has frankly just begun.

We have had less than four months. As Judge Webster very clearly described, we've undertaken a great deal of work in that short amount of time and while our work is not complete and this is, I would emphasize, an interim report, it was clear to this panel that it was important that we submit an interim report to HSAC with recommendations given the gravity of some of the potential vulnerabilities to Customs and Border Protection if action is not taken swiftly.

So with that said, I will address two of the three areas and defer to Commissioner Bratton on the third which is preventing the unauthorized use of force. The two other areas that are subject to recommendations by this panel included assuring integrity and improving transparency.

These are, as I want to re-emphasize, the early stage of our review of these various taskings by the Secretary. Those taskings are appended to the report and there will be much more to follow, both in these areas, as well as and others that are set forth in the Secretary's taskings.

But without further ado, I'll start with assuring integrity. It's a lengthy report and to that end, we placed the recommendations at the very front of the report. But I commend everyone reading this report. It sets forth important history and analysis by, as I said, various law enforcement leaders and subject matter experts.

The takeaways, and that's what I want to address without repeating within the reports, the takeaways are what I think, and this panel believes, are important for this - for today's meeting.

And I would start with the takeaways on assuring integrity. Customs and Border Protection is certainly more effective now with the 2003 reorganization under Homeland Security.

The purpose of these recommendations are pursuant to what the Secretary requested, which is improve, find ways under model practices that improves upon integrity and assuring integrity for CBP.

CBP is vulnerable to potential corruption. All law enforcement is vulnerable to corruption. But CBP is vulnerable in a different way. It has operated since 2003 without, until this last year, the ability to even conduct criminal misconduct investigations that it should have been authorized to address, to investigate and to reach conclusions and to discipline accordingly.

It lacked, not only the authority, it lacked appropriate staffing. So the take away on this is that the Secretary should be commended because he provided CBP with that authority.

He converted the staff to – appropriately – to 1811 special agents or criminal investigators to conduct those investigations as it is set forth in the recommendations.

It is woefully understaffed. And it is woefully understaffed in part because of the reorganization and the loss of all of its internal affairs in that reorganization approximately 13 years ago.

And it is woefully understaffed because it did not have the proper designations for investigators as well as the proper budget and staffing numbers, headcount numbers.

To that end, I commend to you a rather lengthy analysis in the report, but for some of that is that Customs and Border Protection, appropriately, thanks to the Secretary, now have this delegated authority to conduct - to police itself, to conduct criminal misconduct investigations.

But it is doing so with less than half of the internal affairs staffing that all other law enforcement agencies have. The second area that is equally critical is the ability for Customs and Border Protection to properly police itself is an also outdated management directive, DHS Management Directive, 810.1. And that is from 2004 and it needs to be updated. And essentially under that management directive, the IG for DHS has the right of first refusal on all matters involving corruption and use of force.

There is obviously a very important role for the IG and the need for the IG to operate even independently of Customs and Border Protection, but not on all potential matters of corruption and use of force.

To that end, and consistent with a 2011 Homeland Security Studies and Analysis Institute on CBP workforce and integrity, we also believe (the panel) that it is a matter of some urgency that this be - that this MOU be updated - excuse me, this directive be updated.

It can be done so through an MOU but that pursuant to that updating that CBP have the authority under the management directive, or MOU, to actually conduct these misconduct - criminal misconduct investigations and allegations of corruption jointly with the IG except in rare circumstances, that it be permitted to pursue these investigations without waiting for the IG to determine whether they are going to exercise their authority and that Customs and Border Protection, particularly its Commissioner, have visibility as the head of the agency who's held accountable as the Commissioner is for its workforce integrity has and that is the visibility into these investigations, the ability to prioritize these investigations and pursue them with due diligence. The third area -- excuse me -- the next area, and I will defer to Commissioner Bratton for the use of force - preventing unauthorized use of force, is transparency.

And I commend the Commissioner and commissioners who preceded him for establishing the border liaison -- a border liaison apparatus, as well as this Commissioner for his foresight to place public affairs in the hands of a professional media person.

There is a model policy that they have in place which is "maximum disclosure and minimum delay". It is the right policy. It is, however, a policy that would benefit from a re-examination of the organizational design in its implementation, and the panel submits that it should be elevated to a single oversight for transparency.

There are other recommendations that I won't go into, that are - certainly in full transparency, but I want to close my part of this by addressing the NGO stakeholder transparency and coordination, which was also part of the Secretary's tasking and is reflected in this report.

If you look at Appendix D, we received a very thorough letter from the NGOs who we met with, which was very helpful to this panel. It sets forth a number of areas of concern to the NGOs and areas that this panel will continue in its future meetings to examine and address.

The NGOs have, I think, certainly this panel believes, set forth matters of some concern. And we have made recommendations based on that, in particular, the complaints process.

This panel has not addressed all of the NGO concerns in detail. As I said, we will continue to do that in the future, and in closing, I would flag for everyone on the HSAC that our taskings - there are multiple taskings that are still left to be addressed, but I would identify three key areas that this panel will be pursuing in addition to the follow-on to this.

And that would be the adequacy of the disciplinary process in Customs and Border Protection, its ability to function effectively as an intelligence driven - it's intelligence driven approaches to - both to corruption, as well as to -- excuse me -- both to corruption as well as its task forces, border corruption task forces and as I've already said, more to come on the NGOs and the stakeholders.

So, we thank every one for their assistance. Commissioner Bratton, I specially want to thank you for providing so many high-level leaders from the New York Police Department, notably Matt Pontillo and John Sprague, for their invaluable assistance in this. And with that, Commissioner Bratton, I turn it over to you.

Commissioner William Bratton:

Thank you very much. In - for purposes of clarity and truthfulness, that while I have the title of vice - of co-chair on this assignment, Karen really carried the large responsibility for chairing and moving this assignment forward.

I was fortunate that I had two of my senior staff people who showed he referenced - Matt Pontillo and John Sprague participate in various meetings in DC, almost all of the conference calls.

And so they did the (unintelligible) work. I'm going to outline, in just a moment, that work, but Assistant Chief, Matt Pontillo, will give the presentation explaining the work that we did relative to use of force guidelines.

For appropriate background, in the NYPD at this time, we're doing a comprehensive review and will shortly implement new force of - use of force policies and guidelines for our own personnel.

So this opportunity to work with Customs and Border Patrol on the revision of theirs, was an opportunity, at the same time, to match them up against what we were working on and share best practices.

Secondly, a key component of what we're doing here is modeled after the initiative that was created in the LAPD while I was Chief there. Under the mandate of the Federal Consent Decree, we created a Force Investigation Division to investigate use of force by members of the LAPD.

We are now creating a similar entity here in NYPD that Inspector Sprague will be heading up. That goes into effect July 1st. So between Assistant Chief Pontillo and Inspector Sprague, they brought into the conversations and meetings in - a lot of knowledge that they have been acquiring and putting into place in the NYPD.

And I hope that the input was helpful as the panel moved forward with the recommendations that we're discussing here today. What I'd like to do at this point in time is introduce Assistant Chief Pontillo, who his role in the NYPD at the moment is the creation of a risk management - risk assessment group in the department to assist in, among other things, reviewing use of force

activities by many officers to develop early warning systems for our officers who might be going in the wrong direction.

And to effectively work very closely with internal affairs as well as the use of Force Investigation Division we're creating, to deal with the oversight entities we now have in the NYPD, including a federal monitor, (unintelligible) policies and procedures and a new inspector general position that will have the ability to comment - review and comment on our policies and procedures.

Like the Customs and Border Patrol, we also engaged in an implementation of a body camera initiative that will expand very shortly to about 1500 body cameras.

So there was a self-serving interest in responding to Kerlikowske's request to serve on this committee and that so much of what they're looking at, we are already engaged in ourselves to take a look at.

So it provided a unique opportunity to get best practices from around the country and review them, not only through the prism of Customs and Border Patrol, but the NYPD prism. With that, I'd like to ask Chief Pontillo to give a presentation similar to what Karen just gave.

And Karen, thank you for the kind words but as you fully know, my participation was significantly the work of others, other than some review and comment that they brought back on work from the various meetings they attended and conference calls they participated in.

Matt Pontillo:

Thank you, Commissioner. Good afternoon everyone. So I will go through some of the use of force recommendations that the group has come up with. And, you know, clearly when we look at use of force, there is no greater responsibility than any law enforcement officer as anywhere than the authority and responsibility to use - their authority to use force appropriately within legal boundaries and appropriate for their responsibility as law enforcement officer.

Customs and Border Protection has already made significant improvements in their use of force policy training and investigative posture. Our goal was to look at what they've already done, look at the 2014 use of force guidelines that were published and then build upon that to make additional recommendations so that they can improve the use of force guidelines, training and investigative capabilities.

And, you know, Customs and Border Protection works in a very, very challenging and unique operating environment. So we took that into consideration as well as we went through each of the policies and recommendations that we arrived at.

The goal here was to look at the use of force guidelines, recognizing the minimum legal standards that are required to use, both non-deadly force and deadly force in any encounter, and then try to come up with some reasonable recommendations that could be promulgated as part of

a policy that goes beyond the minimum legal requirements in order to have a responsible use of force policy that would not adversely impact upon an officer and agent's safety.

What we came up with were a number of recommendations to first change or modify the use of force guidelines. So the first thing we thought that, as - at the outset of the policy and the guidelines it would be appropriate to have a values or policy statement that says CBP emphasizes that the overarching responsibility of all officers and agents is to preserve human life.

And this sets the foundation for all the policies and procedures that then flow from it in the use of force guidelines. And then we look at some of the use of force guidelines especially the authority to use a firearm, and we came up with two key recommendations.

One is to implement specific restrictions regarding using force against moving vehicles and to limit that to scenarios where deadly force, other than the vehicle itself, is being used against the officer or agent.

In this would apply, in most scenarios, except in the case maybe where you had a situation where there was no method of escape for the officer or agent, putting them in a position where their only recourse was deadly force, but in other scenarios where they had other options, to use those other options.

And again, this would be a limitation above and beyond the minimum legal requirements but we think it could go a long way in reducing the number of officer involved shootings.

The other was to place restrictions on the use of deadly force against individuals who are throwing objects at the officers and agents. And again, this has to be fleshed out in a little more detail but certainly some restrictions on people throwing objects, using force against them, we think would be appropriate to reducing the number of officer involved shootings.

Next we look at training, and Customs and Border Protection already has a pretty extensive training program and they are moving in the direction and using a lot of scenario-based training.

And we applaud that, and I think the consensus among law enforcement agencies is that scenario-based training is the most effective training especially in use of force encounters.

And we urge them to continue moving in that direction and continue to expand the use of scenario-based training for all their personnel, both at the recruit level, when they first enter the agency, then periodically through in-service training.

And that scenario-based training and all those training programs should also include a de-escalation component, so the idea is to include other alternatives be on the use of force to de-escalate the situation and reduce or eliminate the need to use force when appropriate.

It doesn't work in all of encounters but the idea is to create - to develop that skill set and give officers and agents that option when dealing with at the serial encounters where it's another item in the tool bag that they can use where they may not have to resort to force.

Then we moved on to the use of force in investigations. So Customs and Border Protection has already developed use of force incident teams that respond to and investigate certain use of force, deadly force.

We recommend that they may want to consider expanding the scope of what the use of force incident teams investigate to include more firearms discharges. Right now they do not investigate incidents where there are - a firearm is discharged but there is no hit.

So we think they should investigate those, as well, and also consider developing local or regional use of force investigation teams to address uses of force that do not rise to the level of the agency-wide investigative team.

This way, you'll have - it creates a more - consistent standards across the agency and provides some more professional investigations agency-wide for all uses of force.

And then finally, in terms of the investigations, we thought that expanding the role of the use of force review boards to include a separate determination as to the tactics employed in a use of force encounter.

So right now, the use of force review boards look at whether the use of force is within guidelines and tactics is included but its part of a general assessment of training and other factors that are to be considered in the use of force incident.

We think that use of the tactics, sound tactics can be as important as to whether or not a shooting or other use of force is within agency guidelines. So that should be a separate determination that stands on its own with recommendations that follow.

And then body-worn cameras, CBP is already engaged in a body-worn camera feasibility study. We recommended that they continue to consult with stakeholders to include prosecutors, NGOs, officers and agents as well as look at model policies from other agencies and other organizations as they consider their final body-worn camera policy, and also identify the appropriate metrics to effectively evaluate their body-worn camera program. And that pretty much sums up what we did on the use of force side of the - of this process.

Commissioner William Bratton:

And we'd be happy to answer any questions at the appropriate time from anybody relative to that presentation, those recommendations.

Judge William Webster:

Well, will open up the meeting now for public comments. Operator, will you please proceed with opening the line for public comments?

Coordinator:

Yes, if you would like to make a comment, we ask that you please press star 1 on your touchtone phone, unmute your line in record your name at the prompt. Once again, to make a comment, press star 1 and record your name at the prompt. One moment for the first comment.

Judge William Webster:

And please identify yourself and any position that you hold that you think is appropriate if necessary or desirable.

Coordinator:

And we do have our first comment from Christian Ramirez, Southern Border Communities Coalition. Your line is open.

Christian Ramirez:

Thank you very much. We, from the Southern Border, want to thank the panel for such a candid and critical assessment that is very important work for CBP to make sure that it's an accountable and (unintelligible) agency.

We are very pleased with the key areas that the panel has identified and we look forward to continuing to work with you to make sure that, not only CBP takes these recommendations seriously, but to implement them and ensure that there is a process for civil society along the way.

You know, we do want to thank you for listening to our recommendations and want to know that we continue to move forward in consultation with the (unintelligible). So we appreciate very much the hard work that went to this report.

Coordinator:

Once again, if you would like to make a comment, we ask that you press star 1 and record your name. In the next comment is from Jennifer Johnson from Southern Borders Community Coalition. Your line is open.

Jennifer Johnson:

Hi. Yes, it's Jennifer Johnson with the Southern Borders Community Coalition. I just wanted to kind of also express, I think, from the NGO perspective, our appreciation. It sounds like this is a really strong report. We're really looking forward to the upcoming recommendations and reports that the panel issues.

And just very much also appreciate that you met with NGOs and consulted with NGOs early on in the process. And some of our concerns were reflected obviously in the report and as Christian said, it was a really, you know, candid in critical assessment which I think is really needed at this time and kind of (conveys) some of the urgency of this matter.

We had a couple of additional points. Hopefully, you know, it sounds like, I know it's only been for four months, but moving forward, about looking at possibly - looking at - when looking at the use of force policies, looking also at use of force when it happens to do not just with automobiles but also with those given recent death of a woman who drowned when there was a possible accidental ramming of a border patrol boat with - when the woman who was a passenger died, drowned, and looking at the policy regarding firing warning shots over the bow of the boat.

Also another thought, looking at the report, is looking at how, in terms of responses to the use of force incidents, looking into the nature of the engagement with family members or victim's family members for individuals who are injured or killed by a CBP.

And then also a colleague raised a concern or a question regarding a report regarding - a concern regarding how CBP collects, releases and explains data regarding use of force incidents.

For example, when there was an announcement this past spring that there was a 30% reduction in use of force incidents and kind of clarifying what the definition and what contact use of force means, and just in general, greater transparency when it comes to statistical reporting of aggregate data. So once again, many thanks to all of your work.

Coordinator:

And as a final reminder, if you would look to make a comment, please press star one and record your name at the prompt. One moment please.

Coordinator:

And at this time, I'm showing no more comments in queue.

Judge William Webster:

Well, thank you, members of the public for your comments. And so we'll now close the line from public comment. And at this time, I'd like to ask whether the Council members have any additional questions and comments, for the co-chairs of the Customs and Border Protection Integrity Advisory Panel. If so, speak up please.

Jim Jones:

I'd just like - this is Jim Jones. I would just like to commend the taskforce. It was really an excellent report and related to support it.

Ron Barber:

Well, this is Ron Barber. I want to add my comments to that as well. As a former member of Congress, representing one of ten border districts, I want to commend the panel as well.

I'm kind of a late comer to the Panel, having just joined the advisory board couple months ago. And when I was given the opportunity to review the recommendations to see if there were any changes, I have to say, from my standpoint as a member of Congress, a member of the Homeland

Security Committee, I think the panel has really nailed all of the issues and (unintelligible) a very candid and clear way.

You know, during one of my time in Congress, one of the biggest issues we were dealing with ongoing was the potential for corruption and then the use of force issues.

And I want to not only commend the panel but I want to commend the Secretary because shortly after he became Secretary, he made some very decisive moves to improve the accountability and transparency and credibility, quite frankly, of the CBP including releasing the use of force policy which had not been released to the public.

So I just want to join with others, I'm sure, in saying I think the panel has done a great job and I look forward to - up to vote in favor of the panel recommendations shortly.

Thad Allen:

This is Thad Allen. I'd just like to make a comment on the commenter water use of force. I think there is an opportunity to align and create a standard framework for on water use of force in dealing with boat on boat and persons involving - any kind of scenario around the water. I would recommend that there is an effort to align the Coast Guard in CBP documents associated with that.

John Pistole:

And this is John Pistole. I would just echo the comments of the first couple of folks in terms of the report and its thoroughness. The one aspect that I would comment on in terms of the Office of Internal Affairs within CBP and the staffing, the comparisons to NYPD and FBI were good in terms of the actual numbers.

If, obviously in looking at budget submissions through OMB and honestly to the Hill, it may be also helpful and you may have information -- I just didn't see -- in the body of the report, the details.

If you also have the information about the number of internal affairs investigations that NYPD and FBI managed with their complement, advice that of CBP, frankly the FBI one seemed high in terms of the actual dedicated numbers of agents who investigate officer professional responsibility-slash-internal affairs matters.

But I think that additional metric might be helpful in terms of at least a budget submission to augment that. But overall, you know, outstanding report and Commissioner and Karen did a great job overall on that. Thank you.

Liz Holtzman:

Hi, this is Liz Holtzman. I just want to echo the comments that are made. The report was excellent and the recommendations were excellent. Thank you.

Bill Livingood:

This is Bill Livingood. I, too, would like to just add on a comment into say that I thought it was outstanding. Commissioner, you and Karen, and the entire panel were a great group.

The - a lot of law enforcement agencies can learn from this, particularly on your use of force and your assuring integrity sections. There's a lot that can be learned and I think that'd be very beneficial to all. Thank you for your work.

David Martin:

This is David Martin. I also want to commend the panel for the work that you've done. The relationship - I focus has been on the integrity issues. The relationship between the OIG and the CBP, and indeed, ICE, for that matter, in the past has not worked well at all.

These recommendations go a long way towards helping to resolve that and I certainly hope we can establish a situation where OIG normally defers, primarily to CBP.

I had two small concerns that I wanted to note. I'd love it if the report could be tweaked to reflect this but it's probably too late for that, but I think primarily because it's an interim report and I hope it will be reflected in the future work of the panel.

One, you talk about certainly CBP and a law enforcement agency and you mentioned that it's got a unique mission. I'm not sure the report fully reflects the uniqueness of the mission.

CBP is a law enforcement agency to be sure with the vulnerabilities described but it's also - it also partakes of the combined immigration missions of the agency and that is both enforcement and services or facilitation which is important to local communities, for ports of entry to work well and also for individuals.

So, I mean, that's reflected a little bit but I think it's important to talk about that a bit more, that it's both a law enforcement into service agency. That's partly a message to the public. I know a lot of NGOs are very, very interested in making sure that DHS generally understands that, the two prongs of the mission.

And also important to reinforce, I think, at CBP, law enforcement is very important but also facilitating lawful travel. And so many of the encounters, particularly at CBP officers, the inspectors that the ports of entry have, most - the vast majority don't have any potential implications for law violations.

So - and that's a unique issue. They have some applications as CBP ultimately works out the ratios, the appropriate ratios for internal affairs. That's sort of a similar concern that John Pistole mentioned. I'd like to see that factored in a little bit more and ultimately operationalizing this.

And the second one has to do, it's a related concern about where the additional 1811s will come from. It does make a lot of sense to transfer some positions, particularly from the OIG, also from ICE.

The replacements seem to suggest that maybe all 180 positions that first went over from the former INS border functions to ICE should all be taken back and that was 180 positions but the Office of Public Responsibility in ICE has only 200 agents right now.

So I just was wondering if there was more of an analysis done of the overall needs of ICE for their own - their own needs for 1811s and that might temper some of the recommendations there. But I say all that - those are minor points. I strongly support and commend the report.

Judge William Webster:

Thank you. Any other comments? This is the moment. All right.

John Magaw:

Judge, if I could mention - Judge Bonner has written a lot of materials on just these last three topics. So I know they're somewhere. They're certainly in my notes. They're in others. And so I would think that that topic has already been addressed by Judge Bonner and others we can probably put that in the report.

Rob Bonner:

Yes, this is Rob Bonner. Let me just say in response to David Martin ICE has about 5000 to 6000 special agents and they have about 200 of those agents assigned to their OPR.

The - what happened at the creation of Homeland Security was that the principal legacy agency of Customs and Border Protection, by the way, is Customs. And so all of the Customs internal affairs agents - and there were 180 to 190 of them at the time, along with all the other Customs - and they were all Customs special agents.

They were all transferred over to ICE. So again, you want to make sure there is an adequate number of internal affairs investigators and ICE to cover its roughly 19,000 workforce.

But CBP's workforce, as you know, is three times that of ICE's, just a total workforce. There are almost 60,000 FTE. So ICE has a lot of special agents that they got from Customs and then some from INS.

And I'm not saying that the only way to do it but it does strike me that it would not be inappropriate if, at least, some of the FTE shortfall in Customs and Border Protection, Internal Affairs was a transfer back of agents that were essentially removed from Customs and Border Protection on March 1, 2003.

But, again, there are a number of ways, and we suggest - by the way, we don't actually recommend exactly how the FTE shortfall in CBP internal affairs should be made up, but we did talk about a number of possibilities of which that was one.

Again, this - again, you know, we're not making a definitive recommendation that that be the way it's accomplished but we are saying that we do believe, based upon our analysis, that CBP's Internal Affairs is going to require a plus-up of about 330 to 350 1811 investigators.

David Martin:

This is Dave Martin. Thanks for the clarification.

Sarah Morgenthau:

David, does that answer your - the issue that you raised because I want to make sure that we do incorporate if it's something that you would like incorporated?

David Martin:

Well, I mean, it's primarily just - I think it's worthwhile and I think that the panel is looking towards that to analyze little more closely the alternative needs and look at different - the competing claims in 1811s. But I'm generally quite supportive of a major plus-up in this capacity and CBP.

Judge William Webster:

We're going to have some elasticity of necessity and applying the general approvals or disapprovals, depending on how you vote, to the situation. But without changing the intention or the impact of the general recommendations as the advisory groups have presented to us today, and so please understand that there is that room for clarification.

David Martin:

Okay, that's fine.

Judge William Webster:

All right, thank you. I think now it's time, unless there is more discussion, for a motion to approve or not approve the recommendations from the Customs and Border Protection Integrity Advisory Panel. May I have a motion?

Man: So moved to approve.

Woman: Second.

Judge William Webster:

And that's a motion to accept.

Man: Yes.

Woman: Yes.

Judge William Webster:

You heard the second - you for the motion and second. Any further discussion? All right, at this time those in favor of approving the recommendations, please say aye.

Man: Aye.

Man: Aye.

Woman: Aye.

Man: Aye.

Man: Aye.

Man: Aye.

Woman: Aye.

Man: Aye.

Man: Aye.

Judge William Webster:

Those opposed say nay. Thank you. The recommendations are therefore approved. And for the record, the recommendations have passed. Thanks again to our panel, Co-chairs, Bill Bratton and Karen Tandy, and we really appreciate your leadership.

Commissioner William Bratton:

Thank you, Judge.

Judge William Webster:

I thank all of the members of the panels for their interim report, members of the HSAC and members of the public, also, for their participation. So now we're right on time and we're going to bring this session to a close.

Members of the public who would like to provide a comment, and that includes the media, may do so in writing by mailing it to the Homeland Security Advisory Council, US Department of Homeland Security, 1100 Hampton Park Boulevard, Mail Stop 0850, Capitol Heights, Maryland, 20743.

Or by email at HSAC@HQ.DHS.GOV. Again, your comments are appreciated and they will be reflected in the meeting minutes. So therefore, the meeting of the Homeland Security Advisory Council is now adjourned. And thank you all very much.

Man: Thank you, Judge, too.

Man: Thanks, Judge.

Man: Thanks, Judge.

Man: Thank you, Judge.

Coordinator:

Thank you for your participation in today's conference. At this time, all parties may now disconnect.

END

I hereby certify that, to the best of my knowledge, the foregoing minutes are accurate and complete.

September 22, 2015

Signed and Dated

Handwritten signature of William H. Webster and the date 9/22/15.

Judge William H. Webster, Chairman, Homeland Security Advisory Council