

# ENDING THE CRISIS: AMERICA'S BORDERS AND THE PATH TO SECURITY

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## HEARING BEFORE THE COMMITTEE ON HOMELAND SECURITY HOUSE OF REPRESENTATIVES ONE HUNDRED FIFTEENTH CONGRESS FIRST SESSION

FEBRUARY 7, 2017

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# CONTENTS

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	Page
STATEMENTS	
The Honorable Michael T. McCaul, a Representative in Congress From the State of Texas, and Chairman, Committee on Homeland Security:	
Oral Statement .....	1
Prepared Statement .....	3
The Honorable Bennie G. Thompson, a Representative in Congress From the State of Mississippi, and Ranking Member, Committee on Homeland Security:	
Oral Statement .....	4
Prepared Statement .....	6
The Honorable Sheila Jackson Lee, a Representative in Congress From the State of Texas:	
Prepared Statement .....	8
WITNESSES	
PANEL I	
Hon. John F. Kelly, Secretary, U.S. Department of Homeland Security:	
Oral Statement .....	10
Prepared Statement .....	11
PANEL II	
Mr. Steven C. McCraw, Director, Texas Department of Homeland Security:	
Oral Statement .....	88
Prepared Statement .....	90
Mr. Joe Frank Martinez, Sheriff, Val Verde County, Texas:	
Oral Statement .....	99
Prepared Statement .....	101
Mr. Leon N. Wilmot, Sheriff, Yuma County, Arizona:	
Oral Statement .....	103
Prepared Statement .....	105
Hon. Eddie Trevino, Jr., County Judge, Cameron County, Texas:	
Oral Statement .....	113
Prepared Statement .....	116
FOR THE RECORD	
The Honorable Bennie G. Thompson, a Representative in Congress From the State of Mississippi, and Ranking Member, Committee on Homeland Security:	
Letter to Chairman Michael T. McCaul .....	4
The Honorable James R. Langevin, a Representative in Congress From the State of Rhode Island:	
Brief, Response to Emergency Motion, Exhibit P .....	25
Article, <i>New York Times</i> .....	34
The Honorable Will Hurd, a Representative in Congress From the State of Texas:	
Slides .....	51

#### IV

	Page
The Honorable Bonnie Watson Coleman, a Representative in Congress From the State of New Jersey: Article, <i>New York Times</i> .....	54
The Honorable Martha McSally, a Representative in Congress From the State of Arizona: Statement of Anthony M. Reardon, President, National Treasury Employees Union .....	57
The Honorable Sheila Jackson Lee, a Representative in Congress From the State of Texas: Article, <i>Houston Chronicle</i> .....	67
The Honorable Michael T. McCaul, a Representative in Congress From the State of Texas, and Chairman, Committee on Homeland Security: Letter .....	86
The Honorable Nanette Diaz Barragán, a Representative in Congress From the State of California: Statement of the American Immigration Council .....	136

#### APPENDIX

Questions From Honorable Will Hurd for John Kelly .....	149
Questions From Ranking Member Bennie G. Thompson for John Kelly .....	149

## ENDING THE CRISIS: AMERICA'S BORDERS AND THE PATH TO SECURITY

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**Tuesday, February 7, 2017**

U.S. HOUSE OF REPRESENTATIVES,  
COMMITTEE ON HOMELAND SECURITY,  
*Washington, DC.*

The committee met, pursuant to notice, at 10:10 a.m., in HVC-210, Capitol Visitor Center, Hon. Michael T. McCaul (Chairman of the committee) presiding.

Present: Representatives McCaul, King, Rogers, Duncan, Barletta, Perry, Katko, Hurd, McSally, Ratchiffe, Donovan, Gallagher, Higgins, Rutherford, Garrett, Fitzpatrick, Thompson, Jackson Lee, Langevin, Richmond, Keating, Payne, Vela, Watson Coleman, Rice, Correa, Demings, and Barragán.

Chairman McCAUL. Committee on Homeland Security will come to order. The committee is meeting today to examine America's borders and the path to security.

I now recognize myself for an opening statement.

First, I want to welcome General Kelly to his first hearing before Congress since his confirmation as Secretary of Homeland Security.

Mr. Secretary, thank you for joining us here today. This committee is eager to work with you and we stand ready to help you and the Department succeed. Your job will not be easy, as you know. But as we talked about last week, your leadership is vital.

The Trump administration has inherited porous borders, failed immigration policies, and a grave and growing terror threat; 2 weeks ago the Trump administration took action to address these dangers. First the President signed an Executive Order for a border security surge. Today we will get an update on that effort and how you plan to create multi-layered defenses to keep criminals, drug cartels, and potential terrorists out of the country.

After the Secretary's testimony we will welcome a panel of front-line defenders from Texas and Arizona for a frank discussion about the challenges at the local level.

Second, the President signed an Executive Order to put a pause on immigration and refugee admissions from high-threat parts of the world. The pause will give us time to enhance security checks to stop terrorists from using our immigration system as a Trojan horse, as they have already done in Europe. Last year I helped to draft a memo to then-candidate Trump explaining how we could intensify the vetting process while ensuring our doors remain open to peaceful, free, and loving people regardless of race or religion.

I also authored the American SAFE Act, which called for temporary pausing of the Syrian refugee program so we could improve

security screening, and it passed the House with a bipartisan veto-proof majority.

I am encouraged the President has paid attention to those recommendations, but the roll-out of his Executive Order has been problematic. It caused confusion here in Congress, across the country, and around the world, and it caused real problems for people with lawful green cards and visas, who in some cases were already in the air when the order was signed.

Secretary Kelly, you and I have spoken about my concerns, and I am reassured that you have taken positive steps to help correct the order's deficiencies.

Now we will wait to see how the matter is handled in the courts. In the mean time, let me stress that the words we use about this Executive matter. This is not a Muslim ban and even the suggestion that it could will alienate our allies and embolden our adversaries. This is a temporary suspension on visas from high-risk terror threat countries and a pause on the refugee program. This will allow the administration to put in place enhanced vetting to keep terrorists out and keep Americans safe.

These countries were selected because of a law drafted by this committee which designated four nations as terror hotspots, including all State sponsors of terror. The Obama administration later added these additional countries to the list, bringing the total number of countries to seven.

This is what the Trump administration relied on, a law based on risk not on religion. I urge my colleagues and the media to avoid reckless statements to the contrary.

Now is the time for DHS to move forward with common-sense, 21st-Century vetting changes. I hope the Department will follow this committee's guidance. We have been focused—more focused than any other panel in Congress on shutting down terror pathways into this country.

In 2015 we created a bipartisan task force that conducted one of the widest reviews of security gaps since the 9/11 Commission. That review produced more than 50 recommendations to stop jihadists from entering the United States undetected. Some of these were enacted into law while others were not. We need to address them as soon as possible, especially visa and refugee security improvements.

Finally, because of the law drafted by this committee the President will be required to submit a National strategy to combat terrorist travel to this Congress this summer. We look forward, sir, to receiving it and reviewing the Trump administration's long-term plan for denying jihadists entry into the United States, including at the border.

Americans are eager to see results. Washington's open-border policies and weak immigration screening have failed our people and our committee—communities time and time again. That is why I am pleased today, sir, we have a no-nonsense Secretary of Homeland Security, a former Marine, who is ready to do what others could not by finally securing our territory.

Mr. Secretary, I want to thank you again for joining us today. You are charged with confronting adaptive threats and insidious

enemies. I want you to know that this committee and this Congress stand ready to work with you to secure America.

[The statement of Chairman McCaul follows:]

STATEMENT OF CHAIRMAN MICHAEL T. MCCAUL

FEBRUARY 7, 2017

The Trump administration has inherited porous borders, failed immigration policies, and a grave and growing terror threat. Two weeks ago, the Trump administration took action to address these dangers.

First, the President signed an Executive Order for a border security “surge.” Today, we will get an update on that effort and how you plan to create multi-layered defenses to keep criminals, drug cartels, and potential terrorists out of our country. After the Secretary’s testimony, we will welcome a panel of front-line defenders from Texas and Arizona for a frank discussion about the challenges at the local level.

Second, the President signed an Executive Order to put a “pause” on immigration and refugee admissions from high-threat parts of the world. The pause will give us time to enhance security checks to stop terrorists from using our immigration system as a Trojan Horse—as they have already done in Europe.

Last year, I helped to draft a memo to then-candidate Trump explaining how we could intensify the vetting process while ensuring our doors remain open to peaceful, freedom-loving people, regardless of race or religion. I also authored the American SAFE Act, which called for temporarily pausing the Syrian refugee program so we could improve security screening. It passed the House with a bi-partisan veto-proof majority.

I am encouraged the President has paid attention to those recommendations.

But the roll-out of his Executive Order has been problematic. It caused confusion here in Congress, across the country, and around the world. And it caused real problems for people with lawful green cards and visas, who in some cases were already in the air when the order was signed.

Secretary Kelly, you and I have spoken about my concerns, and I am reassured that you have taken positive steps to help correct for the order’s deficiencies. Now we will wait to see how the matter is handled in the courts.

In the mean time, let me stress that the words we use about this Executive Order matter. This is not a Muslim ban. And even the suggestion that it is could alienate our allies and embolden our adversaries.

Again, this is a temporary suspension on visas from high-risk terror threat countries and a pause on the refugee program. This will allow the administration to put in place enhanced vetting to keep terrorists out and keep Americans safe.

These countries were selected because of a law drafted by this committee, which designated four nations as terror hotspots, including all “state sponsors of terror.”

The Obama administration later added three additional countries to this list, bringing the total to seven.

That is what the Trump administration relied on—a law based on risk, not on religion.

I urge my colleagues and the media to avoid reckless statements to the contrary.

Now is the time for DHS to move forward with common-sense, 21st-Century vetting changes. I hope the Department will follow this committee’s guidance. We have been more focused than any other panel in Congress on shutting down terrorist pathways into this country.

In 2015, we created a bipartisan task force that conducted one of the widest reviews of security gaps since the 9/11 Commission. That review produced more than 50 recommendations to stop jihadists from entering the United States undetected. Some of these were enacted into law, while others were not. So we need to address them as soon as possible, especially visa and refugee security improvements.

Finally, because of a law drafted by this committee, the President will be required to submit a “National strategy to combat terrorist travel” to Congress this summer. We look forward to receiving it and reviewing the Trump administration’s long-term plan for denying jihadists entry into the United States, including at the border.

Americans are eager to see results. Washington’s open-border policies and weak immigration screening have failed our people and our communities time and again. That is why I am pleased we have a “no-nonsense” Secretary of Homeland Security, who is ready to do what others could not by finally securing our territory.

Mr. Secretary, I want to thank you again for joining us today. You are charged with confronting adaptive threats and insidious enemies. And I want you to know

that this committee and this Congress stand ready to work with you to secure America.

Americans are eager to see results. Washington's open-border policies and weak immigration screening have failed our people and our communities time and again.

That is why I am pleased we have a "no-excuses" President and Secretary of Homeland Security, who are ready to do what others could not by finally securing our territory.

Mr. Secretary, I want to thank you again for joining us today. You are charged with confronting adaptive threats and insidious enemies.

And I want you to know that this committee and this Congress stand ready to work with you to secure America.

Chairman McCAUL. With that, the Chair now recognizes the Ranking Member, Mr. Thompson.

Mr. THOMPSON. Thank you very much, Mr. Chairman. Thank you for holding today's hearing entitled, "Ending the Crisis: America's Borders and the Path to Security."

Let me welcome our new Secretary.

We are glad to have you. Your record speaks for itself.

Some of us served on the Hill when you were on the Hill. You had a few less stars and other things associated with that service, but thank you very much for your service.

However, I would note, Mr. Chairman, that the urgent border crisis facing our Nation is not occurring at our Southern Border, but rather is a one of President Trump's own making. His Executive Order banning all travel from seven majority-Muslim countries and suspending our refugee program under the guise of security does nothing to make us safer.

Blocking the admission of green card holders who are doctors, scientists, business owners, and other valued members of our society does nothing to make us safer. Suspending the admission of refugees, like this teddy bear-holding, 4-year-old Somali girl who had to be vetted for years, does nothing to make us safer.

To the contrary, the Executive Order makes America less safe by serving as a recruitment and propaganda tool for terrorist groups, complicating coordination with allies and partners in the fight against terrorism, and distracting border security personnel from the job of thoroughly screening all travelers to this country on an individualized basis.

No amount of fear-mongering via Twitter or alternative facts will change the fact that on January 27, with a stroke of a pen, President Trump changed this Nation's standing both at home and abroad. Democratic Members have many questions about President Trump's unconstitutional Muslim ban and have signed a letter to Chairman McCaul asking for a hearing to allow for a thorough examination of the issues.

With that, Mr. Chairman, I ask unanimous consent to include the letter in the record.

Chairman McCAUL. Without objection, so ordered.

[The information referred to follows:]

LETTER TO CHAIRMAN MICHAEL T. McCAUL

*February 6, 2017.*

The Honorable MICHAEL T. McCAUL,  
Chairman, Committee on Homeland Security, Washington, DC.

DEAR CHAIRMAN McCAUL: We are writing to request that you hold a Full Committee hearing to examine President Trump's "Muslim Ban" Executive Order, entitled *Protecting the Nation from Foreign Terrorist Entry Into the United States*.



This Executive Order, signed on January 27th, imposed, with limited exceptions, an immediate prohibition on citizens of Iran, Iraq, Libya, Somalia, Sudan, Syria, and Yemen from entering the United States for 90 days.<sup>1</sup> The Executive Order also suspends the entry of Syrian refugees indefinitely, requires the State Department to suspend the U.S. Refugee Admissions Program for 120 days, and lowers the total number of refugees allowed to be admitted to the U.S. for fiscal year 2017 to 50,000.<sup>2</sup> Upon issuance of the Executive Order, the State Department revoked approximately 60,000 visas<sup>3</sup> belonging to those covered by the order and U.S. Customs and Border Protection (CBP) instructed air carriers to deny boarding to covered individuals at overseas airports.<sup>4</sup> The rollout of the “Muslim Ban” created havoc not only for the air carriers and their passengers, but also CBP Officers who were put in the untenable position of having to enforce the order without guidance.

While we recognize that the future of the “Muslim Ban” is presently a question for the Federal Judiciary, we have an obligation, as co-equal constitutional partners to the Executive and Judicial branch, to do robust oversight of the “Muslim Ban’s” immediate and long-term homeland security and national security implications. To that end, we look forward to working with you to ensure that that a hearing is scheduled soon to receive testimony from Departmental officials, national and homeland security experts and the private sector (including air carriers) to address the far-reaching impacts of the “Muslim Ban”.

Should you have questions about this request, please contact Hope Goins on the Democratic staff.

RESPECTFULLY,

BENNIE G. THOMPSON, *Ranking Member*.  
 SHEILA JACKSON LEE.  
 JAMES R. LANGEVIN.  
 CEDRIC L. RICHMOND.  
 WILLIAM R. KEATING.  
 DONALD M. PAYNE, JR.  
 FILEMON VELA.  
 BONNIE WATSON COLEMAN.  
 KATHLEEN M. RICE.  
 J. LUIS CORREA.  
 VAL BUTLER DEMINGS.  
 NANETTE DIAZ BARRAGAN.

Mr. THOMPSON. Thank you.

We look forward to beginning to get some answers at today’s hearing. I want to thank our witnesses, Secretary of Homeland Security, again, John F. Kelly, for testifying before this committee today.

Frankly, it is somewhat unfair that Secretary Kelly is being called on to defend an Executive Order that, by most accounts, he was required to implement with almost no notice. The White House officials who directed the roll-out of the Executive Order should be here to answer this debacle.

But we appreciate your willingness, sir, to come before us as Secretary.

I also appreciate the witnesses on our second panel being here today to share their perspectives on the security of our Southern Border. President Trump’s words and actions related to the Southern Border and the government and people of Mexico have been counterproductive, to put it mildly. Like the Muslim ban, President Trump’s proposed border wall will do little to better secure America’s borders, but will cost Americans billions.

<sup>1</sup> Exec. Order No. 13769, 82 Fed. Reg. 8977.

<sup>2</sup> Id.

<sup>3</sup> Mica Rosenberg & Lesley Wroughton, “Trump Travel Ban Has Revoked 60,000 Visas for Now,” *Reuters* (Feb. 3, 2017), <http://www.reuters.com/article/us-usa-immigration-visas-idUSKBN1512EW> (last visited Feb. 5, 2017).

<sup>4</sup> <https://www.cbp.gov/border-security/protecting-nation-foreign-terrorist-entry-united-states>.

The Department of Homeland Security has no matrix to show that border walls enhance security in a way that justifies their exorbitant cost. Putting the wall on the American taxpayers' credit card, knowing that Mexico has absolutely no intentions of paying for it, will surely leave American taxpayers stuck with the bill.

Instead, we need border security policy that keeps terrorists, their instruments, criminals, and contraband out of this country while upholding American values and ensuring the flow of legitimate travelers and commerce that is vital to our Nation's economy and our way of life.

I look forward to engaging the witnesses and Members today in a discussion about how we can do just that.

Mr. Chairman, I thank you for holding today's hearing and yield back the balance of my time.

[The statement of Ranking Member Thompson follows:]

STATEMENT OF RANKING MEMBER BENNIE G. THOMPSON

FEBRUARY 7, 2017

I would note that the urgent border security crisis facing our Nation is not occurring at our Southern Border, but rather is one of President Trump's own making. His Executive Order banning all travel from seven majority-Muslim countries and suspending our refugee program under the guise of security does nothing to make us safer.

Blocking the admission of green card holders, who are doctors, scientists, business owners, and other valued members of our society, does nothing to make us safer.

Suspending the admission of refugees like this teddy-bear holding 4-year-old Somali girl who had been vetted for years, does nothing to make us safer.

To the contrary, the Executive Order makes America less safe by serving as a recruitment and propaganda tool for terrorist groups, complicating coordination with allies and partners in the fight against terrorism, and distracting border security personnel from the job of thoroughly screening all travelers to this country on an individualized basis.

No amount of fear-mongering via Twitter or "alternative facts" will change the fact that on January 27, with the stroke of a pen, President Trump changed this Nation's standing both at home and abroad.

Democratic Members have many questions about President Trump's unconstitutional Muslim ban, and have signed a letter to Chairman McCaul asking for a hearing to allow for a thorough examination of the issues.

I want to thank our witness, Secretary of Homeland Security, General John F. Kelly, for testifying before the Committee today and for his long and distinguished record of service to our Nation.

Frankly, it is somewhat unfair that Secretary Kelly is being called on to defend an Executive Order that, by most accounts, he was required to implement with almost no notice. The White House officials who directed the roll-out of the Executive Order should be here to answer for this debacle.

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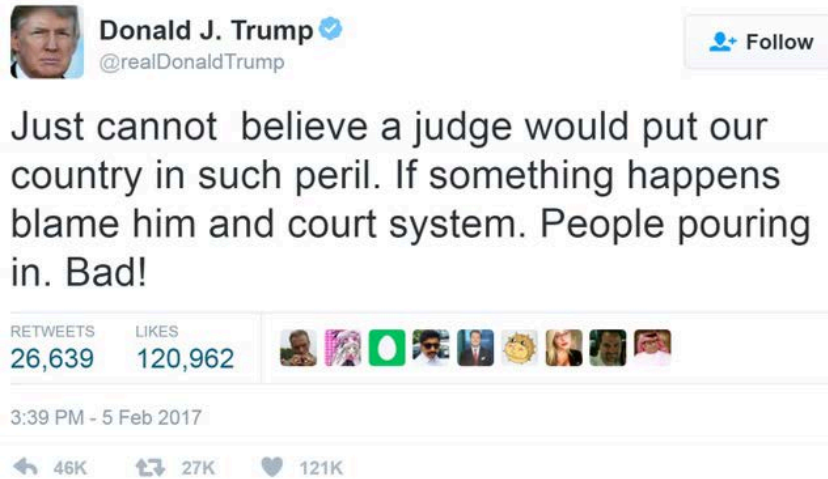
Like the Muslim Ban, Trump's proposed "border wall" will do little to better secure America's borders but will cost the Americans billions.

The Department of Homeland Security has no metrics to show that border walls enhance security in a way that justifies their exorbitant cost.

Putting the wall on the American taxpayers' credit card, knowing that Mexico has absolutely no intention of paying for it, will surely leave the American taxpayers stuck with the bill.

Instead, we need border security policy that keeps terrorists, their instruments, criminals, and contraband out of this country, while upholding American values and ensuring the flow of legitimate travelers and commerce that is vital to our Nation's economy and our way of life.





Chairman McCAUL. Thank the Ranking Member. Members are reminded they may submit statements for the record.  
[The statement of Hon. Jackson Lee follows:]

STATEMENT OF HONORABLE SHEILA JACKSON LEE

FEBRUARY 7, 2017

Thank you Chairman McCaul, and Ranking Member Thompson, for convening this opportunity for the Homeland Security Committee to hear from Secretary Kelly and from experts who can speak on the topic of “Ending the Crisis: America’s Borders and the Path to Security.”

I join my colleagues on the committee in welcoming the Secretary of Homeland Security John F. Kelly to receive his testimony, which will give Members an opportunity to learn more about the President’s Executive Orders and the enforcement role of DHS.

On Friday, January 27, 2017, the President signed an Executive Order suspending all resettlement of Syrian refugees indefinitely, and resettlement of all other refugees for 120 days.

The order also imposed a 90-day ban on entry of nationals from seven predominately Muslim countries: Iraq, Syria, Iran, Sudan, Libya, Somalia, and Yemen.

There is little reason to doubt that the motivation behind the Trump Executive Order was to target and exclude persons whose religious faith is Muslim.

Simply put, the Executive Order on its face is a ban on Muslims masquerading as a measure to protect the homeland.

It has been widely reported that former New York City Mayor Rudy W. Giuliani is quoted as claiming that the President wanted a “Muslim ban” and requested that the former mayor assemble a commission to show him “the right way to do it legally.”

I was at my local airport the following night (as were many of my colleagues) seeking answers for frantic parents, children, relatives, and friends of those traveling who reached out to my office for help when their loved ones failed to appear outside of the international debarkation areas at Bush Intercontinental Airport.

Custom and Border Protection officers were ill-equipped with information or guidance on what they were supposed to do with arriving passengers.

What ensued was chaos.

Federally-issued travel documents were routinely ignored, along with the laborious work that went into vetting people who were legal permanent residents such as green card holders and thoroughly-vetted refugees who had undergone an 18–24 month process to gain admittance into the United States.

The President has tried to equate his Muslim ban with the enhanced screening of Iraqi visa applicants started by President Obama in 2011 in response to a specific security threat.

This is a false equivalence, and one which earned the President two Pinocchio's from the *Washington Post's* Fact Checker.

The facts are these: President Obama did not impose a ban on visa applications, and his policy did not seek to prevent all citizens of Iraq, including green-card holders, from traveling to the United States.

Members of Congress take a solemn oath to support and defend the Constitution of the United States and keep the American people safe.

Democrats intend to honor that oath by opposing the President's dangerous and unconstitutional Muslim ban.

As Americans, we are at our best when we are true to the values we hold dear, beginning with fidelity to the Constitution and the laws of the United States.

The Executive Order issued nearly 2 weeks ago by the President is a radical departure from these principles and I call upon him to rescind this order immediately.

My staff is in touch with communities that I serve in the Houston area to ensure they know that the rule of law will triumph in the end.

I applaud the first temporary restraining order issued by U.S. District Judge Ann Donnelly of the Eastern District of New York that enjoined the Trump administration from, in any manner or by any means, removing individuals with refugee applications approved by U.S. Citizenship and Immigration Services as part of the U.S. Refugee Admissions Program, holders of valid immigrant and non-immigrant visas, and other individuals from Iraq, Syria, Iran, Sudan, Libya, Somalia, and Yemen legally authorized to enter the United States.

It is my understanding that the U.S. Court of Appeals for the Ninth Circuit will hear argument this evening in San Francisco, California regarding the administration's attempt to vacate the stay and permit the Executive Order to be implemented.

As a Member of the House Judiciary Committee, I find it outrageous that the President has launched yet another vicious personal attack against a sitting Federal judge simply because the judge issued a ruling that displeased the President.

We saw him do so for the first time last June when candidate Trump impugned the integrity of U.S. District Judge Gonzalvo Curiel, claiming he was not fit to preside over the Trump University fraud case "because he's a Mexican."

The independence of the Federal judiciary, and its role in providing a check on Legislative and Executive branches, is one of the crown jewels of American democracy and is indispensable to our system of government.

I thank the ACLU and other non-governmental organizations that went to work immediately to challenge the Constitutionality of the Executive Order and for their success in winning temporary stays of the order enjoining the Trump administration from taking action to deport refugees and immigrants currently being detained.

I look forward to Secretary Kelly's testimony and the testimony of the second panel of witnesses, which include:

- Mr. Steve C. McCraw, Director, Texas Department of Homeland Security;
- Mr. Joe Frank Martinez, Sheriff, Val Verde County, Texas
- Mr. Leon N. Wilmot, Sheriff, Yuma County, Arizona; and
- The Honorable Eddie Trevino, Jr. County Judge, Cameron County, Texas.

Thank you. I yield back the remainder of my time.

Chairman McCAUL. We have two distinguished panels here today.

We will hear first from the Honorable John F. Kelly. He was recently sworn in as the fifth Secretary of Homeland Security. Secretary Kelly was born and raised in Boston, Massachusetts. He enlisted in the Marine Corps in 1970, was discharged as a sergeant in 1972. Following graduation from the University of Massachusetts in 1976, he received his commission as a Marine Corps officer.

In 2002 he was elected to the rank of brigadier general and did multiple tours during combat in Iraq. By 2012, was nominated his fourth star and command of the United States Southern Command. After last—less than a year in retirement Secretary Kelly was of-

ferred the opportunity to serve the Nation again as Secretary of Homeland Security. I am personally pleased at the President's choice.

I recently read a moving excerpt from a speech you gave, sir, while serving in the Marine Corps, and I would like to read it aloud today. You said, "We Marines believe that God gave America the greatest gift he could bestow to man while he lived on this Earth, and that is freedom. We also believe He gave us another gift nearly as precious: Our soldiers, sailors, airmen, Coast Guardsmen and Marines, to safeguard that gift and guarantee that no force on this Earth can ever steal it away."

Those are great words. I want to thank you for being here today. Chair now recognizes Secretary Kelly for an opening statement.

**STATEMENT OF HON. JOHN F. KELLY, SECRETARY, U.S.  
DEPARTMENT OF HOMELAND SECURITY**

Secretary KELLY. Good morning, Mr. Chairman and Ranking Member Thompson, and all the Members of the committee. It is my honor to appear here today to discuss the Department's crucial mission of securing the border and many other issues.

For 45 years I was privileged to serve both as an enlisted Marine and as an officer. I am humbled again to answer the call to duty and take over at the Department of Homeland Security.

Our Nation faces diverse challenges and dangerous adversaries who do not respect the rule of law or of borders. While long aware of its great work, I have recently had the opportunity to witness first-hand the pride, experience, and professionalism of the DHS work force. I am proud of our men and women, as the Nation should be as well.

As Secretary, you have my commitment to vigorously protect our country, secure our borders, and enforce our laws, all while facilitating lawful trade and travel. In doing so, know that I take seriously our responsibility to balance security with the protections afforded by law, privacy rights, and our civil rights and liberties.

Securing a Nation's borders is one of the primary responsibilities of any sovereign nation, including ours. Under my leadership and the direction of President Trump, we will finally do so.

We will build appropriate physical barriers, which will be monitored and supported by trained professionals within the Department of Homeland Security. We will work to prevent illegal immigration, drug and human trafficking, and terrorists—and I include here narcoterrorists—from entering our Nation.

We will enforce our immigration laws in an efficient and effective manner. We will work closely with our State and local law enforcement partners, some of whom are here today. All of this consistent with, of course, Federal law.

It is our duty to protect our citizens from terrorism and to prevent the admission of foreign nationals who intend to exploit our generous immigration laws. The President's Executive Orders on border security immigration enforcement will enhance public safety for all of our citizens.

The President's recent Executive Order to temporarily suspend entry for foreign nationals from seven countries we believe is lawful and Constitutional, and the review ordered by the President is

necessary and appropriate. It will enable us to assess the adequacy and availability of information we need from all countries to adjudicate all visa applications, or other benefits under our existing immigration laws, and to determine if the person seeking the benefit is, in fact, who they say they are and would not present us a threat.

While some of the core tenets of this order are the subject of ongoing litigation, it is my belief that we will prevail and be able to take the steps necessary to protect our Nation. Americans must feel safe to walk down the street, go to the mall, or to a night club anywhere and anytime. Fear must not become the status quo as it has in so many parts of the world.

My responsibility and that of the tremendous men and women of the Department is to carry out those lawful measures in a manner that best protects the safety of all Americans. The safety of American lives is and will always be my foremost concern.

Before I conclude, I would like to thank the committee for its continued leadership, notably in seeking to reauthorize the Department. I appreciate your efforts, especially in securing the memorandum of understanding, which will help facilitate the reauthorization we currently need.

The threats and challenges have changed since Congress created DHS some 15 years ago. We need to update the authorities to successfully complete our mission today. I look forward, sir, to answering your questions.

[The prepared statement of Secretary Kelly follows:]

PREPARED STATEMENT OF JOHN F. KELLY

FEBRUARY 7, 2017

#### INTRODUCTION

Mr. Chairman, Ranking Member Thompson, and distinguished Members of the committee: It is a great honor and privilege to appear before you today to discuss the crucial mission of the Department of Homeland Security (DHS) to protect the homeland and secure our Nation's borders.

Over the past 45 years, it has been my privilege to serve my Nation as both an enlisted Marine and an officer. I have worked with our allies across agencies, the private sector, and with independent experts to identify innovative, comprehensive solutions to current and emerging threats. These assignments—while varied—share the common characteristics of working within and leading large, complex, and diverse mission-focused organizations while under great pressure to produce results.

I am humbled to once again to be called to serve, this time with the men and women of DHS. As a Department, we face diverse challenges and adversaries that do not respect our rule of law or our borders. As Secretary, you have my commitment to tirelessly protect our country from threats, secure the border, and enforce the law while expediting lawful trade and travel. In pursuit of those missions, please know that I take seriously our legal responsibilities to balance the security of our homeland with the protection of privacy, civil rights, and civil liberties.

#### THE PRESIDENT'S EXECUTIVE ORDERS

During his first 2 weeks in office, President Trump issued Executive Orders to secure our borders, enforce our immigration laws, and protect the Nation from foreign terrorist entry into the United States. The President has gotten right to work, fighting on behalf of American families and workers—and these moves will strengthen our National security.

The purpose of the order on border security is to direct Executive departments and agencies to deploy all lawful means to secure the Nation's Southern Border, prevent further illegal immigration into the United States, and to repatriate illegal aliens swiftly, consistently, and humanely.

This Executive Order establishes the foundation for securing our Southern Border by providing the tools, resources, and policy direction for DHS's dedicated men and women who are responsible for securing the border—to prevent illegal immigration, drug and human trafficking, and acts of terrorism. In accordance with existing law, DHS is immediately taking all appropriate steps to plan, design, and construct a physical wall along the Southern Border, using the materials and technology that will most effectively achieve operational control of the Southern Border. In addition, DHS is immediately taking all appropriate action to ensure that the parole and asylum provisions of Federal immigration law consistently applied with the requirements of the law, and not exploited to prevent the removal of otherwise removable aliens.

The Executive Order on interior immigration enforcement provides DHS with the tools it needs to enforce Federal immigration laws within the United States. It will remove many of the obstacles that have been making it more difficult for the dedicated men and women of U.S. Immigration and Customs Enforcement (ICE) to carry out their mission, which includes arresting, detaining, and removing illegal aliens from the United States. Essentially, it will restore the highly successful Secure Communities Program, which allows ICE to target more easily criminal aliens for removal.

A third Executive Order, signed by the President on January 27, will protect all Americans from certain foreign nationals who intend to commit terrorist attacks in the United States by preventing such individuals from exploiting our immigration laws. The order suspends entry into the United States from Iran, Iraq, Somalia, Sudan, Syria, Libya, and Yemen until we complete comprehensive review. It directs Federal agencies to implement uniform screening standards across all immigration programs. It suspends the Refugee Admissions Program for 120 days, giving us time to assess the vulnerabilities in the program and establish additional procedures to ensure refugees admitted do not pose a threat to National security or public safety. It orders completion of the biometric entry-exit system. It also ensures that applicants for visas are personally interviewed before their visas are approved in compliance with Section 222 of the Immigration and Nationality Act.

As the President has stated, "Homeland Security is in the business of saving lives, and that mandate will guide our actions." These Executive Orders further that goal by enhancing border security, promoting public safety, and minimizing the threat of terrorist attacks by foreign nationals in the homeland. More important, however, these Executive Orders emphasize the rule of law as a bedrock principle of our immigration system and provide clearly-defined consequences for those who would violate our laws.

#### BORDER SECURITY AND IMMIGRATION ENFORCEMENT

As a Nation, control of our borders is paramount. Without that control, every other form of threat—illicit drugs, unauthorized immigrants, transnational organized crime, certain dangerous communicable diseases, terrorists—could enter at will. DHS was created to prevent terrorist attacks against the United States. The principal means of prevention within the United States is effective border control, denying admission to aliens who seek to harm Americans or violate our laws, and countering efforts to recruit individuals to undertake terrorist acts.

Achieving this priority begins with physical obstacles like a border barrier and supporting infrastructure and surveillance capabilities. In this effort, I am committed to executing President Trump's plan to secure our Southern Border with effective physical barriers, advanced technology, and strategic deployment of law enforcement personnel. While the presence of physical barriers and additional technology is essential, it must be bolstered by persistent patrol and the vigilance of the dedicated men and women of DHS.

We must augment our expanded border security initiatives with vigorous interior enforcement and administration of our immigration laws in a manner that serves the National interest. This effort will include greater cooperation and coordination between DHS's operational components, which are responsible for administering immigration benefits and enforcing our Nation's existing immigration laws.

Within DHS and our Federal, State, local, and international partners, we must expand our vetting of those seeking to enter our country—particularly of those individuals from high-risk countries—including refugees. We currently lack a comprehensive strategy with uniform screening standards to prevent terrorists from entering the country. Unfortunately, our country has recently admitted some foreign nationals without an adequate understanding of their allegiances and intentions. Additionally, because they are apprehended by DHS law enforcement agents, we



know there continue to be any number of so-called “special interest aliens” that make their way into our country illegally each year.

Last year, more than 415,816 migrants, mostly from Central America and Mexico—including over 137,614 unaccompanied children and individuals travelling in family units—were apprehended on our Southern Border. Many of those arriving at our Southern Border have fled violence, poverty, criminal networks, and gangs in their native countries. While the vast majority are fleeing violence or seeking economic opportunity, a small number of individuals could potentially be seeking to do us harm or commit crimes. Regardless of purpose or circumstance, the ease with which human smugglers have moved tens of thousands of people to our Nation’s doorstep also serves as another warning sign: These smuggling routes are a potential vulnerability of our homeland.

Our vigorous response to these threats must include increased border security infrastructure, personnel, and technology. However, we cannot just play defense in securing our borders. Border security requires a layered approach that extends far beyond our shores, throughout the hemisphere, in partnership with our neighbors to the south and north.

Along nearly 7,000 miles of land border, approximately 95,000 miles of shoreline, and at 328 ports of entry and numerous locations abroad, U.S. Customs and Border Protection (CBP) has a critical role in preventing the illegal entry of people and goods into the United States.

Across the wide expanses of our Nation’s land, air, and maritime environments, CBP has worked to address the changing demographics of attempted border crossers and to maintain border security through significant investments in enforcement resources, technology, infrastructure, and enhanced operational tactics and strategy. Through advances in detection capabilities, such as fixed, mobile, and agent-portable surveillance systems, tethered and tactical aerostats, unmanned aircraft systems, and ground sensors, which work in conjunction with tactical border infrastructure and agent deployment, CBP is enhancing its ability to quickly detect, identify, and respond to illegal border crossings.

At our Nation’s air, land, and sea ports of entry, more travelers and cargo are arriving than ever before. To maintain the security of growing volumes of international travelers, CBP performs a full range of inspection activities and continues to enhance its pre-departure traveler vetting systems and integrate biometric technologies. CBP has also made significant developments in its intelligence and targeting capabilities to segment and target shipments and individuals by potential level of risk to identify and stop potentially dangerous travelers or cargo before boarding an aircraft or conveyance bound for the United States.

Beyond managing the influx of people and cargo arriving in the United States, CBP is working with other DHS agencies to strengthen its capabilities to identify foreign nationals who have violated our immigration laws, as well as to track suspect persons and cargo exiting the country. CBP is also leveraging its newly-established Counter Network Program, which focuses on detecting, disrupting, and dismantling transnational criminal organizations, by expanding information sharing, increasing partnerships and collaboration that enhance border security, conducting joint exploitation of intelligence, and co-managing of operations with interagency and international partners. These efforts are building toward a safer and more secure border environment, one that supports the safety and success of each agent and officer in the field.

In the maritime environment, the U.S. Coast Guard (USCG) utilizes a multi-faceted layered approach to interdict threats far from the borders of our Nation to combat the efforts of transnational criminal organizations. Targeting the primary flow of illicit drug traffic has a direct and damaging impact on these networks.

Successful Coast Guard interdictions in the maritime transit zones feed a cycle of success—subsequent prosecutions lead to actionable intelligence on future events, which produces follow-on seizures and additional intelligence. Suspects from these cases divulge information during prosecution and sentencing that is critical to indicting, extraditing, and convicting drug kingpins and dismantling these sophisticated networks.

USCG secures the maritime domain by conducting patrols and coordinating with other Federal agencies and foreign countries to interdict aliens at sea, denying them illegal entry via maritime routes to the United States, its territories and possessions. Thousands of aliens attempt to enter this country illegally every year using maritime routes, many via smuggling operations. Interdicting these aliens at sea reduces the safety risks involved in such transits. We can quickly return these interdicted aliens to their countries of origin, avoiding the costlier processes required if they successfully enter the United States.

## INTERAGENCY AND INTERNATIONAL COOPERATION

As Secretary, I will advocate for expanding cooperation inside the interagency and with partner nations, particularly Canada and Mexico. Interagency relationships and bilateral cooperation are critical to identifying, monitoring, and countering threats to U.S. National security and regional stability. While DHS possesses unique authorities and capabilities, we must enhance and leverage our coordination with Federal, State, local, and Tribal partners. The magnitude, scope, and complexity of the challenges we face—illegal immigration, transnational crime, human smuggling and trafficking, and terrorism—demand an integrated counter-network approach.

Regionally, we must continue to build partner capacity. Illegal immigration and transnational organized crime threaten not only our own security, but also the stability and prosperity of our Latin American neighbors. In Colombia, for example, we learned that key principles to defeating large cartels and insurgents are the same as defeating criminal networks: A strong, accountable government that protects its citizens, upholds the rule of law, and expands economic opportunity for all. It taught us that countering illicit trafficking and preventing terrorism often go hand-in-hand, and that U.S. interagency cooperation, coupled with a committed international partner, can help bring a country back from the brink. I believe we can apply these lessons across our many international partnerships and in furtherance of our Government's many missions beyond our borders.

Presently, we have a great opportunity in Central America to capitalize on the region's growing political will to combat criminal networks and control hemispheric migration. Leaders in many of our partner nations recognize the magnitude of the tasks ahead and are prepared to address them, but they need our support. As we learned in Colombia, sustained engagement by the United States can make a real and lasting difference.

## CONCLUSION

The security challenges facing DHS and our Nation are considerable, particularly along the Southern Border. We have the laws in place to secure our borders. We also have outstanding men and women working at DHS, and in other Federal, State, local, and Tribal law enforcement agencies, who are committed to the border security mission. Finally, we now have a clear mission objective and the will to complete that mission successfully. We must accelerate our collective efforts to enforce the laws on the books and support those sworn to uphold the law. You have my commitment to work tirelessly to ensure that the men and women of DHS are empowered to do their jobs.

I believe in America and the principles upon which our country and way of life are guaranteed, and I believe in respect, tolerance, and diversity of opinions. I have a profound respect for the rule of law and will always strive to preserve it. As I mentioned in my confirmation hearing, I have never had a problem speaking truth to power, and I firmly believe that those in power deserve full candor and my honest assessment and recommendations. As Secretary, I recognize the many challenges facing DHS and I will do everything within my ability to meet and overcome those challenges, while preserving our liberty, upholding our laws, and protecting our citizens.

Thank you again for the opportunity to appear before you today and for your continued support of DHS. I am confident that we will continue to build upon the momentum by our previous operational achievements around the world. I remain committed to working with this committee to forge a strong and productive relationship going forward to secure our borders and help prevent and combat threats to our Nation.

I would be pleased to answer any questions.

Chairman McCAUL. Thank you, Mr. Secretary.

I now recognize myself for questioning.

We look forward to working with you on that authorization, which is long overdue.

Let me say first I agree with the policy of the Executive Order. It is consistent with a memo I drafted with—to then-candidate Trump, with Mayor Giuliani, Attorney General Mukasey, advocating a shift from a Muslim ban, which he was campaigning on, which we thought was unconstitutional, to, rather, an enhanced

vetting process of immigrants and refugees based on risk, not religion, from high-threat areas.

It is consistent with the visa waiver security bill that was signed into law by President Obama. It is consistent with the SAFE Act that passed the House with a bipartisan veto-proof majority.

My concern, as you and I have talked, is how it was implemented and the execution of this order.

First, lawful permanent residents with green cards were denied; military advisers who risked their lives to help U.S. forces overseas, as you know, were denied; and students were trapped overseas with visas. Let me say, I applaud you for quickly correcting what I consider to be errors by quickly granting the exception and waiver to green card holders, which went a long way to remedy, I think, this Executive Order.

My other concern was the lack of coordination both within the Executive branch and also with Congressional leaders like myself. I applaud the President for trying to get things done quickly, and that is what leadership is all about. He is fulfilling campaign promises.

But as we move forward, what do you consider to be the lessons learned here from this Executive Order?

Secretary KELLY. Mr. Chairman, I think as we have talked—I have talked to many Members of—some Members of this committee and certainly Senators, as well, the Executive Order was developed certainly before I ever—began to be developed before I ever became the Secretary of Homeland Security, before my confirmation.

Just after the inauguration my staff, a very small number, and myself had some initial cuts on that. Some changes were made.

It was released, I think, as you recall, the third one I am talking about now, was released on—late on a Friday. We knew it was going to be released that day.

The desire was to get it out. The thinking was to get it out quick so that potentially people that might be coming here to harm us would not take advantage of some period of time that they could jump on an airplane and get here, or get here in other ways.

So that was the thinking. In retrospect, I should have—this is all on me, by the way—I should have delayed it just a bit so that I could talk to Members of Congress, particularly to the leadership of committees like this, to prepare them for what was coming. Although, I think most people would agree that this has been a topic of President Trump certainly during his campaign and during the transition process.

As the great men and women particularly of the border protection people, as they unfolded that or started to implement it, I should say, they got back to us with some suggestions about how we could alter it. We did that, as I think the order was signed or released at 18 on Friday, 6 p.m. Before midnight we had made an adjustment. The next day, made a couple of other adjustments to kind-of fine-tune it.

We did have to step back and kind of re-cock that—in that first 24-hour period because of action by one of the Federal courts. That changed things a bit, so we had to kind-of step back.

But for the most part, you know, again, I know it can be an inconvenience, but what was done at the counter, so to speak, and

at the very many airports where people are coming into the United States, everyone was treated humanely.

I have read the reports about people standing up for hours on end. Didn't happen. That people were insulted—I guess insults are in the eyes of the beholder, but I would tell you the kind of men and women that I serve with do not insult people. They are very, very matter-of-fact. They are very business-like.

But going forward, I would have certainly taken some time to inform the Congress and certainly that is something I will certainly do in the future.

Chairman McCAUL. We look forward to moving forward in the future with you. I applaud your quick correction of it, and I hope the courts act quickly. Because, as you stated, every day we are putting American lives at danger.

Let me shift to the border. When you were commander of SOUTHCOM you and I met several times to talk about the threats coming from south of the border, whether it be transnational criminal organizations or their potential ties to terrorism. Being from a border State, Texas, I understand this very well.

I appreciate you coming down to my State and visiting with the Governor and DPS—Steve McCraw is going to testify—and the good men and women of CBP down there.

Can you tell us what—the Executive Order came out for the border surge. I want to work closely with you on this. Can you tell us what this wall is going to look like? You may not be able to answer this one, but how much it is going to cost, and how are we going to pay for it?

Secretary KELLY. As far as the wall goes, Mr. Chairman, I specifically went down to the most affected part of the border, South Texas, down around McAllen—specifically went down there to talk to local law enforcement, which I did—the Governor was there—and to talk to my people on the border, ICE as well as CBP.

We are not going to be able to build a wall everywhere all at once. So part of the reason I went down there, first and foremost, was to ask the people that know more about this than anyone else on the planet. We have walls. There are walls there, parts of walls in strategic places in McAllen on the border. But do we need more wall?

They said, well, you know, Secretary, we need to extend some walls; we need to fill in some places with physical barriers. Their preference would not be something they couldn't see through. That was a finding for me.

But they very definitely said, "Yes, sir, we need a physical barrier backed up by people like us"—meaning CBP and local law enforcement—"with technology where it is appropriate."

They had in their mind that many hundreds of miles of that sector, they had places where they wanted a physical barrier constructed, you know, tomorrow, or actually yesterday, and then tomorrow—today, tomorrow, and you see the point. They did point out there are parts of the border that are right now not as much of an issue as they are, say, right here in McAllen.

I will go to Tucson sector later in the week, and then push over to San Diego sector. I suspect I will hear the same thing, because

it is certainly what my leadership in the Department of Homeland Security level are telling me.

So that is where we are on the wall. Not going to build it all in an afternoon, so we will build it in the places that the people that work that border say we need it right now. There are places on that border, I am told, we need it right now.

Chairman McCAUL. Well, I couldn't agree with you more. I am glad you see that perspective.

Every sector is different, multi-layered defense, fencing, but also technologies, aviation assets. I think 100 percent visibility is what you want because if you can see the threats you can stop them. So I look forward to working with you on that very important task.

I have been trying to get this done, sir, for the last 6 terms in Congress and I think now we finally have the political will to do it. So thank you.

With that, the Chair now recognizes the Ranking Member.

Mr. THOMPSON. Thank you, Mr. Chairman.

You referenced former Mayor Giuliani in your comments about helping draft this Executive Order, and I call your attention to—

Chairman McCAUL. If the gentleman would yield, that is an incorrect statement. We drafted a memo back last May or June to then-candidate Trump to advocate why a Muslim ban was unconstitutional and to look at vetting and high-threat areas. I had no participation in this Executive Order—nor did Mayor Giuliani.

Mr. THOMPSON. No, he claims—

Chairman McCAUL. I will yield back. I will yield back.

Mr. THOMPSON. I am just saying that he has indicated that it is a Muslim ban. So I can only take for what he is saying, he takes credit for drafting it.

Mr. Secretary, President Trump tweeted because the ban was lifted by a judge “many very bad and dangerous people may be pouring into the country.” As you know, your Department is responsible for visa security, screening travelers to this country, and determining admissibility at ports of entry. Now, do you believe that because of this court order we have let some dangerous people into the country?

Secretary KELLY. It is certainly entirely possible. Again, the whole reason for this pause is to get our arms around the term “vetting.” My people that I trust, as well as State Department people—I had a meeting yesterday with Rex Tillerson—Secretary Tillerson and Mike Pompeo, formerly of this party and now the director of the CIA, about the issue of vetting. So it is entirely possible, yes, sir.

Mr. THOMPSON. Well, I understand. But in other words, before this order, we were letting bad people into the country. Your people were not doing their job.

Secretary KELLY. That is not true at all. My people have always done their job.

Mr. THOMPSON. That is what I am trying to get at is, is there any difference between the issuance of this Executive Order and the job your people were doing so that whatever decision the courts make, is it putting us at risk?

Secretary KELLY. The reason for the pause was for us to take some time, take a look at the vetting from the seven countries in question and how refugees are vetted.

I can tell you, because my people tell me, that for the last number of years, the vetting is at best loose and the amount of information—you take some of these countries we are talking about that are in really state of failed states—in the state of a failed state, there is very little, my people will tell me and I believe, very little confidence that the information that we receive from those countries relative to an individual who wants to come to the United States is the kind of information that we would bet the security of our citizens on.

Mr. THOMPSON. Again, I am convinced your men and women are doing a good job. I am just concerned about this notion that because the court has ruled—and they have the right to rule—that if in effect they have somehow put this country at risk by this ruling, so say the President.

Now if, in fact, there have been some people let in since the court ruled, can you provide this committee with those apprehensions of people who otherwise would not have been let in?

Secretary KELLY. I am not so sure I understand the question.

Let's just say, for instance, a person who is trying to get to the United States to do some harm, some terrorist attack, is coming in during this period that the courts have put a stay on our enforcement. We won't know that until that—an individual is a bad person until they do something bad.

Mr. THOMPSON. Yes.

Secretary KELLY. But it is entirely possible that someone that is coming in, whether it is during this stay, during the court action, or previous to this period, came here to do us harm.

Mr. THOMPSON. But you don't have any proof at this point.

Secretary KELLY. Not until the boom.

Mr. THOMPSON. Not until what?

Secretary KELLY. Not until they act and blow something up or go into a mall and kill people. So we won't know until then.

Mr. THOMPSON. Yes. I understand the danger. I just want to make sure the system that we are presently using, Mr. Secretary, is a good system and if, in fact, up until this point, we have stopped the boom, as you referenced.

Now, because of a court order saying we still have to follow the laws, and our President somehow says because this Executive Order is being paused we are now going back to how we used to do it. I am trying to figure out if how we used to do it puts us at risk.

Secretary KELLY. Mr. Congressman, again, my feeling is the vetting on the other end in those seven countries are suspect. Mr. Trump, and certainly in my view, we have to do a pause, which we have—which he ordered, now is, you know, under court action, so that we can take a look at what we are doing on the other end. I believe the vetting on the other end right now is not adequate to protect the Nation.

Then, of course, we are considering other measures, adding to the vetting on the other end so that we can ensure even more so

that the right people are coming to the United States, and not bad people.

Mr. THOMPSON. Thank you.

The other issue is in reference to the guidance. Your men and women who are tasked with carrying out this Executive Order, when we met in the SCIF I asked for the guidance and the time line associated with the guidance. We heard from people from Atlanta, Los Angeles, New York, different stories as to how things were being carried out. Can you provide this committee with the guidance that went with the Executive Order when it was signed and bring it forward?

Secretary KELLY. We can. I am going to have to take—I would have to take that a little bit for the record, but I would tell you that the CBP—the head of CBP and Homeland Security, the guidance was: This is the E.O. Implement it.

They started implementing it almost right away.

Again, we had some issues related primarily to the first court order that then caused some confusion at the desks at the entry points. But as I said, we adjusted to that pretty quickly. But we didn't—I can—I am assuming we have a system by which we contact out of headquarters—CBP has a system by which they contact the substations around the country to pass information to them.

Mr. THOMPSON. Well, we just would like to—

Secretary KELLY. Sure.

Mr. THOMPSON [continuing]. See the guidance. Thank you.

I yield back.

Chairman MCCAUL. The Chair recognizes the gentleman from New York, Mr. King.

Mr. KING. Thank you, Mr. Chairman.

Secretary KELLY. let me thank you for your years of service. Thank you for taking on this responsibility.

I must say that at a time when there was so much confusion, when there was so much media talk and there was so much frenzy coming from all sides, it was really, I think, vital to have such a stable voice at the center of this, at the center of the storm.

So thank you for restoring the order that you did. Thank you for giving the country a sense of consistency and constancy that it needed, so thank you for that, among all your other many achievements in public service.

As a follow-up to the Ranking Member's question, it seemed to me that when we face an enemy which is constantly adapting, constantly changing, constantly revising its tactics, that it only makes common sense for us to be constantly reexamining our defensive measures, our counterterrorism measures, especially when we know that ISIS has said it attempts—it is going to attempt to infiltrate terrorists with refugees, trying to sneak people into the country. We have seen what has happened in Europe.

So I commend you for what you are trying to do. I think it is essential and I think, again, a 90-day pause is—if that saves American lives, then it is certainly a pause worth taking.

But if you could perhaps clarify exactly where the seven countries came from, whether you think any should be added to that or should anybody be subtracted from that—from that list of seven?

Secretary KELLY. The countries, of course, the seven countries identified came as a result of not only the previous administration's actions, but, as I understand it, Congressional action. So I think that was a good start point.

They are countries, you know, two of the seven, of course, are still listed as State sponsors of terrorism. So we don't trust them at all because they are State sponsors of terrorism, and they don't cooperate with us to the degree that certainly President Trump and now certainly I am confident that what we get from those countries, which is very little cooperation to really determine who are the people that want to come here, first issue.

Second issue, the other—among the other five are nearly failed states in many respects, I would argue with the exception of Iraq, where we have a very solid presence there and I have served there quite some time. We will take a look-see—we will take a look at all of these countries going forward as to whether they remain on the pause list.

But you know, the other four countries, we don't even have embassies there. I am at a total loss to understand how we can vet, you know, people from various countries when in four of—at least four of those countries we don't even have an embassy.

So I think the pause made, you know, an awful lot of sense. Going forward, we would like to—we would hope that there are countries that will come off the list. But the countries are a list that came from the last administration, certainly from the last Congress.

There are, by the way, and I have—I don't—I simply don't know where this rumor came from, but I had—I read something where there were an additional 12 countries being considered to be put on the list. That is not true. Good friends of mine from various countries that were on the list asked, called and said is it—I said, no it is not true.

We are right now contemplating no other countries because it is—even though some of these other countries are at, you know, are questionable in terms of their internal, you know, organization, police, that kind of thing, we are satisfied that most other countries have enough that they could provide the information that we are looking for to start to make the determination to send people here.

But I would offer to you, Congressman, that we are looking at some additions. We may just focus on certain countries—not additional countries, but additional vetting schemes, vetting processes that will go further to satisfy me, and presumably the President, that we are—we know who we are dealing with, we know what their backgrounds are.

If they don't want to cooperate with the additional vetting, just like if they don't want to cooperate now, then they don't come to the United States. There is no right to come here, and if they don't want to cooperate, so be it.

But there are no other countries right now being contemplated being put on any type of a travel pause. But I would offer to you that some of those countries—some other countries out there can be improved, and we hope to work with them to help them improve, just like we hope to work with one, two, three, whatever of the countries, of the seven countries to help them improve their



vetting to satisfy us so that we can, you know, open our doors to their citizens.

Mr. KING. Thank you, Secretary.

Also, let me take this opportunity to welcome back Kevin Carroll, who was my counsel for a number of years on this committee, and I am confident that you will be very well served by Kevin.

Secretary KELLY. Well, I kind-of trust him, Congressman. So, we will see.

Mr. KING. But he is not a Marine though, you know.

Secretary KELLY. I know.

[Laughter.]

Mr. KING. I yield back, Mr. Chairman.

Chairman MCCAUL. Chair now recognizes the gentlelady from Texas, Ms. Jackson Lee.

Ms. JACKSON LEE. Thank you, Mr. Chairman.

I want to join my colleagues, Secretary Kelly, and express my appreciation for your service to this Nation and the love and affection that you have for your country, by evidence of the most dynamic service you gave in the United States military. Particularly, I want to thank you for the dialog that you have engaged with, I know, many of the Members since you have come on.

Please accept my assessment as separate and apart from the great efforts that you have taken to try and steer this ship in the way it should be steered, which is really to stand guard for the security of the American people. But I must begin my remarks by recounting a number of issues that, when I conclude, I will have to offer an assessment.

Although this is the Homeland Security Committee, the Yemen military action evidenced a action that warrants review. Tragically, we lost a Navy SEAL, the target was not captured, now taunts and provokes the President of the United States.

The basis of it was Obama's administration was not bold enough, so we did it. An Executive Order that threw into hysteria the lives of the forlorn, the desperate and those who sought to come to this country; and, of course, the selection of Mr. Bannon to the National Security Council with evidence that the President didn't know what that meant.

Fiery rhetoric of a campaign should not be the governing standard for this Nation, and I believe this administration is off its wheels and needs to get back on its wheels.

I raise this question about the countries. Syria, Iran, Iraq, and Yemen, and Libya are countries that are on the list—Somalia and Sudan. Mr. Secretary, do you have evidence of anyone who has come to this country in the last 5 years or before that committed a terrorist act from these particular countries?

Secretary KELLY. We have evidence that citizens of those countries have done terrorist acts in Europe.

Ms. JACKSON LEE. That is correct. I apologize, Mr. Secretary. I have a short period of time.

You are absolutely right. Even some of those individuals who are here in the United States left to go to the fight. But there is no evidence that any of these persons—and many of those who are here were self-radicalized here in the United States, that evidence

I do have. So no one from these countries have committed an act on the soil of the United States, is that correct?

Secretary KELLY. I think that that is correct. But I would offer the Congresswoman that I am not going to base my protection—my view of protecting the American people on hoping that they will never come here and commit an act.

Ms. JACKSON LEE. I understand. But the basis of this Executive Order was supposed to be on facts and evidence that was before us at that time. Let me wonder why you think Saudi Arabia was not included?

Secretary KELLY. Again, I would go back to the—kind-of some of the original comments. This is all about—this travel pause is all about countries that are not cooperative or can't be cooperative because of the conditions within the country to provide us, to provide the President, to provide me now a confidence that the people that we are dealing with are the people who—you know, who say they are.

Saudi Arabia, by contrast, we may not like some aspects of how they live their lives within their culture, but they do have very—

Ms. JACKSON LEE. Thank you. My time is short, so, thank you. Thank you very much.

Secretary KELLY. I know that, but let me finish, if I could.

Ms. JACKSON LEE. I will let you finish, I just want to get to my next question.

Secretary KELLY. OK.

Ms. JACKSON LEE. Go ahead, sir.

Secretary KELLY. But the issue is places like Saudi Arabia do have very, very good police forces, intelligence forces, so we know when someone comes here from Saudi Arabia who they are and what they have been up to.

Ms. JACKSON LEE. Thank you.

You have a 120-day delay on the refugee resettlements, one of the most desperate groups of people and populations. Certainly America has been known for her refuge for refugees.

What excuse do you give for this little one not being able to come into the United States, or this little one not being able to come into the United States, or this family not being able to be reunited? What do you say to those individuals whose papers will be expired, who have been waiting on the list for 12 years, who have been vetted, who are standing at the airport?

What is the purpose for refugees, who, again, you stated at the beginning of this testimony that you have no evidence that anyone from these countries perpetrated a terrorist act on this soil? Would you answer that, Mr. Secretary?

Secretary KELLY. Well, I can't see the pictures you are holding up, but I am assuming they are—again, I can't see them from this distance.

Ms. JACKSON LEE. I am sorry.

Secretary KELLY. But I am assuming they are pictures of families or little girls or something like that. The point is, this is right now a pause as we re-cock and start to look and evaluate how well these various countries can vet people.

Ms. JACKSON LEE. I think we will be causing a great deal of suffering and I would ask the administration to review its posture. I thank you for your testimony.

Mr. Chairman, I yield back.

Chairman MCCAUL. Mike Rogers, from Alabama, is recognized.

Mr. ROGERS. Thank you, Mr. Chairman.

Secretary KELLY. it is good to have you here. I have enjoyed the many years of working with you through my role in the Armed Services Committee. Never thought I would be working with you on this committee, too, but I am glad that we have got your leadership here.

President Trump and you have both indicated your commitment to securing the Southwest Border, and as you stated in answering Chairman McCaul's question, that requires a combination of things. But over the last 10 years we have seen a multibillion-dollar failure in SBInet, we have seen the neutering of the Secure Fence Act, and a hodgepodge of equipment investments, most of which really haven't worked well together.

So I am really interested in specifically how you see that securing of that border coming together, with what technologies, what kind of wall. I am imagining that you are talking about a virtual wall that would have fencing supported by technology and personnel, but could you be more specific about how you envision it?

Secretary KELLY. Yes, Congressman. As I mentioned earlier, I mean, the men and women on the border right now—and this includes very much the local law enforcement, not just DHS personnel—they could tell you and have told me down in that South Texas session—sector, they can tell you where they want, you know, exactly where they want a barrier, a wall built right now.

In a world of finite time, resources, that kind of thing, we would like, you know, 20 miles of wall built here. If you have more time, more money, there is another place over here. So they know and we are going to rely on them for their recommendations.

As we build the wall out to whatever length it ultimately becomes, as we build the wall out we will certainly back that up with personnel, you know, patrolling, that kind of thing, and technology. Aerostats work very well, sensors on the ground.

One of the things I was informed when I went down to the sector was that, I mean, some of the sensors are really kind of 1980's technology. They have their own complications with them. There is better equipment out on the market today, so we are going to take a long, hard look at that kind of thing.

But I think as—in those places, ultimately, we don't—where you can't get to the—to build a wall quickly, we can certainly look to controlling that part of the border, initially at least, with aerostats and responsive patrolling and that kind of thing.

What they tell me out there is that, you know, the—it is very predictable how the drug traffickers—that is one group, and how the people traffickers—that is another group—how they do their business. Most of the time it is as close as they can be to the—to either a quick get-away from the border, if you will, or to get into a urban area pretty quickly and they just meld in.

So that is where the CBP professionals—men and women have told me, it is really in those places and they are very, very up-front: Sir, this is—I can tell you where to put the wall right now.

Mr. ROGERS. What is your time line, do you think, that you will have it secured?

Secretary KELLY. Well, I mean, it is hard to say. It depends, actually, you know, on funding and all the rest of it. But I would like to see that we would be well under way within 2 years.

You know, one of the things, just as a comment, we are—we have 650 miles of barrier now on the border that we maintain. I was just told this morning that there is some wall being built in the San Diego sector that was financed and under construction before this administration took over. So it would appear to me that the former administration had a sense that physical barriers made sense, as well.

But this is going to take some time. But there are places I think we can right away get at this problem, Congressman.

Mr. ROGERS. Great.

Well, another thing that the President has suggested is that we want South Americans, in particular Mexico, to help pay—or to pay for this securing of the Southwest Border. It is my understanding we have over \$30 billion a year that are sent in remittances out of this country to South American countries, mostly to Mexico.

I intend to introduce legislation entitled the Border Funding Act of 2017 that would put a 2 percent tax on those remittances, such as Western Union and MoneyGram remittances. That would generate close to \$1 billion a year. That is one method.

Have you heard other suggestions as to how we are going to pay for this securing of the border? Because keep in mind, this additional layers of security you are talking about are on top of the costs that we are already spending.

Secretary KELLY. I have not. Clearly, the White House is working this and the State Department would—it would fall to them, at least initially, to start to work with countries, Mexico, to come to some accommodation. But have not heard any specifics, Congressman.

Mr. ROGERS. Thank you very much.

I yield back.

Chairman MCCAUL. Chair recognizes the gentleman from Rhode Island, Mr. Langevin.

Mr. LANGEVIN. Thank you, Mr. Chairman.

Secretary Kelly, I want to welcome you before the committee and thank you for your testimony. I certainly want to thank you for your decades of service to our Nation, and I certainly have enjoyed working with you in my role in the Armed Services Committee, whether it is meetings that you and I have had in my office or the testimony provided before the committee.

I appreciate your work and I certainly look forward to working with you on this committee as well, particularly on issues relating to cybersecurity, which you and I share an interest and which I consider to be the top National security challenge of our age.

But, like many of my fellow colleagues, I am going to begin my questions with the President's Executive Orders. So you may be aware that a number of top National security officials from the

Clinton, Bush, and Obama administrations filed a brief with the 9th Circuit Court yesterday.

Mr. Chairman, I ask that that report—that brief be entered into the record.

Chairman MCCAUL. Without objection, so ordered.

[The information referred to follows:]

Case: 17-35105, 02/06/2017, ID: 10302892, DktEntry: 28-2, Page 1 of 17

## **Response to Emergency Motion Exhibit A**

## IN THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

No. 17-35105

STATE OF WASHINGTON, et al.	)	
	)	
Plaintiffs-Appellees,	)	
	)	<b>JOINT DECLARATION OF</b>
vs.	)	<b>MADELEINE K. ALBRIGHT,</b>
	)	<b>AVRIL D. HAINES</b>
	)	<b>MICHAEL V. HAYDEN</b>
	)	<b>JOHN F. KERRY</b>
	)	<b>JOHN E. McLAUGHLIN</b>
DONALD J. TRUMP, President of the	)	<b>LISA O. MONACO</b>
United States, et al.,	)	<b>MICHAEL J. MORELL</b>
	)	<b>JANET A. NAPOLITANO</b>
Defendants-Appellants.	)	<b>LEON E. PANETTA</b>
	)	<b>SUSAN E. RICE</b>
	)	
	)	
	)	

We, Madeleine K. Albright, Avril D. Haines, Michael V. Hayden, John F. Kerry, John E. McLaughlin, Lisa O. Monaco, Michael J. Morell, Janet A. Napolitano, Leon E. Panetta, and Susan E. Rice declare as follows:

1. We are former national security, foreign policy, and intelligence officials in the United States Government:
  - a. Madeleine K. Albright served as Secretary of State from 1997 to 2001. A refugee and naturalized American citizen, she served as U.S. Permanent Representative to the United Nations from 1993 to 1997 and has been a member of the Central Intelligence Agency External Advisory Board since 2009 and the Defense Policy Board since 2011, in which capacities she has received assessments of threats facing the United States.
  - b. Avril D. Haines served as Deputy Director of the Central Intelligence Agency from 2013 to 2015, and as Deputy National Security Advisor from 2015 to January 20, 2017.
  - c. Michael V. Hayden served as Director of the National Security Agency from 1999 to 2005, and Director of the Central Intelligence Agency from 2006 to 2009.
  - d. John F. Kerry served as Secretary of State from 2013 to January 20, 2017.

- e. John E. McLaughlin served as Deputy Director of the Central Intelligence Agency from 2000-2004 and Acting Director of CIA in 2004. His duties included briefing President-elect Bill Clinton and President George W. Bush.
- f. Lisa O. Monaco served as Assistant to the President for Homeland Security and Counterterrorism and Deputy National Security Advisor from 2013 to January 20, 2017.
- g. Michael J. Morell served as Acting Director of the Central Intelligence Agency in 2011 and from 2012 to 2013, Deputy Director from 2010 to 2013, and as a career official of the CIA from 1980. His duties included briefing President George W. Bush on September 11, 2001, and briefing President Barack Obama regarding the May 2011 raid on Osama bin Laden.
- h. Janet A. Napolitano served as Secretary of Homeland Security from 2009 to 2013.
- i. Leon E. Panetta served as Director of the Central Intelligence Agency from 2009-11 and as Secretary of Defense from 2011-13.
- j. Susan E. Rice served as U.S. Permanent Representative to the United Nations from 2009-13 and as National Security Advisor from 2013 to January 20, 2017.

2. We have collectively devoted decades to combatting the various terrorist threats that the United States faces in a dynamic and dangerous world. We have all held the highest security clearances. A number of us have worked at senior levels in administrations of both political parties. Four of us (Haines, Kerry, Monaco and Rice) were current on active intelligence regarding all credible terrorist threat streams directed against the U.S. as recently as one week before the issuance of the Jan. 27, 2017 Executive Order on "Protecting the Nation from Foreign Terrorist Entry into the United States" ("Order").

3. We all agree that the United States faces real threats from terrorist networks and must take all prudent and effective steps to combat them, including the appropriate vetting of travelers to the United States. We all are nevertheless unaware of any specific threat that would justify the travel ban established by the Executive Order issued on January 27, 2017. We view the Order as one that ultimately undermines the national security of the United States, rather than making us safer. In our professional opinion, this Order cannot be justified on national security or foreign policy grounds. It does not perform its declared task of "protecting the nation from foreign terrorist entry into the United States." To the contrary, the Order disrupts thousands of lives, including those of refugees and visa holders all previously vetted by standing procedures that the Administration has not shown to be inadequate. It could do long-term damage to our national security and foreign policy interests, endangering U.S. troops in the field and disrupting counterterrorism and national security partnerships. It will aid ISIL's propaganda effort and serve its recruitment message by feeding into the narrative that the United States is at war with Islam. It will hinder relationships with the very communities that law enforcement professionals need to address the threat. It will have a damaging humanitarian and economic impact on the lives and jobs of American citizens and residents. And apart from all of these concerns, the Order offends our nation's laws and values.

4. There is no national security purpose for a total bar on entry for aliens from the seven named countries. Since September 11, 2001, not a single terrorist attack in the United States has been perpetrated by aliens from the countries named in the Order. Very few attacks on U.S. soil since September 11, 2001 have been traced to foreign nationals at all. The overwhelming majority of attacks have been committed by U.S. citizens. The Administration has identified no information or basis for believing there is now a heightened or particularized future threat from the seven named countries. Nor is there any rational basis for exempting from the ban particular religious minorities (e.g., Christians), suggesting that the real target of the ban remains one religious group (Muslims). In short, the Administration offers no reason why it abruptly shifted to group-based bans when we have a tested individualized vetting system developed and implemented by national security professionals across the government to guard the homeland, which is continually re-evaluated to ensure that it is effective.

5. In our professional opinion, the Order will harm the interests of the United States in many respects:

- a. The Order will endanger U.S. troops in the field. Every day, American soldiers work and fight alongside allies in some of the named countries who put their lives on the line to protect Americans. For example, allies who would be barred by the Order work alongside our men and women in Iraq fighting against ISIL. To the extent that the Order bans travel by individuals cooperating against ISIL, we risk placing our military efforts at risk by sending an insulting message to those citizens and all Muslims.
- b. The Order will disrupt key counterterrorism, foreign policy, and national security partnerships that are critical to our obtaining the necessary information sharing and collaboration in intelligence, law enforcement, military, and diplomatic channels to address the threat posed by terrorist groups such as ISIL. The international criticism of the Order has been intense, and it has alienated U.S. allies. It will strain our relationships with partner countries in Europe and the Middle East, on whom we rely for vital counterterrorism cooperation, undermining years of effort to bring them closer. By alienating these partners, we could lose access to the intelligence and resources necessary to fight the root causes of terror or disrupt attacks launched from abroad, before an attack occurs within our borders.
- c. The Order will endanger intelligence sources in the field. For current information, our intelligence officers may rely on human sources in some of the countries listed. The Order breaches faith with those very sources, who have risked much or all to keep Americans safe – and whom our officers had promised always to protect with the full might of our government and our people.
- d. Left in place, the Executive Order will likely feed the recruitment narrative of ISIL and other extremists that portray the United States as at war with Islam. As government officials, we took every step we could to counter violent extremism. Because of the Order's disparate impact against Muslim travelers and immigrants, it feeds ISIL's narrative and sends the wrong message to the Muslim community here at home and all over the world: that



the U.S. government is at war with them based on their religion. The Order may even endanger Christian communities, by handing ISIL a recruiting tool and propaganda victory that spreads their message that the United States is engaged in a religious war.

- e. The Order will disrupt ongoing law enforcement efforts. By alienating Muslim-American communities in the United States, it will harm our efforts to enlist their aid in identifying radicalized individuals who might launch attacks of the kind recently seen in San Bernardino and Orlando.
- f. The Order will have a devastating humanitarian impact. When the Order issued, those disrupted included women and children who had been victimized by actual terrorists. Tens of thousands of travelers today face deep uncertainty about whether they may travel to or from the United States: for medical treatment, study or scholarly exchange, funerals or other pressing family reasons. While the Order allows for the Secretaries of State and Homeland Security to agree to admit travelers from these countries on a case-by-case basis, in our experience it would be unrealistic for these overburdened agencies to apply such procedures to every one of the thousands of affected individuals with urgent and compelling needs to travel.
- g. The Order will cause economic damage to American citizens and residents. The Order will affect many foreign travelers, particularly students, who annually inject hundreds of billions into the U.S. economy, supporting well over a million U.S. jobs. Since the Order issued, affected companies have noted its adverse impacts on many strategic economic sectors, including defense, technology, medicine, culture and others.

6. As a national security measure, the Order is unnecessary. National security-based immigration restrictions have consistently been tailored to respond to: (1) specific, credible threats based on individualized information, (2) the best available intelligence and (3) thorough interagency legal and policy review. This Order rests not on such tailored grounds, but rather, on (1) general bans (2) not supported by any new intelligence that the Administration has claimed, or of which we are aware, and (3) not vetted through careful interagency legal and policy review. Since the 9/11 attacks, the United States has developed a rigorous system of security vetting, leveraging the full capabilities of the law enforcement and intelligence communities. This vetting is applied to travelers not once, but multiple times. Refugees receive the most thorough vetting of any traveler to the United States, taking on the average more than a year. Successive administrations have continually worked to improve this vetting through robust information-sharing and data integration to identify potential terrorists without resorting to a blanket ban on all aliens and refugees. Because various threat streams are constantly mutating, as government officials, we sought continually to improve that vetting, as was done in response to particular threats identified by U.S. intelligence in 2011 and 2015. Placing additional restrictions on individuals from certain countries in the visa waiver program—as has been done on occasion in the past—merely allows for more individualized vettings before individuals with particular passports are permitted to travel to the United States.

7. In our professional opinion, the Order was ill-conceived, poorly implemented and ill-explained. The “considered judgment” of the President in the prior cases where courts have

deferred was based upon administrative records showing that the President's decision rested on cleared views from expert agencies with broad experience on the matters presented to him. Here, there is little evidence that the Order underwent a thorough interagency legal and policy processes designed to address current terrorist threats, which would ordinarily include a review by the career professionals charged with implementing and carrying out the Order, an interagency legal review, and a careful policy analysis by Deputies and Principals (at the cabinet level) before policy recommendations are submitted to the President. We know of no interagency process underway before January 20, 2017 to change current vetting procedures, and the repeated need for the Administration to clarify confusion after the Order issued suggest that that Order received little, if any advance scrutiny by the Departments of State, Justice, Homeland Security or the Intelligence Community. Nor have we seen any evidence that the Order resulted from experienced intelligence and security professionals recommending changes in response to identified threats.

8. The Order is of unprecedented scope. We know of no case where a President has invoked his statutory authority to suspend admission for such a broad class of people. Even after 9/11, the U.S. Government did not invoke the provisions of law cited by the Administration to broadly bar entrants based on nationality, national origin, or religious affiliation. In past cases, suspensions were limited to particular individuals or subclasses of nationals who posed a specific, articulable threat based on their known actions and affiliations. In adopting this Order, the Administration alleges no specific derogatory factual information about any particular recipient of a visa or green card or any vetting step omitted by current procedures.

9. Maintaining the district court's temporary restraining order while the underlying legal issues are being adjudicated would not jeopardize national security. It would simply preserve the status quo ante, still requiring that individuals be subjected to all the rigorous legal vetting processes that are currently in place. Reinstating the Executive Order would wreak havoc on innocent lives and deeply held American values. Ours is a nation of immigrants, committed to the faith that we are all equal under the law and abhor discrimination, whether based on race, religion, sex, or national origin. As government officials, we sought diligently to protect our country, even while maintaining an immigration system free from intentional discrimination, that applies no religious tests, and that measures individuals by their merits, not stereotypes of their countries or groups. Blanket bans of certain countries or classes of people are beneath the dignity of the nation and Constitution that we each took oaths to protect. Rebranding a proposal first advertised as a "Muslim Ban" as "Protecting the Nation from Foreign Terrorist Entry into the United States" does not disguise the Order's discriminatory intent, or make it necessary, effective, or faithful to America's Constitution, laws, or values.

Case: 17-35105, 02/06/2017, ID: 10302892, DktEntry: 28-2, Page 7 of 17

10. For all of the foregoing reasons, in our professional opinion, the January 27 Executive Order does not further – but instead harms – sound U.S. national security and foreign policy.

Respectfully submitted,

s/MADELEINE K. ALBRIGHT\*  
s/AVRIL D. HAINES  
s/MICHAEL V. HAYDEN  
s/JOHN F. KERRY  
s/JOHN E. McLAUGHLIN  
s/LISA O. MONACO  
s/MICHAEL J. MORELL  
s/JANET A. NAPOLITANO  
s/LEON E. PANETTA  
s/SUSAN E. RICE

\*All original signatures are on file with Harold Hongju Koh, Rule of Law Clinic, Yale Law School, New Haven, CT. 06520-8215 203-432-4932

We declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. [Individual signature pages follow]

Case: 17-35105, 02/06/2017, ID: 10302892, DktEntry: 28-2, Page 8 of 17

EXECUTED this 5th day of February, 2017

*Madeline Albright*

MADELEINE K. ALBRIGHT

Case: 17-35105, 02/06/2017, ID: 10302892, DktEntry: 28-2, Page 9 of 17

EXECUTED this 5th day of February, 2017

*Avril D. Haines*

AVRIL D. HAINES

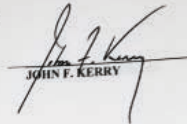
Case: 17-35105, 02/06/2017, ID: 10302892, DktEntry: 28-2, Page 10 of 17

EXECUTED this 5<sup>th</sup> day of February, 2017

  
MICHAEL V. HAYDEN

Case: 17-35105, 02/06/2017, ID: 10302892, DktEntry: 28-2, Page 11 of 17

EXECUTED this 5<sup>th</sup> day of February, 2017

  
JOHN F. KERRY

Case: 17-35105, 02/06/2017, ID: 10302892, DktEntry: 28-2, Page 12 of 17

EXECUTED this 5<sup>th</sup> day of February, 2017

  
JOHN E. McLAUGHLIN

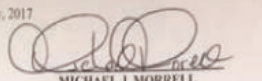

Case: 17-35105, 02/06/2017, ID: 10302892, DktEntry: 28-2, Page 13 of 17

EXECUTED this 5<sup>th</sup> day of February, 2017

  
LISA O. MONACO

Case: 17-35105, 02/06/2017, ID: 10302892, DktEntry: 28-2, Page 14 of 17

EXECUTED this 5<sup>th</sup> day of February, 2017

  
MICHAEL J. MORRELL  
MORRELL 

Case: 17-35105, 02/06/2017, ID: 10302892, DktEntry: 28-2, Page 15 of 17

EXECUTED this 5<sup>th</sup> day of February, 2017

/s/  
JANET A. NAPOLITANO

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02/05/2017 18:26 FAX  
Case: 17-35105, 02/06/2017, ID: 10302892, DktEntry: 28-2, Page 16 of 17  
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EXECUTED this 5<sup>th</sup> day of February, 2017  
LEONE E. PANETTA

Case: 17-35105, 02/06/2017, ID: 10302892, DktEntry: 28-2, Page 17 of 17

EXECUTED this 5<sup>th</sup> day of February, 2017

/s/  
SUSAN E. RICE

Mr. LANGEVIN. Thank you, Mr. Chairman.

So the brief pretty clearly outlines my chief concerns with the E.O., namely that it was not based on specific credible evidence of a threat and that it puts our troops in harm's way. So to begin with, was the refugee ban based on specific new evidence of a threat to the homeland?

Secretary KELLY. The ban, once again, Congressman, was based on countries that we don't have any real confidence in right now that they can help us vet people to come to the United States, countries that are in, you know, clearly disarray. We know, as an example, in the Syrian case there are thousands of—and I can't get too into it in this open session—there are thousands of fighters who are available and have—we have pretty good confidence have the kind of papers that could get them passed into Western Europe and certainly, by extension, into the United States.

So the threat is real. This pause—and that is what it is, is a pause—will give me, working with CIA, DOD, and Justice, not to mention State Department, give us an opportunity to step back and decide what additional vetting we might add to what we already have, which is minimal in my view, and then come out of that and say, “OK, these are the new rules.” It may be that some of these countries remain on the list for some time because they are in such chaos.

But again, I go back to sworn to protect the Nation, and hope is not an option when it comes—from my perspective at least—when it comes down to that.

Mr. LANGEVIN. I understand that. The point is, though, the ban was put in place not based on any new credible threat intelligence to a direct threat to the United States. Just to quote——

Secretary KELLY. Well, Congressman, I would say——

Mr. LANGEVIN. Let me just finish, if I could——

Secretary KELLY. If I could give you the full answer, it is based on the fact that we know——

Mr. LANGEVIN. Right.

Secretary KELLY [continuing]. That there are thousands of fighters coming out of the caliphate fight that have papers that could easily—not easily—could bring them to certainly Western Europe and the United States.

Mr. LANGEVIN. Thank you.

To quote from the brief, “We all agree that the United States faces real threats from terrorist networks and must take all prudent and effective steps to combat them, including the appropriate vetting of travelers to the United States. We are all, nevertheless, unaware of any specific threat that would justify the travel ban established by the Executive Order issued on January 27, 2017. We view the order as one that will ultimately undermine the National security of the United States rather than making us safer.

In our professional opinion, this order cannot be justified on national security or foreign policy grounds. It does not perform its declared task of protecting the Nation from foreign terrorist entry into the United States.”

So they would disagree. There is already strong vetting in place right now and that vetting has kept us safe.

But let me move on to another question. Last Friday the *New York Times* reported—the headline was, “Travel Ban Drives Wedge Between Iraqi Soldiers and Americans.”

Mr. Chairman, I ask that this story be inserted into the record.

Chairman MCCAUL. Without objection, so ordered.

[The information referred to follows:]

#### TRAVEL BAN DRIVES WEDGE BETWEEN IRAQI SOLDIERS AND AMERICANS

*New York Times*, Feb. 3, 2017

By David Zucchino

<https://www.nytimes.com/2017/02/03/world/asia/travel-ban-drives-wedge-between-iraqi-soldiers-and-americans.html>

BAGHDAD.—Capt. Ahmed Adnan al-Musawe had survived another day battling Islamic State fighters in Mosul last weekend when he heard startling news: The new American president had temporarily barred Iraqis from entering the United States and wanted tougher vetting.

Captain Musawe, who commands an infantry unit of the Iraqi Army’s elite counterterrorism force, considers himself already fully vetted: He has been trained by American officers in Iraq and in Jordan. And backed by American advisers, he has fought the Islamic State in three Iraqi cities, including three months of brutal street combat in Mosul.

“If America doesn’t want Iraqis because we are all terrorists, then America should send its sons back to Iraq to fight the terrorists themselves,” Captain Musawe told a *New York Times* reporter who was with him this week at his barricaded position inside Mosul.

President Trump's Jan. 27 executive order has driven a wedge between many Iraqi soldiers and their American allies. Officers and enlisted men interviewed on the front lines in Mosul said they interpreted the order as an affront—not only to them but also to fellow soldiers who have died in the battle for Mosul.

"An insult to their dignity," said Capt. Abdul Saami al-Azzi, another officer with the counterterrorism force in Mosul. He said he was hurt and disappointed by a nation he had considered a respectful partner. "It is really embarrassing."

The American and Iraqi militaries have negotiated an often tenuous and strained relationship over the years. But few episodes have so blindsided the current generation of Iraqi soldiers, who are accustomed to viewing the United States as their partner in a shared struggle to defeat insurgents and build a viable nation.

The timing of the order hit the Iraqi military in Mosul like an incoming rocket. Iraqi forces have reached a pivotal moment, seizing half of Mosul and preparing to assault the remaining half—supported by American advisers, Special Operations forces and airstrikes by the United States-led coalition.

Why, some soldiers asked, had Mr. Trump chosen this moment to lump together all Iraqis as mortal threats to America—soldiers, civilians and terrorists alike?

"This decision by Trump blows up our liberation efforts of cooperation and coordination with American forces," said Brig. Gen. Mizhir Khalid al-Mashhadani, a counterterrorism force commander in Mosul.

Astounded by the announcement, General Mashhadani, who speaks English, said he asked his American counterparts about the president's order. He said several told him they considered the decision hasty and its consequences poorly considered.

The travel ban was all the more perplexing to those Iraqi troops who had heard Mr. Trump vow as a candidate to wipe out the Islamic State, also known as ISIS, ISIL or Daesh. Some also heard the president promise, when issuing the order, to keep "radical Islamic terrorists" out of the United States.

For some soldiers, those comments seemed to equate Iraqi soldiers—by virtue of their nationality and religion—with the very terrorists they were fighting.

President Trump was "unjust and not right," said Maj. Sabah al-Aloosi, 37, another counterterrorism force officer in Mosul. It is Iraqi soldiers, he said, "who are fighting terrorism on behalf of the world and sacrificing themselves."

Col. John L. Dorrian, the spokesman in Baghdad for the American-led operation against the Islamic State, emphasized that the president's order was temporary, calling it "a pause."

Told of critical comments by Iraqi soldiers and officers, Colonel Dorrian said: "For our part, we continue to do every single day what we've been doing all along in the campaign to defeat Daesh."

Colonel Dorrian said those efforts included continuing to train and advise Iraqi security forces, and providing intelligence, artillery and airstrikes in support of Iraqi troops. "None of these things are affected," he added.

One counterterrorism soldier, Ismail Khalid, said the president's ban on Iraqis did not affect his will to fight the Islamic State—or his survival instincts. "I've been fighting terrorism for months and what matters to me is to return home," he said.

The counterterrorism force soldiers spoke before the American Embassy in Baghdad on Thursday cleared the way to enter the United States for former interpreters and other Iraqis who had assisted the American government or military.

The interpreters and their families had been issued special immigrant visas because of their service to the United States. The ban on so-called S.I.V. holders was lifted after the Pentagon recommended that the White House exempt Iraqis who have tangibly demonstrated their commitment to supporting United States forces, a Pentagon spokesman said.

But Iraqis who hold valid refugee visas, some because their association with Americans exposes them to danger in Iraq, remained barred from entry to the United States.

Before the Jan. 27 ban was announced, two counterterrorism force officers in Mosul said they had begun making plans to visit the United States after the battle for Iraq's second-largest city.

Captain Musawe, who had hoped to vacation in the United States, said he was not making any travel plans at the moment. "The decision by Trump has wasted my dreams," he said.

Major Aloosi said he even asked his American counterparts for advice about the visa process for Iraqi soldiers seeking to visit the "wonderful sights and tourism" he had seen on American TV programs. "But all that has vaporized because of the decision by Trump," he said.

General Mashhadani said that despite bitter feelings among many of the soldiers he commands, he continues to work closely, if under trying circumstances, with his American counterparts.

"My American friends who are officers promised to let me in their country in case I decide to go there—even if they have to use illegal ways," he said.

An employee of *The New York Times* contributed reporting from Mosul, Iraq, and Falih Hassan contributed from Baghdad.

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Mr. LANGEVIN. So based on your experience in Iraq, do you believe that the ban will improve the safety and security of U.S. forces there?

Secretary KELLY. I believe the travel pause from all of those countries will give us time to evaluate those countries and the information they can provide us, which will ultimately lead to safety for the American people.

Mr. LANGEVIN. Thank you, Mr. Secretary.

I would just say that we have strong measures in place to keep the country safe, and putting the ban in place, in my opinion, ultimately will do more harm than good. We could have done this in a more effective way by—if we need to enhance vetting, fine. If there is credible intelligence that we need to act upon, fine. But I think in the long run this ban will do more harm than good, both to our security but also to our troops in the field.

Thank you, Mr. Chairman. I yield back the balance of my time.

Chairman MCCAUL. Chair recognizes the gentleman from South Carolina, Mr. Duncan.

Mr. DUNCAN. Thank you, Mr. Chairman.

Secretary KELLY. General, thanks for being here. Thanks for your service to the United States Marine Corps. As chairman of the Western Hemisphere Subcommittee, you and I had a chance to work together when you were at Southern Command, and I appreciate your work.

Ask you a series of yes or no questions. Is President Trump's Executive Order a Muslim ban?

Secretary KELLY. No.

Mr. DUNCAN. Would you agree with this statement: Because we cannot properly vet those from Syria because of the lack of information coming out of the country, because they are in the midst of a civil war, do you believe that this is necessary in order to ensure America's safety?

Secretary KELLY. Yes.

Mr. DUNCAN. We have had a series of hearings in this committee and on Capitol Hill with regard to Syrian refugees. Your predecessors and those appointed by President Trump's predecessors came to the Hill and made some very interesting statements. I would like to read some of those in my time.

John Brennan, director of the Central Intelligence Agency, said this, 11/18/2015: "I think it makes it even more incumbent on the security and intelligence professionals to make sure that we are able to look at individuals who are coming into this country with an eye toward what it is that we might know about individuals or ways that terrorist organizations might try to secret people into these networks, into these refugee flows."

Would you agree with that statement?

Secretary KELLY. That the terrorists are attempting to gain access to the United States, passing themselves off potentially as refugees? I do believe that they have got that in mind.



Mr. DUNCAN. Yes, sir.

Your predecessor, Secretary Johnson, said this, 10/21/2015: "It is true that we are not going to know a whole lot about the Syrians that come forth in this process; that is definitely a challenge. We know that organizations like ISIL might try to exploit this, the Syrian refugee resettlement program. The good news is that we are better at vetting than we were 8 years ago. The bad news is that there is no risk-free process."

He went on to say, 10/8/2015, I guess that was a little earlier: "The Syrian refugees are a population of people that we are not going to know a whole lot about."

They testified over and over that Syria is in a civil war and that the records, (A), were never very good to begin with; (B), have been destroyed, have been stolen, have been commingled. In fact, you can go to Turkey and change your identity with a new passport based on what we know.

Director of National Counterterrorism Center in this committee on 10/8/2015 said this, Nicholas Rasmussen: "The intelligent picture we have had of this, the Syrian conflict zone, isn't what we would like it to be. You can only review refugees' submitted background data against what you have."

How this is different than Iraq is we had people in Iraq; we were working with the Iraqi government. We don't know a whole lot about the Syrians.

General Clapper, retired general and director of National Intelligence, said this: "As Syrian refugees descend on Europe, one of the obvious issues that we worry about, and in turn as we bring refugees into this country, is exactly what is their background. We don't obviously put it past the likes of ISIL to infiltrate operatives among these refugees. That is a huge concern of ours."

Director of FBI, James Comey, said this: "We can only query against that which we have collected, and so if someone has not made a ripple in the pond in Syria on a way that would get their identity or interest reflected in our databases, we can only query our databases until the cows come home, but nothing will show up because we have no record of that person."

Ladies and gentlemen, the issue at hand that President Trump has recognized is that we don't have a whole lot of information on people from the war-torn areas. ISIL has said they are willing to infiltrate the refugee resettlement program and the immigration migration into Europe.

This is a pause for 90 days so that our intelligence folks can try to get this right. It turns off the Syrian refugee program until the President says we can properly vet those whom we are going to allow to live amongst us. This is good policy to keep America safe.

It is not a Muslim travel ban. It targets an area of the world that is torn with civil war and has elements—ISIS, al-Qaeda, Boko Haram, Abu Sayyaf—that are intent on doing Americans harm. I support this.

General Kelly, thank you. I look forward to your continued leadership at the Department. I look forward to working with you here. With that, I yield back.

Chairman MCCAUL. Chair recognizes the gentleman from Louisiana, Mr. Richmond.

Mr. RICHMOND. General, let me just ask you a couple yes or no questions.

Is Steve Bannon, adviser to the President, a Department of Homeland Security employee?

Secretary KELLY. No.

Mr. RICHMOND. Are you a standing member of the National Security Council?

Secretary KELLY. I am.

Mr. RICHMOND. Has an adviser to the President ever been a standing member of the National Security Council?

Secretary KELLY. I don't know specifically, but I would imagine that there have been advisers to the President. In reality, we are all advisers to the President. It would be hard for me to believe that there hasn't been some that have been advisers.

Mr. RICHMOND. Well, let me just state for the record that while I understand the Secretary of Homeland Security has not traditionally been a standing member of the National Security Council, I do want to go on record saying that I find it appalling, disgraceful, and dangerous that Steve Bannon, a white supremacist and the architect of the ban, is on the National Security Council.

I feel this inclusion weakens our Nation's security and makes your job even more complicated.

Now, let me just spend 1 second again on the order, because some of my colleagues asked about Saudi Arabia. You indicated that we, as a country, was comfortable with the vetting that is done from—on the Saudi Arabia side.

In the ban it mentions 9/11; 15 of the 19 terrorists involved in 9/11 came from Saudi Arabia. That doesn't give us any concern?

Secretary KELLY. Of course it does, but again, that is some years ago. That is exactly why President Trump has decided to take a pause in countries we know are very, very high-risk in terms of not only terrorists or potential terrorists, but very high-risk in terms that they don't have really any databases we can work with, police, FBI, that kind of thing, where Saudi Arabia does have, you know, functioning police and intelligence services that we can work with.

So at least we know that people that are coming out of that country are, (A), who they say they are; (B), why they are coming to the United States—whatever reason, tourists or otherwise. But it is pretty hard—it is impossible to get into someone's head.

I believe if we put someone like Saudi Arabia on the list, given their very good intelligence, very good police work and all that kind of thing, then you could make the argument this is about religion. It is not.

Mr. RICHMOND. Well, you say it is not about religion, but the President in a TV interview said that he would prioritize and even exempt persecuted Christians. How does that work? If we have a pause, how do we un-pause it for persecuted Christians?

Secretary KELLY. Again, you know, we have—both myself and Secretary Tillerson have authority within the Executive Orders to make case-by-case—and I certainly did in the early hours—to make case-by-case exemptions, a couple of Iraqis, as an example. I mean, the first lawsuit that was brought against the pause, one of the E.O.s, the two people that were wronged, allegedly, had long been admitted into the United States.

So we have a case-by-case on this, and have let in some Iraqi generals, some other people, dual citizens, of course. So there is a way to, on a case-by-case—the little girls that the Congresswoman referenced. I mean, these are people that we said, OK, let's let them in. So there is a way to do that.

Mr. RICHMOND. Well, and I am glad that there is a way to do that, but I guess what I am specifically asking is whether you or the Secretary of State are going to take the directive that the President stated, which is he favored preference for persecuted Christians. So are we going to put persecuted Christians over everyone else, as he suggested, is my question.

Do you intend on implementing it like that or executing it like that?

Secretary KELLY. We will look at every individual case that we are presented for exemption and make a decision not based on only religion, but on persecution and those kind of things.

Mr. RICHMOND. So we won't put religion as a priority over other religions? We won't pick a religion and put them as a priority over another religion.

Secretary KELLY. The way we are implementing this we will not use religion, but persecution for sure—why someone is being persecuted. But there is no, you know, no Muslims, but all Christians; nothing like that, Congressman.

Mr. RICHMOND. OK.

The former director of homeland security placed our voting apparatus as critical infrastructure. So my last question is, No. 1, do you plan on taking that designation away? Then the second part of that question would be, because it is designated critical infrastructure, the fact that the President believes 3 million to 5 million people voted illegally, and I guess he assumes they didn't vote for him, how do we proceed?

If the number is 3 to 5 million, it really could change some States like Michigan and Pennsylvania. He may well not be a President. He may be a so-called President, or in his terms, a fake President.

So, are we going to institute that investigation and follow it to its logical conclusion? Or why should we have the confidence that these 3 to 5 million people didn't steal an election if, in fact, they did vote illegally?

Secretary KELLY. Mr. Chairman, we are a minute past the 5 minutes. OK to answer that question?

Chairman MCCAUL. Yes, sir.

Secretary KELLY. I think the, Jeh Johnson, good friend of mine, in his final days determined that, you know, the voting system was critical infrastructure. I believe we should help all of the States—provide them as much help as we can to make sure that their systems are protected in future elections. So I would argue that, yes, we should keep that in place.

Everything after that, I can't find the question, just a statement. So—

Mr. RICHMOND. I am past my time, Mr. Chairman.

Chairman MCCAUL. I think the Secretary reminds us that we have a 5-minute rule. I think in the interests of all the Members

here to get a question in let's try to adhere to that as much as possible.

Mr. Barletta is recognized.

Mr. BARLETTA. Thank you, Mr. Chairman.

Secretary Kelly, the Federal judge who paused the Executive Order on January 27 stated from the bench that no one from the seven countries named in the order has been arrested for terrorist activities in the United States since 9/11, reading from an Associated Press article in the *Seattle Times*.

He asked the Justice Department lawyer, "How many arrests of foreign nationals from the countries have occurred since 9/11?"

When the lawyer said she didn't know, the judge answered his own question. He said, "Let me tell you. The answer to that is none, the best I can tell. You are here arguing on behalf of someone that says we have to protect the United States from these individuals coming from these countries, and there is no support for that."

I can't help but note that at least in one instance he is right. The young man who stabbed a number of people at Ohio State this past November was in the United States through the refugee program. He came here from Somalia, one of the seven countries we are talking about. But in this one case, the judge was right. He was not arrested because he was killed at the scene by police.

I have here a study by a professor from the University of North Carolina which finds that in all the arrests made for terror-related activities in the United States since 9/11 almost a quarter of them have direct family ties to those seven countries.

In your opinion, Mr. Secretary, are these critics correct? Have there been no problems at all with people from these seven countries?

Secretary KELLY. I think, Congressman, the first thing I would say is people like me are paid to do—in my case, protect the Nation in the home game, protect the homeland. Hope is not a course of action for people like me, and police officers and sheriffs and members of the CBP, people like that. Hope we can never rely on, "Gee, I hope nothing bad happens."

In the case, and I have nothing but respect for judges, but in their world it is a very academic, very almost in-a-vacuum discussion. Of course, in their court rooms they are protected by people like me.

So they can have those discussions and if something happens bad from, you know, from letting people in they don't come to the judge to ask him about his ruling, they come to people like me. There are bad people in the world. They come from all over the world. Some of them are home-grown, and people like me are doing the best we can to get after the problem.

So again, I have nothing but respect for our judges, but they live in a different world than I do. I am paid to worst-case it; he is paid to, in a very academic environment, make a call.

I don't criticize him for that. That is his job. But I am the one that is charged with protecting the Nation, the homeland, and I intend to do that and never hope that some people coming from some part of the world are coming here for the right reasons.

Mr. BARLETTA. Thank you.

Secretary Kelly, one of the principal reasons I ran for Congress was my frustration with the Federal Government for refusing to enforce our existing immigration laws. My city of Hazelton, which I was mayor of, was overrun by illegal aliens who brought with them gangs, drugs, identity theft, fraud, other crimes that I had to deal with.

No one was speaking for the victims of these crimes. I always heard that, you know, we have to have compassion for the person that comes here illegally, but I had to sit with people who were—who lost loved ones who were victims. I have compassion for them, so I commend the Trump administration for recognizing these crime victims, the victims.

As you know, the Executive Order of January 25, enhancing public safety in the interior of the United States, establishes an office of victims of crimes committed by removable aliens. Can you please speak to when this office will be set up and what services it would provide?

Secretary KELLY. The office is being set up kind-of as we speak. Even though it is actually down inside the ICE organization, I have told my people that I want that particular office to work for me. So we are raising it up to the Secretary level.

Generally speaking, these criminals who are here illegally are generally going through a criminal justice system in the States, for the most part. First of all, our view would be that those people can expect from us, if they call and say, “How is that case going, you know, the person that murdered my daughter with a gun or ran over my son with an automobile or killed a police officer on the side of a road, how is that going?”

So we hope to be—we will be able to say, “It is in court,” and you know, give them a description of what it is.

But further down the line that office will be able to tell those people, “OK, the convicted person that killed your daughter, murdered your son, killed a cop, he has got, you know, 10 years, 9 years, 8 years, 7 years. OK, he is going to be paroled, and you can bet that my people will be standing there when he is paroled to take him into custody and send him back to wherever he came from.”

That is what I see that office doing, sir.

Mr. BARLETTA. Thank you. Thank you for your service to our country.

Chairman MCCAUL. Gentleman from Massachusetts, Mr. Keating, is recognized.

Mr. KEATING. Thank you, Mr. Chairman.

Thank you, Mr. Secretary, for your extraordinary service to our country, and particularly assuming this role as a native of Massachusetts.

Mr. Secretary, I have heard the administration reference the Boston Marathon bombings as an example of a domestic attack that would have been prevented by the President’s Executive Order. The Boston Marathon bombing, as we all know, is a heinous and personal attack on all of us as Americans.

But the year following the attack this committee led an extensive bipartisan investigation into the Tsarnaev brothers, their families, their motivations, and I can tell you with confidence that the

Tsarnaev brothers would not have been denied entry into this country under that Executive Order.

Now, in your opening statement you said fear should not be the status quo. If you could, words matter. If you could comment on the importance of every official clearly defining and being accurate when they discuss issues such as that that provoke such public concern and fear, as this Executive Order did.

Secretary KELLY. I agree. Public officials at every level should, you know, to the greatest degree that they can, understand the specifics of given cases and—

Mr. KEATING. That includes the President.

Secretary KELLY. I think all public officials—but I will also say this: Since the regional—the third E.O. was put in order, the number of Members of Congress as well as international—my counterparts on the international scene that called me with really anecdotal, “This is what is happening, it is horrible, these people are all being rounded up and all of this.”

I said, “OK, give me specifics.” Not a single member but one was able was able to give me a specific, and that led to us getting a young girl out of a camp in Uganda and reunited with her family in Minneapolis, I think.

So, all members of—that serve the Nation should be exacting. I will tell you, the biggest problem I had from that Friday until about Tuesday was the misrepresentation of what was taking place in the various airports, in particular. As I say, I was just inundated with—

Mr. KEATING. Thank you for making that a priority of yours. I hope every official at all levels—

Secretary KELLY. We all have to be exact.

Mr. KEATING [continuing]. Take that responsibility seriously.

Secretary KELLY. None of us should be talking about anecdotes. Specifics are—matter.

Mr. KEATING. Yes. Quick question I had. All your predecessors since I have been on this committee, and I think before I was on this committee, have stated that the No. 1 security concern domestically has been home-grown violent extremists. Would you agree with all your predecessors that that is the most immediate and pressing danger that we have?

Secretary KELLY. I don’t think I would say “the most” because there are others that are equally as dangerous and just about as likely as home-grown terrorism.

Mr. KEATING. Fair enough.

As a general you are familiar with the chain of command more than, I think, anyone in this room, given your years of experience. Looking at what happened, the chaos surrounding the Executive Order, what would you do going forward differently yourself to impact that process so there was a very clear chain of command with communications not just within government but also in the private side, with the airlines, and everyone else that is a traveler?

Secretary KELLY. For the record, again, if you talk to the men and women of CBP, there was no chaos as they received people from various countries. You know, in the first 24 hours of the Executive Order from aviation, coming in by air, about 325,000 or 330,000 people, over half of whom were foreigners, most of whom

get in without any problem, and then a small number, relatively small number, were held up for additional vetting. The vast—I think all of them, but a very small number get in, in pretty short order.

So if you ask the CBP people that were working the counters, they don't know what you are talking about when you are talking about chaos. Now, if you then look out to where the demonstrators were—and, with all due respect, some public officials—there was chaos, but that were—that was due to other factors.

Mr. KEATING. We had some airlines allowing people entry and some airlines didn't—

Secretary KELLY. That came actually in the last few days. It was very quick. The airlines were very cooperative, as they always are. They are great partners, and when they were told, "Don't board these people," they didn't. Now, we have got a little bit of a difference—

Mr. KEATING. Are you satisfied with that chain of command, then, that took place during that period?

Secretary KELLY. The chain of command is from the President to me to CBP in this case. I am satisfied with that chain of command.

Mr. KEATING. Just quickly, is that what happened in this case? Is that the chain of command?

Secretary KELLY. It is.

Mr. KEATING. Thank you, Mr. Secretary.

Chairman MCCAUL. Mr. Perry, from Pennsylvania, you are recognized.

Mr. PERRY. Thank you, Mr. Secretary, and let me offer my gratitude for your service to our Nation.

As the Chairman of the Oversight and Management Efficiency Subcommittee on this committee, I have been concerned about an employee survey that DHS once again ranked dead last by its employees as the worst place to work in the Federal Government. Now, as you know, the—there are five core missions at DHS, two of which are to secure and manage our borders. Through the previous administrations, countless internal directors, in my opinion, the border became less secure and immigration agents literally could be fired for attempting to enforce Federal immigration laws.

I am just wondering, the question is at this point, do you think the previous administration's actions, coupled with the mainstream media's demonization of securing our border and what it means, sometimes turning people away that want to come across the border, has had an adverse impact on the attitude of your now employees?

Secretary KELLY. I believe that. If I could just make a comment, Congressman, the frustration—and I am very new at this job, but I am really good at interacting with people and really good at leading them. When I talk to the members, particularly where the rubber meets the road, or, as I have learned down on the Rio Grande the other day, where the hull meets the water, and you talk to them about why they have been frustrated—great Americans, magnificent men and public servants in uniform, sometimes out of uniform, they would tell you that, "You know, sir, hard to do a job and not allowed to do it until a couple of the E.O.s came on."

Their particular frustration is when they see people who are, in fact, here illegally who are—have committed some crimes and then are let go. So I think their morale has suffered because of the job they were hired to do, and then in their sense they are kind of hobbled or, you know, hands tied behind their back, that kind of thing. Now they feel more positive about things. I bet if you watch the morale issue you will be surprised going forward.

Mr. PERRY. Well, thank you, Mr. Secretary, and I guarantee you we are going to be watching.

I do want to make a statement in regard to the gentlelady from Texas regarding the attacks of refugees. I just want to just quickly point out a Somali who planned to blow up a Christmas tree lighting ceremony in Oregon, an Iraq refugee who set off a bomb in a Social Security office in Arizona, Somali refugee who went on a stabbing spree in St. Cloud. Of course, the one that Mr. Barletta referenced, a Somali refugee with the successful attack in Ohio.

As a person who has worn the uniform, sir, I want to remind us both of the two Iraqis convicted on charges that they assisted al-Qaeda in Iraq and may have killed American service members who lied on their immigration paperwork. While it might be inconvenient for some people to be stopped at the airport, I don't have the photographs of the families who—mothers and fathers, brothers and sisters and children—who never saw their parents come home from the war zone or from some place out in their community where they were attacked by some of these people.

So if we are going to bring up anecdotes, I imagine we can bring up some of the blown-up—pictures of blown-up parts of individuals and innocent civilians who were victimized by these people. I hope we don't have to be reduced to that level.

Mr. Secretary—

Ms. JACKSON LEE. Would the gentleman yield?

Mr. PERRY. No. I have another question for the Secretary. I appreciate it.

Mr. Secretary, just looking at some of the comments from—and I am looking at a report from November 17 on NPR from the Border Patrol Union head, who said law enforcement has been handcuffed and the criminals are being let go. And another CNS news report from June 27, 2014, where agents were forced without documentations to accept the claims of immigrants and treat them as minors and turn them over to HHS within 72 hours pretty much feeling full well that they have been involved in gang activities, were above the age of minority, were above the age of 18, but without documentation were forced to do it.

These folks then enter up—enter into the interior, and then the other concerns of dangerous drugs like heroin, health circumstances like polio, leprosy, small pox, the infiltration of al-Qaeda, et cetera. I am wondering if you can tell us tangibly today—today, starting right now or before—what has changed in those policies that led the head of the union to say that they were being handcuffed while criminals were being let go?

What has changed already for Border Patrol under your leadership and under a new administration?

Secretary KELLY. The 10-second answer, because that is all I have, is they are now—the various policies and whatnot that did



restrict them—and I hear this all the time—that did restrict them have now been lifted and they are out there doing the job.

But one of the things, in 6 seconds or less, we really need to do is really re-enforce—surge, if you will—the number of immigration courts and judges and that kind of thing to really get after the numbers of illegal aliens. Because, you know, we can pick them up all day long but if the process takes a year or 2 or 5 or 10, it is pretty hard to deter people coming up from South America, good people overwhelmingly, if they know once they get here they are in.

But they feel better about things now that they—the E.O. has lifted the restrictions and the—the policy restrictions. The laws are there. They are good laws. Now they are being executed.

Mr. PERRY. Thank you.

Mr. Chairman, I yield.

Chairman MCCAUL. Chair recognizes the gentleman from New Jersey, Mr. Payne.

Mr. PAYNE. Thank you, Mr. Chairman, and to the Ranking Member.

Mr. Secretary, we thank you for being here today and thank you for your service to this Nation. It goes without saying that you have been a great American with respect to your service in the Marines and all the way up. So I want to congratulate you on this opportunity to serve, as well.

You know, there has been a lot of discussion today in reference to the Muslim ban on these seven countries that, you know, the—my colleagues on the other side of the aisle are citing incidents now of refugees from those countries. But the data we have says that there hasn't been anyone from those seven countries that has—have made terrorist attacks.

Countries that are not on that list, sir, are Lebanon, where we have had 159 Americans killed by their citizens; Egypt, 162; United Arab Emirates, 314; and Saudi Arabia, 2,369. So I would think that there might be reason to add other countries to that list.

In terms of staffing for Customs and Border Protection, you know, the President's Executive Order on border security directs hiring of an additional 5,000 Border Patrol Agents but gives no specifics. What is the time frame for hiring these additional agents?

Secretary KELLY. OK, Congressman, a lot there.

Under the general heading, if I could start by saying, you know, honest men and women can disagree on things and hold their own opinions. This is not a Muslim ban.

The countries that you mentioned—Saudi Arabia, Egypt, Lebanon and UAE—have systems within their countries that are, in our view, fairly reliable, although we are looking, in terms of their internal vetting, police records, things like that.

The countries that are on the list that—put on the list, really, by the last administration, don't have those. They are countries in chaos, really countries in collapse.

If we had put countries on—predominantly Muslim countries on this pause list, my view that would be putting them on there because they are Muslims. But because they are not—the reason they

are not there is we have reasonable trust in their systems that we can rely on to begin the vetting first—

Mr. PAYNE. These seven countries are not Muslim?

Secretary KELLY. They are overwhelming Muslim.

Mr. PAYNE. OK.

Secretary KELLY. There are 51 countries on the planet that are Muslim, 26 of whom are over 80 percent. So of the 51—

Mr. PAYNE. We keep count of those? We keep—

Secretary KELLY. Of the 51 countries—

Mr. PAYNE [continuing]. Count of Muslim countries?

Secretary KELLY. Of the 51 Muslim countries on Earth—predominantly Muslim countries—seven from that list are on the pause list, but not because they are Muslims but because their countries are in—they are failed states and we have no—they don't have reliable systems by which we can right now depend on their information to us. It is not a Muslim ban.

Mr. PAYNE. OK. Well, you know, it is—as you said, we can disagree. It is even interesting that we are keeping count of the number of Muslim countries that there are in the world.

To my Border Patrol—my time is running out.

Secretary KELLY. Yes, on the Border Patrol. What I have told my people is that—and we have made this mistake in the military more than once, going back to certainly the Vietnam War. We will add to the ranks of the ICE and border protection people as fast as we can, but we will not lower standards and we will not lower training. So the people that—and I don't believe we are going to get 10,000 and 5,000 on board within the next couple of years.

I would rather have fewer and make sure that they are high-quality people that are already serving in those organizations, already well-trained. But I will not skimp on the training and the standards.

Mr. PAYNE. OK. Thank you.

I yield back.

Chairman MCCAUL. Gentleman from New York, Mr. Katko, is recognized.

Mr. KATKO. Thank you Mr. Chairman.

Thank you, Mr. Secretary, for being here today, and thank you for your long and dedicated service to our country.

You are embarking on a job now where your daily mission is to find a proverbial needle in a haystack, and I admire you for wanting to take it on and I appreciate you willing to do so.

I just want to share with you briefly a story. Last year we were part of a Congressional delegation to the Middle East. We went to Israel and then on to Iraq, Turkey, Berlin, Brussels, and Paris. That was before all of them were attacked by ISIS-related terror attacks.

When I went over there they were—all the security agencies had the exact mindset as you, and that is they don't want it to have to happen. It hasn't happened yet, but they didn't want it to happen in their turf. I pray to God that it doesn't happen here.

So I appreciate all the efforts you and this administration are doing to try and keep our country safe. It is not enough to hope that we keep it safe. We have got to do everything we possibly can to keep it safe, so I appreciate you doing that.

Now I want so switch gears a bit and put on my old prosecutor hat, because I was a 20-year organized crime prosecutor, and I was on the Southwest Border, then in Puerto Rico, and the Northern Border. My questions are emanating from that experience.

When I was in El Paso I saw first-hand the border and how much of a sieve it was, even around the El Paso sector. The fact that they have 650 miles of border fence now and we are simply contemplating adding to that does not make this a novel idea that the border needs to be more secure.

In my district we are inundated with heroin, and the number of heroin deaths in our area are overwhelming, to say the least. I know much of it is coming across the Southwest Border.

So by tightening up the border can you tell me what impact it will have on drug traffickers and their ability to ship this poison into our country? I ask you to draw upon your experience as part of the Southern Command, as well.

Secretary KELLY. A lot of experience with drugs—not taking them of course, but interdicting them.

Interdiction of drugs. If the drugs are in the United States we have lost.

I will use an example of cocaine in Colombia. You know, last year our Colombian friends, the best, closest allies we have in Latin American, bar none, they eradicated tens of thousands of acres of coca; they seized 378 metric tons of cocaine before it ever left and they destroyed hundreds and hundreds and hundreds of drug labs. So that is all cocaine that never even started the, you know, the trip up.

Southern Command last year got a couple of hundred tons, with the Coast Guard getting a lot of that.

Once it gets into Central America cocaine is—it is in Pennsylvania, it is in wherever.

Heroin: 100 percent of the heroin consumed, generally—99 percent is produced in Mexico. Poppy is grown in Mexico and Guatemala and trafficked up into the United States. We get a lot before it gets here but, as you point out, it comes here in massive numbers.

Then the vast majority of methamphetamines, once again, produced in Mexico in the hundreds of tons and trafficked into the United States.

I think a huge partner here is Mexico. If we can help them get after the poppy production, as an example; if we can help them get after the production labs; if we can help them get after the heroin, methamphetamine as it is moving in relatively large amounts before it gets to the border.

We are never going to get to zero, but, you know, we don't have—we do not have a drug demand reduction. This is embarrassing. It is—well, we don't have a drug demand production program in the United States to stop the use of drugs. Most of this stuff starts recreationally and then turns into addiction.

We are never going to get to zero, but we know how to do this. We have done it before with other drugs and other things that were bad for our society. We are not even trying.

The people in the south, if you are Guatemala looking north or in the south looking north, they will tell you, "How about stop lec-

turing us about not doing enough to stop the drug flow? How about you stop the demand and then the drug flow will go away?"

I would like to think as we go forward that this Congress, myself, the Homeland Security would maybe get into the business of drug demand reduction, because that is what is killing our folks.

I will just finish with this: There has been a drug heroin—there has been a heroin problem in this country since I was a kid, because the vast majority of my friends died of heroin overdoses long ago, in the 1960's and 1970's. But the heroin problem has been primarily, up until recently, in the inner cities, black neighborhoods, working-class neighborhoods like I grew up in, Hispanic neighborhoods. For decades I guess as a society, we said, "Well, so long as it is just there who cares?"

All of a sudden kids are dying in New Hampshire in large numbers, on the college campuses of places like Harvard, Stanford, in Capitol Hill, and Nob Hill, and Beacon Hill in Boston. Now it is a big issue.

I think we should capitalize on the fact that it has got people's attention and somehow put together a drug demand reduction strategy that works and can reduce the number of people using drugs. That is what I think.

Mr. KATKO. Right. I appreciate it. My time is up. But briefly, by strengthening the Southern Border will that help prevent some of the drugs from coming across?

Secretary KELLY. Yes.

Mr. KATKO. Thank you. I have more questions, but my time is up so I will have to submit it to you in writing.

Thank you.

Chairman MCCAUL. Gentleman from Texas, Mr. Vela.

Mr. VELA. Thank you.

Secretary Kelly, is President Trump's promise to build a 2,000-mile, big, beautiful wall that will cost \$14 billion and paid for by Mexico a viable option?

Secretary KELLY. The President, Congressman, has tasked me to take a look at what we need on the Southwest Border and come up with recommendations to him. Yes, there are many, many places that we need some type of physical barrier right now backed up by men and women of Border Protection. There are other places where we need physical barrier, if we can afford it, in given time.

But yes, I—there is no doubt in my mind that a physical barrier, backed up by men and women using technology, working with local law enforcement at the State and local level will go a long way to securing the Southwest Border.

Mr. VELA. But building the 2,000-mile wall that was promised during the election is not the best way to achieve border security. Wouldn't you agree?

Secretary KELLY. I wouldn't agree with that at all, no.

I mean, it is a layered defense that starts with drug demand reduction. It continues with helping particularly the Central American countries socially and economically. That for sure will stop the movement—some of the movement of illegal aliens.

For sure an immigration system that doesn't take 2, 3, 4 years to return people, this will deter people coming up from the Central

American countries, most of whom are good people. I don't criticize them at all for wanting to come to the United States.

So there is no one single solution, but for sure, in my opinion, barriers and patrolling of the Southwest Border is a big part of it.

Mr. VELA. Now, some of these things I think that we would be able to agree on, but I forcefully reject the idea of building a wall along the Southern Border. The fact is that Mexico is an ally. It is our third-largest trading partner, our second-largest export market. When you consider the relationship that we have with the country of Mexico that is right on our border and compare it to that of Russia, the idea that we would build a wall along that border doesn't make any sense to me.

But what I would like to talk to you about is the——

Secretary KELLY. Could I just ask——

Mr. VELA. Of course.

Secretary KELLY [continuing]. If 100 percent of the heroin, methamphetamines, and cocaine are coming in through the Southwest Border, and hundreds of thousands of illegal aliens are coming up through the Southwest Border, and billions of dollars' worth of counterfeit goods are trafficked up through—you know, watches and electronics and things like that—are coming up through the Southwest Border, I mean, I think that argues for—that we do something on the Southwest Border.

Again, the people that work the problem every day, CBP, are telling me—us, as—you all, as elected officials—that we need a combination of barriers, technology.

I don't see any other option. I mean, it is a gaping wound in our defenses; drugs, people, the whole bit. So we have got to do something down there and I don't get your point about——

Mr. VELA. No, I agree that we have to do something.

Secretary KELLY. OK.

Mr. VELA. What I am saying is—and let me ask you this: Has somebody at CBP told you that we need a 2,000-mile wall built along that border?

Secretary KELLY. The people at CBP that work the sectors don't know about—like, if you go down to McAllen, Texas where I was they don't know what they need in Arizona. They don't even know what they need at the Big Bend of Texas. But they say, "Boss right here I need fence so I can control the flow of people and drugs."

But I would argue that we should look at the entire border and where it makes sense—and it may make sense to do it for 2,000 miles—actually for 1,300 miles since there is already 600 miles of fence there—but to do it either—either to fill it in or to—maybe there are some places that are too rugged to put a wall and we cover that with patrolling and technology. But the people that work the border will tell you that physical barriers, and backed up by men and women on patrol, is what we need to secure the Southwest Border.

Mr. VELA. I agree we have to do something, but what I am saying is—what I am asking is has anybody at CBP suggested that we should spend \$14 billion to build a 2,000-mile wall along the Southern Border?

Secretary KELLY. The people at CBP will tell you that we need physical barriers backed up by people and technology.

Again, the people that look at it holistically at the headquarters level will tell you, "Yes, we need a physical barrier." The people locally, though—and that is really more importantly to me—they can tell you exactly where they want 10, 12, 15 miles tomorrow, and then 50 miles the next day, and then 100 miles. That is more important input to me than anything.

Mr. VELA. Well, we are going to run out of time, and I appreciate some of your comments today and earlier in your Senate testimony with respect to the socioeconomic conditions in Central America and what we have to do to address that, and am particularly appreciative of your comments with respect to our country's tendency over the past few decades to ignore the issue of demand, and I look forward to working with you on those things.

But just real quickly, to talk about the terrorist threat, wouldn't you agree that the threat of terrorists entering this country is a threat that exists at our international airports from Boston, New York, Washington, Miami, Chicago, San Francisco, Houston, Dallas, Los Angeles; at our sea ports along the Gulf Coast, Atlantic Ocean, Pacific Ocean, right; and at our Southern and Northern Border, correct?

What I am wondering is if we obsess ourselves only with the Southern Border, are we not missing the boat?

Secretary KELLY. Well, we are not obsessing ourselves. I mean, the immediate and the gaping wound, or the largest opening and the most uncontrolled part of our border is the Southwest Border.

As far as our airports go, where people come here, as they say, you know, almost a million people a day come into our country; most of them are foreigners. But we do a real good job at the airports. A real good job at the airports.

Our Northern Border, the good news with our Northern Border is Canada is an unbelievable partner and we don't get much in the—I mean, there is some, but there is not much that flows in from Canada.

So I think you have to, you know, look at—never forgetting Canada, never forgetting the seaports, never forgetting the airports, but right now we have a completely exposed flank called the Southwest Border. There is no doubt we have to do a lot of different things there. It starts 1,500 miles south of the Southwest Border. Certainly the Mexicans are important, but we have to look at the immediate problem, and the immediate problem is the Southwest Border.

Mr. VELA. I have got more questions but I am out of time. Thank you, Secretary Kelly.

Chairman MCCAUL. Gentleman from Texas, Mr. Hurd, is recognized.

Mr. HURD. Thank you, Mr. Chairman.

Mr. Secretary, it is great to have you here.

I think most of the people on this dais would probably agree that we live in a world that is probably more dangerous than our parents, and our children are probably going to inherit a world that is more dangerous than ours. I am glad you willing to continue your public service because I think you are the right man for the job and you have the right perspective.

My concern is that I feel like we need to stop talking about getting in the wall-making business and get in the border security business. Your concept of defense-in-depth I think is the right place to be.

Now, we talk about physical borders, and I have 820 miles of the border with Mexico. I have more border than any Member of Congress. We have talked a lot about physical barriers, and we are going to see if this works.

Can you advance to the first slide?

Mr. Secretary, you have the pictures. The first picture is Amistad Lake and Amistad National Recreation Area. Would this be considered a physical barrier? Can we advance to the next slide to show where the actual international border—the international boundary is?

[The information follows:]



Secretary KELLY. In my view, that is a physical barrier so long—it is a physical barrier. But it is easily crossed unless we patrol it.

Mr. HURD. Absolutely. Patrolling it, technology, making sure we know. But building a wall in the middle of Lake Amistad—lake—I guess it wouldn't be a wall; it would be another dam—is probably not the right—is a misuse of funds.

Because I would like for the money that would potentially go to building a wall in the middle of a lake go to hiring more people, to helping with National security collection in Mexico, to give your folks additional intelligence to stop the problem before it gets to our border.

Director McCraw—he is the director of the Texas Department of Public Safety; he is going to be testifying in the next panel—in his written statement said the border is best secured at the border, and forfeiting territory to cartels is not acceptable. I would say even working with our partners to stop it from happening is important.

Can we advance to the next slide?  
[The information follows:]



Mr. HURD. This next one is the Pecos River, and it flows into the Rio Grande. This is about 10 miles west of Comstock in Val Verde County. The perspective is hard to see, but again, there are cliffs on both sides. Would this be considered an additional physical barrier?

Secretary KELLY. That is a physical barrier to movement, yes, Congressman.

Mr. HURD. Thank you.  
I think we have one more picture.  
[The information follows:]





Mr. HURD. One of my favorite places in the 23d District of Texas, the Santa Elena Canyon in Big Bend National Park. It is south of Terlingua, and I think you can tell—again, can we show where the international boundary is? That looks like two or three physical barriers along the international boundary. Would you agree with that, Secretary?

Secretary KELLY. That is a physical barrier to movement.

Mr. HURD. Would there be any value of building a wall somewhere in that—

Secretary KELLY. Well, not to be cute, but I think I would like to talk to the people that patrol that region. It clearly won't be down the middle of a river, but they may tell me that there is, you know, the flow of individuals that move through all of those pictures, that there may be need for some physical barrier, so—

Mr. HURD. Sure.

Secretary KELLY. As we discussed yesterday on the phone, I look forward to getting down there, taking a look, kicking the tires, and talking to people.

Mr. HURD. I would love to take you down there. One of the things that they are going to tell you is they need horses in this part in order to do pursuits. I don't think you may—I don't think the folks in San Diego sector are going to be asking for horses.

Secretary KELLY. You know, it was amazing to me. I actually own now 4,200 horses.

[Laughter.]

Secretary KELLY. As a city guy I wouldn't know how to even begin. But if they need horses there and that is what they need, then we will look at that for sure.

Mr. HURD. Good copy.

Well, Secretary, looking forward to working with you because, again, this is an important issue for all of us. I think you are the right person for the job.

I yield back, Mr. Chairman.

Chairman McCAUL. Mrs. Watson Coleman, from New Jersey.

Mrs. WATSON COLEMAN. Thank you, Mr. Chairman.

Congratulations, again. I am delighted to have an opportunity to talk to you.

I have got a gazillion questions. I am going to ask them as quickly as I can, and I am going to ask if you will respond to them as quickly.

I want to start with this. I think this is very telling: Donald J. Trump is calling for a total and complete shutdown of Muslims entering the United States “until our country’s representatives can figure out what the hell is going on.” That is a quote.

Now, Mr. Secretary, are we to take the President at his word? This is the sentiment that apparently drove this. So how can you say this is not a ban on Muslims when that is precisely what he promised?

Secretary KELLY. Well, as the guy that is implementing the travel pause on the seven countries, I can tell you it is not being done for—because they are Muslim countries, but because they are countries that we don’t trust their vetting or their information.

Mrs. WATSON COLEMAN. Well, thank you. I can understand your needing to say that, as well.

Mr. Chairman, I would like unanimous consent for the current refugee screening process, which has been stated by National security professionals as one of the most stringent in the world, to be entered into the record.

Chairman McCAUL. Without objection, so ordered.

[The information referred to follows:]

#### REFUGEES ENTERING THE U.S. ALREADY FACE A RIGOROUS VETTING PROCESS

*New York Times*, January 29, 2017

*By Haeyoun Park and Larry Buchanan*

<https://www.nytimes.com/interactive/2017/01/29/us/refugee-vetting-process.html>

President Trump has suspended entry of all refugees to the United States for 120 days, and he has barred Syrian refugees indefinitely. The current screening process for all refugees involves many layers of security checks before entry into the country, and Syrians were subject to an additional layer of checks. Sometimes, the process, shown below, takes up to two years.

1. Registration with the United Nations.
2. Interview with the United Nations.
3. Refugee status granted by the United Nations.
4. Referral for resettlement in the United States.

The United Nations decides if the person fits the definition of a refugee and whether to refer the person to the United States or to another country for resettlement. Only the most vulnerable are referred, accounting for less than 1 percent of refugees worldwide. Some people spend years waiting in refugee camps.

5. Interview with State Department contractors.
6. First background check.
7. Higher-level background check for some.
8. Another background check.

The refugee’s name is run through law enforcement and intelligence databases for terrorist or criminal history. Some go through a higher-level clearance before they can continue. A third background check was introduced in 2008 for Iraqis but has since been expanded to all refugees ages 14 to 65.

9. First fingerprint screening; photo taken.
10. Second fingerprint screening.
11. Third fingerprint screening.

The refugee's fingerprints are screened against F.B.I. and Homeland Security databases, which contain watch list information and past immigration encounters, including if the refugee previously applied for a visa at a United States embassy. Fingerprints are also checked against those collected by the Defense Department during operations in Iraq.

12. Case reviewed at United States immigration headquarters.

13. Some cases referred for additional review.

Syrian applicants must undergo these two additional steps. Each is reviewed by a United States Citizenship and Immigration Services refugee specialist. Cases with "national security indicators" are given to the Homeland Security Department's fraud detection unit.

14. Extensive, in-person interview with Homeland Security officer.

Most of the interviews with Syrians have been done in Jordan and Turkey.

15. Homeland Security approval is required.

16. Screening for contagious diseases.

17. Cultural orientation class.

18. Matched with an American resettlement agency.

19. Multi-agency security check before leaving for the United States.

Because of the long amount of time between the initial screening and departure, officials conduct a final check before the refugee leaves for the United States.

20. Final security check at an American airport.

Sources: State Department; Department of Homeland Security; Center for American Progress; U.S. Committee for Refugees and Immigrants; Refugee Council USA

Mrs. WATSON COLEMAN. Thank you very much.

I am very concerned about the ban on the refugees. That is very concerning to me.

Mr. Payne mentioned to you the fact that there were a number of countries in which we were calculating the number of people who have been killed in this country from those countries: Iran, zero; Iraq, zero; Libya, zero; Somalia, zero; Sudan, zero; Syria, zero; Yemen, zero. Are they included in this Muslim ban? Yes.

Saudi Arabia, 2,369; United Arab Emirates, 314; Egypt, 162; Lebanon, 159. Are any of these countries included in this ban? No.

One of the questions that was asked of you earlier was why wouldn't some place like Saudi Arabia be included in this ban, and you answered somewhat to the effect, "Well, that happened such a long time ago."

So I guess my question to you, if we aren't going to include a country in which there was this heinous genesis of activity even 10 years ago or so, why would we include countries from which there is no evidence that there has ever been any killing in this country under those circumstances? That makes no—that doesn't sound logical.

Secretary KELLY. I don't think I said that doesn't count because it was so many years ago, but if that is how you took it let me clarify and say that pre-9/11 we did things differently than we do post-9/11, so we have tightened up even more.

Now, one of the things we have confidence in with, say that using the Saudis as an example, as when there is a Saudi citizen with a passport we can query or we can work with the Saudis to say, you know, "Is this your citizen?"

"Yes, he has got one of our passports."

What is the degree of reliability that you can give us through your police records, intel records, that this individual is not—

Mrs. WATSON COLEMAN. Thank you. Thank you, Mr. Secretary.

Secretary KELLY. So you don't want the answer?

Mrs. WATSON COLEMAN. That would suggest that we would trust that country.

So I want to move on because I want to talk about the refugee process a little bit.

The refugee process, or the whole vetting process, is really quite extensive. But the vetting process that involves refugees coming from Syria is even more layered. After they go through the regular vetting process, they have got to go through additional checks and balances.

The majority of the people that have been coming from Syria who are seeking refuge in this country were old, ill, children, and women. So why are we compelled to think that there was a need to put a pause on letting those individuals, who were not any threat to this country, none whatsoever?

What is the logic on putting a pause to their coming into this United States after years of vetting and even going through the United Nations? That just seems harmful, and hurtful, and mean, and un-American. So I would like you to just respond to that.

Thank you, Mr. Secretary.

Secretary KELLY. Sure. The logic is, the pause is put in place so we can evaluate the vetting process that these various groups go through and determine whether that is sufficient for me to recommend to the President that we change what the E.O. requires.

I don't think a pause puts any, you know, real hardship on people who are—have already, in many cases, been waiting a year or 2 to come. But at the end of the day, we need to be sure.

Frankly, I love the United Nations, but I trust my own people to determine whether the vetting is sufficient. As terrible as the conditions are in Syria, there is really almost no way to truly vet them in terms of records keeping and things like that. So, we will work through it.

Mrs. WATSON COLEMAN. Thank you. I appreciate that—

Secretary KELLY. But it is only—it is a pause, and we will work with them.

Mrs. WATSON COLEMAN. Thank you, Mr. Secretary. I really appreciate that.

You keep referring to “your people,” and you are brand new so I am not sure if you are saying that your people are the people that have been there, the careers that have been at DHS, or if you are speaking about a whole bunch of new people that you are bringing in that you are referring to your people.

But whatever people they are, I would like for them to refer to the refugees entering the U.S. already facing a very, very thorough vetting process. Nothing is perfect. We can always make a mistake; we can always miss something. But let us not ignore the good work that has been done previously.

I thank you.

With that, I yield back.

Secretary KELLY. When I refer to “my people,” the quarter of a million people that are in DHS are my people. I brought no people into the organization since being Secretary. Right now we are relying overwhelmingly on the career people because, of course, the political—with the exception of myself, really, the political appointees will take months and months and months to get through the confirmation process.

Chairman MCCAUL. Chair recognizes Ms. McSally, from Arizona.

Ms. MCSALLY. Thank you, Mr. Chairman.

Mr. Chairman, I have received a statement from CBP officers union on their concerns regarding staffing at our points of entry and efforts to support this. I ask unanimous consent it be included in the record?

Chairman MCCAUL. Without objection, so ordered.  
[The information referred to follows:]

STATEMENT OF ANTHONY M. REARDON, PRESIDENT, NATIONAL TREASURY EMPLOYEES UNION

FEBRUARY 7, 2017

Chairman McCaul, Ranking Member Thompson, distinguished Members of the committee; Thank you for the opportunity to submit 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 across the United States and 16 Preclearance stations currently at Ireland, the Caribbean, Canada, and United Arab Emirates airports.

NTEU's CBP members are very concerned about lack of adequate staffing at the ports of entry. The most recent results of CBP's Workload Staffing Model—factoring in the additional 2,000 CBP officers funded in fiscal year 2014 appropriations, but not yet fully-hired—shows a need for an additional 2,107 CBP officers through fiscal year 2017. The Agriculture Resource Allocation Model (AgRAM) calculates a need for an additional 631 CBP agriculture specialists for a total of 3,045. 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 commercial lanes as cargo waits to enter U.S. commerce and also creates a significant hardship for CBP employees.

It is not yet known which CBP positions will be exempt from the freeze on the hiring of Federal civilian employees as directed by the President on January 23, 2017. NTEU strongly supports exempting all CBP operational positions from the President's hiring freeze under the public safety exemption. CBP operational positions include not just CBP officers, but also other uniformed and non-uniformed CBP employees that perform public safety work, such as CBP Agriculture Specialists that prevent plant and animal pests and diseases that could harm U.S. agriculture and CBP trade operations specialists that prevent illegal and dangerous counterfeit products from entering U.S. commerce.

Also, NTEU continues to have concerns about the slow pace of hiring at CBP. Despite appropriated funding for the hiring of 2,000 additional CBP officers, CBP has realized a net gain of less than 900 officers as of January 2017, due to attrition and the amount of time it takes to bring on new CBP officers.

#### CBP OFFICER HIRING CHALLENGES

As you know, CBP has struggled to fill the initial 2,000 positions Congress authorized in 2014. One factor that may be hindering hiring is that CBP is not utilizing available pay flexibilities, such as recruitment awards and special salary rates, to incentivize new and existing CBP officers to seek vacant positions at these hard to fill ports, such as Nogales.

Another major impediment to fulfilling CBP's hiring goal is that CBP is the only Federal agency with a Congressional mandate that all front-line officers receive a polygraph test. Two out of three applicants fail its polygraph—about 65 percent—more than double the average rate of eight law enforcement agencies according to data provided to the Associated Press. The eight law enforcement agencies that supplied information showed an average failure rate of 28 percent. The U.S. Drug Enforcement Administration failed 36 percent of applicants in the past 2 years.

NTEU commends Subcommittee Chair McSally's work last year to enact legislation and to include a provision in the Defense authorization bill that authorizes the CBP Commissioner to waive polygraph examination requirements for certain veterans applying for CBP job openings.

NTEU does not seek to reduce the standards used by CBP in their hiring process, but believe that there may be a problem with how the polygraph is currently administered and asks for CBP to review its current polygraph policy to understand why CBP is failing applicants at a much higher rate than individuals applying to work at other Federal law enforcement agencies.

Not only is CBP not meeting its current staffing targets for Federally-funded CBP positions, CBP's Workload Staff Model calls for Congress to fund the hiring of an additional 2,100 CBP officers. Both CBP and Congress must act to address significant delays in the current hiring process to meet both current and future hiring targets.

Lastly, the best recruiters are likely current CBP officers. Unfortunately, morale continues to suffer because of staffing shortages. In addition to being overworked due to excessive overtime requirements, temporary duty assignments are a major drag on employees, especially those with families. Based on their experiences, many officers are reluctant to encourage their family members or friends to seek employment with CBP. I have suggested to CBP leadership that they look at why this is the case.

#### TEMPORARY DUTY ASSIGNMENTS AT SOUTHWEST LAND PORTS OF ENTRY

Due to CBP's on-going hiring delays, CBP has been diverting CBP officers from other air, sea, and land ports to the severely short-staffed Southwest land ports. Since 2015, CBP has diverted officers from their assigned ports to San Ysidro and more recently to Nogales POEs for 90-day temporary duty assignments (TDYs.) In November 2016, CBP issued an updated TDY solicitation that directs 14 CBP Field Offices to provide 200 CBP officers for TDYs to the San Diego and Tucson Field Office. For example, in this solicitation, CBP directed the New York Field Office to send 12 CBP officers to the San Diego Field and 13 CBP officers to the Tucson Field Office from January 9 through April 7, 2017.

NTEU suggests Congress should ask that CBP supplement the TDY solicitation to include the following suggestions:

- The size of the TDY pool should be immediately increased by including non-bargaining unit personnel such as qualified Headquarters staff, supervisors, and other employees on special teams such as Tactical Terrorism Response Team and the Strategic Response Team, and by including all officers who have graduated from Federal Law Enforcement Training Center and who have received a sufficient amount of post-academy training;
- CBP should schedule TDYs in such a way that the supplemental staffing through TDYs remains constant, so there is not a gap between the departure of one round of TDYs and the arrival of the next;
- CBP should establish an advertised cash award for individuals who volunteer for a TDY and should offer available incentives such as student loan repayments, overtime cap waivers, and home leave;
- A surplus of volunteers for a TDY from one Field Office should be allowed to make up for a shortage of volunteers in another Field Office; and
- Approved leave should continue to be allowed during a TDY.

#### DIVERSION OF CUSTOMS USER FEES

Because of the on-going staffing shortage, CBP Officers' funding streams cannot be compromised. In addition to appropriated funding, CBP collects customs user fees which include fees authorized by the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) 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.

COBRA fees are deposited into the Customs User Fee Account and are designated by statute to pay for services provided to the user, such as 100% of inspectional overtime for passenger and commercial vehicle inspection during overtime shift hours. Of the 23,775 CBP officers currently funded, customs user fees fund 2,859 full-time equivalent CBP officers.

In addition to the on-going staffing shortage of over 1,100 CBP officers funded positions, CBP estimates that it would need an additional 2,107 CBP officers, over and above the 2,000 officers funded in fiscal year 2014, through fiscal year 2017 to meet optimal staffing. CBP proposes to pay for these additional officers with a \$2 increase in both the immigration and customs user fees. NTEU reiterates that any increases to the Customs User Fee Account should be properly used for much-needed CBP staffing and not diverted to unrelated projects and should not result in any reduction in CBP-appropriated funding.

In 2015, the highway bill enacted into law, indexed customs user fees to inflation, but diverted this increase in fees to pay for infrastructure projects and not to CBP officer pay and staffing, as intended. Indexing customs user fees to inflation raises

\$1.4 billion over 10 years creating a \$140 million per-year funding stream that could have helped pay for the hiring of additional CBP officers to perform CBP's National security, law enforcement, and trade and travel facilitation missions.

By diverting this fee, \$140 million a year in additional customs user fees are being collected, but CBP is not receiving one additional dime to fund much-needed new CBP officer personnel needed to provide inspection and enforcement services to the users of these services.

On February 1, 2017, Senator Deb Fischer (R-NE) introduced a bill that diverts the first \$21.4 million of customs user fees collected to the Highway Trust Fund beginning in 2020. NTEU strongly opposes any attempts by Congress to raid customs user fees to pay for infrastructure projects.

If Congress is serious about border security, wait times, international trade and travel enforcement, and job creation, Congress must reject any further attempts to divert custom user fees to fund other programs and restore the use of the fees collected from indexing to inflation to their original purpose.

#### AGRICULTURE SPECIALIST STAFFING

CBP employees also perform critically important 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 has fought 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 U.S. Department of Agriculture, foreign pests and diseases cost the American economy tens of billions of dollars annually. NTEU believes that 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.

NTEU worked with Congress to include in the recent CBP Trade Facilitation and Enforcement Act (Pub. L. 114-125) a provision that requires CBP to submit, by the end of February 2017, a plan to create an agricultural specialist career track that includes a "description of education, training, experience, and assignments necessary for career progression as an agricultural specialist; recruitment and retention goals for agricultural specialists, including a timeline for fulfilling staffing deficits identified in agricultural resource allocation models; and, an assessment of equipment and other resources needed to support agricultural specialists."

CBP's fiscal year 2016 AgRAM, shows a need for an additional 631 front-line CBP agriculture specialists and supervisors to address current workloads through fiscal year 2017, however, even with the 2016 increase in AQI user fees, CBP will fund a total of 2,414 CBP agriculture specialist positions in fiscal year 2017, not the 3,045 called for by the AgRAM.

Because of CBP's key mission to protect the Nation's agriculture from pests and disease, NTEU urges the committee to exempt CBP agriculture specialist positions from the hiring freeze and authorize the hiring of these 631 CBP agriculture specialists to address this critical staffing shortage that threatens the U.S. agriculture sector.

#### RECOMMENDATIONS

To address the dire staffing situation at the Southwest land ports, as well as other staffing shortages around the country, it is clearly in the Nation's interest for Congress to insist that all CBP operational employees be exempt from the hiring freeze. Congress should also authorize and fund an increase in the number of CBP officers and other CBP employees as stipulated in CBP's Workload Staffing Model.

Over the years, NTEU has worked with Congress on a variety of proposals that would increase CBP's funding to support additional personnel, as well as to address other hiring challenges that create barriers to adding staff in a timely and efficient manner. For instance, we are hopeful that NTEU supported legislation that will allow recent military personnel to be hired as CBP officers without undergoing a polygraph will result in an increase in new hires.

However, in addition to our longer-term goals of securing the proper staffing at CBP to address workloads, NTEU recommends that Congress call for a series of immediate steps that CBP should take to alleviate the immediate burdens being placed on CBP officers at the Southwest land ports of entry:

- CBP should consider re-hiring recently-retired CBP officers (so-called reemployed annuitants) who could be brought on board quickly without the need for extensive new training or background checks.

- An immediate review should be undertaken of CBP's current polygraph policy to understand why CBP is failing applicants at a much higher rate than individuals applying to work at other Federal law enforcement agencies; and
- Immediate polygraph re-testing opportunities should be afforded to those with a No Opinion or Inconclusive result, including those with a No Opinion Counter Measures finding.

Lastly, NTEU recommends that Congress pursue additional funding when considering funding for the final months of fiscal year 2017 and in the fiscal year 2018 CBP funding bill to address the staffing and overtime funding shortages facing the ports of entry. The current demand for staffing at the Southwest land ports is causing CBP to burn through its overtime budget at a much higher than anticipated rate, which could result in extensive staffing shortages at large volume ports of entry Nation-wide during the peak travel season this summer.

Congress should also redirect the recently-enacted increase in customs user fees from offsetting transportation spending to its original purpose of providing funding for CBP officer staffing and overtime and oppose any legislation to divert the fees collected to other uses or projects.

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, but those working at the Southwest Border ports of entry especially need relief. These men and women are deserving of more staffing and resources to perform their jobs better and more efficiently.

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

Ms. MCSALLY. Thank you, Mr. Chairman.

Thank you, Secretary Kelly.

I represent southern Arizona, about 80 miles of the border, and we look forward to hosting you in our—the Tucson sector later this week. I am also the Border Security Subcommittee Chair on this committee.

I would talk about our frustrations of border residents, ranchers, and Border Patrol agents, and myself in my role as someone who represents this community and chairs the subcommittee, in four areas.

The first is the measurement of border security. The way that DHS has measured border security in the past has not been useful. The denominator is not included in the numerator of apprehensions or people that have turned themselves in.

Last year in a hearing I got Chief Vitiello to admit that—when I asked him as fighter pilot, I think in simple terms, “What percent of the 2,000-mile border do you have situational awareness of? If something is breached, you see it.”

The answer was 56 percent.

So the first frustration is how we measure effectiveness, and I would like to hear your thoughts on that and adjusting that.

The second one is, in rural areas like ours defense-in-depth, where we cede territory to the cartels. So we have individuals that are—when we are saying we have hours to days, we have families, ranchers, and others that are—this is a public safety threat. Transnational criminal organizations trafficking through our communities, creating a public safety threat.

So this idea that we have, you know, days—or hours to days to intercept them in this defense-in-depth, it doesn't work for a community like ours. Also the fixed checkpoints, which we have really not got good answers as to whether they are effective or not, which are impacting people going about their daily business and commerce.



But this is all part of the defense-in-depth, so that is another significant frustration that you will see.

Then the last thing is the percentage of Border Patrol agents that are actually patrolling at the border, versus doing other queep and additional duties or other issues further away from the border.

So these are really the four things. I would just like some of your thoughts on measuring effectiveness, this whole ceding territory issue, fixed checkpoints, and then percentage of the agents that are actually on the line.

Secretary KELLY. I have got to tell you that is why I am going down to Tucson, to find out about these very things. The defense-in-depth, in my mind, at least the way I think of it, is—it is more going south—Mexico, Central America, Colombia. If—

Ms. MCSALLY. Not what it is right now.

Secretary KELLY. Right. If they get in—if the border is penetrated, we have lost. For the most part, we have lost.

Ms. MCSALLY. Right.

Secretary KELLY. So I am thinking it the other way, in terms of working with partners to the south and taking care of the issues. I won't go into it again about the socioeconomic conditions in the Central.

I don't know how we—to be honest with you—I have heard a number of times from members and others. I don't know what the metrics are.

So going forward, as we look at a physical barrier and some of the other things we are looking at, I have asked the staff, "Tell me how we measure success or failure."

I mean, I suspect it has a lot to do with—not I suspect. They can tell me—us—how many people they have stopped, but, you know, how many people got through? Tell me what the metrics are here. So I am with you on—

Ms. MCSALLY. But you don't know who you didn't see—

Secretary KELLY. I know. Exactly. Exactly.

Ms. MCSALLY [continuing]. Is the point, right? So our view is—and again we have got legislation on this—the percent that we have situational awareness of, and then percent we have operational control of, where we can actually intercept it. I mean we look forward to working with you later on this.

Secretary KELLY. We will work to that. Yes, we will work—

Ms. MCSALLY. The current effective numbers don't work.

Secretary KELLY. Got it.

Ms. MCSALLY. Then back to the defense-in-depth. Right now the strategy is fixed checkpoints that make cartels go around the checkpoints into our communities, while you catch Darwin-award winning low-level criminals going through known fixed checkpoints. It doesn't work. Do you have any comments on that?

Secretary KELLY. Again, going down there to talk to the people on the line that—to include, you know, hopefully ranchers and people like that. I mean, I have already been in contact with a couple.

Ms. MCSALLY. Great.

Secretary KELLY. Every bit, as you know—you know, McAllen is different than Tucson, which is different—

Ms. MCSALLY. Right.

Secretary KELLY. So I think the solution is different in every place, but I do believe it starts trying to prevent the border from being penetrated. As I say, after that we have lost.

Ms. MCSALLY. Do you have any comments on kind of the level of effort Border Patrol agents actually reporting to patrol of the border, versus doing other duties?

Secretary KELLY. It has been brought up to me, and folks are looking into it to satisfy me that there are—this is a common theme. They are involved in things that aren't really Border Patrol. So I am going to get—I am going to find out what those things are, and then if they can be done by someone else so that we can maximize the number of people—

Ms. MCSALLY. Look forward to working with you on all these issues and visiting with you end of the week.

Secretary KELLY. Sure.

Ms. MCSALLY. Thanks.

I yield back.

Chairman MCCAUL. Miss Rice from New York is recognized.

Miss RICE. Thank you, Mr. Chairman.

Thank you, Mr. Secretary, for your service to our country and your willingness to take on this very profound and important role.

It was reported over the weekend that President Trump's chief political strategist, Steven Bannon, told you not to issue a waiver exempting green card holders from the travel ban. Some of the details of that report has since been called into question; others have been denied by the White House.

But I figure since I have you in front of me I would just ask you directly. Did that happen? Did that conversation take place?

Secretary KELLY. You know, I read that article Saturday morning and my—well, I would tell you that every paragraph, every sentence, every word, every space, every comma, every period was wrong. It was a fantasy story. And my concern to my public affairs people was, "Look, this reporter, whoever he is, got this so wrong that, assuming he is not making it up, you gotta get to him and tell him whoever his sources are, are playing him for a fool." I don't know if they did that, but it is untrue.

Miss RICE. So Steve Bannon did not ask you not to issue the waivers.

Secretary KELLY. The entire story is untrue.

Miss RICE. So do you have concerns about—just objectively in your new role, do you have concerns about political operatives trying to influence the work of the Department of Homeland Security?

Secretary KELLY. No. I work for one man. His name is, you know, Donald Trump, obviously.

He has told me, "Kelly, secure the border," and that is what I will do. I am mildly interested in what political people think about that mission.

Miss RICE. Well, actually, you were chosen by him. You work for us. You work for the American people, first and foremost.

Secretary KELLY. We all work for the—

Miss RICE. I am sure that is what you meant.

Secretary KELLY. We all work for the American people.

Miss RICE. As Secretary what are you doing to ensure that your leadership—because clearly had you been involved in creating this

Executive Order you would have pointed out the issue with the visa holders and all of that. What are you doing to make sure that this kind of a, if you want to call it a roll-out or preparation of an Executive Order, if they are going to continue in the future, that you have some input in the area that you clearly have expertise in?

Secretary KELLY. I was involved tangentially in the writing of it, so the point—the reporting that I never saw it, didn't have anything to do with it, is untrue. We had a very small number of people in homeland security working with the White House as they developed it.

I think in retrospect, as I think I have heard and pointed out a little earlier, but for sure have had discussions with Members of Congress, both sides of the Hill, both sides of the aisle, that a better way to have rolled that out—and we will do this in the future—will be to engage more fully at least the leadership of the House and Senate initially, and roll it; and then immediately after, as we start to execute, meet with additional Members of the House and the Senate.

So, yes, I mean, lesson learned, on me. I should have slowed it down by a day, maybe two. Probably would not have put it out, you know, exactly on a Friday the way we did. But I was knowledgeable of the writing of it. I saw it twice Tuesday and I think Thursday, knew full well it was going to be released on a Friday.

So again, there is an awful lot of misreporting, and I will assume that the members of press that got it wrong got it wrong because they are relying on people who were giving them information who didn't know.

Miss RICE. There is a lot to go on in terms of trying to interpret the meaning behind the Executive Order. We have about 18 months of comments by candidate Donald Trump about his desire to institute a ban on Muslims entering the country. His language was unequivocal and very clear.

I understand now you are using the frame—the term “temporary pause.” But I think one of the reasons why it is interpreted to be an outright ban is because it came—the Executive Order did not speak to or suggest ways that the vetting process, which we already know is one of the most rigorous there is, could be made better. The Executive Order was void of any suggestion on how that could be.

So as you sit here now and you talk about the need to—now the desire is to make the vetting process better, what ways would you recommend, since you were really left with nothing other than an order that rightfully—my opinion, that is not because—I am not saying this because I am a Democrat, but we have a lot to go on in terms of interpreting the meaning behind this, especially since the order was void of any suggestions?

Secretary KELLY. Well, first, I don't have to tell you that there are a lot of things that are spoken about in campaigns that once you get in the seat you—just like in my case, I mean, sitting here in a job that I have never had before, I am looking at life fairly, you know, differently. I thought we could accomplish things coming into this job that I realize now will be slower, or whatever.

So, again, he said what he said in the campaign. He has tasked me to protect the Southwest Border, get control of it, which I will, of course, do.

Miss RICE. Can I just stop, because there is one other question I want to ask you. So I trust that you will bring to us suggestions on how you will make the vetting process better.

Secretary KELLY. Right.

Miss RICE. OK. One other thing.

Yesterday President Trump suggested that the, “very, very dishonest press doesn’t adequately report terrorist attacks.” Do you believe that statement?

Secretary KELLY. I think the press gets—does the best job—responsible press do the best job they can to get the facts straight. But, of course, they will go with a story. It is what they do. It is their job. They will go with the story and the best information they have.

Much of the world is aflame today, and we know tremendous amounts of things about what is going on but it is in the Classified realm. That is not shared with the press. Consequently, they do, I think, generally the best job they can.

But in my mind, having worked with the press a great deal, the most responsible press won’t go with a story or will write it in such a way that they will acknowledge that they don’t have the definitive information.

There are a lot of other questions you have asked me, but, you know, again, Mr. Chairman, we are way over, I think.

Miss RICE. Well, you can’t blame the press for not knowing about Classified information that they are not privy to.

Secretary KELLY. Of course not.

Chairman MCCAUL. Gentlelady’s time—

Miss RICE. But do you know what terrorist attacks—just last—Mr. Chairman, please—what terrorist attacks President Trump was referring to when he said that? Yes or no?

Secretary KELLY. I don’t know which ones—

Miss RICE. OK.

Secretary KELLY [continuing]. Which ones he was referring to.

Miss RICE. Thank you very much.

Chairman MCCAUL. Gentlelady’s time has expired.

The gentleman from Texas, Mr. Ratcliffe, is recognized.

Mr. RATCLIFFE. Thank you, Mr. Chairman.

Secretary Kelly, welcome. Let me join others in saying that I am very excited that President Trump selected someone with your experience and leadership to take the reins at the Department of Homeland Security and to implement his agenda for safety and security for all Americans.

We have heard a lot about border security today, but the folks that I represent in Texas have heard a lot of tough talk for a long period of time with, frankly, little to show for it. They have seen a border security bill that was enacted in 2006 but never implemented. So many have rightfully, I think, lost faith in the Federal Government on this issue.

I will tell you that for me it is personal. As U.S. attorney for the Eastern District of Texas I led an effort to arrest over 300 illegal

aliens in a single day who were committing Social Security fraud and identity theft to steal jobs from hardworking Americans.

My fear then is the same as it is today, that after criminal aliens are deported from the United States, let's say on a Tuesday, there is very little right now that stops them from coming back across that imaginary, unsecured line on a Wednesday.

The fears with respect to that are not hypothetical. Last year I had to console my constituent, Courtney Hacking, when her husband Peter, a fire captain, and their 4-year-old daughter Ellie and their 2-year-old son Grayson, was killed by an illegal alien that had been previously deported. So heartbreaking and so real.

Unlike the fake tears of one of our Democratic colleagues last week in calling for compassion for folks trying to come to this country from terror hotspots, I think we need to finally start showing compassion for people who are already here with real border security.

So I am grateful. From everything that you have said today it is very clear to me that we finally have an eager and willing partner at the Department of Homeland Security to fulfill the fundamental role of the Federal Government to provide for the common defense.

Now, let me shift gears, Secretary Kelly.

Besides the threats coming across our physical borders Americans, as you know, face grave threats every day that are coming across our digital borders. I think you might agree with me that that is, frankly, more difficult to defend. We can't simply build a wall or erect some barrier to fix that problem.

Cybersecurity is, in my opinion, the National security issue of our time because weak cyber defenses affect our economy, they impact our critical infrastructure, and they impact the integrity of Americans' most sensitive personal information. So I think we need a sustained, strategic attention to this issue.

I will tell you, Mr. Secretary, that I frankly don't envy you in the role that you are stepping into here. As you have learned, the Department of Homeland Security cyber mission is immense under current law. You have got responsibility for coordinating the operational security of our Federal systems, and you are tasked with overseeing Federal efforts to coordinate the protection of our critical infrastructure. That is only part of your mission.

You are taking over an agency that has—while made great strides in some respects, still suffers from credibility issue with many Members in Congress and many members of the public.

So that is to say nothing of the broader policy issues. I know that what I am relating to you is not news to you.

I want to take the opportunity here, as the chairman of the—in your first House appearance, as Chairman of the Cybersecurity and Infrastructure Subcommittee here in the House, to tell you that our subcommittee is willing to pedal as fast as you would like and are willing to tackle this critical National security issue.

So I know you have only had a couple of weeks to settle in, but I want to get a sense of how things look to you so far in this respect. The biggest question, Secretary, that I am getting from stakeholders—they keep asking me, and it is something I am hoping you can shed some light on is, do you anticipate the Depart-

ment of Homeland Security maintaining the role it is currently tasked with under the law, with respect to maintaining the dot.gov domain?

Secretary KELLY. Yes, sir. On your last question I would say yes.

That said, President Trump has ordered a kind-of—a complete top-to-bottom relook on cyber. That will include, you know, all stakeholders, and hopefully we are going to bring in—and we have been successful, I think, already in bringing in the private community.

Because, you know, the one thing—the thing about cyber that a lot of people get—you certainly do, but others don't, is that, you know, it knows no bounds, it knows no boundaries, it knows no law, or it knows no, you know, regulations. We do. Privacy issues, legal issues, all that kind of thing. So we have to—the threat is changing faster than we are keeping up with it.

The good news is, you know, in overseas we can do things to protect ourselves as a Nation. I can't, but others do. I was a beneficiary of a lot of that.

You know, I know what we can do to people overseas. We obviously can't do that and should not do that internally to the United States. But there is a way, I believe, to break down a lot of the boundaries within the law, and particularly working with our private partners because, you know, they have got huge equities in it.

But again, I am very sensitive to this because I was one of the 5 million or so Americans who had all of their information stolen, and the best I got out of the Federal Government a couple of years ago was, you know, "General Kelly, all of your data has been stolen with the OPM. Good luck."

We have got to do better than that, and we will. So I look forward to working with you, Congressman.

Mr. RATCLIFFE. Well, again, I am so excited about your appointment and grateful for the chance to work with you.

So with that, I will yield back.

Chairman MCCAUL. If I could just add——

Ms. JACKSON LEE. Mr. Chairman.

Chairman MCCAUL [continuing]. I think my clearances were stolen, as well.

Ms. JACKSON LEE. Mr. Chairman.

Chairman MCCAUL. If I could just say, as Chairman's privilege, that I would hope this Executive Order coming down on cyber is done in coordination with this committee. We have passed a FISMA Reform and a Cyber Security Act, major landmark cyber legislation.

I would hate to see any Executive Order come down that is inconsistent with current law. I think it would cause a lot of problems and a lot of consternation with the Members who have worked so hard to get this done.

Ms. JACKSON LEE. Mr. Chairman.

Chairman MCCAUL. I would like the witness to respond, if that is OK.

Secretary KELLY. Absolutely, Chairman.

We are working with your staff, the White—your staff is working with the White House—they have got it. There was a kind of a draft E.O. that had been leaked some time ago—a week or so ago.

I can tell you that the E.O. that is being contemplated is vastly different than that. I don't know whose work that was, but it did send shivers to a lot, my own organization included.

So we are working with the White House. We will work with the Congress, of course, to make sure that going forward that E.O. says the right things and gets at the right problems.

Chairman MCCAUL. We certainly—because we have through a lot of—we don't want to relitigate old battles, and certainly conforming with existing law I think is very important in this task.

Chair recognizes—

Ms. JACKSON LEE. Mr. Chairman? Mr. Chairman, may I ask—

Chairman MCCAUL. The gentlelady has no time. Would somebody like to yield?

Ms. JACKSON LEE. No, I am not asking a question. I am asking unanimous consent to submit something into the record.

Chairman MCCAUL. Yes. What is it?

Ms. JACKSON LEE. An article from the *Houston Chronicle*: In the midst of the Muslim ban Feds detain Katie, a high school student from Jordan, following President Trump's immigration ban. The pictures that I held up. I ask unanimous consent, Mr. Chair.

Chairman MCCAUL. Without objection, so ordered.

[The information referred to follows:]

FEDS DETAIN KATY HIGH SCHOOL STUDENT FROM JORDAN FOLLOWING PRESIDENT TRUMP'S IMMIGRATION BAN

*Houston Chronicle*, Updated 10:38 am, Thursday, February 2, 2017

By Shelby Webb

<http://www.chron.com/news/houston-texas/houston/article/Feds-detain-Katy-High-School-student-from-Jordan-10897205.php>

A 16-year-old Jordanian visa holder, who attends Katy High School west of Houston, has been detained by U.S. immigration officials for more than three days following President Trump's controversial immigration executive order, according to his brother and an attorney representing the family.

Mohammad Abu Khadra, who lives in Katy with his brother Rami, traveled to Jordan last week to renew his visa. When he flew into Bush IAH airport Saturday, officials with U.S. Customs and Border Protection detained him at the airport for about 48 hours. He was transferred to an Office of Refugee Resettlement shelter in Chicago Monday, where he remained as of Tuesday afternoon. The teen has no access to his cell phone or to a computer, his brother said.

Mohammad is among dozens of visa holders and immigrants to be detained at U.S. airports since Trump signed an executive order Friday indefinitely barring all Syrian refugees from entering the United States and suspending all refugee admissions for 120 days. It also prohibits citizens from seven Muslim-majority countries from entering the United States for 90 days, whether they are refugees or not. Those countries include Iran, Iraq, Libya, Somalia, Sudan, Syria and Yemen.

Mohammad's native Jordan is not on the list, and Mohammad is not a refugee.

The ACLU of Texas said it was the only case its knows of where a minor has been detained for more than 24 hours since the executive order was signed.

Mohammad and Rami's attorney, Ali Zakaria, said he is filing a family reunification document with the shelter so the Office of Refugee Resettlement can release him to his brother's custody in Texas. He said he has not yet heard back from U.S. Immigration and Customs Enforcement about why Mohammad was detained or how long his detention could last.

Zakaria estimated Mohammad could be in custody anywhere from two weeks to two months. He did not know Mohammad's visa status or which type of visa Mohammad tried to renew in Jordan.

"Obviously Mohammad's case is extraordinary," Zakaria said. "For a kid to be detained at an airport for 48 hours is unconscionable."

Rami, a 37-year-old green card holder who has been in the United States for five years, said he feels helpless.

"My country is not one of seven countries on the list," Rami said. "It's like because he's from the Middle East, he gets detained."

Rami said he hopes to hear from Mohammad Tuesday, but that his little brother is only allowed to call once a week for 30 minutes.

Katy ISD would not comment on the situation, citing federal student privacy laws that prevent them from sharing information about individual students.

Mohammad is not the only minor to be detained by immigration authorities at airports since the order was signed, but his detention appears to be among the longest yet.

A 5-year-old was allegedly separated from his Iranian mother and detained at Dulles International Airport outside of Washington, D.C., for more than four hours Saturday before the two were reunited. A Somali woman and her two young children were detained at the same airport for 18 hours due to the executive order.

Rami said he was able to visit Mohammad briefly at Bush IAH airport Sunday after he was peppered with questions from immigration officials curious about his relationships and his allegiances. He said his brother was exhausted after a 16-hour flight from Jordan and spending the night sleeping in an airport chair.

"He was very afraid," Rami said. "Before I saw him, he was on a flight for 15 or 16 hours, then was at the airport for 72 hours. He was very tired and frustrated. When he took the flight to Chicago, he called me, but he doesn't know anything. He doesn't know what's going on."

Zakaria said he spent the weekend volunteering with the ACLU and working with other immigrants, visa holders, citizens and refugees at IAH airport. He said after that work and speaking with colleagues across the country, he's convinced immigration officials are not just barring or delaying citizens from the seven countries listed on Trump's executive order.

"It's a lot of Muslims from other countries, too," Zakaria said. "I think Mohammad is a prime example. Jordan is not on the list, but he's still enduring this treatment. People say it's not a Muslim ban, but they need to look at the facts on the ground and not the spin coming from the White House."

Rami said his parents, who still live in Jordan, are inconsolable over their son's detention. He wished the U.S. government would just send Mohammad back to Jordan rather than have him languish in a bureaucratic limbo.

"I'm trying to fly out to Chicago, trying to reach out people. I just want to see him," Rami said. "I'm trying very hard to just see him or hear from him or anything. I need to see if he needs money or anything."

Zakaria said keeping Mohammad in detention does nothing to keep Americans safe.

"It's OK to enforce the law, it's OK to be vigilant for terrorism, but stopping a kid at an airport for days does not accomplish that objective," Zakari said.







Chairman MCCAUL. Mr. Correa, from California, is recognized.

Mr. CORREA. Thank you, Mr. Chairman and Ranking Member Thompson, for holding this hearing today.

Secretary Kelly, I want to thank you for your service to our great country. I know you and your family have made great sacrifices for this country. For that I thank you, a debt we can never repay to you and your family.

Just wanted to say all of us share the mutual goals of a safe Nation, safe citizens, safe taxpayers. Before I discuss border security I just want to tell you where I live.

I live in central Orange County: Anaheim, California, Disneyland, happiest place on earth, which also, by the way, we have a number of mosques in my community. I can tell you right now that many of my neighbors, all those folks are good American citizens, law-abiding citizens, and they are scared to death. The way this immigration Executive Order was presented, I believe, just backfired.

I have spent many hours, invested many time in going to these communities and to tell them, "Please work with the authorities; make sure that we coordinate it. If you see anything out there that is going wrong, let us know."

Right now the Muslim community is very scared.

I also have four children in central Orange County. I am very concerned about drugs. I am very concerned about their well-being.

They go to school with a lot of kids whose parents are undocumented, who the kids are also DACA kids. All good. They have all been part of the California economic miracle.

California is now, I think, the sixth-largest economy in the world, a couple of steps up. All those undocumented workers have been part of that economic miracle in the State of California.

You call it the gaping wound, sir. I respect that.

Want to address immigration? Let's do it with good public policy.

Mexico, California's biggest trading partner. A lot of business; a lot of work. These people take care of our children, cook our food, provide a lot of services. Let's give them green cards.

No. 2, in terms of the drugs, which is something that is very concerning to me as a father. You know 20, 30 years ago most of the drug trade, most of those heavy drugs came through the Caribbean. We were so good as Americans in stopping that drug trade through the Caribbean that we just redirected it through an inland bridge called Mexico.

We destabilized Mexico. People in Mexico are scared to death.

I went down there 2 months ago. They said, "Don't go out after 8 p.m. because your life will be in danger."

The big gaping wound is our American drug demand for those drugs; our American dollars being spent on those drugs. So soon as we shut off the Mexican connection, will it be Canada next? Given the numbers, probably.

Quick question to you, sir: Do you have a count of the number of special interest people that have been apprehended coming through Canada versus Mexico?

Secretary KELLY. I don't, Congressman. I can get that to you.

Mr. CORREA. Thank you very much.

A second question: As a State legislature in California I dealt a lot with the Baja California folks. One of the biggest concerns they had is when the Americans deported individuals, opened the gate, let folks essentially physically walk across the border, Mexican authorities had no idea if that was a person that got caught for a traffic ticket or as a rapist or murderer.

What is it going to take for us to coordinate with our friends in the south to make sure we can keep track of these bad hombres so they won't continue to do harm south of the border or north of the border? I hope you come up with something in that area, sir.

Secretary KELLY. Not familiar. But, I mean, if these are Mexican citizens who are being deported——

Mr. CORREA. Yes, sir.

Secretary KELLY [continuing]. For sure, unless it is not legal—I am just trying to think of someone—for sure we should alert the Mexican authorities as to what they have done beyond being illegal aliens that we are deporting them.

Mr. CORREA. General, and I look forward to working with you on that issue. That is an issue I have been bringing up to ICE, Homeland for a number of years.

My final question—I know I am running out of time—is, you know, right now immigration from Mexico is going down. It is at all-time lows.

Part of the reason is economic growth in Mexico. The middle class is finally growing.

It is an old saying, when the United States sneezes Mexico catches pneumonia, in terms of the economy. We are looking at public policies today of taxing commerce with Mexico. You finally have a growing economy south of the border. We are creating jobs so folks can stay home, and we are messing with tax policy. Any thoughts on, you know, advancing economic growth in Mexico and tax policy?

Secretary KELLY. Same argument I would make when I talk about Central America. If the countries to our south are better off economically and socially then their people will rightly stay home with their families and what-not. So I think it is important to have, you know, a good economy in Mexico, Central America, places like that.

If I could on a couple of your other points, on the illegals and what-not, the DACA individuals, I would just ask you. You know I have to—I have sworn to uphold the law, so I have to uphold the law. I would just beg you, as a lawmaker, if it is bad law, change the law so I can take that particular issue off the plate.

I plead with you to change the law because I have to do what you and people like you have told me to do within our laws.

The demand reduction thing, you are spot-on, Congressman. It is all about demand. If we stop the flow of drugs up through Mexico and don't reduce demand for those drugs, they are going to come up—they will come back up through the Caribbean into Florida on the East Coast. If we stop that, they will come another way.

They are mailing it now, particularly getting into Puerto Rico and mailing it in. So we have got to reduce the demand and we have to put together a comprehensive demand reduction policy that goes everything from stopping the production of these drugs in the south all the way up to rehabilitation of drug addicts in the United States and everything in between.

But we know how to do this. We have done this before, to affect people's behavior. It is not necessarily law enforcement; it is just making sense to people to do the right thing. We are never going to get to zero, but if we don't stop the demand, shame on us.

Mr. CORREA. Thank you, Mr. Secretary. Just one final comment if I may, and that is that I will work my colleagues here to change the laws as much as we can to reflect economic reality, the way we did in California. Thank you very much.

Chairman MCCAUL. Chair recognizes the gentleman from New York, Mr. Donovan.

Mr. DONOVAN. Thank you, Mr. Chairman.

Mr. Secretary, I hope you don't get tired of hearing it because myself and my colleagues have all thanked you for your service to our country. We really do appreciate what you have done and what you will do for us.

Secretary KELLY. I live for those comments.

Mr. DONOVAN. Well, glad we could accommodate.

I am the Chairman of a committee, of a subcommittee of this committee, that deals with not only preparedness and response to terrorist attacks, but also to natural disasters. Currently we don't have a FEMA administrator. I was just wondering if we can anticipate when you and the President will get to a point where you will be nominating somebody as the FEMA administrator. We have recently had disasters in Mississippi and Georgia that we need some direction with.

Secretary KELLY. It is a great question. I mean, this process of finding the right people, putting them in the job, getting—if they have to go through confirmation, is—I now know is a tedious one. But, you know, the really good news for not only this group of men and women but for America is the career public servants that are in the organization, the people that have stepped up into those jobs—FEMA is an example—are very, very capable people.

In case just in the 2 weeks I have been in the job we have said yes to every single request that has come up through the system in the right way. I don't mean to be bureaucratic. If they are not coming up the right way we help them, you know, do it, in terms of the requests for assistance.

I have signed off in record time for every one of them. I have talked to the—like Mississippi, the Governor of Mississippi, the Governor of Georgia, when they had such terrible tornadoes. They were taken care of. We have said yes to snowstorms up in the Dakotas, I think, certainly Oregon.

The fact that we don't have a political appointee has not slowed down the business of homeland security, sir. But you are right, we need to get going on that. But I don't know when. I can't predict when we might have a political appointee in that seat. But have no fear, because we have got a very, very, very good career administrator.

Mr. DONOVAN. That is very assuring. Thank you, Secretary.

The other thing I would like to ask you, with another Executive Order that the President administered. You know, I live in New York City and we depend on Federal funding to secure our city. Our State depends on State security grants.

The sanctuary city Executive Order may have some kind of effect on our ability to access those grants. I was just wondering if you are giving States and localities or at what point you would give them some kind of guidance on how they would be affected.

Secretary KELLY. Never say all. I would just offer that the input I have received from chiefs of police around, you know—this is more anecdotal, but the numbers are low, but sheriffs and people like that are, "Look, please don't penalize us for the actions of our elected officials." They have to be loyal, and I get that.

In my view, if we are giving grants to a police department or a city specifically to help us in the execution of a, you know, say, ISIS mission, and that is not being done, it would seem to me it makes—there is no point in then giving grants to the city to execute that.

We will do it—I will do it, in the grants that I control, in a measured way so that the good work of police departments all over the country, sheriff's departments all over the country, are at least given a say in what we are about to do.

But again, if we are specifically giving grants for cooperation for removal of illegal aliens and a given department city is no longer doing that, it would—it seems irresponsible for me to continue giving the money.

But it will be case-by-case and we will work very closely with the homeland heroes of this country, and that is the sheriff departments and the police departments all over the country.

Mr. DONOVAN. I know you are well aware of how essential localities are to protecting particularly a city like New York City so—

Secretary KELLY. Absolutely.

Mr. DONOVAN [continuing]. I thank you very much.

Mr. Chairman, I yield back the balance of my time.

Chairman MCCAUL. Gentelady from Florida, Mrs. Demings, is recognized.

Mrs. DEMINGS. Thank you so much, Mr. Chairman.

Mr. Secretary, as a former police chief I know how important it is to hear every now and then “thank you for your service.”

As we all know, there can be an abundance of data available to the public safety community. But we also know just how important that data can be to helping public safety officials make decisions that they really need to get right the first time.

Data analytics continue to evolve, and new applications for how to use data can often be a force multiplier for law enforcement. I believe that ensuring the deployment of assets and resources along the border is paramount to securing the border. Data analytics, I believe, may be helpful in that regard.

Secretary Kelly your predecessor, Secretary Johnson, made joint operations and information sharing among DHS components about Southwest Border threats a priority through the Southern Border and Approaches Campaign.

Do you see an expanded role for data analytics to be used to inform ICE, CBP, and the Coast Guard as they work together on the Southern Border?

Secretary KELLY. You know, Congresswoman, I do. I think any time we can expand cooperation with anyone that is kind of in the same fight, has the same interest in terms of, in this particular case, Southwest Border.

I had an interesting conversation the other day with the President-CEO of IBM about data analytics. Within about 30 seconds of conversation, you know, kind-of my eyes rolled back up into my head and—but she made some points about this topic that my staff are now delving into.

But just some of her comments about useful and expansive the reliance on—or useful the reliance on data analytics would be. So to your point, yes.

My folks now, people that really understand the topic, are—and I would really like to see certainly a partnership with everybody, in this case it might be IBM, who can help us do better in this realm.

Mrs. DEMINGS. Have you had any opportunity to have any initial meetings with the stakeholders, private and public, to this point?

Secretary KELLY. I have not. Again, not as a defense or an excuse, rather, but 2 weeks—a little more than 2 weeks in the job, and I can tell you the E.O.s took up a little bit of my time last week, so.

[Laughter.]

Mrs. DEMINGS. OK. Thank you.

Secretary KELLY. I will do better.

Mrs. DEMINGS. Also, I believe that border security Executive Orders and the vetting process is what really brought us here today, so please bear with me.

I believe you testified earlier that our refugee vetting checks are minimal, but yet we have also heard that we have one of the most robust vetting processes when we compare it to others throughout the world.

Mr. Secretary, and I know you also indicated that you are going to share with us, when you get to that point, what some of the recommendations are for improving the process.

Secretary KELLY. Right.

Mrs. DEMINGS. But what is wrong with it? Is it minimal? Is it just not working? What is wrong with it?

Secretary KELLY. The process now, whether it is Syria or anywhere else, but the process now is as good as it can be based on past philosophy—and that is not a criticism, but past philosophy—and the realities of a country, using Syria as an example, that is in collapse.

So the people who are interviewing refugees, whether they are young men or old women and everything in between, about the best they can rely on—and it starts with the United Nations, and they are good people but they don't have a lot to work with. So when someone says, "I am from this town and this was my occupation," and all of those kind of things, they essentially have to take the word of the individual.

I, frankly, don't think that is enough. Certainly President Trump doesn't think that is enough.

So we have got to, you know, maybe add some additional layers. Some of the things we have talked about was finances. One of the ways we can track—follow the money, so to speak.

So how have you been living? Who has been sending you money? It applies, under certain circumstances, to individuals who may be involved in being on the payroll of terrorist organizations.

We could be looking at—we could be asking them about websites that they frequently visit, if they visit, and anything and everything of that nature so that we can get our arms around about what kind of an individual we are dealing with.

But this is a pause right now as we sort these issues out. I would be less than honest with you if I told you that of the seven countries all of them will come off that status in 80 days or so, or when we owe the President the report. But I would like to think some

of them will, but—and the ones that won't get off—because again, once again they just are countries that have basically failed.

You know, I was just reading this morning where hundreds, perhaps even into the thousands, of individuals from Africa have fled to Yemen—again, a country that defines, almost, a country—a failed country—so that they can try to get on a list to come to the United States. Well, the people that are coming, to use that example, from another part of the world, Africa in this case, to go to Yemen are people that themselves may or may not have proper paperwork but they are going to a country that I absolutely do not trust right now in terms of what they provide us to vet people from Yemen. So it is a work in progress.

Mrs. DEMINGS. So you have indicated that some may stay on the list, some may not. But is the list prioritized?

Secretary KELLY. It is seven now. Again, two of them are on the list of the State sponsors of terrorism, and I think four or five of the others we don't even have an embassy there. When you don't have an embassy there is no Americans to sit there and do the interviews, the consular interviews, to start the process of determining if this person is the kind of person we want to come to our country.

Mrs. DEMINGS. OK. Thank you, Mr. Secretary.

I yield back.

Chairman MCCAUL. Gentleman from Wisconsin, Mr. Gallagher, is recognized.

Mr. GALLAGHER. Thank you, Mr. Chairman.

Secretary Kelly, you and your family have sacrificed a lot for this country, and I thank you for that. Your willingness to step up again is inspiring.

As a fellow Marine I just have to share that I am currently on an e-mail chain with about 10 of my basic school buddies, and they are all debating whether with you and Jim in critical spots we should all reenlist. But I will do my best to work with you in this position.

You talked a lot to your commitment to securing the Southern Border. I applaud you for that and I share it.

One of the things that concerns me, however, is no matter how robust the physical barrier, no matter how long this pause or how extreme the vetting process, we still confront the issue of domestic radicalization, whereby ISIS and its adherents will send out a call and an American citizen or a Muslim-American will answer that call. Can you talk a little bit about how you think about that problem and what we can do as a committee to help you confront the problem of domestic radicalization?

Secretary KELLY. Huge problem. What you are trying to do is get into someone's head before they make a decision.

You know, I share this responsibility with other law enforcement, all law enforcement agencies as well as the FBI. But, you know, I think it starts and maybe—it starts and maybe the solution, such as it is, with parents and spouses, siblings maybe watching the kind of websites that their kids are on or their brothers are on.

You know, and I think it is a—most people would agree, all parents have to watch what their kids are doing on the internet, but

I think it begins with that, people who are watching their kids and what they are doing.

I believe, whether it is white supremacists in Christian churches, you know, people in—you know, holy men, rabbis in synagogues, imams in mosques, to be watchful of the—particularly the young people, particularly maybe the young males to see what kind of talk, what kind of questions, what kind of things they are doing and report before the person—the young person makes a decision to, you know, to go radical, I think.

So in my view, you know, there is a certain level of usefulness, I guess, in kind of campaigns that—to try to convince young people or any people to not do the wrong things, but I really do believe it starts down in the home. I don't think the Federal Government can do it; I don't think the State government. It really, I think, begins in the home, and then into the churches and in the synagogues and the mosques, the idea being to prevent it.

I remember meeting, I think, with someone, a young woman from Mississippi, who was going down that trail. Her father, I think, was a police officer and reported it. I think that is what we need because for the most part we learn about these terrible things when it happens, whether it is a shooting in a club in Florida or at a holiday party in San Bernardino. It is a tough problem.

Mr. GALLAGHER. I take your point about the limits of the Federal Government in this space, but to what extent do you view engagement with the Muslim-American community as well as our Muslim allies abroad as part of your integrated strategy for securing the homeland?

Secretary KELLY. Well, you know, from my military time, you know, we delivered a win in Anbar Province, which is overwhelmingly 99 percent Sunni. We delivered a win there not just simply by killing people—and we killed a lot of people, and they were the right people that needed to die—but mostly because we—and you know this—we engaged Sheiks, the community leaders, the elected leaders, and particularly the mosques.

You know, when I left Iraq my last time I was—the title escapes me, but it was essentially “defender of the faith,” the Islamic faith. They gave me a beautiful Quran, gold embroidered and all that kind of thing, and had a big, you know, a big celebration when I left, and it was because how closely we worked and protected the imams and protected the mosques and the people within them.

The imams overwhelmingly, the holy men, were targeted by this small percentage of erratic—I mean radical Muslims. Small percentage, don't represent true Islam, and they—and we protected the imams from those men.

So I know how to engage on this issue and I will continue to do that. But my message has got to be to the communities of Americans who happen to follow the Muslim faith. It would be the same message I would give to community—Christian communities of Americans who follow the Christian faith, relative to, say, white supremacy and that kind of thing, is, “Keep an eye on your kids; keep an eye on your sisters and your brothers and report before they get too close to that point where they walk into a church in South Carolina and shoot a bunch of innocent people, or go into a bar somewhere and shoot a bunch of gay people.”



So I really do—I mean, that is the best answer I can come up to right now. We don't have to convince the vast majority of American Christians, Muslims, Jews not to do bad things. What we have to convince them to do, though, is to report when they see one of their flock or one of their family members going down the wrong road.

That is my thought.

Mr. GALLAGHER. Thank you, Mr. Secretary.

Mr. Chairman, I yield.

Chairman MCCAUL. Chair recognizes Ms. Barragán, from California.

Ms. BARRAGÁN. Thank you.

Mr. Secretary, one day ago the President went on another Twitter rant after the judge halted the Muslim ban. This was one of his tweets, and hopefully you can see it. It says, "I have instructed Homeland Security to check people coming over into our country very carefully."

"Very carefully" is in all capital letters.

My question is what was DHS not doing before this order that you are now doing? In other words, this order, which was post the judge's ruling?

Secretary KELLY. First of all, I can see it because it is big enough to see from this seat.

We are doing business as normal now that the—now that we are—you know, right from the beginning we quickly adjusted to obey every one of the judge's rulings. So we are back to normal operations, if you will, and doing nothing different today than we were doing before.

That is to say when someone comes in as long as they have the right paperwork and all of that kind of thing, they are allowed to enter. If there is something that the officer at the counter, so to speak, doesn't like or suspects of something they would be taken aside for additional screening. That is normal.

Ms. BARRAGÁN. So there is nothing new as a result of this order that the President tweeted out that now he has given an order that you are supposed to do very carefully? Because this insinuates that we were not doing it very carefully.

Secretary KELLY. Right.

Ms. BARRAGÁN. So I just want to clarify. There is no new order here, right?

Secretary KELLY. The men and women that work the counters always do their business very carefully.

Ms. BARRAGÁN. So this is not a new order, correct, Mr. Secretary?

Secretary KELLY. We didn't have to see the President's concern about what has taken place post-Federal ruling to continue to do things very carefully.

Ms. BARRAGÁN. OK, thank you.

Are there any specific examples, any evidence of any recent refugees from the seven listed countries that may have slipped through DHS in the recent past? Do we have any evidence of that?

Secretary KELLY. Well, if they slipped through we wouldn't have any evidence because we wouldn't know that they had slipped through.

Ms. BARRAGÁN. Well, there is an instance where they may have slipped through and through intelligence you have—could have stopped some activity or a plot. Do you have any evidence that somebody maybe slipped through from one of these seven countries that you now know about?

Secretary KELLY. Let me take that for the record.

Ms. BARRAGÁN. Earlier, well, do you know how many countries there are where we do not have an embassy?

Secretary KELLY. I don't off-hand, but I know that in the case of the seven countries we are dealing with, most of them do not have functioning embassies. As you know, I think, when we leave, generally speaking, another embassy will take up, you know, certain duties to help us out in that country.

Ms. BARRAGÁN. So would you say there are more than seven countries where we don't have an embassy?

Secretary KELLY. I would guess there are, but I would have to take that for the record. I will get with the State Department to find out specifically, but I will get that answer to you.

Ms. BARRAGÁN. OK. Well, according to your testimony, one of the reasons for the seven countries is that we don't know—you said, "I don't know how we would vet people where there is no embassy."

So my question is do you think it would be safer for us to close down our borders to all those countries where we don't have an embassy? That kind-of follows the rationale then—

Secretary KELLY. If there are countries—and I am not sure there are, but if there are countries—I guess there is, but if there are countries that we don't have an embassy that we have not put on this list of seven it is because we have confidence that the structure, police, intelligence, that kind of thing is still operating to the degree that we can have confidence that individuals are at least who they say they are and we have some background information on them.

Ms. BARRAGÁN. OK. You testified earlier that there was no chaos at CBP, is that correct?

Secretary KELLY. I said there was no chaos where CBP were working at the airports, yes.

Ms. BARRAGÁN. OK. Well, you know, I went down to LAX on Saturday night and there was chaos.

Now, let me tell you there was chaos in the terminals at Bradley International Airport. Now, I got there and I asked to speak with somebody from CBP. Conveniently, the office was shut down, so I couldn't ask a question of somebody in the office. I asked to be taken down to speak to somebody at CBP but they wouldn't take us anywhere so I couldn't see for myself.

We heard from people coming off planes there was dozens of people being detained. When I called CBP asking for a briefing just to find out if any of my constituents were being held, given access to an attorney, I was told call a 202 Washington number. Then I was hung up on.

How are we to know that there was no chaos down there? Members of Congress couldn't even see for themselves.

Secretary KELLY. Well, you could take my word for it. If the—my people in the—in CBP say there was no chaos, that they were doing their normal job at the counters with people coming into the

United States, most of whom were allowed to pass, those that needed additional screening were put aside, this is normal, everyday operations in any airport in the United States, there was no chaos.

Their job normally would not be—I mean, it would be unusual for someone to say, “Hey, I am a Congresswoman and I want to talk to people in CBP.” My opinion, they need to do their jobs on the spot.

There is a 24-hour watch at DHS headquarters. I can report to you that more than one of your colleagues call the right number and unfortunately or fortunately, I was engaged throughout the night with Members of Congress. Again, most of what I was getting was very anecdotal. I am not saying that you didn’t see what you saw, but there is a process to engage this DHS leadership and the people that are on the front lines are down there doing their job in the normal course of the events don’t interact with Members of Congress.

Ms. BARRAGÁN. I will yield back, since my time is up.

Chairman MCCAUL. Gentlelady’s time has expired.

The gentleman from Florida, Mr. Rutherford, is recognized.

Mr. RUTHERFORD. Thank you, Mr. Chairman.

General Kelly, thank you very much for your service, and particularly for your service here today with this very lengthy testimony. I appreciate you taking the time. Thank you. A true public servant.

I represent Florida’s—America’s first coast, northeast Florida, Port of Jacksonville. One of the concerns that I have is as the administration strengthens the southern land border, the security there, that the drug cartels will again shift their operations back to the maritime domain.

Can you talk briefly about your experience at SOUTHCOM? You know all too well the difficulties of interdiction, and particularly with, now, the Navy sort-of pulling out of that role. Can you speak briefly about any intentions that you may have to also strengthen at the same time our maritime security?

Secretary KELLY. My information is a little dated, but I think it is still accurate.

While we can see the flow of drugs, particularly cocaine as it comes up from South America, with a very, very high degree of clarity, primarily because of, you know, an organization in Key West, the Joint Interagency Task Force, that really leverages the entire U.S. interagency. Like most organizations that are far from Washington, DC, it works better than if it was here because people actually talk to each other. You know, DEA and FBI and Homeland Security, everyone is in the same fight. So the point is we have a great deal of clarity.

The vast majority of the drugs, we know, are moving up the Central American isthmus into Mexico, as we all know, and into the United States. There is not really, as I testified many times in—when I was in SOUTHCOM, not even really a speed bump. It gets in. The network is so well-developed; it is so efficient and it will move anything—drugs, people, you know, counterfeit industrial items, whatever.

What we did start to see—and I am going back a year ago now—we did start to see more flow coming up the island chain, the old cocaine cowboy days, if you will, mostly flights out of Venezuela up

to—trying to get to places like Dominican Republic or even Puerto Rico.

We started to react to that but, simply put, we don't have enough assets. I don't believe, with the exception of transit, there has been a U.S. Navy ship, certainly in the last 2 years of my time at Miami we didn't have a single Navy ship.

The good news is United States Coast Guard, our fifth military service, kind-of doubled the number of cutters. But that was like four.

So we don't have enough to monitor the flow. We can monitor the flow; we don't have enough to interdict the flow. Remember, when we interdict down there in SOUTHCOM we are getting it a ton a time, two tons, some of the submersibles 8 or 10 tons at a time.

As we have success on the Southwest Border—and there is no doubt we will—we are going to start to see it flow up toward the—it will go back up the old island chain. The good news is Dominican Republic is a great ally in this whole effort. Many of the smaller island nations are great allies in this effort.

But they will adjust to it, which goes back to the demand issue. If we simply reduce the demand significantly, like we have on other items and other things in the past, we would really, really cut into their profits.

Even if we don't care about the 47,000 Americans that died last year from these drugs, the \$250 billion dollars it costs the American taxpayer to deal with these drugs—even if we don't care about that, it is the profits that come out and cause death and destruction all over the Western Hemisphere. Frankly, some of that money is drawn off into the radical Islam organizations. Long answer, sorry.

Mr. RUTHERFORD. No, that is very good. Thank you, General.

Also, Mr. Secretary, you mentioned the Coast Guard cutters. Will you continue to support the recapitalization of those cutters in the plan going forward now?

Secretary KELLY. If I didn't say yes to that the Coast Guard commandant would come in here and hit me with a bat. But yes, absolutely. Their equipment is very, very, very old. They are a phenomenal group of men and women. They are in the fight every day, in terms of not only saving lives but crime-fighting. We have to recapitalize the organization.

Mr. RUTHERFORD. Thank you very much, Mr. Secretary.

I yield back, Mr. Chairman.

Chairman MCCAUL. Thank you.

The gentlemen from Pennsylvania, Mr. Fitzpatrick, is recognized.

Mr. FITZPATRICK. Thank you, Mr. Chairman.

Secretary Kelly, our country is better for having you serve in this role, and thank you for being willing to step up. I know you could be enjoying your retirement right now, but you chose to serve a cause bigger than yourself, and thank you for doing that.

Just to expand on Mr. Rutherford's comments, and I believe Representative Katko, as well, asked about the drug issue, specifically opioids. We have an absolute epidemic in this country when it comes to opioids. It tends to disproportionately affect the northeastern part of the United States, my hometown of Levittown is being absolutely decimated.

We know that they primarily come from three countries: Mexico, Columbia, and Afghanistan. We also know that they are primarily taking the route across the Southwest Border. There is a lot of talk about securing the border and what is involved with that, as far as a physical barrier.

We also talked about what else can be done. Is there going to be, sir, a comprehensive strategy by your administration to focus specifically on not just slowing it down—we always, in the FBI, refer to physical barriers as a speedbump for cartels, but that is all it is. It requires more, and I just wondered if you could expand on that a little bit.

Secretary KELLY. Well, I will let the demand reduction argument—not argument, comments. I have made them enough. I believe by reinforcing the Southwest Border and getting some level of control over it, it will make it harder for the importation of drugs that way.

But, you know, the phenomenon we are seeing now—and I will go back in—for a second on the opioid thing—you know, these cartels are absolutely brilliant in how they do business. They saw a need that the United States wanted more heroin. So, they just, you know, they were the ones that were providing mostly marijuana over the years.

But they said, “OK, if the American consumer wants heroin, we will start growing heroin. We will start growing poppies here and turning it into heroin and we will import that, if that is what they”—you know, so really, almost, I would say 99 percent of the heroin that is consumed here in the United States comes up through Mexico. These guys are, you know, really brilliant businessmen and they figure out how to deliver to the American market.

Methamphetamine, because of Congressional action a few years ago, the precursors to making methamphetamines harder and harder to achieve inside the continental United States, so the Mexican cartel said, “OK, so we will fill the need. The Americans want methamphetamines.”

So most of it is made down there now because the precursors come in from China, India, a few places. Most of it comes in legal, by the way, and then the cartels use it to—and then finally the cocaine is cocaine, and it has been coming up through.

So we just have to watch the flow. When we are successful on the Southwest Border—and we haven’t even talked about enhancing the border crossings. I think, in my view, part of the wall is also to enhance the border crossings that we are—the legal ones so that we can move larger volumes through, you know, as quickly as possible.

But just as importantly, actually, the South Americans will say, you know, from their view, the things that we import into their country that is killing thousands of their citizens and wreaking havoc in their societies are guns—as I understand it, mostly legally purchased up there and then brought down through the ports of entry into Mexico; and cash, bulk cash—billions and billions and billions of—unlimited amounts of bulk cash.

When I was in Southern Command I worked very closely with the FBI, CIA, and Treasury Department. Treasury Department has a really dedicated group of men and women who follow the money.

Somehow, if we can bring all of that together and go after—you know, if you go to bed at night as a cartel guy with \$10 billion in the bank—and I use “b” purposely—and wake up the next morning and you don’t have any money in the bank, you are not only not a cartel guy anymore, you are dead.

I think that kind of thing, going after the money; working with cooperative countries; and making them cooperative if they don’t want to be—that is an aspect of it; the demand reduction; better ports of entry; working closer. But in my view, once it is in the States we are done; we lost.

You know, there are a million law enforcement, roughly, individuals in our country. They are superheroes in every sense of the word.

They cannot keep up with the amount of drugs, and, for that matter, people that make it into the country. They are just overwhelmed. The most selfless people on the planet. We owe them a debt of gratitude, and they are just overwhelmed by the numbers and the tonnages.

Mr. FITZPATRICK. Thank you, sir.

One other question, with regard to the Executive Order. There have been some in the counterterrorism community that have expressed some hesitancy and concern about cooperating witnesses—cooperating human sources that are being deployed overseas in furtherance of counterterrorism investigations, possibly getting caught up in that. I just ask that your administration be cognizant of that, as far as preserving those investigations.

Secretary KELLY. I have the authority to make National security decisions—exemptions. We have already done it, and we will continue that.

Mr. FITZPATRICK. Thank you, sir.

I yield back, Chairman.

Chairman MCCAUL. Chair recognizes Mr. Higgins, from Louisiana.

Mr. HIGGINS. Mr. Secretary, I echo the sentiments of my colleagues when I say thank you for your service, sir.

Like to ask your opinion regarding the increased and advanced use of social media to track potential terrorists. In my opinion, the previous administration showed a glaring deficiency and hesitancy to use that publicly available data. So to what extent do you envision that we will increase the use of this? I mean, it is out there. It is for public purview.

Even in countries where, as you have so carefully pointed out, we don’t have vetting procedures in those countries, those guys are on social media. I would hope that under your leadership your Department will increase its efforts to dig into that available data and to link visa applicants with their social media activity, you know, whereby we may determine whether or not they are talking to the wrong kind of people and have some bad plans for us. This would apply also to profile potential radicalization of domestic terrorists.

Please give us some feedback on that.

Secretary KELLY. Certainly great points on the social media thing. Again, it is still a work in progress, but this pause is giving us an opportunity. Well, it is not quite a pause anymore since we are under court order to allow people to continue.

But even if we don't get under—get out from under the court order, we are looking at some enhanced or some additional screening. I think I mentioned them a little bit.

You know, if someone comes in and wants to come into our country, you know, it might be not only do they bring a passport or whatever their stories are. Again, it is very hard to truly vet these people in these countries—the seven countries—because they just don't have the internal infrastructure. They are failed States in many cases.

But if they come in and say, we want to say, for instance, “What websites do you visit? And give us your passwords,” so that we can see what they do on the internet. This might be a week, might be a month. They may wait some time for us to vet. If they don't want to give us that information then they don't come.

We may look at their—we want to get on their social media with passwords. What do you do? What do you say? If they don't want to cooperate, then they don't come in.

There are other things like that. So these are the things we are thinking about. No one should take this as this is what we are going to do right now.

But over there we can ask them for this kind of information, and if they truly want to come to America they will cooperate. If not, you know, next in line.

But I think we honestly have to, if we are doing our jobs, enhance the way—or get more serious than we have been about how we look at people coming into the United States—not only individuals, but what they bring. You know, many countries look at immigration from the point of view of what do their countries need. We don't necessarily always do that.

So I think two things: One, reliable information on people so we can have a reasonable expectation they are not coming here to do the wrong thing or to be a burden on our society; and the other issue is, do they bring skills that we want?

Mr. HIGGINS. Your answer is encouraging, and I would hope that you would move forward with that as a mandatory part of a visa application to provide our own people with social media accounts and passwords. That is a crucial window into their intent.

Thank you, sir. I yield back.

Chairman MCCAUL. Gentleman from Virginia, Mr. Garrett, is recognized.

Mr. GARRETT. Thank you, Mr. Chairman.

Thank you immensely for your service, Mr. Secretary. I was trying to count the number of times I have taken an oath in my life to defend the Constitution and the Nation, and I thought you have probably taken a few more than me. I presume you took an oath when you took your current position as Secretary?

Secretary KELLY. I did. I am right at 16 times.

Mr. GARRETT. I am at 8, so you got me.

Secretary KELLY. I got you.

Mr. GARRETT. Do you consider it part of your oath to support and defend the Constitution of the United States against all enemies foreign and domestic—do you consider part of your oath to ensure that the vetting that we apply to individuals who would seek to come to this country be as thorough as it can legally and constitutionally be?

Secretary KELLY. I do.

Mr. GARRETT. Without regard to any individual in this panel or anywhere else, would you consider that to be sort of the minimum that you could do if your responsibility was to support and defend the Constitution—that is, to insure that the individuals who live under the blessings of that Constitution have the blessing also of the level of security that we could best guarantee?

Secretary KELLY. I do.

Mr. GARRETT. So what we know, then, is that no vetting can prevent all risk. Am I correct?

Secretary KELLY. Correct.

Mr. GARRETT. You are certainly familiar with comments by the director of the FBI who indicated, based on some of the same things that you pointed out, that we are unable to adequately vet certain individuals because there is just nobody to call. “Tell me about Kelly. What does he do? Who does he hang out with?” Right?

Secretary KELLY. True.

Mr. GARRETT. But you would concede that more thorough vetting is more effective than less thorough vetting, correct?

Secretary KELLY. I would.

Mr. GARRETT. I want to apologize on behalf of my colleagues, Mr. Secretary, who aren’t in the room. I don’t want to conjecture as to why they left, but I appreciate your time.

I know that the media is in the hallway. I think we have more to learn from you than we have to tell them and that we owe you the full bearing of the time you are willing to spend here.

Would it surprise you to know that, in fact, there have been multitudinous instances of individuals from the seven nations named where individuals were arrested and subsequently prosecuted for either engaging in or plotting to engage in acts of terror on U.S. soil? Would that surprise you?

Secretary KELLY. It would not surprise me.

Mr. GARRETT. In fact, one of my colleagues indicated that you might not be able to point out any instances where this had happened. I would say you are unable to point out any instances where this has happened on your watch so far, correct?

Secretary KELLY. Right.

Mr. GARRETT. But you would agree with the sentiments expressed by Secretary Rumsfeld that essentially the terrorists only have to be right once; we have to be right all the time.

Secretary KELLY. Exactly right.

Mr. GARRETT. So inevitably, regardless of how good you are, how faithfully you discharge those duties, sometimes you lose soldiers, sailors, airmen, Marines, sometimes things go wrong.

Secretary KELLY. Sometimes they go wrong.

Mr. GARRETT. Yes, sir.

Are you familiar with—and I just wish my colleagues were in here because they said they had never heard of these—Dafar



Adnan or Abdul Razakal Arton, any of these names? If you are not, it is OK.

Secretary KELLY. No, but I am tough on—I am not good on names.

Mr. GARRETT. Well, sir, I am not very good on these names either. But I could continue to read off names.

Ultimately what we have is six Iranians, six Sudanese, two Somalis, four Iraqis, one Yemeni, all off this seven-nation list, who either executed attacks in this Nation—the mall attack in St. Cloud, Minnesota; the car and knife attack at Ohio State University, both refugees; a bomb plot at a mall in Texas that was foiled, by an Iraqi. None of these instances—you have heard of these, you just couldn't—

Secretary KELLY. Right.

Mr. GARRETT. Yes, sir.

So let me ask you this. We know that there is rhetoric about a Muslim ban. Do you believe that the rhetoric globally of a Muslim ban would, in fact, serve to enrage our enemies and be used by our enemies as a recruiting tool? Do you believe that that is the case?

Secretary KELLY. If I could just elaborate a little bit, the kind of people that are trying to get here and kill us don't need any more reason to come here and try to kill us than the ones they already have. The ones they already have, of course, is it is about us and how we live our lives, our religions, or no religion, how we treat women, how we treat each other. That is why they hate us—a very small percentage—

Mr. GARRETT. Yes, sir.

Secretary KELLY [continuing]. But that is why they hate us.

So, you know, if we do something like this and it is advertised as a Muslim ban, I mean, they can only be so mad at us. I think their mad red light is on. They can't get any madder at us.

Mr. GARRETT. As they seek, though, to justify the—and recruitment and cite, “Hey, see look what the Americans do, and this proves my point that they are bad”—

Secretary KELLY. What I found about—when I ran Guantanamo Bay—and, you know, Guantanamo Bay is a super well-run—you would be proud of the soldiers, sailors, airmen, Marines down there. It is all misinformation.

So the point is when the previous President—I don't—I am not criticizing here. Mr. Obama was our President and I respect him. But when he would say that because we had Guantanamo Bay open it added more people to the jihad, the jihad information warriors said, “Ah, if he is saying that, that is a good thing to use and we will say it.”

They hate us. They don't need any more reasons to hate us.

Mr. GARRETT. Mr. Secretary, I suppose my question is ultimately—and I am inartful sometimes with words—if it does aid our enemies and there is no Muslim ban, is it not those who are perpetuating this myth who are aiding our enemies?

Secretary KELLY. I wouldn't disagree with that.

Mr. GARRETT. Thank you.

Mr. Chairman, I will yield back the negative 33 seconds.

Chairman MCCAUL. I thank the gentleman.

Let me just close. I want to enter into the record a, Mr. Secretary, a letter I sent to the DNI about a reported re-investigation of dozens of Syrian refugees already admitted into the United States. Because of a lapse in vetting through technology defects that Syrian refugees with potentially derogatory information in their files came into the country for resettlement.

That obviously concerns us. This has been our great concern all along with the refugee program, and I look forward to the response to that letter.

[The information referred to follows:]

LETTER FROM CHAIRMAN MICHAEL T. MCCAUL TO MICHAEL DEMPSEY

January 26, 2017.

MICHAEL DEMPSEY,  
*Director of National Intelligence (Acting), Washington, DC 20511.*

*Dear Director Dempsey:* I write to express my alarm regarding the reported re-investigation of dozens of Syrian refugees already admitted into the United States. A January 25, 2017 article in the *Los Angeles Times*<sup>1</sup> indicated that a “lapse in vetting” stemming from a technological issue had allowed Syrian refugees with potentially derogatory information in their files into the country for resettlement. Needless to say, this alleged gap in the security vetting of Syrian refugees raises serious national security concerns, especially considering more than 15,000 Syrians were admitted in 2016 alone under the direction of former President Obama and former Secretary of State Kerry.

For two years, my Committee has highlighted frustration with serious security weaknesses related to the Syrian refugee program. Indeed, leaders from the Federal Bureau of Investigation (FBI), the Department of Homeland Security (DHS), and the National Counterterrorism Center (NCTC) have testified before the House Homeland Security Committee that intelligence gaps prevented them from fully vetting such individuals—and that extremists could potentially slip through the cracks. Despite these public concerns, the Obama Administration vowed that Syrians would be screened “without cutting any corners when it comes to security” through what was described as an “extraordinarily thorough and comprehensive”<sup>2</sup> process. But it now it appears that the process may not have been as secure as the White House promised.

Already we know that hundreds of individuals with ties to terrorism have tried to enter the United States through the Syrian refugee program, and apparently some have succeeded. In a letter sent to me by the FBI, DHS, and NCTC the day before the Presidential Inauguration, I was informed for the first time that DHS has denied more than 500 refugee applications since Fiscal Year 2011 from Syrians trying to enter the United States who were known or suspected of having terror ties—a total of almost seven percent of those who have applied. Some of these individuals had ties to the Islamic State of Iraq and Syria (ISIS). Moreover, those agencies informed me that there were several hundred additional Syrian cases are on hold pending final review for denial on national security grounds. I find it very disturbing that so many terror-connected individuals have already tried to reach our shores through the Syrian refugee program. But what is worse, this new report suggests that potentially dozens of them have managed to make it into our country because of a “glitch.”

We cannot be blind to the threat. ISIS has already used the global migrant crisis as Trojan Horse to send operatives to the West and conduct attacks. For instance, some of the suspects behind the heinous attacks in Paris and Brussels posed as refugees to sneak into Europe, and dozens of other suspected jihadists reportedly have entered the continent the same way. In just the past year, a number of European terror plots have been uncovered in which operatives had arrived under the guise of refugees fleeing the Syrian civil war. We must do everything possible to keep this from happening in the United States.

<sup>1</sup>Del Quentin Wilber and Brian Bennett, “Federal agents are reinvestigating Syrian refugees in U.S. who may have slipped through vetting lapse,” *The Los Angeles Times*, January 25, 2017, <http://www.latimes.com/politics/la-na-syria-refugees-vetting-gap-20170125-story.html>.

<sup>2</sup>Alex Leary, “John Kerry defends ‘thorough’ Syrian refugee screening in letter to Rick Scott,” *The Miami Herald*, November 22, 2015, <http://miamiherald.typepad.com/nakedpolitics/2015/11/john-kerry-defends-thorough-syrian-refugee-screening-in-letter-to-rick-scott.html>.

I request answers from the Intelligence Community (IC) about the extent of this reported “glitch,” its impact on screening refugees and any other individuals trying to enter the United States, and efforts to mitigate the vulnerability. I therefore respectfully request classified and unclassified responses to the following questions by February 3, 2017. If questions require an answer from another department or agency, please coordinate with them to provide as part of a consolidated response:

1. Please detail any and all lapses in vetting that have occurred with regard to Syrian refugees, including the “glitch” in the aforementioned report. How was this security gap discovered?
2. Please explain how any such lapses have affected the screening of other individuals entering the United States. How many foreign nationals, including refugees, were not fully screened against our intelligence holdings because of the alleged “glitch”?
3. What specific steps is the IC taking to mitigate any such lapses?
4. Is the IC aware of any Syrian refugee(s) with ties to a designated foreign terrorist organization that have been admitted and resettled in the United States since 2011? If so, how many? How were they located? Have they been removed from the country?
5. Is the IC aware of any Syrian refugee(s) with ties to a known or suspected terrorist that have been admitted and resettled in the United States since 2011? If so, how many? How were they located? Have they been removed from the country?
6. How many, and what percent of, admitted Syrian refugee applicant cases have been referred to the USCIS Fraud Detection and National Security Directorate?
7. How many, and what percent of, Syrian refugees have been rejected for resettlement due to national security concerns?

We face a determined enemy, and we must ensure we are aggressively closing all security gaps which they might exploit. I thank you in advance for your responses.

Sincerely,

MICHAEL T. MCCAUL,  
*Chairman.*

CC: The Honorable John F. Kelly, Secretary, Department of Homeland Security  
The Honorable Rex Tillerson, Secretary, Department of State

Chairman MCCAUL. With that, let me congratulate you on getting through your first Congressional hearing.

Secretary KELLY. This has been great.

Chairman MCCAUL. I think you are going to like this committee better than some of the other ones you may have to report to, if I can say. We just really appreciate your service, and I sincerely mean this when we look forward to working with you.

I think the terrorists don’t check our political stripes. We are all Americans, and I know all of us on this committee want to help you in your effort to protect America.

So thank you, sir.

With that, votes have been called on the House floor. We have a second panel, and once we return from votes we will hear from the second panel after conclusion of the vote series.

[Recess.]

Chairman MCCAUL. Committee will come to order. We will now hear from the second panel of witnesses.

Our second panel includes Steve McCraw, director, Texas Department of Homeland Security. Steve McCraw became the director of the Texas Department of Public Safety in 2009. Also serves as the Governor’s homeland security advisor.

So I know him well from my prosecutor days.

It is good to have you here, sir.

Mr. Joe Frank Martinez, sheriff of Val Verde County, Texas. Sheriff Joe Martinez served as a Texas police officer for 35 years. In 1999 Sheriff Martinez was promoted to the rank of sergeant of

Narcotics Service in Eagle, Texas. Served in this capacity until his retirement, 2007; 2009 elected sheriff of Val Verde County.

Mr. Leon Wilmot is the sheriff of Yuma County, Arizona. Worked in law enforcement for the county of Yuma for over 30 years since completing his service in the United States Marine Corps, and was elected to sheriff of Yuma County in 2012. Continues to serve in this capacity.

Final witness is the Honorable Eddie Trevino, who is judge for Cameron County, Texas. He has served in Cameron County for 15 years. He is a partner and founder of Trevino and Bodden Law Firm; was then elected as Brownsville's mayor from 2003 to 2007. In November 2016 elected to Cameron County bench, where he currently serves.

I want to thank all of you for being here today. Full statements will appear in the record.

I know many of you have flights to catch, so with that the Chair recognizes Mr. McCraw for his testimony.

**STATEMENT OF STEVEN C. MCCRAW, DIRECTOR, TEXAS  
DEPARTMENT OF HOMELAND SECURITY**

Mr. MCCRAW. Well, thank you, Mr. Chairman and Ranking Member Thompson.

Texas has, as you know—and we have heard testimony already about how big Texas is, and, Congressman Hurd, thank you for pointing that out. I think it is obligatory to note that 1,200 to 1,900 miles belongs to Texas, and that is very important and it does impact—what happens on the border doesn't just stay at the border; there are consequences throughout Texas and the Nation.

We talked a little bit. The Secretary, who I think did a great job of testifying, noted that there is—some of those consequences is that heroin epidemic that is happening in the Northeast that I think Congressman Fitzpatrick was worried about. Other things have happened.

Of course, in 2014 when Border Patrol was overwhelmed by the surge and influx of Central Americans, they were—it was a threat, from a Texas standpoint. The Governor and the State legislature has always been proactive about doing something when it comes to protecting people, and they were concerned about the influx of gangs—transnational gangs, cartel operatives, cartel members, heroin, cocaine, methamphetamine, and marijuana, and this other thing that hasn't been talked about today: sex trafficking—international sex trafficking, this impact throughout the State and Nation.

So we are sent down there, OK, to do something, work with our Federal partners, but importantly, coordinate with our local and State partners—our State partners, National Guard, also Texas game wardens—conduct surge operations in direct support of the U.S. Border Patrol to deter, detect, and interdict smuggling between the ports of entry. As we have seen in doing so over a period of time that you can influence the amount of drugs coming in and the amount of illegal aliens coming in. There is no question about it. It is border control physics.

You can go back to 1991, when the Sandia Laboratory physicists were tasked by ONDCP to look at this issue, and they came back

and said yes, it can be done, but what they recommended is what Secretary Kelly talked about, and that is what was so encouraging today. That is rather than wait for it to come in, prevent it from coming in in the first place. There are many positive aspects of doing that.

That is the Texas way that we have been obligated to work. Put the Border Patrol at the river and not inward. Any defense-in-depth we have looked at is defense-in-height, being able to stack it, whether it starts on the water, goes from sensors, to cameras, to RAID towers, to the aerostat balloons, to the helicopters. Of course, we have got 14 aircraft dedicated specifically to support Border Patrol agents on the ground.

We have got a tactical Marine unit, which I wouldn't have believed that we would ever have an opportunity to have a Navy in the Department of Public Safety. We do now, and there is a reason for it, because that is what Border Patrol needed at the time.

We don't need yesterday's technology for tomorrow. I mean, those sensors are archaic, OK? The private sector are the experts in developing, you know, technology and making it work.

That is what we did in terms of support. We got 4,000 cameras deployed that are detection—motion-detection cameras that are infrared to support Border Patrol that they install, not us. We turn it over to them. Border Patrol agents install those. We support them with State Guard to be able to help their capacity, but because they don't have that technology and they need it.

I have got no question whatsoever, and we understand, and the Governor has clear—been clear about this and so has the legislature, that we know that the Border Patrol can secure the U.S. border. Ron Vitiello, the new chief that was named, was an outstanding Border Patrol sector chief, worked with us in Rio Grande Valley. I have got no question that he can do it if given the resources to do so.

We look forward to working with the brave men and women of the Border Patrol. Until that time, I can tell you this: On behalf of the State legislature—I get to speak for them a little bit—and the Governor, because I talked to his chief of staff last night, is that there is a concern that the amount of money that we continue to spend at the State level in—to a Federal mission, it is—right now we—there is a—the price tag is over \$1.4 billion.

But our leaders and legislators have said, you know, that Texans are so important that we are going to spend this money if it can provide direct support for the Border Patrol. The last thing we want to do is diminish or degrade what already is out there right now, and I am concerned about when I report tomorrow before the Senate Finance hearing is that—what I am going to say. You know, how am I going to explain?

We are hoping strategically to get out of the business. We had 3,742 deaths on Texas highways last year; not to mention transnational gangs; not to mention we rescued 36 children who were victims of predators on our highways by our troopers, another 26 by some of our special agents on the highway. We have much to do inwards inside the State of Texas, including transnational gangs.

Now, Texas is a hub city for Mexican—or for the MS-13, simply because of an unsecure border. So we must deal with those things.

Right now our directive is to continue to support Border Patrol as we are, and we will do everything we can, as the Secretary Kelly said, which is one of the concerns with how fast can they do it? How long is it going to take them to take—get those resources in place?

With that, Mr. Chairman, I conclude my testimony. Questions? [The prepared statement of Mr. McCraw follows:]

PREPARED STATEMENT OF STEVEN C. MCCRAW

FEBRUARY 7, 2017

Good morning, Chairman McCaul, and distinguished Members of the House Committee on Homeland Security. My name is Steven McCraw and I am the director of the Texas Department of Public Safety. I would like to thank you for the opportunity to testify before the committee on this vitally important public safety and homeland security issue to Texas and the Nation. For more than 17 years, I have had the honor to testify before the United States Congress as a deputy assistant director and assistant director for the Federal Bureau of Investigation, the Texas homeland security director, and the colonel and director of the Texas Department of Public Safety.

On December 13, 2000, I told the House Judiciary Committee, “Organized crime, drug trafficking, and terrorist acts are no longer insular, distinct activities that can be contained and eradicated through traditional enforcement. Instead, they are integrated activities, which through their very commission have a reverberating impact on our National interests.” The testimony went on to describe the threat posed by Mexican Drug Trafficking Organizations citing the Carrillo Fuentes Drug Trafficking Organization based in Juarez, Mexico and its propensity for violence and use of corruption to support their drug trafficking operations, which at the time was predominantly cocaine and marijuana. I also used an example personal to me, the June 3, 1998, murder of U.S. Border Patrol Agent Alexander Kirpnick who was shot and killed after he confronted three Mexican Drug Smugglers in the Sonoran desert of Arizona. At the time, I was the FBI assistant special agent in charge of the Tucson Resident Agency in the Phoenix Division of the FBI and oversaw the investigation of this tragic murder. The three subjects escaped to Mexico, but were later identified, captured, and returned to the United States to serve life sentences.

At this point in my testimony, I must digress to raise a serious concern of Governor Greg Abbott. For reasons inexplicable to us, the Federal Government has declined to prosecute subjects who assault U.S. Border Patrol Agents in the performance of their duties. Mr. Chairman, as you know, Texas is a law-and-order State and its citizens cherish the rule of law, its men and women who enforce it, and those who serve or have served in the United States Military. In the absence of Federal prosecution, we have assigned the Texas Rangers to investigate assaults on U.S. Border Patrol agents, and the Texas Border Prosecutor’s Unit, funded by the State Legislature, are prosecuting these cases until the Federal Government policy changes. On February 1, 2017, Governor Abbott brought this concern to the attention of Secretary Kelly when they met and he agreed to address this issue with the United States Attorney General. We are hopeful that this policy will change with a new Attorney General.

The Congressional testimony provided in December 2000 was not prescient because it was abundantly clear to local, State, and Federal law enforcement agencies and the U.S. intelligence community what was happening at the time and that it would most likely get worse. Unfortunately, it has, as Texas law enforcement leaders have testified to for many years.

The Mexican Drug Trafficking Organizations diversified their drug trafficking activities and now dominate the U.S. heroin, cocaine, marijuana, and methamphetamine smuggling and trafficking market, leveraging transnational and U.S.-based gangs to support their operations on both sides of the border. They also diversified their criminal activities, which now includes human smuggling and trafficking, extortion, kidnapping, and theft of oil and other commodities. Most disturbing is their embracement and use of the most vile and depraved terrorist tactics to intimidate and coerce their rival cartels, journalists, elected officials, police, and military to support their criminal operations. An essential element in their evolution to our Nation’s most significant organized crime threat is an unsecured border with Mexico,

which they exploit profiting in billions of dollars made on the unending demand for drugs and commercial sex with young women and children. In addition, as long as the border remains unsecured, there is a significant National security threat of global terrorists and their supporters entering the United States undetected. There are many other negative consequences in having an unsecured border with Mexico that this committee is aware of from previous testimony over the years.

Securing our Nation's border is the sovereign responsibility of the Federal Government, and I never envisioned that someday it would be necessary for the State of Texas to dedicate substantial resources to increasing the level of security at the border. However, Texas Governor Greg Abbott and the Texas Legislature have been clear that there is no more important function of Government than the protection of its citizens and that they will do everything they can despite the enormous diversion of State funds to a Federal responsibility.

The Governor and Legislature have insisted that State funds expended on border security support an evidence-based approach that integrates resources and capabilities and complements existing U.S. Border Patrol efforts. As I have testified on several occasions, the U.S. Border Patrol can secure the U.S./Mexico border if provided the necessary personnel and capabilities as a proven doctrine already exists. In fact, Congressman Silvestre Reyes demonstrated this in 1993 when he was the U.S. Border Patrol chief for the El Paso sector. The then-sector chief, Silvestre Reyes noted that there were approximately 8,000 to 10,000 illegal border crossings daily and that only 1 out of every 8 was being apprehended. At the time, the El Paso Police Department estimated that illegal aliens committed as much as 75 to 80 percent of all motor vehicle thefts and burglaries in El Paso. Operation Hold the Line began in September 1993, which changed the strategy from arresting illegal aliens after they entered the United States to preventing their illegal entry. A subsequent GAO report titled "BORDER CONTROL: Revised Strategy Showing Some Positive Results" noted that "Although El Paso Sector did not have the resources to install physical barriers, they were able to accomplish the same goals with a human barrier comprised of U.S. Border Patrol Agents."

By saturating a border area with agents, the El Paso Sector was able to significantly decrease the number of people being smuggled into Texas as evidenced in the rapid decrease of illegal alien apprehensions even though there was a much larger amount of resources available to make apprehensions. Within 1 year, the apprehensions reduced from 285,781 to a low of 79,688 or a 72.1% decrease. The El Paso Police Department reported a decrease in crime for the same time and credited Operation Hold the Line as the reason for the dramatic decrease. The Sandia National Laboratories recommended this approach after being tasked in 1991 to conduct a systematic analysis of the security along the U.S.-Mexico border. The Sandia scientists recommended that Border Patrol change its tactics from apprehending illegal aliens after they enter the United States to preventing their illegal entry. This approach has worked whenever used to address hot spots along the border and is the approach the Texas Department of Public Safety took when first integrating State resources into Border Patrol operations with the then-Border Patrol Sector Chief for the Rio Grande Valley and newly-named U.S. Border Patrol Chief, Ron Vitiello.

There has long been a renaissance in technology since 1993 that could substantially augment the U.S. Border Patrol's ability to secure the border and yet they are seriously lacking in technology despite the billions of Federal dollars spent on the "Secure Borders Initiative" and the "Mérida Initiative." The State of Texas has provided Border Patrol agents more than 4,000 low-cost, high-capability cameras to detect smuggling activity along the border. The Department of Public Safety has diverted much of its fleet of high-technology aviation assets that are capable of communicating directly with Border Patrol agents on the ground to the border security mission. This includes 8 helicopters and 4 fixed-wing aircraft with night vision and FLIR capability to support detection and interdiction operations around-the-clock. The Governor has also directed that Texas Military aviation assets funded through the Governor's Counter Drug Program provide direct support to U.S. Border Patrol. The combined aviation assets ensures aircraft availability around-the-clock within the Rio Grande Valley Sector, which is the most active smuggling area in the Nation and those State assets serve as an important force multiplier and essential Officer/Agent safety capability.

The following implementing principles guided the deployment of State resources:

- A sense of urgency is imperative as an unsecured border with Mexico threatens border communities and communities throughout the State and the Nation.
- The border is best secured at the border and forfeiting territory to the cartels is not acceptable. Moreover, when drugs and people reach public roads and stash houses, they become far more difficult to detect and interdict.

- Integration of effort among local, State, and Federal agencies is essential to success.
- The timely collection, integration, production, and dissemination of multi-agency information and intelligence is required to support operations.
- Integrated air, marine, and ground operations must be sustained around the clock.
- Integrated cost-effective technologies and capabilities are needed to increase detection coverage and interdiction capacity.
- Operations must achieve meaningful and measurable results that can document increased levels of border security zone-by-zone and county-by-county and sector-by-sector.
- Operations should begin where the highest concentration of smuggling exists to maximize the impact on smuggling.

Important to the State of Texas and the U.S. Border Patrol was the integration of detection capabilities and interdiction assets to maximize their effectiveness. The best approach that we have observed is multi-layered, redundant, and vertically-stacked resources. When the cartels are able to move people and drugs onto the improved roadways or into stash houses, it is far more difficult to detect and interdict. The integration and overlapping of detection technologies and capabilities is a highly efficient means of increasing the level of security within an area. For the Rio Grande Valley Sector, it begins on the Rio Grande River and the around-the-clock deployment of DPS, Border Patrol, and Texas Game Warden tactical marine boats with ground-tracking and water-rescue capabilities. The Border Patrol ground sensors serve as the first ground layer, which is integrated with the Drawbridge motion-detection cameras by the Border Patrol Sensor Teams recently augmented with a Texas State Guard Team to assist Border Patrol. The Texas Military Forces have deployed Observation Post/Listening Posts (LP/OP) in direct support of detection operations along the Rio Grande River. Law enforcement tactical units serve as an added ground layer in hot spots and include the Border Patrol BORTAC, DPS Ranger Recon and SWAT Teams, and Texas Game Warden tactical personnel. Texas Military Forces provide UH-60 Black Hawks in support of the tactical teams.

Border Patrol observation towers provide the next layer followed by the Border Patrol Aerostats with long-range video detection capability. The aerostats are important in providing sustained long-range detection coverage and Governor Abbott has repeatedly requested that the Federal Government increase the number of operational aerostats in the Rio Grande Valley Sector and places located in the Border Patrol Laredo Sector. Rotary aircraft serve as the next level and then the mid-altitude and high-altitude fixed-wing aircraft with long-range observation, FLIR and night vision capability. The last in the vertical stack are Federal drones when they are available for use. As additional technologies and capabilities are developed and/or acquired, they can easily integrate into the stack. The coordinates for the Border Patrol sensors and the State's detection cameras are placed into DPS aircraft optical systems, which enables the timely verification and tracking of smuggling events and serves as a good example of cross-agency technology integration to better support the Border Patrol agents and DPS officers on the ground.

In addition to the fixed and rotary aircraft and substantial DPS and Texas Game Warden marine assets provided, the Governor and Legislature directed the DPS to deploy additional resources from around the State until more than 250 newly-funded officer positions were recruited, hired, trained, and deployed to the border region. Since June 23, 2014, DPS State troopers, special agents, and Texas Rangers from around the State have continuously deployed to the border to work 12- to 14-hour shifts for 7 days until relieved by the next wave. These selfless and dedicated men and women continue to work side-by-side with their Border Patrol and local and State partners until the last of the permanently assigned Troopers complete their Field Training Program and can begin conducting patrol operations on their own. The Texas Rangers have been instrumental in conducting and overseeing integrated tactical operations along the Rio Grande River; the oversight of the Drawbridge camera detection and monitoring program; and the conduct of major violent crime and public corruption investigations. DPS special agents conduct enterprise investigations working with their local and Federal partners and the State-funded Border Prosecution Unit to dismantle those gangs working directly with the Mexican cartels along the Texas/Mexico border such as the Texas Chicano Brotherhood operating predominantly in Starr County.

A diagram of what the vertical stack currently looks like is on Page 1 of the attachment.





I am often asked if building a wall along the Texas/Mexico border will secure it. Certainly, a wall and/or strategic fencing will make it more difficult for the cartels and easier for law enforcement. However, it is important to note that the cartels are highly adaptable and creative. A wall without sufficient overlapping detection technology coverage on the ground and in the air, and a sufficient number of Border Patrol agents to respond quickly, becomes a very expensive obstacle but not a barrier. Moreover, in some locations along the border there are in effect natural walls that serve as obstacles to smugglers, which with sufficient detection technology and agents, could serve as a barrier.

Dramatic increases in detection and interdiction capability at any location along the border increases the percentage of the drugs and people interdicted and the risk to the cartels. If sustained for a long period, the following consistently happens:

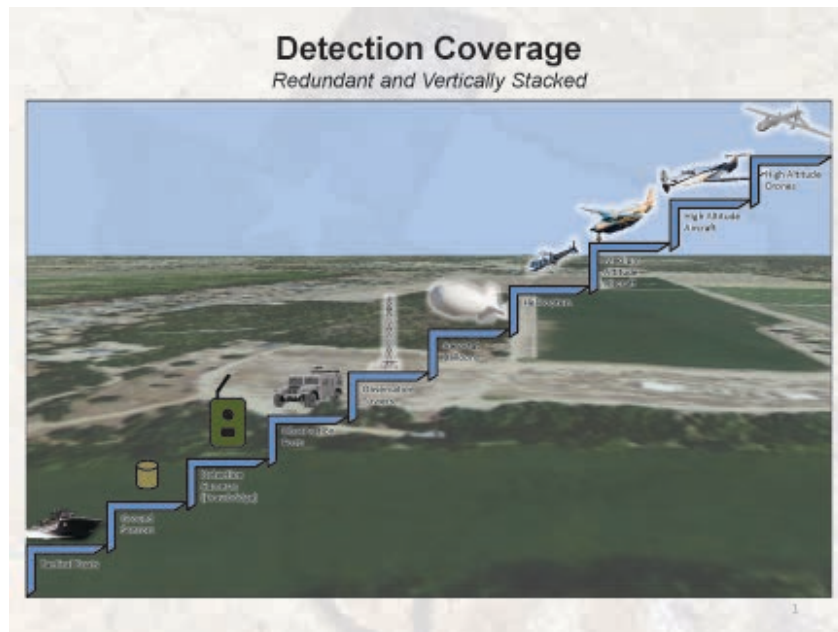
- Decrease in the amount of drug smuggling between the Ports of Entry
- Decrease in the amount of drugs being seized at the interior checkpoints
- Decrease in overall amount of drugs smuggled into Texas
- Increase in the amount of drug smuggling on the international bridges
- Increase in drug seizures in adjoining locations outside the area of operation
- Decrease in bailouts
- Decrease in the overall amount of people being smuggled into Texas who are not detected
- Decrease in smuggling deaths
- Decrease in crime rate
- Decrease in home invasions

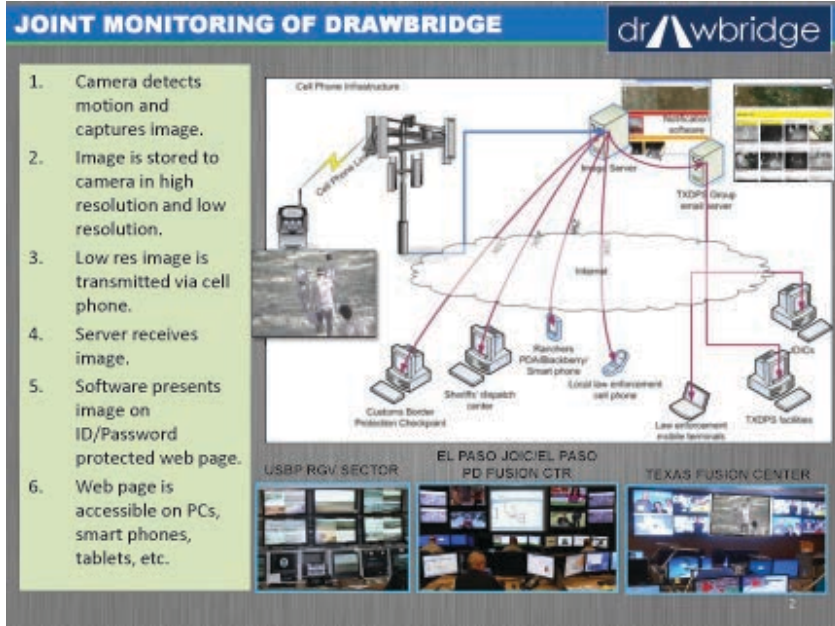
For example, the Border Patrol Leadership at the station and sector level in the Rio Grande Valley identified the busiest zone, within the busiest station, within the busiest county (Starr) in the busiest sector in the State and Nation. In direct support of the Border Patrol, local and State law enforcement agencies and Texas Military Forces worked together to dramatically increase the detection coverage and interdiction capacity on the water, in the air and on the ground zone-by-zone. The amount of drugs seized in Starr County between 2014 and 2016 decreased by 83.7 percent; Hidalgo County by 65 percent; Jim Hogg County by 64 percent; Brooks County 63 percent; Kenedy County by 88 percent; and Zapata County 66 percent.

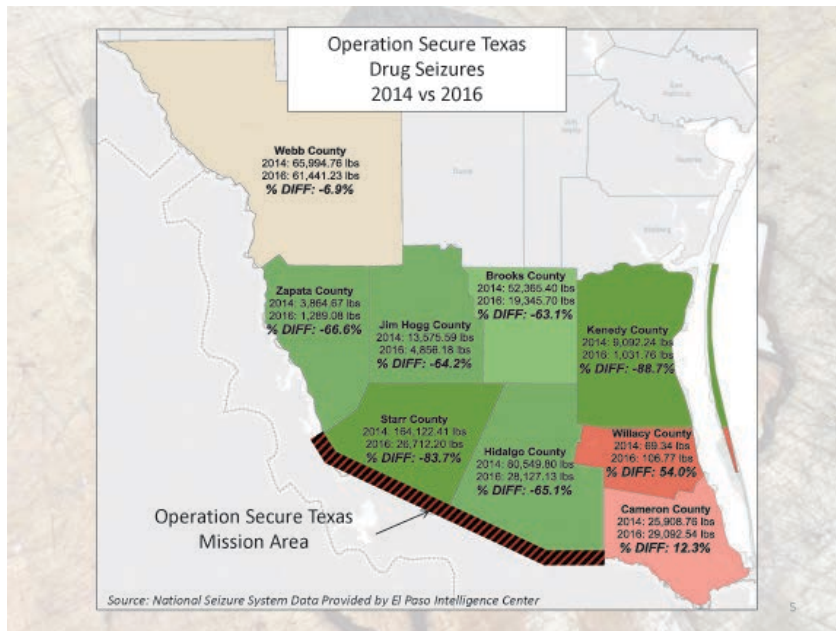
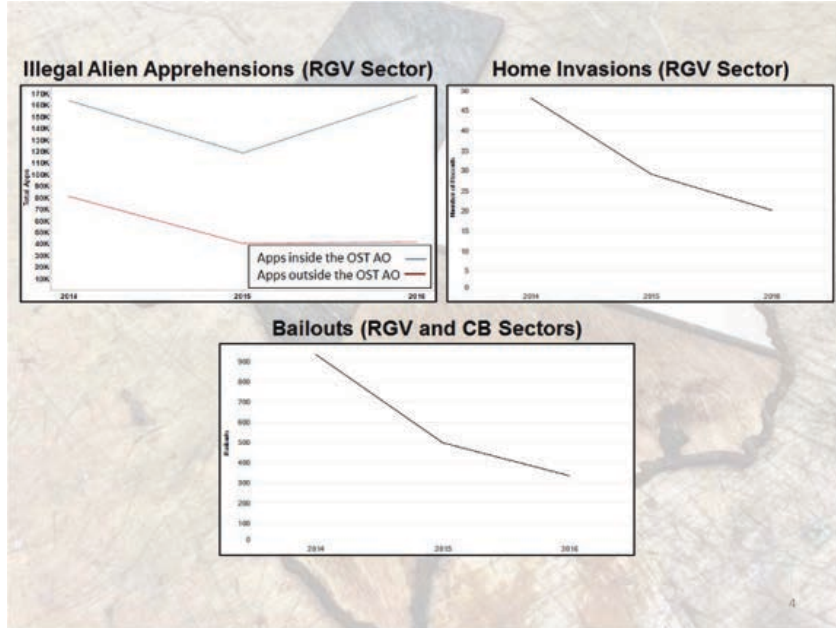
The average amount of drugs seized at the Border Patrol Falfurrias Checkpoint from October 2012 to May 2014, was 11,474 pounds per month which decreased by 85 percent to 1,715 pounds per month for the period of June 2014 to December 2016. Similarly, at the Border Patrol Sarita Checkpoint for the same time period, 2,503 pounds of drugs per month were seized, which decreased to 605 pounds per month or a 75.8 percent decrease. Bailouts decreased by 64 percent between 2014 and 2016, and home invasions decreased by 58 percent for the same time.

According to the El Paso Intelligence Center (EPIC)—which is operated by the Drug Enforcement Administration—local, State, and Federal drug seizures within 150 miles of the Texas/Mexico Border decreased by 43.17 percent between 2014 and 2016, illustrating the advantages of focusing limited resources in the busiest smuggling areas along the U.S.-Mexico border.

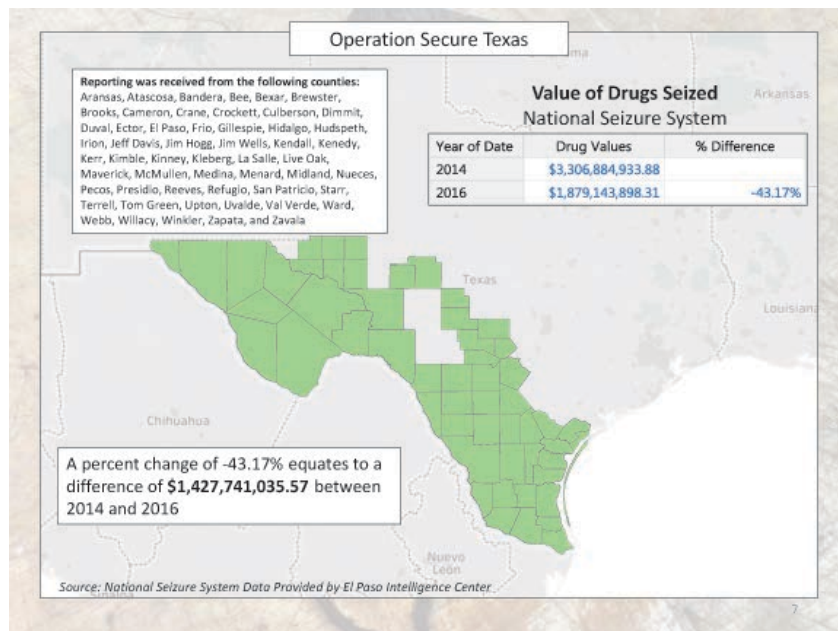
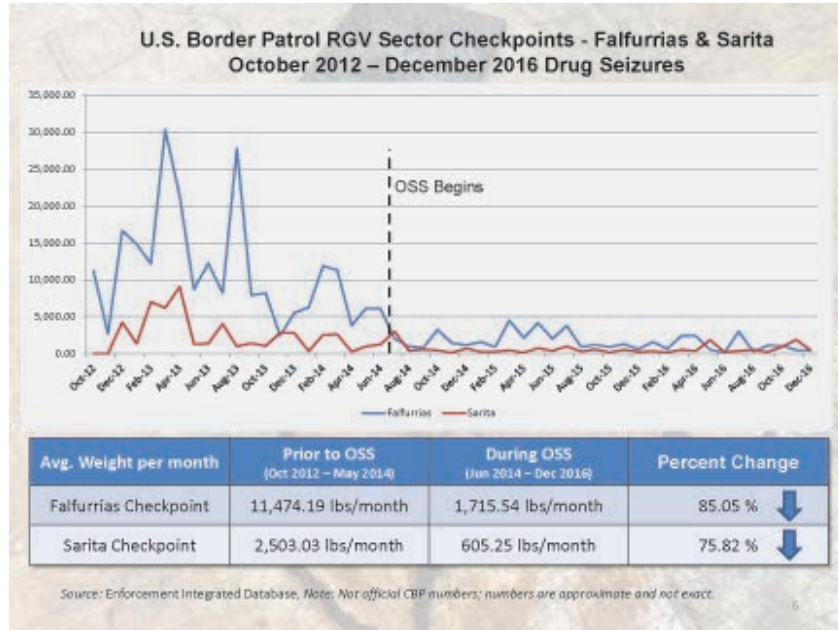
Although the Index Crimes in the annual Uniform Crime Reporting system currently do not capture organized crime-related offenses (such as drug and human smuggling, kidnapping, and public corruption) the crimes that are reported decreased overall in the area of operation. For example, Index Crimes decreased by 17.5 percent in Starr County between 2014 and 2015; 12.3 percent in Hidalgo County for the same time; 54 percent in Jim Hogg County; and 50 percent in Kenedy County. State-wide there was a 4.7 percent decrease of the Index Crime rate for the same time. Importantly, there was a 2.35 percent decrease in violent crimes in Starr County between 2014 and 2015; a 9.54 percent decrease in Hidalgo County; a 66.7 percent decrease in Jim Hogg County; a 31.58 percent decrease in Brooks County; and a 50 percent decrease in Kenedy County. State-wide there was 3.6 percent increase in the Violent Crime Rate for the same period. As the U.S. Border Patrol has long known, when additional detection and interdiction resources are deployed to unsecured areas along the border, the level of security increases and the amount of organized criminal activity decreases—as evidenced above. (Border Control Physics, 101) Finally, I would like to conclude by publicly thanking Secretary Kelly for taking the time to observe first-hand on-going border security operations in the Rio Grande Valley with Governor Abbott.

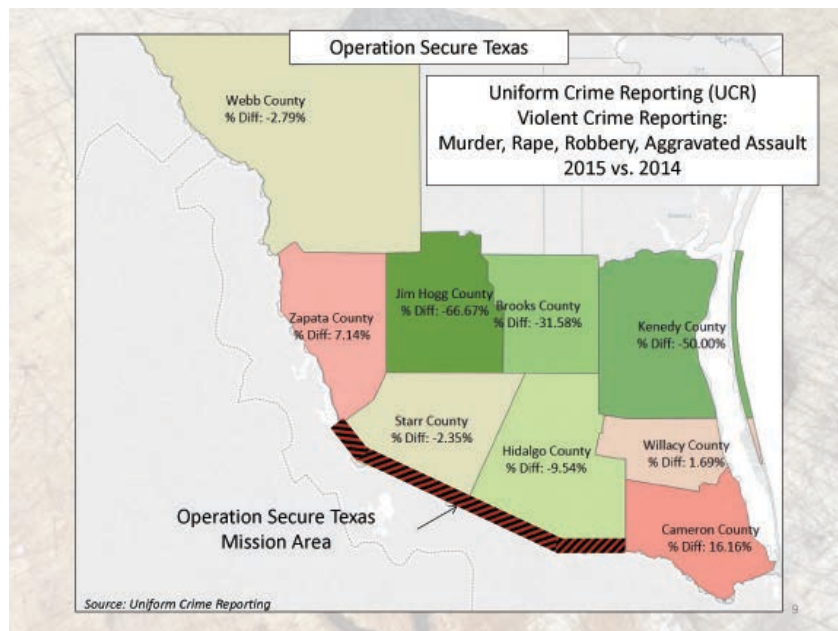
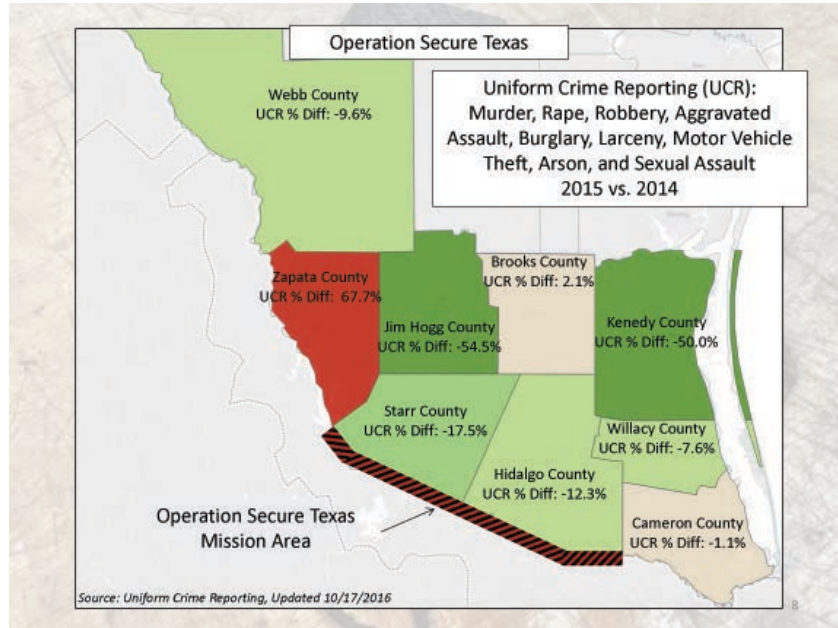












Texas Border Security Levels			
Unsecured	Minimal Control	Operational Control	Substantial Control
<b>Interdiction Capacity</b> <ul style="list-style-type: none"> <li>Infrequent marine patrols</li> <li>Interdiction response &lt; 50%</li> <li>Infrequent ground tactical operations</li> <li>Aircraft Alert &gt; 60 (On target greater than 50 minutes)</li> <li>DHS Effectiveness Rate &lt; 70%</li> </ul> <b>Detection Coverage</b> <ul style="list-style-type: none"> <li>Limited sensor and coverage of primary trails</li> <li>Infrequent air coverage of Rio Grande River</li> <li>Infrequent ground and air surveillance of trails</li> <li>Minimal efforts to detect new trails</li> <li>Aerosat/Tower Rio Grande River coverage &lt; 60%</li> </ul> <b>Supporting Capabilities</b> <ul style="list-style-type: none"> <li>No operations center</li> <li>Unreliable communications capability</li> <li>No Unified Command Structure</li> <li>No intelligence collection and production targeting smuggling infrastructure</li> <li>No investigative operations targeting smuggling infrastructure</li> </ul>	<b>Interdiction Capacity</b> <ul style="list-style-type: none"> <li>Periodic marine patrols</li> <li>Interdiction response &gt; 50%</li> <li>Periodic ground tactical operations</li> <li>Aircraft Alert 60 (On target within 50 minutes)</li> <li>DHS Effectiveness Rate &gt; 70%</li> </ul> <b>Detection Coverage</b> <ul style="list-style-type: none"> <li>Camera or other sensor coverage of all primary trails</li> <li>Periodic air coverage of Rio Grande River</li> <li>Periodic ground and air surveillance of trails</li> <li>Trail detection operations conducted weekly</li> <li>Aerosat/Tower Rio Grande River coverage &gt; 50%</li> </ul> <b>Supporting Capabilities</b> <ul style="list-style-type: none"> <li>Operations center established, not 24/7</li> <li>Reliable intra-agency communications, challenges with interoperability</li> <li>Periodic use of a Unified Command Structure</li> <li>Infrequent intelligence collection and production targeting smuggling infrastructure</li> <li>Infrequent investigative operations targeting smuggling infrastructure</li> </ul>	<b>Interdiction Capacity</b> <ul style="list-style-type: none"> <li>Routine marine patrols</li> <li>Interdiction response &gt; 90%</li> <li>Routine ground tactical operations</li> <li>Aircraft Alert 30 (On target within 30 minutes)</li> <li>DHS Effectiveness Rate &gt; 80%</li> </ul> <b>Detection Coverage</b> <ul style="list-style-type: none"> <li>Camera and sensor coverage of all primary and secondary trails</li> <li>Routine air coverage of Rio Grande River</li> <li>Routine ground and air surveillance of trails</li> <li>Daily air coverage and around the clock air response capability</li> <li>Trail detection operations conducted semi-weekly</li> <li>Day and Night Aerosat/Tower Rio Grande River coverage &gt; 60%</li> </ul> <b>Supporting Capabilities</b> <ul style="list-style-type: none"> <li>24/7 operations center established</li> <li>Reliable interoperable communications</li> <li>Routine use of a Unified Command Structure</li> <li>Periodic intelligence collection and production targeting smuggling infrastructure</li> <li>Periodic investigative operations targeting smuggling infrastructure</li> </ul>	<b>Interdiction Capacity</b> <ul style="list-style-type: none"> <li>Day and Night marine patrols</li> <li>Interdiction response &gt; 95%</li> <li>Day and Night ground tactical operations</li> <li>Day and Night aircraft patrols</li> <li>DHS Effectiveness Rate &gt; 90%</li> </ul> <b>Detection Coverage</b> <ul style="list-style-type: none"> <li>Redundant sensor and effectiveness coverage of all primary and secondary trails</li> <li>Day and Night air coverage of Rio Grande River</li> <li>Day and Night ground and air surveillance of trails</li> <li>Trail detection operations conducted every 2 days</li> <li>Day and Night Aerosat/Tower Rio Grande River coverage &gt; 75%</li> </ul> <b>Supporting Capabilities</b> <ul style="list-style-type: none"> <li>24/7 operations center established, including partner agency liaison and real-time video feeds, GDM coordination</li> <li>Relative Officer to Officer radio communications</li> <li>Day and Night use of a Unified Command Structure</li> <li>Routine intelligence and investigative operations targeting smuggling infrastructure</li> <li>Day and Night informationally intensive investigations and production</li> </ul>

Chairman MCCAUL. Thank you, Steve.  
Chair recognizes Sheriff Martinez.

#### STATEMENT OF JOE FRANK MARTINEZ, SHERIFF, VAL VERDE COUNTY, TEXAS

Sheriff MARTINEZ. Distinguished Member of the House Homeland Security Committee, thank you for the opportunity to address you all today on issues that affect every citizen in my border county of Val Verde, the State of Texas, and the United States of America.

I have spent 39 years as a career law enforcement professional. As immediate past chairman of the Texas Border Sheriff's Coalition and current chairman of the Southwest Border Sheriff's Coalition, I have dedicated my law enforcement career to serving the citizens of the State of Texas right on the Texas-Mexico border, both at the State level and as a member of the Texas Department of Public Safety, the local police department of the city of Del Rio, and now as the current sheriff of Val Verde County.

The Texas Border Sheriff's Coalition is comprised of 20 border sheriffs, all who are within 20 miles—25 miles of the Mexico border. They share approximately 1,254 miles of border with the Republic of Mexico.

Val Verde County consists of 3,200 square miles and share approximately 110 miles of border with the Mexican State of Coahuila.

The Southwestern Border Sheriff's Coalition, which includes the State of California, Arizona, New Mexico, and Texas, combine for a total of 1,989 miles of border between the United States and the Republic of Mexico. Within the 1,900 miles of border from San Diego, California to Brownsville, Texas lie 31 counties.

The terrain throughout much of these areas varies from rural ranchlands, high desert, to desert-like valleys, and mountain ranges. Most of these lands are titled to private landowners. Some areas are National or State parks. So the need for each of these individual counties is unique in its own way.

The Texas Border Sheriff's Coalition, founded in 2005—was founded in 2005 to provide a cooperative effort to effect a regional solution to a National problem. We all share common issues, but there is one issue—but there is no one issue more important than making sure that we secure our communities in which the people feel safe in their homes and surroundings.

Sheriffs have a vested interest in the law enforcement, economic, social impact, health, and the overall quality of life of those that we serve. Sheriffs are unique in the understanding of the pulse of their communities and public that evaluates them during election time that determines whether they stay employed every 4 years.

The Texas Border Sheriff's Coalition was organized and represented by the chief law enforcement officer of each respective county. Texas sheriffs, empowered by the State constitution, are committed, from a National security perspective, to protect the lives and property and the rights of the people by maintaining order and security of the United States along the Republic of Mexico border and enforcing the laws impartially while providing police service in partnership with other law enforcement agencies and community partners.

The consequences of an unsecure border are felt throughout the United States. Each border county sits at the gateway into our country and is a first line of defense in dealing with law enforcement, social, and economic issues for both legitimate and illegitimate trade and travel.

The issue here is public safety. Immigration, though an important factor, is a separate but related issue whose responsibilities lie within the Federal Government agencies. These Federal agencies that we work with every day have had a difficult job in carrying out their duties due to administrative policy issues and changes and not laws that are on our books.

Sheriffs only encounter immigration issues as a by-product of other criminal acts which are referred to the Federal Government for further actions. Some of the problems we encounter most are drug smuggling; human smuggling; stolen vehicles; crimes against persons; crimes against property; the violent crimes such as murder, rape, sexual assault, dealing with transnational organizations; and the list goes on.

As many of you know, the lower populations and property values most counties lack a sufficient tax base to support the multifaceted needs at the sheriff's office. Each and every one of us is affected directly in one way or another by what happens on the border, and as such, border States and the Federal Government are a natural resource to support the needs of the border as it impacts public safety.

A problem for most sheriffs is a shortfall of resources to address the problems identified here, which are not all-inclusive but are



prioritized as: Manpower, travel and training, equipment, direct operating expenses, and contract services.

The sheriffs of the Texas Border Sheriff's Coalition offer a positive, effective, and less expensive approach to border security based on a partnership of action. The solution offered by the Texas Border Sheriff's Coalition is one of cooperation. Being at the table to discuss these issues that affect all of our communities on a daily basis, all Federal, State, and local law enforcement needs to work together as we move forward in finding the solution and securing our borders and our future. No one single form of government can go it alone.

The plan for security in our—in the communities along the border with Mexico, as presented by the members of the Texas Border Sheriff's Coalition, is to provide a regional solution to a National problem. The plan is based on partnership of action and not rhetoric. It is based on existing cooperative working agreements and the willingness to share lessons learned and put into place best practices.

The plan is formulated by sheriffs who have ownership in the respective communities they serve and understand how local needs interrelate from a law enforcement, economic, social, health, and environmental perspective. The initiative, created by sheriffs, with respect to all Federal and State agencies and in support of the men and women who are working on the front lines each and every day.

The difference is in the solutions that are based on the local community impact and not on policies enacted by people a thousand miles away.

I want, once again, to thank Chairman McCaul, the entire committee, for this opportunity to address the needs of our border sheriffs. May God bless the United States of America and every law enforcement officer protecting the front lines.

[The prepared statement of Sheriff Martinez follows:]

PREPARED STATEMENT OF JOE FRANK MARTINEZ

FEBRUARY 7, 2017

#### INTRODUCTION

Chairman McCaul and distinguished Members of House Homeland Security Committee, thank you for the opportunity to address you today on issues that affect every citizen in my border county of Val Verde, the State of Texas, and the United States of America.

I have spent 39 years as a career law enforcement professional. As immediate past chairman of Texas Border Sheriff's Coalition and current chairman of the Southwestern Border Sheriff's Coalition, I have dedicated my law enforcement career to the serving the citizens of the State of Texas right on the Texas/Mexico border, both at the State level, as a member of the Texas Department of Public Safety and as a local police officer for the city of Del Rio and now as sheriff of Val Verde County.

The Texas Border Sheriffs Coalition is comprised of 20 border sheriffs, all of whom are within 25 miles of the Mexican border. Texas shares approximately 1,254 miles of border with the Republic of Mexico. Val Verde County Texas consists of 3,200 square miles and shares approximately 110 miles of border with the State of Coahuila Mexico.

The Southwestern Border Sheriff's Coalition which includes the States of California, Arizona, New Mexico, and Texas combine for a total of 1,989 miles of border between the United States and the Republic of Mexico. Within that 1,986 mile of border from San Diego California to Brownsville, Texas lie 31 counties. The terrain throughout much of these areas varies from rural ranch and farmlands, high desert

to desert-like valleys and mountain ranges. Most of these lands are titled to private landowners; some areas are National or State parks, so the needs of each of these counties are unique in their own way.

The Texas Border Sheriff's Coalition was founded (2005) to provide a cooperative effort to affect a regional solution to a National problem. We all share common issues, but there is no one issue more important than making sure that we have secure communities in which the people feel safe in their homes and surroundings.

Sheriffs have a vested interest in the law enforcement, economic, social impact, health, and the overall quality of life of those that they serve. Sheriffs are unique in understanding the pulse of their communities and a public that evaluates us during election time that determines whether we stay employed every 4 years.

#### MISSION STATEMENT

Texas Border Sheriff's Coalition was organized on May 4, 2005, and is represented by the chief law enforcement officer of each respective county. Texas sheriffs, empowered by the State constitution, are committed, from a National security perspective, to protect lives, property, and the rights of the people by maintaining order and security in the United States along the Republic of Mexico border and enforcing the law impartially, while providing police service in partnership with other law enforcement agencies and community partners.

#### PROBLEM STATEMENT

The consequences of an unsecure border are felt throughout the United States. Each border county sits at the gateway into our country and is the first line of defense in dealing with law enforcement, social, and economic issues for both legitimate and illegitimate trade and travel.

The issue here is public safety. Immigration, though an important factor, is a separate but related issue whose responsibility lies within Federal Government agencies. These Federal agencies that we work with every day have had a difficult job in carrying out their duties due to administrative policy issues and changes and not laws that are on our books. Sheriffs only encounter immigration issues as a by-product of other criminal acts which are referred to the Federal Government for their action.

Some of the problems we encounter most are drug smuggling, human smuggling, stolen vehicles, crimes against persons, crimes against property . . . and violent crimes such as murder, rape, sexual assault, dealing with transnational criminal organizations and the list goes on . . .

As many of you know, because of lower populations and property values, most border counties lack a sufficient tax base to support the multi-faceted needs of the sheriff's office. Each and every one of us are affected directly, in one way or another, by what happens on the border, and as such border States and the Federal Government are a natural source to support the needs of the border as it impacts public safety.

There is talk about a border wall or fence; in some areas this is a viable solution, but it is not the solution in and of itself. Manpower and technology play a major key role in securing our borders.

The problem for most sheriffs is a shortfall of resources to address the problems identified here, which are not all-inclusive, but are prioritized as manpower, travel and training, equipment, direct operating expenses, and contract services. The sheriffs of the Texas Border Sheriffs Coalition offer a positive, efficient, and less expensive approach to border security based on a partnership of action.

#### SOLUTION

The solution offered by the Texas Border Sheriffs Coalition's is one of cooperation, being at the table to discuss these issue that affect our communities on a daily basis. ALL Federal, State, and Local law enforcement need to work together as we move forward in finding the solution in securing our borders and our future. No one single form of government can do it alone.

#### SUMMARY

The plan for security in the communities along the border with Mexico as presented by the members of the Texas Border Sheriffs Coalition is to provide a regional solution for a National problem.

The plan is based on a partnership of action and not rhetoric. It is based on existing cooperating working agreements and the willingness to share lessons learned and put into place best practices.

The plan is formulated by sheriffs who have ownership in their respective communities they serve and understand how local needs interrelate from a law enforcement, economic, social, health, and environmental perspective.

The initiative is created by sheriffs with respect for all Federal and State agencies, and in support of their men and women who are working on the front lines each and every day. The difference is in a solution that is based on local community impact and not by policies enacted by people thousands of miles away.

I want to once again thank Chairman McCaul and the entire committee for this opportunity to address the needs of our Border Sheriffs. May GOD Bless the United States of America and every law enforcement officer protecting our front lines.

Chairman McCAUL. Thank you, Sheriff. We appreciate your work along the border with all the sheriffs.

So, Sheriff Wilmot.

**STATEMENT OF LEON N. WILMOT, SHERIFF, YUMA COUNTY,  
ARIZONA**

Sheriff WILMOT. Good afternoon, Chairman McCaul, Ranking Member Thompson, and Members of the committee. Thank you for the invitation to speak to you today on this very important subject.

For a geographical perspective, Yuma County is at the southwest border of the States of Arizona and California, and we cover the border of Mexico. We have roughly 110.5 miles of international boundary that we share with the State of Mexico.

For historical perspective, back in 2005 the Yuma Sector Border Patrol tallied 272,300-plus illegal entries. The adverse effects of the drug and humans trafficking organizations operating in Yuma County not only significantly diminished the quality of life of country residents but also placed unbearable strain upon the budgets and resources of private and government agencies in Yuma County.

The community, unfortunately, experienced a significant spike in ancillary crime, such as rapes, robberies, homicides, thefts of property, burglaries, home invasions, tractor and vehicle thefts, high-speed pursuits, assaults on law enforcement officers, military incursions by the Mexican army, as well as ransom groups holding those that they smuggled across the border for additional moneys.

Mexican drug-trafficking organizations operating along our U.S. international boundary were explained eloquently by Sheriff Mark Dannels of Cochise County when he testified in his own words: They are highly sophisticated and innovative in their transportation methods. Aside from our normal use of human backpackers, which we refer to as mules, clandestine tunnels and vehicles, the trafficking organizations have resorted to the use of ultralight aircraft and GPS-controlled drones, which cannot be detected with normal radar. They are even utilizing cloned vehicles of our law enforcement and other legitimate companies. Most recently they are still utilizing catapults, T-shirt launchers, as well as—to get their bundles of marijuana into the United States awaiting their co-conspirators.

I have witnessed the escalation of violence by these careless assailants on our citizens, but I have also seen the successes that can be accomplished through coordinated law enforcement response with local, State, and Federal partners working in concert and co-operation with the prosecutorial agencies, as witnessed first-hand in Yuma County. By fiscal year 2008 the number of illegal entries totaled just 15,900, in comparison to the 270-some odd thousands in 2005, 2006. That is a decline of 91-plus percent.

This turnaround can be attributed to four critical developments: Significant upgrades in tactical infrastructure—anything from your fencing, to the vehicle barriers, to camera systems and surveillance equipment and upgrades; border security increased manpower for the United States Border Patrol; the implementation of Operation Streamline, which was a program designed for 100-percent prosecution of illegal entrants caught involved in criminal activity; and Operation Stonegarden, which to us, as sheriffs and local law enforcement, has been one of the most major successes of any Federal grant program that we have ever witnessed before.

With this we were able to have a force-multiplier along the border area that otherwise could not be done within agency budgets. Operation Stonegarden assists agencies with overtime and equipment that we need.

I will tell you that the following comprehensive recommendations are directly linked to our Federal leaders: A need to redefine the plan of the 1990's and build upon those successes. Have to have the political will to make border security a mandated program. Border security first, immigration reform second.

Support and embrace the first-line agents that work the border regions and our Federal partners. They have a dangerous job and it is no secret that their frustration is high based on the unknown complexities referenced their assignments every day. They have great ideas to share, and it was refreshing to see the general speaking about the fact that he would go to each geographic location and sit down with those areas, talk with State, local, and Federal law enforcement officers, see what was best for that geographic area.

Continued funding and support for Operation Stonegarden program; that is vital to our success. But we need to remove that funding from FEMA. Just by their very name they are cumbersome to law enforcement and being able to do our reporting and requesting those grants. Move that funding back into the Department of Homeland Security, where they know what is best for our mission as we partner and work alongside our Federal partners.

Restore full reimbursement of SCAAP, State Criminal Alien Apprehension Program. It has been devastating to our budgets every year. I will tell you, last year \$30 million is what the sheriffs of Arizona had to swallow because we only got reimbursed 5 cents on the dollar for housing illegal, criminal aliens that had committed crimes in our counties.

In summary, our efforts and teamwork philosophy with our local, State, and Federal law enforcement partners has proven to be beneficial in bringing overdue solutions to our unsecure border. Unfortunately, border security has become a discretionary program for those Federally-elected leaders and policymakers that have been entrusted to protect our freedom and liberties.

One would hope that the priority of securing our border doesn't become just about a price tag, but rather the legal and moral requirement to safeguard all of America. Today's opportunity to address this committee instills fresh hope that the—our voice does matter.

[The prepared statement of Sheriff Wilmot follows:]

## PREPARED STATEMENT OF LEON N. WILMOT

FEBRUARY 7, 2017

## INTRODUCTION

Chairman McCaul, Ranking Member Thompson, and Members of this committee, thank you for the invitation to speak to you today on this very important subject.

## HISTORY OF YUMA COUNTY

Yuma County is located in southwest Arizona. It is bordered on the west by California, on the south by Mexico, on the east by both Maricopa and Pima Counties, and on the north and northwest by La Paz County. The lowest point in the State of Arizona is located on the Colorado River in San Luis in Yuma County, where it flows out of Arizona and into Sonora, Mexico. Yuma County has a year-round population of approximately 200,000 residents. During the winter, the population increases by about 90,000 due to an influx of winter visitors and seasonal agricultural workers. Agriculture, tourism, and two military bases—the U.S. Marine Corp Air Station (MCAS) and the U.S. Army Yuma Proving Ground (YPG)—are Yuma County's principal industries. Yuma County also contains portions of two Tribal Reservations, the Cocopah and Quechan Nations.

Agriculture in Yuma is one of the Primary industries:

- \$1.5 billion (aggregate)
- 90 percent of North American winter vegetables
- 200,000 acres under cultivation
- \$134,000,000 livestock industry
- Roughly 50,000 farm workers employed per year
- 7 irrigation districts

For geographical perspective, Yuma County shares 110.5 miles of international boundary with Mexico.

In fiscal year 2005, Yuma Sector Border Patrol tallied 272,319 illegal entries. The adverse affects of the drug and human trafficking organizations operating in Yuma County not only significantly diminished the quality of life of county residents, but also placed unbearable strain upon the budgets and resources of private and Government agencies in the county.

Yuma County became the worst in the Nation for illegal entries and with that, the community unfortunately experienced a significant spike in ancillary crimes such as rapes, robberies, homicides, thefts of property, burglaries, home invasions, tractor and vehicle thefts, high-speed pursuits, assaults on law enforcement officers, military incursions by the Mexican Army, as well as ransom groups holding those they smuggled across the border for additional monies.

In the southeastern portion of our county, the out-of-control border has also affected our own military with frequent interruptions of military training on the Barry M. Goldwater range. Scheduled training in those areas, such as the Weapons and Tactics Instructor (WTI) Course, has frequently had to shut down due to smugglers using the remote areas of the bombing range to smuggle both human and narcotic cargo.

The Mexican drug trafficking organizations operating along our U.S. International Boundary were explained eloquently by Sheriff Mark Dannels of Cochise County when he testified in his own words: "they are highly sophisticated and innovative in their transportation methods. Aside from the normal use of human backpackers (mules), clandestine tunnels, and vehicles, the trafficking organizations have resorted to the use of ultra light aircraft and GPS controlled drones which cannot be detected by normal radar, cloned vehicles appearing to be law enforcement or other legitimate companies, and most recently the use of catapults which hurl bundles of marijuana into the United States to awaiting co-conspirators. The organizations utilize sophisticated and technical communications and counter surveillance equipment to counter law enforcements interdiction tactics and strategies. Scouts or observers are strategically placed along smuggling routes to perform counter surveillance on law enforcement and report their observations to those controlling the drug/human smuggling operation so they may avoid and elude law enforcement. The use of cell phones and sophisticated two-way radio encryptions for communications are standard equipment, as are night vision and forward looking infra-red devices."

## ACTION-BASED SOLUTIONS LOCAL GOVERNMENT

Local solutions and programs are no longer a thought, but a reality for bringing relief to our citizens who consciously choose to live near our International Boundaries.

Local law enforcement is best suited to understand their geographic community needs and solutions based on the expectations of their citizens. Community policing begins and succeeds at the local level first.

As the sheriff of Yuma County, and as all Arizona sheriffs clearly feel, it is our statutory duty (oath of office to support the United States Constitution and the Constitution and Laws of the State of Arizona) to protect and secure the freedoms and liberties of our citizens, with or without the help of our Federal law enforcement partners/policy makers.

No longer are the border problems and issues we face restricted to the international border communities, but in fact, these problems and issues have now spread all across the United States and impacted agencies and budgets in every state of our Nation.

Having the true-life experience of living and working as a deputy sheriff, and now sheriff, in Yuma County since 1985, border security has been a continuous educational lesson. Not only have I witnessed the escalation of violence by these careless assailants on our citizens, but I have also seen the successes that can be accomplished through a coordinated law enforcement response with local, State, and Federal partners working in concert and cooperation with the prosecutorial agencies. As witnessed first-hand in Yuma County by fiscal year 2008, the number of illegal entries totaled just 15,979—a decline of 91.9% from fiscal year 2005.

This turnaround can be attributed to four critical developments:

- Significant upgrades in tactical infrastructure. Fencing, Normandy (vehicle) barriers, cameras, and surveillance equipment and upgrades.
- Increased manpower for United States Border Patrol.
- The implementation of Operation Streamline, a program designed for 100% prosecution of illegal entrants caught involved in criminal activity.
- Operation Stonegarden helped with creating partnerships with local law enforcement and as a force multiplier along the border area that otherwise could not be done within agency budgets. Operation Stonegarden assists agencies with overtime and equipment purchases.

Our successes were based upon:

- Frequent communication with all local, State, and Federal agencies.
- Face-to-face contact with local, State, and Federal officials.
- Common goals that address real issues.
- Working on these issues at the local level.
- Consequence delivery and prosecution.

#### PROBLEMATIC ISSUES—WHAT CHANGED?

Yuma County had the worst record in the United States for illegal entries by undocumented immigrants and as a result, our community suffered numerous ancillary crimes. Several Federal programs, such as the Secure Communities Program and Operation Streamline, were put into place and had a significant positive impact on curtailing the criminal activity in our county. The concept of these programs was that if they were successful (which they were), they would be expanded all along the international boundary. However, changes and restrictions to these programs made by our prior Federal administration placed a significant burden on local governments not only to bear the costs associated with the apprehension, prosecution, and incarceration of criminal illegal aliens, but to also ensure that this criminal element was not released back into society to continue to prey on our citizens. Furthermore, State and local resources which have become necessary to address the criminal activity by illegal aliens and its effects on our communities, have also been burdened to the point of exhaustion and aggravation. How does all this translate in actual dollars?

#### SCAAP

The intent of the State Criminal Alien Assistance Program (SCAAP) was to fully reimburse States for the cost of housing criminal aliens in State, county, and city prisons, and jails.

Funding has never fully covered State costs. Arizona, California, New Mexico, Texas, and Florida incarcerate nearly 60 percent of the criminal alien population Nation-wide but are reimbursed for less than 15% of the cost to house these inmates.

#### *SCAAP was funded*

For fiscal year 2016, Yuma County received \$72,570 in SCAAP funds while inmate costs exceeded \$1,076,078; a reimbursement of only 6.7% of the costs. Arizona sheriffs as a whole had to absorb \$29 million in unanticipated costs due to lack of

reimbursement, which also does not cover any medical costs for those inmates with significant medical issues, i.e., dialysis, surgeries, etc. (See attachment).

#### OPERATION STREAMLINE/"SMART ON CRIME" INITIATIVE

Federal law mandates border security. However, an order issued by the previous Attorney General reduced Federal prosecutions under Operation Streamline and called it the "Smart on Crime" Initiative, which in essence reduced the Federal Government's enforcement of our Nation's laws regarding border security and the prosecution of undocumented aliens committing crimes against our citizens, our States and our Nation. The USAG's lack of prosecuting this criminal element has left a significant burden on local governments not only to bear the costs associated with the apprehension, prosecution, and incarceration of this criminal element, but to also ensure that this criminal element was not released back into society to continue to prey on our citizens.

Working with limited budgets and staffing, border sheriffs struggle to find ways to maintain the quality of life and safety for those they serve and to deter those who cross our borders to promote their criminal activities. Unfortunately, without aggressive prosecution by the U.S. Attorney's Office of all those committing criminal acts as a result of breaching our border, the American people will continue to see a border that is an open opportunity for this criminal element to exploit.

As a result of this change of policy and due to the failure of the USAG's Office to prosecute undocumented aliens who committed crimes in Yuma County as of October 2014, I submitted a bill to AG Loretta Lynch for services provided by my agency (see attached) which as of this date is over \$1.8 million. As of today's date, I am still waiting for reimbursement or even a response.

#### BACKPACKERS COST TO YUMA COUNTY

From October 2014 through December 2016, the Yuma County Detention Center housed a total of 241 inmates (illegal aliens) on drug transport and identity theft charges after they were detained by Federal agents and the USAG's office deferred prosecution, and they in turn were transferred to a local agency. The total jail bed days for these inmates were 23,684 jail days with an average length of stay of 98 jail days. The cost to house these prisoners for Yuma County was approximately \$1,855,000.00. This does not cover the court costs, cost of prosecution, major medical expenses, or the public defender's cost.

#### PEP—PRIORITY ENFORCEMENT PROGRAM/SECURE COMMUNITIES

In 2015, the Federal administration announced their "Priority Enforcement Program" as a replacement for the "ineffective" Secure Communities Program. According to Director Jeh Johnson, the goal of this new program was " . . . to better focus our immigration enforcement resources on convicted criminals over undocumented immigrants who have been here for years, have committed no serious crimes, and, have, in effect, become peaceful and integrated members of the community."

The Priority Enforcement Program (PEP) that the previous Federal administration touted as "a new way to protect our citizens from the worst of the worst" seems more like a complete failure when you look at the numbers.

The U.S. Immigration and Customs Enforcement (ICE) released 36,007 convicted criminal aliens in 2015 who were awaiting the outcome of deportation proceedings, according to a report issued by the Center for Immigration Studies. The group of released criminals includes those convicted of homicide, sexual assault, kidnapping and aggravated assault, according to the report, which cites a document prepared by the ICE.

A majority of the releases were not required by law and were discretionary, the organization says. According to the report, the 36,007 individuals released represented nearly 88,000 convictions, including:

- (1) 193 Homicide convictions
- (2) 1,160 Stolen Vehicle convictions
- (3) 426 Sexual Assault convictions
- (4) 9,187 Dangerous Drug convictions
- (5) 303 Kidnapping convictions
- (6) 16,070 Alcohol/Drugged Driving convictions
- (7) 1,075 Aggravated Assault convictions
- (8) 303 Flight Escape convictions
- (9) Resettled nearly 13,000 Syrian refugees in the United States this past fiscal year.
- (10) 38,901 Muslim refugees entered the United States in fiscal year 2016, making up almost half (46%) of the nearly 85,000 refugees who entered the country

in that period, according to a Pew Research Center analysis of data from the State Department's Refugee Processing Center.

(11) Syria (12,486) and Somalia (9,012) were the source of more than half of fiscal 2016's Muslim refugees. The rest are from Iraq 7,853), Burma (Myanmar) (3,145), Afghanistan (2,664), and other countries (3,741).

#### PRIME EXAMPLE OF RELEASING THE WORST OF THE WORST INTO ARIZONA SOCIETY

##### *Musa Salah Abdelaziz Abdalla*

- Abdalla had multiple arrests for assault in Randall County, Texas.
- Abdalla was arrested for aggravated assault in Maricopa County in September 2007. He accepted a plea agreement which stipulated 5 years probation and dropped a second aggravated assault in the City of Phoenix (Phoenix Police Department Report Number 200771553320).
- Abdalla violated probation three times and was finally sentenced to the Arizona Department of Corrections (DOC) for 13 months starting June 2014. Abdalla had an ICE detainer on him.
- Abdalla was released from DOC on July 21, 2015—the same day that ICE releases any holds.

##### *Dennis Valerievitch Tsoukanov—Russia*

- On December 15, 2001, Tsoukanov was involved in a scheme to rip off a delivery of Human Growth Hormones worth \$1,000,000.00. Tsoukanov and two Russian accomplices kidnapped a police informant and took him to the Fossil Creek area near Camp Verde where they beat, stabbed, and then poured gasoline on him and set him on fire while he was still alive. The three Russian suspects were arrested; however, Tsoukanov's two accomplices made bail and fled. Both suspects were caught later on. One was caught in Canada after America's Most Wanted profiled him (news articles enclosed).
- Tsoukanov turned State's evidence against the two co-defendants and was spared a life sentence. He was sentenced to 13 years in DOC for kidnapping and second-degree murder; his co-defendants both received life sentences without parole.
- Tsoukanov was released from DOC on December 21, 2014. There was an ICE Detainer on him at the time of his release.
- Tsoukanov was released from ICE on July 16, 2015.
- Tsoukanov is a Russian citizen born in Estonia. Whose country refused to take him back.

##### *Nasser Hanna Hermez—Iraq*

- Hermez was arrested in April 2009 and charged with second-degree murder of his 7-week-old daughter (victim report enclosed). After a lengthy court process, he finally took a plea agreement on April 4, 2011 for negligent homicide per domestic violence and endangerment per domestic violence. He received 6 months in jail and 3 years of probation (Court case activity information enclosed).
- Hermez was arrested and indicted in April 2015 for third-degree burglary—a class 4 felony. He accepted a plea and on July 30, 2015, he was sentenced to 2 years probation (Court case activity information enclosed).
- Hermez was released from ICE on July 31, 2015.

#### RECOMMENDATIONS FEDERAL GOVERNMENT

The Federal Government (elected and policy makers) has been slow to react to the voices and concerns of those living on the Southwest Border. Counties along the border have become VIP attractions, venues for those seeking to make a difference or promising change only to become another faded high-hope. The following comprehensive recommendations are directly linked to our Federal leaders:

- Re-define the plan of the '90s and build upon successes.
- Political will to make Border Security a mandated program.
- Border security first; immigration reform second.
- Maximize allocated resources such as staffing on the actual border.
- Support and embrace first-line agents that work the border regions. They have a dangerous job and it's no secret that their frustration is high based on the unknown complexities reference their assignments. They have great ideas to share.
- Quality of life/citizens living on border supported by sheriffs need to be involved from the very beginning regarding implementing improved security/safety.
- Funding supplement for local law enforcement, prosecution, detention, and criminal justice in support of border crimes.



- Continued funding and support for Operation StoneGarden program. Remove funding from FEMA; move this funding to DHS.
- Enhanced funding for Regional Communication and Interoperability with local law enforcement.
- Restore full reimbursement of SCAAP funding to non-sanctuary cities and counties.
- Restore Operation Streamline.
- Restore Safe Communities.
- Restore/lift restrictions on 1033 Program for law enforcement agencies to screen military surplus property for law enforcement purposes.
- Assign a district judge to the new Federal court house in Yuma County. Right now there is only a Federal magistrate to conduct initial appearance duties. Officers and attorneys continue to have to travel to Phoenix on every case they have, tying up resources and manpower by having to travel to court 3 hours away.
- Enhance U.S. Customs "ICE" by providing adequate holding facilities and manpower so that USBP agents are not tied up performing this function in their holding facilities that are not equipped to handle that function.

## SUMMARY

Our efforts and team work philosophy with our local, State, and Federal law enforcement partners has proven to be beneficial in bringing overdue solutions to an unsecure border.

Unfortunately, border security has become a discretionary program for those Federally-elected leaders and policy makers that have been entrusted to protect our freedoms and liberties. As a sheriff elected by the good people of my county, my biggest fear—which is shared with all sheriffs—is the loss of life to one of our citizens and/or law enforcement officers/agents that would be attributed to a border that is NOT secure. We have seen it happen on more than one occasion.

One would hope the priority of securing our border doesn't become just about a price tag and/or political posturing, but rather the legal and moral requirement to safeguard all of America, which so many heroic Americans have already paid the ultimate price for.

Today's opportunity to address this committee instills fresh hope that our voice does matter and on behalf of the citizens of Yuma County, Arizona and beyond, we hope that you will carry out your Constitutional mandate to bring positive change to an overdue vulnerable situation.

As always, you have an open invitation to visit Yuma County, along with a personal guided tour, and visit with our citizens to see/hear first-hand America's true rural border; even when its 115 degrees outside.

Again, thank you very much for the opportunity to share this information with you. I will be happy to answer any questions you may have.

## ATTACHMENT 1

## SCAAP

	2009		
	Requested	Received	Deficit
Apache County .....	\$59,394.00	\$8,875.00	\$50,519.00
Cochise County .....	480,173.96	664,261.00	184,087.04
Coconino County .....	314,100.00	64,977.00	249,123.00
Gila County .....	108,058.14	19,403.00	88,655.14
Graham County .....	41,415.00	5,737.00	35,678.00
Greenlee County .....	4,650.00	1,402.00	3,248.00
La Paz County .....	.....	.....	.....
Maricopa County .....	49,607,648.00	4,006,872.00	45,600,776.00
Mohave County .....	312,808.16	24,135.00	288,673.16
Navajo County .....	894,187.11	50,457.00	843,730.11
Pima County .....	8,014,395.00	832,379.00	7,182,016.00
Pinal County .....	1,176,279.72	215,025.00	961,254.72
Santa Cruz County .....	507,130.00	49,657.00	457,473.00
Yavapai County .....	1,671,956.00	239,719.00	1,432,237.00
Yuma County .....	1,724,811.78	162,766.00	1,562,045.78

## SCAAP—Continued

	2009		
	Requested	Received	Deficit
TOTALS .....	\$64,917,006.87	\$6,345,665.00	\$58,571,341.87

## SCAAP

	2010		
	Requested	Received	Deficit
Apache County .....	\$191,805.00	\$15,594.00	\$176,211.00
Cochise County .....	791,271.71	468,199.00	323,072.71
Coconino County .....	230,100.00	27,671.00	202,429.00
Gila County .....	220,705.20	37,408.00	183,297.20
Graham County .....	157,850.00	16,721.00	141,129.00
Greenlee County .....	1,050.00	314.00	736.00
La Paz County .....	.....	.....	.....
Maricopa County .....	47,016,440.70	2,819,911.00	44,196,529.70
Mohave County .....	402,372.32	29,769.00	372,603.32
Navajo County .....	825,161.42	47,844.00	777,317.42
Pima County .....	7,786,850.00	709,628.00	7,077,222.00
Pinal County .....	831,441.24	107,290.00	724,151.24
Santa Cruz County .....	559,780.00	103,383.00	456,397.00
Yavapai County .....	1,261,393.00	178,483.00	1,082,910.00
Yuma County .....	1,356,300.42	133,551.00	1,222,749.42
TOTALS .....	\$61,632,521.01	\$4,695,766.00	\$56,936,755.01

## SCAAP

	2011		
	Requested	Received	Deficit
Apache County .....	\$154,185.00	\$11,619.00	\$142,566.00
Cochise County .....	878,255.26	70,214.00	808,041.26
Coconino County .....	191,250.00	17,185.00	174,065.00
Gila County .....	60,475.41	10,012.00	50,463.41
Graham County .....	132,495.00	9,909.00	122,586.00
Greenlee County .....	6,650.00	1,759.00	4,891.00
La Paz County .....	.....	.....	.....
Maricopa County .....	39,744,804.85	2,241,068.00	37,503,736.85
Mohave County .....	296,947.84	20,515.00	276,432.84
Navajo County .....	676,438.08	38,299.00	638,139.08
Pima County .....	5,417,730.00	429,695.00	4,988,035.00
Pinal County .....	898,178.40	115,075.00	783,103.40
Santa Cruz County .....	397,475.00	61,261.00	336,214.00
Yavapai County .....	1,116,270.00	118,583.00	997,687.00
Yuma County .....	1,183,717.40	93,406.00	1,090,311.40
TOTALS .....	\$51,154,872.24	\$3,238,600.00	\$47,916,272.24

## SCAAP

	2012		
	Requested	Received	Deficit
Apache County .....	\$59,565.00	\$4,883.00	\$54,682.00
Cochise County .....	.....	.....	.....
Coconino County .....	99,825.00	6,936.00	92,889.00
Gila County .....	69,598.62	9,700.00	59,898.62

## SCAAP—Continued

	2012		
	Requested	Received	Deficit
Graham County .....	62,755.00	3,458.00	59,297.00
Greenlee County .....	.....	.....	.....
La Paz County .....	.....	.....	.....
Maricopa County .....	26,997,649.55	1,281,403.00	25,716,246.55
Mohave County .....	163,268.00	10,077.00	153,191.00
Navajo County .....	410,254.77	16,230.00	394,024.77
Pima County .....	3,830,950.00	247,571.00	3,583,379.00
Pinal County .....	905,514.12	104,266.00	801,248.12
Santa Cruz County .....	271,895.00	40,000.00	231,895.00
Yavapai County .....	537,279.00	41,853.00	495,426.00
Yuma County .....	1,314,780.22	84,202.00	1,230,578.22
TOTALS .....	\$34,723,334.28	\$1,850,579.00	\$32,872,755.28

## SCAAP

	2013		
	Requested	Received	Deficit
Apache County .....	\$84,873.00	\$6,820.00	\$78,053.00
Cochise County .....	443,832.79	31,423.00	412,409.79
Coconino County .....	132,300.00	9,008.00	123,292.00
Gila County .....	78,284.79	9,649.00	68,635.79
Graham County .....	58,630.00	3,800.00	54,830.00
Greenlee County .....	.....	.....	.....
La Paz County .....	.....	.....	.....
Maricopa County .....	24,116,693.25	1,127,899.00	22,988,794.25
Mohave County .....	175,729.68	11,226.00	164,503.68
Navajo County .....	395,957.08	17,375.00	378,582.08
Pima County .....	5,210,330.00	310,851.00	4,899,479.00
Pinal County .....	779,196.60	99,032.00	680,164.60
Santa Cruz County .....	278,525.00	16,426.00	262,099.00
Yavapai County .....	679,558.00	51,113.00	628,445.00
Yuma County .....	991,706.06	73,752.00	917,954.06
TOTALS .....	\$33,425,616.25	\$1,768,374.00	\$31,657,242.25

## SCAAP

	2014		
	Requested	Received	Deficit
Apache County .....	\$94,278.00	\$4,959.00	\$89,319.00
Cochise County .....	282,990.61	18,759.00	264,231.61
Coconino County .....	252,450.00	14,321.00	238,129.00
Gila County .....	26,222.40	2,661.00	23,561.40
Graham County .....	51,480.00	3,586.00	47,894.00
Greenlee County .....	11,350.00	2,336.00	9,014.00
La Paz County .....	.....	.....	.....
Maricopa County .....	25,435,133.05	832,073.00	24,603,060.05
Mohave County .....	161,335.44	7,306.00	154,029.44
Navajo County .....	269,193.35	12,248.00	256,945.35
Pima County .....	4,752,265.00	227,337.00	4,524,928.00
Pinal County .....	534,374.40	50,354.00	484,020.40
Santa Cruz County .....	427,505.00	27,690.00	399,815.00
Yavapai County .....	524,086.00	28,901.00	495,185.00
Yuma County .....	965,618.84	57,747.00	907,871.84
TOTALS .....	\$33,788,282.09	\$1,290,278.00	\$32,498,004.09

## SCAAP

	2015		
	Requested	Received	Deficit
Apache County .....	\$53,979.00	\$4,861.00	\$49,118.00
Cochise County .....	801,734.50	48,445.00	753,289.50
Coconino County .....	155,025.00	9,675.00	145,350.00
Gila County .....	72,767.16	6,093.00	66,674.16
Graham County .....	9,460.00	613.00	8,847.00
Greenlee County .....	29,950.00	6,800.00	23,150.00
La Paz County .....	.....	.....	.....
Maricopa County .....	21,772,509.25	792,124.00	20,980,385.25
Mohave County .....	.....	.....	.....
Navajo County .....	156,180.03	7,143.00	149,037.03
Pima County .....	4,394,585.00	203,949.00	4,190,636.00
Pinal County .....	707,211.12	64,543.00	642,668.12
Santa Cruz County .....	358,930.00	33,204.00	325,726.00
Yavapai County .....	601,111.00	37,707.00	563,404.00
Yuma County .....	1,071,221.16	65,516.00	1,005,705.16
TOTALS .....	\$30,184,663.22	\$1,280,673.00	\$28,903,990.22

## SCAAP

	2016		
	Requested	Received	Deficit
Apache County .....	\$78,432.00	\$10,057.00	\$68,375.00
Cochise County .....	722,737.34	52,083.00	670,654.34
Coconino County .....	62,625.00	4,578.00	58,047.00
Gila County .....	84,785.76	9,308.00	75,477.76
Graham County .....	25,300.00	1,687.00	23,613.00
Greenlee County .....	25,250.00	6,128.00	19,122.00
La Paz County .....	.....	.....	.....
Maricopa County .....	17,734,766.90	737,649.00	16,997,117.90
Mohave County .....	48,580.56	2,783.00	45,797.56
Navajo County .....	160,010.99	6,870.00	153,140.99
Pima County .....	3,676,250.00	213,593.00	3,462,657.00
Pinal County .....	344,361.36	45,188.00	299,173.36
Santa Cruz County .....	418,080.00	38,003.00	380,077.00
Yavapai County .....	702,073.00	49,576.00	652,497.00
Yuma County .....	1,076,078.24	72,570.00	1,003,508.24
TOTALS .....	\$25,159,331.15	\$1,250,073.00	\$23,909,258.15

## ATTACHMENT 2

May 18, 2015.

The Honorable LORETTA E. LYNCH,  
 Attorney General, U.S. Department of Justice, 950 Pennsylvania Avenue, NW, Wash-  
 ington, DC 20530.

RE: Operation Streamline and Smart on Crime Initiative

*Dear Attorney General Lynch:* I would like to take this opportunity to introduce myself. My name is Leon Wilmot and I am the Sheriff of Yuma County in Arizona. As Sheriff of Yuma County, my primary duties are to serve and protect the citizens of my community, and to enforce the Constitution and the laws of the state of Arizona and our nation. As Sheriff, I follow the "Rule of Law" in my service to my community and my country, and expect the same from our federal administration. I firmly believe that the existing laws of our great nation should be fully enforced and that there should be no efforts to circumvent these laws. I also believe that it is the duty and responsibility of our federal government to ensure the safety and security of our nation. As such, the southern, northern and maritime borders should be effectively and efficiently secured.

With that being said, it's no secret that the sheriffs serving in counties along the U.S./Mexico border are in the epicenter of the border crisis. As a member of the Southwestern Border Sheriffs' Coalition, I can assure you that every border sheriff is dealing with the negative impacts resulting from the smuggling of contraband and illegal drugs; the exploitation of human beings; and the infiltration of criminals and subversives determined to cause harm to our counties, states and country. The quality of life normally enjoyed by our citizens is being jeopardized by an unsecure border that enables transnational criminals and their accomplices to prey on our citizens.

Federal law mandates border security. However, due to an order issued by your predecessor reducing prosecutions under Operation Streamline and his "Smart on Crime" initiative, he in essence reduced the federal government's enforcement of our nation's laws regarding border security and the prosecution of undocumented aliens (UDAs) committing crimes against our citizens, our states and our nation. The USAG's lack of prosecuting this criminal element has left a significant burden on local governments not only to bear the costs associated with the apprehension, prosecution, and incarceration of this criminal element, but to also insure that this criminal element is not released back into society to continue to prey on our citizens. Working with limited budgets and staffing, border sheriffs struggle to find ways to enhance the quality of life and safety for those they serve and to deter those who cross our borders to promote their criminal activities. Unfortunately, without aggressive prosecution by your office of all those committing criminal acts as a result of breaching our border, the American people will continue to see a border that is an open opportunity for this criminal element to exploit.

Your predecessor's orders to U.S. Attorneys concerning Operation Streamline Prosecution Guidance, along with his Smart on Crime Initiative, only confirmed his lack of willingness to do his job. As a result of his policies, during fiscal year 2014, Arizona Sheriffs incurred over 30 million dollars in costs to house UDAs in our state. Of this total, the federal government only reimbursed Arizona Sheriffs approximately 1.5 million dollars. Yuma County alone requested reimbursement for over \$965,000.00; however, we only received approximately \$57,000.00.

Due to the failure of the USAG's Office to prosecute UDAs who committed crimes in Yuma County as of October 2014, I have enclosed a bill and am requesting reimbursement of the costs incurred by Yuma County for housing these criminals who otherwise would have been released into society with no repercussions for the crimes they committed. This amount does not include the costs for medical expenses or the costs to the courts for their time or the costs to the Office of the Public Defender. Please remit payment at your earliest convenience.

In closing, I would ask that you reconsider the directives from your office in regards to Operation Streamline and the Smart on Crime Initiative. I would like to thank you for your time and consideration of my request. If you have any questions or need further information, please feel free to contact me.

Sincerely,

LEON N. WILMOT,  
*Sheriff, Yuma County.*

Chairman McCaul. Thank you, Sheriff. I agree on all accounts.  
Judge Trevino.

**STATEMENT OF EDDIE TREVINO, JR., COUNTY JUDGE,  
CAMERON COUNTY, TEXAS**

Judge TREVINO. Good afternoon, Chairman McCaul, Ranking Member Thompson, Congressman Vela, and distinguished Members of the committee.

I want to thank Secretary Kelly for his distinguished service to our country and for his recent visit to South Texas and the border last week. I hope it was productive and the first of many more to come.

My name is Eddie Trevino, Jr. and I am honored to serve as the county judge of Cameron County, Texas.

Cameron County borders the Gulf of Mexico on the U.S.-Mexico border and is part of the Rio Grande Valley, with approximately 1.5 million people living on the U.S. side and an additional 2.5 million on the Mexican side. We are also home to South Padre Island,

the premier tourist destination for many throughout the United States and Mexico.

Given all the attention over the past several weeks and months, this committee hearing could not have been timelier. Border security, immigration, and the facilitation of legitimate trade and travel on the U.S.-Mexico border is a reality that we live with every day.

As a locally-elected official, I have an obligation to try and inform this panel and others involved to make cost-effective decisions based upon common-sense solutions that will work long-term and be effective for all of us. On the border, we have had to endure many policies and programs put in place by the Federal and State governments over the years—many of them unfunded mandates. You just heard several of them by the sheriffs.

After 9/11 we fully understood the reasoning for the sudden changes to life on the border. We are a community that believes in the rule of law and want our country to be safe and secure. Many of our residents answered the call to defend our country, and unfortunately, many of our local veterans were either wounded or killed in serving our country.

Despite all the post-9/11 changes, businesses have thrived, our communities are safe, and the Rio Grande Valley continues to grow and prosper. The claims of lawlessness and rampant violence in our border communities is just wrong and nothing more than an attempt to paint it as something that it is not in order to support the misguided rhetoric against border communities, Mexico and its people, and the immigrant—both legal and undocumented.

I come before you today to request that you seek other alternatives and opportunities other than the border wall proposal put forth by President Trump. Contrary to what has been proposed, the border wall concept is ineffective and creates a false sense of security that will do nothing to alleviate the problem with the criminal element, drug cartels, gangs, and other organizations looking to harm our country.

Our Federal agents on the front lines do an unbelievable job with the resources that they have. We must do all that we can to continue to help them in their mission, but not at the expense of our relationship with our country's second-largest trading partner, and Texas' largest trading partner, Mexico.

This will not work by developing a one-size-fits-all approach such as a border wall. Utilizing a 14th-Century solution to address a 21st-Century problem makes no sense, especially as it is the most expensive of all possible alternatives or solutions.

If we provide a virtual wall of cameras, sensors, and other State-of-the-art technology, including UAVs, we arm our Federal agents with the resources that they need to perform their jobs. Improving road conditions along the border, removing barriers like the carrizo cane and salt cedar and other invasive non-native plants that provide cover to smugglers and allow for more lateral mobility and use on Federal lands along the border will also give agents a better chance at controlling and surveilling the border.

I recently learned that the technology investments in border security made 20 years ago in the Brownsville sector have yet to be improved. Imagine investing the \$15 billion to \$20 billion esti-

mated to build a wall on equipment, training, technology, road infrastructure, and more boots on the ground.

The natural barrier of the Rio Grande River can also work as an advantage for our National security. There have been extensive studies on the Weir Dam project by our local utility, BPUB, which would broaden the reach, width, and surface area of the river, making it that much more difficult to cross.

Once illegal immigrants are detained, there needs to be a commitment of additional financial resources to the judiciary to address their processing. The judicial system is undermanned, underfunded, as there are just not enough immigration judges to handle the backlog of approximately half a million cases, which should be unacceptable to all of us.

I must also touch on America's need for workers. Despite what many say or want to believe, low-skilled workers are desperately needed in our country. Estimates state that the United States will need between 600,000 to 650,000 workers annually to keep our economy growing. The lack of human capital for so-called basic jobs in this country is something we should all be concerned about if we want our country to continue to prosper and grow.

On the issue of trade and a so-called border tax, I do hope that this issue is studied in a more objective and rational manner. Do we want to harm businesses in Texas and the rest of the Southwest just because of the negative impact that these policies will cause? An eye-for-an-eye policy will just leave all of us blind.

Governor Abbott said last week while on the South Texas border tour with General Kelly, "We want to achieve safety and security, but we also want to promote economic development." We have made great strides as a result of NAFTA, and the Trump administration wants to make changes to such agreements then there are diplomatic channels in which to get the job done.

Any negotiations to improve NAFTA don't have to be difficult or adversarial, but they must and should be respectful and mutually beneficial. At a recent border summit of elected and business officials from all sides of the political spectrum the message was the same: How can we improve the ideas and suggestions coming from Washington for our border? How can we tell our story of the farmers, the restaurant owners, the construction companies, the hospitals, the waitresses, and countless others that will be affected by such harmful and consequential proposals?

My Republican and Democratic friends back home are worried. This proposal to build a wall, to renegotiate NAFTA, to create a border tax, and not address immigration reform will have lasting effects across our country if we continue to kick this problem down the road without addressing it.

History will judge us on our actions. We must build on our successes by continuing to build bridges and not tear down or divide what we have achieved together with expensive, unbudgeted, and outdated proposals such as a border wall.

Thank you for having me this afternoon. I am happy to answer any questions that you may have.

[The prepared statement of Judge Trevino follows:]

## PREPARED STATEMENT OF EDDIE TREVINO, JR.

Good morning Chairman McCaul, Ranking Member Thompson, Congressman Vela, and distinguished Members of the committee.

Thank you for the opportunity to come before each of you today.

General Kelly, thank you for your distinguished service to our great country and thank you for your recent visit to South Texas and the border last week.

I hope your visit was informative and productive and the first of many more to come, to better understand the issues facing our border communities and the rest of the country.

My name is Eddie Trevino, Jr. and I am honored to serve as the county judge in Cameron County, Texas.

Cameron County borders the Gulf of Mexico and the U.S.-Mexico border and is a part of what is referred to as the Rio Grande Valley, a growing part of the State with approximately 1.5 million people on the U.S. side and an additional 2.5 million across the border in Mexico.

Our county owns and operates three international bridges. Trade and economic activity and commerce are critical to our area.

Life on the border is unique. People, along with goods and services move back and forth on a daily basis.

We are dependent on one another as families go back and forth via our bridges for dining and shopping, for medical visits, to work, to go to school, and to do many other social and economic activities.

We are also home to South Padre Island, the premiere tourist destination for many throughout the United States and Northern Mexico.

I am honored and humbled to be before you today. I know you have my full testimony, so today I wanted to try and cover as much as possible with the allotted time given.

Given all the attention over the past several weeks and months on border security, trade, and immigration this committee hearing could not have been timelier.

Border security, immigration, and the facilitation of legitimate trade and travel on the U.S.-Mexico border is a reality we live with every day.

The decisions made at the Executive and Legislative branches of our Federal and State governments in the coming weeks, months, and years will have long-lasting and profound impacts on our communities on both sides of the border.

I hope I can provide some information and context to this committee and this administration to first understand and realize how this region impacts the entire State of Texas and our country before making any rash and costly decisions.

As a locally-elected official, I have an obligation to try and inform this panel and others involved in the decision-making process to make decisions based upon common-sense solutions that will work long-term and be effective for all of us.

From 2003 to 2007, almost 10 years before I became the county judge last year, I was the mayor of Brownsville, Texas and the largest city in the Rio Grande Valley.

I was fortunate to become involved during that time frame on various issues including advocating for immigration reform and border security.

I was first elected as a city commissioner in Brownsville 2 months after 9/11 and saw first-hand the impacts 9/11 had on border security and trade.

On the border, we have had to endure many policies and programs put in place by the Federal and State government.

And all of us fully understood the reasoning for the sudden changes to life on the border.

We are a community that believes in the rule of law.

We are a community that cherishes our flag and country.

And we are a community that wants for our Nation and world to be safe and secure.

Many of our residents have been on the front lines to answer the call to defend our country in times of war and peace. Unfortunately, we are well represented when it comes to Veterans killed or wounded in action.

And their faith and determination to make this the greatest country on this God given earth cannot be questioned.

But in recent years there has been an evolution and transformation of the border.

During this time, the economies of our nations, the United States and Mexico, have gotten stronger and even more intertwined.

And the coordination and communication dealing with intelligence issues has been beneficial and critical for local law enforcement on both sides of the border.

Despite all the post-9/11 changes, Businesses have thrived, our communities are safe, and the Rio Grande Valley continues to grow and prosper.



The claims of lawlessness and rampant violence in our border communities is just wrong and nothing more than an attempt to paint our community and region as something that it is not in order to support the misguided rhetoric against border communities, the country of Mexico and the immigrant, both legal and undocumented, Hispanics, and in particular, Mexicans.

Data we have from our local police chiefs and county sheriff show that crime has gone down and our communities are safer than ever.

Inner cities have more serious criminal activity than border cities. In Chicago, last year there were 762 murders. In Brownsville, Texas the murder rate was 4 last year and in Harlingen, Texas it was the same.

In spite of the negative attacks, rhetoric, and commentary, there is a strong sense of optimism for our region.

It is because of our people—our most valuable resource and trusted asset—that we continue to thrive and prosper.

People in the business sector, our educational system, and our men and women in law enforcement have made the Rio Grande Valley a great and safe place to live, work, and play.

Because of this and because of what we know we can accomplish, I come before you today to implore you to seek other alternatives and opportunities other than the Border Wall proposal put forth by President Trump.

Contrary to what has been proposed, the border wall concept is ineffective and creates a false sense of security that will do nothing to alleviate the problem with the criminal element, drug cartels, gangs and other organizations looking to harm the country and our people.

In fact, as a result of the Secure Fence Act of 2006, there is already border fencing in place in the Rio Grande Valley covering 54 miles in Cameron and Hidalgo Counties.

If you have lived and worked on the border, you have seen first-hand the decline in crime, the increase in opportunity, and the understanding and commitment of both governments to work together.

I for one can tell you that it is better. Our Federal partners have the tools necessary to do their jobs effectively and efficiently and because there are more boots on the ground, the detection and response time has improved.

As a local elected official, our county sheriff and local law enforcement have a great working relationship with Customs and Border Protection and Border Patrol.

The men and women on the front lines do an unbelievable job with the resources they have. We must do all that we can to continue to help them in their mission but not at the expense of our relationship with our country's second-largest trading partner and Texas's largest trading partner, Mexico.

Because of what they do, our communities along the border have become safer. With this in mind, no one disputes the fact that we need to uphold the rules and laws of our Nation to continue keeping us safe.

But understandably, we also have to continue growing our economy, ensuring this country's long-term sustainability with an ample and dedicated labor pool, and doing it in a way that embraces the ideals and principles of this great Nation.

Collectively, there are still many things that can be done to improve border security and give our people the tools they need to be ahead of the game.

This will not work by developing a one-size-fits-all approach such as a Border Wall. We need to be innovative and have a strategy to fix our problem.

Utilizing a 14th-Century solution to address a 21st-Century problem makes no sense, especially as it is the most expensive of all possible alternatives or solutions.

If we provide a wall of technology utilizing cameras, sensors, and other state-of-the-art technology, we arm our Federal law enforcement personnel with the necessary and proven resources they need to perform their jobs and duties.

Operational control is paramount.

Improving road conditions along the border, removing barriers like the Carrizo Cane and Salt Cedar and other invasive non-native plants that provide smugglers havens and cover, and allowing for more lateral mobility on Federal lands along the border, will give agents a better chance at controlling and surveilling the border.

Just recently, I learned that the technology investments in border security made 20 years ago in the Brownsville Sector have not been improved or upgraded. The cameras and equipment bought and implemented in 1997, while still operational and beneficial, have not been replaced or updated.

Why would we want to saddle our taxpayers with billions of dollars to build a wall?

Doesn't it make more sense to use that money to deploy our most formidable technology and to upgrade our existing technology infrastructure?

Not only would we save money, spending millions instead of billions, but we could utilize methods and technology that have already proven successful.

We must invest in the latest and the greatest technology such as deploying Unmanned Aerial Vehicles to have eyes in the sky.

We must take an approach that utilizes our most valuable resource, which is our people to operate and man the intelligence centers that can watch and detect illegal activity and then direct personnel to the trouble spots before, rather than after, an event or incident has occurred.

Just imagine being able to invest the \$15–40 billion estimated that it will take to build the Wall on equipment, training, technology, road infrastructure, and more boots on the ground.

If you ask the experts in the field, they will tell you that this is where the money should go.

The natural barrier of the Rio Grande River can also work as an advantage for our National security.

In Brownsville, there have been extensive studies undertaken on a Weir Dam project by the Brownsville Public Utilities Board. The opportunity to construct a weir dam using Border Wall dollars or infrastructure fund dollars is a win-win.

This project would broaden the reach, width, and surface area of the river making it much more difficult to cross.

In addition, a weir dam could be coupled with sensors, cameras, and the eradication of non-native plant species along the river banks to add security layers to enhance the efforts of the border patrol.

And once illegal immigrants are detained, there needs to be a commitment of additional financial resources to the judiciary to address their processing.

The current backlog of half a million cases is unacceptable.

The judicial system is undermanned and underfunded. There are not enough Immigration Judges to handle these cases.

People should not be left in limbo in our judicial system for hundreds of days until there is some sort of resolution.

That is not fair to them and it is not fair to our communities.

I want to take a moment to also touch on the need for a policy that addresses America's need for workers.

All nations are built on a foundation of growth. If a nation does not grow, our destiny and way of life will be beyond our control.

Despite what many say or want to believe, low-skilled workers are desperately needed in our country.

Some estimates I've seen, state that the United States will need between 600–650,000 workers annually to keep our economy growing.

The U.S. birth rate has fallen to 1.9 births per female and it is established that a country, just to sustain itself must have a birth rate of 2.1 births per female.

Today, the largest part of our workforce comes from the millennial generation and there are not many millennials interested or committed to low-skilled-type labor.

The jobs that are needed are not the ones that middle- or upper-middle-class workers will want anyway.

The lack of human capital for so-called basic jobs in this country is something we should all be concerned about if we want our country to prosper and continue to grow.

On the issue of trade and a so-called border tax, I do hope that this issue is studied in a more objective and rational manner.

Do we want the price of foods and services to skyrocket?

Do we want to put small businesses in Texas and the rest of the Southwest out of business because of the undue competitive disadvantages these policies will cause?

An eye-for-an-eye policy will leave all of us blind!

Bilateral discussions regarding the long-term economic viability of the border region are extremely important to our future, not only in Texas but throughout the entire country.

As a local elected official, I know the importance of economic development and job opportunities for our citizens.

And as Governor Abbott said last week while on a South Texas border tour with General Kelly, "we want to achieve safety and security, but we also want to promote economic development."

He also noted that Mexico is Texas' largest trading partner adding that, "we must ensure we are able to continue that very effective trade."

We know there are certain parts of the Nation that do need help and do need assistance to spur economic growth.

But we cannot put forward ideas that strain our communities and push us back even further educationally and economically.

Any proposal that is debated and approved by this Congress should improve our economic conditions throughout the entire Nation and not do anything to impact its success.

Doing it on the backs of South Texas and U.S.-Mexico border communities is not a viable option.

Historically, the Rio Grande Valley has been one of, if not the poorest areas in our country.

We've made great strides as a result of NAFTA and the investments in our local school districts and institutions of higher learning such as the University of Texas Rio Grande Valley, Texas Southmost College, Texas State Technical College, and South Texas Community College.

Conversely, along the border there have been sizeable investments made by local communities in partnership with the Federal and State government to modernize our Ports of Entry.

Millions of dollars are being invested to build bridges, modernize technology, and man our ports. The goods and services moving through these ports make their way to all parts of the entire country.

Again, investing in upgrading and updating our Ports of Entry infrastructure would better serve to enhance our Border Security.

I believe that the President's Infrastructure plan can help play a role with many of our local projects along the border.

Finally, we have come so far in the last 20 years since the passage of NAFTA. There have been many achievements and cooperative agreements to improve bilateral relations.

Destroying the groundwork of so many who had the vision for Free and Secure Trade and taking us back in time and reversing these economic accomplishments is a recipe for disaster.

If the Trump administration wants to make changes to trade agreements, border security, and immigration policy, there are diplomatic channels to get the job done.

Any negotiations to improve NAFTA don't have to be difficult or adversarial; but they must and should be respectful and mutually beneficial.

It appears that President Trump is unlike other past Presidents and tends to draw upon unconventional wisdom and his hard-charging manner. Sometimes that works and sometimes it doesn't.

Recently, I was at a border summit of elected and business officials from all sides of the political spectrum and the theme and message was the same.

What can we do to better the border? How can we improve the ideas and suggestions coming from Washington? How can we tell our story of the farmer, the restaurant owner, the construction company, the professor, the hospital, and countless others that will be affected with such stringent and consequential proposals?

I can tell you that many of my Republican friends are worried. This proposal to build the wall, to renegotiate NAFTA and not address immigration reform will have lasting effects across our country and it will take every bit of effort to fix it.

I ask that you stay apprised of the bilateral negotiations and do all that you can to keep our neighbor and ally on our side, working with us to improve conditions both for the United States and Mexico.

History will judge us on our actions. We must build on our successes by continuing to build bridges and not tear down or divide what we have achieved together with expensive and outdated proposals.

Thank you.

Chairman MCCAUL. Thank you, Judge.

I recognize myself for questioning.

I got elected—it is hard to believe—over 12 years ago as a Federal prosecutor stating I was going to get the border secure. Here I am going into my seventh term in Congress. It is still not done.

I think for the first time—and I know there are differing issues as to how to accomplish this—but we have the political will in Washington to finally possibly get this done.

It is a Federal responsibility, Steve, not a State.

I believe the State of Texas, and my home State, has stepped up to the plate and taken on this responsibility instead of the Federal Government.

My first question is to Director McCraw. As you prepare for your testimony before senate finance in Austin, knowing that we will have a defense border supplemental bill coming down the pike in the springtime, what do you—what would be the ask, if you will, from the State of Texas?

Mr. MCCRAW. Certainly. We have had Representative Chairman Boddem speaker pro tem an ask of \$2.3 billion, based on what the State has already spent. But obviously going forward, and then we would have to coordinate with the Governor what he wants, but bottom line is how do you leverage existing capabilities at the State level, at the local level, so that Border Patrol can get—can gain control and continue to augment level of border security every day.

Our concern just sitting here after listening to Secretary Kelly, who is very realistic that it takes time to build that infrastructure up, it takes time to put those roads, it takes time to build any types of obstacles as opposed to barriers or technology. Particularly, hiring 5,000 to 10,000 Border Patrol agents takes time.

So what does the State need to do to be able to stave off any kind of incursions or influx or any problems that we have already gained to this point in time? That is the challenge that we have.

I can tell you that, you know, going forward ideally it would be in a—we would be in a far better position if we can look and say, “Hey, Border Patrol needs three sheriff’s deputies; it needs two game wardens; it needs four troopers; needs two DPS aircraft; needs three tactical boats; needs a SWAT team,” and be able to leverage that like we do under the Stafford Act. That would allow us to be able to capture not just the cost but also some of the operating cost that goes into it because it is clear that the—the Secretary made it clear, they are serious about border security and doing it.

Our concern is how fast can we do it, because every day matters. If you get involved in these sex trafficking investigations, you get involved in some of the sexual assault and some of the things that we have seen the Mexican cartels be engaged in, you know, every day matters and—but every level of security that increases, the better off we are.

I guess one thing I would like to add, Chairman, while I have got the microphone here is that the great thing about technology, it gets smaller, it gets cheaper. Also it provides us a new way of metrics that we didn’t have before, as Congressman McSally was concerned about, that how do you measure success. We don’t have to use formulas; we can actually prove what our collection posture is, what our detection posture is, and what our interdiction posture is.

Every troop or every Texas ranger, every special agent in their vehicle and on their phone has a GPS-locating device, and we are doing operations. I can prove any time any day of the week what is our coverage posture right then and there.

One of the challenges I know that Secretary Kelly is going to address is that Border Patrol needs that same capability, blue force tracking. You would expect that they would know if not just for a security standpoint and being able to defend in terms of exactly what their security posture is; it is officer safety issue. Because as

you know, every day Border Patrol agents are threatened along that Rio Grande River.

To that end, I would like to include the fact that it is absolutely disgraceful that the Federal Government has not prosecuted those that have assaulted Federal agents in the performance of their duties. I am confident that will change, but until that time the Texas border prosecutors have stepped up to the plate, as well as we have had our Texas rangers will investigate every one of those and will prosecute them at the State level until the Federal Government prosecutes those cases.

Chairman MCCAUL. So we are trying to build a record here on the committee as to how to move forward with all this. Texas has a very unique challenge with the Rio Grande. You can't build a wall in the river. You can build levies, but a—I don't see—I think it is actually symbolic, saying "the wall," symbolic for a physical barrier, but a multi-layered defense using all available assets, including technology and aviation and fencing.

So I throw this out to all four of you: How would you best—and I asked this of the Secretary and we heard his response—how would you best describe "the wall" to finally achieve operational control?

Mr. MCCRAW. You have got a chart that Texas did because our legislators demanded that we do have a way to measure success beyond numbers. So you have seen what we have come up with: Unsecured, minimal control, operational control, and substantial control. There are different things that have to be in place before you can go up to the next level. So those things are measurable, and if you can measure it—if you can discern it then you can measure it.

From a Texas standpoint, a wall, a strategic defense, all those things are obstacles and they work for us and against the cartels. But as I have said before, absent, you know, the personnel, the technology, the things that the judge talked about—maybe the removal of salt cedar and carrizo cane—it is simply, you know, an obstacle to the cartels, not a barrier, because the cartels will, you know, clearly go under, through, and around it, and then certainly over it to be able to meet the unending demand for drugs and commercial sex in the United States. That is clear and compelling.

Chairman MCCAUL. So an obstacle, not a barrier.

Mr. MCCRAW. Yes, sir. But it can be—it becomes a barrier when you have enough border patrol agents and detection technology. When they step over that fence or they step on that fence you can immediately see it and you can work.

Today you get to see a picture of it. You don't have to guess that it is a sensor, that it is a four-legged, you know, creature or if it is two—it has two legs and carrying a bundle of marijuana. You know that by looking at it, so there is no reason not to leverage this technology that is out there and available.

I totally agree.

Sheriff Martinez.

Sheriff MARTINEZ. I agree with Colonel McCraw. A fence is just a barrier, but I think more importantly is the manpower initially, to get the manpower.

Let me give you an example. In my county there is 84 miles from Lake Amistad to the county line. I have one deputy for that—to cover that country.

On a good day we will have anywhere from 12 to 15 Border Patrol agents to cover that same area, which will consist of 8,000 square miles, which will go all the way into Crockett and Sutton Counties. So that is like a needle in a haystack trying to find a needle in a haystack—manpower in that rugged area, geographical area of the State of Texas.

So manpower in combination with, you know, a physical barrier in some strategic locations, along with technology, will go a long way.

Chairman MCCAUL. Sheriff Wilmot.

Sheriff WILMOT. Yes, sir. I would tell you that in Yuma County we had to do a conglomeration of all of that.

You have to look at your geographic location and what are your natural and man-made boundaries that you already have. I have the Colorado River that is flowing through Yuma that goes right into Mexico. I have two Tribal reservations, which is sovereign land. I have the Barry M. Goldwater Range, which is our military WTI premier training center for our military forces that are being shipped overseas. I also have a U.S. Fish and Wildlife Refuge, Cabeza Prieta.

So I think in each and every location, much like the general talked about today, the Secretary, is he needs to go down, ascertain from those different geographic locations what is needed best. It could be a fence; it could be vehicle barriers; it could be just electronic infrastructure such as radar-operated camera systems or detection radars or lasers.

But I think they need to approach that from the perspective on the boots-on-the-ground level, like I mentioned earlier, in order to address that.

Chairman MCCAUL. Would access to Federal lands help? That would be a law that we would have to change.

Sheriff WILMOT. Absolutely, sir. We encountered that same situation down there in Yuma County back in 2005, 2006 when they were actually install—putting in the fence utilizing our National Guard.

We worked with our Tribal partners and were able to do the brush-clearing, much like was asked about before, because it was along the Colorado River corridor. It opened up recreational areas for the Yuma citizens to be able to enjoy again, versus the criminal element that was so often exploiting that for getting their illegal contraband across the river.

Chairman MCCAUL. Judge Trevino.

Judge TREVINO. Mr. Chairman, just like everybody else on this committee, I am more in the listening phase because of the fact that I rely on what law enforcement has to tell us. I have had the opportunity to meet with, obviously, our local sheriff's department and also our Border Patrol sector chiefs. The thing that was surprising to me was when I learned that they were not able to utilize and be on Federal park land—National park lands in order to do their surveillance and investigation.

The other part of the equation was the fact that much of the technology is already several decades old, and while it is still operational it is nowhere near as effective as the advance of the technology as provided to law enforcement. So we need to upgrade.

The other part of this that they wanted to utilize in conjunction with the technology upgrade is that allows the boots on the ground a much more direct and a quicker response because the people operating the technology or the UAVs, whatever it may be that is entailed, will be in a better position to direct our boots on the ground to wherever the incident or impact is going to be.

So I think we are all in agreement that the resources to upgrade the technology and provide the resources to the boots on the ground is something that is absolutely needed.

If I may quickly say, you mentioned that 10 years ago when you first started and you were a former prosecutor you thought you would have the border secure. I think part of the problem, Mr. Chairman, is that if we really, really utilize a clear definition for a secure border I don't know if we can ever achieve that. The reality is as long as there is a criminal element, as long as there is human activity they are going to do everything they can to either provide the product, whether it is drugs or human trafficking or whatever the case might be.

But I think it is safe to say that the border is definitely much more secure today than it was a decade ago or 20 years ago, and I think that is important for the rest of the country to understand that because we are able to live our lives, have a good quality of life on the border, as a result of these gentlemen to my right and all the law enforcement officials that are still operating back home on the border.

Chairman MCCAUL. Well, thank you. You have given us an excellent record, testimonial as we move forward with our border supplemental bill as to what is effective, what is not, what needs to be appropriated, and what shouldn't be.

So, with that I now recognize the Ranking Member.

Mr. THOMPSON. Thank you, Mr. Chairman.

I thank the witnesses for their testimony. It has been a long time since we have had a panel of people who live it every day, in terms of this issue before us, and I think it has been quite enlightening.

The question that a lot of us have is why not come up with a sound policy that addresses border security rather than coming up with a product, in terms of a fence? I think, as just about everyone has said, there are ways that fencing might be good; there are other ways that technology; there are other ways of using other things might be good.

But when you come with a one-size-fit-all model, that creates some real challenges: The Rio Grande River, the lakes and some other areas, Tribal lands. So I guess the question is what I am hearing from the witnesses—and I heard it from the Secretary in his testimony—that you will be involved in the process so that rather than Washington coming to your communities and say, “Well, Big Brother is here; we have the solution,” we would say, “What do you think? You do this every day. You live it. What suggestions or recommendations that you might have?”

I think that is a very good model for us to adopt, because in Washington we can just see one part.

So for the record, we are 1,500 persons short in the approved CBP allotment for boots on the ground. I think we have been 2 years, 3 years—about 2 years trying to complete that. So if we get 5,000 more that means we have 6,500 vacancies that we can't fill.

So part of what we are going to have to do is try to work with State and locals to figure out, since we can't put all these boots on the ground, are having trouble filling it, how do we backfill it? Technology.

You know, if we can see somebody 5, 10, 20 miles away approaching an area then if we had ability to communicate with local law enforcement or whomever, we can perhaps move assets to that area from an interdiction standpoint. I would—for the sheriffs, especially.

Are you allowed to train with CBP and other Federal officials in a manner that gives you comfort, or are there some things that you would like to see being done that is not being done?

Sheriff Martinez.

Sheriff MARTINEZ. Yes, sir. Thank you for the question.

We work very well with our Federal partners. We don't train with them. Basically, if we come across a crime that has an OTM or a Mexican national we refer those individuals to Border Patrol and we are—we work through Stonegarden. In the last week we had eight referrals in our sector, so I take it that that is from the locals referring someone over to our Federal partners and they take over from there.

But going on to some of your question, I would like, you know—you say you are miles away, but I would like to invite each and every one of you to our communities where we live every day. No to—don't show up when they have all the manpower and resources. Visit us in our natural State, and you can see all the deficiencies that we have. That will be a big impact on what happens up here, on your votes up here.

Mr. THOMPSON. Sheriff.

Sheriff WILMOT. Thank you, sir.

I will tell you that there are—our agency trains quite a bit with the U.S. Border Patrol Yuma Sector under Chief Provaznik. We have awesome lines of communication. Most of our training has to do with search-and-rescue type or narcotics interdiction, working side-by-side with their personnel. Most of that occurs under Operation Stonegarden, which I mentioned before.

The other hamper that we are running into with the sheriffs all across the United States right now is actually getting some sort of legal opinion in regards to 287 JM, the honoring of detainees in our jails, because some sheriffs in some places along the United States are being sued for violation of 4th Amendment rights. We are being told on one side that we have to honor them by Federal law, but we are also being told by State that you cannot honor that because you are violating this law or that law, whether it is Arizona, Texas, New York, Illinois, Idaho.

So the sheriffs as a whole, the one thing that we need is some sort of legal opinion in regards to honoring detainees for the jails.



That is one of the things that has a significant impact for us when an individual is in our jails.

Typically for us they are booked into the jail, they go through the State process, they get sentenced to prison, and then they are turned over to the State for DOC. That is something that all the sheriffs across the United States—and we articulated that to the Secretary yesterday.

Mr. THOMPSON. So thank you.

Judge, in your everyday duties what security issues would you be concerned about, and do you see the wall as an answer to those security issues, from your standpoint?

Judge TREVINO. Thanks for the question, Congressman. Let me point out that with regard to Cameron and Hidalgo County, our neighboring county, which is approximately 70 miles, we already have 54 miles of fencing already in place.

You alluded to it right now when you said we have got 1,500 vacancies and we are looking at another 5,000, and looking at 6,500. Let me tell you how that impacts us locally. These gentlemen to my right, their responsibility is to provide local law enforcement to the community that they serve. Because of the change in dynamics in our country, they have also had to become quasi-Federal agents because of the demands that have been placed on them with regards to border security.

The concern that I have—and just for the record, the county judge in Texas is not a judicial position; it is an administrative position. I don't want anybody to think that I am holding court back home. It is basically the mayor of the county, so I work with all of the agencies in that endeavor.

The concern that I would have, and I would venture to guess that they have also, is I can tell you that in the valley many of our local law enforcement agencies, whether it is local police departments or the sheriff's department, the jailers, we have lost a lot of those individuals to the Federal Government because of the demand for Federal agents, whether it be Border Patrol, Customs, or what have you, because they pay, obviously, better than our local law enforcement entities.

We rely on, unfortunately, usually very low property tax bases to fund our budgets. As a result of that, in addition to the jail costs associated that the sheriff alluded to, we also have the medical costs associated to take care of them in the—while they are in our custody.

So all of these what I referred to earlier as “unfunded mandates” are concerns because we don't have an immense backload or a rainy day fund that can help us get through these days, but we are doing the best that we can. I think that is something, as the—as Congress takes this into account they have to understand that the demands placed upon our local entities and jurisdiction on the Texas-Mexico border are so different than the demands placed elsewhere in the country.

So when we are asking for those funds and resources we are not doing it because we want them; we are asking because we need them because we are already performing the job. And obviously if there is a big increase in—on boots on the ground, which I think we all agree is necessary, the concern we are going to have is we

are going to need those additional funds ourselves to make sure that our local law enforcement positions are also well met.

I don't like hearing the fact—and I know about situations like that, where you got one officer patrolling a square—84 square miles. You know what that means. He can't be everywhere all the time.

So thank you.

Mr. THOMPSON. I yield back.

Chairman McCAUL. Let me just say, Sheriff Martinez, I agree with your point, go down to see it, because you can't understand it unless you go down and see it. I always, you know, advocate for Members to do that. There is no real simplistic answer to this, and it is multifaceted.

Scott Perry, Pennsylvania.

Mr. PERRY. Thanks, Mr. Chairman.

Gentlemen.

Is it Mr. McCraw?

Very briefly, you know, some people don't like the terminology "the wall," so whether it is a wall, whether it is a fence, whether it is unmanned vehicles or sensors or cameras or whatever, some protection, security belt along the border that keeps incursions from happening, I think we need that, but I think it begins with an attitude that you want to uphold the law and defend the border of your country and the sovereign Nation.

So with that, you mentioned that one of the things that you saw a problem with is the Federal Government is not prosecuting people here illegally that assault Border Patrol agents. Can you talk about that a—very quickly, but with a little more depth to it?

Mr. MCCRAW. Well, I am going to actually give you the examples, the cases. I will get back to you on what they are, but there have been instances where Border Patrol agents have been assaulted when they are trying to make an arrest.

The normal process when I was in the FBI we used to work Federal—assault on Federal officers in those cases. When I was in Tucson that is what we did. Alexander Kirpnick was killed by two drug traffickers from Mexico. That is what we did. We worked assault on a Federal officer, and the prosecutor, the United States attorney, would prosecute those things.

Over the last several months that hasn't been the case. There has been no prosecution. They have been turned down.

All we have done is basically we got the advantage because the State legislature has funded these border prosecutor units. We just go into the district attorney's offices, "Hey, look Border Patrol agents are being assaulted, not prosecuted. In Texas we are a law-and-order State. You assault a police officer there has gotta be consequences." They get it. They immediately take the cases, and what we are doing is using State resources to investigate those cases, turn it over to the border prosecutors to prosecute.

Mr. PERRY. So you said over the last couple months. Is it—

Mr. MCCRAW. Several months. It could be 6 months; it could be 8 months. I will give you the exact time and I will give you the exact cases that we have worked for them, as well.

Mr. PERRY. So what do you think the impetus for failure to follow through from the Federal Government standpoint is? Why would they not do that?

Mr. MCCRAW. I don't know. It is inexplicable.

Mr. PERRY. OK. We will have to look into that. I appreciate that information, if you can get it to me.

Also, Federal park—

Mr. MCCRAW. I do need to mention, though, that was brought—Governor brought that to Secretary Kelly's point. When he took the time—he is the first Secretary out of all the secretaries I have met—and I have met some great ones in Secretary Johnson, Secretary Napolitano, Secretary Chertoff, Secretary Ridge. You know, he has taken the time to went down there. He has already been down there, asked questions, very specific, listened to briefs. So we are very encouraged that he did that.

The Governor brought that to his attention, so I have got no doubt—and he took it back with him—that he is going to talk to the attorney general about that, that that will be fixed. I am very confident that will be addressed.

Mr. PERRY. I would think that has to be a minimum standard so that the Border Patrol agents know that when they are putting their lives on the line that there is going to be a penalty for assaulting, and as there should be for any law enforcement officers anywhere in the United States.

Turning quickly to Federal park lands, can you give us an indication of—you know, the—I don't think a lot of people realize that there is a restriction for Border Patrol agents in those circumstances. Can you give us some information from your viewpoint on how that affects the ability of the Federal Government to safeguard the border?

Mr. MCCRAW. Yes. There are several pockets of refuges along the Rio Grande River that—to protect wildlife, and what they end up doing is often protect the cartels or smugglers because they are havens for hiding. Plus, because Border Patrol, they are allowed access; they are just not allowed to build infrastructure or use some of their tools to use to be able to pursue smugglers and traffickers within those areas.

Hence, they may take an hour to get to a location that could take 10 minutes. So they are not allowed to build the type of infrastructure you would expect other parts of the border. So we are hopeful that that will be addressed at some point.

Mr. PERRY. So it sounds like if we are serious about securing the border something has gotta change there, right?

Mr. MCCRAW. Change, and Judge had a very good point. Salt cedar and carrizo cane, it is a drought weed and it sucks the water out but it also is a security risk to Border Patrol agents and those trying to defend that, and also it works for the cartels.

Mr. PERRY. Right.

OK, Sheriff Wilmot, very quickly, the Operation Stonegarden program and your trouble getting money through FEMA is something I would like to—you to elaborate on, and also the reimbursement of your SCAAP funding, and as you put—to non-sanctuary cities, which I think it is important to note, at least I get from this, is that sanctuary cities are receiving SCAAP money, so they are in-

viting, essentially, people to be in their city illegally, but also getting Federal funds in that regard. Is that correct, or—if you can elaborate?

Sheriff WILMOT. What we wanted to get across is if you do have an entity that runs a jail, that supports that, then that funding should be given to those other entities that run the jail that are actually doing the job for SCAAP.

I will tell you that we still need to get 100 percent reimbursement on that, as well as the medical costs associated with it, because I can't put in for an individual who I have to take to dialysis three times a week. That is impacting my budget at over \$100,000 just for one person. I have got 117 backpackers that went through my jail, of which I still have 19.

I sent a bill to the attorney general of the United States last year because of the policies that went into effect on not prosecuting these individuals. I cross-deputized Border Patrol agents in DEA so they would be able to get these cases taken where normally anybody would get charged.

So I am eating the housing, I am eating the cost of that. To this point attorney general owes me \$1.8 million just for housing those.

Mr. PERRY. Sheriff, does the government south of you, the national government south of you, do they spend as—anywhere near the resources or have the same diligence that you have in patrolling the border from their people going northward?

Sheriff WILMOT. To answer your question in regards to Yuma County, I will tell you that we have great cross-border communication with our law enforcement counterparts. We work together a lot in regards to promoting the quality of life and safety of our communities on both sides of the border, and that is why we were able to do what we did to curb that criminal enterprise from doing what they were doing in 2005, 2006, so—

Mr. PERRY. I mean, I get the perception that the Mexican government doesn't feel as strongly about Border Patrol, at least, or controlling the border north of the border, that—as we do. I don't know if that is accurate or not, but I get that perception.

My concern is all the American taxpayers are paying for this, and you are out the money because you are providing the service and the American taxpayers really can't afford to pay for it. But what is the government to the south doing to help, from a financial standpoint or from a tactical standpoint?

Mr. Chairman, my time has expired.

But that is something if you could elaborate throughout your conversation I would love to hear it. Thank you.

Chairman MCCAUL. Would you like to respond to that, sir? Would you like to respond, or no?

Sheriff WILMOT. Whatever you are comfortable with, sir.

Chairman MCCAUL. If you would like to respond I would give you that time.

Sheriff WILMOT. I will tell you that we in Arizona have a great cross-border communication with our law enforcement counterparts to—even through the PISA program, Policia Internacional Sonora and America law enforcement, where those entities come across the border, we do training together, we cover the problems that we are encountering in our geographic locations.

To a certain extent they are doing what they can with what they have.

Chairman MCCAUL. Chair recognizes Mr. Vela.

Mr. VELA. To follow up on that, Sheriff Wilmot, that kind of cooperative arrangement that you have with your counterparts on the Mexican side of the border, that is why it is important to have a positive and productive relationship with our neighbors to the south, right?

Sheriff WILMOT. I would agree with you 100 percent. You have to have that open line of communication.

Mr. VELA. Thank you.

Colonel McCraw, you made some reference to the expenditure of State funds along the border and how it might have impacted, for example, traffic deaths in other parts of the State and maybe—and perhaps affected other areas of responsibility that the Department of Public Safety would have had. Can you elaborate or tell us specifically how you think the diversion of funds to the border has affected those other responsibilities?

Mr. MCCRAW. Well, to begin with, we weren't over-staffing. We are understaffed for the number of troopers that we need, based upon the State's growth. Over the last 10 years we have nearly 28 million people and we have over 313,000 miles of roadway. For us to be able to do proactive, high-visibility patrols we need a certain amount of troopers in each sergeant area.

What we had to do, because of the influx and because of the mission we have been given, is to surge troopers from around the State—doesn't matter whether it is from Perryton—and that is, by the way, that is 14 hours away from the border, OK—Texas, or from Dallas, move them down there on a day, work 7 days straight, 12- to 14-hour days, go back home, and continue that cycle month after month and wave after wave. We have been doing that for 2.5 years.

So any time you move a trooper or a Texas ranger, as we have, or a special agent who was engaged in these enterprise investigations targeting gangs, to the border to be able to support Border Patrol there are consequences to it.

Now, the advantages are—because at the end of the day most of the trafficking is coming right at the border, so there is some positive impact in terms of the rest of the State. But it still makes it less safe in other parts where we take those resources from.

Mr. VELA. So have you seen a direct correlation to this diversion of State funds to the border with respect to traffic deaths, or—

Mr. MCCRAW. I can't say it is causal right now. I can see correlations, but I just can't say that it is enough right now we could make that causal determination.

I know just from the—talking to sheriffs in other parts of the State, when there are less troopers in that area, you know, they believe that it is less safe in that area. I don't disagree.

Mr. VELA. So I am just curious. Have we seen an increase or a decrease in highway traffic deaths?

Mr. MCCRAW. Increase in highway deaths across Texas. It is not just in terms of the rural area, but urban areas, as well, we have had increased fatalities.

Mr. VELA. Thank you, Colonel.

Judge Trevino, I have got two questions and about 3 minutes. The first question: With respect to the Weir Dam, how would that environmentally impact, from either a flood control standpoint, you know, the area that we live in, and what would be the impact from a security standpoint?

Judge TREVINO. Well, my understanding, Congressman, is that after decades of studying, the environmental impact would be minimal at best. As you know, Brownsville is the last stop on the Rio Grande before it empties out into the Gulf of Mexico, and because of the rapid growth that we have had on both sides of the border from El Paso south, everybody on the border utilizes the Rio Grande as their source for water.

Since we are the last stop it was a concern years ago that if the river was to ever run dry—and in certain areas of the State there are trickles—we would be in a bad, bad situation. Brownsville was very progressive in developing a reverse osmosis by the utilization of brackish groundwater so that the Brownsville community is no longer completely reliant on the river.

The Weir proposal would obviously raise the water level. It would not impact the water table, which was a—which was initially a concern, and it would allow the flood control situation to be utilized in the event of we ever had a shortage.

Lake Amistad and Lake Falcon, which is where we basically—that is our reserve system, it was developed back, I believe, in the 1950's, and the long-term goal was it would get replenished by Mother Nature any time we ever had a natural disaster. As for growth, no one foresaw the growth on both sides of the border and its impact, so we have had to be more progressive as far as that goes.

Mr. VELA. One last question: So what is life like for the 96,000 winter Texans mostly from the Midwest that are living in the Rio Grande Valley right now?

Judge TREVINO. It is safe to say that those winter visitors are our lifeblood during the winter months. They bring, first of all, a lot of resources. They spend their money in the valley.

But more than anything, they are a complete asset to our area. Many of them are from the Midwest—Minnesota, Iowa, all those States—and they have been a huge, huge asset. They spend their money, they go to Mexico on a daily basis to shop and to receive medical care and eat. They spend their money buying refrigerators and cars and the consumable goods that we all rely on.

Their impact, on an economic basis, is huge, and not just on the United States side but obviously on the Mexican side. If it was—if there was any chaos or danger down there they wouldn't keep coming in those numbers that continue to grow every—each and every year.

Mr. VELA. Well, thank all four of you for being with us today.

Chairman MCCAUL. Chair recognizes Mr. Hurd, from Texas.

Mr. HURD. Thank you, Mr. Chairman.

Gentlemen, appreciate you all being here today.

You know, Director McCraw, Sheriff Martinez, and Judge Trevino, you have helped educate me on this issue.

Sheriff Wilmot, your testimony today has given me three or four things that I didn't know about before, so thank all of y'all.

My first question is to the two sheriffs.

Maybe, Sheriff Martinez, you first. We talked about Stonegarden, and Sheriff Wilmot, in his remarks, talked about moving those funds back to DHS from FEMA. Is there other uses of—Stonegarden is restrictive in how you can use those funds. Are there other areas where you—where currently right now you can't use Stonegarden funds that you wish you could?

Sheriff Martinez, let's start with you, and then Wilmot.

Director, I am sure you have some opinions, too.

Sheriff MARTINEZ. I think on the Stonegarden funds there has to be a little bit of flexibility. Border Patrol, DPS, every sheriff is short on manpower. We are talking about hiring all kinds of people, so I would like to see that same opportunity extended to the sheriffs to be able to hire manpower to support securing our border.

Mr. HURD. Sheriff, that is because right now you can only use Stonegarden funds to pay overtime, is that correct? You would like to be able to use those initial funds for the first-year salary or something like that?

Sheriff MARTINEZ. Yes, sir. Correct.

Mr. HURD. Excellent.

Mr. MCCRAW. Congressman, I have been listening to the sheriffs talk about this for a good 7 years. I mean, what is frustrating, they can only eat so much overtime. We can give them all the overtime in the world; they have got only so many deputies.

For them to be—to use that money, if you would allow them to use it, OK, as an agreement up front that this is only as long as the money is there, a deputy—now they—now all of a sudden they have got an increase of resources in the area, and that is better for Border Patrol, that is certainly better for the State, as well. There is value in that investment.

So there are other funding streams that are far more flexible than Stonegarden funds, although we like what DHS did with that, you know, being allowed to at least let them use. Of course, the State doesn't benefit at all. We don't get any use of it. The Stonegarden funds aren't allocated for State police agencies.

Mr. HURD. Sheriff Wilmot, you have some opinions?

Sheriff WILMOT. Yes, sir, I do, and I will be more than happy to throw those in there.

In regards to Operation Stonegarden, obviously it is labor-intensive just doing the reporting requirements as well as the purchasing of the equipment that we need. It also restricts the type of equipment that you need going through FEMA.

Another thing is in regards to Stonegarden is that you can only use so much for overtime and then you have to use so much for equipment and then so much for mileage on your vehicles. So it is broken down then you can't change the percentage at all. So it is something that—and this is the one true grant that actually comes to the sheriffs to actually allocate out to local law enforcement as—at least in Arizona—as well as share with other counties along our borders, and the State as well, if they can help complement our operations.

So that is where we need to keep it. DHS is more qualified to say, "Yes, this type of equipment is what we need for this location,"

because again, we can't paint that broad brush across the whole border, so—

Mr. HURD. Good. Thank you.

Director McCraw, my next question is for you. When I got elected and came in last Congress we had a lengthy debate about what operational control of the border actually means. You know, in your materials you provided the Texas border security levels, and I have always fought to use DPS' perspective on what operational control means because of all the arguments and conversation I have had on this it seems to be the most thoughtful.

So first question is, you know, have you seen reticence in some of our—your Federal partners in adopting a similar framework? Do your partner States have a similar—do your peer organizations have a similar perspective on what operational control of the border means?

Mr. MCCRAW. I don't believe that is the case right now, but we have been working with our legislature and the Governor's office to be able to do this, to be able to have some standards, so—and I have, you know, frankly, have not looked at some of our peers.

We have looked at our Federal partners. You go back with a GAO study back to the 1990's and it is the same thing all over again. You can't use the number of illegal aliens to predict success and failure. You have to come up with something more substantive.

Technology has allowed us to do that. Now we can actually identify and track out and map the level of security. So the focus that we have come up with is just simply figure out what those levels of security are, agree upon what those variables are, county those variables, crack them.

The point with evidence is that unless you can prove it then there is no way to be able to justify that—saying that we are at this point or that point. So you have got to be able to prove it, too. You can't just say—declare, "I am operationally in control."

The only way to do—an advantage we have right now is, like I said before, GPS will allow you to do that—both the infrastructure, both in terms of technology, the coverage level, and your interdiction capacity.

Mr. HURD. Excellent. Well, thank you for your leadership on this topic, and we need you to keep talking about this because, again, as we get into those debates again up here we need to have a common—we need to be speaking the same language.

I have run out of time, but one thing that I will be following up with all of y'all about is intelligence sharing and how do we improve that, how do we make sure that we are able to extend our defenses? Because let's stop the problem before they get to our borders, or if we know something is imminent and, you know, y'all are going to be the ones that get called first, not Border Patrol, whenever there is a problem. So making sure y'all have access to information and how we can improve that is something I would look forward to talking with y'all about in the future.

So, Mr. Chairman, I yield back.

Chairman MCCAUL. Chair recognizes Mrs. Watson Coleman.

Mrs. WATSON COLEMAN. Thank you. Thank you, Mr. Chairman. Judge Trevino.

Judge TREVINO. Yes, ma'am?



Mrs. WATSON COLEMAN. Did I say that properly?

Judge TREVINO. You sure did.

Mrs. WATSON COLEMAN. Good. Thank you. I have a couple of questions for you first.

You have been pointed out that—you have pointed out that Cameron County owns three international bridges and you have described how critical cross-border trade is to your economy and how important that cross-border travel is to your constituents as they go about their daily lives.

How have CBP staffing shortages at ports of entry affected bridges in your county? Have they—these shortages resulted in increased wait times at the bridges? What more should the Federal Government do to support cross-border commerce and trade?

Judge TREVINO. I would love to be able to tell you, Congresswoman, that there has been no impact, but that wouldn't be accurate. The reality that is you just hit the nail on the head.

Because of the shortages of CBP personnel the lines can be much longer. It is not unusual for many people to live in Brownsville and work in Matamoros or live in Matamoros and work in Brownsville. There are numerous cross-border businesses and industries that rely on each other, so the fact that if somebody is going over there for work, well, they are probably—they are—they kind-of have to do it. But for those that are looking to either more of a recreational, whether it is to eat, shop, dine, or receive health care on either side, the reality is we will have less and less of those cross—we have had that in the impact.

I am not going to sit here and tell you that the cartel violence in Mexico didn't have an impact, but the reality is things have calmed down, and I think that is exactly why the cooperation between our two countries at the National level is critical because at the local level that is what needs to be done, and that is what the local law enforcement—they rely on their counterparts on the Mexican side and vice versa, whether it is locating an individual who wants to be—or is under indictment or charged with a particular serious crime, whatever it may be.

But obviously staffing levels need to be at a—at the rate where the wait times are as minimal as possible without sacrificing security and surveillance. But it would also allow more opportunity to catch those individuals that are crossing at our ports of entry that are either crossing illicit drugs or merchandise or whatever the case may be.

Mrs. WATSON COLEMAN. So what is that you would tell the Federal Government that you think that it should support or do in order to support and sustain and ensure that there is this sort of cross-border trade and travel that is both sufficient for the economy and safe for the communities?

Judge TREVINO. In addition to increasing the staffing—

Mrs. WATSON COLEMAN. Yes.

Judge TREVINO [continuing]. As we alluded to earlier, we would also heavily request a reinvestment in our infrastructure. While the county owns the bridge, all the facilities on there are owned by the Federal Government. The Gateway Bridge, for in particular, was opened in 1960. There has been literally no reinvestment or upgrade since that time frame to the present.

We moved all the truck traffic from the Gateway Bridge over to another bridge, Veterans Bridge, and because of that some of the facilities at the Gateway are basically just sitting there. If we were to open up additional lanes of travel—I did a—we did a recent trip to El Paso. We have one pedestrian lane at Gateway for the entire—for all three bridges. Last year we had over 2 million people crossing with that one particular lane.

In El Paso, which at one bridge has 14 lanes—it looked like an airport to me—they have 5 million. They have got 14 lanes just at one bridge, and I believe they have seven ports of—seven bridges.

So I know that it would generate a lot more revenue at the local basis, and also allow us to enhance the relationship between our border communities.

Mrs. WATSON COLEMAN. Thank you.

A very quick question, if you might answer, to the three gentlemen, Mr. McCraw, Mr.—Sheriff Martinez, and Mr. Wilmot. My question has to do with the proposed wall. Do you believe that the proposed wall is the best utilization of resources to keep our borders protected in the areas that you represent and are concerned with?

I will start with you, Mr. McCraw.

Mr. MCCRAW. Yes, ma'am. As I indicated before, a wall—

Mrs. WATSON COLEMAN. I apologize for not being here.

Mr. MCCRAW. No, not at all. But a wall in itself is an obstacle, not a barrier. It takes a combination of things.

I will go along with—I think Secretary Kelly did a very good job today explaining that, you know, in some places he noted—and you get out to Big Bend Country, you have, in effect, a barrier out there already, a natural barrier. How do you exploit technology, how do you exploit resources on top of that?

So it is not one thing for one area. It changes. As the Judge Trevino notes very well, in Cameron County, you get out to Boca Chica, you build a wall, doesn't make sense. There is Lake Amistad—very good point today by one of the Congressman—doesn't make sense.

Every place is different. But one thing is in mind: You need a barrier between the ports of entry.

Mrs. WATSON COLEMAN. Thank you.

I have exceeded my time, if I could simply get my questions answered from Mr. Martinez and—

Mr. DUNCAN [presiding]. Gentlelady's time is expired.

We will now go to Mr. Rutherford, from Florida.

Mrs. WATSON COLEMAN. So you are not extending that very short request and indulgence? I just want to make sure I understand that.

Mr. DUNCAN. I will allow them to answer your question.

Mrs. WATSON COLEMAN. Thank you. Thank you.

Sheriff MARTINEZ. A fence in and of itself is not the only answer. Del Rio and Ciudad Acuña are separated by a fence, a 2-mile fence, that has made our side of the border a little bit safer when it comes to property crimes. It has rerouted everything to the outside of that fence. But in and of itself it is not the answer.

Thank you.

Sheriff WILMOT. Ms. Congresswoman, in regards to that question Yuma County has 110.5 miles of border with Mexico. Most of it is fenced. Other areas that cannot be fenced already have vehicle barriers.

I will tell you that once that was put into place the humanitarian side of that, preventing the deaths in the desert, has stopped. We are very minimal on that.

I have had to go out there and process 14 victims that were left for dead on one occasion when it was 115 degrees out. I don't think anybody wants to experience what we have had to see as law enforcement when we have to go out there and process those victims that have been abandoned and died. But 14 all at once, just a travesty. To see them and what they went through, and to see a fence go up and prevent that, to me what is the cost of a life?

Mr. DUNCAN. Thank the gentlelady.

Chair will now recognize Mr. Rutherford, from Florida.

Mr. RUTHERFORD. Thank you, Mr. Chairman.

Thank you, gentlemen, for your testimony today. I want to ask something a little more away from the border and back into, I think, the interior of the country.

The 287(g) program, can you give me your experience and position on how effective 287(g) has been at the border and then further away from the border? Is it well utilized within law enforcement? Is that your experience?

Mr. MCCRAW. Congressman, it depends on the agency. It depends on the locale. It certainly works very well in jails—in large jails where there is a criminal alien population and they train individuals to look and identify and be able to curry some of the Federal databases to identify that, and that is always helpful when they get the hit on the secure committees or a priority hit through fingerprints.

Certainly from an investigative standpoint when we used to work terrorists it was an advantage—or drug traffickers—it was an advantage having a legacy INS expert, you know, on the team that would help you in many ways or shape or form. But it is each individual jurisdiction needs to make that decision.

Sheriff MARTINEZ. I know that in Val Verde County we have a jail population 1,200-plus, ICE is in our jails every day, so detainees are honored in our facility.

Sheriff WILMOT. In regards to your question, Congressman, the—in regards to the 287(g), we participated in it at one time, but I can't use taxpayer funding to do the Federal job. So it was only on a overtime basis if they had the moneys to be able to pay our officer on overtime to perform that function.

What we have done in Yuma, because they are right there working with us, is they have access to our facility and they can screen through all those documents, and they placed a hold on—the question for the sheriffs throughout the United States that do not have that ability to have a 2-hour response or a hour response for someone to come pick them up is by what legal ability are they able to honor the detainees. That is our biggest concern, as far as sheriffs across the whole United States who are impacted with—they don't have that privilege of ICE ERO being in our counties.

So we release them into them, but it is very seldom because most of them leave our jails and go to prison.

Judge TREVINO. Congressman, I wish I had a better answer for you but I don't believe our local sheriff's department is still involved in that. But I would have to get a better answer for you. I wish I could tell you that right now.

Mr. RUTHERFORD. Thank you, gentleman.

Mr. Chairman, I yield back.

Mr. DUNCAN. Chair thanks the gentleman and now recognize I think the last Member, the gentlelady from California, Ms. Barragán, 5 minutes.

Ms. BARRAGÁN. Thank you. Mr. Chairman, I would like to ask for unanimous consent that a statement prepared by the American Immigration Council be submitted for the record.

Mr. DUNCAN. Without objection, so ordered.

[The information follows:]

#### STATEMENT OF THE AMERICAN IMMIGRATION COUNCIL

FEBRUARY 7, 2017

The American Immigration Council (Immigration Council) is a non-profit organization which for over 25 years has been dedicated to increasing public understanding of immigration law and policy and the role of immigration in American society. We write to share our analysis and research regarding an unnecessary border wall and the already massive investment that has already been made along the Southwest Border.

#### WHAT HAVE WE SPENT

Since the last major overhaul of the U.S. immigration system in 1986, the Federal Government has spent an estimated \$263 billion on immigration enforcement.<sup>1</sup> As discussions with a new President and Congress start to focus on what immigration enforcement and border security should look like it is important to review how much money has already been spent on these initiatives and what outcomes have been produced.

Immigration enforcement spending (further detailed in Attachment A) largely falls into two issue areas: Border security and interior enforcement. Border spending includes staffing and resources needed for U.S. Customs and Border Protection (CBP), an agency of the Department of Homeland Security (DHS) working at and between United States ports of entry. Interior enforcement is primarily focused on staffing and resources for U.S. Immigration and Customs Enforcement (ICE), also part of DHS, to apprehend noncitizens in the interior of the country, detention for those undergoing removal proceedings, and the deportation of those ordered removed.

Currently, the number of border and interior enforcement personnel stands at more than 49,000.<sup>2</sup> The number of U.S. Border Patrol agents nearly doubled from fiscal year 2003 to fiscal year 2016.<sup>3</sup> Additionally, the number of ICE agents devoted to its office of Enforcement and Removal Operations (ERO) nearly tripled from fiscal year 2003 to fiscal year 2016.<sup>4</sup>

<sup>1</sup> See American Immigration Council, *Giving the Facts a Fighting Chance: Addressing Common Questions on Immigration* (Washington, DC: December 2015), 16, <https://www.americanimmigrationcouncil.org/research/addressing-common-questions-immigration>; U.S. Department of Homeland Security, *Budget-in-Brief*, FY 2017, 17, <https://www.dhs.gov/publication/fy-2017-budget-brief>.

<sup>2</sup> See American Immigration Council, *Giving the Facts a Fighting Chance: Addressing Common Questions on Immigration* (Washington, DC: December 2015), 18, <https://www.americanimmigrationcouncil.org/research/addressing-common-questions-immigration>.

<sup>3</sup> U.S. Government Accountability Office, "U.S. Customs and Border Protection: Review of the Staffing Analysis Report under the Border Patrol Agent Reform Act of 2014," May 2016, <http://www.gao.gov/assets/680/677475.pdf>.

<sup>4</sup> U.S. Department of Homeland Security, "Congressional Budget Justification", Fiscal Year 2016, [https://www.dhs.gov/sites/default/files/publications/FY%202017%20Congressional%20Budget%20Justification%20-%20Volume%202\\_1.pdf](https://www.dhs.gov/sites/default/files/publications/FY%202017%20Congressional%20Budget%20Justification%20-%20Volume%202_1.pdf).

What has this spending bought? The United States currently has over 650 miles of fencing along the Southern Border, record levels of staff for ICE and CBP, as well as a fleet of drones—among other resources. Some of these resources have been spent on ill-conceived projects, such as the \$1 billion attempt to construct a “virtual fence” along the Southwest Border, a project initiated in 2005 that was later scrapped for being ineffective and too costly.<sup>5</sup>

All of these efforts that have accumulated in the name of security, however, do not necessarily measure border security.<sup>6</sup> It is past time for the United States to focus on metrics that actually assess achievements and progress on security.<sup>7</sup> DHS lacks transparent, consistent, and stable metrics for evaluating border enforcement. Before deciding how to address border security, Congress should require clear reporting on metrics from DHS.<sup>8</sup> Such metrics would better allow Congress and the public to hold the immigration agencies accountable and assess whether and what additional resources are needed (or not needed) to secure our border.

#### WHAT HAVE WE BUILT AND WHAT DO WE NEED

For generations, politicians have talked about constructing a border wall. The fact is that (as further detailed in Attachment B) building a fortified and impenetrable wall between the United States and Mexico might make for pithy sound bites, but in reality it is unnecessary, complicated, ineffective, expensive, and would create a host of additional problems.

The Government Accountability Office found that single-layer pedestrian fencing could cost approximately \$6.5 million per mile. In addition, millions would have to be spent on roads and maintenance.<sup>9</sup> The easiest parts of the border fence have been built, according to Marc Rosenblum, formerly of the Migration Policy Institute and the current DHS Deputy Secretary of the Office of Immigration Statistics.<sup>10</sup> The estimated cost of the remaining border wall segments are between \$15 and \$25 billion, with each mile of fencing costing \$16 million.<sup>11</sup>

According to the fiscal year 2017 DHS budget, \$274 million was spent on border fence maintenance.<sup>12</sup> Based on that expense, one can extrapolate that if fencing is built on the final two-thirds of the Southern Border, the maintenance costs will triple to more than \$750 million annually. In fiscal year 2006, appropriations for building and maintaining border infrastructure was \$298 million, and then jumped to \$1.5 billion in fiscal year 2007 to pay for the fencing mandated in the Secure Fence Act.<sup>13</sup> Fiscal year 2016 appropriations were \$447 million.<sup>14</sup>

Outgoing Commissioner of U.S. Customs and Border Protection (CBP) Gil Kerlikowske said in January 2017, “I think that anyone who’s been familiar with the southwest border and the terrain . . . kind of recognizes that building a wall along the entire southwest border is probably not going to work,” adding that he does not “think it is feasible” or the “smartest way to use taxpayer money on infrastructure.”<sup>15</sup>

The head of the National Border Patrol Council, a union representing 16,000 Border Patrol agents which endorsed President Trump during his campaign, said, “We

<sup>5</sup> Julia Preston, “Homeland Security Cancels ‘Virtual Fence’ After \$1 Billion is Spent,” *New York Times*, January 2011, <http://www.nytimes.com/2011/01/15/us/politics/15fence.html>.

<sup>6</sup> Bipartisan Policy Center, “Measuring the Metrics: Grading the Government on Immigration Enforcement,” February 2015, <http://bipartisanpolicy.org/library/measuring-the-metrics-grading-the-government-on-immigration-enforcement/>.

<sup>7</sup> Ibid.

<sup>8</sup> Ibid.

<sup>9</sup> Government Accountability Office, “Secure Border Initiative Fence Construction Costs,” January 2009, available at, <http://www.gao.gov/new.items/d09244r.pdf>.

<sup>10</sup> Kate Drew, “This is What Trump’s Border Wall Could Cost,” CNBC, available at, <http://www.cnbc.com/2015/10/09/this-is-what-trumps-border-wall-could-cost-us.html>.

<sup>11</sup> Id.

<sup>12</sup> Department of Homeland Security, “Fiscal Year 2017 Congressional Budget Justification, Volume 1,” February 2016, available at, [https://www.dhs.gov/sites/default/files/publications/FY%202017%20Congressional%20Budget%20Justification%20%20Volume%201\\_1.pdf](https://www.dhs.gov/sites/default/files/publications/FY%202017%20Congressional%20Budget%20Justification%20%20Volume%201_1.pdf).

<sup>13</sup> Carla Argueta, “Border Security: Immigration Enforcement Between Ports of Entry,” Congressional Research Service, April 2016, available at, <https://fas.org/sgp/crs/homesec/R42138.pdf>.

<sup>14</sup> Id.

<sup>15</sup> Brian Ross, Brian Epstein, and Paul Blake, “Retiring Border Chief Calls Trump’s Wall a Waste of Time, Money,” ABC News, January 2017, available at, <http://abcnews.go.com/Politics/trumps-border-wall-waste-time-money-retiring-border/story?id=44978156>.

do not need a wall along the entire 2,000 miles of border.”<sup>16</sup> He went on to say, “If I were to quantify an actual number, I would say that we need about 30 percent. Thirty percent of our border has to have an actual fence [or] wall.”<sup>17</sup> The existing 650 miles make up more than 30 percent of the 2,000-mile border.

According to an internal U.S. Government study obtained by Reuters in April 2016, CBP believes that more technology is needed along the border to create a “virtual wall.” The agency requested better radios and more aerial drones, but only 23 more miles of fences.<sup>18</sup>

#### BORDER SECURITY IS ABOUT MORE THAN ENFORCEMENT

While today’s hearing is focused on enforcement along our Southern Border, the Immigration Council concerns about the border go far beyond concerns related to further militarization of our Nation’s borders. The Immigration Council promotes the development of immigration policies that reflect our proud history as a nation of immigrants that respects fundamental principles of fairness and due process. To that end, our report, *A Guide to Children Arriving at the Border: Laws, Policies and Responses*, provides information about the tens of thousands of children—some traveling with their parents and others alone—who have fled their homes in Central America and arrived at our Southern Border and why the current enforcement only response to their arrival is the wrong approach.<sup>19</sup> As described in the *Guide*, unaccompanied children and families are still fleeing Central American violence in large numbers. Organized crime, gangs, and violence are driving children, families, women, and men out of their home towns and countries, a situation detailed in the report, *Understanding the Central American Refugee Crisis: Why They are Fleeing*,<sup>20</sup> and the paper, *No Childhood Here: Why Central American Children Are Fleeing Their Homes*.<sup>21</sup> These arriving children, families, and others from the region have been apprehended, detained in poor conditions, and rushed through removal proceedings with little due process.<sup>22</sup> As noted in our report, *Detained Deceived and Deported: Experiences of Recently Deported Central American Families* many have been deported back to the dangerous circumstances from which they originally fled.<sup>23</sup>

Further, CBP and ICE have a serious and long-standing problem with handling the personal belongings of detained migrants in their custody. Too often, some or all of a detainee’s belongings are lost, destroyed, or stolen by the immigration-enforcement agents entrusted with their care. DHS has attempted to correct this problem through two policy changes, however, these policy shifts have yet to bear fruit. As our report, *Deported with No Possessions: The Mishandling of Migrants’ Personal Belongings by CBP and ICE*, shows detainees from Mexico are still just as likely to have their property retained and not returned as they were before DHS implemented the new policies.<sup>24</sup> CBP has also been in the spotlight for its questionable practices regarding the treatment of migrants in its holding facilities near the U.S.’

<sup>16</sup> Morning Edition, Border Patrol Agents’ Union Confers with Trump on Securing the Border, National Public Radio, November 2016, available at, <http://www.npr.org/2016/11/17/502402360/border-patrol-agents-union-confers-with-trump-on-securing-the-border>.

<sup>17</sup> Id.

<sup>18</sup> Julia Harte, “No Wall, But More High-Tech Gear, Fencing Sought by U.S. Border Agents,” Reuters, January 2017, available at, <http://www.reuters.com/article/us-usa-immigration-fence-exclusive-idUSKCN0XP28J>.

<sup>19</sup> “A Guide to Children Arriving At the Border: Laws, Policies and Responses,” American Immigration Council, June 2015, available at, <https://www.americanimmigrationcouncil.org/research/guide-children-arriving-border-laws-policies-and-responses>.

<sup>20</sup> Jonathan T. Hiskey, Ph.D., Abby Cordova, Ph.D., Diana Orcés, Ph.D. and Mary Fran Malone, Ph.D., “Understanding the Central American Refugee Crisis: Why They are Fleeing and How U.S. Policies are Failing to Deter Them,” American Immigration Council, February 2016, available at, <https://www.americanimmigrationcouncil.org/research/understanding-central-american-refugee-crisis>.

<sup>21</sup> Elizabeth Kennedy, “No Childhood Here: Why Central American Children are Fleeing Their Homes,” American Immigration Council, July 2014, available at, <https://www.americanimmigrationcouncil.org/research/no-childhood-here-why-central-american-children-are-fleeing-their-homes>.

<sup>22</sup> *Deplorable Medical Treatment at Family Detention Centers*, American Immigration Council, July 20, 2016, available at, <https://www.americanimmigrationcouncil.org/news/deplorable-medical-treatment-family-detention-centers>.

<sup>23</sup> Guillermo Cantor, Ph.D. and Tory Johnson, “Detained Deceived, and Deported: Experiences of Recently Deported Central American Families,” American Immigration Council, May 2016, available at, <https://www.americanimmigrationcouncil.org/special-reports/deported-central-american-families>.

<sup>24</sup> Walter Ewing, Ph.D. and Guillermo Cantor, Ph.D., “Deported with No Possessions: The Mishandling of Migrants Personal Belongings by CBP and ICE,” American Immigration Council, December 2016, available at, <https://www.americanimmigrationcouncil.org/research/deported-no-possessions>.

Southern Border. Each year, hundreds of thousands of individuals are held in these facilities, which are meant to hold individuals for a short time and are not designed for overnight custody, and yet they are routinely used in this way. Government records analyzed in the report, *Detained Beyond the Limit: Prolonged Confinement by U.S. Customs and Border Protection Along the Southwest Border*, contain information on length of detention for all Border Patrol sectors along the U.S.' Southwest Border, reveal that individuals are frequently held for days and sometimes even months in such facilities.<sup>25</sup> The American Immigration Council hopes that the committee will not just look at enforcement along our Southern Border but look to address these issues as well.

Border security depends on the smart and efficient use of available resources. At the same time, border enforcement cannot and should not be done in isolation. Instead, it must be examined in the larger context of reforms needed for the entire immigration system.

## ATTACHMENT A

### THE COST OF IMMIGRATION ENFORCEMENT AND BORDER SECURITY

Since the last major overhaul of the U.S. immigration system in 1986, the Federal Government has spent an estimated \$263 billion on immigration enforcement.<sup>26</sup> As discussions with a new President and Congress start to focus on what immigration enforcement and border security should look like it is important to review how much money has already been spent on these initiatives and what outcomes have been produced.

Immigration enforcement spending largely falls into two issue areas: Border security and interior enforcement. Border spending includes staffing and resources needed for U.S. Customs and Border Protection (CBP), an agency of the Department of Homeland Security (DHS) working at and between United States ports of entry. Interior enforcement is primarily focused on staffing and resources for U.S. Immigration and Customs Enforcement (ICE), also part of DHS, to apprehend noncitizens in the interior of the country, detention for those undergoing removal proceedings, and the deportation of those ordered removed.

Currently, the number of border and interior enforcement personnel stands at more than 49,000.<sup>27</sup> The number of U.S. Border Patrol agents nearly doubled from fiscal year 2003 to fiscal year 2016.<sup>28</sup> Additionally, the number of ICE agents devoted to its office of Enforcement and Removal Operations (ERO) nearly tripled from fiscal year 2003 to fiscal year 2016.<sup>29</sup>

What has this spending bought? The United States currently has over 650 miles of fencing along the Southern Border, record levels of staff for ICE and CBP, as well as a fleet of drones—among other resources. Some of these resources have been spent on ill-conceived projects, such as the \$1 billion attempt to construct a “virtual fence” along the Southwest Border, a project initiated in 2005 that was later scrapped for being ineffective and too costly.<sup>30</sup> Even with record level spending on enforcement, enforcement alone is not sufficient to address the challenges of undocumented migration.<sup>31</sup> It also has significant unintended consequences, according to

<sup>25</sup> Guillermo Cantor, Ph.D., “Detained Beyond the Limit: Prolonged Confinement by U.S. Customs and Border Protection along the Southwest Border,” August 2016, available at, <https://www.americanimmigrationcouncil.org/research/prolonged-detention-us-customs-border-protection>.

<sup>26</sup> See American Immigration Council, *Giving the Facts a Fighting Chance: Addressing Common Questions on Immigration* (Washington, DC: December 2015), 16, <https://www.americanimmigrationcouncil.org/research/addressing-common-questions-immigration>; U.S. Department of Homeland Security, *Budget-in-Brief*, Fiscal Year 2017, 17, <https://www.dhs.gov/publication/fy-2017-budget-brief>.

<sup>27</sup> See American Immigration Council, *Giving the Facts a Fighting Chance: Addressing Common Questions on Immigration* (Washington, DC: December 2015), 18, <https://www.americanimmigrationcouncil.org/research/addressing-common-questions-immigration>.

<sup>28</sup> U.S. Government Accountability Office, “U.S. Customs and Border Protection: Review of the Staffing Analysis Report under the Border Patrol Agent Reform Act of 2014,” May 2016, <http://www.gao.gov/assets/680/677475.pdf>.

<sup>29</sup> U.S. Department of Homeland Security, “Congressional Budget Justification,” Fiscal Year 2016, [https://www.dhs.gov/sites/default/files/publications/FY%202017%20Congressional%20Budget%20Justification%20%20Volume%202\\_1.pdf](https://www.dhs.gov/sites/default/files/publications/FY%202017%20Congressional%20Budget%20Justification%20%20Volume%202_1.pdf).

<sup>30</sup> Julia Preston, “Homeland Security Cancels ‘Virtual Fence’ After \$1 Billion is Spent,” *New York Times*, January 2011, <http://www.nytimes.com/2011/01/15/us/politics/15fence.html>.

<sup>31</sup> Doris Meissner, Donald M. Kerwin, Muzaffar Chishti, and Claire Bergeron, *Immigration Enforcement in the United States: The Rise of Formidable Machinery*, Migration Policy Insti-

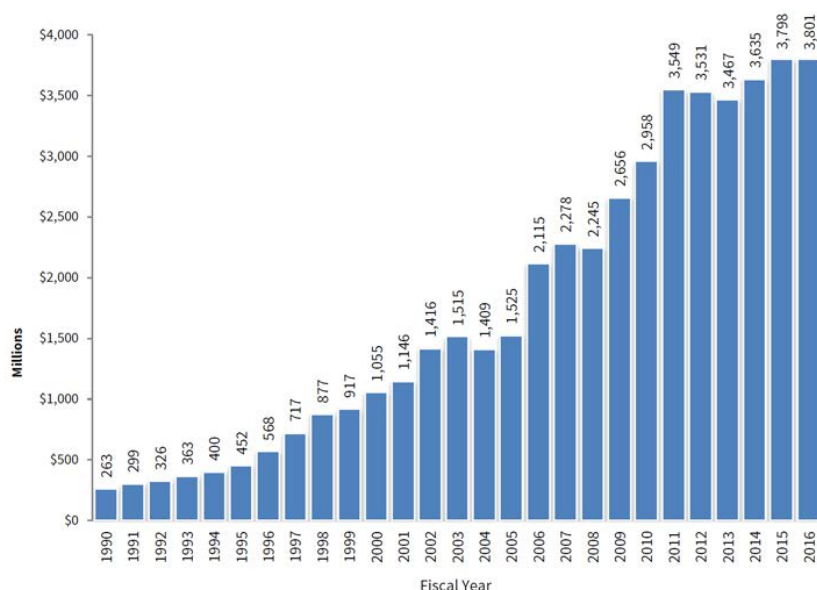
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United States.<sup>32</sup> All of these efforts that have accumulated in the name of security, however, do not necessarily measure border security.<sup>33</sup> It is past time for the United States to focus on metrics that actually assess achievements and progress on security.<sup>34</sup> DHS lacks transparent, consistent, and stable metrics for evaluating border enforcement. Before deciding how to address border security, Congress should require clear reporting on metrics from DHS.<sup>35</sup> Such metrics would better allow Congress and the public to hold the immigration agencies accountable and assess whether and what additional resources are needed (or not needed) to secure our border.

#### *The Cost in Dollars*

The immigration enforcement budget has increased massively since the early 1990s, but Congress continues to call for more taxpayer dollars to be spent at the border.

- Since 1993, when the current strategy of concentrated border enforcement was first rolled out along the U.S.-Mexico border, the annual budget of the U.S. Border Patrol has increased more than ten-fold, from \$363 million to more than \$3.8 billion (Figure 1).<sup>36</sup>



- Since the creation of DHS in 2003, the budget of CBP has more than doubled from \$5.9 billion to \$13.2 billion per year (Figure 2).<sup>37</sup>
- On top of that, ICE spending has grown 85 percent, from \$3.3 billion since its inception to \$6.1 billion today (Figure 2).<sup>38</sup>

tute, January 2013, <http://www.migrationpolicy.org/research/immigration-enforcement-united-states-rise-formidable-machinery>.

<sup>32</sup> United States Border Patrol, Southwest Border Sectors, <https://www.cbp.gov/sites/default/files/assets/documents/2016-Oct/BP%20Southwest%20Border%20Sector%20Deaths%20FY1998%20%20FY2016.pdf>.

<sup>33</sup> Bipartisan Policy Center, “Measuring the Metrics: Grading the Government on Immigration Enforcement,” February 2015, <http://bipartisanpolicy.org/library/measuring-the-metrics-grading-the-government-on-immigration-enforcement/>.

<sup>34</sup> Ibid.

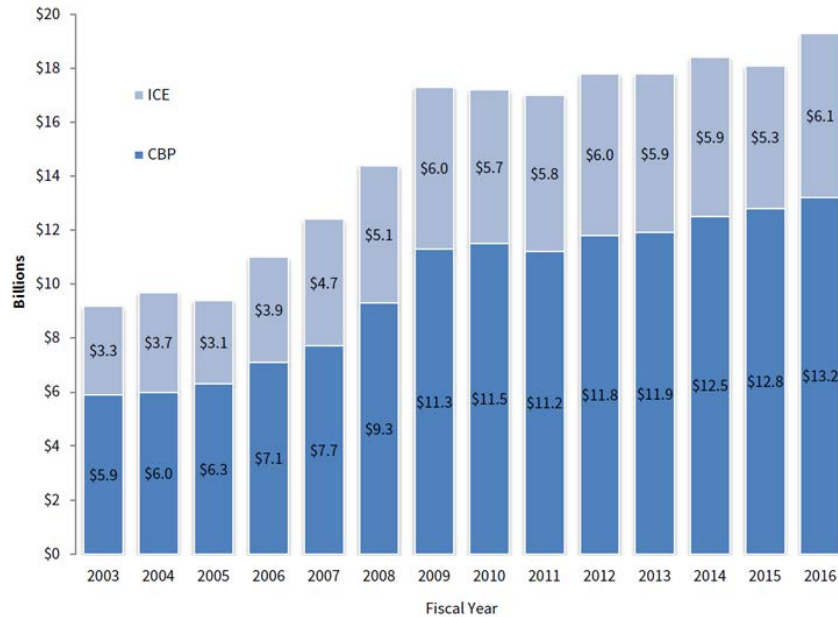
<sup>35</sup> Ibid.

<sup>36</sup> U.S. Department of Homeland Security, “Department Management and Operations, Analysis and Operations, Office of the Inspector General, U.S. Customs and Border Protection,” Congressional Budget Justification Fiscal Year 2017—Volume 1, 880, [https://www.dhs.gov/sites/default/files/publications/FY2017CongressionalBudgetJustification-Volume\\_1.pdf](https://www.dhs.gov/sites/default/files/publications/FY2017CongressionalBudgetJustification-Volume_1.pdf).

<sup>37</sup> U.S. Department of Homeland Security, Budget-in-Brief, Fiscal Year 2005–2017, <https://www.dhs.gov/dhs-budget>.

<sup>38</sup> Ibid.





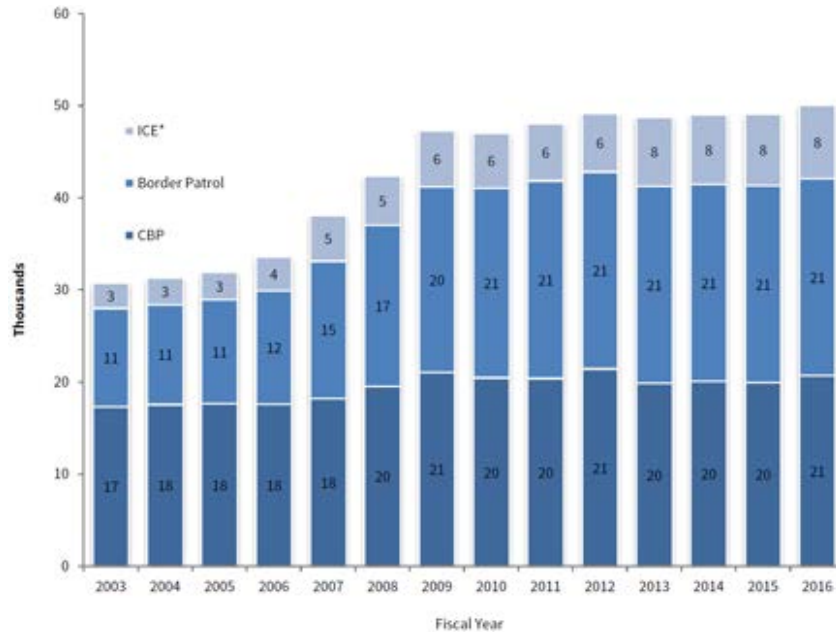
#### *Increases in Personnel*

- Since 1993, the number of U.S. Border Patrol agents nearly doubled from 10,717 to a Congressionally-mandated 21,370 in fiscal year 2016 (Figure 3).<sup>39</sup>
- The number of CBP officers staffing ports of entry (POEs) grew from 17,279 in fiscal year 2003 to 21,423 in fiscal year 2012 (Figure 3).<sup>40</sup>
- The number of ICE agents devoted to Enforcement and Removal Operations increased from 2,710 in fiscal year 2003 to 7,995 in fiscal year 2016 (Figure 3).<sup>41</sup>

<sup>39</sup> U.S. Government Accountability Office, "U.S. Customs and Border Protection: Review of the Staffing Analysis Report under the Border Patrol Agent Reform Act of 2014," May 2016, <http://www.gao.gov/assets/680/677475.pdf>.

<sup>40</sup> U.S. Department of Homeland Security, *Congressional Budget Justification*, fiscal year 2003 and 2012, <https://www.dhs.gov/dhs-budget>.

<sup>41</sup> U.S. Department of Homeland Security, *Congressional Budget Justification*, fiscal year 2003–2016, <https://www.dhs.gov/dhs-budget>.



The Federal Government has already met the border security benchmarks laid down in earlier Senate immigration reform bills.

- As the American Immigration Lawyers Association pointed out in a January 2013 analysis, the “benchmarks” for border security specified in the bipartisan 2006, 2007, and 2010 immigration-reform legislative packages in the Senate have been largely met.<sup>42</sup>
- The requirements in those Senate bills for more border enforcement personnel, border fencing, surveillance technology, unmanned aerial vehicles, and detention beds have been fulfilled and in many ways surpassed—an all-time high.<sup>43</sup> As the Homeland Security Advisory Panel noted in 2016, ICE detention rose from the normal 34,000 beds to 41,000 an all-time high.<sup>44</sup>

Border security depends on the smart and efficient use of available resources. At the same, border enforcement cannot and should not be done in isolation. Instead, it must be examined in the larger context of reforms needed for the entire immigration system.

## ATTACHMENT B

### THE HIGH COST AND DIMINISHING RETURNS OF A BORDER WALL

For generations, politicians have talked about constructing a border wall. The fact is that building a fortified and impenetrable wall between the United States and Mexico might make for pithy sound bites, but in reality it is unnecessary, complicated, ineffective, expensive, and would create a host of additional problems.

<sup>42</sup> Greg Chen and Su Kim, *Border Security: Moving Beyond Past Benchmarks* (Washington, DC: American Immigration Lawyers Association, January 2013), <http://www.aila.org/content/default.aspx?bc=2566743061>.

<sup>43</sup> Ibid.

<sup>44</sup> Homeland Security Advisory Council, “Report of the Subcommittee on Privatized Immigration Detention Facilities,” *Department of Homeland Security*, December 1, 2016, <https://www.dhs.gov/sites/default/files/publications/DHS%20HSAC%20PIDF%20Final%20Report.pdf>; National Immigrant Justice Center, “Immigration Detention Bed Quota Timeline,” January 2017, [https://immigrantjustice.org/sites/default/files/content-type/commentary-item/documents/2017-01/Immigration%20Detention%20Bed%20Quota%20Timeline%202017\\_01\\_05.pdf](https://immigrantjustice.org/sites/default/files/content-type/commentary-item/documents/2017-01/Immigration%20Detention%20Bed%20Quota%20Timeline%202017_01_05.pdf).

*Extensive physical barriers already exist along the U.S.-Mexico border.*

- The U.S.-Mexico border is 1,954 miles long. Border security involves managing the flow of people and goods across the border and preventing the illegal entry of people and goods. The existing border security infrastructure includes physical barriers, aerial surveillance, and technology. More than 21,000 Border Patrol agents—as well as other Department of Homeland Security (DHS) and Department of Justice (DOJ) personnel—staff ports of entry, Border Patrol stations, forward operating bases, and checkpoints.
- Current physical barriers along the U.S.-Mexico border include those intended to prevent illegal border crossings by foot (pedestrian fencing) and impede vehicles from smuggling persons or contraband (vehicle fencing). Secondary and tertiary layers of fencing further impede illegal crossings.
- As of early 2017, approximately 650 miles of border fence already exists: 350 miles of primary pedestrian fencing, 300 miles of vehicle fencing, 36 miles of secondary fencing behind the primary fencing, and 14 miles of tertiary pedestrian fencing behind the secondary fence.
- The existing barriers include tall metal or concrete posts, solid corrugated steel walls, metal fencing, and combinations of these designs.
- In addition to physical barriers, surveillance tools, towers, cameras, motion detectors, thermal imaging sensors, stadium lighting, ground sensors, and drones are part of the vast existing infrastructure aimed at stopping the unauthorized entry of people, drugs, arms, and other illicit items.

*Congress acknowledged that additional physical barriers are not necessary.*

- The Secure Fence Act of 2006 (Pub. L. 109–367), a law that passed with bipartisan support in both the House and Senate, required the construction of about 850 miles of double-layer fencing along five segments of the border.
- A few years after passage, Congress recognized that 850 miles of additional border fencing was not feasible or necessary. In 2008, the Consolidated Appropriations Act of 2008 amended the 2006 law to reduce the required mileage of reinforced fencing to “not less than 700 miles of the Southwest Border where fencing would be most practical and effective . . . .” In addition, DHS is not required to install fencing “in a particular location along the international border of the United States if the Secretary determines that the use or placement of such resources is not the most appropriate means to achieve and maintain operational control over the international border at such location.”
- Even Senator Chuck Grassley (R-IA), a long-time opponent of immigration reform, said in early January 2017, “We’ve already appropriated money for walls. We’ve got walls right now.”

*The wall is expensive.*

- The Government Accountability Office found that single-layer pedestrian fencing could cost approximately \$6.5 million per mile. In addition, millions would have to be spent on roads and maintenance.
- The easiest parts of the border fence have been built, according to Marc Rosenblum, formerly of the Migration Policy Institute and the current DHS Deputy Secretary of the Office of Immigration Statistics. The estimated cost of the remaining border wall segments are between \$15 and \$25 billion, with each mile of fencing costing \$16 million.
- According to the fiscal year 2017 DHS budget, \$274 million was spent on border fence maintenance. Based on that expense, one can extrapolate that if fencing is built on the final two-thirds of the Southern Border, the maintenance costs will triple to more than \$750 million annually.
- In fiscal year 2006, appropriations for building and maintaining border infrastructure was \$298 million, and then jumped to \$1.5 billion in fiscal year 2007 to pay for the fencing mandated in the Secure Fence Act. Fiscal Year 2016 appropriations were \$447 million.

*The Federal border agencies have not asked for a wall.*

- Outgoing Commissioner of U.S. Customs and Border Protection (CBP) Gil Kerlikowske said in January 2017, “I think that anyone who’s been familiar with the Southwest Border and the terrain . . . kind-of recognizes that building a wall along the entire Southwest Border is probably not going to work,” adding that he does not “think it is feasible” or the “smartest way to use taxpayer money on infrastructure.”
- The head of the National Border Patrol Council, a union representing 16,000 Border Patrol agents which endorsed President Trump during his campaign, said, “We do not need a wall along the entire 2,000 miles of border.” He went

on to say, “If I were to quantify an actual number, I would say that we need about 30 percent. Thirty percent of our border has to have an actual fence [or] wall.” The existing 650 miles make up more than 30 percent of the 2,000-mile border.

- According to an internal U.S. Government study obtained by Reuters in April 2016, CBP believes that more technology is needed along the border to create a “virtual wall.” The agency requested better radios and more aerial drones, but only 23 more miles of fences.

*There are complications to building a wall.*

- *Natural barriers.* The Rio Grande River runs along 1,254 miles of the border between Mexico and the United States and does not flow in a straight line—instead twisting, turning, and flooding regularly. Under the International Boundary and Water Commission, created in 1889 between the United States and Mexico, border barriers may not disrupt the flow of the Rio Grande. As a result, the current border fencing in Texas is located miles away from the border on private landowner’s property. In addition, the mountain range at Otay Mesa in California makes it extremely impractical to construct a wall or fencing.
- *Private land ownership.* After the passage of the Secure Fence Act, the Government attempted to seize private property for purposes of constructing border barriers through eminent domain. These efforts led to protracted legal battles that in some cases lasted 7 years. The Federal Government had to provide monetary compensation to the landowners and agreed to construct several access points along the fence on that property. Some of the existing gaps in the fence are in affluent areas where residents fought construction. It would likely cost the Federal Government considerable amounts of money to purchase land and build in those areas.
- *Native American land.* The Tohono O’odam Nation runs along 75 miles of the Southwest Border, and members of the Tribe have already stated they will not allow a border wall to be built on their reservation. A wall would effectively cut the reservation in half and make movement across the border, but within the reservation, difficult. It would separate families and make it difficult for tribe members to care for burial sites located in Mexico. Additionally, Federal law requires the Federal Government to consult with Tribal governments before constructing on the land. Without the Tribe’s support, the Federal Government could resort to condemning the land and removing it from the trust of the Tohono O’odam Nation.

*The wall would create a host of additional problems.*

- *Border deaths.* History has shown that when barriers are erected along the border, people attempt to cross at more remote and dangerous locations. According to U.S. Border Patrol statistics, the Southwest Border witnesses approximately one death per day. Over the past 18 years, nearly 7,000 people have died of hypothermia, drowning, heat exhaustion, or dehydration.
- *Harm to wildlife.* The border region is home to many species and some of the most endangered species, including the Sonoran Pronghorn, the Mexican gray wolf, and the jaguar. If their natural habitat is divided by a large barrier, animals are left with a smaller habitat and may venture outside their usual ranges, causing potential harm to the animals and people.
- *Damage to the environment.* A wall could impede the natural flow of floodwaters, resulting in damage and erosion, as it did in 2008.

Ms. BARRAGÁN. Thank you.

I want to follow up on some of what was asked. There have been a number of comments about the wall being an obstacle, not a barrier. Then in our packet I see these photos of what appears to be people smuggling drugs just climbing over a fence that appears to be easy for them to hop over.

Who is the wall most effective against? Is it most effective against the drug cartels, people smuggling drugs, or the families that are coming over because they are escaping violence? Who is it most effective against?

Mr. MCCRAW. I think it is equally effective to either, frankly. But again, as I have testified and I believe some of the other—the sheriffs have testified, is that unless you are—have technology on that

fence, unless someone is observing, unless you have coverage on that fence, unless you have someone to do the interdiction when someone comes over that fence or under that fence or through that fence, it is a obstacle and not a barrier.

Ms. BARRAGÁN. Does anybody have any information on how often or how frequently the border agents will catch somebody hopping the fence or, you know, shortly after they have?

Sheriff MARTINEZ. I guess in hopping the fence I don't think they have that many apprehensions where I am located, but for the week of January 27 through February 3 they apprehended 461 individuals in the Del Rio sector. Del Rio has a 2-mile fence. I think Maverick County, Eagle Pass, Texas has a 3-mile fence, so all those individuals that were—my belief, all those individuals that were apprehended were apprehended outside of that boundary.

Ms. BARRAGÁN. Were those that were apprehended people that turned themselves in, or people that were—didn't voluntarily turn themselves in?

Sheriff MARTINEZ. I would believe that they didn't voluntarily turn themselves in.

Ms. BARRAGÁN. Sheriff Wilmot, do you want to add to any of that?

Sheriff WILMOT. Congresswoman, I would have to defer to Border Patrol for those numbers. I do not have that available to me.

Ms. BARRAGÁN. OK.

Sheriff WILMOT. I could only comment on the facts that I know for sure.

Ms. BARRAGÁN. Great.

Judge TREVINO. The only comment I would add, Congresswoman, is the fact that in speaking with the local border sector chiefs I do know that the apprehensions are—have decreased considerably over the last several years. That is the only statistic that I am aware of, but I don't have the specific numbers.

Ms. BARRAGÁN. OK.

Sheriff Wilmot, you—I know some people have asked about this—you have advocated for removing funding for FEMA and moving it into DHS. Who would suffer—who is being serviced by the FEMA funding that you are advocating that we move those funds over?

Sheriff WILMOT. I don't believe anybody would suffer any financial loss from moving those funds from FEMA to DHS. They started out in DHS to begin with, as I understand it. So nobody would lose any funding.

Ms. BARRAGÁN. Do you know what their funds are currently used from—for that we would be pulling from FEMA?

Sheriff WILMOT. Those funds were specifically designated from the very beginning for Operation Stonegarden overtime and equipment to help partner with our Border Patrol and Federal counterparts. There was no funding removed, that I am aware of, from any other budget for that to happen.

Mr. MCCRAW. Congresswoman, it was just administratively changed. It used to be in DHS—administered the homeland security grants. It was moved to FEMA. So the funding stream didn't change, just who administrates it.

Ms. BARRAGÁN. OK.

Then the last question: Sheriff Wilmot, you mentioned—and I didn't catch it all, which is why I wanted just to follow up—you mentioned that there has been prevention of a number of deaths in the desert. Can you just elaborate on what you said and how that prevention occurred? What was it that caused the prevention?

Sheriff WILMOT. As I stated in the beginning of my testimony, in 2005, 2006 Yuma County was the worst in the Nation in regards to cross-border traffic as well as the criminal element that so much accompanies it. We were experiencing, unfortunately, having to go out into the desert, sometimes on a weekly or monthly basis, to recover those victims that were abandoned by those smugglers out in the desert.

We, as sheriffs, we are the ones that have to respond out there, whether it is Federal land, State land. We have to process those crime scenes, and our officers were going out there, as I stated, if not weekly or monthly to recover those victims that were left out there abandoned to die.

Ms. BARRAGÁN. But what prevented that? That what my question part—

Sheriff WILMOT. The deterrent factor between the partnerships with our Federal officers, is the combination of fencing, law enforcement presence on the border, and the technology with the cameras and sensors to be able to detect individuals crossing the desert was all a contributing factor in reducing that criminal element and those individuals being victimized coming across—rapes, robberies, and the homicides.

Ms. BARRAGÁN. Great.

Sheriff MARTINEZ. If I can just add, in Brooks County since 2006 I think that they have worked 563 deaths in that county, and they are 100 miles from the border. That is people that have come across. So I don't know what the makeup of the—if there is a fence there on the border in that area, but that is what Brooks County has suffered since 2006. All that, I think—a lot of that is at the taxpayers' expense.

Ms. BARRAGÁN. Great.

Thank you. I yield back.

Chairman MCCAUL [presiding]. Thank you.

I want to ask one last question. I know you have got flights to catch. I will make it fast.

We hear a lot, you know, bricks and mortar versus fencing. I hear a lot of different—you know, I mean, there are a lot of people with the wall being talked about that they want a brick and mortar wall like Israel has, you know, and they say that will be most effective.

Then I talk to people that actually—like yourselves—who actually live down there, and the fencing you can actually see through it, which provides an advantage if it is done correctly—if the fencing is.

Does anybody on the panel have any comments on that comparison?

Mr. MCCRAW. No, but I think Secretary Kelly made a good point about seeing through it. I mean, you would like to see what is on the other side of it. To the extent that it can add the same obstacle type of capability and you can see through it, there is value in that.

Chairman McCAUL. I tend to agree.

Sheriff Martinez.

Sheriff MARTINEZ. Yes. I have been to Israel and I have seen the fence there, and I see what—I have seen what they go through. But, you know, just here in the District of Columbia how many fence-jumpers have you had here on this property here? It took an armed Federal agent, you know, on the other side of that fence to neutralize the situation.

So, back home is going to need the same kind of attention.

Chairman McCAUL. Yes.

Sheriff Wilmot.

Sheriff WILMOT. I would agree that it helps to be able to see through. We have that type of fencing and it is a plus, as far as our Border Patrol agents are concerned. You know what is on the other side so you are not encountering that threat without even knowing it is 5 foot away from you.

Chairman McCAUL. Exactly.

Judge.

Judge TREVINO. Mr. Chairman, from my meetings and conversations with the Border Patrol agents they certainly appreciate the fact that they are able to see and not necessarily always be seen. The concern behind a more concrete or less visible barrier would give the advantage to the other side. As the sheriffs have alluded to, I think our agents have to be able to know what is on the other side in order to properly defend themselves and protect whatever it is—

Chairman McCAUL. It is very helpful because, you know, again, a lot of these Members that tout, you know, the bricks and mortar have never been down there. You guys are really the experts, so thank you for being here today.

Members may have additional questions in writing. I would ask that you respond in—Sheriff, did you have one last comment?

Sheriff WILMOT. I would like to throw out there, sir, that our priority would be also to add in being able to support the U.S. attorney's office and getting U.S. attorneys that can actually handle the caseload. They built a brand new Federal courthouse in Yuma County that only has one Federal magistrate, so all of our agents, all of our U.S. attorneys have to travel 3 hours to get to court in Phoenix.

They could save a lot of money by hiring a district judge to be in Yuma to handle the caseload and free those officers and agents up and those U.S. attorneys to be able to perform their jobs.

Chairman McCAUL. Yes. The Secretary discussed that, and my conversations with Jeff Sessions, who will be the attorney general. You know, he agrees. We talked about Operation Streamline, which was very effective from a deterrent standpoint with prosecutions. So that is very good.

Also, pursuant to rule 7(d) the hearing will be open for 10 days. With that, without objection, the committee stands adjourned.

[Whereupon, at 3:21 p.m., the committee was adjourned.]





## APPENDIX

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### QUESTIONS FROM HONORABLE WILL HURD FOR JOHN KELLY

*Question 1.* It is my understanding that the Department of State is in the midst of awarding a new contract for the development and issuance of the next generation of U.S. passports. As the lead agency dealing with the security of our borders and inspecting everyone who enters our country, I am curious about your thoughts on what requirements should exist for this document throughout its life span from production to expiration.

Answer. U.S. Customs and Border Protection Officers function as the front line of border control verification and U.S. Immigration and Customs Enforcement/Homeland Security Investigations (HSI) enforce Federal statutes related to the use of passports. As such, both components supported the Department of State (DOS) in the Next Generation Passport Working Group and provided operational expertise on areas of interest including book design to make executing the Department of Homeland Security's mission easier. However, DHS defers additional requirements to DOS as it maintains lead of all matters regarding U.S. passports, including the Next Generation Passport Working Group.

*Question 2.* Does the Department of State requiring that all personnel working on the Program have DOD Secret (or higher) clearance?

Do you know if the executives (president, CFO, security officer, etc.) of the prime contractor AND the major subcontractors have the appropriate clearances?

Answer. The Department of Homeland Security defers to the Department of State on this question.

*Question 3.* Was DHS consulted when setting the requirements for the next generation passport throughout its life span?

Answer. Yes. U.S. Customs and Border Protection and the U.S. Immigration and Customs Enforcement Forensic Labs consulted with the Department of State.

*Question 4.* Do you believe that the supply chain for the Next Generation U.S. Passport is as secure as it could be?

Are there any concerns if the new passport personalization system is manufactured outside the United States?

Answer. The Department of Homeland Security defers to the Department of State on matters regarding U.S. passports.

*Question 5.* Are there any cybersecurity concerns if the software provided by the passport personalization contractor is manufactured and later updated outside the United States?

Answer. Given that this contract for the development and issuance of next generation passports is being led by the U.S. State Department, I respectfully defer to them for a more comprehensive answer to this question.

### QUESTIONS FROM RANKING MEMBER BENNIE G. THOMPSON FOR JOHN KELLY

*Question 1.* Pursuant to the ban, how many travelers did CBP detain?

How many withdrew their applications for admission?

How many were removed from the country?

How many received waivers to enter the country?

How many were denied boarding?

How many visas were revoked while the Executive Order was actively implemented by CBP?

Answer. CBP does not detain travelers.<sup>1</sup> However, when ordered by the District Court in *Darweesh v. Trump*, 17-cv-480 (E.D.N.Y.) to identify individuals affected

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<sup>1</sup>While some may characterize secondary inspection as "detention," CBP would disagree. Rather, a secondary inspection is merely a continuation of the processing performed on primary.

Continued

HAMEED KHALID DARWEESH, et al.,  
Plaintiffs.

Civil Case No.  
17-CV-00480 (AMD)

 $\gamma$ 

DONALD TRUMP, et al.,  
Defendants.

In accordance with the provisions of 28 U.S.C. § 1746, I, Todd A. Hoffman, declare the following to be true and correct:

1. I am the Executive Director of Admissibility and Passenger Programs ("APP"), within the Office of Field Operations, U.S. Customs and Border Protection ("CBP"), an agency within the Department of Homeland Security ("DHS"). As Executive Director of Admissibility and Passenger Programs, I am responsible for overseeing and coordinating all CBP programs related to the admission and processing of international visitors and travelers to the United States.

2. I make this declaration based on my own personal knowledge and information provided to me in the course of my official duties. In preparing this declaration, I, as well as others on my staff who work under my supervision, have reviewed CBP data and other information related to the inspection and processing of international visitors to the United States who arrived and applied for admission at United States ports of entry, and at CBP preclearance locations, since January 27, 2017.

See, *United States v. Galloway*, 316 F.3d 624, 629 (6th Cir. 2003) (noting “secondary inspection is no less a matter of course and no less routine than the primary inspection”).

3. I am familiar with the President's Executive Order 13769, "Protecting the Nation from Foreign Terrorist Entry into the United States" issued on January 27, 2017 ("Executive Order"), and the steps that CBP took to implement it.

4. I am familiar with the letter issued by the Department of State on January 27, 2017, provisionally revoking all nonimmigrant and immigrant visas of nationals of Iraq, Syria, Iran, Sudan, Libya, Somalia, and Yemen, subject to limited exceptions, pursuant to the Executive Order (the "State Revocation Letter"), and with the letter issued by the Department of State on February 3, 2017, reversing the aforementioned provisional revocations ("State Reinstatement Letter").

5. I am also familiar with the Decision and Order issued by this Court in the above-styled action on January 28, 2017 (the "E.D. N.Y. Order"), and the Temporary Restraining Order issued by the District Court, Western District of Washington, on February 3, 2017 (the "W.D. Wash. TRO"), enjoining and restraining enforcement of certain provisions within the Executive Order.

**CBP Efforts to Identify Individuals with Physically "Revoked" Visas**

6. Upon issuance of the W.D. Wash. TRO, individuals holding passports from Iraq, Syria, Iran, Sudan, Libya, Somalia, and Yemen, containing valid United States visas, may apply for admission to the United States to the same extent as before the Executive Order. However, CBP understands that there is a subset of individuals originally affected by the Executive Order who may experience difficulties traveling to the United States in order to apply for admission.

7. When CBP encounters an applicant for admission with a visa that has been revoked by the Department of State, it is CBP's normal practice to physically mark the visa as "revoked." Between January 27, 2017 (the date of the Executive Order and the State Revocation

Letter) and February 3, 2017 (the date of the W.D. Wash. TRO and the State Reinstatement Letter), CBP encountered individuals subject to the Executive Order with visas revoked by the Department of State, and CBP marked many of those visas as “revoked.” Because these individuals possess visas physically marked as “revoked,” air carriers may deny these individuals boarding of flights bound for the United States.

8. To identify affected individuals with visas physically marked “revoked,” CBP searched its records to identify those individuals holding passports from Iraq, Syria, Iran, Sudan, Libya, Somalia, or Yemen, who, between January 27, 2017 and February 3, 2017, were inspected by CBP and deemed inadmissible to the United States on the basis of the Executive Order. CBP identified 141 such individuals – forty-four that were encountered at United States airports, and another ninety-seven that were encountered at land border ports of entry or preclearance locations abroad.

9. The forty-four individuals encountered by CBP at airports were all encountered on January 27 or 28, 2017. Upon being determined inadmissible, each of these forty-four individuals voluntarily withdrew their applications for admission to the United States and returned to a foreign destination on an outbound flight. According to CBP records, twenty-four of the forty-four individuals have since traveled back to, and been admitted to, the United States, many with the assistance by CBP described below.

10. For those individuals encountered at land border ports of entry or preclearance locations, upon being determined inadmissible, each of the ninety-seven individuals voluntarily withdrew their applications for admission to the United States. According to CBP records, fourteen of the ninety-seven individuals have since returned to and been admitted to the United States.

**CBP Efforts to Facilitate Return Travel for Affected Individuals**

11. In an effort to fully comply with all court orders, including the E.D. N.Y. Order and the W.D. Wash. TRO, CBP, in partnership with the Department of State, has taken, and continues to take, reasonable steps to facilitate travel to the United States for those individuals whose visas were physically marked as “revoked” on the basis of the Executive Order.

12. CBP personnel routinely communicate with air carriers. To facilitate close cooperation between CBP and air carriers, CBP developed the Carrier Liaison Program, through which CBP maintains a 24/7 Regional Carrier Liaison Group (RCLG) phone center to provide real-time entry requirements and document validity advice to carriers worldwide.

13. Since January 28, 2017, CBP has worked through its RCLG to facilitate the boarding of flights to the United States of affected individuals, on a case-by-case basis. Once CBP receives a request from an affected individual and determines that facilitation of travel is appropriate, CBP informs the air carrier, through the RCLG, that the particular individual may be permitted to board an aircraft bound for the United States without the carrier fearing it will be fined under 8 U.S.C. § 1323. While CBP cannot require an air carrier to board and transport any individual, CBP advises the carrier that although the individual possesses a United States visa that is marked as revoked, the individual’s visa has been reinstated and is deemed by CBP to be valid for travel.

14. CBP has utilized this process to successfully facilitate the return travel for approximately twenty-four individuals. For example, S.A. (name withheld to protect the privacy of the individual) was initially inspected by CBP at JFK International Airport on January 28, 2017. Based on the Executive Order and the State Revocation Letter, Ms. A. was determined to be inadmissible to the United States, and her United States visa was physically marked by CBP

as revoked. She withdrew her application for admission to the United States and departed for a foreign destination. On February 3, 2017, CBP received notice that Ms. A. wished to travel back to the United States. CBP utilized its RCLG to contact the air carrier, and Ms. A. was cleared to board her aircraft. Ms. A. was admitted to the United States on February 6, 2017.

15. CBP is currently utilizing this same process to facilitate the return travel of H.E., who was initially encountered by CBP on January 28, 2017, at Orlando International Airport. H.E. was determined to be inadmissible, withdrew her application for admission, and her visa was marked "revoked." On February 13, 2017, CBP received notice that H.E. wished to travel back to the United States. CBP utilized its RCLG to contact the air carrier, and H.E. was cleared to board her aircraft. H.E. is currently on board an aircraft and in transit to the United States as of the signing of this Declaration.

16. CBP will continue to utilize this process, on a case-by-case basis, as CBP becomes aware of affected individuals with physically revoked visas as described above who wish to return to the United States where such facilitation is appropriate. Of course, CBP cannot commit to the return of any particular individual, or to ensuring admission of any individual, as CBP lacks capacity or authority to engage with individuals who are not currently presenting themselves for admission and CBP is unable to make a final admissibility determination as to any traveler until the traveler is inspected by a CBP officer. In addition, and regardless of whether CBP may offer input or a recommendation, carriers ultimately decide whether to permit each passenger to board their aircraft. Nevertheless, CBP is taking the facilitation steps possible within the practical and legal limitations imposed on it.

**Coordination with the Department of State to Notify Affected Individuals**

17. In an effort to more proactively facilitate return travel for individuals with revoked visas, CBP has provided the Department of State with a list of all 141 individuals described above. Even though preclearance locations in foreign countries do not affect "removals" of travelers, CBP nevertheless included those individuals who were encountered at preclearance locations in the materials it has provided to the Department of State. It is my understanding that the Department of State has been using, and will continue to use, the information provided by CBP to facilitate the issuance of transportation foils (which enable individuals to board aircraft), or the reissuance of revoked visas, to affected individuals.

18. To the extent any of these individuals wish to travel on their previously issued visa, CBP remains willing to consider coordinating with the airlines to facilitate such travel on a case-by-case basis.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 16, 2017 at Washington, DC

(Date)

(City/State)

Signature: 

Todd A. Hoffman

*Question 2.* What guidance did DHS and/or CBP headquarters provide CBP officers regarding implementation of this Executive Order?

When was this guidance drafted?

When was it communicated to the field?

What resources were made available to the field when conflicts or questions about implementation arose?

What were some of the most common challenges faced by CBP officers?

Answer. Due to the complex nature of this effort, CBP's Office of Congressional Affairs would like to set up a briefing to address your questions on this matter. Please contact Ms. Kim Lowry, Acting Assistant Commissioner, Office of Congressional Affairs, to arrange a date and time that CBP may come and brief you and your staff on this important initiative.

*Question 3a.* The Executive Order on border security signed by President Trump last month requires you to "take all appropriate steps to immediately plan, design, and construct a physical wall along the Southern Border . . . to most effectively achieve complete operational control of the Southern Border." It provides no further specifics.

What are your plans for deploying the wall?

Answer. In response to Executive Order (EO) 13767: Border Security and Immigration Enforcement Improvements, U.S. Customs and Border Protection (CBP) is directly soliciting industry input for conceptual wall design(s) with the intent to construct multiple prototypes. The primary purpose of this effort is to develop design standards for a border wall that may be constructed along the Southwest Border with Mexico in support of U.S. Border Patrol (USBP) operational requirements. Any and all prototypes will be designed to deter illegal entry into the United States.

*Question 3b.* For example, how many miles, what locations, what type of wall?

Answer. CBP anticipates constructing multiple prototypes. USBP is in the process of evaluating operational requirements to determine wall placement.

CBP requested proposals for both solid concrete wall prototypes and non-concrete prototypes. Through the solicitation process CBP will partner with industry to de-

termine the best means and methods to include materials for constructing such prototypes.

*Question 3c.* What is the estimated cost?

Answer. CBP is aligning funds to support border wall prototype planning, design, construction, and evaluation. CBP is currently working to refine its prototype estimate. However, any more specific estimate information is procurement-sensitive.

*Question 3d.* How much of the land involved is private property?

Answer. CBP does not anticipate being required to acquire additional land for the prototype construction. However, until the solicitation process is complete and the prototypes have been selected, CBP cannot rule out the need to acquire additional property.

*Question 3e.* What other challenges do you see in the Department's ability to deploy additional wall along the border?

Answer. CBP is not yet in a position to forecast the challenges that may arise with the deployment of additional wall. CBP will be in a better position to make this assessment after the prototypes have been fully considered.

*Question 3f.* What is the estimated cost for maintenance of that wall?

Answer. Border wall maintenance costs have not yet been determined. Once the prototypes have been fully considered by CBP, CBP will be in a better position to estimate potential maintenance costs.

*Question 4a.* The Government Accountability Office (GAO) and others have reported on the need for better data and metrics to assess the effectiveness of various border security investments, including infrastructure and technology. The Border Patrol has struggled to replace its "operational control" metric with another meaningful measure of border security.

What goals and measures will you use to assess efforts and investments to secure U.S. borders?

Answer. Based on an internal study and direction from Congress, most recently in the Fiscal Year 2017 National Defense Authorization Act (NDAA), DHS is developing a unified outcome-based border security performance management framework, which will relate the President's border security outcome, Operational Control,<sup>2</sup> to the Department's strategic lines of effort and investments in border security, including personnel, infrastructure, and technology. Consistent with the President's definition for Operational Control, Congress's direction in the Fiscal Year 2017 NDAA, and the border mission described in the most recent QHSR, DHS's main outcome measures for border security will include estimates of the total successful entry of illegal aliens and illicit goods into the United States. DHS is working to develop these illegal entry estimates across several domains, including at and between ports on the southern land border as well as the southern maritime border (Gulf of Mexico and Caribbean). In addition to these outcome metrics, DHS also tracks input, activity, and output metrics to inform strategic and operational decision making and is actively enhancing some of these metrics in response to the NDAA. Investment measures, sometimes referred to as "inputs," include the number of Border Patrol agents, technology, and tactical infrastructure employed, among others. Activities measured include illegal aliens apprehended, drugs seized, and number of UAS sorties flown, among others. Strategic output metrics include the probability of apprehending aliens attempting to cross the border illegally and deterrence rates.

Concurrently, DHS's Management Directorate, supported by CBP, ICE, USCIS, and USCG, is leading a 180-day Comprehensive Southern Border Security Study in response to the President's *Executive Order on Border Security and Interior Enforcement Improvements* (Section 4.d). This study will include an assessment of current border security that will leverage some of the measures being developed for the NDAA. Additionally, this study will propose an overarching strategy to achieve "complete operational control" of the Southwest Border.

*Question 4b.* When can we expect to see these metrics in use by the Department?

Answer. Congress directed the Department, through the Fiscal Year 2017 NDAA, to provide the new outcome-based and other specified measures initially by June 22, 2017, then as part of annual reporting commencing on November 30, 2017. Concurrently, the Department is conducting an assessment of current border security as part of the Comprehensive Southern Border Security Study due to the President on July 24, 2017. While DHS continues to maintain and report our current Government Performance and Results Act (GPRA) performance measures for the border security

<sup>2</sup>The President's *Executive Order on Border Security and Interior Enforcement Improvements* defines Operational Control as the prevention of all unlawful entries into the United States, including entries by terrorists, other unlawful aliens, and instruments of terrorism, narcotics, and other contraband.



mission, we will update these measures accordingly, based on the results of the NDAA and Executive Order reports.

*Question 5a.* Each year, millions of visitors, foreign students, and immigrants enter the United States on a legal temporary basis. The majority of visitors depart on time; however, significant numbers of visitors overstay their authorized periods of admission. Although DHS has spent significant resources on exit-related efforts, the Department has yet to implement a biometric exit capability.

What are your plans to successfully implement a biometric exit capability so that DHS can accurately count the number of overstays, identify foreign nationals who overstay or violate the terms of their visit, and enforce relevant laws?

Answer. CBP encountered significant infrastructure, operational, and logistical challenges during the initial deployment of the biometric exit program. However, despite these early challenges, CBP, in partnership with the DHS Science and Technology Directorate (S&T), conducted several biometric exit pilots in the air and land port environments. CBP used lessons learned from these pilots (e.g., technological approaches, passenger dynamics, multi-modal biometric collection, and process/operational impacts) to successfully design and implement, beginning in June 2016, a Biometric Air Exit pilot at Hartsfield-Jackson Atlanta International Airport. Five key parameters guided the pilot:

- Minimal impact to existing travel processes;
- Integrate with existing airport infrastructure;
- Leverage existing airline systems, processes, and business models;
- Use current passenger behaviors and expectations without requiring new or unexpected steps for travelers, and;
- Utilize advanced passenger information and, to the greatest extent possible, existing traveler data and Government systems to stage biometrics in small batches to facilitate faster matching.

The Atlanta pilot proved to be a successful, and potentially feasible, way forward using a simple camera at the airline's boarding pass checkpoint to take a traveler's photo. This checkpoint biometric collection is quick, easy, and contactless. Facial recognition technology would then match the checkpoint photo with the traveler's previously collected passport/arrival photo(s), associated with travel documentation or immigration processing information. Biometrically matching a traveler's departure record to their previous arrival record strengthens the integrity of the immigration system. Due to the success of the pilot, CBP believes it has developed an achievable vision and realistic plan for implementation of a biometric air exit program. This not only solves a 20-year statutory requirement, but it also provides an opportunity to re-design the entire travel process for airlines and passengers, bringing greater convenience and security.

Throughout fiscal years 2017–2018, CBP will use lessons learned regarding technology, passenger behavior, and multi-modal biometrics, and further expand the biometric exit program toward meeting the mandate given by Congress. CBP will ensure that any future concept of operations for implementing biometric exit (air, land, or sea) adheres to, as appropriate, the aforementioned key parameters with the ultimate goal of enhancing security while facilitating legitimate trade and travel.

*Question 5b.* How will you ensure that the capability does not impede legitimate travel and commerce?

Answer. CBP's approach will create an opportunity for CBP to transform air travel by enabling all stakeholders in the travel system to match travelers to their data using biometrics, leverage passenger behaviors and expectations that do not require new or unexpected steps for travelers, and unlock benefits that continue to enhance CBP's ability to fulfill its mission to enhance security while facilitating legitimate travel.

*Question 5c.* What are your plans to develop and implement a strategy for addressing overstays once an exit capability is operational?

Answer. The completion of a full exit capability will improve CBP's ability to accurately identify overstays, as more complete arrival and departure information will then be available for all travelers. Today, CBP uses travel manifests received from commercial and private aircraft and commercial sea carriers; manifest data voluntarily provided by bus and rail carriers; data collected by CBP officers during border crossings; cooperative information-sharing agreements; and data received from U.S. Citizenship and Immigration Services (USCIS) or U.S. Department of State to determine how long a visitor is eligible to remain in country or, conversely, how long they have overstayed if that authorized period of admission has expired. CBP uses this information to take actions against individuals who are confirmed overstays either directly or in coordination with U.S. Immigration and Customs Enforcement (ICE) and others. The consequence for overstaying can range from losing the ability to

participate in programs such as the Visa Waiver Program to deportation and removal proceedings.

In terms of enforcement, ICE actively identifies and initiates action on priority overstay violators. ICE's overstay mission is accomplished in close coordination with CBP. ICE's primary objective is to vet system-generated leads in order to identify true overstay violators, match any criminal conviction history or other priority basis, and take appropriate enforcement actions. Within ICE, Homeland Security Investigations (HSI) has dedicated units, special agents, analysts, and systems in place to address nonimmigrant overstays. Through investigative efforts, HSI is responsible for analyzing and determining which overstay leads may be suitable for further National security investigation.

From a DHS processing standpoint, ICE analyzes system-generated leads initially created by, or matched against, the data feed for biographical entry and exit records stored in CBP's Arrival and Departure Information System (ADIS). ADIS supports the Department's ability to identify nonimmigrants who have remained in the United States beyond their authorized periods of admission or have violated the terms and conditions of their visas. Once the leads are received, ICE conducts both batch and manual vetting against Government databases, social media, and public indices. This vetting helps determine if an individual who overstayed has departed the United States, adjusted to a lawful status, or would be appropriate for an enforcement action.

As part of a tiered review, HSI prioritizes nonimmigrant overstay cases through risk-based analysis. HSI's Counterterrorism and Criminal Exploitation Unit (CTCEU) oversees the National program dedicated to the investigation of non-immigrant visa violators who may pose a National security risk. Each year, the CTCEU analyzes records of hundreds of thousands of potential status violators after preliminary analysis of data from the Student and Exchange Visitor Information System (SEVIS) and ADIS, along with other information. After this analysis, CTCEU establishes compliance or departure dates from the United States and/or determines potential violations that warrant field investigations.

The CTCEU proactively develops cases for investigation in furtherance of the overstay mission and monitors the latest threat reports and proactively address emergent issues. This practice, which is designed to detect and identify individuals exhibiting specific risk factors based on intelligence reporting, travel patterns, and in-depth criminal research and analysis, has contributed to DHS's counterterrorism mission by initiating and supporting high-priority National security initiatives based on specific intelligence.

Additionally, DHS has made substantial improvements over the last 5 years to identify, prioritize, and address confirmed overstays. DHS system enhancements that have strengthened our immigration enforcement efforts include:

- Improved ADIS and Automated Targeting System—Passenger (ATS-P) data flow and processing quality and efficiency, increasing protection of privacy through secure electronic data transfer.
- Extended leverage of existing ATS-P matching algorithms, improving the accuracy of the overstay list. Additional ADIS matching improvements are underway to further improve match confidence.
- Developed an operational dashboard for ICE agents that automatically updates and prioritizes overstay "Hot Lists," increasing the efficiency of data flow between the DHS Office of Biometric Identity Management (OBIM) and ICE.
- Implemented an ADIS-to-IDENT interface reducing the number of records on the overstay list by providing additional and better quality data to ADIS, closing information gaps between the two systems. IDENT refers to the Automated Biometric Identification System, which is the current DHS biometric repository for storage and matching.
- Improved ability of ADIS to match U.S. Citizenship and Immigration Services' (USCIS') Computer Linked Adjudication Information Management System (CLAIMS 3) data for aliens who have extended or changed their status lawfully, and therefore have not overstayed even though their initial period of authorized admission has expired.
- Created a Unified Overstay Case Management process establishing a data exchange interface between ADIS, ATS-P, and ICE's LeadTrac system, creating one analyst platform for DHS.
- Enhanced ADIS and Transportation Security Administration (TSA) Alien Flight Student Program (AFSP) data exchange to increase identification, efficiency, and prioritization of TSA AFSP overstays within the ADIS overstay population.
- Enhanced Overstay Hot List, consolidating immigration data from multiple systems to enable ICE employees to more quickly and easily identify current and relevant information related to the overstay subject.

- Established User-Defined Rules enabling ICE agents to create new or update existing rule sets within ATS-P as threats evolve, so that overstays are prioritized for review and action based on the most up-to-date threat criteria.

The DHS steps described above have strengthened data requirements through computer enhancements, identified National security overstays through increased collaboration with the intelligence community, and automated manual efforts through additional data exchange interfaces.

*Question 6.* On January 23, 2017, President Trump signed a memorandum ordering a freeze on the hiring of Federal civilian employees to be applied across the board in the Executive branch. The memorandum provided that the head of any Executive department or agency may exempt from the hiring freeze any positions necessary to meet National security or public safety responsibilities.

Presumably the hiring of Border Patrol agents, U.S. Customs and Border Protection (CBP) officers, U.S. Immigration and Customs Enforcement (ICE) special agents is exempt, correct?

But what about other non-law enforcement, but mission-critical positions, such as CBP agricultural specialists, seized property specialists, and support personnel?

If these positions go unfilled, law enforcement officers will likely be pulled from their field to compensate. Please explain how the hiring freeze is being implemented with respect to these critical, non-law enforcement positions and at the Department of Homeland Security generally.

*Answer.* Department leadership is committed to ensuring the successful accomplishment of its National security and public safety missions. During the hiring freeze, the DHS hiring freeze exemption process, approved by the Office of Management and Budget and the Office of Personnel Management, enabled DHS to quickly exempt front-line and support positions such as CBP agriculture specialists. Now that the hiring freeze is over, DHS continues to fill critical positions to accomplish its mission in accordance with OMB memo M-17-22 "Comprehensive Plan for Reforming the Federal Government and Reducing the Federal Civilian Workforce."

*Question 7.* Recent cyber hacks and attacks have compromised business operations, critical infrastructure, and even campaign activity. There is no sign that the cyber threats we face will become less frequent or less severe.

How do you expect the President's Federal hiring freeze to affect the Department's ability to carry out its cybersecurity mission?

Will you be able to hire the talent you need to protect our networks?

*Answer.* On January 23, 2017, the President issued a Memorandum directing agencies to implement an across-the-board hiring freeze of Federal civilian employees. The President authorized the heads of departments and agencies to exempt positions he or she deemed necessary to meet National security or public safety responsibilities. Given the Department of Homeland Security's critical mission to secure the Nation and ensure the public safety, a number of positions within the Department were exempted from the hiring freeze. Positions necessary to carry out the Department's mission to safeguard and secure cyber space were among those exempted from the hiring freeze.

Due to the exemption of cybersecurity positions from the hiring freeze, and other hiring and retention authorities provided by Congress, we have been able to hire the talent we need without interruption.

*Question 8a.* President Trump's Executive Order on border security directs the hiring of an additional 5,000 Border Patrol agents, but gives no other specifics.

What is the time frame for hiring these additional agents?

*Answer.* CBP will to comply with the President's Executive Order on Border Security and Immigration Enforcement Improvements. Projecting a time frame for hiring 5,000 additional Border Patrol agents (BPA) is a work in progress as we map out screening, vetting, hiring, and training executables that ensure there is no degradation in the quality of our BPA while reaching the President's goals. We will work diligently with the Department of Homeland Security, the Congress, and other Federal Government and private partners to meet the Executive Order mandate. Staffing the front line with well-qualified individuals of the highest integrity and operational quality remains a top mission support priority for CBP. CBP will maintain the hiring surge that has been in effect since fiscal year 2014.

To this end, CBP has intensified all aspects of our hiring strategy, including initiatives designed to attract qualified applicants, expedite the pre-employment time line, refine the hiring process to address all potential bottlenecks, and reduce the attrition rate of our existing workforce. We continue to build on the momentum of our process improvement efforts, which in the last 2 years, have led to a significant reduction in the time-to-hire and an increased applicant-to-entrance-on-duty rate. We've incorporated lessons learned from our 2015 hiring hub program into a new expedited hiring process that, as of April 2017, is being used for all front-line appli-

cants. The average time-to-hire dropped from 469 days in January 2016 to fewer than 300 days in March 2017. We anticipate this number will continue to decrease, as the hiring hub model has shown the ability to hire applicants in an average time of as low as 160 days.

CBP is working to further refine its hiring process and eliminate redundancies, improving the applicant experience and further reducing the time-to-hire. This is a key aspect of our larger strategy, as shorter hiring times can prevent otherwise qualified candidates from dropping out of the process due to fatigue or accepting immediate job offers elsewhere. We are also reviewing modifications to the administration of the polygraph exam, entrance exam, and physical fitness tests, with each modification carefully assessed for all risks and mitigation measures. Our process is meant to ensure only individuals with the highest integrity serve as agents and officers safeguarding our borders and ports of entry—and we remain committed to upholding these standards amid the increasing urgency to hire more personnel.

Parallel efforts include intensified recruitment and marketing activities designed to increase the number of qualified applicants entering the hiring pipeline. This includes a large-scale rebranding effort that incorporates data-driven marketing campaigns across multiple platforms and recruitment events in many strategic regions of the country. CBP has also worked with the Office of Personnel Management (OPM) to obtain direct-hire authority to help fill the additional BPA positions, as well as other positions involved in protecting our borders. OPM also approved a revision for qualifying BPAs to enable us to change our methods for filling BPA positions and thus improving our ability to meet certain mission-critical hiring needs. Additionally, CBP through the DHS Office of the Chief Human Capital Officer, has submitted a consolidated DHS request to OPM on May 2, 2017 for approval of dual compensation waiver positions. Approval of this authority would enable CBP to re-hire annuitants who can help build an adequately-staffed mission support infrastructure and provide all necessary support. This will strengthen the performance of CBP's various law enforcement, National security, and trade operations that protect our borders.

These and other efforts will not only ensure CBP compliance with the Executive Order but also further establish our long-term ability to staff the front line in accordance with the expanding complexity and demands of our mission.

*Question 8b.* Are you aware that Border Patrol is already more than 1,800 agents short of its existing staffing target and has struggled to hire enough agents just to keep pace with attrition?

Answer. Yes, CBP's challenges in recruitment predate the President's Executive Order, and we have worked aggressively over the past several years to implement a multifaceted recruitment strategy and execute large-scale improvements to our front-line hiring process and capability. While these efforts have led to considerable progress in many areas—including declines in the overall time-to-hire and BPA attrition rates—CBP intends to further strengthen all aspects of its recruitment strategy in order to meet the Executive Order hiring mandate. As part of this strategy, CBP has worked with OPM in order to obtain necessary recruitment and hiring flexibilities.

*Question 8c.* CBP's Office of Field Operations is having similar problems. How are you going to address hiring challenges at CBP while ensuring that new hires are suited for the job?

Answer. CBP will continue the aggressive implementation of its recruitment strategy across all three of its front-line components: U.S. Border Patrol, Office of Field Operations, and Air and Marine Operations. Our efforts focus primarily on attracting more applicants who are better-suited to the unique demands of our mission. To this end, CBP will look to further improve brand awareness and convey the importance and scope of our mission within the public sphere. We will continue to focus on increasing our digital and social media presence to reach the millennial generation, expanding our outreach at high schools and colleges, and collaborating with the Department of Defense to help transitioning service members find rewarding and suitable careers with CBP.

CBP is also in the process of examining every aspect of its pre-employment process to identify areas in which further improvements can be made. While modifications to our process are being considered—many of which were proposed prior to the release of the Executive Order—CBP will not implement any change without carefully weighing risks and mitigation measures. To be clear, CBP is not lowering its standards for any of its front-line personnel. The changes under consideration may result in more applicants passing the pre-employment process, but all successful applicants must still successfully complete basic training at our Academies, whose core function is to uphold our front-line standards and ensure mission-readiness.

