

THE HOMELAND SECURITY DEPARTMENT'S BUDGET SUBMISSION FOR FISCAL YEAR 2016

HEARING

BEFORE THE

COMMITTEE ON
HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE
ONE HUNDRED FOURTEENTH CONGRESS

FIRST SESSION

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WEDNESDAY, APRIL 29, 2015

U.S. SENATE,
COMMITTEE ON HOMELAND SECURITY
AND GOVERNMENTAL AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 9:03 a.m., in room SD-342, Dirksen Senate Office Building, Hon. Ron Johnson, Chairman of the Committee, presiding.

Present: Senators Johnson, McCain, Paul, Lankford, Ayotte, Ernst, Sasse, Carper, McCaskill, Heitkamp, Booker, and Peters.

OPENING STATEMENT OF CHAIRMAN JOHNSON

Chairman JOHNSON. Good morning. This hearing will come to order. We want to welcome the Secretary of the Department of Homeland Security (DHS), Mr. Jeh Johnson. Thank you for appearing, Mr. Secretary, and for your service to this country. I know this is a really big job, and I know you are working hard to succeed in your mission, which is basically encapsulated in your mission statement: "The vision of homeland security is to ensure a homeland that is safe, secure, and resilient against terrorism and other hazards."

It is interesting because, working with Senator Carper here, we also developed a mission statement for this Committee. It sounds pretty similar. Ours is pretty simple. It says: "To enhance the economic and national security of America." And, we really have two Committees in one here: Homeland Security on one side and Governmental Affairs, like the House Oversight and Government Reform Committee.

When we developed that mission statement, we also developed a set of priorities which also is very close to your set of priorities. Your Department's core missions are to prevent terrorism, enhance security, secure and manage our borders, enforce and administering our immigration laws, safeguard and secure cyberspace, and ensure resilience to disasters. The priorities we set were: border security; cybersecurity; protecting our critical infrastructure, including the electrical grid; combating violent extremism; and the fifth priority—and hopefully this has your support—is we really are dedicated to doing everything we can as a Committee to help you succeed in your mission. And I think we finally got Russ Deyo confirmed. That is certainly one of the things we can do as a Committee, is to make sure that you can staff your Department.

I do have an opening statement that, without objection, I would like to enter into the record.¹

We do have a hard break here for the address to the Joint Session of Congress by the Prime Minister of Japan, so without further ado, I will turn it over to our Ranking Member, and just realize for all Members, we are going to have to have a hard break here, somewhere between 10:20 and 10:30.

Senator Carper.

OPENING STATEMENT OF SENATOR CARPER

Senator CARPER. Thanks, Mr. Chairman.

Mr. Secretary, great to see you. Thanks for your service and the leadership that you are providing. We are grateful to the Chairman and all the Members of our Committee here encouraged the Republican and Democratic leadership in the Senate to move the nomination of Russ Deyo. We think he will be a great addition to your team. I am glad that you recruited him, and I am glad that he is on the payroll. I hope we can replicate that success with the President's nomination of Vice Admiral Peter Neffenger as our next Administrator for the Transportation Security Administration (TSA), a critically important position. With John Pistole, he has a tough act to follow, as you know, but I think you picked a really good candidate. So we are going to do our best to move him quickly.

As we know, the President has requested a little more than \$41 billion dollars in discretionary funding for the Department of Homeland Security. For the first time in several years, we are talking about an increase in discretionary spending over the previous year. And I support the President's budget request for DHS and am pleased that he has recognized the need to provide the Department with an increase in funds. I believe it is truly needed if we expect, Mr. Secretary, for you and your team to effectively and efficiently carry out the many vital missions that you have.

For example, this budget request makes a sizable investment—I think it is over \$800 million dollars—in cybersecurity, and these funds will help DHS to better secure our financial institutions, our electric grid, as well as many Federal agencies from cyber attacks.

It also includes our recent investments in border security. This year, for example, the President is requesting roughly \$845 million more than last year for Customs and Border Protection (CBP). This funding would maintain the current record level of staffing for the Border Patrol and make targeted investments in force multiplying technology and equipment. For our colleagues who are eager to pass a border security bill, I respectfully suggest that supporting the President's budget request is a very good place to start.

I was also very encouraged to see a proposed increase in funding for the ongoing consolidation of the Department's Headquarters at St. Elizabeths. Completing this project will ultimately save the taxpayer more than \$1 billion dollars over the next 30 years by cutting down the number of costly leases that DHS has all over this town. Research that my staff and I have done indicates that funding the DHS project will not only improve operations but it will also improve employee morale at DHS.

¹ The prepared statement of Senator Johnson appears in the Appendix on page 33.

All of these needed investments and many more, however, may disappear if DHS is required to absorb the deep funding cuts proposed by our colleagues in the House. I understand the House has just established its high mark for DHS discretionary spending in fiscal year (FY) 2016 at a little more than \$39 billion. That is \$350 million less than the Department is working with this year, and it is almost \$2 billion dollars less than what the President has proposed. Cuts this large could hurt our security and stall many initiatives at the Department. The threats we face as a country are just too great and too complex to fund DHS below what it received in 2015, and even below what was received in 2014.

I understand some of our colleagues are willing to spare the Department of Defense (DOD) from cuts and even to increase defense spending. While defense spending is certainly important—we know it is—we must remember that the Department of Homeland Security is also a vital part of our national security efforts. We need to work harder together to find a fair and responsible solution for the budget challenges facing all of our essential government agencies. I look forward to hearing from the Secretary about the impacts that budget cuts considered in the House would have on our security, as well as the potential impact of sequestration on DHS, should it kick in.

In closing, again, we want to salute the brave men and women that you lead in the Department and thank them for all they do to keep us safe. Their work is important. We think that we are making progress. Thank you so much. Thanks for joining us and for your leadership.

Chairman JOHNSON. Thank you, Senator Carper.

It is the tradition of this Committee to swear in witnesses, so if you would please rise and raise your right hand. Do you swear that the testimony you will give before this Committee will be the truth, the whole truth, and nothing but the truth, so help you, God?

Secretary JOHNSON. I do.

Chairman JOHNSON. Thank you.

Secretary Jeh Johnson is the fourth Secretary of Homeland Security. Prior to joining DHS, Secretary Johnson served as General Counsel for the Department of Defense, where he was part of the senior management team and led the more than 10,000 military and civilian lawyers across the Department. Secretary Johnson's career has included extensive service in national security, law enforcement, and as an attorney in private corporate law practice. Secretary Johnson.

TESTIMONY OF THE HON. JEH C. JOHNSON,¹ SECRETARY, U.S. DEPARTMENT OF HOMELAND SECURITY

Secretary JOHNSON. Thank you, Mr. Chairman. You have my prepared statement. I will not read it. I will say one or two things.

One, I appreciate the leadership that many Members of this Committee in particular showed in getting us a fully funded DHS for FY 2015. I believe that the FY 2016 budget submission is a strong submission that funds our vital homeland security missions.

¹ The prepared statement of Secretary Johnson appears in the Appendix on page 37.

I would like the Committee to know that this year in particular I have made management reform one of my New Year's resolutions and top priorities to make for a more efficient and effective Department of Homeland Security.

I am very pleased at the support we have received from this Committee in particular in filling the vacancies in DHS. We have had 12 Senate-confirmed Presidential appointments to the Department, including myself, since December 2013, the last one being our Under Secretary for Management, Russ Deyo. I hope that the Senate will move quickly on the nomination for our new TSA Administrator, Vice Admiral Pete Neffenger.

As Members of the Committee know, we have moved forward with our Unity of Effort initiative. We have realigned a number of major headquarters functions. We are working to get off the Government Accountability Office (GAO) high-risk list, and, indeed, GAO has singled DHS out as a model for how to resolve all the issues that DHS has. We have moved forward on acquisition reform, and we are addressing aggressively the various personnel issues in terms of transparency, hiring, promotion opportunities that a number of Members of this Committee have written to me about. So we are moving forward on a number of fronts there, and I will be pleased to answer questions about our different missions.

Thank you, Mr. Chairman.

Chairman JOHNSON. Thank you, Mr. Secretary. We like short and sweet.

I will start out with the questioning here. Let us start, because I am getting these questions all the time. We had the gyrocopter incident, and I do not want to get into any kind of details other than to talk about the penalties or right now the crimes, the felony and the misdemeanor that Mr. Doug Hughes is being charged with. And to what extent do you believe that is a deterrent or not a deterrent? And is this Administration at all taking a look at strengthening those penalties?

As I am aware, he is being charged with operating an unlicensed aircraft. That is a felony with a penalty of up to 3 years' imprisonment. And the violation of the airspace is a misdemeanor with only a 1-year potential penalty. I think I have that correct, but to me that is completely inadequate based on the extent that Mr. Hughes put other lives in jeopardy. I have stated repeatedly that Mr. Hughes is very lucky to be alive, and anybody else that is contemplating such a stunt should realize that Mr. Hughes is very lucky to be alive, and I would just like to have your comment on that and what we can do to deter future actions such as that.

Secretary JOHNSON. Mr. Chairman, unauthorized intrusions into the airspace of the National Capital Region I think is something that, in terms of the criminal penalties, we ought to look very seriously at enhancing. Fence jumping at the White House in the absence of any aggravating factors is also just a misdemeanor. And I believe it is something we should seriously look at. It constitutes a diversion of significant government resources to address the particular incident. It constitutes a threat to public safety, not just to the intruder but to those on the ground. And I believe that as a deterrent, we should also consider looking at enhancing the penalties for those types of offenses.

Chairman JOHNSON. I will certainly support you in those efforts. Let us hop over to border security. That is a top priority of your Department as well as of this Committee. We have held multiple hearings, roundtables, and if we can put up the chart of the current situation, the year-to-date figures of unaccompanied children. I realize we are not at the full crisis levels we were last year, but we are still far higher than we were, for example, in 2011 or even the beginning of 2012 when President Obama announced the Deferred Action on Childhood Arrivals.

It is interesting to note that in 2005 we had a similar surge from illegal immigrants coming in from Brazil, and according to a news report, an article that was published in September 2005, the number of illegal immigrants coming from Brazil was 3 times higher than previous years, and it was exceeding 30,000. So Secretary Michael Chertoff employed an initiative called "Operation Texas Hold 'Em," and he said that, "The word spreads surprisingly swiftly. Within its first 30 days, the operation had already begun to deter illegal crossings by Brazilians. In fact, the number of Brazilians apprehended dropped by 50 percent. After 60 days, the rate of Brazilian illegal immigration through this sector was down 90 percent and is still significantly depressed all across the border. In short, we learned that a concentrated effort of removal can actually discourage illegal entries by non-Mexicans on the Southwest border."

The facts were that Brazilians illegally entering the United States dropped from 31,063 in 2005 to 1,460 in 2006.

Now, I really want to talk about what the policies have been, and, again, it is better than it was last year, but we have not even begun to solve this problem. Or we have maybe begun to solve it, but certainly not to anybody's satisfaction.

Can you tell us, Mr. Secretary, how many of the children that arrived last year—and that number was, I believe, over 51,000? Is that a correct figure? How many of those children have been returned to act as a deterrent?

Secretary JOHNSON. Well, Mr. Chairman, the unaccompanied alien children (UACs) who came into the country in FY 2014 are in removal proceedings. Those proceedings, particularly when they assert asylum claims, tend to be pretty time-consuming. We have prioritized those cases to put them at the top of the stack. But I suspect that the number of those actually sent back at this point is nowhere near the 51,000 that you have cited.

Chairman JOHNSON. It is extremely small, isn't it? Somewhere, less than 5 percent, somewhere in the 2-percent range, 2 or 3 percent?

Secretary JOHNSON. Because of the time it takes to go through a deportation proceeding of a minor who is asserting an asylum claim, it is, I am sure, nowhere near 51,000.

Chairman JOHNSON. The information I have is that the current court dates set for those notices to appear for a court date currently are in the year 2019. Is that pretty accurate?

Secretary JOHNSON. I do not know that to be true. I do know that the Department of Justice (DOJ) along with our immigration enforcement attorneys prioritized those cases to put them at the top of the stack. So I do know that. That was a decision we made last summer.

Senator McCAIN. So he has no idea.

Chairman JOHNSON. As we are trying to grapple with a border that is not secure—and, by the way, that was our first hearing. We had four witnesses. There was no planning between witnesses—very strongly in their written testimony made the point that the border is not secure. We have talked about the drug cartels, transnational criminal organizations, the potential nexus with Islamic terror. This is an enormous problem.

But, I keep coming back to the fact of what do we have in our own laws that incentivizes illegal immigration. I think one of those is, again, we have this lengthy adjudication process for illegal immigrants coming here from countries other than Mexico and Canada. Is that a policy that this Administration would be willing to take a look at so that we can be as effective as we were in addressing the Brazilian surge as we take a look at what is happening with the people coming here from Central America.

Secretary JOHNSON. Well, you mentioned the Brazilian surge and Secretary Chertoff. Last year, when these numbers started to go up, I brought in Secretary Chertoff and consulted him about the Brazilian surge, and he told me basically what you said, that it is a very market-sensitive environment, and you have to show the population in Central America that you are sending people back.

And so we dramatically reduced the repatriation time for the adults from something like 33 down to 4 days. We ramped up the flights. We established expanded family unit detention space. A lot of people did not like that, but we did it, and I was very public about that. And we embarked on a public messaging campaign, and we also cracked down on the smuggling organizations.

So we did a number of things that in one way or another contributed to a pretty dramatic dropoff in the UAC numbers and in the overall numbers, beginning June 10, 2014. That was the peak, and then it started to decline. And the numbers have remained low ever since, but I am interested in keeping those numbers low and making them lower, which is reflected in our budget submission.

Without a doubt the process for adjudicating an asylum claim in this country is a time-consuming one. It is more complex and more complicated when you are dealing with a minor. And it is something that could be made more efficient. Part of our budget submission is to add enforcement attorneys to the process so that we can devote more resources to it, and I know DOJ is interested in doing that as well with the judges.

Chairman JOHNSON. OK. Well, just real quickly, in closing, when you take a look at that chart,¹ I would dispute the fact that the numbers are low. They are lower than they were, but they are still not low. And I have a number of questions, more detailed budget questions, that we will submit for the record. But we also have a lot of requests for information from the Department. For example, how many children have been returned? What are those court dates set? So I hope and I encourage the Department to work with us very closely to answer those questions, because without information, you simply have no chance of starting to solve these problems. So I want to work closely with you to get that information so we

¹ The chart referenced by Senator Johnson appears in the Appendix on page 51.

can take that first step that solving any problem is admitting we have it. Senator CARPER.

Thanks, Mr. Chairman.

Mr. Secretary, I am not an expert on Brazil, but my recollection was that the Brazilian economy was not especially robust in the years around 2005, and they had an incredible surge of their own, an economic surge that helped convince people who had been ready to bail out on their country and come to this country to say, well, maybe they should just stay at home. And I think there might be a lesson there, just as there is a lesson from Plan Colombia. There might be a lesson if we want to slow and reduce the flow of unaccompanied minors, families with children. We may want to do something to help facilitate their economic recovery in Honduras, Guatemala, and El Salvador.

We had an excellent meeting with General Kelly the other day, who has explored with us his views on that area, and I would just ask your reaction to that thought.

Secretary JOHNSON. I do believe that part of addressing the overall phenomenon is addressing the push factors in the Central American countries. I know that in our FY 2016 budget request—I think this is through the State Department—there is something like \$1 billion requested for the three Central American countries to deal with the underlying issues there around poverty and violence. And so very definitely the push factors contribute to illegal migration from Central America. It is the motivator for them leaving the country in the first place.

Senator CARPER. I want to go back to the rightful concerns raised by our Chairman about the flow of particularly younger people into this country. One of the things we have endeavored to do, as my colleagues know, is to change the messaging so that instead of the coyotes being able to message the families in Honduras, Guatemala, and El Salvador that they can, for a couple thousand dollars, get their kids up to the United States and they will have legal status, quite a different message has been spread. Would you explain just a little bit about maybe how the messaging has changed over the last year to the folks in those three countries?

Secretary JOHNSON. Well, we were getting anecdotal evidence from talking to the migrants that the coyotes were putting out the message that there were “permisos”—free passes—in the United States if you make it across the border. And that was an inducement to pay the coyotes whatever the fee is, \$6,000, \$8,000. It is like a sale that expires at the end of the week and you have to take advantage of it now.

We put out a pretty aggressive public messaging campaign, some of which came under my own name, that the journey is dangerous through Mexico, especially for a child; it is dangerous to hop on top of a freight train; and that our policies are not such that the border is open; and that you will be put into a removal proceeding if you come here.

We believe that that contributed to the downturn in the numbers, along with a number of other factors, and the information that we are getting now is that people in Central America are no longer being told by the coyotes the story they were being told last summer. And they know that our borders, given the investments

we have made over the last number of years, 10, 15 years, have more resources now than they did before, and there are still, as the Chairman points out, a number who are crossing daily. But the numbers are, in fact, lower, and we think that the misimpressions that the coyotes put out last summer are not being spread as widely this summer.

Senator CARPER. Good. I want to ask you to just comment on the budget request from the President, the level that the House appropriators have set discretionary spending for your Department. I think the Administration has asked for about \$41 billion.

Secretary JOHNSON. 41.2

Senator CARPER. A slight increase from current year funding. I think the House appropriators have set the spending levels at \$39 billion.

One of the things that you indicated we needed more of was attorneys to represent these kids that come here seeking asylum, and one of the reasons why it takes—

Secretary JOHNSON. Actually, I meant that for the immigration enforcement.

Senator CARPER. All right. One of the reasons why it takes a while to process these claims and get people moving is because we do not sufficiently fund this particular area. So I would just ask that we keep that in mind.

Just talk to us more generally about the \$2 billion—how you are going to take care of a \$2 billion cut if we ultimately end up having to accept the House appropriations level of \$39 billion. Where does that money come from, out of what hide, what program?

Secretary JOHNSON. Well, in my judgment, that would represent a significant step backward in our homeland security/border security efforts. If we have to work with the \$39 billion level, I suspect that the funding for the headquarters would be in jeopardy. But I also believe that the additional funding we seek for border security, for detention capability, for aviation security, for the enhancements we need to make for the Secret Service, the hiring of additional Secret Service personnel, would be in serious jeopardy.

Do not forget that there are a number of personnel-related costs tied to inflation that we have to fund no matter what. And so everything else we would have to take a very hard look at, and a lot of our missions are missions that I know Congress wants us to fully fund, for border security, aviation security, counterterrorism. And so it would be an ugly process to have to try to fund the Department at that level.

Senator CARPER. All right. Thank you.

I mentioned to you before the hearing started that I met with Andy Ozment over breakfast this morning from your cyber team. We talked about the two bills over in the House on cybersecurity information sharing. They have been merged together. The House is sending them to us.

Secretary JOHNSON. Right.

Senator CARPER. We have a couple of different approaches: a bill reported out of the Intel Committee, currently legislation that I introduced, in part mirroring what the Administration has suggested with respect to information sharing. And we will be taking up on

the floor—my guess is in May—cybersecurity information-sharing legislation in the Senate.

Any thoughts you have on what we ought to consider and keep in mind as we take up or move toward taking up that legislation?

Secretary JOHNSON. We have some what I will characterize as “minor concerns” about the legislation moving forward. But, overall, I think that the two bills are a good piece of work. I believe that the McCaul bill, as between the two, is a better bill. I think that legislating information sharing between the private sector and the government is the overarching objective that we ought to try to achieve. I think that the single portal, primary portal concept, setting up DHS as the primary portal for information sharing is something we ought to try to legislate.

I believe that limitations on civil and criminal liability for those who share information with DHS is something we ought to try to legislate as well.

So, overall, I am very pleased to see that Congress is active in this area, and I support the idea of legislating cybersecurity. I think it is something we really need to do.

Senator CARPER. Good. We look forward to working with you on that. Thank you.

Chairman JOHNSON. Senator McCain.

OPENING STATEMENT OF SENATOR MCCAIN

Senator MCCAIN. Mr. Secretary, thank you for being here. Do you believe that the President’s Executive Orders (EO) on immigration are constitutional?

Secretary JOHNSON. Yes, I do.

Senator MCCAIN. You do. You said the numbers of these apprehensions are down, and that is good news? Down from 19,000 to 9,000, if these numbers are accurate? That is really good news?

Secretary JOHNSON. The numbers are down from 2014 as well as 2013. If you are focused on the overall numbers, those numbers are lower than they have been in a couple of years. But I am not suggesting—

Senator MCCAIN. Than they have been in a couple of years?

Secretary JOHNSON [continuing]. This constitutes victory.

Senator MCCAIN. In 2013, there were 7,000, according to this. So it is just a little lower than last year—or somewhat lower than last year and higher than any other year.

Look, we are not going to argue, but the fact is you are being disingenuous when you say that the things are really a lot better. Nine thousand eight hundred is not satisfactory to anybody in my State.

So do you know the percentage of the number of young people who have met their court dates for appearances once they have showed up on our border? Do you know the percentage that have showed up for the dates they are supposed to?

Secretary JOHNSON. If you are referring to unaccompanied children—

Senator MCCAIN. Yes.

Secretary JOHNSON [continuing]. I do not know the number off-hand, sir.

Senator MCCAIN. I wonder why you do not. I wonder why you would not know that number. I think the American people and this Committee need to know that, because you and I know that the percentage is very small, somewhere around 10 or 20 percent. So the intent of the law was that children were supposed to be able to come to our border in order to get a fair and unbiased judgment about their need for asylum in the United States. So the law is being perverted. When you only have 10 to 15 or 20 percent of the children who show up on our border who show up for their court date, then the law is not being implemented, because the intent was to give them the benefit of the judicial system here in the United States, and they are not showing up for it. So obviously the law is not being implemented in the way that it was intended.

Are you aware of the percentage of the young women who are brought by these coyotes—and all of them now are brought by coyotes for thousands of dollars. I do not think anyone would disagree with that. Do you know the percentage of young women allegedly who are raped on the way?

Secretary JOHNSON. I have not seen a percentage of those who have been sexually assaulted.

Senator MCCAIN. You have heard that there is a sizable number.

Secretary JOHNSON. I know it is a sizable number because that—

Senator MCCAIN. Doesn't that concern you, that a sizable number of young women are raped on their way up to this country?

Secretary JOHNSON. Of course it does, Senator. Of course it does.

Senator MCCAIN. Then why do you support—

Secretary JOHNSON. I have spoken to—

Senator MCCAIN. Well, then, why do you support legislation and a policy that encourages such a thing then if you do not like it?

Secretary JOHNSON. Well, Senator, I think that I support and encourage and am working toward a policy that discourages illegal migration from Central America, particularly among women and children.

Senator MCCAIN. Well, certainly it does not discourage illegal migration if we have a law that says that if they show up on our border, they can stay here and only 10 to 20 percent of them are meeting their court dates.

Secretary JOHNSON. Senator, I have been in enough processing centers to talk to pregnant 15-year-olds to be utterly disturbed and upset about that. Do not mistake—

Senator MCCAIN. Well, then you would think—

Secretary JOHNSON. Please do not misunderstand that.

Senator MCCAIN [continuing]. If you were utterly upset and disturbed about it, then you would think you would want to bring a halt to it. And the halt to it is to set up consulates and expand our embassy capabilities there to handle these cases there.

Secretary JOHNSON. Well, that is exactly what we have done.

Senator MCCAIN. Rather than have them subjected to the cruelties of the coyotes, and then once they get here, they do not show up for their court dates.

Secretary JOHNSON. That is exactly what we did, sir.

Senator MCCAIN. You did what?

Secretary JOHNSON. We set up in-country processing in Guatemala, Honduras, and El Salvador.

Senator McCAIN. Then why are 9,802 showing up at our border?

Secretary JOHNSON. Well, the number is considerably lower than what it was last year——

Senator McCAIN. That is acceptable, 9,800 is considerably lower? That is good news?

Secretary JOHNSON. I do not consider that good news. I do know that——

Senator McCAIN. Well, the way you are portraying it, you act like it is. And it is not. And what is happening to these young people, including young boys as well as women, is something that you would want to bring to an abrupt halt. Instead we see this continued flow and treatment of these young people that is beyond cruelty. And so you are happy with the fact that there has been a reduction, and there are only nine thousand——

Secretary JOHNSON. You are mischaracterizing what I have said, sir. May I be allowed to comment?

Senator McCAIN. Sure.

Secretary JOHNSON. The numbers are considerably lower in every sector, including the State of Arizona. I have said repeatedly in my public statements that I am not declaring, "Mission accomplished." We need to strengthen border security.

In reaction to last summer, we did a number of things to reduce the repatriation time, to surge resources, to establish family unit detention capability, much to the objection of a number of advocacy groups. I am being sued in the city of Washington, D.C., for that, but we did it because I thought it was necessary and appropriate.

We have done a number of things to prioritize prosecuting the coyotes. We have prioritized the deportations of the kids, though it is a time-consuming process. So I do not want there to be any misunderstanding that, in reaction to last summer, we have done a number of things that I want to maintain on the Southern border.

Senator McCAIN. Of course, there has been no reduction in the activities of the coyotes. How many of the coyotes you say you have captured and prosecuted?

Secretary JOHNSON. It is in the statement I released last week. The number is right here. I can take the time to look for it, but it is in this statement, sir.

Senator McCAIN. So you have really made a dent in the activities of the coyotes? Of course not. So the fact is that we now have still a larger number, according to these numbers, of unaccompanied children, larger than it has ever been, with the exception of last year, and you are acting like that is some kind of achievement.

I will not even talk about, because my time is up, General John Kelly's assessment on our border, who said, "Terrorist organizations could seek to leverage those same smuggling routes to move operatives with intent to cause grave harm to our citizens or even bring weapons of mass destruction into the United States." That was General Kelly, the Commander of Southern Command (USSOUTHCOM).

So, Secretary Johnson, I do not see how you could sit there and act like you have achieved something when only 10 to 20 percent of the young people who have come to this country actually show

up to plead their case to be able to remain in this country. And as far as I know, the information that I have, the activities of the coyotes have certainly not been impacted by any action that you have taken since they do not—so I am deeply disturbed about the fact that my Southern border of my State is still not secure, that we are still seeing a record number, with the exception of one year, of unaccompanied children showing up at our borders who are being subjected to unspeakable things on the way up, which does not seem to enter into your calculations.

Thank you, Mr. Chairman.

Chairman JOHNSON. Thank you, Senator McCain. Senator Ernst.

OPENING STATEMENT OF SENATOR ERNST

Senator ERNST. Thank you, Mr. Chairman. Thank you, Secretary Johnson, for being here today. I do appreciate the fact that you are working with your Department to streamline it, make it more efficient, and more effective for our citizens. So thank you for doing that and for your efforts.

I do want to reference Senator McCain, and he had asked about President Obama's Executive actions on immigration. I would just like to know the impact and how you are implementing that departmentwide. What actions have been taken? What are the implications to your Department?

Secretary JOHNSON. Well, there were nine Executive actions that I signed out on November 20 that the President announced. One of them is Deferred Action for Parenthood Arrivals (DAPA) and the expansion of the criteria for Deferred Action for Childhood Arrivals (DACA). That is the subject of the Texas litigation.

There are a number of other things that we did. We directed the Southern Border Campaign Strategy, which is bringing to bear on the Southern border all the resources of my Department DHS-wide—Citizenship and Immigration Services (CIS), the Immigration and Customs Enforcement (ICE), CBP. Up until now we have been too stovepiped in the history of my Department. So one of the things we directed was the Southern Border Campaign Strategy.

We also directed pay reform for our immigration enforcement personnel. They are on a pay scale that tops them out at GS-9, and so we want to get them to GS-13.

We announced the end of the Secure Communities Program. A lot of people have questions about why the removal numbers are lower this year than in years prior. One of the big reasons, if not the big reason for that, is because so many State and local jurisdictions were passing laws and ordinances limiting their ability to cooperate with us in the Secure Communities Program, so that it made it harder for us to get at the criminals that we want to deport. And so we as part of our Executive actions created something called a "Priority Enforcement Program," which I believe resolves the legal and political controversy of the old Secure Communities Program. And the outgrowth of that is that I and other senior leaders of the Department are now going around the country talking to Mayors and Governors who have passed these laws and ordinances to say, "We have a new program, and we want you to cooperate with us in our enforcement efforts to get at the convicted criminals." And so far we have been getting a pretty good reception

to that, but it is an effort at public safety. It is all for the purpose of public safety and prioritizing criminals.

Refocusing our efforts on prioritizing criminals is another one of our Executive actions, and then there are some others that we also issued out to facilitate issuing green cards in the high-tech sector and a few others.

But on the immigration enforcement side, on the CIS side, we are doing a number of things to try to reform the system.

Senator ERNST. And the impact to the DHS budget as far as the Executive actions are concerned departmentwide, I am assuming that has created an increase in the budget.

Secretary JOHNSON. Well, a lot of our policies, our new policies, are, in fact, reflected in the budget submission. So we are prioritizing border security and that is reflected in our budget submission. Detention space is expensive, and we want to expand it. It is expensive.

More immigration enforcement attorneys to get at enforcement against threats to public safety is also reflected in the request for added numbers of attorneys there. So those are two such examples.

Senator ERNST. Great, and great segue, because you mentioned that detention is expensive. What about alternatives to detention for those that are low risk? I know that the use of GPS-enabled ankle bracelets has been discussed in the past. That is just one example. And it runs a lot less, of course, than detaining somebody in a facility or detention center. And can you just visit a little bit or inform us, is the Department moving toward those types of alternatives? Thoughts on that? Just finding alternatives that would work for us that are less costly to our taxpayers.

Secretary JOHNSON. The answer is yes. There is a large single item in our budget submission for alternatives to detention. I believe it is larger than in years prior. It is something that we would like to move toward for those that are considered not to be a risk of flight. And as you pointed out, there are some pretty sophisticated ways, through ankle bracelets and otherwise, to track these individuals. Ankle bracelets have been around for a while now, from my days as a prosecutor 25 years ago. And so there is a separate line item for alternatives to detention, and it has increased, as I recall, from years prior because it is something we would like to do where we think it is appropriate.

Senator ERNST. OK. So, some pros there where it is more cost-effective. Are there any disadvantages to using that type of system that we might not be aware of?

Secretary JOHNSON. Well, Senator McCain is right in that the number of people who report for their deportation court dates is not where we would like it to be. So it should be higher, and my hope is that through a good, robust alternatives to detention program, we can get that number up. We can track these individuals better.

Detention is appropriate in many circumstances, in my judgment, but it is not right in every case, and it is usually expensive.

Senator ERNST. OK. Well, I appreciate it. My time is expiring. Thank you, Mr. Secretary.

Thank you, Mr. Chairman.

Chairman JOHNSON. Thank you, Senator Ernst. Senator Sasse.

OPENING STATEMENT OF SENATOR SASSE

Senator SASSE. Thank you, Mr. Chairman. Thank you, Secretary Johnson, for being here.

DHS was created in large part to be the Nation's first line of defense against domestic terror attacks, and obviously nuclear weapons are our greatest threat. In 2012, the Department announced its fundamental shift from a resource-based to a risk-based approach, and I wonder if you could just talk us through two or three of the concrete ways border security looks different because of the new risk-based approach and what kind of metrics you use, please.

Secretary JOHNSON. Sure. The best example of a risk-based strategy most visible to the American public is TSA. We have, for example, TSA Precheck. TSA Precheck is an illustration of a risk-based strategy in that through a background check you get a certain number of people that you know more about that go through the shorter lines. There are also determinations made at the airport about who can go through the shorter line so that we can focus more of our resources on the population we know less about, the riskier population. And I think it is pretty effective. It is popular with the American public. The lines move quicker. But we also are seizing more weapons. Last year, we seized more weapons in carry-on luggage at airports than in the years prior. A lot of them, something like 80 percent of them, were loaded.

Border security between the ports also is moving toward a risk-based approach, more surveillance, more technology. That enables us to monitor where the migrants are moving, so we focus on those areas. They are pretty discrete. For example, last summer, in the Rio Grande Valley, a lot of the kids were all migrating to a very discrete point in the Rio Grande Valley, and we were able to see that through our surveillance and detection capability.

In terms of detecting any potential nuclear threats or threats at ports, we now have very sophisticated scanning devices, and there are sophisticated judgments made based off of manifests and other indicators about what should be considered higher risk and, therefore, subject to higher levels of scrutiny. And so that is the overall direction we are headed. I think it is an efficient and effective way at border security at the ports, in the airports, on land.

I will note as an aside that I have your letter.

Senator SASSE. Thank you.

Secretary JOHNSON. It is a very thoughtful, detailed letter. I would like to endeavor to take a number of those questions for the record and get you some thoughtful responses.

Senator SASSE. That would be great. Thanks. Could you just give us a ballpark sense of when we would have a response? I know we just sent the letter 2 days ago, so I am not pushing yet, but curious as to how long you think a response will take.

Secretary JOHNSON. Probably about a week, I think. I just made my staff gasp.

Senator SASSE. We will take it. I actually saw the gasping. It was on both your right and your left.

Secretary JOHNSON. As you know, Senator, I think in the legal profession, my favorite saying is: "I do not need more time. I just need a deadline."

Senator SASSE. Fair enough. The Department has argued that a 100-percent operational control objective is imprudent, and I understand some of the argument for why that is because you would be devoting certain kinds of resources in places that might be lower-risk threats, and if you build a matrix of how to think about where we want to make those investments, what we are trying to do is to deter catastrophic events before all else.

Could you tell us whether or not you think you have 100-percent situational awareness of the border?

Secretary JOHNSON. We are certainly moving in that direction. Every time I have looked at this exact issue, on the Southern border in particular—and I think I have seen analysis for the Northern border as well—our situational awareness is getting better. But it gets better by virtue of surveillance technology, surveillance capability. And there is a lot of that reflected in our budget request—more mobile surveillance, more aerial surveillance—and the more we have, the more situational awareness we have.

Senator SASSE. So would you say that it is the Department's objective to have 100-percent situational awareness?

Secretary JOHNSON. The Department's objective is certainly to have 100-percent situational awareness in at least certain sectors. I do not know whether that would be absolutely true for every single sector of the border. In general, it ought to be. But the immediate term, I know that the percentage of border land for which we have situational awareness is increasing all the time.

Senator SASSE. Do you think we will have 100-percent situational awareness during your tenure?

Secretary JOHNSON. During my tenure? Probably not during my tenure. My tenure is growing short. I would like it to be over at a certain time. I do not know that we will be able to achieve that before the end of this administration, if that is your question.

Senator SASSE. It is. And so I think back to the post-9/11 moment and heading toward the election of November 2004, there was great fear that terrorists would seek to exploit the period of lame duck status if John Kerry had beat George Bush at that point. There was a view that those next 60 to 75 days would be particularly precarious. Do you share a view that Administration change is a uniquely risky time? And if so, and if we are not going to have 100-percent situational awareness, who in the Department owns that strategic risk assessment?

Secretary JOHNSON. Well, it is principally Customs and Border Protection, and I will certainly commit to Congress that during a transition period to the next Administration, I do not intend to pull back or take my foot off the gas in terms of homeland security.

Senator SASSE. Thank you. I am nearly at time, and I appreciate your commitment on my letter, so most of what I would like to talk about in these Government Accountability Office reports I will leave to a followup to the letter. But I would like to ask you one particular one here.

A covert GAO investigation in September looked at how the CBP could "detect and interdict"—their words—nuclear materials at 655 ports and checkpoints. While most of the report was classified, it did find in a public way differences in the rates of success for interdicting smuggled nuclear and radiological materials. In your view,

does that mean that CBP was unsuccessful at detecting nuclear materials in the GAO test?

Secretary JOHNSON. Well, I do not know two things. I know that we are generally very good at the ability to detect nuclear materials at the ports. We have 100-percent scanning at the ports. I also know—and I believe this is true—that CBP has accepted the recommendations in the GAO report and is moving forward on them.

Senator SASSE. Thank you. Thank you, Mr. Chairman.

Chairman JOHNSON. Thank you, Senator Sasse. Senator McCaskill.

OPENING STATEMENT OF SENATOR MCCASKILL

Senator MCCASKILL. Thank you, Mr. Chairman.

First, on your budget, there is an awful lot of talk and rhetoric about how border security is about national security and how important it is in terms of our fight against terrorists that you be adequately funded. And I mean this in all seriousness. I think you ought to make a request to the leadership of the House and the Senate that you be included in the overseas contingency operating budget. That is going to be used as a form of a slush fund this year. They are upping the Overseas Contingency Operations (OCO) fund without—and they are not going to pay for it, so it allows them to escape some of the angst they have within their party about everything being paid for. But, clearly, they are going to try to use that to address ongoing budgetary needs of the Defense Department, writ large.

And so I think the time has come, if OCO is going to be used in a fairy tale-like fashion to do what should be done in the base budget, I would think it would be time for you to discuss with the President and the leadership at the Defense Department that you have every justified right to be in OCO. If we are all going to talk about the border being about our defense, then it seems to me we have to make sure you are in that slush fund, too, because if you get cut because you are not part of the Defense Department, it does not make any sense to me.

Let me go through a summary first. In the Obama Administration, has illegal immigration gone up or down?

Secretary JOHNSON. Apprehensions, which are an indicator of illegal immigration, have gone down over the last 15 years, including in the Obama Administration.

Senator MCCASKILL. All right. And what about deportations in the Obama Administration? Have they gone overall up or down to the previous administration?

Secretary JOHNSON. They have gone up, and now they are going down.

Senator MCCASKILL. And DACA does not apply to illegal immigrants coming to this country after it was signed.

Secretary JOHNSON. That is correct, yes.

Senator MCCASKILL. And so the coyotes are lying to these families in Central America.

Secretary JOHNSON. Yes.

Senator MCCASKILL. Is there anything we can do to stop the coyotes from lying about what the President's policies are?

Secretary JOHNSON. Yes, and I think we have. We put out a very aggressive public messaging beginning last summer, including statements I have issued in Spanish, that you can see posted, for example, at bus stops in Guatemala City.

Senator MCCASKILL. So perhaps one of the reasons we are seeing a downturn is the coyotes no longer have open space to lie about what the policy does and does not do.

Secretary JOHNSON. I believe that, yes.

Senator MCCASKILL. OK. And while we have seen an increase that is now going the other way of these apprehensions of unaccompanied children of Honduras, Guatemala, and El Salvador, isn't it also true that, besides DACA being announced, the homicide rate in Guatemala at the same time period had gone up by 20 percent, the homicide rate in El Salvador had gone up by 50 percent, and that Honduras has the highest murder record in the world?

Secretary JOHNSON. I know that the levels of poverty and violence and the levels of violence in particular are still very high, yes.

Senator MCCASKILL. So if you are a mother in those countries and you have a coyote telling you that you can keep your child safe, I just think it is important that that go on the record, because this is not about people sitting around and making a political calculation in these countries. This is about mothers trying to save children. Correct?

Secretary JOHNSON. Yes, ma'am.

Senator MCCASKILL. OK. Now, on immigration detention—oh, and by the way, one of the things I have been yelling about since I got here, since the day I got here, even with your predecessor, Mr. Chertoff, was when I arrived in the Senate in 2011, your Department could not tell me how many businesses had been prosecuted for knowingly hiring illegal immigrants. And, in fact, that has been a huge magnet in this country, that we were never going after the businesses that were knowingly hiring. Not those who were accidentally hiring, but those who we could prove easily. And as a former prosecutor, Secretary Johnson, that these cases would not be hard to make if you have five people using the same Social Security number.

Secretary JOHNSON. Yes.

Senator MCCASKILL. That is knowingly.

Secretary JOHNSON. Yes.

Senator MCCASKILL. And what we were seeing up until a few years ago is we would see photo op round-ups of businesses and deportations, but no criminal action taken against the employer. Can you tell me how many employers as of today we have put in prison for knowingly hiring illegal immigrants?

Secretary JOHNSON. That is a knowable number. Sitting here, I cannot tell you, but I suspect that is a knowable number. And the point you are making is one of the reasons why I support mandatory E-Verify.

Senator MCCASKILL. Well, and that is one of the things I think we ought to talk about, is those numbers, because when I asked this question of Secretary Chertoff back in 2007, not only did he tell me they did not know, the person in charge of ICE at the time said they could not even figure it out how many had even been arrested. So we were trying to keep track of what was going on at

the border, but we were keeping no track of, in fact, shutting down the magnet, that is, many people in this country looking the other way because it was cheap labor and it was not a priority to go after the businesses that were not playing by the rules, that were unfairly competing with other businesses.

And so I would really appreciate it if you would give this Committee a brief of where we are in terms of going after the businesses that are knowingly hiring illegal immigrants, which is, in fact, against the law.

Secretary JOHNSON. I can do that, ma'am.

Senator McCASKILL. Finally, on immigration detention costs, I want to echo what my colleague from Iowa said about the costs of immigration detention. While I do not agree with the statistic that Senator McCain used about who is showing up, we do know that when these juveniles have a lawyer and they know what is going on, they have had a translator, over 90 percent of them are showing up. We do know that. And we know that it is costing \$300 a day to detain them.

Are you thinking about, along with ankle bracelets, trying to make sure that we have enough lawyers who can speak Spanish, who can address these families that are being held so that we get a much higher rate of appearance at these hearings?

Secretary JOHNSON. Yes. That is something that both the Attorney General and I have undertaken to do, and we have undertaken to do that with the bar associations as well.

Senator McCASKILL. Well, I would like some kind of information on that, because I think if \$300 a day—I admit we can probably get lawyers for a couple of hours for that. And a couple hours might be all it takes for someone to really understand what is expected of them, where they have to be when and so forth. And I think that might be much cheaper than what we are doing now with these detention centers. And my time has expired. Thank you, Mr. Chairman.

Secretary JOHNSON. Chairman, could I make one brief point in response to Senator McCaskill's point about sequestration?

Chairman JOHNSON. Sure.

Secretary JOHNSON. The Department of Homeland Security, it must be remembered, is not just border security. By any means possible, I want Congress, I am urging Congress to avoid sequestration for my Department. It is border security, it is port security, it is aviation security, it is maritime security. It is the Secret Service, it is the protection of our national leaders, it is cybersecurity. So it is not just border security we are talking about here that is in jeopardy if we have to function at sequestration levels.

Senator McCASKILL. Make a request for OCO funds. I am telling you, it is the Promised Land. [Laughter.]

Chairman JOHNSON. Thank you, Mr. Secretary. I do think it is important to note, seeing as people are chiming in here, that regardless of what DACA actually says, the letter of that memorandum, as long as the reality is that if you are a child from Central America and you get into this country and 95 to 98 percent are still in this country and they are staying, that is the reality that is going to drive the actions of parents in Central America. Again, I think the public relations campaign probably has had some kind

of effect. But, again, if the reality is you get here, your court date is set for 2019—again, I want that verified. I want to find out what the facts are. And that is part of the problem. We do not know the information.

And so that is the first step, that we have to start getting better information to find out exactly what is happening. But, again, the reality is going to drive action.

Our next questioner is Senator Peters.

OPENING STATEMENT OF SENATOR PETERS

Senator PETERS. Thank you, Mr. Chairman, and thank you, Secretary Johnson, for appearing here today and for your testimony.

I would like to take a moment to ask a little bit about infrastructure and staffing at our ports of entry (POEs), an issue that you and I have discussed before at some length.

Secretary JOHNSON. Yes.

Senator PETERS. As you are well aware, our ports of entry are essential for supporting trade and tourism, and how efficiently they operate can make or break our competitiveness, particularly in Michigan, along an incredibly busy corridor of business. We ask the Department of Homeland Security to do two things: keep us safe and not slow us down as we cross the border, particularly when it comes to just-in-time delivery, and agricultural products.

I offered an amendment to the budget last month, which was co-sponsored by Chairman Johnson, to create a deficit-neutral reserve fund to support increased trade and travel, including conducting construction and increased staffing at ports of entry, and I am glad that amendment was adopted, and I look forward to continuing to work with the Chairman to support the economic growth and efficiency at our ports of entry.

Secretary Johnson, as you saw when you visited Michigan last year—we were together in the city of Detroit, and you headed up to Port Huron after that meeting—we have two of the five busiest land crossing in the country in terms of value of shipments in Detroit and Port Huron. These two crossing are critical for manufacturers, as I mentioned, for just-in-time delivery. Our agricultural sector, which is highly diverse in Michigan, requires safe and efficient transport across the border. And I appreciate the agreement reached, which you worked on with the Canadian Government earlier this year, on the New International Trade Crossing which will have Canada fund construction of the bridge as well as the customs plaza. And I appreciate your commitment to make sure that that plaza is fully staffed with CBP personnel. And I look forward to seeing that project move forward.

I also strongly support the preclearance agreement that was signed last month between the United States and Canada, which will lead to expansion of preclearance locations for all modes of transportation. I think this is a very important step in realizing another one of the goals of Beyond the Border Action Plan that we had in 2011.

But I do have concerns about the lack of action on another item from the Beyond the Border agreement, and that is upgrading the physical infrastructure at key border crossings, and one of those key border crossings where infrastructure improvements have not

occurred is in the Blue Water Bridge in Port Huron. The Blue Water Bridge desperately needs expansion of its customs plaza, and it is ready for construction of that plaza. This is the fourth busiest land crossing in the country. It is the second busiest border crossing on the Northern border. In fact, the city of Port Huron was prepared, had assurances from the Federal Government that this plaza was going to be expanded and enhanced. They acquired property. They demolished property, which had an impact on their tax base as they prepared the land for that expansion. And yet the expansion has not occurred. The land continues to sit idle, and it continues to be an economic drag on Michigan, on the city of Port Huron, and it is really unjustified, in my mind. And, unfortunately, there is still no funding in this year's budget for the Blue Water Bridge plaza modernization.

Mr. Secretary, could you please tell me and the Committee here what the DHS and CBP's plan is for the Blue Water Bridge customs plaza expansion?

Secretary JOHNSON. Well, as you probably know, Senator, I have been to Port Huron myself, in addition to going to Detroit.

Senator PETERS. Right.

Secretary JOHNSON. And I have seen the backup of tractor-trailers over the bridge because of the few lanes open for the customs capability. I do know that a couple of years ago, or maybe even more recently than that, we added some stacking in the toll plazas to try to expedite the traffic across the bridge. And I have seen what the town did to prepare for the expanded customs plaza space. They literally demolished buildings to prepare for the expanded area, and for lack of funding, we are not able to get there.

I think that the case for expanded customs capability at the Blue Water Bridge is clearly there, and we have to prioritize, and I am pleased that we are funding the personnel for the new customs plaza in Detroit for the new bridge there. That is clearly a very compelling case.

The Blue Water Bridge is also something that I would like to eventually see us expand our capabilities there. You and Representative Miller have in a very compelling way made that case.

Senator PETERS. Well, how do we proceed to the next step to make that a reality? What do we do to move this forward?

Secretary JOHNSON. Well, we have to prioritize it, and I think that building the customs plaza for the second bridge in Detroit has to be a key priority. Ultimately, I do want to get to the Blue Water Bridge, and that is something we ought to take a look at perhaps in next year's budget.

Senator PETERS. Well, I would appreciate that if we could elevate that, sir, because certainly the bridge in Detroit is still a few years away. It is not built yet. That will not be coming online until 2020, and certainly it is significant. But we have a project ready to go, and I do not want to get into a situation where it is Port Huron versus Detroit. We have the No. 2 busiest border crossing in the country and the No. 4. When you have two of the five, we need to do both, and Port Huron is ready to go now. So I would certainly appreciate your comments and hope that we can push that to the top of the list as a border crossing in desperate need, has the volume, is ready to go; the land has been cleared. And that can be

done, and then we focus on Detroit, of course, when 2020 comes, which is an incredibly significant infrastructure project, not just for Michigan but for the whole country.

So I appreciate your efforts on that. I appreciate you coming out to Michigan, and I appreciate your comments today that you would like to make that a priority in next year's budget. Thank you.

Chairman JOHNSON. Thank you, Senator Peters. Senator Heitkamp.

OPENING STATEMENT OF SENATOR HEITKAMP

Senator HEITKAMP. Thank you, Mr. Chairman.

A couple questions. First off, on 100-percent situational awareness, obviously that would involve not only the Southern border but also the Northern border, and the Deputy Secretary was out and spent a couple days with us on the Northern border. Grateful for the visit. He did a great job there.

Has the Department ever prepared a budget or prepared a plan that would give you 100-percent situational awareness?

Secretary JOHNSON. Senator, I do not know the answer to that question. Let me look at that.

Senator HEITKAMP. I think that when we are talking about it, I think all of us, every person in this country, probably wishes for 100-percent situational awareness. And my concern on the border has been, as we have beefed up and amped up the security and the awareness at the ports of entry and within distance of the ports of entry, you are pushing a lot of that traffic to rural America that is ill equipped to handle it, especially the first responders, because they literally are 40, 50 minutes away from a 911 call in many places in my States, and I have spent a lot of time on the Southern border and have seen it there.

And so I would like to see a budget and a strategy for 100-percent situational awareness on the border, and until we have that, I do not think, this is just pie in the sky, and we are punting back and forth. Let us try and kind of find out what the numbers are, do the cost-benefit on it, figure out if there is a way to resource it so that we can actually get it accomplished.

My other concern has been for firefighters. Obviously, with the situation of crude oil on the rail and trains presenting some new challenges, especially for rural fire departments, we have paid very close attention to this. The President's budget requested about \$670 million for firefighter assistance grants. In North Dakota, we are retooling and preparing for the new challenges.

Your reduction of \$10 million in both programs for rural assistance may not sound like a lot of money in real dollars, but for those rural fire departments, it is a huge opportunity. I would like you to just tell me what the strategy is to have a country that has a vibrant network of first responders as we lose more and more volunteers and as the funding for those rural fire departments becomes even more and more difficult and critical. Why would you guys suggest less resources for firefighters?

Secretary JOHNSON. Well, obviously, firefighters as first responders are key. Senator, I think you made a reference to rail oil spills earlier. I actually read your bill and will have some thoughts on that.

We provide, between State and Urban Areas Security Initiative (UASI) grants, something like \$2.2 billion a year for various different things, including firefighters. In some jurisdictions, we are helping to pay the overtime for firefighters.

Senator HEITKAMP. I would like you to address the rural component of that. We have firefighters who tell us, volunteer chiefs, who spend 200, 300 hours filling out grant applications, to get rejected because they have not done it right or to basically get a very small amount of money. And so we are obviously very concerned about this in rural America.

Secretary JOHNSON. Well, I do know that we are in a position to help somebody with the application process. I also know that I have encouraged my staff—and I have not seen this in your State, ma'am, but I do know that there are other jurisdictions where the application was not very well filled out, but I said, folks, try to look past that and let us look at the real need here. And so I do not want to see a grant denied because of the application process.

Senator HEITKAMP. Just to give you an example, for those jurisdictions who apply for assistance from the Forest Service, it is a one-page application. Yours can take as much as 200 hours for pretty skilled folks to fill out. They are hiring grant writers. And so just take a look at that, I think that to the extent that you can streamline that process, especially for rural firefighters.

I want to also talk about border—back to the rural borders. We have an extraordinarily difficult time keeping employees, Federal employees, in North Dakota. The cost of living has increased. I think this has had a very dramatic effect on Customs and Border Protection and on Border Patrol, especially in remote outlooks. I am wondering what additional steps your agency can take to recruit and retain and reward these folks for living in places where other people would not maybe want to live—I think they are beautiful, but other people may not want to live there—just so that we can maintain that situational awareness in remote outposts.

Secretary JOHNSON. That is a good question. I am sure that there are some sorts of incentives we provide to encourage our CBP personnel to serve in all parts of the country. I have to believe your State in particular is a great place to live.

Senator HEITKAMP. Thank you. It is.

Secretary JOHNSON. But let me look at that question, Senator.

Senator HEITKAMP. I think anything that you can do that would be helpful to address the concerns of rural America as it relates to homeland security. And I am not just talking about borders, but obviously interior-wise, I would challenge you to take a look at what is happening with the volunteer fire departments. Volunteer fire departments are losing volunteers. It is harder and harder to recruit new members. We are aging in place. I cannot give you the exact statistic, but I think about 80 percent of the land mass in this country is protected, probably over that, by volunteer firefighters.

And so sometimes we think, as bad things happen in major cities and as people focus on population centers, we leave behind some of the challenges of providing first responder readiness, situational awareness in rural America, and I would just challenge you, along with the Deputy when he was out there, to give some special atten-

tion to our first responders and rural America. They are a huge part of our protection.

Secretary JOHNSON. Thank you.

Chairman JOHNSON. Senator Ayotte.

OPENING STATEMENT OF SENATOR AYOTTE

Senator AYOTTE. Thank you, Chairman. Thank you, Mr. Secretary.

I wanted to ask you, I come from the proud State of New Hampshire, the Live Free or Die State, and one of the things that we, I think, put a premium on in our State is privacy and issues of personal protection. And we are in a situation where on the 2005 REAL ID Act, there are some provisions of it we have complied with, 32 of those, but our legislature on a bipartisan basis has really spoken for the people of New Hampshire and their reflection on prohibiting compliance with certain parts of the REAL ID Act. So I guess I have a question for you. We also wrote you recently—I do not know if you have seen it—

Secretary JOHNSON. I have.

Senator AYOTTE [continuing]. Myself and the entire delegation, because we have not been granted an additional extension where some other States have been in terms of the compliance with the REAL ID Act. But I just need to understand for the people of New Hampshire—and I support their concerns, by the way. I think that this is legitimate, and I think that people in New Hampshire, we are a State that certainly values protecting our national security and the public, but we are also a State that has a long, proud tradition on a bipartisan basis of protecting privacy and people's concerns.

I just want to understand, starting in 2016, since we have not yet been granted this extension, will this Administration essentially prohibit Granite State families from getting on a commercial airline with a valid New Hampshire license? Because that seems to me the implication that we have 1.3 million people in our State, and I want to understand what happens if you have not granted us an extension, like you have other States, and we have valid concerns with this law that I think that many other people share. And you know what? I support my constituents on this.

Secretary JOHNSON. Senator, the REAL ID Act was passed by Congress in 2005 or 2006, and my Department is charged with implementing it. We have done so on a very deliberate timeline. I did receive your letter, and our assessment is that it would not be very difficult for the State of New Hampshire to put itself in a position where we can give you an extension. There are a majority of States out there that either have complied or have been granted extensions, and I recall from the discussion with my staff that it would not be that difficult for the State to put itself on the path to an extension, and I would certainly encourage you to encourage State officials to do that. It is a law that I am charged with implementing.

Senator AYOTTE. Well, Mr. Secretary, I think the issue is it would not be that difficult if we do what the Federal Government wants us to do, and I think that happens a lot in terms of, basically States being told what to do. And this is one where my State feels

really strongly about it. I hope that you will look at our letter seriously again, and I think that this has been an issue that New Hampshire has spoken loudly and clearly on. And I hope that you will look again at the letter. But when you say it is easy for us to comply, I think that translates to, yes, if we do what the Federal Government asks us to do. And so, again, I hope you will go back, look at the letter, because this is a real issue for people in New Hampshire, and it is an important issue for them.

Secretary JOHNSON. I certainly do not want to see 1.3 million people in your State have an issue at airports. And so our folks want to work with State officials to avoid that.

Senator AYOTTE. Good. I do not either, and I also respect their rights to exercise their viewpoints and the importance that they place on issues like privacy as well.

I am really pleased that yesterday the President announced the formal nomination of Vice Admiral Peter Neffenger to become TSA Administrator, because I know that is a very important position that needs to be filled, and I am looking forward to us moving quickly on that. And I am also Chair of the Aviation Subcommittee, so it is important.

With regard to TSA Precheck, as we try to increase the population participating in the program, which has been a very good program, I think it is important that we delineate between those who have been vetted and those who have received expedited screening through other avenues, such as managed inclusion. And I recently had a chance to sit down with Inspector General John Roth, and while I cannot get into the details in this setting, what is your assessment of the Precheck program? What is your assessment of the role of managed inclusion, to the extent you can comment on that here? And are we sufficiently screening the population and really separating those who should be in the program and who should not?

Secretary JOHNSON. My assessment of TSA Precheck is that it is a good program. It is popular with the American public. And in this public setting, I will say that I think we have to manage managed inclusion very carefully and not overdo it.

The original intent of TSA Precheck was that people who have been vetted go through the shorter lines. And so, I have said to TSA I want to be sure that when it comes to the managed inclusion facet of the program, that we look at that and we manage that very carefully.

Senator AYOTTE. I am glad to hear that, and, in my other role as Aviation Chair, I look forward to working with you on that. I think it is important. I think Precheck is a great program, but we need to make sure that this program is managed carefully on the inclusion issue.

One final question. Manchester-Boston Regional Airport, Secretary Johnson, this airport is the largest in my State. It serves a lot of folks in the New England region, including Boston and New Hampshire, of course. It is a user-fee airport with limited access to Customs and Border Protection services. How is port of entry defined? And are there instances where port of entry encompasses more than one physical or geographic location? And is this an issue

I can work with you on to address some of the concerns that Manchester-Boston Regional Airport has raised on port of entry?

Secretary JOHNSON. Yes.

Senator AYOTTE. Thank you. I would really appreciate it.

Secretary JOHNSON. I do not know the answer to the question you asked about how to define port of entry, but I am happy to have further dialogue about that.

Senator AYOTTE. I would appreciate it. Thank you.

Secretary JOHNSON. OK.

Chairman JOHNSON. Senator Lankford.

OPENING STATEMENT OF SENATOR LANKFORD

Senator LANKFORD. Secretary Johnson, thank you. It is good to see you again, and I want to say thank you again publicly to you for being in Oklahoma City on April 19 when we were remembering the Murrah Building explosion 20 years ago and for your——

Secretary JOHNSON. I was really pleased to be there, and I thought it was a great day.

Senator LANKFORD. It was. That is the day that Oklahomans continue to remember and the Nation continues to remember, and thank you for coming and being part of that. Your words were spot on. So thanks for being there as well.

I have a whole litany of issues, so I am going to run through them fairly quickly. One is dealing with the flood mapping issues with the Federal Emergency Management Agency (FEMA). Obviously, we have a \$1 billion cost here to redo the flood maps when Congress just changed with the Biggert-Waters bill how we are going to actually grandfather in a lot of those policies—which, by the way, I disagree with that whole decision, but that is a conversation for another day.

At the end of it, we have a \$1 billion cost coming down from FEMA to remap when those maps will not actually be used for revised flood costs for the risk insurance. Is that a good use—is there a better time to do that—of those other dollars? Why put it in this year and at this time?

Secretary JOHNSON. Well, we need new flood maps. I think it is time to do that. We need new flood maps, and it is not inexpensive, very clearly. I am interested in a solvent Flood Insurance Program that is affordable for the insureds, for your constituents and others. And so it is time for new flood maps. It is something we need to do.

Senator LANKFORD. I am, too. Well, we can talk about that further. One of the things I would challenge as well is in many areas of my State, through the initial mapping that was done and the way that it was done, many areas were looped into flood space that were not traditionally flood space. When they went back to an engineer that was local and an engineer actually shot it locally and then did the challenge, over and over again those were being overturned. And I do not know what the rate is nationally, but the stories over and over again are coming back, if they come back and challenge it and can show documentation, they are getting it overturned. But it is costing each of these homeowners about \$1,000 to \$2,000 to come and have someone physical shoot it rather than do

that from satellites. So there are some challenges that we are going to have to work through the process to make sure it does not increase the cost for the individuals while we are dealing with flood mapping as well.

Secretary JOHNSON. I hear you on that.

Senator LANKFORD. Let me go through a couple other things as well. I know DHS has some protocols in place on this, but I want to be able to just reaffirm on the budget issues, protocols or memorandums of understanding (MOU) in place with other agencies to ensure there is not duplication of effort. Obviously, there are multiple grants; there are multiple efforts that DHS does that other entities also do. I just want to make sure that actively DHS is working to have those memoranda of understanding in place so we are not duplicating effort with other agencies. Do you feel comfortable we are at that spot?

Secretary JOHNSON. Yes, that is a priority of mine. Yes, sir.

Senator LANKFORD. OK, great. We will followup on that.

OK. This is just a personal pet peeve. We are going to go off the rails for a minute.

Secretary JOHNSON. OK.

Senator LANKFORD. This is something that has been there for 10 years that I would like to see shift at some point.

Secretary JOHNSON. OK.

Senator LANKFORD. The U.S. Citizenship and Immigration Services (USCIS) questionnaire in the civics test, the oral test, has in it one of these things: What are two rights of everyone living in the United States? And then it lists out six different things: freedom of expression, freedom of speech, freedom of assembly, freedom to petition the government, freedom of worship, the right to bear arms.

Now, this has been around for a decade. I would love to see "freedom of worship" actually shift to "freedom of religion." We in the United States actually have freedom of religion, not freedom of worship. Worship confines you to a location. Freedom of religion, we have the right to express. We have this unique ability in America not to say that our government limits us to worship in this spot and you can do anything you want. It is to be able to live your faith. Again, that is previous conversations on it, but love for you to be able to take a look at that again.

Let me also affirm something. Right after the Federal judge put a stay on the policy change on immigration late last year, you publicly came out quickly and said DHS will follow the Federal judge.

Secretary JOHNSON. Yes.

Senator LANKFORD. That what they have stated, we are going to stop and we are going to follow the Federal judge.

Secretary JOHNSON. Yes.

Senator LANKFORD. So thank you for stepping up to be able to do that. Here is the challenge and where I have had some back and forth on it, because the Subcommittee that I chair also has the Federal workforce in it. As you know, DHS has had some challenges just on worker morale with the Federal agencies. Again, that has been there for a long time. You have walked into it. But that is a great responsibility that you have, is to be able to reinforce some absolutely fantastic people that serve with DHS around

the country, that literally put their lives on the line for Americans every single day, quietly, behind the scenes, and do great work. So we are incredibly grateful for the work that they do all the time.

But when you made that statement, and then a week later the President during a town hall meeting in Miami made the statement—when someone challenged him and said, “Are we going to be deported during this time period since this judge has made this statement?” he responded back, “There will be consequences for any ICE agent that does not follow my policy.”

Now, I am not asking you to be able to repeat back the President. That is not fair to you. What I am asking is: I started getting responses back from DHS folks saying, “We do not know which way to go. The Secretary said we are going to follow it. We feel like the President just said there are consequences if we do not follow his new policy. And we are in a bad spot.”

The challenge is: How are you managing that within the entity to be able to communicate back to people there will not be consequences on individuals if they follow the law and if they follow a judge’s order?

Secretary JOHNSON. Well, let me be very clear about something. What was enjoined was implementation of a new program called the Deferred Action for Parenthood Arrivals.

Senator LANKFORD. Correct.

Secretary JOHNSON. As well as the expanded criteria, certain very specific criteria that expanded upon the DACA program from 2012. Those are the two things that are the subject of the litigation.

Senator LANKFORD. Correct.

Secretary JOHNSON. What is not a subject of the litigation are the new revised priorities for how we focus our removal resources. That is a separate policy, which I issued out on November 20.

Senator LANKFORD. Correct.

Secretary JOHNSON. Which is not subject to the litigation.

Senator LANKFORD. Right. Aware of all that.

Secretary JOHNSON. And that has been trained to the workforce, the ICE workforce, the CBP workforce, and that is going forward and should be going forward. I believe in training the workforce. I believe in educating the workforce. From my time at the Department of Defense, I know that that is essential. And, Senator, if you believe that there are elements of my workforce in your State that have some doubt about it, then I would be happy to work to clarify it.

Senator LANKFORD. What can be done from your office to reinforce back to the workforce both that they are protected, if they have an issue, they can still be a whistleblower, that they do not have to live in fear, that they can still follow policy that is clear policy and clear law, and they have the sense that I can still do my job and what I have done for a long time without retribution?

Secretary JOHNSON. Well, I have encouraged people repeatedly, again, if there is a particular field office of any one of our components where we think that there is some confusion or doubt about that, I am happy to focus on that like a laser beam to make sure that there is clarity. I think clarity in how we train, how we edu-

cate on new policies is critical. I know that from my DOD experience.

Chairman JOHNSON. Senator Paul.

OPENING STATEMENT OF SENATOR PAUL

Senator PAUL. Thank you, Secretary Johnson, for your testimony. Do you believe the Fourth Amendment applies to third-party records?

Secretary JOHNSON. I am not sure what you mean by third-party records, sir. What do you mean?

Senator PAUL. Telephone company records.

Secretary JOHNSON. You are asking me a legal question.

Senator PAUL. It is a pretty big question.

Secretary JOHNSON. Yes, I am sorry, Senator. I am not sure I know how to answer that.

Senator PAUL. Do you believe the government has the right to have bulk collection of records from millions of individuals without a warrant?

Secretary JOHNSON. Ah, I see. I respectfully say that is beyond my competence as the Secretary of Homeland Security to answer in any intelligent legal way. I would not want to hazard a legal judgment on that.

Senator PAUL. Here is the problem, though. Your agency is in charge of cooperating and being part of this. And that is the whole debate we have in our country, is over whether you should do this. In your testimony, you complain about encryption. Why do you think that companies are choosing to go in the direction of more encryption? It is because they feel you are taking our information without a warrant.

So I would hazard that and I would propose that there is no person named "Verizon," so you do not have an individualized warrant under the Fourth Amendment when you say to Mr. Verizon we want hundreds of millions of records. And this is a debate, and it is an important one, and if we are going to complain about encryption or we are going to complain about individuals wanting privacy, we really need to have a thorough discussion and understanding of the Fourth Amendment and the complaints by many of us that you are doing something without a warrant.

The other thing I would say is with encryption, I am one of the biggest civil libertarians there is, but if you have a warrant, I am fine with you getting and unencrypting data from people. I am also fine with you going 20 hops into the data. I do not care how deep you go into it. Just call a judge.

What we need to do is have a system where judges are on call 24 hours a day, but still there is a judge. The reason we separated the judiciary from the police is a very important one. The civil rights era, tens of thousands, if not hundreds of thousands of people were spied upon in our country. War protesters were spied upon in our country. The reason we separated the judiciary from the police is to try to prevent the possibility of bias. And people say, "Oh, the government is good." But look at the times when the government was not so good. The Federal Bureau of Investigation (FBI) Director recently pointed back and talked about the times

when Martin Luther King was spied upon. That is why we want these procedural protections.

And so I think as you look forward and as you talk about this, just realize that when you have your doubts about encryption, think back to the times in our history when we did not do so good a job. Those of us who want to try to protect privacy are trying to make sure that no sort of institutional bias could enter into our legal system again. And I think it is a very big question, and there are some of us who say by all means get all the information you need on terrorists, but get a warrant with someone's name on it. If it does not work well, put more judges there and have them on the phone 24 hours a day. We do it for the police. The police do not go into a home unless there is a commotion going on or imminent danger. The police stand on the curb at 3 in the morning, and they call a judge. We should do the same for American citizens, and we really should not be collecting their data in bulk. That is why we are mad, and that is why people are attempting to encrypt information, is to prevent the government from doing illegal searches of our records.

Secretary JOHNSON. May I respond?

I gave a speech to 3,000 people at a cybersecurity conference last week where I brought up the subject of encryption. I was not real popular for doing that. The problem we have is that the marketplace is demanding deeper and deeper encryption into places where the warrant authority of the government does not extend. So the analogy I used last week in that speech was imagine after the advent of the telephone, the warrant authority of the government only extends to the U.S. mail.

Senator PAUL. I am not sure I understand that. Why would the warrant authority not extend?

Secretary JOHNSON. Because with encryption there are communications that records of which are simply not being maintained because of the added security that is being put in place because of the privacy demands that exist in the marketplace.

Senator PAUL. Which is a response to the government collecting all of our records. See, you have to realize that the real culprit is government. You have been so overzealous in vacuuming up all of our records without a legitimate warrant that everybody around the world—it is costing the United States billions of dollars in the sense that people in Europe and around the world do not want our stuff. They do not want any of our hardware embedded in any of their computer code because they are worried that the government is going to stick stuff in there and that you will have back-door access and you are demanding access, so no one wants to buy our stuff. So it has been a big problem for our companies selling things worldwide, but it is a response to a government that did not have, I think, a real sense of decency toward privacy. The companies are in response to your behavior.

Secretary JOHNSON. Well, look, I am in favor of a balanced solution to the problem. In fact, it is now harder for law enforcement to detect criminal activity out there. And I think it is something we need to address one way or another, and I am in favor of a balanced approach that takes account of the privacy interest of the American public.

Senator PAUL. But you think it is a balanced approach to collect all of the phone records and store them in Utah without an individualized warrant? You think that is a balanced approach?

Secretary JOHNSON. I do not have a particular comment or specific view about the past. I am concerned about the future and the direction we are headed and the effect it is having on our ability to detect crime and potential terrorist activity.

Senator PAUL. But here is the question. See, the question—the President’s own Privacy Committee recommended that we quit collecting these. He has the power to stop it at any point in time, and yet he is not doing a thing. His own Privacy Committee that he appointed said that you have gone too far in the bulk collection of records, and the President has done nothing to stop it, although this is an Executive Order program that he could stop at any point if he chose to. I do not think that is a balanced approach to continue doing what his Privacy Committee specifically said exceeds the bounds where the Constitution intended.

Secretary JOHNSON. I think we are looking forward for Congress to act in this area.

Chairman JOHNSON. OK. Thanks, Senator Paul. I did assure the Secretary that I would get him to the Prime Minister of Japan’s speech on time, so we will close out the hearing. I know the Ranking Member have some statements that he would like to enter in the record and may offer some more.

Senator CARPER. Yes, I do. Just briefly, if I could. Again, our thanks to you for being here with us today and for your leadership.

The issue raised by Senator McCain, I just want to give a brief, two-sentence clarification. This comes out of the Office of Immigration Review’s Statistical Yearbook for Fiscal Year 2014: “Rates of appearances for unaccompanied children and families compare favorably to appearance rates for the general immigration court population. In completed cases in FY 2014, 66 percent of all non-detained immigrants appeared according to the Executive Office of Immigration Review’s Statistical Yearbook. When minors are represented by counsel, that rate goes up to 90 percent or higher.”

I ask unanimous consent, Mr. Chairman, for the record to include in our statement and our hearing materials this piece of work from the American Immigration Council dated July 2014.¹

Chairman JOHNSON. OK. Sure.

Senator CARPER. And I have a number of questions that I want to ask you for the record, if I could, and I would just look forward to your responses. Thank you so much.

Secretary JOHNSON. Thank you.

Chairman JOHNSON. Without objection.

I guess my final closing comment is that we have talked about 100 percent situational control of the border. I think you appropriately answered that is not going to happen within this Administration.

I guess I would just encourage this Administration to look at a step-by-step approach. I know it has been said that it has to be comprehensive. We need to start increasing the level of security at our border. There are dozens of things that we need to do.

¹ The statements referenced by Senator Carper appears in the Appendix on page 53.

So, Mr. Secretary, I just would really hope that the Department will work with this Committee, work with this office, and let us start taking that step-by-step approach. I come from a manufacturing background. Continuous improvement. You are not going to solve the entire problem overnight. You are not going to solve the entire problem with some comprehensive approach. So if you could just provide me that assurance you will have an opinion mind and at least look at the individual step-by-step approach so we can start increasing the security on the border, it would be appreciated.

There will be, I am sure, a number of additional questions for the record. The hearing record will remain open for 15 days until May 14 at 5 p.m. for the submission of statements and questions for the record.

Secretary JOHNSON. Thank you.

Chairman JOHNSON. This hearing is adjourned.

[Whereupon, at 10:37 a.m., the Committee was adjourned.]

A P P E N D I X

Opening Statement of Chairman Ron Johnson “The Homeland Security Department’s Budget Submission for Fiscal Year 2016” April 29, 2015

As prepared for delivery:

I want to welcome and thank Secretary Johnson for testifying before us this morning. He may be one of the busiest department heads as he manages the responsibilities of the Department of Homeland Security (DHS) and answers to the call of dozens of committees. I appreciate his service and commitment to his work.

When I became chairman of this committee, my first priority was to develop a mission statement with my ranking member, Senator Carper. As it turns out, our mission mirrors that of the department. The mission statement of DHS is clear—to ensure a homeland that is safe, secure and resilient against terrorism and other hazards—but the specific tasks of each component are varied and complex. From securing cyber networks and our borders to identifying and combating violent extremism to providing disaster assistance, the day-to-day operations of DHS are significant and affect the lives of every American.

A phrase common to the discussion of just about any homeland security program is that we are “buying down risk.” We want to be sure investments are being made in the best programs that are actually addressing the most pressing threats and hazards.

I am particularly interested in how DHS is proposing to allocate resources on cyber- and border security, which are two key priorities of this committee—along with combating violent extremism, protecting critical infrastructure, and assisting you, Secretary Johnson, in breaking down barriers and bureaucracy at the Department of Homeland Security.

On cybersecurity, the department is struggling to implement its flagship cybersecurity programs—Einstein and Continuous Diagnostics and Mitigation (CDM). I have some questions about whether these programs really are the best approach for federal cybersecurity. Einstein, which is supposed to detect and prevent intrusions on civilian federal networks, has yet to implement a government-wide intrusion prevention capability in the seven years since its creation. This is despite a fiscal year 2016 request for \$480 million, spending that already has totaled more than \$1 billion, and projected costs of \$3.13 billion through FY2020. I am also concerned about CDM—a program intended to monitor federal networks for good cyber hygiene. The foundation for CDM is a similar, but flawed, program at the State Department, the effectiveness of which has been questioned by recent cyberattacks and oversight reports. It is important that the history of these programs informs decisions about their future and about Congress’s appropriations.

On border security and immigration, there are significant concerns about whether the administration’s current strategy is adequate. Specifically, despite the justification for the president’s executive action on immigration to be about targeting “felons, not families,” deportations for this fiscal year have plummeted. And illegal migration to this country from Central America continues to be a concern. While we are not yet seeing the same surge we saw last year, the crisis will not be resolved until we return to pre-2012 levels.

Another concern is the administration’s recent Central American Minors programs, which provides a legal alternative to parents who wish to bring their children to the U.S. The expansiveness of this

program is controversial, particularly in that it allows those granted deferred action to apply. Why are those here temporarily able to permanently relocate their children to the U.S. at the taxpayers' expense?

Another major issue facing DHS is the failure to manage major acquisition projects, a primary reason for DHS' inclusion on the High-Risk List of the Government Accountability Office (GAO). Every dollar wasted on a poorly managed and failing program is one that is not advancing the nation's security.

The GAO recently reported that only two of 22 major projects at DHS that GAO reviewed are actually on time and on schedule. These projects together accounted for more than \$10 billion in annual spending. The GAO was unable to assess six projects because they did not have approved baselines. The GAO has also identified two of the department's information technology acquisition projects as part of the 10 highest-risk IT acquisition programs in the federal government. We need to take a hard look at ways to improve acquisition policies at DHS, and I look forward to working with the department and my colleagues on this issue.

Additionally, DHS should be measuring the performance of its programs as thoroughly as possible. Modernization of financial systems to enable better reporting and insight into how funds are budgeted and spent is perhaps one of the most important activities within a number of components and headquarters at DHS. Gaining that business intelligence should enable the department to stretch its resources further.

DHS has also taken steps in the last few years to improve the way it measures whether state and local governments are using their \$1.3 billion in homeland security grants to advance core capabilities. I am interested to hear how the department is strengthening these efforts.

Again, Secretary Johnson, thank you for joining us today, and I look forward to your testimony.

Statement of Ranking Member Thomas R. Carper

“The Homeland Security Department’s Budget Submission for Fiscal Year 2016”
April 29, 2015

As prepared for delivery:

My thanks to Secretary Johnson for joining us today to talk about the President’s fiscal year 2016 budget request for the Department of Homeland Security.

Before I discuss the budget, I would like to thank Chairman Johnson and the rest of my colleagues for coming together last week to confirm Russ Deyo to the incredibly important position of Under Secretary for Management at the Department. I hope that we will be able to replicate this success and quickly confirm Vice Admiral Peter Neffenger as the next Administrator for the Transportation Security Administration.

The President has requested a little more than \$41 billion dollars in discretionary funding for the Department of Homeland Security (DHS). For the first time in several years, we are talking about an increase in discretionary spending over the previous year. I support the President’s budget request for DHS and am pleased that he has recognized the need to provide this Department with an increase in funds I believe it truly does need, if we expect it to efficiently and effectively carry out its vital missions.

For example, this budget request makes a sizable investment – over \$800 million dollars –in cybersecurity. These funds will help DHS better secure our banks and electric grid, as well as other federal agencies, from cyber attacks.

It also continues our recent investments in border security. This year, for example, the President is requesting roughly \$845 million dollars more than last year for Customs and Border Protection. This funding would maintain the current record level of staffing for the Border Patrol and make targeted investments in force multiplying technology and equipment. For my colleagues who are eager to pass a border security bill, I respectfully suggest that supporting the President’s budget request is a good place to start.

I was also very encouraged to see a proposed increase in funding for the ongoing consolidation of the Department’s Headquarters at St. Elizabeths. Completing this project will ultimately save the taxpayer more than \$1 billion dollars over the next 30 years by cutting down the number of costly leases. Research my staff and I have done indicates that funding the St. Elizabeths project will also improve operations and employee morale at DHS.

All of these needed investments and many more, however, may disappear if DHS is required to absorb the deep funding cuts proposed by our colleagues in the House. I understand the House has just established its high mark for DHS discretionary spending in fiscal year 2016 at a little more than \$39 billion dollars. This is \$350 million dollars less than the Department is working with this year. And it’s almost \$2 billion dollars less than what the President has proposed. Cuts this large could hurt our security and stall many new initiatives at the Department. The threats

we face as a country are just too great and too complex to fund DHS below what it received in 2015, and even 2014.

I understand some of our colleagues are willing to spare the Department of Defense from cuts, and even to increase defense spending. While defense spending is certainly important, we must remember that the Department of Homeland Security is also a vital part of our national security efforts. We need to work harder together to find a fair and responsible solution for the budget challenges facing all of our essential government agencies. I look forward to hearing from the Secretary about the impacts budget cuts would have on our security, as well as the potential impact of sequestration on DHS, should it kick in.

In closing, I would just like to thank the brave men and women in your Department, Mr. Secretary, for everything they do to keep us safe. Their work is important and they are making progress. That is why it is so essential for Congress to do its job to provide your Department with the funding and leadership it needs at this critical time.

**Written Statement for the Record
Senate Committee on
Homeland Security and Governmental Affairs
April 29, 2015**

**The Honorable Jeh C. Johnson
Secretary
United States Department of Homeland Security**



Homeland Security

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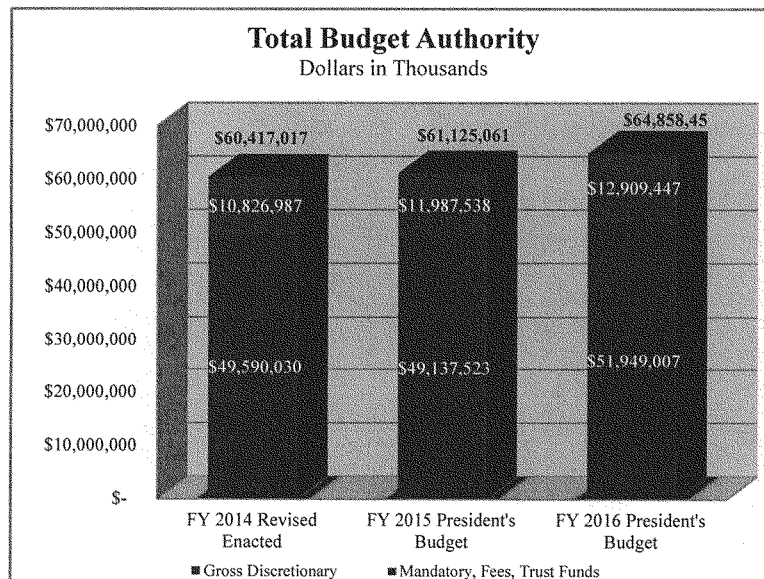
Introduction

Chairman Johnson, Ranking Member Carper, and members of the Committee:

On behalf of the 225,000 men and women of the Department of Homeland Security (DHS), I thank you for your continued support. We appreciate the hard work and leadership many on this Committee provided in delivering a full-year FY 2015 appropriation for DHS under very difficult circumstances. The \$39.7 billion in net discretionary funding provided by Congress for this year fully funds our vital homeland security missions.

Now, we turn to Fiscal Year 2016.

The President's FY 2016 Budget for DHS is \$64.9 billion in total budget authority, \$51.9 billion in gross discretionary funding, \$41.2 billion in net discretionary funding, and \$4.0 billion in discretionary fees. As part of total DHS funding, \$6.7 billion for the Disaster Relief Fund (DRF) is provided, pursuant to the *Budget Control Act of 2011*.



The President's budget request for FY 2016 also proposes to end sequestration. Unless Congress acts to prevent it, sequestration kicks in again in 2016. This would

bring homeland security funding to its lowest level, adjusted for inflation, in a decade. Now is not the time to take such a huge step backward in our Nation's homeland security funding. At a sequester level, funding for the Department would be inadequate to continue paying for our current workforce and programs. Meanwhile, pay and inflation costs would automatically increase notwithstanding sequestration. Many other key initiatives that were funded in FY 2015 would be discontinued or sharply curtailed. These initiatives include added border security on our southern border, more CBP officers, more ICE attorneys for immigration enforcement, and more HSI agents. Furthermore, the FY 2016 budget includes requests to implement recommendations of the United States Secret Service Protective Missions Panel. If sequestration returns, our ability to fully fund this, too, is jeopardized. We need to move forward, not backward, in our funding of homeland security.

Our FY 2016 Budget focuses resources in each of the Department's mission areas: prevent terrorism and enhance security, secure and manage our borders, enforce and administer our immigration laws, safeguard and secure cyberspace, and strengthen national preparedness and resilience.

Since taking office in December 2013, I have also made management reform a top priority in the Department. In my view, improving the effectiveness and efficiency by which we pursue our missions is itself a homeland security imperative.

Counterterrorism and Enhancing Security

As I have said many times, counterterrorism must remain the cornerstone of DHS's mission.

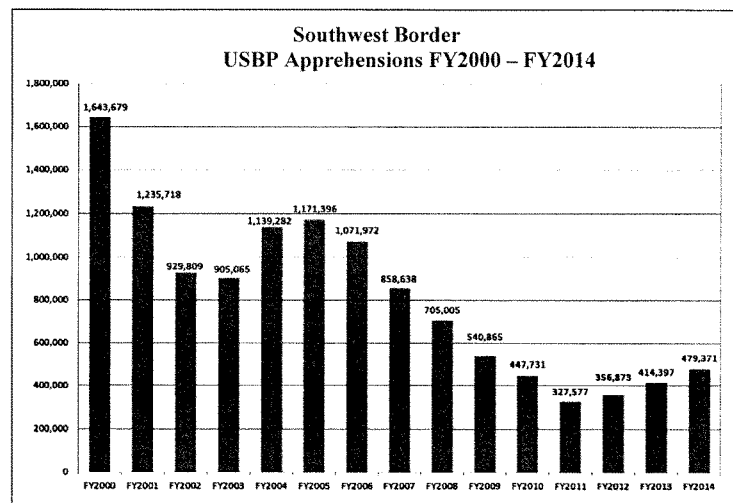
Safeguarding critical infrastructure and implementation of layered security on land, in the air, and on the sea are essential to combating any terrorist threat. The Department has prioritized investments in technology and risk-based, intelligence-driven programs like the Transportation and Security Administration's (TSA) Pre✓™ and Global Entry, and in the assets necessary to carry out DHS front-line missions today and in the future. The President's FY 2016 Budget will fund key priorities including a DHS data framework, enhancing information sharing between critical vetting programs, and service life extension of radiation portal monitors to sustain compliance with the SAFE Port Act. In this mission area, the FY 2016 President's Budget includes funding requests for the following key investments:

- \$3.7 billion for TSA screening operations to continue aviation security at prior year levels, and more effectively align passenger screening resources based on risk. These risk-based security initiatives maximize security capabilities and expedite the screening process for low-risk travelers.

- Support for U.S. Customs and Border Protection's (CBP) Trusted Traveler Programs, which provide expedited travel for pre-approved, low-risk travelers through dedicated lanes and kiosks. CBP's Trusted Traveler Programs reached record numbers of enrollment in FY 2014. An additional 1.25 million people enrolled in the agency's Trusted Traveler Programs (Global Entry, SENTRI, NEXUS and FAST) this fiscal year to bring total enrollment to more than 3.3 million members. Global Entry, the agency's largest program with more than 1.7 million members, is operational at 42 U.S. airports and 12 Preclearance locations, serving 99 percent of incoming travelers to the United States. CBP added nine Global Entry kiosk locations this fiscal year and enrolled its one millionth member in NEXUS.
- \$101 million for Radiological and Nuclear Detection Equipment Acquisition with which the Domestic Nuclear Detection Office and other DHS components, including the Coast Guard, CBP, and TSA, keep U.S. ports of entry safe and secure by detecting and interdicting illicit radioactive and nuclear materials.
- \$94.5 million for Infrastructure Security Compliance funding to secure America's high-risk chemical facilities through the systematic regulation, inspection, and enforcement under the authority of the Chemical Facility Anti-Terrorism Standards. The request includes \$16 million to enhance regulation of the sale and transfer of ammonium nitrate.
- \$86.7 million to enhance White House Complex security, consistent with the recommendations of the United States Secret Service (USSS) Protective Missions Panel.
- \$83.3 million for the BioWatch Program to provide detection and early warning of the intentional release of select aerosolized biological agents.
- \$29.4 million for Visa Information Update System. This new program will allow non-immigrant visa holders to provide updated biographic and travel related information through a public website. The system will complement the existing visa application process and enhance CBP's ability to make pre-travel risk determinations.
- \$65.8 million for the National Protection and Programs Directorate Replacement Biometric System. This system will replace the legacy Automated Biometric Identification System. In addition to reduced operating costs, the new system will have improved detection capabilities, more efficient processing, and improved scalability.

Securing and Managing Our Borders

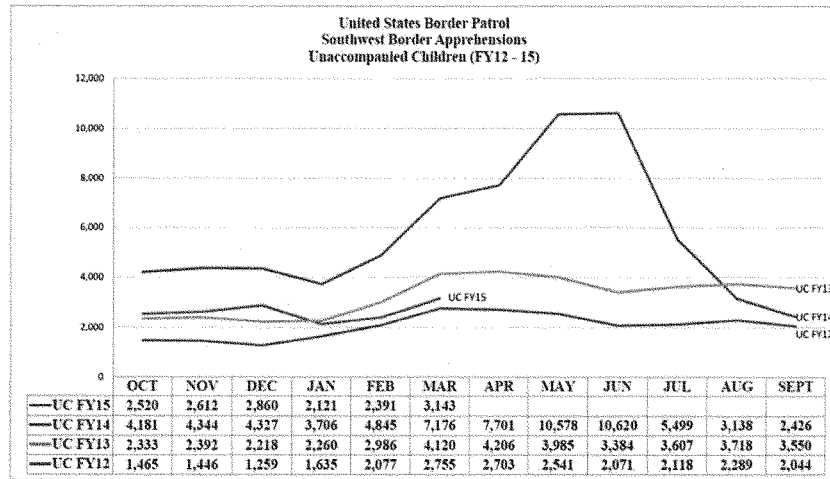
The Department has committed historic levels of front-line personnel, technology, and infrastructure to border security to reduce the flow of illegal immigrants and illicit contraband while fostering legal trade and travel. Over time, this investment has yielded positive results. The reality is that illegal migration is a fraction of what it used to be. In the year 2000, apprehensions on the southern border-- which are an indicator of total attempts to cross the border -- exceeded 1.6 million. Apprehensions on the southern border have dropped considerably since then, to around 400,000 a year in recent years. Apprehensions are in fact at their lowest rate since the 1970s.



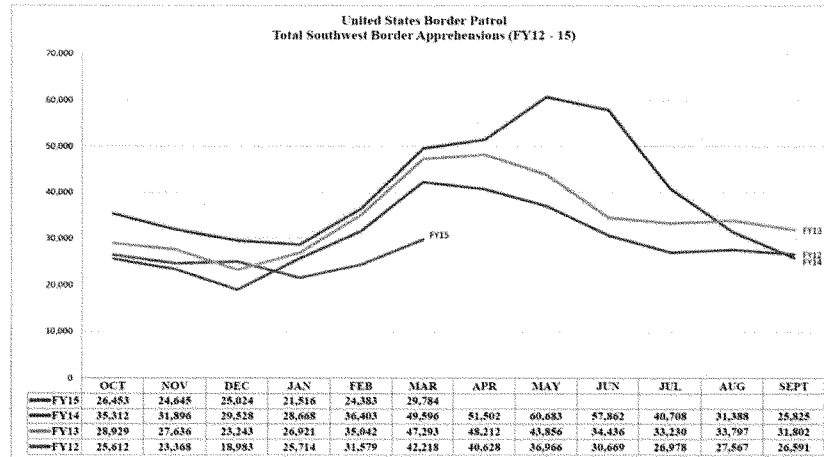
These numbers are no doubt partially due to economic conditions and trends in the U.S., Mexico and Central America, but also due to the very large investment this Nation has made in border security over the last 15 years. Today's Border Patrol has the largest deployment of people, vehicles, aircraft, boats and equipment along the southwest border in its 90-year history.

Without a doubt, we had a challenge last summer, with the unprecedented number of unaccompanied children and others who crossed a narrow area of our southern border into the Rio Grande Valley, in search of a family member and a better life in this country. We responded aggressively with more people and resources on the southern border. Beginning in mid-June 2014 the numbers of unaccompanied children crossing the

southern border declined sharply. As the chart below reflects, the number of unaccompanied children apprehended at the southern border, month-to-month, are the lowest it has been in several years. As of March 31, 2015, the total number for the fiscal year is 45% less than it was the same time last year.



Meanwhile, as the chart below reflects, month-to-month, total apprehensions on the southern border are also significantly lower than they were this time over the last several years. Through March 31, 2015, total apprehensions this fiscal year is 28% less than it was the same time last year.



But, we are not declaring “mission accomplished” when it comes to border security. I am committed to building an even more secure border.

In the future, DHS will more effectively execute its border security responsibilities by implementing our new DHS-wide, inter-component Southern Border Campaign for securing the U.S. Southern Border and approaches. This Campaign will direct DHS resources in a much more collaborative fashion with pre-identified, Secretary-approved, outcomes and targets for the range of threats and challenges, including illegal migration, illegal drug, human and arms trafficking, the illicit financing of all these operations, and the terrorist threat. The FY 2016 Budget supports this effort by requesting resources needed to support officer and agent staffing along the border, maintaining all statutory personnel floors, while supporting the 2,000 additional CBP officers first funded in FY 2014. The Budget retains critical border patrol, watch-list, and targeting technology that enhance the capabilities of front-line officers and agents, and investments in Coast Guard recapitalization. Funding is included for securing and managing our borders in the following key areas:

- Salaries, benefits, and operating costs for 21,370 Border Patrol agents and 23,871 CBP officers.
- Resources to complete the hiring and training of up to 2,000 new CBP officers, to achieve a total end-strength of 23,871 CBP officers. This effort, which commenced in FY 2014, is already yielding faster processing and inspection of passengers and cargo at U.S. ports of entry, as well as more seizures of illegal items, such as drugs, guns, and counterfeit goods.

- Resources for Coast Guard port security screening to secure key transportation nodes through security/background checks to ensure unauthorized and illicit individuals do not gain access to, or disrupt, key transportation and commerce nodes. All crew, passengers, and cargo of vessels over 300 tons are screened prior to arrival in U.S. waters, to mitigate potential risks to our borders.
- \$373 million to maintain the necessary infrastructure and technology along the Nation's borders to ensure law enforcement personnel are supported with effective surveillance technology to improve their ability to detect and interdict illegal activity in a safer environment.
- Provides funds for the costs associated with apprehension and care of unaccompanied children. A portion of these funds will be used to prepare facilities for families and unaccompanied children in the event of a surge that exceeds prior year apprehension levels. The request proposes up to \$162 million in contingency obligation authority—enabling CBP and Immigration and Customs Enforcement (ICE) to respond effectively in the event migration volume significantly surpasses prior-year levels.
- Support for Coast Guard recapitalization to include \$340 million for production of six Fast Response Cutters (FRCs); \$102 million to convert Air National Guard C-27J aircraft for Coast Guard use; \$91.4 million for National Security Cutter (NSC) structural enhancement and post-delivery activities; and \$18.5 million to complete preliminary design evaluation of the Offshore Patrol Cutter (OPC). Recapitalization will ensure Coast Guard's continued ability to enforce laws and treaties and guard the maritime domain against illegal activity and potential acts of terrorism.
- \$85.3 million for the Non-Intrusive Inspection (NII) Equipment Refresh and Recapitalization program. The NII systems allow for passive radiation scanning and X-ray/gamma-ray imaging of cargo and conveyances. Large scale NII systems perform 7.2 million examinations per year at the ports of entry. In FY 2016, DHS will begin replacement of NII systems that exceed designed life expectancy.
- \$90 million for Coast Guard operations and maintenance funds to support the delivery of new and more capable assets, including \$17.2 million in operations and maintenance for two new Coast Guard FRCs, which will provide critical maritime border security along the Atlantic and Gulf Coasts.

Enforcing and Administering Our Immigration Laws

Each year Congress provides the Department resources for the prioritized removal of a portion of those living unlawfully in the United States. DHS allocates its resources to address the highest risks, targeting criminal aliens who pose a threat to public safety, recent border crossers, and employers who ignore our immigration laws. The FY 2016 Budget continues the Administration's efforts to more effectively focus the enforcement system and our finite resources on identifying and removing high-priority individuals. For FY 2016, the Budget includes funds to enable ICE to maintain more than the 34,000 detention beds and other funds requested for enforcing and administering our immigration laws, including the following:

- \$3.3 billion to provide safe, secure, and humane detention and removal of removable individuals who are held in Government custody because they present a risk of flight, a risk to public safety, or are subject to mandatory detention.
 - Funds to supervise approximately 87,000 individuals (average per day by the end of FY 2016), including an additional \$94.5 million to support adult detention beds for higher risk individuals and \$122.5 million for the more cost-effective Alternatives to Detention program for those who are not considered a threat to our communities. The Alternatives to Detention program places low-risk individuals under various forms of intensive supervision or electronic monitoring rather than in detention.
 - \$129.4 million to identify and apprehend immigration fugitives in the United States, with an emphasis on those who pose the greatest risk to national security and public safety.
 - \$345.3 million to fund an increased number of family beds to address the surge in families with children crossing the U.S. southern border illegally.
 - The FY 2016 President's Budget proposes \$45 million of Custody Operations funding be appropriated as five-year funding. This extension of funds availability (from one to five years) allows ICE to improve the cost efficiency of detention bed rates.

Safeguarding and Securing Cyberspace

Cybersecurity is of growing relevance to our national and economic security. At DHS, we are building an agile and responsive cybersecurity capability. Central to our efforts is the National Cybersecurity and Communications Integration Center, or NCCIC. We are finalizing plans to open a satellite office in Silicon Valley that will serve as

another point of contact with our friends in the technology industry. It is also my hope that an office in Silicon Valley will help us steal more private sector talent to help us realize our plans. I am already in the hunt to hire a new NCCIC director. I am personally participating in efforts to look for a recognized all-star in the cybersecurity field, and I believe we are going to hire such a person soon. My goal is to make the NCCIC a 24/7 cybersecurity operations center that brings together government and business, working side by side to assess and reduce the risks to America's cyber systems. We are enabling the NCCIC to provide near real-time automated information sharing to the private sector. Later this year, we will be in a position to begin to accept cyber threat indicators from the private sector in automated near real-time format.

Funding in this request supports the Department's two flagship cyber acquisition programs—the National Cybersecurity Protection System and Continuous Diagnostics and Mitigation—which enhance cybersecurity situational awareness and information sharing. Funding is also included to sustain the USSS network of 46 Financial Crimes Task Forces and 38 Electronic Crimes Task Forces which continues to leverage USSS partnerships with international law enforcement agencies through overseas field offices. In addition, the Department recognizes that it must maintain its own robust internal network security to be a national leader in cybersecurity. Therefore, DHS is allocating resources across all of its Components that own information technology systems as part of a plan to fix known system vulnerabilities and is preparing to implement National Protection and Programs Directorate continuous monitoring services. The FY 2016 request includes the following key resources for safeguarding and securing cyberspace:

- The FY 2016 President's Budget sustains ICE and USSS resources to combat cyber-crime and investigate cyber-criminals.
- \$479.8 million for Network Security Deployment, including the EINSTEIN3 Accelerated program which enables DHS to detect malicious traffic targeting federal (non-Department of Defense) networks and prevent malicious traffic from harming those networks.
- \$102.6 million for the Continuous Diagnostics and Mitigation program which provides hardware, software, and services designed to support activities that strengthen the operational security of federal (non-Department of Defense) networks.
- \$5.1 million for the CyberSkills Management Support Initiative. This initiative is intended to bolster DHS's ability to develop and maintain a robust cybersecurity workforce. As part of this initiative, DHS will ensure consistent execution of cybersecurity workforce support activities across the Department by consolidating these activities within the Office of the Chief Human Capital Officer, consistent with other workforce management programs.

Strengthening National Preparedness and Resilience

No matter the time of day or location on a map, a disaster can strike and overwhelm any of our Nation's communities. It is the goal of DHS to build a ready and resilient Nation through efforts to bolster disaster response information sharing and collaboration. The FY 2016 President's Budget includes \$9.6 billion to support the DRF, grant programs, disaster preparedness plans, and training for our homeland security and law enforcement partners. Working closely with State, local, and tribal governments across the country, the Federal Emergency Management Agency (FEMA) will continue to make progress in its ability to plan, prepare for, and respond to disasters. These investments include:

- \$7.4 billion in DRF funding to provide immediate and long-lasting assistance to individuals and communities stricken by emergencies and major disasters.
- \$2.2 billion in total grants funding to prepare state and local governments to prevent, protect against, respond to, and recover from incidents of terrorism and other catastrophic events. These funds also include Firefighter Assistance and Emergency Management Performance Grants that support local first responders in achieving their missions.

Understanding and preparing for the impacts of a changing climate is also an Administration priority. Climate change – including an increase in prolonged periods of high temperatures, changes in precipitation, an increase in wildfires, more severe droughts, permafrost thawing, ocean acidification, and sea-level rise – is already impacting the Nation and will exacerbate many of our existing vulnerabilities. Managing these risks requires deliberate preparation, close cooperation, and coordinated planning across government, as well as by other stakeholders. The FY 2016 President's Budget includes the following climate resilience investments which will strengthen our preparedness for the effects of climate change:

- \$616 million in support of the President's Climate Resilience Initiatives:
 - \$400 million to support flood mapping and risk analysis activities, which are essential to educating communities about flood risk and minimizing the loss of life and property as a result of flooding.
 - \$200 million in Pre-Disaster Mitigation Grants for hazard mitigation planning and/or project applications to mitigate damage associated with natural disasters.

- \$10 million for analyses of climate change impacts on infrastructure critical to national and economic security, and national public health and safety.
- \$6 million for FEMA climate workshops and regional resilience coordination.

Reforming the Management of DHS

Since taking office in December 2013, I have made management reform a top priority in the Department. Improving the effectiveness and efficiency by which we pursue our missions is itself a homeland security imperative.

Over the last 15 months, we have filled almost all the senior-level vacancies that existed in the Department. I want to express my gratitude to the Senate for confirming Russ Deyo, the President's nominee for Under Secretary for Management, the number 3 position within the Department. In February, the President also named Joe Clancy to be the Director of the Secret Service. On Tuesday, April 28, the President will announce his nominee to be the new Administrator of the TSA.

Our "Unity of Effort" initiative has brought about a more centralized process for making decisions concerning budget requests, acquisition, strategy and other Departmental functions. Growing out of this initiative, we also realigned major DHS headquarters functions to consolidate like functions and promote efficiency. DHS is a very large conglomerate of 22 components that is only 12 years old. We are a large bureaucracy. In some ways, we are still finding our way, but we are headed in the right direction.

We have established the Southern Border and Approaches Campaign, as I mentioned earlier. We have built what I believe to be more candid and inclusive senior leadership discussions and decision-making. We have realigned seven major Department headquarters functions. We are developing a number of human capital initiatives, including a Department-wide approach to joint rotational duty assignments. And we are embarking on the Acquisition Innovation in Motion (AIM) initiative, which will be an ongoing and recurring set of activities to enhance the way the Department does business with the private sector.

DHS is one of 16 departments and agencies on Government Accountability Office's (GAO) so-called "High Risk List." DHS has been on that list since DHS was created in 2003, simply by virtue of the large realignment of government it took to create the Department. We are on a path to get off that list soon. In its most recent report to Congress on February 11, GAO once again noted DHS's good progress toward getting off the list. Specifically, GAO noted that since its last report in 2013, DHS has "fully addressed" 9 of 30 risk areas, and has made significant progress toward addressing the

remaining 21. Overall, GAO has stated that DHS is a “model” for how federal agencies can work to address GAO’s high risk designations. GAO also stated:

“DHS’s top leadership, including the Secretary and Deputy Secretary of Homeland Security (who assumed leadership of the department after our 2013 update), have continued to demonstrate exemplary commitment and support for addressing the department’s management challenges. For instance, the department’s Deputy Secretary and Under Secretary for Management, and other senior management officials have frequently met with us to discuss the department’s plans and progress, which helps ensure common understanding or the remaining work needed to address our high-risk designation.”

Concerning morale, one of the ways we are improving is to stop telling the workforce they suffer from low morale. We have moved on. We are no longer “studying” the issue of morale. We are doing something about it. The Deputy Secretary and I are on an aggressive, multi-faceted campaign to improve morale within components of DHS. We are developing more transparency in hiring, training, promotion and mentoring opportunities. In cascading fashion, we are encouraging all leaders and managers within the Department to invest time and effort to improving morale. We are thanking and acknowledging people for their good work. In October of last year we restored the Secretary’s Awards Program, which had been dormant since 2008, to recognize more than 300 employees who have made outstanding achievements across DHS. I request that Congress continue to work with me to address DHS workforce issues, so the men and women all across the Department of Homeland Security remain upbeat, dedicated and patriotic.

We have improved the Department’s responsiveness to Congress. This, despite the challenge of -- depending on how you count -- 92 committees and subcommittees of Congress who claim an oversight role over this Department. Members of Congress on both sides of the aisle have taken note.¹

¹ Rep. Beto O’Rourke (D-TX):

“Mr. Secretary, I want to begin by thanking you for your accountability. . . Your responsiveness to our requests and our questions and your commitment to transparency – I think there’s a long way still to go within the department, but in the last 12 months, we’ve seen more transparency than we’ve seen in hears. And so I really do appreciate that.”

Rep. Jason Chaffetz (R-UT):

“I can tell you, since you’ve taken office, the production and the response to Congress in terms of responding to our letters and inquiries is – the difference, I cannot tell you how much better it is. And I thank you and the people who work on this. I do appreciate [that].”

Conclusion

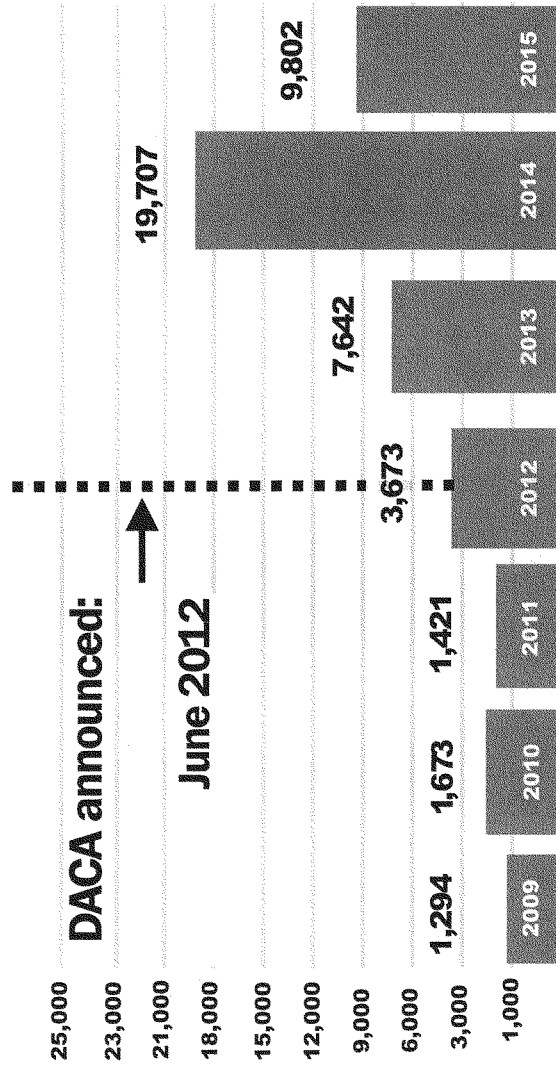
I thank you for the opportunity to speak with all of you and for your continued support, I look forward to your questions.

Sen. Tom Coburn (R-OK):

"Jeh Johnson has proven to be a capable leader, a transparent partner with Congress, and committed to making tough decisions and improving the Department."

UAC APPREHENSIONS

UNACCOMPANIED CHILDREN: HONDURAS, GUATEMALA, EL SALVADOR
NUMBERS FOR EACH FISCAL YEAR BETWEEN OCTOBER 1 – MARCH 31

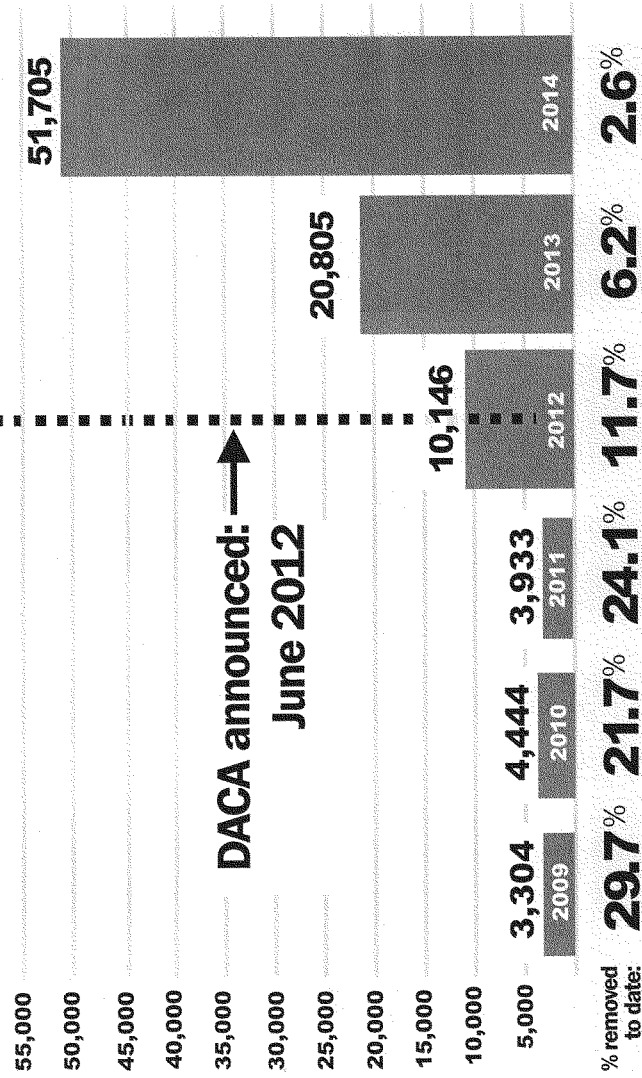


U.S. Border Patrol, U.S. Customs and Border Protection.



UAC APPREHENSIONS

UNACCOMPANIED CHILDREN: HONDURAS, GUATEMALA, EL SALVADOR



U.S. Border Patrol, U.S. Customs and Border Protection.

RON JOHNSON
U.S. SENATOR



COMMUNITY EDUCATION CENTER • IMMIGRATION POLICY CENTER • INTERNATIONAL EXCHANGE CENTER • LEGAL ACTION CENTER

July 2014

TAKING ATTENDANCE: New Data Finds Majority of Children Appear in Immigration Court

As the number of unaccompanied children arriving at the United States border has increased, some lawmakers have argued that children frequently fail to appear for proceedings and thus proposed mandatory detention as a solution. Some say as many as 90 percent fail to attend their immigration court hearings.¹ Yet government data recently published by Syracuse University's Transactional Records Access Clearinghouse (TRAC) indicates the opposite.² Not only do a majority of children attend their immigration proceedings, according to TRAC, but 90 percent or more attend when represented by lawyers.

TRAC Data Offers Comprehensive Look at Children in Immigration Court

TRAC's data, obtained through the Freedom of Information Act, examines 101,850 immigration court proceedings begun while a child was under 18, from Fiscal Year (FY) 2005 through June 2014.³ The information tabulated in TRAC's database includes data on both completed cases, in which there was an official outcome, and cases still pending. The data also includes information on "*in absentia*" cases, Latin for "in absence," which is a term for a judicial hearing held without the individual present. Any delay in appearing at any immigration hearing may lead to a court removing someone *in absentia*.⁴ The Department of Justice's Executive Office for Immigration Review (EOIR), which runs U.S. immigration courts, uses a similar methodology of reporting "*in absentia*" numbers as its best available indicator of failures to show. However, EOIR has not historically broken out children's cases.⁵

The following analysis uses the TRAC data to determine rates of appearance in court based on completed cases. Additional analysis of all cases, both completed and still pending, also provides a snapshot of overall current appearance rates to date.

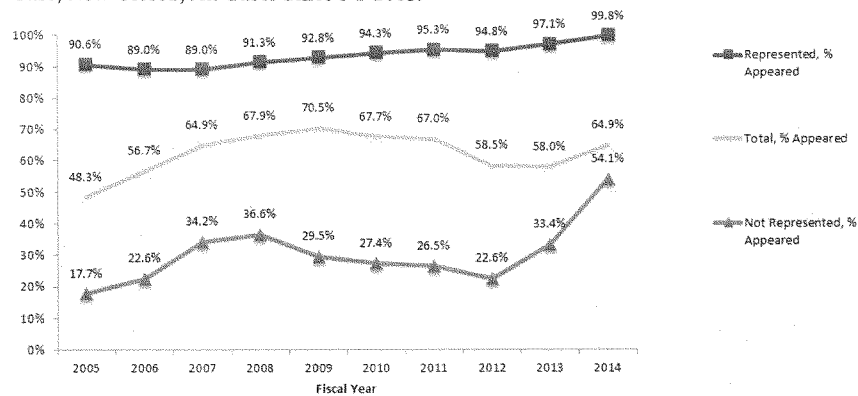
Children Appear in Immigration Court

Analyzing TRAC's data shows that juveniles who were not detained or released have a lower *in absentia* rate than previously reported. Not only do a majority of children appear in immigration court, but the *vast* majority of children represented by *lawyers* appear.⁶

**Appearance Rate, Immigration Cases Begun Against
Children, Not Detained By End of Case, Now Closed, All
Cases Since FY 2005**

Represented	92.5%
Not Represented	27.5%
Total	60.9%

Appearance Rate, Immigration Cases Begun Against Children, Not Detained by End of Case, Now Closed, All Cases Since FY 2005.



Key findings are:

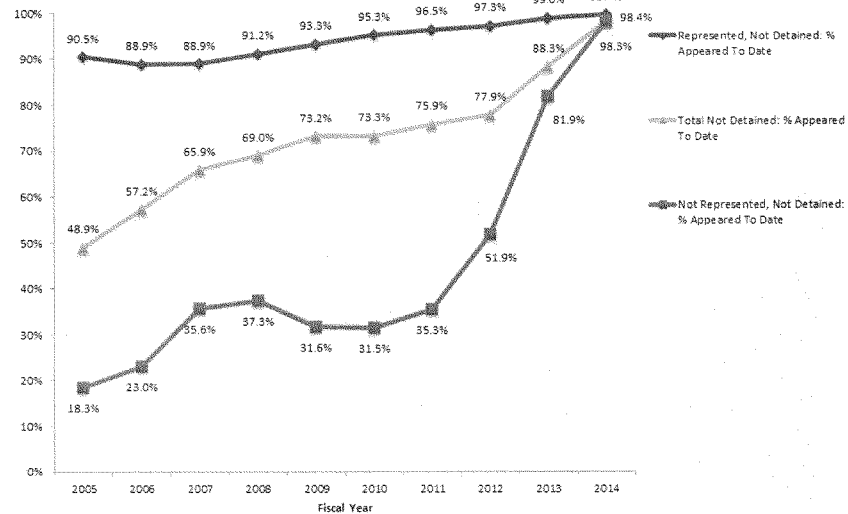
- For completed cases, **60.9 percent** of juveniles appeared in immigration court.
- **92.5 percent** of children represented by **lawyers** appeared for their court proceedings. This number is **historically consistent**—never below 89 percent since FY 2005.
- This data is consistent with reports from *pro bono* organizations that provide counsel to children. For example, New York's Safe Passage Project reported that of approximately three hundred children it screened, only two children failed to appear for immigration court hearings after they were matched with *pro bono* counsel.⁷

When Pending Cases are Factored In, Appearance Rates Are Even Greater

**Appearance Rate, Immigration Cases Begun Against
Children, Not Detained By End of Case, All Cases
Since FY 2005, Both Pending and Closed**

Represented	94.7%
Not Represented	66.3%
Total	78.6%

Appearance Rate, Immigration Cases Begun Against Children, Not Detained by End of Case, All Cases Since FY 2005, Both Pending and Closed



Key findings, when including pending cases, are:

- A greater **majority—78.6 percent**— of juveniles appear in immigration court, of those not detained in all cases. Moreover:
- The **vast majority** of juveniles represented by **lawyers appear (94.7 percent)**.

Placement with Parents or Guardians Appears to Help Children Appear in Court

Additionally, TRAC's data calls into question claims by lawmakers that children, once placed with U.S. family (some without lawful status), will not show for immigration proceedings.⁸ Most do, according to TRAC:⁹

- In **79.5 percent** of cases (both closed and pending) in which a child was released or never detained, and in a parent or guardian's custody, the child has not been designated *in absentia*.
- For children represented by lawyers, **95.1 percent** of those in a parent or guardian's custody have not been designated *in absentia* (in both closed and pending cases).

Conclusion

Evidence obtained from EOIR's own data suggests that children appear in immigration court—and that when children are represented by counsel, appearance rates are even higher. This data suggests children's supposed failures to appear in court are red herring arguments—designed to place blame for the system's deficits on children themselves, rather than on courts' lack of resources to ensure a timely and fair process.¹⁰ Moreover, given TRAC's data showing the relationship between representation and attendance, the appointment of counsel to children may help ensure attendance at proceedings in a more cost-effective, humane, and fair manner.¹¹

Endnotes

¹ Dan Nowicki, "Flake, McCain claim that 90 percent of migrants skip hearings disputed," *Arizona Republic*, July 11, 2014, <http://www.azcentral.com/story/news/politics/immigration/2014/07/12/flake-mccain-claim-percent-migrants-skip-hearings-disputed/12563361/>.

² TRAC Immigration, Syracuse University, *New Data on Unaccompanied Children in Immigration Court* (July 15, 2014), at <http://trac.syr.edu/immigration/reports/359/> [hereinafter TRAC, *New Data*].

³ TRAC Immigration, Syracuse University, *Juveniles—Immigration Court Deportation Proceedings, Court Data through June 2014*, <http://trac.syr.edu/phptools/immigration/juvenile/> [hereinafter TRAC, *Juveniles Tool*]. The data encompasses every immigration court case begun in these years, and coded as "juvenile," since FY 2005—101,850 cases in total. See TRAC Immigration, *About the Data* (July 15, 2014), http://trac.syr.edu/immigration/reports/359/include/about_data.html [hereinafter TRAC, *About the Data*]. TRAC reports that immigration courts define a "juvenile" as a child under 18 when their immigration case begins, and appearing alone in court (which TRAC reports that EOIR defines as not being deported by DHS with a parent as a family unit). This data does not include children not processed through immigration court (such as Mexican children who accepted voluntary return).

⁴ U.S. Department of Justice, Executive Office for Immigration Review, Office of the Chief Immigration Judge, *Immigration Court Practice Manual* Ch. 4.17, p. 82 (August 2009), at http://www.justice.gov/eoir/vll/OCIIPracManual/ocij_page1.htm; 8 C.F.R. § 1003.26, *In Absentia Hearings*, <http://www.law.cornell.edu/cfr/text/8/1003.26>.

⁵ U.S. Department of Justice, Executive Office for Immigration Review, *FY 2013 Statistics Yearbook*, pp. P1-P4, "Immigration Courts: *In Absentia* Orders," comparing *in absentia* rates to case completions for all noncitizens; those never detained and released, separately; and the "not detained" (combining those never detained and released), <http://www.justice.gov/eoir/statpub/fy13syb.pdf>. See also Bipartisan Policy Center, *Child Migration by the Numbers*, p. 8 Fig. 8 (June 2014) (reporting EOIR data through 2012), at <http://bipartisanpolicy.org/library/research/child-migration-numbers>.

⁶ We arrived at this result, using TRAC's *Juveniles Tool*, by first calculating closed cases (all cases with an outcome other than "pending"), representation rates, and *in absentia* rates, by fiscal year. We then calculated a fourth variable, whether the noncitizen was detained. We then backed out from these numbers (1) those detained, and (2) of those not *in absentia*, 97 percent of those detained (since TRAC's numbers show that 97 percent of those detained in closed cases were not *in absentia*). By doing so, we calculated an appearance rate in cases of those not detained. These numbers appear to be consistent with TRAC's other reporting of detention rates.

⁷ See Safe Passage Project, *Statement to House Judiciary Committee*, June 25, 2014, at p. 2, <http://www.safeassageproject.org/safe-passage-testimony-to-congress-on-child-migrants/>.

⁸ Senator Lindsay Graham, U.S. Senate Committee on Appropriations, *Hearing: President's Emergency Supplemental Request* (July 10, 2014) (Q: "Are we turning children over to people here illegally? ... I think the chance of them showing up to a hearing is zero."), <http://www.appropriations.senate.gov/webcast/full-committee-hearing-president%E2%80%99s-emergency-supplemental-request>.

⁹ According to TRAC, EOIR tracks whether a child is listed as in the custody of a parent or guardian, or not. *See* TRAC, *About the Data* (“A significant number of unaccompanied children who are apprehended at the border have a parent already residing in the United States. If at some point, even after court proceedings begin, a parent or court-ordered legal guardian assumes custody of the child, then procedures call for the EOIR’s database to be updated to indicate this change in custody. This change is recorded by updating the particular juvenile case type.”). EOIR, according to TRAC, still lists the case as “juvenile,” however.

¹⁰ Dana Leigh Marks, President, National Association of Immigration Judges, *Letter re Special Concerns Relating to Juveniles in Immigration Courts* (July 22, 2014).

¹¹ American Immigration Council, *Two Systems of Justice* 10 (2013), at <http://www.immigrationpolicy.org/special-reports/two-systems-justice-how-immigration-system-falls-short-american-ideals-justice>; New York City Bar Association, *City Bar Welcomes NERA Report Finding Immigration Appointed Counsel Would Pay for Itself* (May 30, 2014), <http://www.nycbar.org/44th-street-blog/2014/05/30/city-bar-welcomes-nera-report-finding-appointed-immigration-counsel-would-pay-for-itself/>.



STATEMENT OF COLLEEN M. KELLEY
NATIONAL PRESIDENT
NATIONAL TREASURY EMPLOYEES UNION
ON U.S. CUSTOMS AND BORDER PROTECTION FY 2016 BUDGET REQUEST
BEFORE THE COMMITTEE ON HOMELAND SECURITY
AND GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

April 29, 2015

Chairman Johnson, Ranking Member Carper, distinguished members of the Committee, thank you for the opportunity to provide this testimony. As President of the National Treasury Employees Union (NTEU), I have the honor of leading a union that represents over 25,000 Customs and Border Protection (CBP) Officers and trade enforcement specialists stationed at 328 land, sea and air ports of entry (POEs) across the United States and 16 Preclearance POEs.

NTEU applauds the Administration's FY 2016 budget that recognizes that there is no greater roadblock to legitimate trade and travel efficiency than the lack of sufficient staff at the ports. Understaffed ports lead to long delays in our commercial lanes as cargo waits to enter U.S. commerce. **NTEU strongly supported the FY 2014 Omnibus bill that provided funding to hire an additional 2000 new CBP Officers at the air, sea and land ports of entry. To date, approximately 700 new CBP Officers have been hired with the remaining Officers expected to be on board by early 2016.**

For years, NTEU has maintained that delays at the ports result in real losses to the U.S. economy. According to the U.S. Department of the Treasury, more than 50 million Americans work for companies that engage in international trade and, according to a University of Southern California (USC) study, "The Impact on the Economy of Changes in Wait Times at the Ports of Entry", dated April 4, 2013, for every 1,000 CBP Officers added, the U.S. can increase its gross domestic product by \$2 billion, which equates to 33 new private sector jobs per CBP Officer added. This analysis was supplemented by USC in its update entitled "Analysis of Primary Inspection Wait Times at U.S. ports of Entry" published on March 9, 2014. This study found that by adding 14 CBP Officers at 14 inspection sites in 4 international airports, the potential total net impact is to increase annual GDP by as much as \$11.8 million.

NTEU also supports increasing immigration and customs user fees to fund the hiring of additional CBP Officers as identified by CBP's Workforce Staffing Model. CBP collects user fees to recover certain costs incurred for processing, among other things, air and sea

passengers, and various private and commercial land, sea, air, and rail carriers and shipments. The source of these user fees are commercial vessels, commercial vehicles, rail cars, private aircraft, private vessels, air passengers, sea passengers, cruise vessel passengers, dutiable mail, customs brokers and barge/bulk carriers. These fees are deposited into the Customs User Fee Account. Customs User Fees are designated by statute to pay for services provided to the user, such as inspectional overtime for passenger and commercial vehicle inspection during overtime shift hours. User fees have not been increased in years and some of these user fees cover only a portion of recoverable fee-related costs.

Increasing the immigration inspection user fee will allow CBP to better align air passenger inspection fee revenue with the costs of providing immigration inspection services. According to the Government Accountability Office (GAO) (GAO-12-464T, page 11), fee collections available to ICE and CBP to pay for costs incurred in providing immigration inspection services totaled about \$600 million in FY 2010, however, "air passenger immigration fees collections did not fully cover CBP's costs in FY 2009 and FY 2010."

Despite an increase in appropriated funding for the hiring of 2000 new CBP Officers, CBP will still face staffing shortages in FY 2016 and beyond. If Congress is serious about job creation, then Congress should authorize and fund the hiring of additional CBP Officers and raise IUF and COBRA fees, adjusting both fees annually to inflation.

CBP employees also perform agriculture inspections to prevent the entry of animal and plant pests or diseases at ports of entry. For years, NTEU has championed the CBP Agriculture Specialists' Agriculture Quality Inspection (AQI) mission within the agency and the need for increased staffing to fulfill that mission. The U.S. agriculture sector is a crucial component of the American economy generating over \$1 trillion in annual economic activity. According to the United States Department of Agriculture (USDA), foreign pests and diseases cost the American economy tens of billions of dollars annually. Failure to detect and intercept these non-native pests and diseases imposes serious economic and social costs on all Americans. **Staffing shortages and lack of mission priority for the critical work performed by CBP Agriculture Specialists and CBP Technicians assigned to the ports is a continuing threat to the U.S. economy.**

To address CBP Agriculture Specialist staffing shortages at the POEs, NTEU supports CBP's efforts to establish an Agriculture Specialists Resource Allocation Model (AgRAM) to ensure adequate CBP Agriculture Specialist staffing at the POEs. Release of the AgRAM, initially due at the end of September 2013 has been postponed and still has not been released almost two years after its initial due date. **NTEU urges the Committee to ask CBP to provide a date certain for the release of the AgRAM. Release of the long-delayed staffing model will provide Congress with a framework to address CBP Agriculture Specialist staffing needs and enhance the AQI mission at CBP.**

NTEU also asks the Committee to authorize the hiring of additional CBP Agriculture Specialists and to support GAO recommendations aimed at more fully aligning AQI fee revenue

with program costs (see GAO-13-268). According to GAO, in fiscal year 2011, CBP incurred 81 percent of total AQI program costs, but received only 60 percent of fee revenues; whereas the Animal, Plant Health Inspection Service (APHIS) incurred 19 percent of program costs but retained 36 percent of the revenues. In other words, APHIS covers all its AQI costs with AQI fee revenues, while CBP does not. AQI user fees fund only 62 percent of agriculture inspection costs with a gap of \$325 million between costs and revenue.

To bridge the resulting gap, CBP uses its annual appropriation. NTEU supports USDA's proposed changes to the fees it charges to recoup the costs of conducting AQI inspections at the POEs. The proposed new fee structure ensures that parties pay no more than the costs of the services that they receive. The proposed rule is in the review and approval period and is anticipated to be implemented in FY 2015. CBP anticipates receiving an additional \$29.19 million in AQI user fees in FY 2016. This increase will be used to recover additional agricultural inspection costs incurred in CBP's Salary and Expenses appropriation in 2016.

CBP has a dual mission of safeguarding our nation's borders and ports as well as regulating and facilitating international trade. In FY 2013, all revenue collected by CBP exceeded \$42 billion with nearly \$30 billion of that revenue coming from the collection of trade duties. Since CBP was established in March 2003, however, there has been no increase in CBP trade enforcement and compliance personnel even though inbound trade volume grew by more than 24 percent between FY 2010 and FY 2014.

NTEU urges the Committee to authorize the hiring of additional trade enforcement and compliance personnel to enhance trade revenue collection.

NTEU commends the Department for increasing the journeyman pay for CBP Officers and Agriculture Specialists. Many deserving CBP trade and security positions, however, were left out of this pay increase, which has significantly damaged morale.

NTEU strongly supports extending this same career ladder increase to additional CBP positions, including CBP trade operations specialists and CBP Seized Property Specialists. The journeyman pay level for the CBP Technicians who perform important commercial trade and administration duties should also be increased from GS-7 to GS-9.

NTEU also supports extending enhanced retirement that was granted to CBP Officers in 2008 to the approximately 120 CBP Seized Property Specialists, the only armed, uniformed employees at CBP that do not receive Law Enforcement Officer retirement.

CBP continues to be a top-heavy management organization. In terms of real numbers, since CBP was created, the number of new managers has increased at a much higher rate than the number of new frontline CBP hires. According to CBP's own numbers, **a snapshot of CBP workforce demographics in September 2014 showed that the Supervisor to frontline employee ratio was 1 to 5.9 for the CBP workforce, 1 to 6.1 for CBP officers and 1 to 6.9 for CBP Agriculture Specialists.**

The tremendous increase in CBP managers and supervisors has come at the expense of national security preparedness and frontline positions. Also, these highly paid management positions are straining the CBP budget. With the increase of potentially 4000 CBP Officer new hires, **NTEU urges that CBP return to a more balanced supervisor to frontline employee ratio.**

RECOMMENDATIONS

NTEU strongly urges Congress to end the sequester. Prior to enactment of the FY 2014 Omnibus, the CBP sequester plan for FY 2014 would have severely restricted CBP's ability to address critical staffing needs at the ports of entry. If Congress doesn't reverse the Budget Control Act in FY 2016, CBP will be subject to another year of sequestration funding levels--constraining services, increasing wait times for trade and travel, and jeopardizing national security.

Funding for additional CBP staff must be increased to ensure security and mitigate prolonged wait times for both trade and travel at our nation's ports of entry. Therefore, **NTEU urges the Committee to support legislation to authorize:**

- **an additional 2000 CBP Officers--bringing the total staffing number to 25,775;**
- **an increase in agriculture inspection and trade enforcement staffing to adequately address increased agriculture and commercial trade volumes; and**
- **an increase in journeyman pay and the extension of enhanced retirement for additional CBP personnel.**

Lastly, NTEU supports legislation to allow CBP to increase user fees to help recover costs associated with services and provide funding to hire additional CBP Officers. We also support including in the extension of the Travel Promotion Act, that provides CBP the authority to collect a fee to fund the promotion of tourism, a provision requiring a significant portion of fees collected be remitted to CBP to provide additional funding for CBP Officer new hires.

The more than 25,000 CBP employees represented by NTEU are proud of their part in keeping our country free from terrorism, our neighborhoods safe from drugs and our economy safe from illegal trade, while ensuring that legal trade and travelers move expeditiously through our air, sea and land ports. These men and women are deserving of more resources to perform their jobs better and more efficiently.

Thank you for the opportunity to submit this testimony to the Committee on their behalf.

**Post-Hearing Questions for the Record
Submitted to Hon. Jeh C. Johnson
From Senator Kelly Ayotte**

“The Homeland Security Department’s Budget Submission for Fiscal Year 2016”

April 29, 2015

Question#:	1
Topic:	CBRN&E threats
Hearing:	The Homeland Security Department's Budget Submission for Fiscal Year 2016
Primary:	The Honorable Kelly Ayotte
Committee:	HOMELAND SECURITY (SENATE)

Question: DHS and DoD have stated mission requirements to acquire the ability to detect and identify unknown CBRN&E threats presented in the field. Over the past decade, a variety of laser-based and other technologies (e.g. LIBS, Raman, X-Ray, hyper-spectral imaging) have been evaluated in field and laboratory trials by the DoD, JIEDDO, IAB and DHS as potential tools to detect CBRN&E threats in the field in a real-time scenario for military and civilian emergency responders.

Throughout the past decade of evaluation programs, all sites have been in a hot-dry environment reflecting our war-fighting conditions. No evaluation program or current requirement calls out detection of CBRN&E threats in snow and ice in the field. Last January over 61% of the US was under snow cover.

Does the Department believe there needs to be a focus to further develop a real-time analytical detection capability that works to detect CBRN&E materials in snow and ice?

Response: The Domestic Nuclear Detection Office (DNDO) has a decade of experience testing radiation detectors in environmental chambers and operational settings to validate functionality prior to fielding. DNDO applies Institute of Electrical and Electronics Engineers-American National Standards Institute environmental requirements during the acquisition process to ensure system functionality when equipment is deployed. The requirements include moisture and temperature testing in hot and cold environments where snow and ice are possible.

The DHS Science and Technology Directorate (S&T) Chemical and Biological Defense Division has worked to develop and test detection capabilities (primarily for hazardous chemical substances) for use by responders as well as for protection of high-value assets and critical infrastructure. Testing for performance of detectors is usually guided by the following temperature and relative humidity (RH) regimes, which are requirements from S&T customers and stakeholders:

Question#:	1
Topic:	CBRN&E threats
Hearing:	The Homeland Security Department's Budget Submission for Fiscal Year 2016
Primary:	The Honorable Kelly Ayotte
Committee:	HOMELAND SECURITY (SENATE)

- Low temperature/low –high humidity: -10C to 5C from 5-100% RH
- Normal temperature/low-high humidity: 5C to 35C from 5-100% RH
- High temperature/low-moderately high humidity: 35C to 50C from 5-77% RH

Although operational field tests sponsored by DHS S&T have not typically or specifically targeted CBRN&E detection in snow and ice conditions, the low temperature/low-high humidity regime above includes conditions under which snow and/or ice may be present.

In addition, the OHA/BioWatch Program monitors daily performance of its Portable Sampling Unit (PSU) collectors, which are deployed in over 30 jurisdictions nationwide. The PSUs are monitored under a wide variety of meteorological and environmental conditions ranging from extremes in cold and wind in the Northeast and Midwest, to hot and dry and hot and humid conditions in the Southwest and Southeast, respectively. PSU Mechanical failures are reported to the BioWatch Program Office within six hours of discovery. No degradation of performance under conditions consistent with snow and ice has been identified.

As a part of the Phase I Autonomous Detection (GEN-3) acquisition – since terminated – OHA/BioWatch had conducted a Reliability, Availability, Maintainability (RAM) test in Chicago from January through March 2012 to test the effects of meteorological, routine operational conditions, and other stresses on performance of the candidate technologies. OHA/BioWatch, in cooperation with DHS S&T, is planning similar testing for any technology under consideration for acquisition as part of the BioWatch Technology Upgrade effort currently underway.

In addition, OHA/BioWatch conducted an operational demonstration at the Naval Surface Warfare Center Dahlgren in King George County, VA from August-early October 2014. This test consisted of deploying PSU collectors and referee equipment to monitor the performance under a range of operation conditions of currently deployed BioWatch technology.

Question#:	2
Topic:	CBRN&E detection
Hearing:	The Homeland Security Department's Budget Submission for Fiscal Year 2016
Primary:	The Honorable Kelly Ayotte
Committee:	HOMELAND SECURITY (SENATE)

Question: The 2015 National Security Strategy (February 2015) emphasizes stemming the flow of illegal drugs into the U.S. from the Southern Hemisphere. Air and Maritime Security is charged with establishing countermeasures for drug smuggling in the Caribbean Sea and across Southeast Asia. As with CBRN&E detection, no single detection technology presents an optimal capability for drug detection.

An advanced low-cost sampling and analysis capability is needed to identify and characterize drugs and drug residue on-site and under varying environmental conditions (hot, wet and in water, dry and in snow and ice) that is reliable, sustainable, deployable and affordable by the majority of civilian responders.

Current hardware development has demonstrated the feasibility of a low-cost LIBS system that will achieve close-contact sampling.

Are these technologies currently being evaluated for detection of drugs of interest? If so, are they being tested in field conditions? If not, does the Department believe there is value in such evaluation and testing?

Response: As the Lead Federal Agency for maritime drug interdiction, the Coast Guard has employed a variety of techniques to sample and trace drug residue. We currently employ IONSCAN devices to trace residue. Additionally, the Coast Guard is an active participant and stakeholder in an ongoing Department of Homeland Security (DHS) Integrated Project Team (IPT) exploring and identifying portable trace detection units to support drug interdiction operations. Field testing and functional requirements are ongoing.

**Post-Hearing Questions for the Record
Submitted to Hon. Jeh C. Johnson
From Senator Heidi Heitkamp**

“The Homeland Security Department’s Budget Submission for Fiscal Year 2016”

April 29, 2015

Question#:	3
Topic:	Grants
Hearing:	The Homeland Security Department's Budget Submission for Fiscal Year 2016
Primary:	The Honorable Heidi Heitkamp
Committee:	HOMELAND SECURITY (SENATE)

Question: The President's budget requests \$670 million for Firefighter Assistance Grants (\$335 million for SAFER and \$335 million for AFG). That amount is \$10 million less than what Congress has enacted in FY15 and FY14. Both, AFG and SAFER, are significant to helping make sure our nation's firefighters have much needed resources. In North Dakota, our firefighters are retooling themselves and preparing for crude derailments. While a \$10 million reduction between both programs might not sound like much money, for some of the rural fire departments in North Dakota a fraction of that money would go very far. Our firefighters, especially those in rural communities, see the Firefighter Assistance grants as key in being able to respond to various incidents. Would you explain why the budget proposes less funding than what Congress has enacted for the Firefighter Assistance Grants?

Response: The President’s budget requested \$335 million for the FY 2016 Assistance to Firefighters Grant (AFG) program (including the Fire Prevention & Safety program) and \$335 million for FY 2016 Staffing for Adequate Fire and Emergency Response (SAFER) program, which are the same amounts requested in FY 2015. DHS and FEMA support the President’s proposed budget for these programs as it addresses the ongoing need for this funding while maintaining fiscal responsibility.

Question#:	4
Topic:	situational awareness
Hearing:	The Homeland Security Department's Budget Submission for Fiscal Year 2016
Primary:	The Honorable Heidi Heitkamp
Committee:	HOMELAND SECURITY (SENATE)

Question: Has the Department of Homeland Security prepared a strategy for how to achieve 100 percent situational awareness on the northern and southern borders of the United States, including the cost of such a strategy? If not, please explain the Department's current efforts to address situational awareness, including any efforts to determine the approximate cost of achieving such situational awareness?

Response: Last April, the Secretary directed DHS to develop a Department-wide Southern Border and Approaches Campaign Plan. This plan will put to use, in a strategic and coordinated way, the assets and personnel of U.S. Customs and Border Protection, U.S. Immigration and Customs Enforcement, U.S. Citizenship and Immigration Services, the U.S. Coast Guard, and other resources of the Department. Within the Department, we are also exploring outcome-based metrics for measuring and evaluating our border security efforts. These outcome-based metrics will lead to better understanding of the border environment and, along with the significant efforts we are making to strengthen our budget and acquisition processes, including establishment of a new DHS Joint Requirements Council, allow DHS to better allocate resources both strategically and operationally. The Administration appreciates the on-going Congressional support for implementation of the new DHS Joint Task Forces, which are operationalizing the Southern Border and Approaches Campaign in coordination with the DHS Operating Components.

DHS issued its first-ever Northern Border Strategy (NBS) in 2012 to guide the Department's policies and operations along our northern border. The Northern Border presents unique security challenges based on geography, weather, and the immense volume of trade and travel. The NBS leverages the expertise and capacity of all DHS components and reflects a unified direction for DHS policies and operations at the U.S. northern border. It takes a Department-wide look at the northern border and considers all of DHS's roles, responsibilities, capabilities, and authorities in describing a cross-cutting, all-threats/hazards approach. This NBS is consistent with the 2010 National Security Strategy, the 2010 Quadrennial Homeland Security Review, and the 2010 DHS International Strategy. The goals outlined in the NBS support the 2011 United States-Canada shared security vision, *Beyond the Border: A Shared Vision for Perimeter Security and Economic Competitiveness* and its accompanying action plan, presenting new opportunities for increased bi-lateral cooperation.

DHS is using partnerships; information, intelligence, interdictions, and investigations; technology; infrastructure; and personnel to accomplish the three goals outlined in the NBS: deterring and preventing terrorism and smuggling, trafficking, and illegal

Question#:	4
Topic:	situational awareness
Hearing:	The Homeland Security Department's Budget Submission for Fiscal Year 2016
Primary:	The Honorable Heidi Heitkamp
Committee:	HOMELAND SECURITY (SENATE)

immigration; safeguarding and encouraging the efficient flow of lawful trade, travel, and immigration; and ensuring community resiliency before, during, and after terrorist attacks and other disasters.

The NBS considers security and lawful trade and travel as mutually reinforcing. Separating higher-risk traffic from lower-risk traffic, utilizing advance information, and inspecting people and goods bound for our shared borders at the earliest opportunity not only enables officials on both sides to expedite the processing of lawful travel and trade, but also prevents illegal crossings and activities, as well as diseases and dangerous goods from entering either country.

As we gain more experience in conducting these DHS-wide efforts and develop more capacity, we will expand the breadth of our Departmental operational planning efforts consistent with our highest strategic priorities.

**Post-Hearing Questions for the Record
Submitted to Hon. Jeh C. Johnson
From Senator Ron Johnson**

“The Homeland Security Department’s Budget Submission for Fiscal Year 2016”

April 29, 2015

Question#:	5
Topic:	The St. Elizabeths headquarters consolidation project
Hearing:	The Homeland Security Department's Budget Submission for Fiscal Year 2016
Primary:	The Honorable Ron Johnson
Committee:	HOMELAND SECURITY (SENATE)

Question: The St. Elizabeths headquarters consolidation project is a significant undertaking. The Government Accountability Office (GAO) has recommended that the Secretary of Homeland Security and the Administrator of the General Services Administration (GSA) develop:

- A comprehensive needs assessment and gap analysis of current and needed capabilities that take into consideration changing conditions
- An alternatives analysis that identifies that cost and benefits of leasing and construction alternatives for the remainder of the project and prioritizes options to account for funding instability
- Cost and schedule estimates for the rest of the consolidation project that conforms to GSA guidance and leading practices for cost and schedule estimation, including an independent evaluation of the estimate

To date, these recommendations have not been implemented (GAO-14-648). When does DHS expect each of these documents to be completed?

Response: The Enhanced Consolidation Plan, which is the foundation of the President’s FY 2016 Budget Request, is based on a Business Case Analysis that compares the cost of replacing commercial leases with the costs of federal construction at St. Elizabeths. The plan realigns the commercial lease expirations that became out of sync with the delays in funding between 2011 through 2015 and saves over \$800 million in direct construction costs and reduces the timeline from 2026 to 2021 as compared to the prior Program of Record. Further the Enhanced Plan reduces the scope and projected cost of the project.

A revised programmatic schedule and estimate was created in conjunction with GSA on the development of the Enhanced Consolidation Plan.

Question#:	5
Topic:	The St. Elizabeths headquarters consolidation project
Hearing:	The Homeland Security Department's Budget Submission for Fiscal Year 2016
Primary:	The Honorable Ron Johnson
Committee:	HOMELAND SECURITY (SENATE)

In support of the GAO recommendations, DHS provided funding for GSA to conduct an independent cost estimate of the Center Building Renovation project. The independent estimate validated the government's estimate and GSA awarded a Design-Build contract for renovation of the Center Building on September 30, 2014. This project was awarded on-schedule and on-budget for the portions of the project funded by Congress in the FY 2014 appropriation. This award continues the record of on-schedule and on-budget performance for the project elements funded by Congress during Phase 1.

Question#:	6
Topic:	acquisition programs
Hearing:	The Homeland Security Department's Budget Submission for Fiscal Year 2016
Primary:	The Honorable Ron Johnson
Committee:	HOMELAND SECURITY (SENATE)

Question: DHS has struggled to improve the management of its acquisition programs across all components. A recent Government Accountability Office (GAO) survey of 22 major acquisitions projects at the Department found nearly every program either was behind schedule or experienced cost growth (GAO-15-171SP).

Six programs reviewed by GAO lacked approved baselines, but were continuing to move through the acquisition process. DHS has previously agreed that programs need to have approved baselines before moving forward. Why have these programs continued to move through the acquisition process without approved baselines? Who approved these programs to continue through the acquisition process without a baseline? Does DHS agree that major acquisition programs should not continue without approved baselines? Will these programs be baselined, and if so, when?

DHS has requested to reduce the Office of the Chief Procurement Officer (OCPO) by 27 FTEs and \$5M over its FY2015 request. Of this amount, 10 FTEs would be transferred to the Office of the Chief Financial Officer. Please describe what other positions would be eliminated from OCPO. Why would DHS reduce procurement staffing when it is also trying to improve oversight of acquisition projects?

Response: The Department agrees that all major programs should have an approved Acquisition Program Baseline (APB) before beginning the development phase of the acquisition life cycle. Since October 2011, no acquisition program has moved forward into the development phase without a Department-approved APB.

As of June 2015, for those programs not in the sustainment phase, 72% now have approved Acquisition Program Baselines and Lifecycle Cost Estimates and the rest are on target to complete all outstanding documentation by the end of calendar year 2015.

According to GAO Report 15-292 (March 2015), "DHS has taken steps to improve acquisition management by dedicating additional resources to oversight and documenting major acquisition decisions in a more transparent and consistent manner. GAO further added that, "DHS leadership has taken a number of steps in recent years to improve acquisition management, establishing a policy that largely reflects key program management practices and base lining many of its major acquisition programs. These steps have improved DHS's ability to manage these programs and enabled more robust oversight (GAO Audit-15-171SP)."

With regard to staffing in the acquisition area, the ten cost estimating positions proposed in the FY 2016 budget to be transferred from PARM to the Office of the Chief Financial Officer

Question#:	6
Topic:	acquisition programs
Hearing:	The Homeland Security Department's Budget Submission for Fiscal Year 2016
Primary:	The Honorable Ron Johnson
Committee:	HOMELAND SECURITY (SENATE)

(OCFO) were transferred when the Department of Homeland Security Appropriations Act, 2015 (Pub .L. 114-4) was enacted. Placing the cost estimators in the OCFO has allowed for better leveraging of financial expertise, as well as enhanced oversight and accountability. This transfer decision will contribute to the significant increase in the completion rate of the aforementioned outstanding cost estimates. The proposed decrease of 16 FTE to the Acquisition Professional Career Program (APCP) and the elimination of 1 FTE as part of VERA/VISP reductions are both examples of near-term efficiencies that create flexibility to fund essential DHS operations.

Question#:	7
Topic:	Southern Border
Hearing:	The Homeland Security Department's Budget Submission for Fiscal Year 2016
Primary:	The Honorable Ron Johnson
Committee:	HOMELAND SECURITY (SENATE)

Question: Is there anything Congress can do to assist you in implementing your Southern Border and Approaches Campaign?

Response: Last May, the Secretary directed DHS to develop a Department-wide Southern Border and Approaches Campaign Plan. This plan will put to use, in a strategic and coordinated way, the assets and personnel of U.S. Customs and Border Protection, U.S. Immigration and Customs Enforcement, U.S. Citizenship and Immigration Services, the U.S. Coast Guard, and other resources of the Department. Within the Department, we are also exploring outcome-based metrics for measuring and evaluating our border security efforts.

The Secretary also directed establishment of three DHS joint task forces to execute the Southern Border and Approaches Campaign Plan. These joint task forces are led by a director responsible for conducting integrated joint investigations and operations within their joint operating areas or functions, supported by DHS Operational Components, to enhance DHS unity of effort in securing the Southern Border and Approaches. JTF Directors are responsible for leading and coordinating the establishment of operational priorities to synchronize capabilities in order to achieve campaign objectives.

The Administration appreciates continued Congressional support of the new DHS Joint Task Forces and our new Joint Requirements Council, which will evaluate the Department's capability needs along the Southern Border and Approaches in a more holistic fashion.

Question#:	8
Topic:	Preclearance Agreement with Canada
Hearing:	The Homeland Security Department's Budget Submission for Fiscal Year 2016
Primary:	The Honorable Ron Johnson
Committee:	HOMELAND SECURITY (SENATE)

Question: Is there anything Congress can do to assist you in implementing your Preclearance Agreement with Canada?

Response: The recently signed U.S.-Canada land, rail, marine, and air preclearance agreement includes provisions on officer protections and accountabilities premised on a shared-jurisdictional framework where the inspecting party can generally exercise primary jurisdiction over its officers for allegations of criminal misconduct that occur in the host country during the performance of official duties. To effectuate this provision, DHS is seeking legislative authority for the United States to exercise jurisdictional authority over officers deployed abroad in furtherance of border security initiatives including preclearance operations. We have worked closely with the Departments of Justice and State to craft a legislative proposal that is included in the recently introduced Civilian Extraterritorial Jurisdiction Act (CEJA). Enactment of this legislation would assist us in implementing the preclearance agreement.

Question#:	9
Topic:	Arizona Technology Plan
Hearing:	The Homeland Security Department's Budget Submission for Fiscal Year 2016
Primary:	The Honorable Ron Johnson
Committee:	HOMELAND SECURITY (SENATE)

Question: As the Department implements its Arizona Technology Plan, what technology have you assessed to be the most promising in securing our borders?

Response: At this point, we have only accepted, deployed, and tested the Mobile Surveillance System (MSS). We are still in the pre-acceptance deployment phase for the Remote Video Surveillance System (RVSS) and the Integrated Fixed Tower (IFT). In order to determine what technology is the most promising more time would be needed to assess these technologies in the operational environment and after completion of User Testing.

Question#:	10
Topic:	President's immigration executive actions
Hearing:	The Homeland Security Department's Budget Submission for Fiscal Year 2016
Primary:	The Honorable Ron Johnson
Committee:	HOMELAND SECURITY (SENATE)

Question: What is the Department doing to ensure that it is complying with the court's injunction against the President's immigration executive actions?

Response: On February 17, 2015, the Secretary issued a statement¹ advising that, although he strongly disagrees with the District Court's February 16, 2015 preliminary injunction order, the Department of Homeland Security would comply with that order. In that statement, the Secretary instructed, "[DHS] will not begin accepting requests for the expansion of DACA tomorrow, February 18, as originally planned. Until further notice, we will also suspend the plan to accept requests for DAPA." The Secretary followed up that statement with a February 20, 2015 memorandum to ICE Director Sarah Saldana, CBP Commissioner R. Gil Kerlikowske, USCIS Director Leon Rodriguez, and Acting Assistant Secretary for Policy Alan D. Bersin titled, *Immediate Suspension of Any and All Actions to Implement the Deferred Action for Parents of Americans and Lawful Permanent Residents (DAPA) and Expanded Deferred Action for Childhood Arrivals (DACA) Policies* (Feb. 20, 2015). In that memorandum, the Secretary reiterated his February 17 statement and "direct[ed] the Department and its components to continue to suspend implementation of the DAPA and expanded DACA policies . . . to ensure compliance with the District Court's order."

On February 17, USCIS took the following actions to ensure compliance with the preliminary injunction:

- On the morning of February 17, Director Leon Rodriguez instructed USCIS leadership that no further action be taken to implement the expanded DACA eligibility guidelines or DAPA.
- Following that notice, USCIS leadership directed staff to immediately suspend approval of all deferred action or employment authorization under DACA and to cease issuance of notices of approval or Employment Authorization Documents (EADs) regardless of the authorized period of time. Reauthorization was given on February 18 to approve requests and to resume issuing approval notices and EADs under the 2012 DACA eligibility guidelines, but only for two-year periods, as provided by the 2012 DACA policy.

¹ Statement by Secretary Jeh C. Johnson Concerning the District Court's Ruling Concerning DAPA and DACA (Feb. 17, 2015), available at <http://www.dhs.gov/news/2015/02/17/statement-secretary-jeh-c-johnson-concerning-district-courts-ruling-concerning-dapa>

Question#:	10
Topic:	President's immigration executive actions
Hearing:	The Homeland Security Department's Budget Submission for Fiscal Year 2016
Primary:	The Honorable Ron Johnson
Committee:	HOMELAND SECURITY (SENATE)

- Notification was broadcast on February 17 to the entire USCIS workforce regarding the injunction and the need to suspend preparations for implementation of the new DACA and DAPA policies;
- DHS also gave notification to communications staff to halt the planned posting of the new expanded DACA form.

USCIS also took measures to further clarify impacts of the preliminary injunction to the workforce and general public. These include:

- Addition of a banner to the USCIS public website stating that implementation of the expanded DACA and new DAPA policies had been enjoined;
- Removal of the new expanded DACA form instructions and related "Frequently Asked Questions" that had been posted on the USCIS public website on February 14, 2015;
- Reversion to the 2012 public guidance in place for DACA prior to November 20, 2014;
- Cessation of policy and operational discussions to develop guidelines, procedures and forms to implement DAPA; and
- Suspension of new hiring actions to bring staff on board to support DAPA implementation, including removal of a solicitation for contractor support.

Over the ensuing months, as disclosed to the District Court, USCIS discovered several groups of three-year EADs that were inadvertently sent to individuals, all of whom were eligible under the 2012 DACA eligibility guidelines, after the District Court's injunction was issued. USCIS has converted these three-year terms to two-year terms and implemented additional corrective actions in an effort to secure the return of the three-year EADs inadvertently sent after the Court's injunction issued. Specifically, the following corrective actions already have been or currently are being undertaken:

- USCIS has sent several waves of letters to these DACA recipients requiring the return of the three-year EADs.
- USCIS's SAVE system has been updated to reflect that these DACA recipients' authorizations are for a period of two years, not three. Those states that use the SAVE database are now able to verify the proper, two-year time period for DACA and the work authorization, for purposes of issuing driver's licenses and other benefits.
- USCIS has updated its E-Verify system to reflect a two-year term of work authorization, not three.

Question#:	10
Topic:	President's immigration executive actions
Hearing:	The Homeland Security Department's Budget Submission for Fiscal Year 2016
Primary:	The Honorable Ron Johnson
Committee:	HOMELAND SECURITY (SENATE)

- USCIS has updated all of its internal systems to reflect that these DACA recipients are recorded as having two-year DACA approvals and work authorizations, not three.
- All USCIS internal systems have been updated to ensure that any grant of DACA, or the accompanying work authorization, cannot be issued for a term greater than two years.
- USCIS made in-person telephone calls to DACA recipients who had not yet returned their three-year EADs and advised them that they must return the three-year EADs.
- With respect to DACA recipients who failed to return their three-year EADs in an expeditious manner, among other corrective actions, the following actions have been undertaken:
 - USCIS issued Notices of Intent to Terminate, informing the recipient that his or her deferred action status and associated employment authorization would be terminated if USCIS did not receive the three-year EAD by a specified deadline.
 - USCIS dispatched its personnel to visit the homes of DACA recipients who had not yet returned their three-year EADs, for the purpose of retrieving the three-year EADs.
- USCIS terminated deferred action and invalidated employment authorization for 22 DACA recipients who failed to return their three-year EAD or provide a certification concerning their inability to do by a specified deadline.
- USCIS will determine on a case-by-case basis whether to restore deferred action and employment authorization for individuals who did not comply by July 30 but who have since returned their EAD or certified good cause.
- USCIS is continuing to take steps to try to physically retrieve or otherwise account for a small number of outstanding three-year cards sent after issuance of the injunction, even though those cards have been invalidated for any period of use through the termination of the individuals' employment authorization in its entirety.

The Secretary also asked the DHS Inspector General to conduct an investigation of the issuance of post-injunction three-year EADs. Pursuant to a memorandum dated May 20, 2015, Inspector General John Roth advised USCIS Director Rodriguez that the Office of Inspector General (OIG) had initiated its review. OIG released a report of its findings on August 13, 2015. Although OIG concluded that it could not independently validate the number of three-year EADs issued after February 16, 2015, "it did not find any evidence that the production and subsequent mailing of [post-injunction] three-year EADs was done in defiance of the Federal District Court's injunction."

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If any other cases of post-injunction three-year EAD's are identified in the future, USCIS will promptly notify the District Court and take similar corrective action.

Question#:	11
Topic:	refugee and parole programs
Hearing:	The Homeland Security Department's Budget Submission for Fiscal Year 2016
Primary:	The Honorable Ron Johnson
Committee:	HOMELAND SECURITY (SENATE)

Question: Regarding your recently announced in-country refugee and parole programs, why are those eligible for deferred action - a temporary program - able to petition to bring their children into this country?

Response: DHS and the Department of State have adopted a multi-faceted strategy to deter large numbers of children from using criminal cartels and smugglers to take the dangerous journey to the United States and to avoid the humanitarian challenges of any large scale irregular migration, particularly of families and unaccompanied children. The Central American Minors Refugee/Parole Program is one facet of that strategy, and the consideration of these policy goals as part of a case-by-case determination whether to exercise the parole authority as a matter of discretion is fully consistent with section 212(d)(5)(A).

The goal of this program is to provide a safe, legal, and orderly alternative to the dangerous journey that children from El Salvador, Honduras, and Guatemala are currently undertaking to join parents in the United States. In determining which statuses would enable parents to seek access to the program for their children, we considered what types of statuses nationals of these countries currently possess. Consistent with the goals of the program, the categories of qualifying parents include some parents who are eligible to remain in the US through temporary programs as well as some who are here in a permanent legal status.

In the CAM program, parents in a form of deferred action status constitute a very small percentage of qualified parents. Thus far, only 4 parents (0.13%) who sought access for their children to the CAM program were in Deferred Action for Childhood Arrivals (DACA). 43 parents (1.44%) were in some other form of deferred action status. For example, we have seen several qualifying parents who had pending U Visa petitions and were in deferred action because the U Visa statutory cap for the fiscal year had been reached. The U nonimmigrant status is set aside for victims of certain crimes who have suffered mental or physical abuse and are helpful to law enforcement in the investigation or prosecution of the qualifying criminal activity. These parents, while currently in temporary deferred action until U visas become available, may ultimately gain permanent legal status because after three years in U visa status an individual may be able to apply for permanent residence.

Question#:	11
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We have also seen qualified parents in the CAM program who are in deferred action because they have an approved Form I-360 petition based on Violence Against Women Act (VAWA) protections. VAWA provisions in the Immigration and Nationality Act allow certain spouses, parents and children of US citizens or permanent residents to petition for themselves by filing a Form I-360 petition if they have been abused by their U.S. citizen or permanent resident relative. These parents who are in deferred action in relation to a VAWA petition may also ultimately gain permanent legal status.

Question#:	12
Topic:	security of our border
Hearing:	The Homeland Security Department's Budget Submission for Fiscal Year 2016
Primary:	The Honorable Ron Johnson
Committee:	HOMELAND SECURITY (SENATE)

Question: Improving the security of our border is a top priority for this committee. Regarding illegal immigration on the southern border, please provide the following information, broken down by adults and children, for each of the last five fiscal years: How many people did we detect attempting illegally to cross the border?

Response: The Office of Border Patrol is unable to provide a full break down of individuals, by adult and children, detected attempting to illegally cross the border as some individuals are classified as either turn-backs or got-aways. We have provided our total southwest border apprehensions for fiscal years 2011 through fiscal year 2015 (April) as outlined below.

USBP Southwest Border Apprehensions
FY2011 - FY2015TD through April

Data includes Deportable Aliens Only

Data Source: EID (Unofficial) FY11-FY14 as of End of Year Dates; FY15TD as of 5/19/15

FY	Adults (18+)	Children (0-17)	Total
FY2011	304,726	22,851	327,577
FY2012	326,034	30,839	356,873
FY2013	367,159	47,238	414,397
FY2014	371,985	107,386	479,371
FY2015TD	153,300	28,255	181,555

Question: Out of those that we detected, how many did we apprehend?

Response: We have provided our total southwest border apprehensions for fiscal years 2011 through fiscal year 2015 (April) as outlined below.

USBP Southwest Border Apprehensions
FY2011 - FY2015TD through April

Data includes Deportable Aliens Only

Data Source: EID (Unofficial) FY11-FY14 as of End of Year Dates; FY15TD as of 5/19/15

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Question#:	12
Topic:	security of our border
Hearing:	The Homeland Security Department's Budget Submission for Fiscal Year 2016
Primary:	The Honorable Ron Johnson
Committee:	HOMELAND SECURITY (SENATE)

Question: Out of those that we apprehend, how many did we process with a notice to appear?

Response: The chart below outlines the number of notices to appear (NTAs) processed by the Border Patrol for fiscal years 2011 through fiscal year 2015 (April). Note that the vast majority of individuals apprehended by the Border Patrol are processed for expedited removal, and therefore no NTA (which would place them into removal proceedings before the Executive Office for Immigration Review) would be issued.

USBP Nationwide Apprehensions with Dispositions of 'WA/NTA', 'NTA'
FY2011 - FY2015TD through April

Data includes Deportable Aliens Only

Data Source: EID (Unofficial) FY11-FY14 as of End of Year Dates; FY15TD as of 5/26/15

FY	NTA	WA/NTA	Total
FY2011	1,632	28,291	29,923
FY2012	2,226	28,339	30,565
FY2013	2,638	39,396	42,034
FY2014	7,839	111,114	118,953
FY2015TD	1,185	29,055	30,240

Question: Out of those that received a notice to appear, how many showed up to their court dates?

Response: DHS defers to the Executive Office for Immigration Review.

Question#:	12
Topic:	security of our border
Hearing:	The Homeland Security Department's Budget Submission for Fiscal Year 2016
Primary:	The Honorable Ron Johnson
Committee:	HOMELAND SECURITY (SENATE)

Question: Out of those that showed up to their court dates, how many did we deport?

Response: U.S. Immigration and Customs Enforcement (ICE) provides the following total departure and unaccompanied children removal figures for Fiscal Year (FY) 2011-FY 2015 year-to-date. Please note this data is based on all removals and departures ICE effectuates including expedited removals, administrative removal orders, and reinstatements of final orders, which do not necessarily require a court appearance.

Total Departures (ICE) FY 2010-FY 2015 YTD

FY	Total Departures*	UC Removals**
FY 2011	396,906	1,695
FY 2012	409,849	1,809
FY 2013	368,644	1,868
FY 2014	315,943	1,901
FY 2015 YTD	131,956 (As of 4/25/15)	1,102 (As of 4/25/15)

Notes:

FY 2015 YTD data is updated through 04/25/2015 (IIDS v1.16 run date 04/27/2015; EID as of 04/25/2015).

**UC Removals represent a subset of the total removals.

UC Removal Notes:

Removal Data Notes:

Data as of 04/25/2015

Detainees were identified as UC in FY 2009-FY 2015 and were later removed.

Removal counts are based on designation of UC at time of initial book-in and may not be under the age of 18 at the time of removal.

Removal Data from STU and Source Data:

“Starting in FY2009, ICE began to “lock” removal statistics on October 5th at the end of each fiscal year and counted only the aliens whose removal or return was already confirmed. Aliens removed or returned in that fiscal year but not confirmed until after October 5th were excluded from the locked data and thus from ICE statistics. To ensure an accurate and complete representation of all removals and returns, ICE will include the removals and returns confirmed after October 5th into the next fiscal year.”

Question#:	13
Topic:	unaccompanied children
Hearing:	The Homeland Security Department's Budget Submission for Fiscal Year 2016
Primary:	The Honorable Ron Johnson
Committee:	HOMELAND SECURITY (SENATE)

Question: Do you think that repatriating more unaccompanied children - rather than public announcements and in-country refugee and parole programs - would help clarify U.S. immigration law in Central America?

Response: We took a whole of government, comprehensive approach to address the unprecedented influx across the southern border last summer. In early June, President Obama directed the Secretary to establish a Unified Coordination Group (UCG) to bring to bear the assets of the entire Federal Government on the situation. This group, which was led by Federal Emergency Management Agency (FEMA), included Department of Homeland Security (DHS) and all its components, the Departments of Health and Human Services (HHS), Defense (DoD), Justice (DOJ), and State, and the General Services Administration.

DOJ, Executive Office for Immigration Review, created additional priorities for cases involving unaccompanied children, adults with children who are detained, adults with children who are in 'alternatives to detention,' and other recent border crossers who are detained. Under our laws, an unaccompanied child must be transferred from DHS to HHS custody, except in exceptional circumstances, within 72 hours after determining that the child is unaccompanied. Every child has the ability and the right to assert a claim of asylum, or seek other relief or protection from removal, but unless the child has been granted asylum or some other relief or protection in this country, he or she will be sent back.

While it is the policy and a priority of the Administration to repatriate unaccompanied children ordered removed, they can only be removed once a court has entered an order directing such action, and this process takes time to complete.

In addition, in response to the influx, DHS surged additional border security and law enforcement resources to south Texas. DHS also built additional family residential centers to house family units and promptly process their removal cases in a humane manner that complies with federal law and provides for the safety, security, and medical needs of these families. DHS is also expanding the use of the Alternatives to Detention program where appropriate.

DHS also dedicated resources to the prosecution of the criminal smuggling organizations. Last July, the Secretary, in conjunction with DOJ, announced "Operation Coyote," which dedicates resources to the prosecution of the criminal smuggling organizations that induce people to take the long, dangerous journey from Central America. Operation

Question#:	13
Topic:	unaccompanied children
Hearing:	The Homeland Security Department's Budget Submission for Fiscal Year 2016
Primary:	The Honorable Ron Johnson
Committee:	HOMELAND SECURITY (SENATE)

Coyote was designed and conducted by ICE's Homeland Security Investigations to target and dismantle human smuggling organizations involved in the immigration spike and to interdict the flow of money to these organizations.

We have launched renewed public messaging campaigns in Central America, highlighting the dangers of the journey, correcting the misinformation the coyotes were putting out about supposed "free passes" for those who come illegally to the United States, and emphasizing that the United States is prioritizing the immediate repatriation of individuals apprehended crossing the border illegally. Through the Central American Minors Refugee and Parole Program, DHS is also working to provide qualified children from El Salvador, Honduras, and Guatemala a safe, legal, and orderly alternative to the dangerous journey across the Southwest border to reunite with parents in the United States.

Question#:	14
Topic:	expedited repatriation program
Hearing:	The Homeland Security Department's Budget Submission for Fiscal Year 2016
Primary:	The Honorable Ron Johnson
Committee:	HOMELAND SECURITY (SENATE)

Question: Are you currently in negotiation with any governments of Central American nations to establish an expedited repatriation program similar to the one we have with contiguous countries such as Mexico? If not, do current statutes limit you or do you have the authority to proceed?

Response: U.S. Immigration and Customs Enforcement (ICE) Enforcement and Removal Operations (ERO) has worked with Central American countries for many years in order to facilitate repatriation flights. ERO created the Guatemala and Honduras pilot initiatives for the Rio Grande Valley region to streamline repatriations to these two countries and to decrease the average length of stay of individuals from these countries in ICE custody.² Current authority allows ERO to share resources with each of the consulates, including video teleconferencing equipment; electronic Travel Document System (eTD) laptops, and printers; technical support for the eTD system; and travel funding support.

ERO currently has the capacity to conduct up to 20 repatriation flights per week to Guatemala, 10 repatriation flights per week to Honduras, and 8 repatriation flights per week to El Salvador. Each flight can remove a maximum of 135 individuals. Once returned, these individuals are processed in their country through a repatriation reception center, where they are provided numerous reintegration services by their respective governments and/or non-governmental organizations, as well as transportation to their home city.

The Trafficking Victims Protection Reauthorization Act of 2008 requires that unaccompanied children who fit the statute's definition from contiguous countries be screened for trafficking indicators, among other factors, prior to being permitted to withdraw their application for admission, a role executed by U.S. Customs and Border Protection for those children it apprehends or encounters. If there are no trafficking indicators or other indicators of vulnerability present and the child meets several other conditions, these unaccompanied children may be permitted, where they voluntarily choose to do so, to withdraw their application for admission and be repatriated immediately.

In cases where unaccompanied children from contiguous countries cannot be returned immediately, and for all unaccompanied children from countries other than Mexico or Canada, the Department of Homeland Security places these unaccompanied children in

² Additionally, ICE is working with the Government of El Salvador to implement the El Salvadoran Pilot Initiative program.

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Topic:	expedited repatriation program
Hearing:	The Homeland Security Department's Budget Submission for Fiscal Year 2016
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240 removal proceedings and transfers custody of them to the care and custody of the U.S. Department of Health and Human Services Offices of Refugee Resettlement, as required per the Trafficking Victim's Protection Reauthorization Act of 2008.

Question#:	15
Topic:	UH-60 Black Hawk helicopters
Hearing:	The Homeland Security Department's Budget Submission for Fiscal Year 2016
Primary:	The Honorable Ron Johnson
Committee:	HOMELAND SECURITY (SENATE)

Question: Customs and Border Protection (CBP) has indicated it would like to acquire additional UH-60 Black Hawk helicopters from the Army, even though the Inspector General has found CBP could realize significant savings by using the Coast Guard to make the conversions. A recent article in Defense News also notes DHS itself found using Coast Guard would generate savings. Describe the cost comparison carried out by CBP, including the total cost of the UH-60 conversion program if the Coast Guard facilities are used compared to use of Army facilities. Will the Under Secretary for Management require a department-level approved baseline for the helicopter program before further helicopters are acquired?

Response: Yes, the Under Secretary for Management (USM), who is the Department's Chief Acquisition Officer has directed CBP to complete a thorough analysis of the costs associated with replacing 10 older UH-60A Black Hawks with 10 newer UH-60 Black Hawks and to report back to the Acquisition Review Board (ARB) for consideration prior to proceeding. If the USM approves the replacement of the 10 UH-60As with 10 UH-60Ls, a department-level approved baseline will be required.

The USM directed the Office of the Chief Readiness Support Officer to oversee the development of a more detailed cost-benefit and business case analysis to determine if the remaining CBP H-60 conversions and modifications should be completed at the Coast Guard's Elizabeth City facility. On March 6, 2014, the Business Case Analysis was provided to the OIG, and on April 10, 2014, they promptly closed their recommendation.

The OIG's letter stated that: "DHS Office of Chief Readiness Support Officer (OCRSO) led the completion of a Business Case Analysis (BCA) that provided an analysis of potential efficiencies to be gained by relocating U.S. Customs and Border Protection (CBP) H-60 helicopter recapitalization and missionization from Corpus Christi Army Depot (CCAD) in Corpus Christi, TX, to the U.S. Coast Guard (USCG) Aviation Logistics Center (ALC) in Elizabeth City, NC. USCG determined that ALC could do the modification work in 304 days, as opposed to 600 plus days at a cost of approximately \$7.2 million per helicopter.

With start-up costs and tooling requirements included, USCG determined they could convert 10 CBP H-60 helicopters for \$78.8 million. Considering the combined cost for the remaining 10 CBP H-60 helicopters needing to be converted and modified, DHS would save a minimum of \$57.8 million by moving the conversions to USCG's ALC instead of completing the modifications at Army's PIF."

Question#:	16
Topic:	Federal Air Marshal 1
Hearing:	The Homeland Security Department's Budget Submission for Fiscal Year 2016
Primary:	The Honorable Ron Johnson
Committee:	HOMELAND SECURITY (SENATE)

Question: The Federal Air Marshal Service as we know it today was formed after the tragic events of September 11, 2001, to prevent a similar style attack. Based on the new security risks facing the nation, do you think the priorities of the agency need to be updated? If so, what actions do you recommend?

Response: The Aviation and Transportation Security Act (ATSA) of 2001 requires Federal Air Marshals (FAMs) to deploy on all “high risk flights” as determined by the Secretary of Transportation [now the Department of Homeland Security (DHS)]. The Federal Air Marshal Service (FAMS) continues to play a vital and crucial role in the security of our nation and remains ever focused on executing the mission to detect, deter and defeat criminal, terrorist, and hostile activities that target our nation’s transportation systems.

The Transportation Security Administration (TSA) uses a risk-based strategy, and employs multiple layers of security, to address the evolving threat. Each layer serves as a counterterrorism measure. In combination, these layers provide enhanced security creating a much stronger and protected transportation system. TSA applies these layers of security to deter, detect and prevent an attack from happening. The Federal Air Marshal Service is a key layer of security, which provide an agile and flexible response to the evolving threat.

Recently, the Transportation Security Administration (TSA) and Department of Homeland Security (DHS) subject-matter experts refined the FAMS mission flight Concept of Operations (CONOPS) and implemented a new approach for the deployment of FAM teams to better align with the other TSA layers of security, further refining the risk-based elements. FAMS continues to have an integral role in aviation security by providing team missions on domestic flights in accordance with the FAMS mission flight CONOPS and on international flights that are based on known or suspected threats and vulnerabilities to ensure resources are efficiently and effectively utilized.

The threat and level of intelligence within the aviation environment continues at heightened levels. FAMs serve as a deterrent to individuals intending to conduct a criminal or terrorist act onboard an aircraft and as the primary law enforcement arm of the TSA. TSA will continue to deploy FAMs in accordance with risk-based principles which are designed to counter the current and evolving threat against the transportation domain.

Question#:	17
Topic:	Federal Air Marshal 2
Hearing:	The Homeland Security Department's Budget Submission for Fiscal Year 2016
Primary:	The Honorable Ron Johnson
Committee:	HOMELAND SECURITY (SENATE)

Question: The budget request for FY2016 for the Federal Air Marshal Service (FAMS) is \$817 million, a \$27 million increase over the FY2015 amount. Please describe what steps DHS takes to prioritize spending within FAMS. Is DHS willing to reduce funds in areas within the Federal Air Marshal Service that are deemed less crucial to the overall mission? Are changes necessary to ensure that the Federal Air Marshal Service runs efficiently and effectively? What changes would you implement?

Response: The FY 2016 Federal Air Marshal Service (FAMS) funding includes support to hire new Federal Air Marshals (FAMs). The last FAM training class was brought on board September 11, 2011 and began flying in January of 2012. This initiative enables TSA to hire FAMs and rebalance the FAM workforce. Hiring new FAMs will alleviate the impacts of a hiring freeze, revitalize FAM personnel, and have a significant, positive impact on FAMS operational capabilities. Hiring new FAMs will alleviate the impacts of a hiring freeze, revitalize FAM personnel, lessen the impact of impending retirements, and have a significant, positive impact on FAMS flight coverage and operational capabilities.

Question#:	18
Topic:	Continuous Diagnostics & Mitigation (CDM)
Hearing:	The Homeland Security Department's Budget Submission for Fiscal Year 2016
Primary:	The Honorable Ron Johnson
Committee:	HOMELAND SECURITY (SENATE)

Question: DHS's approach to continuous monitoring and assurance of civilian federal networks' cyber hygiene - Continuous Diagnostics & Mitigation (CDM) - was modeled after, and designed by the architect of the State Department's continuous monitoring program, iPost. Yet, recent news articles and Inspector General reports going back to FY2010 have revealed the Department remains underprotected against cyber-attacks and that hackers "continue[]" to plague the State Department."

Given the State Department's struggle to maintain effective cybersecurity, despite having implemented a continuous monitoring system several years ago, what is DHS doing to learn from the State Department's mistakes, what lessons has DHS learned from weaknesses in iPost, and what is DHS doing to ensure those mistakes and weaknesses are not repeated with CDM, or DHS more broadly?

Is CDM fully implemented across all DHS components, agencies, and offices? If not, which DHS components, agencies, and offices have not fully implemented CDM?

For which of the federal departments and agencies covered by the Chief Financial Officers Act has CDM not been fully implemented, if any? When will full implementation be achieved for those agencies? When will full implementation be achieved across all Executive Branch agencies?

Response: It should be noted that while the CDM program's genesis came in part from experience at Department of State leveraging the iPost dashboard, the CDM program reflects lessons learned from iPost as well as the wealth of agency experience with IT asset management and cybersecurity gained in the last ten years.

iPost provided high level information on system security in terms of vulnerabilities, as well as metrics on system and network performance. In contrast, the CDM program provides a comprehensive framework of functional capabilities, allowing departments and agencies to review and act on security deficiencies such as security configurations and vulnerabilities in near real-time leveraging the CDM dashboard. CDM's three phases encompass capabilities from the basic foundation of asset management (what is on the network), to managing accounts for people and services (who is on the network) and finally, managing the security lifecycle (what's happening on the network).

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CDM enables dashboard users to maintain network security situational awareness as well as quickly understand how to address the worst problems first. It allows them to take the necessary mitigation steps that remain their responsibility.

The CDM Program provides full-fledged implementation services and the capability to fill information technology security continuous monitoring gaps through CDM Continuous Monitoring as a Service (CMaaS) blanket purchase agreements managed by the General Services Administration (GSA). Agencies can utilize the CDM program to enhance security technology capabilities, which will in turn allow data to be gathered and inform risk executives and their staff.

The DHS Office of the Chief Information Officer provides the Department with a secure and trusted computing environment based on risk management principles to enable the Department to effectively share and process information.

To ensure that the mistakes and weaknesses of other Federal Agencies are not repeated, DHS has made information security an essential business function, critical to enabling our users with the ability to conduct operations and deliver services to the public in a secure manner. As a result of identifying weaknesses, DHS has modernized its Enterprise Security Operations Center by implementing the Intrusion Defense Chain model (IDC).

This model is based on a nexus of security people, process, and technology creating a proactive threat decision process with its focus aimed squarely at an attacker. This approach will close gaps, mitigate risks and provide the Department with a proven, world-class approach to cyber-security that has been proven to increase the attackers' risk while decreasing the risks to the DHS network.

In conjunction with CDM and the IDC, DHS is decreasing the prevalence of common, known attack vectors utilized by malicious cyber actors by ensuring that legacy systems and technologies (usernames and passwords) at DHS are being replaced with secure advancements, i.e., government-mandated Personal Identity Verification (PIV) card, to further the security of our critical information systems.

The CDM task order award for DHS was made on February 27, 2015, but was protested, GAO denied the protest on June 17th, 2015 and the implementation meetings are underway to deliver CDM Phase 1 tools and sensors (manage hardware, software, configuration settings and vulnerabilities) and integration services across the DHS components. While the more formalized procurement-based CDM program is in the early stages of execution, DHS continues to maintain its highly regarded Information Security Continuous Monitoring (ISCM) program which captures Common

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Vulnerabilities and Exposures (CVE), Common Configuration Enumeration (CCE), and Common Platform Enumeration (CPE) data for over ~390 assets monthly across the Department for the purposes of scoring individual components and their systems on compliance with security metrics. Moreover, this data is often utilized in order to provide updates to risk executives and senior DHS leaders on high-level matters such as progress in moving away from unsupported platforms, and department risk in the face of critical vulnerabilities (e.g., JASBUG, Heartbleed).

Through other CDM task orders, the CDM program is being deployed throughout the 23 civilian CFO Act agencies as well as 43 other agencies. The first group to be awarded and begin implementation is a group of seven agencies (DoE, DoI, DoT, USDA, VA, OPM and EoP); this award was made on April 14 and since then more than 100 meetings have been held between DHS, GSA, the contractor and the customer agencies. Validation of assets is already underway and tools will begin deploying following that assessment and appropriate design reviews and approvals, probably beginning in first quarter of fiscal year 2016. Awards for the subsequent CFO Act groups are scheduled to occur this summer, again with deployment activities to begin following a ten day protest period conclusion.

DHS has requested Congressional authorization to reprogram additional funding to speed up CDM Phase 2, which includes tools to help agencies manage who is on the network. By accelerating this phase, DHS will support the urgent need to strengthen credentials management, in particular for those users with elevated privileges to manage network operations. This acceleration will not affect the deployment of Phase 1 tools.

Question#:	19
Topic:	Einstein intrusion detection/prevention system
Hearing:	The Homeland Security Department's Budget Submission for Fiscal Year 2016
Primary:	The Honorable Ron Johnson
Committee:	HOMELAND SECURITY (SENATE)

Question: The Einstein intrusion detection/prevention system was first established in 2008 and has received over a billion dollars in funding, and is expected to receive another \$3.13 billion through FY2020.

When will intrusion prevention be fully implemented across federal civilian networks and why has it taken so long to implement?

Response: The Secretary shares your concern with the pace of E³A deployment. To address this concern, DHS has taken four steps. First, we have made significant progress in rolling out E³A over the past nine months. Second, we have made major changes to the program to speed deployment. Third, we are working with Congress to codify the program's authorities and resolve lingering concerns among certain agencies. Finally, we are working with individuals agencies to expedite onboarding.

To the first point, DHS has increased the capacity of E³A significantly over the past nine months, increasing the program's capacity from 25% to approximately 50% of the federal civilian government during that time. We now have executed E³A contracts with the three largest Tier 1 ISPs: Verizon, CenturyLink, and AT&T. The former two are both live with E³A service. Once we have capacity, we can increase coverage by onboarding agencies. In the same nine months, DHS has onboarded eight additional agencies and increased coverage for one security capability from 23% to 46%. In other words, 46% of the civilian government, by personnel, is currently protected by one countermeasure (Domain Name System filtering, or DNS).

Second, DHS has made major changes to the program to speed deployment. DHS expected to procure intrusion prevention services from a fourth Tier 1 ISP by the end of FY2014 and from the fifth Tier 1 ISP by the end of FY2015. However, both of these ISPs were unable to adhere to the program timeline due to several issues, including the purchase of one of the ISPs by a foreign company and challenges in implementing E³A security requirements. Moreover, even with all five ISPs, E³A would only have covered approximately 85% of the U.S. government. As a result, DHS decided to cease activities with the fourth and fifth Tier 1 ISPs on 13 May 2015. Instead, DHS will initiate a competitive contract to provide E³A protections for agencies covered by these ISPs, as well as the D/As that purchase Internet service from other ISPs beyond the five Tier 1 companies. This contract is expected to be awarded by the end of FY15. It will provide the first two E³A countermeasures, email protection and Domain Name System filtering, to all federal civilian agencies by the first quarter of fiscal year 2016. With this change, we will provide two countermeasures to all federal civilian agencies, not just the 85%

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originally planned with the five Tier 1 ISPs. Further, we will reach 100% capacity far more rapidly than with the previous approach.

Third, DHS is working with Congress to codify the program's authorities and resolve lingering concerns among certain agencies. Some agencies have raised questions about how deployment of EINSTEIN under DHS authority relates to their existing statutory restrictions on the use and disclosure of agency data. Going back to the 2011 Cybersecurity Legislative Proposal, the Administration has sought statutory changes to clarify this uncertainty and to ensure agencies understand that they can disclose their network traffic to DHS for narrowly tailored purposes to protect agency networks, while making clear that privacy protections for the data will remain in place. In July 2015, the Senate Homeland Security and Government Affairs Committee approved S. 1869, the Federal Cybersecurity Enhancement Act of 2015 and the House passed H.R. 1731, requiring all federal agencies to implement stronger protections and including accelerating the deployment and adoption of EINSTEIN.

Fourth, we are working with agencies to expedite onboarding. In fact, the Secretary recently sent a letter to several of his peers in Cabinet agencies urging them to implement E³A as quickly as possible. We have already made significant progress in this area, onboarding eight agencies and over 20% of the federal civilian population during the past nine months for the DNS filtering capability. However, once DHS has provided E³A capacity through an ISP, agencies need to act to take advantage of that capacity. Some agencies have taken significant amounts of time in signing the Memorandum of Agreement (MOA) necessary to deploy E³A services. Additionally, there are inherent technical requirements that are time-consuming even after an ISP is under contract to provide E³A services and the agency has signed an MOA with DHS. These include:

- Establishing secure tunnels to meet security requirements
- Making configuration changes within an agency
- Working through technical challenges posed by some agencies' use of cloud e-mail services.

We are working diligently with each agency to minimize the implementation delays associated with these technical requirements.

Question: How does Einstein protect against sophisticated adversaries who employ zero-day attacks; oligomorphic, polymorphic, or metamorphic methods; or malware that can alternate to new command and control servers?

Response: Cybersecurity is always a case where the adversary reacts to the defender. DHS has built a new defense with E³A, so the adversary will react. DHS will thus now

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have to counter-move to address the adversary's reaction. We are already exploring the means to do so. In the meantime, E³A imposes costs on our adversaries and blocks many existing attacks.

Oligomorphic and metamorphic malware are special cases of polymorphic malware, so these attack vectors are all addressed with the same technique. Polymorphic malware changes its appearance to try to avoid detection. While the malware may change its appearance to evade signatures, one E³A capability addresses the actual command and control (C&C) communication channel rather than the malware which uses that channel. As such, E³A can still protect against polymorphic malware and there is minimal modification required to E³A capabilities to deal with newer generations of malware using the same infrastructure.

However, E³A cannot protect against new command and control channels until they are identified and an associated signature is developed and entered into the system. The current iteration of E³A is a signature-based system that identifies intrusions and can also block these intrusions when and if the signature is enabled in the system. The signature approach is very effective if the signatures are implemented as quickly as possible once the threat is identified.

To build upon the existing signature-based approach, DHS is exploring three separate additional capabilities:

1. The National Cybersecurity Protection System, which includes the EINSTEIN set of capabilities, also includes an Advanced Malware Analysis capability, which can reverse-engineer samples of malware and determine the methodology used to "flux", or rapidly change, the command and control (C&C) used by the malware to communicate with its controller. This technique obviously requires malware samples on which to perform the reverse-engineering, but has been shown to be highly effective when such samples are available.
2. DHS is currently engaged in a number of proof-of-concept exercises targeted at polymorphic malware and similar obfuscation techniques. The approach combines advanced capture filters and machine learning techniques employed with deep packet inspection in the E³A traffic aggregation points (Nests) with malware sandboxes performing behavioral analysis in a forward deployment at agencies. While these proofs-of-concept are both in their early stages, they are based on sound research conducted both by DHS and our national lab partners.
3. Finally, DHS is investigating a Nest-based automated malware analysis capability which will extract from the network traffic portable executables, as well as common document and image formats and other potentially malicious files. The

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platform will then combine static and dynamic analysis techniques to produce confidence scores about the maliciousness of the sample. Depending on the confidence score, the sample may then be recommended for further human analysis and/or contributed to a block list.

Question: What has DHS done to ensure it is not duplicating intrusion detection or intrusion prevention efforts at other agencies? What other intrusion detection or intrusion prevention systems is DHS aware of across the federal government?

Response: No single system provides a cybersecurity “silver bullet” and not all departments and agencies have the same level of cyber defenses. To this end, EINSTEIN provides a unique capability that is not duplicated across the federal government. However, EINSTEIN is only one part of a layered defense-in-depth strategy to best address cybersecurity threats.

To the first point, EINSTEIN provides two unique capabilities that are not duplicated (or duplicable) at other agencies: the use of classified indicators to protect unclassified networks, and the provision of broad situational awareness across the government. EINSTEIN is the only intrusion prevention system used by civilian agencies that applies classified indicators, not least because most D/As do not have IT infrastructures accredited to the level necessary to use classified indicators to protect their unclassified systems. Using classified indicators allows EINSTEIN to detect and block a more comprehensive set of significant cybersecurity threats. Furthermore, EINSTEIN allows DHS to identify emerging cybersecurity risks and threats across federal agencies. With this information, we then provide early warning that helps agencies reduce the prevalence and impact of cybersecurity incidents. The U.S. Government could not achieve such situational awareness through individual agency efforts alone.

Second, however, perimeter defense is just one layer in a multi-pronged strategy to secure federal civilian networks. E³A needs to be combined with other security measures, including standards and guidelines developed by the National Institute of Standards and Technology (NIST) they are required to follow. Other measures include DHS’s Continuous Diagnostics and Mitigation program, which provides agencies with tools and services to identify cybersecurity vulnerabilities *inside* their networks and prioritizes them based upon the greatest risks. Agencies also need to implement cybersecurity best practices, such as patching critical vulnerabilities, workforce security and training, and using multi-factor authentication. The Secretary recently issued a Binding Operational Directive that directed civilian agencies to patch vulnerabilities on their Internet-facing devices, as identified by recurring scans conducted by the National Cybersecurity and Communications Integration Center (NCCIC).

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Agencies also need their own capabilities for intrusion prevention and detection to complement EINSTEIN. In fact, our Trusted Internet Connection Reference Architecture 2.0 requires agencies to install intrusion detection capabilities at all points where their agency networks connect to the Internet. Only by implementing such a defense-in-depth strategy that includes perimeter defense at multiple levels, continuous monitoring for network vulnerabilities, and appropriate cyber hygiene, can agencies best defend themselves against cyber threats.

Question#:	20
Topic:	GMD and EMP
Hearing:	The Homeland Security Department's Budget Submission for Fiscal Year 2016
Primary:	The Honorable Ron Johnson
Committee:	HOMELAND SECURITY (SENATE)

Question: There have been congressional efforts in recent years to urge DHS to focus on incorporating geomagnetic disturbance (GMD)- and electromagnetic pulse (EMP)-induced disasters into national planning scenarios. Describe DHS's efforts in the last year to examine the threat of GMD and EMP to our nation's critical infrastructure. How has DHS worked with private sector stakeholders and other federal agencies to determinate the level of the threat posed by GMD and EMP and potential mitigation?

Response: Understanding our risks is the foundation of the National Preparedness System. As part of the effort to develop the National Preparedness Goal, the Secretary of Homeland Security led an effort to conduct a strategic national assessment to identify the types of incidents that pose the greatest threat to the Nation. The resulting document, the Strategic National Risk Assessment (SNRA) (2011), was a collaborative effort by the Department of Homeland Security (DHS) and its components, working with interagency partners such as the Office of the Director of National Intelligence and the Department of Justice. As part of the SNRA efforts, DHS examined risks related to geomagnetic disturbance (GMD) risk as an aspect of a space weather event. DHS did not involve the private sector in analysis for the SNRA and does not have information on activities by other partners that may have included the private sector.

DHS also evaluated electromagnetic pulse (EMP)-induced disaster as part of the SNRA efforts, but concluded that ground-based attacks are low-risk in comparison with the potential risks from other threats and hazards. As an act of war, atmospheric/orbital EMP-induced disasters are outside the scope of the SNRA.

Additionally as part of other efforts associated with the National Preparedness System, FEMA leads the development of a Federal Interagency Operational Plan (FIOP) for Response. FEMA is currently building a Power Outage Incident Annex to the Response FIOP to address the unique coordination and capability requirements for a massive power outage regardless of cause, including, but not limited to, space weather, cyber-attack, or storm.

DHS S&T has aggressively been working on protection of critical infrastructure systems from GMD and man-made disturbances, such as EMP, that can disrupt critical systems including GPS. S&T's focus is on the electric grid. S&T works closely with private industry through the Electric Power Research Institute (EPRI) and a few individual power companies to understand what is needed to protect the grid from a practical perspective. These efforts are done in concert with other federal agencies directly involved in this area such as DoE and DOD. Specifically, solar flares or solar storms can generate Ground

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Induced Currents (GIC) here on earth that can impact the electric grid's critical components such as extra high voltage transformers. DHS S&T is developing a tailored forecasting capability that will provide the utilities with detailed GIC-level information for specific sites allowing them to take proactive measures before any impacts are felt. This capability will support real time operations and can also help with analyzing planning scenarios to evaluate the impacts and potential mitigation.

The National Protection and Programs Directorate continues its efforts to understand the potential impacts and mitigation of the effects of GMD and EMP on critical systems, particularly on communications systems that are necessary for coordinating national response to a disaster or other significant event. NPPD's Office of Emergency Communications has engaged the private sector and other government departments and agencies to highlight the risks and determine cost-effective strategies to address those risks, as well as pilot technologies that will ensure continuity of communications in the event of a significant GMD or EMP.

The Department recognizes the potentially devastating impact that GMD and EMP can have on the American economy and way of life and is working to ensure appropriate strategies are in place to address these hazards.

Question#:	21
Topic:	GAO-14-507
Hearing:	The Homeland Security Department's Budget Submission for Fiscal Year 2016
Primary:	The Honorable Ron Johnson
Committee:	HOMELAND SECURITY (SENATE)

Question: Last September, GAO recommended DHS harmonize different vulnerability assessments currently being performed by multiple components and other agencies (see GAO-14-507). Does DHS have an inventory of all the different vulnerability assessments that other federal departments are doing for critical infrastructure? What steps is DHS taking to begin working more closely with other agencies to ensure that these assessments are not unnecessarily duplicating one another?

Response: DHS/NPPD concurred with GAO's recommendations and is moving forward to harmonize critical infrastructure security vulnerability assessments across Federal departments and agencies. For example, mechanisms for effective interagency data gathering have been established, which includes the establishment of a working group to manage the process and develop an online portal to facilitate information sharing.

On January 22, 2015, NPPD held an initial meeting with its federal partners to discuss how best to approach GAO's recommendations. Those partners agreed to share information on vulnerability assessment tools and subsequently analyze the information to identify gaps in coverage and duplication in assessments. This was followed by a Federal Senior Leadership Council (FSLC) meeting to confirm the staff level agreement designed to share and analyze vulnerability assessment information. The FSLC is comprised of senior officials from sector specific agencies and other federal departments and agencies with a role in critical infrastructure and security.

In order to facilitate collection and analysis of vulnerability assessment information, NPPD established a *Cross-Agency Vulnerability Assessment Working Group* consisting of members from federal departments and agencies with relevant vulnerability assessments. The working group will:

- Identify key critical infrastructure security-related assessment tools and methods used or offered by federal departments and agencies.
- Analyze the key critical infrastructure security-related assessment tools and methods to understand areas each assessment captures.
- Develop and disseminate guidance for areas that should be included in vulnerability assessments of critical infrastructure to enable a more coordinated and integrated approach.

To support the working group, NPPD established a portal on Homeland Security Information Network – Critical Infrastructure that can be used by working group members to upload vulnerability assessment questionnaires, methodology and user

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guides, fact sheets, and other technical documentation, as necessary. To date, 12 departments and agencies and 14 critical infrastructure sectors participate on the portal.

Specific activities addressing GAO recommendations include:

- *Recommendation #1:* Review DHS' vulnerability assessments to identify the most important areas to be assessed, consistent with Presidential Policy Directive-21 and the National Infrastructure Protection Plan, and determine the areas and level of detail that are necessary for DHS to integrate assessments and enable comparisons, and establish guidance for DHS offices and components to ensure that these areas and level of detail are included, as appropriate, in their assessment.
- *Recommendation #2:* Develop an approach to ensure that vulnerability data gathered on CI assets and systems are consistently collected and maintained across DHS to facilitate the identification of potential duplication and gaps in CI coverage.
- *Recommendation #3:* Develop and implement ways that DHS can facilitate data sharing and coordination of vulnerability assessments to minimize the risk of potential duplication or gaps in coverage.
- *Recommendation #4:* Identify key CI security-related assessment tools and methods used or offered by SSAs and other federal agencies.
- *Recommendation #5:* Analyze the key CI security-related assessment tools and methods offered by SSAs and other federal agencies to determine the areas they capture.
- *Recommendation #6:* Develop and provide guidance for what areas should be included in vulnerability assessments of CI that can be used by DHS, SSAs, and other CI partners in an integrated and coordinated manner, among and across sectors, where appropriate.

Question#:	22
Topic:	USSS Protective Mission Panel
Hearing:	The Homeland Security Department's Budget Submission for Fiscal Year 2016
Primary:	The Honorable Ron Johnson
Committee:	HOMELAND SECURITY (SENATE)

Question: In December 2014, the U.S. Secret Service Protective Mission Panel released a report summarizing its findings and recommendations in three categories: Training and Personnel; Technology, Perimeter Security, and Operations; and Leadership. What initiatives within the FY2016 budget will address leadership challenges within the Secret Service? Which of the panel's recommendations are the U.S. Secret Service's top priorities for implementation?

Response: Within the FY2016 budget, training-based initiatives include efforts to address leadership challenges within the Secret Service. These initiatives follow improvements being made in FY2015 to address the leadership recommendations made by the Protective Mission Panel (the Panel) to promote specialized expertise in the Secret Service's budget, workforce, and technology operations. For instance, a new organizational structure for the Secret Service has been created that includes the transition of several Assistant Director-level positions from law enforcement to civilian positions, including a Chief Information Officer, Chief Financial Officer, and newly established Chief Operating Officer.

The training-based initiatives in the FY2016 budget fall into the categories of communications and leadership development. One recommendation made by the Panel was to "[c]reate more opportunities for officers and agents to provide input on their mission and train its mid-and-lower-level managers to encourage, value and respond to such feedback." In FY2016, the Secret Service will offer an in-service course titled "Enhancing Workplace Communication." The course has been developed to assist with leadership communication breakdowns identified by the Panel and will be taught by instructors at the Secret Service Rowley Training Center (RTC).

The Panel also recommended that the Secret Service "[e]stablish a leadership development system that identifies and trains the agency's future managers and leaders." The DHS Leader Development Programs, Keystone and Capstone, are part of DHS leadership mandates and will replace previous mid-level and Senior Executive Service level training programs offered by the Secret Service. Keystone, for mid-level managers, will provide instruction on leading change through creativity and innovation, leading people, driving results, developing business acumen through financial and technology management, and building coalitions through partnering. Capstone, for Senior Executive Service-level employees, also addresses leading people, leading change, driving results, developing business acumen, and building coalitions.

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The Panel recognized that the Uniformed Division and Presidential Protection Division (PPD) were stretched beyond their limits and recommended that the Secret Service “[i]ncrease the Uniformed Division, as quickly as can be appropriately managed, by an initial 200 positions, and the PPD by 85 positions.” By mid-July, due to reassignments initiated earlier this year, a total of approximately 50 special agents will be reassigned to the PPD. Further reassignments will continue as funding becomes available. In addition, the Secret Service is scheduled to hold nine Uniformed Division Officer classes and nine special agent classes in FY2015. In FY2016, the Secret Service projects scheduling eight classes of each group. Attrition is a challenge for the Uniformed Division, and staffing will continue to be a priority for the Secret Service in order to address shortfalls.

While staffing at the Secret Service is a critical focus, proper training for personnel is of equal priority. The Panel made three separate recommendations relative to training: provide a true “Fourth Shift” for training the PPD and Vice-Presidential Protective Division...and ensure the Uniformed Division are in training for no less than 10% of their time; implement integrated training; and train in conditions that replicate the physical environment in which agents and officers operate. These singular training recommendations are being actively pursued through enhanced training offerings provided to both special agents and Uniformed Division Officers. As of April 14, the Rowley Training Center has offered daily training opportunities for both the Uniformed Division and the Presidential and Vice Presidential Protective Divisions. Personnel are consistently attending RTC scheduled offerings and, as staffing increases, the agency plans to meet the standards advised by the Panel. Initial integrated training for the White House Branch of the Uniformed Division has been completed and continues with the remaining branches of the Division. Most of the training noted above has been completed at a temporary mock-up of the White House Complex, but the agency is working through funding processes to construct a permanent structure to replicate the environment in which these personnel operate.

Finally, one of the most well-publicized recommendations of the Panel was to replace the fence around the White House as quickly as possible. The Secret Service recognizes the need for protective enhancements to the White House Complex fence and is currently working with stakeholders to create a viable, long-term solution. This multi-phase project began with the formation of requirements that are guiding a formal study aimed at identifying various fence options. These requirements encompassed security concerns identified by the Secret Service, including efforts to delay intruders, as well as aesthetic and historic concerns put forward by the National Park Service (NPS). The contract for this study was awarded in January 2015 and culminated in the issuance of a report identifying three options that meet the requirements referenced. The U.S. Commission of Fine Arts is being given the opportunity to review and provide comment on the three

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options prior to a decision being made by the Director of the Secret Service and the NPS's Superintendent of President's Park. The selection of a final fence option will be followed by a design phase; a contracting, procurement, and acquisition phase; and a construction phase. The Secret Service also acknowledged the need for interim measures addressing vulnerabilities with the current fence during the design and construction of the new fence. The Secret Service researched, tested, and, in coordination with the United States Army's Rock Island Arsenal, fabricated and began to install anti-climb features on the White House Fence in the beginning of July. The installation of these features should be complete by early August.

Question#:	23
Topic:	FEMA's Disaster Relief Fund grant programs
Hearing:	The Homeland Security Department's Budget Submission for Fiscal Year 2016
Primary:	The Honorable Ron Johnson
Committee:	HOMELAND SECURITY (SENATE)

Question: Given that the DHS Office of Inspector General has repeatedly found issues of fraud, waste, and abuse in FEMA's Disaster Relief Fund grant programs, what is FEMA doing to ensure that employees are trained and better decisions are made up front, before obligating funds incorrectly?

Response: FEMA is focused on ensuring that decisions are accurate and do not result in improper payment. FEMA's workforce is critical in ensuring that the right information is provided at the right time to grantees and sub-grantees, so that payment decisions are correct the first time. FEMA continues to develop its workforce through multiple different initiatives to ensure we provide the most accurate information and that every payment made meets all laws, regulations, and policies.

FEMA has implemented the FEMA Qualification System (FQS) and restructured the workforce to ensure that incident management term employees are better skilled and trained. In June of 2014, FEMA implemented Cadre Management, a workforce management system designed to monitor the qualifications, experience, and availability of every disaster employee, and is developing a system to ensure we provide each employee with the information he or she needs to provide the correct information to disaster survivors and applicants each and every time.

FEMA is currently evaluating its entire public assistance program to incorporate a system of checks and balances to reduce improper payments. This reengineering effort is focused on three main aspects: Performance, Process, and People. Included in our evaluation of the process is the objective of "Right First Time" which focuses on making better decisions up front and providing better clarity to our recipients and sub-recipients. Additionally, the effort is also focused on ensuring the people with the correct skill sets are doing the right job. Once the new preliminary work flow is tested, the training materials and Position Task Books, both part of the aforementioned FEMA Qualification System, will be updated so that our staff receives the proper training.

FEMA has also worked diligently in the Individual Assistance program to put safeguards in place that will prevent waste, fraud and abuse, and significantly reduce the percentage of improper payments. New processes have been developed in order to improve the identification, reduction, and recovery of improper payments disbursed to federal disaster assistance applicants.

First, FEMA validates the identity of individuals who register for assistance through electronic data verification prior to receiving any Individuals and Households Program

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(IHP) financial assistance. This verification is performed along with automated checks of applicant occupancy during the application process through a data verification contractor. As a result, automated disaster assistance payments are not made until, identity, and home occupancy verification is obtained.

Second, FEMA has focused on the increased prevention of improper payments by developing new information management procedures in our National Processing Service Centers (NPSCs). The NPSCs have worked with the Office of Chief Information Officer to improve the National Emergency Management Information System (NEMIS) software used to process applications for disaster assistance. These actions include:

- Using identity and occupancy verification checks to prevent automated payments to applicants who may have used a fraudulent name, SSN or address;
- Flagging “high risk” addresses such as check cashing stores, mail drops, cemeteries, and jails to block them from receiving automated payments;
- Blocking duplicative rental assistance payments for overlapping months or payments over the IHP maximum;
- Stopping duplicative registrations over the Internet to prevent duplicate payments to the same applicant;
- Improving the NEMIS business rules to prevent duplicate payments to applicants at the same address; and
- Adding a NEMIS direct assistance module to track individuals in mobile homes or travel trailers in order to prevent the provision of financial rental assistance to applicants who were already housed by FEMA.

Third, FEMA has focused on the increased prevention of improper payments by instituting organizational changes, which have further contributed to the decreased error rate:

- FEMA established the IHP Assistance Group in 2008 at the NPSCs to provide clear, consistent, and timely guidance regarding IHP policies and case processing procedures in order to reduce case processing errors, improve operational efficiency, and overall delivery of service.
- The NPSCs have established specialized teams of employees referred to as Specialized Processing Groups dedicated to the processing of some of the more difficult cases, such as appeals and recoupment's.
- The NPSCs have expanded the Quality Control group to include reviews of special projects and new case processing procedures. This has enabled the NPSCs

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to rapidly identify problems with projects and new processing guidelines and take remedial action as necessary.

- The NPSCs have established an Audit Group responsible for performing internal audits and analysis on the efficiency and effectiveness of the manner in which IHP is administered by the NPSC enterprise.

FEMA is committed to ensuring that we prevent waste, fraud, and abuse in every one of our programs. In continued cooperation with Congress, the GAO, and DHS-IG, FEMA is committed to continued evaluation and review of our programs to ensure we are providing the best level of service to the American people.

FEMA refers potential instances of fraud, waste, or abuse to the DHS Inspector General for investigation.

Question#:	24
Topic:	DSTAR
Hearing:	The Homeland Security Department's Budget Submission for Fiscal Year 2016
Primary:	The Honorable Ron Johnson
Committee:	HOMELAND SECURITY (SENATE)

Question: The Science and Technology Directorate has requested \$8 million in FY2016 to begin expanding the Transportation Security Lab in Atlantic City, New Jersey, to include the design and permitting process for a new facility - the Detection Sciences Testing & Applied Research Center (DSTAR). Please describe the master plan for the expansion of the Transportation Security Lab, including DSTAR. What metrics or projections did DHS use to prioritize this project over other acquisitions at DHS? How much will construction and operation of DSTAR cost over its entire lifecycle?

Response: The requested \$8 million in FY2016 is to continue the expansion of the Transportation Security Laboratory (TSL) and is in accordance with the *TSL 5-Year Master Facility Plan Fiscal Year 2010 Report to Congress* submitted June 30, 2010 in response to Senate Report 111-31. The 2010 document was updated in November 2014 as the *TSL Master Plan 2015-2020 Revision* to ensure critical components yet to be addressed still align to TSL and S&T mission needs. The 2015 revision demonstrates a reduction in total TSL Master Plan costs in comparison to the 2010 Plan. The TSL Master Plan consists of three main phases: new explosive storage (completed per the 2010 Plan), an Integrated Test and Evaluation (IT&E) hardened facility (under construction per the 2010 Plan), and the DSTAR Center (planned as the Non-Hardened General Purpose Lab in the 2010 plan and revised to the DSTAR Center in the 2015 Revision). The DSTAR Center will serve as the future focal point of the TSL campus by co-locating program areas that are fragmented across existing buildings and housed in temporary facilities. The DSTAR Center construction completes the major expansion activities initiated under the 2010 Plan. The implementation of the Master Plan continues to enhance the lab's safety and efficiency and allows it to transition from pre-9/11 infrastructure to meet its modern and emerging mission demands.

TSL Master Plan projects are not evaluated against other DHS acquisitions because they are Level 3 acquisitions that are managed within the S&T component.

The total Life-Cycle Cost Estimate (LCCE) for the DSTAR Center over its expected 50 year useful life is projected to be \$125 million: \$30 million for design/construction and \$95 million to operate and maintain the facility. Note, the estimated \$95M in operations and maintenance for the DSTAR Center is largely reflective of the existing maintenance costs as this capability is a consolidation of existing temporary facilities to be removed.

Question#:	25
Topic:	National Bio and Agro Defense Facility
Hearing:	The Homeland Security Department's Budget Submission for Fiscal Year 2016
Primary:	The Honorable Ron Johnson
Committee:	HOMELAND SECURITY (SENATE)

Question: Construction of the National Bio and Agro Defense Facility (NBAF) is a major project at the Science and Technology Directorate (S&T).

What steps is S&T taking to ensure the NBAF project stays on schedule and within budget? Has S&T developed cost and schedule estimates that confirm to GSA guidance and best practices?

Response: Through the NBAF Program Executive Office (PEO), S&T conducts layered reviews to ensure the NBAF program stays on schedule and within budget.

- **Weekly Reviews** – The construction contractor produced a baseline construction schedule and provides continuous status regarding how construction activities are proceeding against the baseline. The on-site project team works directly with the construction contractor weekly to review schedule status and determine if changes are necessary to meet the baseline schedule.
- **Monthly Reviews** – S&T actively manages potential risks through an integrated team approach to risk management. The NBAF Construction Project Manager, technical experts, program management, and procurement representatives review the potential schedule and costs risks monthly to determine if the risks are accurate and up to date. Once the risks are updated, further analysis is conducted to evaluate if management reserve funds should be used to mitigate the potential risks. The NBAF PEO conducts separate monthly meetings to review cost and schedule performance to identify issues and pursue course correction as needed.
- **Technical and Specialized Reviews** –The NBAF team plans to conduct technical reviews and assessments throughout the construction period. The NBAF PEO formed a Facility Advisory Team to proactively review and resolve facility issues that may arise during construction.

The NBAF cost estimates were completed in accordance with the DHS LCCE evaluation criteria derived from the Government Accountability Office Cost Estimating and Assessment Guide. The cost estimates also applied the AACE International (formerly the Association for the Advancement of Cost Engineering) cost estimate classification system to define estimate classes and expected accuracy ranges for output based analyses.

As of May 2015, most of estimates for the construction project are no longer estimates but actual contract awards. Based on the values of the contract awards and the amount of management reserve funding needed for a project of this size, DHS is confident that the

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NBAF construction project will be managed within its Department approved baseline cost and schedule parameters.

Question: Has S&T reached out to GAO, the Inspector General, or a third-party to have an independent analysis of its cost estimating and risk assessment process completed?

Response: Yes, S&T has made use of third-party entities to review the NBAF cost estimate and risk assessment process. During the design phase of the project, the design contractor responsible for the design of the facility, as well as the construction management contractor responsible for construction of the facility, were required to independently provide updated construction cost estimates for the facility at pre-established points in the design progression. S&T also contracted with a separate, third party nationally recognized consulting firm with extensive expertise in construction cost estimating to also independently develop construction cost estimates for the facility at the same pre-established points in the design progression. Contractually, the construction management contractor was required to reconcile their estimate to within 5% of the estimates from the design contractor and S&T's third party estimating consultant at each pre-established point in the design progression. This ongoing, independent cost validation process provides S&T with a high level of confidence in the estimate for the project.

Regarding the risk assessment process, S&T also employed the services of a separate, third party, nationally recognized firm with extensive experience in the design and construction of complex facilities such as the NBAF to evaluate the risk assessment process applied to the project. Through a series of reviews adjustments to risk assessment process applied to the NBAF Program were made and subsequently the program's risk management process was found to be appropriate to capture, manage, and mitigate risks.

Question: A recent GAO report (GAO-15-292) notes the dates of approval for the key acquisition documents for NBAF were not in agreement between what was reported in the Next Generation Periodic Reporting System, the Comprehensive Acquisition Status Report (CASR) given to the appropriations committees, and the underlying source documents. How does DHS account for the disparity in these reported dates of approval? Did DHS report to Congress in the CASR that the operational requirements document and the acquisition plan were approved before they were signed?

Response: The Department's source systems provide a basis for collecting the initial information for the first draft of the Comprehensive Acquisition Status Report (CASR). Once the data was pulled from the source systems, the Department conducted an

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Topic:	National Bio and Agro Defense Facility
Hearing:	The Homeland Security Department's Budget Submission for Fiscal Year 2016
Primary:	The Honorable Ron Johnson
Committee:	HOMELAND SECURITY (SENATE)

extensive review and adjudication process on the draft CASR document, correcting inaccuracies in the CASR report prior to providing it to Congress. The sources systems are point in time systems, so returning to an earlier date to correct the systems is not possible. Therefore, corrections made to the CASR document will not match what was in the source systems.

The Department did not report the approval of the acquisition documents before they were signed. The CASR reported the Component level approval of the acquisition documents, which occurs prior to the final approval. The reporting lets Congress know at what stage of approval the documents are in.

Since the GAO's review, the Department has changed the process for developing the CASR to improve the consistency and accuracy of the source systems. First, the Department started the development process while the source systems were available for input. Second, the Office of Program Accountability and Risk Management (PARM) conducted meetings with each Component and Program to review both the CASR draft document and the source system data fields making corrections to both simultaneously. These changes to process will improve the reliability of the information in the source systems for the current and future reporting requirements. Additionally, the Department is working towards combining source systems (the next Generation Periodic Reporting System (nPRS) and the Investment Management System (IMS)) to reduce reporting duplication, as well as improve accuracy and consistency.

Question#:	26
Topic:	GNDNA
Hearing:	The Homeland Security Department's Budget Submission for Fiscal Year 2016
Primary:	The Honorable Ron Johnson
Committee:	HOMELAND SECURITY (SENATE)

Question: The Government Accountability Office (GAO) has found that research and development at the Domestic Nuclear Detection Office (DNDO) does not necessarily align with critical mission needs identified in the Global Nuclear Detection Architecture (GNDA). What steps has DNDO taken to address GAO's concerns and recommendations (GAO-15-263) about DNDO's inability to document the link between its R&D priorities with gaps in the GNDA?

Response: DNDO concurred with the GAO's recommendations to better document how research and development investments link to the GNDA challenges and gaps. As stated in DNDO's response to the report, DNDO agreed to coordinate with stakeholders to develop a technology roadmap and strategy (the Roadmap) that better describes its long-term vision, the linkages between investments and challenges, the rationale for prioritizing and selecting investments, and a systematic approach to evaluate success. DNDO has begun drafting the Roadmap and is on track to meet the estimated completion date of October 31, 2015.

Question#:	27
Topic:	FEMA's State Mitigation Plan Review Guide
Hearing:	The Homeland Security Department's Budget Submission for Fiscal Year 2016
Primary:	The Honorable Ron Johnson
Committee:	HOMELAND SECURITY (SENATE)

Question: Beginning on March 6, 2016, FEMA's State Mitigation Plan Review Guide requires that states consider the probability of future hazard events and changing conditions, including changes in weather patterns and climate. If states do not have a FEMA-approved hazard mitigation plan, they risk losing important disaster preparedness funding. Are there any current state plans that would fail to meet the new 2016 Hazard Mitigation Plan requirements in regards to not accounting for changing weather patterns and climate? How much funding did these states receive in FY2013 and FY2014 and how much could they risk losing if they do not have a FEMA-approved plan?

Response: Currently, there are no states in jeopardy of losing disaster preparedness funding. All states are required to submit an updated Hazard Mitigation Plan by March 6, 2016. If plans are submitted after this date, the state will not meet the requirement and will be out of compliance. If States submit an updated State Mitigation Plan by March 6, 2016 that does not meet the requirements they will be out of compliance.

**Post-Hearing Questions for the Record
Submitted to Hon. Jeh C. Johnson
From Senator Rob Portman**

“The Homeland Security Department’s Budget Submission for Fiscal Year 2016”

April 29, 2015

Question#:	28
Topic:	St. Elizabeths
Hearing:	The Homeland Security Department's Budget Submission for Fiscal Year 2016
Primary:	The Honorable Rob Portman
Committee:	HOMELAND SECURITY (SENATE)

Question: What are the milestones and current timeline for completing the consolidated relocation of Department of Homeland Security components to St. Elizabeths? Will delays in the completion date change the General Services Administration's most current 30 year estimate that found completing St. Elizabeths will cost an estimated \$1.2 billion less than housing DHS employees in lease commercial spaces across the region?

Response: The President’s FY 2016 Budget Request is based on the “Enhanced Consolidation Plan” that reduces the scope and projected cost of the St. Elizabeth’s project. The plan saves over \$800 million in direct construction costs and reduces the timeline from 2026 to 2021.

The Enhanced Consolidation Plan realigns the commercial lease expirations that became out of sync due to funding delays between 2011 through 2015. The plan focuses on the most pressing lease expirations in sequential order to avoid or minimize the potential for short term lease extensions at higher costs.

In addition, the FY 2016 Request includes \$26 million to increase utilization of the Douglas A. Munro Coast Guard Headquarters Building. The Coast Guard is planning to relocate 700 staff from their activities in Ballston by the end of the calendar year, saving over \$7 million annually. We believe that by adopting flexible workplace strategies and reduced space standards, we can accommodate an additional 1,400 DHS employees in the facility, thereby saving 273,000 square feet of additional construction.

The remaining plan for consolidation at St. Elizabeths includes funding for FEMA construction in FY 2017, ICE construction in FY 2018, and CBP in FY 2019. It is critical that GSA and DHS appropriations be aligned to deliver useable segments of construction.

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The majority of DHS National Capital Region leases are expiring over the next 5 years. As a result, the Enhanced HQ Consolidation Plan provides long-term savings over commercial leases that have to be re-competed at the 15 and 30 year marks, with tenant costs incurred. Funding delays will require either short term lease extensions at premium costs or full re-competition of the commercial leases with tenant funding obligations incurred, regardless of the decisions to fund St. Elizabeths. In addition to the projected DHS \$1.2 billion in cost avoidance over 30 years, the General Services Administration will benefit for the long-term value of asset ownership over leasing.

Question#:	29
Topic:	mobile surveillance
Hearing:	The Homeland Security Department's Budget Submission for Fiscal Year 2016
Primary:	The Honorable Rob Portman
Committee:	HOMELAND SECURITY (SENATE)

Question: The request for mobile surveillance development and deployment is \$41M. How is this funding anticipated to increase the Department of Homeland Security's capability and capacity to detect and apprehend illegal border crossings?

Response: As part of U.S. Customs and Border Protection's (CBP) risk-based approach to border security, mobile surveillance technology increases CBP's capability to mitigate identified surveillance gaps, increase coverage of high-risk areas, and respond to changing threats. A tailored blend of fixed, mobile and portable surveillance systems, which complement one another, increases CBP's effectiveness in (1) targeting responses to high-risk areas, (2) enabling rapid response strategies to maximize limited manpower, and (3) adjusting to seasonal/periodic traffic patterns. Mobile platforms such as Mobile Surveillance Capability (MSC) and Mobile Video Surveillance System (MVSS) provide a suite of capabilities that cannot be duplicated exclusively with other alternatives such as handheld or fixed surveillance. For example, mobile surveillance technology is mounted on masts to increase sensor elevation over trees/obstacles and provide elevation in flat terrain and MVSS and MSC possess radar that autonomously detect items of interest, both of which are attributes that lead to increased situational awareness.

Question: Has the Department estimated the percentage of detection and apprehension increase expected as a result of this funding? If not, is there a different measure of effectiveness or performance?

Response: In order to fully understand technology's contributions to border security, the environment must be examined holistically with technology and Border Patrol assets working in conjunction as a "system-of-systems."^[1] CBP's Capability Gap Analysis Process (CGAP) captures data from the field level in order to articulate the effects of technology on border security in the context of everyday border patrol operations from the field's perspective. The CGAP analysis includes both quantitative and qualitative measures. These measures include:

- **Surveillance (Area Coverage).** Percentage of identified areas under surveillance. This assessment provides insight to the overall surveillance coverage in identified zones, divided into 5 mile bands.
- **Infrastructure and Accessibility.** The area beyond .25 miles of operational roads is calculated via ArcGIS to quantify accessibility in a given area. The critical

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assumption is that the majority of areas within .25 miles of an operational road provide agents reasonable accessibility to respond and resolve illicit activity.

- **Manpower Deployments.** Manpower deployments over a 30-day period and Average Number of Agents by Function per 24 hours to gauge average staffing distribution and average staffing by zone. This provides a baseline to understand, visualize, and describe agent-to-task resourcing by individual zone and overall station staffing distribution.
- **Mission Essential Task Surveys:** CBP field subject matter experts provide responses for the seven identified mission essential tasks (METs) as well as response and vanishing time (Predict, Detect, Identify, Classify, Track, Respond, and Resolve).

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In addition to the measures mentioned above, CBP has proposed the following measures for mobile surveillance assets:

Technologies	Mission Attributes	Quantitative Measures	Qualitative Measures
Current: MSC, MSS, MVSS,	<ul style="list-style-type: none"> Improved Situational Awareness Deter Mobility Rapid Response Agent Safety 	<ul style="list-style-type: none"> Number/Percent of Technology Assists on Apprehensions and Seizures¹ Percent Area Covered by Technology Number/Percent Apprehensions and Seizures in Coverage Area Attributed/Not Attributed to Technology Availability, Reliability, Maintainability 	<ul style="list-style-type: none"> Effectiveness for Detect and Identify Effectiveness for Respond Effectiveness for Deter Effectiveness for Apprehensions and Seizures Technology User Interface and Training Effectiveness Impact on Agent Safety Impacts to AoR Effectiveness for Mobility (i.e., ability to quickly deploy and operate the system in different locations)

^[1] GAO. 2014. *Additional Actions Needed to Strengthen Management and Effectiveness*. Report to Congressional Requesters. GAO-14-368, 46.

Question#:	30
Topic:	Unaccompanied Alien Children (UAC)
Hearing:	The Homeland Security Department's Budget Submission for Fiscal Year 2016
Primary:	The Honorable Rob Portman
Committee:	HOMELAND SECURITY (SENATE)

Question: Unaccompanied Alien Children (UAC) funding would be increased by \$29.1M for the basic care of UACs with up to \$134.5M in contingency funding authority requested to provide the necessary support activities required to apprehend and maintain the health and safety of the UACs once specific threshold levels are met. An additional \$4.7M will be utilized for supplies. How many UACs apprehended in FY2013 and FY2014 presently remain in the United States? What is the percentage of UACs apprehended in FY2013 and FY2014 who presently remain in the United States?

Response: According to the U.S. Immigration and Customs Enforcement (ICE) records, in, Fiscal Years (FY) 2013 and FY 2014, the Department of Homeland Security's U.S. Customs and Border Protection's Border Patrol apprehended 107,464 unaccompanied children³ Of these, 72,692 have an active case with ICE, as of May 16, 2015. The total number of children remaining in the United States would include these children, those who are in HHS custody but do not yet have an active case with ICE, and those whose cases with ICE are closed but were not successfully deported. DHS does not have figures for the two latter categories, and thus cannot calculate the percentage of apprehended children who presently remain in the United States.

³ This number is inclusive of unaccompanied children from non-contiguous countries, as well as certain UAC from contiguous countries who are ineligible for voluntary return to their countries of origin. Unaccompanied children from contiguous countries apprehended at the border or a port of entry may be allowed to voluntarily return to their country if they are not victims or potential victims of human trafficking, do not have a fear of persecution, and are able to make an independent decision to withdraw their application for admission to the United States.

Question#:	31
Topic:	DHS Missing Data
Hearing:	The Homeland Security Department's Budget Submission for Fiscal Year 2016
Primary:	The Honorable Rob Portman
Committee:	HOMELAND SECURITY (SENATE)

Question: The Department of Homeland Security's Office of Inspector General released a report on May 4, 2015, titled 'DHS Missing Data Needed to Strengthen its Immigration Enforcement Efforts' that found issues with the Department of Homeland Security's application and monitoring of prosecutorial discretion in its current immigration enforcement activities. As a result, the Department of Homeland Security may not be using its significant investment in immigration enforcement as efficiently as possible and may be failing to remove aliens who pose a threat to national security and public safety. Is it true that the Department of Homeland Security may have failed to remove aliens who pose a threat to national security and public safety?

Response: U.S. Immigration and Customs Enforcement (ICE) exercises discretion with regard to custody and release determinations in accordance with its enforcement priorities, which places top priority on national security threats, convicted felons, known gang members and other individuals who pose a clear danger to public safety, as well as those apprehended at the border or ports of entry while attempting to unlawfully enter the United States.

ICE manages all pending cases in removal proceedings and after issuance of a final order of removal. Any alien not detained in ICE custody, who fails to depart the United States following the issuance of a final order of removal, deportation, or exclusion becomes a "fugitive alien." ICE locates and arrests ICE fugitives consistent with its enforcement priorities.

Ensuring that our enforcement policies and procedures are as well suited as possible to protecting national security and public safety is paramount. To this end, last year Secretary Johnson directed ICE to review its policies and procedures for making custody determinations for individuals previously convicted of a criminal offense. As a result of this review, in March 2015, ICE implemented enhanced oversight procedures requiring additional supervisory review prior to the discretionary release of serious criminal aliens from ICE Enforcement and Removal Operations custody. ICE has also implemented regular headquarters reviews of certain serious criminal alien releases to ensure compliance with current guidance and procedures pertaining to such determinations.

Question#:	32
Topic:	FEMA's National Watch Center,
Hearing:	The Homeland Security Department's Budget Submission for Fiscal Year 2016
Primary:	The Honorable Rob Portman
Committee:	HOMELAND SECURITY (SENATE)

Question: FEMA's National Watch Center, National Response Coordination Center, Incident Management Assistance Teams, and other personnel were active in the responses to the influx of UACs at the Southwest border in FY2014 and in response to the Ebola threat in FY2014 and FY2015. Do you anticipate that FEMA resources and personnel will continue to be utilized for non-Stafford Act events, or those which are not anticipated to require a Presidential declaration, in the future? If so, do you have a budgeting estimate that you have used for this expected level of funding in FY2016?

Response: The National Incident Management Assistance Teams (IMATs), elements of the National Response Coordination Center (NRCC), and other FEMA personnel provided situational awareness, planning, and coordination expertise in support of the federal response to the influx of Unaccompanied Children (UC) at the Southwest border in FY2014. The National IMATs and other FEMA personnel also provided situational awareness, planning, and coordination expertise in support of the federal response to the Ebola Threat in FY2014 and FY2015. During these two events, the National Watch Center continued to provide normal 24/7 monitoring of events impacting the United States to provide situational awareness.

The National Response Framework (NRF) is permanently in effect and provides a federal coordinating construct for all hazards. The NRF allows for the lead federal agency coordination and funding mechanisms to adjust to the situation pursuant to various legal authorities and plans that exist for specific scenarios. The NRF also allows for supplemental emergency management support customarily coordinated by FEMA to deliver support to the lead federal agencies for non-Stafford Act events. FEMA anticipates being called upon in the future to serve as an initial enabler to assist other agencies to establish comprehensive and unified domestic incident management as it has done for the UC event. The Administrator may provide coordinating activities and support with or without a Presidential Directive specifying the FEMA Administrator as the Federal Coordinating Official for the event.

FEMA does not possess a budget for unanticipated events except for what is provided through the Disaster Relief Fund for Stafford Act declarations. Therefore, FEMA will seek reimbursement from the agency with primary authority for a non-Stafford Act incident under the NRF as was performed for the Ebola Virus Disease, the influx of UCs, or the Haiti Earthquake.

Question#:	33
Topic:	Combating Nuclear Smuggling
Hearing:	The Homeland Security Department's Budget Submission for Fiscal Year 2016
Primary:	The Honorable Rob Portman
Committee:	HOMELAND SECURITY (SENATE)

Question: In the Government Accountability Office's report 'Combating Nuclear Smuggling: Past Work and Preliminary Observations on Research and Development at the Domestic Nuclear Detection Office' GAO found that some Domestic Nuclear Detection Office (DNDO) end users have expressed frustration that research and development (R&D) projects have not met operational needs. However, the FY2016 budget request for R&D is \$1.9M less than the FY2015 level.

What actions are being taken by DNDO to address these concerns?

Response: First, please note that the comment regarding the characterization about end users' dissatisfaction appeared in the Preliminary Observations (GAO-14-783T) and not in the final report (GAO-15-263). Second, in contrast to DNDO's acquisition programs for which operational users are involved at all stages, research and development programs are not strictly based on operational requirements. DNDO's projects and performance targets for new technology are based on the long term strategic needs of National Technical Nuclear Forensics (NTNF) and the Global Nuclear Detection Architecture (GNDA).

With that said, DNDO took to heart the statement by the U.S. Customs and Border Protection (CBP) in the Preliminary Observations that it wanted to be more involved in DNDO's research and development (R&D). DNDO immediately began to work more closely with CBP on R&D. In fact, DNDO and CBP recently signed two separate Memoranda of Understanding (MOUs) related to developing technology with CBP. The first was to develop and evaluate automated machine learning algorithms to greatly reduce the number of nuisance alarms in radiation portal monitors at ports of entry. The second, in collaboration with the DHS Science and Technology Directorate (S&T), is to evaluate new non-intrusive inspection imaging technology that can detect nuclear threats as well as other contraband.

In addition, DNDO is sponsoring a strategic review of its entire transformational R&D portfolio in August 2015. The review process will be similar to that used by S&T and the U.S. Coast Guard R&D Center and will be repeated biennially. The review panel will consist of technical subject matter experts, end users, policy experts, and interagency partners.

Question: Is there a DNDO future outlook or strategy for R&D?

Response: DNDO has documented its R&D outlook and strategy in three ways:

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- The “Nuclear Defense Research and Development (NDRD) Roadmap for Fiscal Years 2013-2017,” published by the Office of Science and Technology Policy (OSTP).
- “Department of Homeland Security Global Nuclear Detection Architecture Implementation Plan Fiscal Year 2012 Report to Congress,” Annex D.
- Yearly Congressional Justifications.

After reviewing the existing documentation, the GAO recommended that DNDO document a research road map and strategy. DNDO concurred and has begun coordinating with stakeholders to develop a technology roadmap and strategy that better describes its long term vision, the linkages between investments and challenges, the rationale for prioritizing and selecting investments, and a systematic approach to evaluate success. The estimated completion date for the DNDO’s technology roadmap and strategy is October 31, 2015.

Question: How does DNDO engage and communicate R&D strategies with the private sector to encourage innovation for future requirements?

Response: DNDO engages with the private sector in the following ways:

- DNDO hosts Industry Days to provide interested vendors, universities, national laboratories, and federal collaborators an overview of DNDO’s product acquisition priorities and long-term research and development (R&D) focus areas and show how they align to the Department’s Global Nuclear Detection Architecture (GNDA) strategy. The most recent one was in Washington, DC, on December 9, 2014.
- As part of the DNDO Acquisition and Commercial Engagement Strategy (DACES), DNDO holds structured, one-on-one meetings with vendors to increase basic understanding of business-to-government and government-to-business perspectives.
- DNDO attends and presents its R&D needs and the DNDO mission at technical conferences.
- DNDO releases requests for information (RFI) and broad agency announcements (BAA) to formally describe and solicit R&D needs.

Question#:	34
Topic:	Pandemic Personal
Hearing:	The Homeland Security Department's Budget Submission for Fiscal Year 2016
Primary:	The Honorable Rob Portman
Committee:	HOMELAND SECURITY (SENATE)

Question: The Department of Homeland Security's Office of Inspector General released a report on August 26, 2014, titled 'DHS Has Not Effectively Managed Pandemic Personal Protective Equipment and Antiviral Medical Countermeasures' which found that the Department of Homeland Security has no assurance it has sufficient personal protective equipment and antiviral medical countermeasures for a pandemic response. How is the Office of Health Affairs (OHA) addressing these issues? Has the Department leveraged any cross-government best practices for asset visibility and supply warehousing? Has the Department utilized S&T to explore any possible technological improvements, or assessed the utility of ongoing projects, to asset visibility? Is the FY2016 budget request informed by any lessons learned from this past year's Ebola response?

Response: OHA's responsibility with respect to pandemic preparedness is to ensure that DHS personnel have sufficient medical countermeasures and related training to allow them to perform their critical missions in a pandemic scenario. The DHS Undersecretary for Management is responsible for managing the Department's supply of pandemic personal protective equipment. The Department is prepared for a pandemic and has enough antiviral and antibiotic medical countermeasures to provide the CDC's recommended level of coverage for the DHS civilian workforce, critical contractors, and those in its care and custody.

The DHS Inspector General (IG) found concerns with the management of some of the pandemic personal protective equipment and antiviral medical countermeasures that constitute part of the DHS workforce protection strategy. DHS had identified many of the issues prior to the audit and has been continuously improving its management of pandemic supplies. Planning and programming decisions are informed by lessons learned from past experience, to include the IG report and Ebola response, and DHS continues to look for opportunities to further enhance efforts to protect the Department's workforce.

OHA has already taken actions that closed five of the six medical countermeasure-related IG recommendations and is implementing a plan that will satisfy the sixth. OHA developed and implemented an integrated logistics support plan (ILSP) to improve management of medical countermeasures and support the requirements of the DHS Pandemic Workforce Protection Plan. This ILSP provides a methodology for determining the ideal quantities of medical countermeasures in the DHS stockpile, establishes a schedule for supportability and sustainment of the medical countermeasures program, and ensures high-quality oversight of associated support service contracts.

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OHA has not examined technological solutions with S&T at this stage in the program's development, but works regularly with other federal experts – such as the Department of Health and Human Services (HHS), Centers for Disease Control and Prevention, Food and Drug Administration, and Strategic National Stockpile managers – to leverage cross-government best practices in planning for the replenishment of expired medical countermeasures, recall and destruction of all expired antiviral medication, and pursue cost-saving shelf-life extension opportunities. OHA also uses HHS' Perry Point Supply Service Center for stockpile management. Finally, OHA has developed and updated Department-wide medical countermeasures guidance on the storage conditions, security, and distribution of antiviral medical countermeasures for all components.