

NATIONAL SECURITY: THREATS AT OUR BORDERS

JOINT HEARING

BEFORE THE
SUBCOMMITTEE ON NATIONAL SECURITY
AND THE
SUBCOMMITTEE ON
GOVERNMENT OPERATIONS
OF THE
COMMITTEE ON OVERSIGHT
AND GOVERNMENT REFORM
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NATIONAL SECURITY: THREATS AT OUR BORDERS

Wednesday, March 23, 2016

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON NATIONAL SECURITY, JOINT WITH THE
SUBCOMMITTEE ON GOVERNMENT OPERATIONS,
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,
Washington, D.C.

The subcommittees met, pursuant to call, at 9:00 a.m., in Room 2154, Rayburn House Office Building, Hon. Ron DeSantis [chairman of the Subcommittee on National Security] presiding.

Present from Subcommittee on National Security: Representatives DeSantis, Mica, Hice, Lynch, and Kelly.

Present from Subcommittee on Government Operations: Representatives Meadows, Walberg, Buck, Grothman, and Connolly.

Mr. DESANTIS. The Subcommittee on National Security and the Subcommittee on Government Operations will come to order. Without objection, the chair is authorized to declare a recess at any time.

The United States confronts a wide array of threats at its borders, ranging from terrorists seeking to harm the United States to transnational criminals smuggling drugs and counterfeit goods to foreign nationals entering illegally in order to work in the United States unlawfully.

America's borders and ports are busy places. Every year, tens of millions of cargo containers and hundreds of millions of lawful travelers enter the country, while tens of thousands of illegal cargo entries are seized and hundreds of thousands of unauthorized migrants are arrested or denied entry.

At the same time, hundreds of thousands of illegal immigrants evade detection to enter the United States unlawfully and thousands of kilograms of illegal drugs and other contraband are smuggled into the country.

Recent terrorist attacks in the United States and Europe and worldwide have highlighted the national security challenges that we face. The November terrorist attacks in Paris transformed Europe's migration crisis into a security debate, spurring calls for European nations to reevaluate their open border policies. Yesterday's terrorist attacks in Brussels demonstrate the strength of the Islamic State, but also highlight the policies of European nations that have facilitated the establishment and growth of Islamic communities within these countries that are parallel to rather than integrated in Western society.

Concerns about borders are not limited to Europe. Recent reports state that the U.S. Customs and Border Protection has apprehended several members of known Islamist terrorist organizations crossing the southern border in recent years.

The Texas Department of Public Safety has reported that border security agencies have arrested several Somali immigrants crossing the southern border who are known members of al-Shabaab, the terrorist group that launched the deadly attack on the Westgate shopping mall in Nairobi, Kenya, as well as other Somali-based groups, including one funded by Osama bin Laden.

The Texas DPS stated that it had come into contact in recent years with “special interest aliens” who come from countries with known ties to terrorists or where terrorist groups thrive.

In all, immigrants from over 30 countries throughout Asia and the Middle East have been arrested over the past few years trying to enter the United States illegally in the Rio Grande Valley. Now the committee has obtained information from the Customs and Border Protection that confirms thousands of Indians, Chinese, Bangladeshi, and Sri Lankans have been apprehended at our borders in fiscal years 2014, 2015, and the first quarter of 2016. This data also shows that individuals have sought to enter the United States illegally from Afghanistan, Pakistan, Syria, Turkey, and beyond.

One potential vulnerability that such individuals could attempt to exploit is our Nation’s generous asylum system. Aliens making asylum claims after they are apprehended by Border Patrol for entering illegally are being released into American society by the Obama administration.

The number of aliens making credible fear claims has increased exponentially in recent years. According to information provided to the committee by USCIS, the number of credible fear claims increased from 4,995 in fiscal year 2008 to 51,001 in fiscal year 2014, an increase of 921 percent.

Additionally, DHS is approving those claims the vast majority of the time. In fact, the approval rate is 87 percent.

By claiming to have a credible fear, these aliens set in motion a process that can forestall their removal while allowing them to remain in the United States potentially for years. Dangerous individuals such as gang members, cartel operatives, and even supporters and members of terrorist groups, could exploit the system. Such individuals could attempt to enter illegally. And if they successfully evade the Border Patrol, they can remain in the United States. If they get caught, they can make a credible fear claim and likely be released.

During a recent visit by staff to El Paso, Border Patrol and ICE confirmed that they are seeing increased numbers of Bangladeshi, Somalis, Pakistanis, and other nationals of countries of concern coming across the southern border and claiming credible fear.

These anecdotal reports are supported by information that USCIS provided the committee that states that thousands of nationals of these and other countries have claimed credible fear in recent years. For these reasons, Texas DPS has stated that “an unsecure border with Mexico is the State’s most significant vulnerability as it provides criminals and would-be terrorists from around

the world a reliable means to enter Texas and the Nation undetected. This is especially concerning today, in light of the recent terrorist attacks and schemes around the world.”

I thank our witnesses for their testimony today and look forward to examining issues related to national security threats at our border and what can be done to combat this growing problem.

I now recognize Mr. Lynch, the ranking member of the Subcommittee on National Security, for his opening statement.

Mr. LYNCH. Thank you very much, Mr. Chairman.

I also want to thank the panelists for helping the committee with its work.

I would like to also thank Chairman Meadows and Ranking Member Connolly for holding this hearing as well to examine immigration and border security.

I would also like to thank our witnesses again for your expertise in this area.

As reported by the United Nations High Commissioner for Refugees, we are witnessing the largest global forced displacement of people since World War II. Conflict, persecution, violence, and flagrant human rights violations have forcibly displaced nearly 60 million people worldwide, including 19.5 million refugees, 38 million internally displaced persons, and 1.8 million asylum-seekers. That is a 60 percent increase from 37.5 million displaced people recorded by UNHCR a decade ago.

Over 50 percent of the refugee population is now made up of children below 18 years of age, marking the highest child refugee figure in more than 10 years. In 2014, over 34,000 asylum applications were submitted by unaccompanied or separated children across 82 countries. That is the highest count on record since the agency began collecting this data in 2006.

The war in Syria and the rise of the Islamic State have been the driving factors behind the unprecedented surge in global displacement. Approximately 7.6 million people have been internally displaced within Syria alone, and more than 4 million refugees have fled the country since the start of the conflict in 2011.

The stark increase in global forced displacement coupled with devastating terrorist attacks in Paris, San Bernardino, Beirut, Istanbul, and Ankara in Turkey, and just yesterday in Brussels, Belgium, have led to ongoing policy debates in the U.S. over how best to prevent terrorists from infiltrating our legitimate immigration processes.

This is a critical and necessary examination that must entail fact-based oversight of our existing immigration and border security policies across-the-board. In the interest of national security, it must also be undertaken in a manner that continues to reflect our longstanding international commitment as a signatory to the 1951 Geneva Convention to protecting highly vulnerable individuals who are fleeing from persecution and violence, and as stated in a recent letter to Congress signed by 22 U.S. national security leaders from Democratic and Republican administrations alike, and I quote, “We believe that America can and should continue to provide refuge to those fleeing violence and persecution without compromising the security and safety of our Nation. To do otherwise would undermine our core objective of combating terrorism.”

These leaders included General David Petraeus, the former Commander of U.S. Central Command; George Schultz, the former Secretary of State under President Reagan; and former NATO Supreme Allied Commander James Stavridis, who is now at Tufts University.

In furtherance of this committee's efforts to review our national security framework, Congressman Steve Russell of this committee and I recently traveled on an oversight mission to Turkey, Jordan, and Lebanon to assess and even participate in the vetting processes required for Syrian refugee settlement to the United States.

After visiting refugee camps along the Turkish-Syrian and Jordanian-Syrian borders, and meeting with various refugee families, we discovered that the vast majority, between 70 and 80 percent, are not even interested in resettlement at all. Rather, they seek to stay in the neighboring host countries, Turkey, Lebanon, and Jordan, in the hopes of returning home.

The overwhelming preference of these families is to stay close to Syria, indicating that one of our primary national security goals should be to ensure that financially strained host countries and international humanitarian agencies have the resources necessary to provide a dignified life for their refugee populations in place.

Regarding the vetting process itself, I must say that prior to our oversight visit, I had my serious doubts about the effectiveness of vetting conducted in virtual warzone environments, and I supported both the Republican and Democratic measures to enhance the vetting process.

I would note that the delegation arrived in Beirut only several months after a double suicide bombing in that city that killed over 40 people. We arrived in Istanbul only 4 days after a suicide bombing in a central square that killed 10 German tourists. And we left Kilis province only 1 day before a rocket attack fired from Syria hit a Kilis school.

However, for the small percentage of families who do seek resettlement to the United States, what we found in our oversight of vetting centers in all three host countries was a multilayered vetting process that is robust and extensive. It is conducted by specialized U.N. and U.S. agency personnel trained to ensure that only the most thoroughly vetted and the most vulnerable, or 1 percent, of Syrian refugee applicants are admitted for resettlement.

They are also very cautious in their work, given that any misstep in the vetting process could not only pose a grave danger to the American public, but also effectively halt resettlement for millions of legitimate refugees.

It is this type of fact-based oversight that should guide our review of immigration and border patrol procedures across-the-board. This is absolutely imperative at a time when our Federal agencies responsible for securing homeland security face severe budgetary constraints and every homeland security dollar must be allocated toward the most critical national security risks.

Mr. Chairman, I thank you again for holding this hearing, and I look forward to discussing these and other issues with our witnesses, and I yield back the balance of our time.

Mr. DESANTIS. I thank the gentleman. I now recognize the chairman of the Subcommittee on Government Operations, Mr. Meadows, for his opening statement.

Mr. MEADOWS. Thank you, Mr. Chairman. Thank you for your leadership.

And thank you, Ranking Member Mr. Lynch, for your not only fact-based willingness to look at the record, but also your willingness to work in a bipartisan manner to address this serious issue.

From the surge of unaccompanied minors and family units from Central America coming across our border to the ongoing Syrian refugee crisis, as well as the fiancée visa that was erroneously issued to the San Bernardino terrorist Tashfeen Malik, there seems to be no shortage of immigration issues that impact our national security. So today's hearing takes a closer look at the national security implications at our Nation's porous borders.

Now, I want to emphasize that it is a national security interest that brings us here today. There are plenty of other rhetoric and discussion that can go on as it relates to immigration and immigration policy. But, indeed, this is looking at not only immigration but at border security and how it affects national security.

It has been in the forefront of much of the political discussion in recent months. The Department of Homeland Security officials have often indicated to the American public that our borders are more secure today than they have ever been. I think many of us have heard that. They tout the low number of apprehensions as proof, which seems to be a little counterintuitive to me.

In fact, the GAO, the Government Accountability Office, has indicated that the DHS has no official metrics in place to measure whether our border is secure or not. So those statements are very difficult to comprehend, if there are no metrics in place.

Representatives from the Border Patrol tell us that the situation at the border is exactly the opposite of what the administration claims.

Undoubtedly, the United States has a proud history of providing refuge to victims of persecution and will continue to be unwavering in our commitment to be that beacon of freedom and hope for those facing persecution around the world. But when this administration fails to enforce our immigration laws, or turns a blind eye to the rampant fraud and abuse while rubberstamping—rubberstamping—credible fear claims at a rate as high as 92 percent, the integrity of our system is undermined. Our generosity is taken advantage of and our national security is at risk.

We should seek to protect the integrity of our immigration system from fraudulent claims made by those seeking to do us harm or subvert our rule of law. Individuals who seek to defraud the asylum process make a mockery of those who are truly persecuted, for those who are fleeing from fear.

The United States is one of the most generous nations in the world, and our asylum system is an extension of that generosity. And yet, various organizations are coaching people to claim credible fear in order to avoid deportation.

By invoking the credible fear claim, most aliens enter into a process by which they await proceedings before an immigration judge, which at the very least buys them more time in the United States.

It often takes years, multiple years, before those court dates take place.

In the meantime, the alien is allowed to obtain a work permit, go about their business in the United States and, indeed, could embed in our communities. It seems to me that the word is out that claiming credible fear is the way to go.

The numbers sure say that much to me, and as we look at the credible fear claims that have grown exponentially in recent years, as Chairman DeSantis mentioned in his opening remarks, one of my biggest concerns is that nefarious actors have taken advantage of our generosity.

Gang members, cartel operators, supporters of terrorist groups can game the system and make use of credible fear to remain here in the United States. Even according to DHS, aliens with known or claimed ties to cartels and terrorist groups have been apprehended along the border claiming credible fear.

The data this committee has received confirms that the Border Patrol is encountering migrants from Afghanistan, Bangladesh, Egypt, Iran, Iraq, Lebanon, Pakistan, Saudi Arabia, Somalia, and Turkey. Now this is coming across our southern border, and these are just the individuals that were apprehended.

So what about all of those who were never seen by law enforcement at all and make it into the interior of our country?

I hope to hear from our witnesses today on their assessment of the current holes that might enable these bad actors to take advantage of our system. Most importantly, I would like to hear what should be done to address these deficiencies and help ensure the safety of the American public.

Mr. Chairman, I would like to ask unanimous consent to enter the following documents into the record. One would be U.S. Border Patrol nationwide apprehensions for 2015 and 2016. The other is the USCIS credible fear nationality reports for fiscal year 2014, 2015, and for quarter one of 2016, and the USCIS credible fear data and affirmative asylum case data. I ask unanimous consent.

Mr. DESANTIS. Without objection.

Mr. MEADOWS. And with that, I would yield back, Mr. Chairman. I thank you.

Mr. DESANTIS. Thank you. I will hold the record open for 5 legislative days for any members who would like to submit a written statement.

We will now recognize our panel of witnesses. I am pleased to welcome Mr. Ronald Vitiello, Acting Chief of the U.S. Border Patrol at the U.S. Customs and Border Protection; Mr. Steven McCraw, director of the Texas Department of Public Safety; Mr. Brandon Judd, president of the National Border Patrol Council; Professor Jan Ting, professor at the Temple University Beasley School of Law; and Ms. Eleanor Acer, senior director of refugee protection at Human Rights First. Welcome all.

Pursuant to committee rules, all witnesses will be sworn in before they testify.

If you can please rise and raise your right hand?

Do you solemnly swear the testimony you are about to give will be the truth, the whole truth, and nothing but the truth, so help you God?

Thank you. Please be seated.

All witnesses answered in the affirmative.

In order to allow time for discussion, please limit your oral testimony to 5 minutes. Your entire written statement will be made part of the record.

Mr. Vitiello, you are up. Five minutes.

WITNESS STATEMENTS

STATEMENT OF RONALD D. VITIELLO

Mr. VITIELLO. Thank you, Chairman DeSantis, Chairman Meadows, Ranking Member Lynch, and distinguished members of the subcommittees. It is an honor to appear before you today to discuss the role of the United States Border Patrol in protecting national security and defending threats against our border.

During my law enforcement career of more than 30 years in the U.S. Border Patrol, the border environment has changed not only the intentions, tactics, and capabilities of our adversaries, but also in our resources, our capabilities, and our operational approach to securing the border.

Today, we focus not only on responding to the complex and rapidly changing border conditions, but we also work to decrease the risk and potential threats. We do this through strategic and risk-based deployment of resources, and by expanding and increasing our capabilities through intelligence, information-sharing, partnerships, and operational collaboration.

In all border environments—land, air, and sea—technology is critical to security operations. Effective fixed and mobile surveillance and detection systems provide increased situational awareness of illicit cross-border activity. Advanced technology also increases our ability to identify changes in the border environment and rapidly respond as appropriate to emerging threats along and approaching our borders.

Detecting and interdicting terrorists and their weapons will also be a focus priority of the border security mission.

Also, the illegal cross-border activities of transnational criminal organizations involved in cross-border trafficking of guns, currency, human smuggling, and drugs pose a continuous threat to border security and public safety.

Responding to the continued flow of unaccompanied alien children and families across the Southwest border is also a priority.

The border regions in the United States are most secure when using a whole-of-government approach that leverages interagency and international partnerships as a force multiplier. The Border Patrol is an active participant in the DHS Southern Border and Approaches Campaign, and has a leading role in the Joint Task Force-West, an integrated operational approach to addressing the threat of transnational criminal organizations along and approaching the Southwest border. This effort directs DHS resources in a much more collaborative fashion to address the broad and complex range of threats and challenges, including illegal migration; smuggling of illegal drugs, humans and arms trafficking; illicit financing of such operations; and the threat of terrorist exploitation of border vulnerabilities.

The creation of the task force increases information-sharing between Federal, State, local, and international law enforcement agencies; improves situational awareness; enhances border-wide interdiction operations; and improves our ability to counter transnational threats and associated violence.

Using a risk-based and intelligence-driven approach, the Border Patrol and more broadly CBP and DHS will continue to enhance our efforts, anticipate and respond to threats to national security, and ensure the safety of the U.S. public.

The continued focus on unity of effort, in conjunction with intelligence and operational integration, the deployment of advanced technology, enhances our situational awareness, better enables us to effectively and efficiently detect, respond to, and disrupt threats in the Nation's border regions and approaches to the secure the homeland.

In closing, let me state the obvious. It is the men and women of CBP and the Border Patrol agents who face the threats that we will discuss today. Agents deploy in all manner of weather and rough terrain 24/7/365.

I am blessed to be in their leadership cadre. I am grateful for their dedication and professionalism. The Nation is safer, and the communities that they serve are better protected because of their efforts. They have my unwavering support and continued effort to let them do their jobs in the safest manner possible.

Thank you for having me as a witness today. I look forward to the opportunity to testify and your questions.

[Prepared statement of Mr. Vitiello follows:]

TESTIMONY OF

RONALD VITIELLO
Acting Chief
U.S. Border Patrol
U.S. Customs and Border Protection
Department of Homeland Security

BEFORE

U.S. House of Representatives
Committee on Oversight and Government Reform
Subcommittee on National Security
Subcommittee on Government Operations

ON

“National Security: Threats at our Border”

March 23, 2016
Washington, DC

Chairmen Meadows and DeSantis, Ranking Members Connolly and Lynch, and distinguished Members of the Subcommittee, it is a pleasure to appear before you today on behalf of the Department of Homeland Security (DHS) to discuss national security and threats at our border.

Along the more than 5,000 miles of land border with Canada and Mexico, and approximately 95,000 miles of shoreline, DHS works with our interagency, and state and local partners to secure our borders and the associated airspace and maritime approaches to protect the United States against terrorist threats and prevent illegal entry of people and goods into the United States while also facilitating lawful trade and travel.

The border environment is dynamic and requires adaptation to respond to emerging threats and changing conditions. We appreciate the partnership and support we have received from these Subcommittees, whose commitment to the security of the American people has enabled the continued deployment of resources and capabilities DHS needs to secure the border.

Operational Coordination

Secretary Johnson's Unity of Effort initiative has put in place new and strengthened management processes at DHS Headquarters to enable more effective DHS component operations. In addition, DHS-wide border security activities are being strategically guided by the Southern Border and Approaches Campaign (SBAC). Aimed at leveraging the range of unique Department roles, responsibilities, and capabilities, the Campaign enhances our operational approach to working together in a more unified way to address comprehensive threat environments.

On November 20, 2014, the Secretary commissioned the creation of three Joint Task Forces (JTF) to support the SBAC: JTF-West, JTF-East, and JTF-Investigations. All three incorporate elements from U.S. Customs and Border Protection (CBP), the U.S. Coast Guard (USCG), Immigrations and Customs Enforcement (ICE), and U.S. Citizenship and Immigration Services (USCIS). JTF-West, led by CBP, bears responsibility for the southern land border and the West Coast. JTF-East, led by the USCG, is responsible for the Southern maritime and border approaches. JTF-Investigations, led by ICE, focuses on investigations in support of JTF-W and JTF-E.

This effort will direct DHS resources in a much more collaborative fashion to address the range of threats and challenges, including illegal migration, smuggling of illegal drugs, human and arms trafficking, the illicit financing of such operations, and threat of terrorist exploitation of border vulnerabilities. The creation of the JTFs, unified joint task forces along the Southwest border and in the approaches to the United States, increases information sharing with Federal, state and local law enforcement agencies; improves situational awareness; enhances border-wide criminal intelligence-led interdiction operations; and addresses transnational threats and associated violence.

As the lead agency for JTF-W, CBP – specifically the Office of Field Operations (OFO), U.S. Border Patrol (USBP), and Air and Marine Operations (AMO) – has primary responsibility for exercising CBP's border security mission at and between the Nation's ports of entry (POEs). These entities coordinate the use of integrated assets to detect, interdict, and prevent acts of

terrorism and the unlawful movement of people, illegal drugs, and contraband toward or across the borders of the United States. CBP implements intelligence-driven counter network strategies focused on areas of greatest risk, and deploys its capabilities to adapt to emerging threats along the border.

The illegal cross-border activities of transnational criminal organizations (TCOs) and other *mala fide* actors pose a growing threat to border security and public safety. TCOs control most cross-border trafficking of guns and illegal drugs, and there is evidence of their increased involvement with human smuggling. Using a risk-informed and intelligence-driven approach, CBP will continue to enhance our efforts to anticipate and respond to threats to our national security, ensure the safety of the U.S. public, and deter, prevent, and disrupt future illegal activities.

Responding to the continued flow of unaccompanied alien children (UAC) and families crossing the Southwest border is also a priority. During FY 2014, the U.S. Government experienced an unprecedented increase in the number of UAC crossing the Southwest border, compared to previous years. The resulting humanitarian situation challenged the existing facilities, resources, and capabilities of CBP and other Federal agencies with responsibilities to process, transport, and care for UAC. During the following year, FY 2015, CBP apprehended nearly 40,000 UAC crossing the border — a decrease of 41 percent from the more than 68,000 encountered during 2014. However, as of January 31 this fiscal year, CBP has apprehended more than 20,000 UAC, compared to approximately 10,000 apprehended during the same period last year. As we enter the traditional season of higher migration, we are closely monitoring this situation and working with our partners to ensure that resources and capabilities are in place to accommodate an increased number of UAC, and to maintain safe, orderly processing of children that CBP encounters, without disrupting CBP's vital border security mission.

The border environment is challenged by continuously evolving tactics of terrorists, smuggling and trafficking networks, and other criminals. Detecting changes in threat levels and criminal flows across the border environment requires the use of various tactics to gather information and intelligence in both low and high threat areas. To detect and respond to criminal activity crossing or approaching our borders, DHS deploys sophisticated surveillance and detection technology and collaborates with domestic and international law enforcement, intelligence, defense, and local community partners.

Advanced Technology and Capabilities

Thanks to the support of Congress, CBP has deployed capable resources to increase our situational awareness, identify changes in the border environment, and rapidly respond, as appropriate, to emerging threats and areas of increasing risk. The use of technology in the border environment is an invaluable force multiplier to increase situational awareness.

At and Beyond U.S. Ports of Entry

On a typical day, CBP welcomes nearly one million travelers at our air, land, and sea POEs. From 2012 to 2015 the volume of international air travelers increased by 14 percent and is projected to increase 4 to 5 percent each year for the next five years. CBP continues to address the security elements of its mission while meeting the challenge of increasing volumes of travel in air, land, and sea environments. We do this through programs that enable us to assess the risk

of passengers from the earliest and furthest possible points, and at each point in the travel continuum.

At our POEs, CBP has aggressively deployed Non-Intrusive Inspection (NII) and Radiation Portal Monitor (RPM) technology to help identify contraband and weapons of mass effect. Prior to September 11, 2001, only 64 large-scale NII systems, and not a single RPM, were deployed to our country's borders. Today CBP has 311 NII systems and 1,282 RPMs deployed. The result of this investment in resources is the capacity for CBP to scan 99 percent of all containerized cargo at seaports and 100 percent of passenger and cargo vehicles at land borders for radiological and nuclear materials upon arrival in the United States.

The implementation of the Western Hemisphere Travel Initiative (WHTI) involved a substantial technology investment in the land border environment that continues to provide both facilitation and security benefits. Today, as a result of WHTI, more than 19 million individuals obtained Radio Frequency Identification (RFID) technology-enabled secure travel documents. These documents are more secure as they can be verified electronically in real-time back to the issuing authority to establish identity and citizenship. They also reduce the average vehicle processing time by 20 percent.

A direct result of the increased use of RFID-enabled secure travel documents is CBP's capability to increase the national law enforcement query rate, including against the terrorist watch list, to more than 98 percent. By comparison, in 2005 CBP performed law enforcement queries in the land border environment for only 5 percent of travelers. In terms of facilitation, CBP has also capitalized upon these notable improvements by establishing active lane management at land POEs; a process analogous to the management of toll booths on a highway. Through active lane management CBP can adjust lane designations as traffic conditions warrant to better accommodate trusted travelers and travelers with RFID-enabled documents.

Because we have advance travel information, CBP has the opportunity to assess passenger risk long before a traveler arrives at a POE. Before an individual travels to the United States, CBP has the opportunity to assess that person's risk via the Electronic System for Travel Authorization for those traveling under the Visa Waiver Program, or as part of the inter-agency collaborative effort to adjudicate and continuously vet visas.¹ CBP has additional opportunities to assess a traveler's risk when he or she purchases a ticket and/or makes a reservation and when he or she checks-in.

Before an international flight departs for the United States from the foreign point of origin, commercial airlines transmit passenger and crew manifest information to CBP. CBP's National Targeting Center then reviews traveler information to identify travelers who could be determined to be inadmissible upon arrival. Through its Regional Carrier Liaison Groups and Immigration Advisory and Joint Security Programs, CBP coordinates with the carriers to prevent these travelers from boarding flights bound for the United States. In FY 2015, using these pre-departure programs, CBP prevented 11,611 high-risk travelers from boarding flights. These efforts reduce or eliminate the need for resources, which would otherwise be dedicated to

¹ Visas are issued by the Department of State.

allowed CBP to decrease the number of CBPOs on the ground at CSI ports, while maintaining security outcomes. More than 80 percent of maritime cargo destined for the United States originates in, or transits through, CSI locations. In cooperation with host country counterparts, high-risk cargo is examined prior to loading on a vessel destined to the United States. Additionally, CBP screens 100 percent of all cargo manifests prior to arrival in the United States either through CSI locations or at the domestic port of entry for cargo that does not pass through a CSI port.

On May 29, 2015, DHS Security Secretary Johnson announced DHS's intent to enter into negotiations to expand air preclearance operations to ten new foreign airports, located in nine separate countries. These countries represent some of the busiest last points of departure to the United States — in 2014, nearly 20 million passengers traveled from these ten airports to the United States. Preclearance allows for the complete inspection process and security screening to occur on foreign soil prior to boarding a direct flight to the United States thereby obviating the need for further CBP processing or TSA security screening upon arrival. This enhances border and aviation security and allows the United States and our international partners to jointly identify and address threats at the earliest possible point. More than 16 million individuals traveled through one of CBP's preclearance locations in Canada, Ireland, the Caribbean, or the United Arab Emirates in FY 2015, and our goal is to process 33 percent of US-bound air travelers through preclearance by 2024.

Along U.S. Borders

Fixed system technology increases CBP's situational awareness and the USBP's ability to detect, identify, classify, and track illicit activity by providing line-of-sight surveillance to efficiently detect incursions in varying terrain. CBP integrates mobile and portable systems to address areas where rugged terrain and dense ground cover may allow adversaries to penetrate through blind spots or avoid the coverage areas of fixed systems.

The Integrated Fixed Tower (IFT) systems and Remote Video Surveillance Systems (RVSS) are fixed technology assets used in select areas along the borders. The IFT system is a series of fixed surveillance towers and equipment located in Arizona that provide long-range persistent surveillance. These tower systems automatically detect and track items of interest, and provide centralized operators with video and geospatial location of suspected items of interest for identification and appropriate action. RVSS provide short-, medium-, and long-range persistent surveillance mounted on stand-alone towers or other structures. The RVSS uses day and infrared (IR) cameras, radio, and microwave transmitters to send video to a control room and enable a control room operator to remotely and automatically detect, identify, classify, and track targets using a video feed.

CBP also uses Unattended Ground Sensors (UGS) and Imaging Sensors (IS), which contribute to improved situational awareness, agent safety, and rapid response. These sensors support our capability to detect and identify subjects. When a ground sensor is activated, an alarm is communicated to a data decoder that translates the sensor's activation data to a centralized operations center computer system. IS are a specific type of UGS with an integrated camera and the ability to transmit images or video back to the operations center.

returning inadmissible travelers to their points of origin, and instead enables those resources to be utilized for facilitating legitimate travel.

Additionally, CBP's work on business innovations and enhanced partnerships with private industry helped lead to the expansion of Trusted Traveler Programs like Global Entry. More than 1.7 million people, including more than 414,000 new members this fiscal year, have enrolled in Trusted Traveler Programs which allow expedited clearance for pre-approved, low-risk air travelers upon arrival in the United States. When comparing 2014 and 2015, CBP processed 1.6 million more passengers using Global Entry and there were 17 million more kiosk uses in 2015. Collaboration efforts between CBP and TSA have created increased security and additional efficiencies to better serve the traveling public. The TSA Pre✓® program automatically extends eligibility to current U.S. citizen members of CBP's Trusted Traveler Programs. This partnership enables TSA to extend expedited screening benefits for these qualifying trusted travelers, and allows TSA to focus security efforts on travelers with known and unknown risks, and contributes to the overall homeland security mission of securing and facilitating legitimate travel.

The United States is the world's largest importer and exporter of goods and services. In FY 2015, CBP processed 26.3 million cargo containers through the Nation's POEs, an increase of three percent from 2014, with a trade value of \$2.4 trillion. To address increasing trade cargo volumes, CBP assesses the risk of cargo bound for the United States, whether by air, land, or sea, at the earliest point of transit.

Receiving advanced shipment information allows CBP to assess the risk of cargo before it reaches a POE. Since 2009, the Importer Security Filing (ISF) and the Additional Carrier Requirements regulation have required importers to supply CBP with an electronically-filed ISF consisting of advance data elements 24 hours prior to loading of cargo shipments that will be arriving into the United States by vessel. These regulations increase CBP's ability to assess the scope and accuracy of information gathered on goods, conveyances, and entities involved in the shipment of cargo to the United States via vessel.

Since 2010, CBP has operated the Air Cargo Advance Screening (ACAS) pilot project, which enables CBP and TSA to receive advance security filing cargo data and help identify cargo shipments inbound to the United States by air transport that may be high risk and require additional physical screening. Identifying high-risk shipments as early as possible in the air cargo supply chain provides CBP and TSA an opportunity to conduct a comprehensive review of cargo data while facilitating the movement of legitimate trade into the United States. Benefits to ACAS pilot participants include: efficiencies by automating the identification of high risk cargo for enhanced screening before it is consolidated and loaded on aircraft and reduction in paper processes related to cargo screening requirements.

CBP also has a presence at foreign ports to add another layer of security to cargo bound for the United States. The Container Security Initiative (CSI) places CBP Officers (CBPOs) at foreign ports to perform pre-screening of containers before those containers are placed on a United States-bound vessel. The CSI program has matured since its inception in 2002 through increased partnership with host country counterparts and advances in targeting and technology. This

Working in conjunction with fixed surveillance assets, CBP's mobile technology assets provide flexibility and agility to adapt to changing border conditions and threats along the Southwest border. Mobile Surveillance Capability systems provide long-range mobile surveillance with a suite of radar and camera sensors mounted on USBP vehicles.

CBP's Tactical Aerostats and Re-locatable Towers program, originally part of the Department of Defense (DoD) Reuse program, uses a mix of aerostats, towers, and electro-optical/infra-red cameras, to provide USBP with increased situational awareness through an advanced surveillance capability over a wide area. This capability has proven to be a vital asset in increasing CBP's ability to detect, identify, classify, and track activity. As of December 2015, USBP agents seized 122 tons of narcotics and conducted over 50,000 apprehensions of illegal border crossers with the assistance of existing aerostats and towers.

Technology is critical to border security operations. Through the deployment of these complementary and effective fixed and mobile systems, CBP gains more coverage and situational awareness of surveillance gaps, and increases its ability to adapt to changing conditions to effectively detect, identify, classify, track, and interdict potential threats along the borders.

From the Air and the Sea

AMO increases CBP's situational awareness, enhances its detection and interdiction capabilities, and extends our border security zones, offering greater capacity to stop threats prior to reaching the Nation's shores. Through the use of coordinated and integrated air and marine capabilities – including fixed and rotary wing aircraft, unmanned aircraft systems (UAS), tethered aerostats and patrol and interdiction vessels – AMO detects, interdicts, and prevents acts of terrorism and the unlawful movement of people, illegal drugs, and other contraband toward or across U.S. borders. AMO conducts critical aerial and maritime surveillance, interdiction, investigation, and multi-domain awareness law enforcement operations, in addition to providing assistance to ground personnel.

AMO P-3 Long Range Trackers and Airborne Early Warning Aircraft provide detection and interdiction capability in both the air and marine environments. Sophisticated sensors and high endurance capability greatly increase CBP's range to counter illicit trafficking. P-3s are an integral part of the successful counternarcotics missions operating in coordination with Joint Interagency Task Force (JIATF)-South. P-3s patrol in a 42 million square mile area that includes more than 41 nations, the Pacific Ocean, Gulf of Mexico, Caribbean Sea, and maritime approaches to the United States.

Additionally, UAS are increasingly instrumental in CBP's layered and integrated approach to border security. AMO has deployed six UAS along the Southwest Border to detect, identify, and classify moving tracks of interest over land and sea. Four of these aircraft have Vehicle and Dismount Exploitation Radar (VADER) capability, which is a side-looking airborne radar that detects illegal border crossers and relays their positions to field agents, while simultaneously capturing terrain change detection information across larger stretches of the border. UAS are also used to meet surveillance and other mission requirements along the Northern borders and in

the drug source and transit zones. During FY 2015, CBP's VADER-equipped UAS recorded 9,371 detections of illegal activity.

Multi-Role Enforcement Aircraft (MEA) have a multi-mode radar for use over water and land, an electro-optical/infrared camera system, and a satellite communications system. This highly adaptable and capable aircraft replaces several older, single-mission assets. An equally important asset is the DHC-8 Maritime Patrol Aircraft (MPA). It bridges the gap between the longer range P-3s and UAS and the smaller MEA. The DHC-8 is an invaluable situational awareness platform for AMO in the Gulf of Mexico and the Caribbean.

AMO's persistent surveillance capability is performed through the collection and fusing of detection sensor data from a variety of sources, including ground based long and short range radar systems, as well as CBP's Tethered Aerostat Radar System (TARS), which provides air, maritime, and limited land domain awareness. This capability is critical in the detection of low-altitude aircraft and other potential threats attempting to penetrate the border undetected. CBP assumed responsibility of TARS from the U.S. Air Force in 2013, providing radar detection and monitoring of low-altitude aircraft and surface vessels along the U.S.-Mexico border, the Florida Straits, and a portion of the Caribbean. In FY 2015, TARS detected more than 400 suspect aircraft originating in Mexico which resulted in 14 seizures and four arrests, nine of those seizures and two of those arrests were made by Mexican government forces and were facilitated by AMO.

Some of the most important advancements in increasing CBP's situational awareness are in the area of data integration and exploitation. Downlink technology, paired with the BigPipe system, allows AMO to provide a video feed and situational awareness to its law enforcement partners in real-time. In addition, the Minotaur mission integration system will allow multiple aircraft to share information from multiple sources, providing a never before seen level of air, land, and sea domain awareness. As the Minotaur system evolves across the fleet, it will provide increased awareness for a greater number of users as the information is integrated into the Air and Marine Operations Center (AMOC).

A vital component of DHS's domain awareness capabilities, CBP's AMOC integrates the surveillance and law enforcement data capabilities of DHS's federal and international partners. CBP agents assigned to AMOC serve to correlate information from USBP technology with AMOC's systems to close the gaps in situational awareness. This combined effort has contributed to a reduction in the ultra-light aircraft activity on the Southwest border. FY 2015 suspect activity has decreased to 59 events from a high of 332 in FY 2010. Overall, AMOC evaluated almost 500,000 air tracks in FY 2015 with a 99.99 percent successful resolution rate. AMOC has integrated DoD and FAA sensors into the CBP network to expand our awareness well beyond the U.S. air and maritime borders. The stemming of the panga-type boat threats on the West Coast is attributed to the whole of DHS (CBP, U.S. Coast Guard, and U.S. Immigration and Customs Enforcement/Homeland Security Investigations) coordinated efforts with Mexican partners facilitated through this integration and collaboration.

Coordinating with extensive law enforcement and intelligence databases, including classified systems and communication networks, AMOC enhances our situational awareness and uses its

capability to coordinate law enforcement responses to suspect activity in the air, maritime, and land domains. AMOC systems are connected to nearly 150 locations in various agencies to enable collaboration.

CBP's continued deployment of fixed and mobile border surveillance technology, integrated with AMOC's enhanced-domain awareness capabilities, allows CBP the flexibility to shift more officers and agents from detection duties to the interdiction of illegal activities on our borders.

USBP and AMO use a risk-based strategy to deploy resources and address emerging threats. In coordination with the new DHS joint requirements process, USBP uses the Capability Gap Analysis Process (CGAP) to conduct mission analysis and identify capability gaps. From this analysis, USBP performs follow-on planning to identify operational requirements over the short, mid, and long-term and to identify potential solutions, which may (or may not) include technology, tactical infrastructure, or other solutions depending on the nature, scope, severity, and geographic location of a given capability gap. Terrain, threat, and other considerations vary greatly across sectors and regions, making a "one size fits all" approach ineffective. The AMO CGAP process is in the developmental stage at this time. Once completed, it will interface with USBP processes to further identify aviation technology solutions targeting border security initiatives.

Additionally, CBP is looking to the future by working closely with the DHS Science & Technology Directorate (S&T) to identify and develop additional technologies to improve our situational awareness, surveillance, and detection capabilities along our land and maritime borders. In August of 2015, Secretary Johnson signed a memo establishing Component-led Integrated Product Teams (IPTs) as the central mechanism by which DHS identifies technology gaps and coordinates and prioritizes its research and development efforts in priority mission areas. The Border Security IPT, consisting of senior representatives from S&T, CBP, USCG, ICE, Department of Nuclear Detection Office (DNDO), and Joint Requirements Council (JRC), has identified several key R&D needs, including small dark aircraft detection; tunnel detection, surveillance and forensics; and maritime surveillance and communications in remote environments.

As conditions on the ground or in the approaches change, CBP will adjust its operational posture and will continue to invest and focus border security resources in the most effective and efficient way possible to meet the Nation's border security needs.

Intelligence and Information Sharing

Criminal intelligence-sharing is a key component in building situational awareness efforts along the Northern and Southwest borders. CBP and component agencies contribute to several initiatives to improve the combined intelligence capabilities of Federal, state, local, tribal, and international partners.

CBP hosts a monthly briefing/teleconference with state and local partners in order to monitor emerging trends and threats along the Northern and Southwest border and provide a cross-component, multi-agency venue for discussing trends and threats. The briefing focuses on narcotics, weapons, currency interdictions, and alien apprehensions both at and between the

POEs. These briefings/teleconferences currently include participants from: DHS Joint Task Force-West, ICE; USCG; Drug Enforcement Administration; Federal Bureau of Investigation; U.S. Northern Command; Joint Interagency Task Force-South; Bureau of Alcohol, Tobacco, Firearms, and Explosives; U.S. Attorneys' Offices; Naval Investigative Command; State Fusion Centers; and local law enforcement as appropriate.

The border regions of the United States – land, maritime, and air environments – cannot be effectively policed by a single DHS Component or even a single governmental entity. A whole-of-government approach that leverages interagency and international partnerships as a force multiplier has been and will continue to be the most effective way to keep our border secure. Providing critical capabilities toward the whole-of-government approach, DHS works with our Federal, state, local, tribal and international partners – particularly, Canada and Mexico – to address transnational threats.

Through the 21st Century Border Management Initiative, led by a binational Executive Steering Committee, the United States and Mexico further strengthen our collaborative relationship and discuss topics relating to expanding and modernizing our border infrastructure, securing and facilitating the cross-border flows of people and cargo, strengthening public security, and engaging the border communities in the creation of this new border vision. Our strong partnership with the Government of Mexico, and our collaborative efforts along Mexico's Southern border, contributed to the reduced flow of UAC moving through Mexico to our Southwest border. The United States also cooperates extensively with Canada, through the Beyond the Border Action Plan, to jointly assess shared threats, within, at, and away from our borders, while expediting lawful trade and travel. This collaboration has become even more critical in light of the evolving security threats, including the emergence of foreign fighters.

Through these bilateral initiatives, the United States, working closely with Canada and Mexico, jointly address issues pertaining to border management, including border violence, managing the flow of legitimate travelers, and strengthening border security.

Indicators of Success

Thanks to the support of Congress, the Nation's long-term investment in border security continues to produce significant and positive results. DHS uses many different types of metrics to assess our performance in managing our security risks and facilitation responsibilities. It is important to emphasize that there is no single number or target level that can capture the full scope of our border security efforts. Instead, there are a series of important indicators that we use to assess our performance, evaluate trends, and refine our operations.

Border Patrol apprehensions – an indicator of illegal entries – totaled 337,117 nationwide in FY 2015, compared to 486,651 in FY 2014. This represents a more than 30 percent decline in the last year and almost 80 percent below its most recent peak in FY 2000. CBP officers and agents also played a critical counter-narcotics role, resulting in the seizure or disruption of more than 3.3 million pounds of narcotics in FY 2015. In addition, the agency seized more than \$129 million in unreported currency through integrated counter network operations. In FY 2015, AMO contributed to the arrest of 4,485 suspects, the apprehension of more than 51,130 individuals, and the interdiction of more than 213,000 pounds of cocaine.

USBP uses the Consequence Delivery System (CDS) on the Southwest border as a means to standardize decision making in the application of consequences and examines the efficiency and effectiveness of individual consequences on various types of individuals without claims for legal immigration. Recidivism and the average number of apprehensions per recidivist are the strongest indicators of CDS effectiveness. Since CDS implementation in FY 2011, the annual reported recidivism rate has decreased from an average of 27 percent to 14 percent in FY 2015 and average apprehensions per recidivist decreased from 2.71 to 2.38 in FY 2015. Contributing factors to the reduction included reducing the percent of apprehensions resulting in a Voluntary Return, the least effective and efficient consequence, from 59 percent in FY 2010 to 4 percent in FY 2015; and applying more effective and efficient consequences to illegal entrants with a higher probability of making subsequent illegal entries.

CBP reports on several performance measures, in accordance with the Government Performance and Results (GPRA) Act of 1993 and the 2010 GPRA Modernization Act, and we are committed to the ongoing monitoring and reporting of program accomplishments and progress toward meeting mission goals. AMO reports annually on a GPRA metric that tracks the percent of detected conventional aircraft incursions resolved along all borders of the United States. In FY 2015, AMO reported a 99.3 percent border security success rate for this metric.

DHS recognizes the need for relevant performance measures to verify the effectiveness of our operations and assets. Furthermore, as border security operations become increasingly integrated, the ability to quantify individual contributions to shared outcomes becomes increasingly complex. DHS will continue to collaborate with internal and external partners to enhance current metrics, and develop new metrics, that provide meaningful outcome-focused measurements of illegal activity, trends, and effectiveness. We look forward to sharing these efforts with these Subcommittees in the future.

Conclusion

DHS has significantly increased its border security capabilities by adding thousands of frontline law enforcement personnel, and making substantial investments in infrastructure, situational awareness and surveillance technology, strategically deployed to areas of increasing challenge. This shift in border security resources and overall border security management is responsible for the significant decrease in the illegal flow of people across the Southwest border over the last 10 years.

The continued focus on unity of effort, in conjunction with intelligence and operational integration, and the deployment of advanced detection technology, enhances situational awareness and better enables DHS to plan effectively, enhance its agility, and appropriately respond to threats in the Nation's border regions and approaches to secure the homeland.

Chairmen Meadows and DeSantis, Ranking Members Connolly and Lynch, thank you for the opportunity to testify today. I look forward to your questions.

Mr. DESANTIS. Thank you.
Mr. McCraw, 5 minutes.

STATEMENT OF STEVEN C. McCRAW

Mr. McCRAW. Mr. Chairman, members, thank you for the opportunity to testify before you today. Steve McCraw, Texas Department of Public Safety.

I want to echo a few comments that the chief made, but I would be remiss of two things if I didn't first mention the Governor's comments yesterday on the aftermath of the Brussels attack, the cowardly attack by terrorists.

He pointed out that our hearts and prayers are with the Brussels victims. Our minds must realize the consequences of open borders. And our resolve must be security.

Clearly, the Governor and the Texas State Legislature understand the scope and magnitude of the threat and vulnerability of Texas and the rest of the Nation.

What happens on the Texas-Mexico border doesn't just affect Texas or even just the border region. It affects the entire Nation, whether it is transnational crime or if it is a national security threat.

Clearly, special interest aliens are a problem, and we've recognized that. This is not a new phenomenon. As the FBI Special Agent in Charge in 2002, we learned that Border Patrol was detaining, detecting, detaining, apprehending individuals from countries with known Al Qaeda presence at that point in time. That's continued on. It's understandable why Texans are concerned from a national security standpoint.

To that point, we've talked about changes that we've seen over the years, and the chief referred to. Crime is remarkably different. It's more transitory. It's transnational. It's organized. It's more discreet.

Certainly, it can compromise and undermine public safety and homeland security and national security.

From a Texas standpoint, it's been very clear in terms from the Governor and our State Legislature that two things in terms of guiding principles—a sense of urgency and unity of effort.

Fortunately, with the chief over here, I know when he was sector chief of Rio Grande Valley for the Border Patrol, he was a team player. And we were able to do unity of effort and work closely with him.

I can tell you right now that if properly resourced, they have the leadership and type of people that can get the job done to secure the Texas-Mexico border. That's important.

Until that time, our strategic intent by our Legislature, our Governor, the Texas Department of Public Safety, working with our local and other State partners that includes Texas Military Forces, our game wardens, will provide direct support to Border Patrol in the detection, deterrence, and interdiction of smuggling events that occur between the ports of entry, and do so very aggressively.

Every day, we deploy Texas State troopers, Texas Rangers and special agents in the Department of Public Safety from around the State down to the Rio Grande Valley where right now is the epicenter of drug and human smuggling into the United States, and

we'll continue to do so. This will be our direction until the border is secure.

There are a number of things that certainly can be done, if properly resourced. There's no doubt that Border Patrol can get the job done. We look forward to that day when they do have the resources to be able to do that.

That concludes my comments at this point.

[Prepared statement of Mr. McCraw follows:]

Steven C. McCraw
Director
Texas Department of Public Safety

March 23, 2016

House Committee on Oversight
and Government Reform

Subcommittee on National Security
Subcommittee on Government Operations

Steven C. McCraw
Director
Texas Department of Public Safety
March 23, 2016

Good morning, Chairman Meadows, Chairman DeSantis and distinguished members of the Subcommittee on National Security and Subcommittee on Government Operations. My name is Steven McCraw – I am the director of the Texas Department of Public Safety (DPS). I would like to thank you for the opportunity to testify before you today on the critically important issue of assessing the opportunity that individuals, including criminal organizations and terrorists, have to exploit the security gaps along the U.S.-Mexico border – and the consequences it has had, and will have, for the state of Texas and communities throughout the country.

In an ever-changing threat environment, where crime is increasingly transitory, transnational, organized, and discreet, and where terrorism has become more disaggregated, an unsecure border with Mexico represents a significant national security vulnerability. The porous border with Mexico provides cartels a reliable means to infiltrate this country allowing them to smuggle and traffic marijuana, cocaine, heroin, methamphetamine and people into and throughout the United States. In Mexico, the cartels engage in petroleum theft, kidnappings, robberies, human trafficking, extortions and murders for profit. Cartels employ terrorism tactics, strategies and corruption to protect their criminal operations, and they pose a serious threat to Texas and the United States as well as to the domestic security of Mexico, one of our nation's most important economic trading partners.

Texas Governor Greg Abbott and the Texas Legislature understand that securing our nation's border with Mexico is the sovereign responsibility of the federal government, they recognize that the federal government has failed to adequately provide the appropriate resources to secure our international border with Mexico. That failure has forced the State of Texas to spend millions of dollars of state money to fulfill what is a federal responsibility.

Governor Abbott has long-recognized the gravity of this situation and in his first year in office, he signed into law the toughest border security program in the nation. As part of that plan, more than \$800 million has been appropriated over the next two years to add more resources, more manpower and more assets toward securing our border. This includes state-of-the-art aerial assets, enhanced land and maritime patrols, advanced monitoring technology, enhanced communication capabilities, 250 new state troopers, a new company of Texas Rangers, pilots, additional support personnel, increased overtime and funding to conduct sustained surge operations in high threat areas.

In fact, in response to federal inaction dating back to June 2014, the DPS was then directed by state leadership to launch Operation Strong Safety, and most recently, Operation Secure Texas, as a multi-agency collaborative effort to deny Mexican cartels and their associates unfettered entry into Texas, and their ability to commit border-related crimes, as well as reduce the power of these organizations, whose success depends on their ability to operate on both sides of the border. In total, Texas has designated roughly \$1.7 billion in state funds since 2005 to amplify

border security efforts. With the increased funding authorized by our state leaders, Texas is further intensifying its border security operations by providing direct assistance to the U.S. Border Patrol to deter, detect and interdict smuggling along the Texas/Mexico border through the deployment of an integrated network of detection and communication technologies and an increase in ground, air and marine interdiction assets.

These additional resources allows DPS to expand current efforts with other state law enforcement agencies as well as our local partners, as well as federal partners and the Texas Border Prosecution Unit to degrade the smuggling infrastructure used by the cartel plaza bosses to smuggle drugs and people into Texas. And the number of public corruption investigations along the border will increase with the additional Texas Rangers working with the FBI's Public Corruption Task Force. Additionally, this also increases the funding for local law enforcement and border county prosecutors, and expands the Texas Anti-Gang program to crack down on the gangs who support Mexican cartel smuggling and trafficking operations throughout the state. Again, these increased efforts would not be possible without additional resources provided by Governor Abbott's Office and the Texas Legislature.

As a state that puts such a high priority and resource focus on protecting its people and property, these kinds of threats manifest themselves in a variety of ways. Most recently, Texas has found itself at odds with the Obama administrations attempt to resettle tens of thousands of Syrian refugees in communities across the U.S. Make no mistake, Texas has been active in providing refugee asylum to thousands from across the globe. In fact, according to the Texas Health and Human Services Commission, Texas accepts approximately ten-percent of all refugees resettled in the United States.

The difference now is the insistence that Texas resettle refugees whose background and threat to our state can't be quantified. Governor Abbott has been very clear that we cannot allow charity for some to compromise security for all. To that end, our Governor continues to work with Congress to increase states role in the refugee resettlement process. In fact, last week language was inserted in the Refugee Program Integrity Restoration Act of 2016 that is before the U.S. House Judiciary Committee. Language in that act would add states a layer of protection and prerogative.

In relation to this committee's focus today – *National Security: Threats at Our Borders* – I would like to present you with information contained in a study produced by a Texas DPS Senior Analyst as part of his graduate research at the U.S. Naval Postgraduate School (NPS) for Homeland Security and Defense – <https://www.hsdl.org/?view&did=788177> – as well as findings from several U.S. Government Accountability Office (GAO) studies.

First, I'd like to reference the general scope and volume of Special Interest Alien (SIA) smuggling as outlined in the NPS study, which indicates that several thousand SIAs – that is, migrants from 35 – 40 countries of interest where Islamic terrorist organizations operate – have been apprehended reaching the southwest land border each year since 9/11 (pp. 16-17 of the NPS

study), smuggled through Latin America and Mexico, at a relatively consistent annual average volume.

Also according to the study, an example of what's happening in Texas alone can be illustrated by a report citing U.S. Customs and Border Protection data, asserted that more than 740 encounters with SIAs just in Texas reflected a 15 percent increase over the same period in 2014, among them migrants from Afghanistan, Bangladesh, Egypt, Iran, Iraq, Lebanon, Pakistan, Somalia, and Turkey. These are just the individuals who were apprehended. As indicated in the study, unknown numbers of SIAs slip over the border, and some may or may not be caught at some future point in the interior of the country.

Many are believed to apply for U.S. political asylum after their apprehensions in the brush between ports of entry or upon turning themselves in to an immigration officer at a port of entry, according to the study.

According Congressional research reporting cited in the study (p. 80), Middle Eastern and South Asia migrants consistently ranked among the top 20 approved asylum seekers from 2000 through 2009, long raising national security concerns that these SIA migrants from countries of interest are committing asylum fraud.

The study also highlights an asylum fraud loophole and the U.S. inability to detect and prosecute asylum fraud. (pp. 80-85) For instance, the study refers to SIA smugglers and their clients from 35 "countries of interest," arriving through Mexico at a U.S. Port of Entry, depend heavily on fraud vulnerabilities in the U.S., primarily the lack of political asylum fraud detection and prosecution capability.

The study notes that the probability of achieving access to the American asylum process is critical to migrant recruitment and business continuity of the smuggling organization, since asylum mitigates the risk of deportation, which migrants and smugglers understand would entail the loss of significant once-in-a-lifetime sums for smuggling fees and suppress new-client recruitment. Therefore, SIA smugglers have incorporated into their operations advice on how to achieve U.S. asylum (pp. 80-85).

The study also references court records showing that four of 19 prosecuted SIA smugglers addressed in the NPS study knowingly abused vulnerabilities in asylum vetting processes by claiming fraudulent persecution stories that authorities and systems are unable to verify, and by omitting disqualifying personal histories such as terrorism associations and criminality. The smugglers were highly knowledgeable in U.S. asylum law and processes, taking pains to instruct their clients how to file fraudulent petitions, and coaching their stories in ways that were likely to ring well with asylum officers, as part of their smuggling services.

The NPS study also cites government reporting dating from 2002 to recently consistently pointing out lack of progress in detecting and deterring this kind of asylum fraud. It presents a 2002 GAO report, which concluded that the legacy Immigration and Naturalization Service (INS) did not know the extent of immigration benefit fraud, to include asylum fraud. The NPS

study references a 2008 GAO survey of asylum officers that showed that 75 percent believed they needed additional training to help them detect fraud, conduct security checks and assess the credibility of asylum seekers. The problem apparently has not been addressed in any of the years since, according to information cited by the NPS study. In 2014, a U.S. Department of Homeland Security (DHS) report showed that up to 70 percent of asylum cases contained proven or possible fraud.

The latest GAO assessment of this problem, released in December 2015 – <http://www.gao.gov/assets/680/673941.pdf> - concluded that “DHS and the U.S. Department of Justice (DOJ) have limited capabilities to detect and prevent asylum fraud” despite dedicated antifraud entities. It said asylum officers in seven of eight asylum offices conceded they had granted asylum in cases in which they suspected fraud.

To date, the GAO assessment stated that a mere 35 United States Citizenship and Immigration Services (USCIS) officers are deployed across all eight asylum offices conducting background checks to resolve national security “hits” and fraud concerns. Another finding was that USCIS still provides limited fraud training for asylum officers and has no plan for determining how much training is needed.

Adding to the concern that threats and vulnerabilities are not being adequately addressed, according to GAO, DHS and DOJ rarely prosecute asylum fraud. Federal law enforcement agencies, such as ICE’s Homeland Security Investigations (HSI), rarely investigate the asylum fraud referrals they receive. Four of the eight USCIS offices only referred 0 or 1 asylum fraud case to HSI from 2010 to 2014. One office reported HSI had not accepted a referral since 2010. Another office reported that HSI had not accepted a referral in the previous two years and that the local U.S. Attorney’s office does not accept referrals. The 2015 GAO study also found that USCIS has never assessed fraud risks, and still has no approach for assessing fraud risk.

The 2015 NPS study noted media reporting to the effect that when hundreds of Syrian war refugees began crossing the Mexico-California border in 2012 after traveling on Mexican tourist visas, and claimed asylum, concerns were expressed about whether or not the security vetting process was capable of identifying Islamic extremists who might be among them.

Lastly, the NPS study concluded that research had uncovered “a surprising number of terrorism reference points associated with SIAs and their smugglers.” (p.135) Among the more prevalent of these were Somalis, who crossed the southern border and were later accused in court proceedings of terrorism involvements while half way through or all the way through the asylum process. (p. 1, and pp. 135-136). Other public information the NPS study found during research included crossings by members of Hezbollah, the Tamil Tigers, and two purported members of a Bangladesh terrorist organization. (p. 84)

This information is worthy of attention and consideration by our nation’s leaders and policymakers, because if these vulnerabilities are left unchecked, it will allow opportunities for heinous criminals, including potential terrorist organizations and lone wolf actors, to exploit our international border, unlawfully enter the country and carry out their illicit activities.

In Texas, we see the exploitation of the security gaps along our border by Mexican cartels and their counterparts on a daily basis. The current epicenter of human and drug smuggling activity is the Rio Grande Valley of Texas, which is further complicated by the recent surge of migrants from Central America and Cuba along the Southern border. As mentioned previously, the state of Texas leadership has repeatedly called upon the U.S. Department of Homeland Security (DHS) for additional assets and resources for the U.S. Border Patrol and the Office of Field Operations to strengthen our border defenses and combat transnational criminal activity along the Texas-Mexico border. Unfortunately, even the September 2015 request from Governor Abbott to DHS for additional aerial observation and other resources has gone unfulfilled. As a result, in December 2015, Governor Abbott directed the following actions:

- Extend the deployment of the National Guard troops at strategic locations on the border intended to reduce illegal entry;
- Instruct the Texas Department of Public Safety to coordinate with the Texas Parks & Wildlife Department to increase the number of boats and tactical officers at strategic locations on the Rio Grande River;
- Instruct the Department of Public Safety to increase aerial observation missions to aid interdiction efforts;
- Provide Grants to Ellis and Rockwall counties to aid their efforts to respond to the unexpected relocation of unaccompanied minors to their counties.
- Re-urge the Department of Homeland Security to increase border patrol agents in Texas.

Most recently, DHS requested a 50 percent reduction of persistent aerial detection, situational awareness, and monitoring support for Operation Phalanx from the Department of Defense. This request is troubling, given the additional resources requested by Governor Abbott last September. Any decrease in aerial observation is not only imprudent, but contradicts the very mission of comprehensive border security enforcement. Just last month, Governor Abbott joined Texas Congressman Henry Cuellar, whose district is losing 50 percent of the aerial surveillance referenced above, in requesting that DHS explain why the federal government is pulling back on border enforcement. Texas provides extensive manpower, resources and oversight in support of Operation Phalanx, and expects the federal government to similarly fulfill its obligation to secure the border.

Despite this setback caused by the federal government – the very entity responsible for securing our nation's border – with the support from our state's leadership, DPS will continue working with its local and federal partners to target transnational criminal activity including drug trafficking, labor trafficking, sex trafficking and money laundering in key Texas transshipment and trafficking centers and other impacted areas throughout the state. As discussed, Governor Abbott and the Texas Legislature have invested a substantial amount of state resources in border security at a time when the state has many other vital priorities such as education, transportation and public health; however, there is an understanding in Texas that protecting our citizens is a fundamental duty of the government, and they have committed to doing whatever is necessary to protect the people of Texas. That said, make no mistake that Governor Abbott and the Texas

Legislature fully expect to be reimbursed by the federal government as this action would not be necessary if the federal government fulfilled its obligation to secure our nation's border.

In Texas, we understand the importance of close partnerships and unity of effort in combating crime and terrorism. It is important to note that it is our local law enforcement community along the Texas/Mexico border also serves on the front line in protecting our citizens from transnational crime. To that end, we have combined the capabilities and expertise of border sheriffs, chiefs of police, Texas Military Forces, and other essential state and local law enforcement agencies, including constables and state game wardens, to provide direct assistance to the U.S. Border Patrol with their vitally important mission.

In addition, the type and amount of resources that DPS has committed to this critical federal mission does not adequately reflect the substantial additional resources provided by local law enforcement, Texas Military Forces and Texas Parks and Wildlife Department. Texas employs a unified command structure to coordinate ground, marine, and air resources around-the-clock, and we have developed contingency plans to address myriad transnational threats. Importantly, we enhance the impact of border security operations by degrading the smuggling structure operating within our border communities through multiagency investigations and prosecutions that target key drug and human smuggling networks essential to cartel operations.

The impact of Operation Secure Texas reaches far beyond the immediate border area, because as we know, human and drug trafficking impact the entire country and represents a threat to both public safety and national security.

For instance, if a community in this country has a drug problem – such as the current heroin addiction epidemic and substantial increase of heroin-related deaths in the northeast region of United States – they have a Mexican Cartel and unsecure border problem; and if a community is plagued by transnational gangs such as MS-13 and MS-18, they have an unsecure border problem.

Rather than waiting for the effects of Mexican cartel activity to further penetrate Texas communities and other states, Texas has chosen to fight the problem at the source – the porous border with Mexico. The foremost priority of Texas Sheriffs, Chiefs of Police and other local and state law enforcement agencies in the Texas border region has been and will continue to be the protection of its citizens from all threats including transnational crime, and our second priority is to assist the U.S. Border Patrol in securing the Texas-Mexico border, which directly relates to our first priority.

I would also like to recognize and commend the brave men and women of the U. S. Border Patrol for their laudable actions in addressing their formidable responsibilities with the limited resources they have been provided. We are grateful for their dedication to keeping our nation safe from an array of public safety and homeland security threats, while facing incredible challenges every day.

Lastly, I would like to thank you, Chairman Meadows, Chairman DeSantis and the other distinguished members for your unwavering commitment to addressing the security vulnerabilities at our nation's borders, which underscore the need for immediate federal action to ensure the safety of all Americans.

[Attached is the strategic intent, activity and the current level of DPS resources dedicated to the ongoing surge operation in Texas.]

[INSERT FEB 2016 DASHBOARD HERE]

Texas Border Security

February 2016

Strategic Intent

The Texas Department of Public Safety (DPS) will work with its local and state partners to provide direct assistance to U.S. Customs and Border Protection to deter, detect and interdict smuggling along the Texas/Mexico border through the deployment of an integrated network of detection and communication technologies and an increase in ground, air and marine interdiction assets.

DPS will work with its local and federal partners and the Border Prosecution Unit to degrade the smuggling infrastructure used by the cartel plaza bosses to smuggle drugs and people into Texas.

The Texas Rangers will work with the Border Prosecution Unit and our federal partners to deter smuggling related corruption along the border by increasing the number of public corruption investigations, arrests and prosecutions.

DPS will work with its local and federal partners to target transnational criminal activity including drug trafficking, labor trafficking, sex trafficking and money laundering in key Texas transshipment and trafficking centers and other impacted areas throughout the state.

(I) DPS Deterrence and Detection Assets Deployed

DPS continues to enhance the level of detection coverage directly on the border with increases in tactical boats, the deployment of motion detection cameras, increases in camera installation capacity, increases in the number of helicopters capable of using FLIR day and night, assessing the viability of contracting for Aerostat coverage, acquisition of a high-altitude border surveillance aircraft, and the integration of all essential detection, tracking and communication technologies.

A. DPS Maritime Assets

The State of Texas has deployed DPS and TPWD boats on the Rio Grande River to deter and detect smuggling activity.

DPS Boats Assigned to the Border:

Tactical Boats	Deployed	Pending	Totals
Medium and Deep Water	6	--	6
Shallow Water	2	2	4
Extreme Shallow Jet	1	2	3
Total	9	4	13

Full-time Personnel:	22
Personnel Temporarily Deployed to OST:	18
Additional Overtime FTE Equivalents from working OT:	30
DPS Officers temporarily deployed to the border work 12-14 hour shifts with no days off to increase coverage.	
Total Personnel Strength:	70

B. Ground Sensors

The State of Texas does not have motion-detection ground sensors; however, U.S. Border Patrol sensors are monitored by DPS Aircraft that receive direct alerts when activated, and DPS Aircraft provide confirmation and coordinate interdiction efforts.

C. Detection Cameras

The State of Texas has implemented a camera detection program leveraging low-cost, high-capability motion-detection and low-light camera technology. Through this program, detections are immediately relayed to U.S. Border Patrol and DPS Command Posts, and directly to interdiction assets on the ground and DPS surveillance aircraft. The Texas Rangers and the U.S. Border Patrol work closely together to dramatically expand the ability to detect smuggling events in real time through this program.

i. DPS Installation Team

U.S. Border Patrol Technical Agents have installed and provided maintenance service for the vast majority of these cameras to date. Most recently, the DPS Special Operations Group has provided installation support to U.S. Border Patrol. To further increase capacity, DPS has established an installation team using Texas State Guard personnel.

Number of New Installations in January 2016:	386
Texas State Guard Personnel Assigned:	7

ii. Detection Cameras Deployed*

Cameras Deployed	Last 60 Days	Last 12 Months	Operation Total
Rio Grande Valley Sector	267	1,284	1,507
Laredo Sector	184	618	677
Del Rio Sector	106	307	341
Marfa Sector	44	114	145
El Paso Sector	13	19	26
Totals	614	2,342	2,696

*1,015 cameras were deployed prior to operational period beginning June 2014 for a total of 3,711 detection cameras.

D. Aerostats

Aerostats are buoyant balloons that remain tethered to the ground and are used to provide fixed long distance visual and radar coverage of an area. The U.S. Customs and Border Protection (CBP) currently operate five Aerostats on the border in the Rio Grande Valley. Texas Gov. Greg Abbott has requested that the U.S. Department of Homeland Security provide CBP with five additional Aerostats to operate on the Texas-Mexico border.

	Deployed	Pending	Totals
Aerostats	5 (CBP)	(DPS)*	5
Total	5	--	5

**DPS' Request for Information to assess viability of the state contracting for increased Aerostat coverage is pending.*

E. Aviation Assets

The State of Texas has deployed DPS and Texas Military Forces aircraft to detect smuggling attempts along the Texas-Mexico border and to assist in interdicting those attempts. The fixed-wing aircraft receive direct alerts from U.S. Border Patrol ground sensors and DPS motion-detection camera activations, and the helicopters receive the DPS motion-detection camera alerts. All DPS aircraft can communicate directly with U.S. Border Patrol Agents and Troopers on the ground.

DPS Aircraft with Advanced Detection and Communications	Deployed	Pending	Totals
Helicopters	9*	--	9
Mid-Altitude Fixed Wing	2	--	2
High-Altitude Fixed Wing	1	1**	2
Total	12	1	13

**DPS helicopters in Longview and Waco have been reassigned to the border.*

***An additional high-altitude aircraft for DPS was approved by the Texas Legislature and is in the procurement process.*

Pilots and Tactical Flight Officers Permanently Assigned:	25
Pilots and TFOs Temporarily Deployed to OST:	8
Additional Overtime FTE Equivalents from working OT:	4
Total Personnel Strength:	37

(II) Interdiction

Once detected, it is important the smugglers either be interdicted or denied entry, which requires a well-coordinated and timely law enforcement response that can only be achieved with a sufficient number of personnel staffed around the clock.

A. Troopers

Troopers Currently Permanently Assigned:	563
New Permanent Trooper Positions Hired and Deployed:	124
Troopers Temporarily Deployed to OST from other areas:	230
Additional Overtime FTE Equivalents from working OT:	313
Total Trooper Strength:	1,230

B. Cortina Units

Cortina Units are joint DPS and U.S. Border Patrol interdiction teams.

Total Cortina Units	30
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C. Tactical Operations

DPS Special Operations Group and U.S. Border Patrol Special Operations conduct joint tactical operations in remote and high-threat areas. The Texas Rangers oversee DPS tactical operations, which include Ranger Recon teams, the DPS Special Weapons and Tactics (SWAT) team, and six Regional Special Response Teams (SRT).

D. Logistics and Planning

Logistical and Planning Experts Permanently Assigned:	4
Logistical and Planning Experts Temporarily Deployed to OST:	4
Total Personnel Strength:	8

E. Intelligence and Information Sharing

The Joint Operations Intelligence Centers (JOIC) centralize all of the border incident data across 53 counties and 171 law enforcements agencies to provide a shared view of the threat picture and trending patterns.

Joint Operations Intelligence Centers:	6
Texas Rangers:	2
DPS Border Liaison Officers:	6
State Guard Personnel:	35
HQ Intelligence Analysts Permanently Assigned:	10
Border Region Intelligence Analysts Permanently Assigned:	11
Intelligence Analysts Temporarily Deployed to OST:	4

Total Personnel Strength:	68
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F. Communications

Communications Operators Permanently Assigned:	24
Communications Operators Temporarily Deployed to OST:	4
Total Personnel Strength:	28

(III) Targeting the Smuggling Infrastructure

The arrests of members and associates of smuggling groups and criminal networks operating in the border region, such as cartel operatives, statewide and regional gangs, transnational criminal gangs, wanted and convicted felons, and criminal aliens, degrades the smuggling infrastructure and increases community safety.

Special Agents Permanently Assigned:	167
Special Agents Temporarily Deployed to OST:	25
Additional Overtime FTE Equivalents:	61
Total Agent Strength:	253

Inter-Agency Targeting Team (ITT): 5 U.S. Border Patrol Agents, 2 DPS Special Agents, 1 Trooper, 1 DPS Intelligence Analyst

(IV) Targeting Border Corruption

The Mexican cartels seek to corrupt individuals and institutions on both sides of the border to support their smuggling operations. Successful investigations degrade the cartels' smuggling ability and serves as an important deterrent to those who would betray public trust and the rule of law.

Texas Rangers Permanently Assigned*:	45
Texas Rangers Temporarily Deployed to OST:	7
Additional Overtime FTE Equivalents:	17
Total Personnel Strength:	69

**Texas Rangers also assist local law enforcement agencies in the investigation of major crimes such as homicides, kidnappings, robberies and sexual assaults.*

1,214 FTE assigned personnel plus 425 additional overtime FTE equivalents. DPS Officers temporarily deployed to the border work 12-14 hour shifts with no days off to increase coverage.

Total DPS FTE support to OST Operations:	1,763
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**Does not include the number of DPS Special Operations Group Personnel assigned to border tactical missions.*

DPS Operational Activities

Criminal/High Threat Criminal Arrests in the Border Region

		Last 60 days (12/15-01/16)	Last 12 months (02/15-01/16)	Operation total (6/14-01/16)
Texas Highway Patrol	High Threat Criminal Arrests*	272	1,722	2,639
	Total Criminal Arrests	2,073	12,371	18,523
DPS Special Agents	High Threat Criminal Arrests*	104	767	1,127
	Total Criminal Arrests	381	2,224	3,427
Texas Rangers	High Threat Criminal Arrests*	37	272	411
DPS Total	High Threat Criminal Arrests*	413	2,761	4,177
	Total Criminal Arrests	2,491	14,867	22,361

**Felony DWI, intoxication manslaughter and other serious traffic offenses, as well as Illegal Alien detentions and referrals to U.S. Border Patrol are not included in the arrest statistics above.*

Public Corruption Arrests in the Border Region

	Last 60 days (12/15-01/16)	Last 12 months (02/15-01/16)	Operation total (6/14-01/16)
Texas Rangers	13	50	57

DPS Marine Unit Operations

Last 60 days (12/15-01/16)	244
Last 12 months (02/15-01/16)	1,460
Operation total (6/14-01/16)	2,232

DPS Aviation Operations

Hours Flown Last 60 days (12/15-01/16)	634
Hours Flown Last 12 months (02/15-01/16)	5,664
Hours Flown Operation total (6/14-01/16)	9,369

DPS Tactical Operations

Last 60 days (12/15-01/16)	434
Last 12 months (02/15-01/16)	1,646
Operation total (6/14-01/16)	2,542

DPS Apprehension Support to U.S. Border Patrol

	Last 60 days (12/15-01/16)	Last 12 months (02/15-01/16)	Operation total (6/14-01/16)
Illegal Alien Detections and Interdiction Assistance			
Cameras	12,078	61,259	86,105
Aviation	497	5,009	8,527
Tactical Marine Unit	87	448	656
Illegal Alien Detentions and Referrals			
Tactical Marine Unit	207	1,335	2,234
Texas Highway Patrol*	187	187	187
Total Apprehension Support to U.S. Border Patrol	13,056	68,238	97,709

*DPS did not capture Texas Highway Patrol Illegal Alien Detections and Referrals prior to December 1, 2015 and is now being captured state-wide.

Value of Drugs Seized by DPS in the Border Region*

	DPS Only
Last 60 days (12/15-01/16)	\$97,152,365
Last 12 months (02/15-01/16)	\$643,128,389
Operation total (6/14-01/16)	\$1,162,730,501

*These totals do not include seizures where DPS provided direct support to another agency.

Value of Drugs by Type by DPS in the Border Region* (6/14 – Present)

	Marijuana	Cocaine	Methamphetamine	Heroin
DPS Only	\$954,750,773	\$125,574,955	\$60,129,845	\$22,274,927

*These totals do not include seizures where DPS provided direct support to another agency.

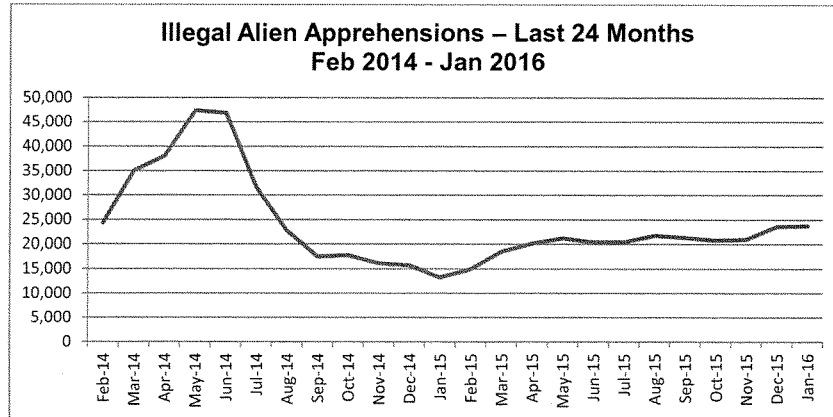
Currency Seized by DPS in the Border Region*

	DPS Only
Last 60 days (12/15-01/16)	\$3,109,553
Last 12 months (02/15-01/16)	\$18,744,757
Operation total (6/14-01/16)	\$24,429,715

*These totals do not include seizures where DPS provided direct support to another agency.

Smuggling Trends

The Texas Legislature provides funding to centralize the collection and sharing of border incident data across all jurisdictions in the border region, which comprises local, state, and federal agencies across 53 counties and more than 171 separate law enforcement agencies in the border region.



U.S. Border Patrol IA Apprehensions in the Border Region

FY 2016 (10/15-01/16)*	89,147
FY 2015**	221,684
FY 2014**	341,132

**Unofficial U.S. Border Patrol statistics. **CBP reconciled apprehensions. Data includes El Paso Sector, which comprises parts of TX and NM.*

U.S. Border Patrol Family Unit Apprehensions in the Border Region

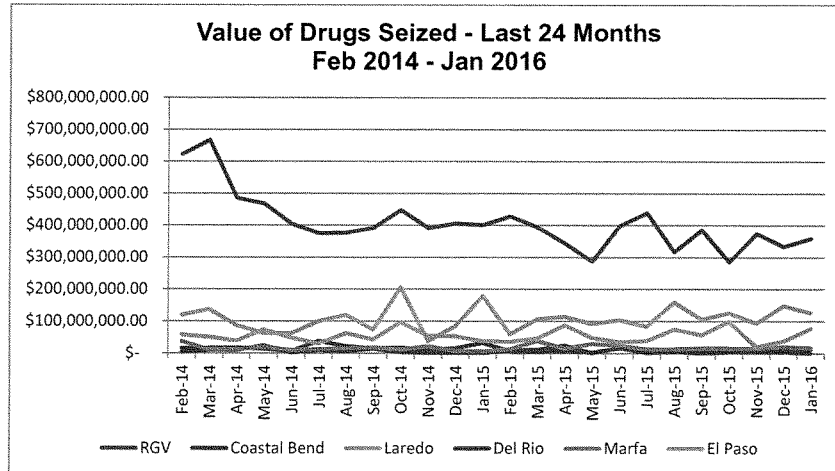
FY 2016 (10/15-01/16)*	20,428
FY 2015**	32,949
FY 2014**	61,605

**Unofficial U.S. Border Patrol statistics. **CBP reconciled apprehensions. Data includes El Paso Sector, which comprises parts of TX and NM.*

**U.S. Border Patrol Unaccompanied Alien Children Apprehensions in
the Border Region**

FY 2016 (10/15-01/16)*	15,962
FY 2015**	31,109
FY 2014**	58,312

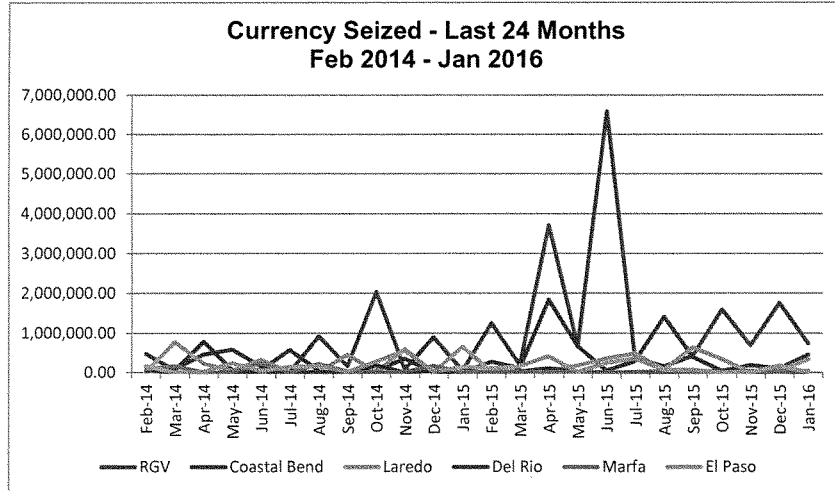
**Unofficial U.S. Border Patrol statistics. **CBP reconciled apprehensions. Data includes El Paso Sector, which comprises parts of TX and NM.*



Value of Drugs Seized in the Border Region

Last 60 days (12/15-01/16)	\$1,154,506,373
Last 12 months (02/15-01/16)	\$6,779,361,001
Operation total (6/14-01/16)	\$11,573,706,775

Note: The above border region statistics represent local, state and federal seizures.



Currency Seized in the Border Region

Last 60 days (12/15-01/16)	\$3,776,160
Last 12 months (02/15-01/16)	\$28,886,206
Operation total (6/14-01/16)	\$38,821,097

Note: The above border region statistics represent local, state and federal seizures.

Mr. DESANTIS. Thank you.

Mr. Judd, 5 minutes.

STATEMENT OF BRANDON JUDD

Mr. JUDD. Chairman DeSantis, Chairman Meadows, Ranking Member Lynch, I appreciate the opportunity to testify on behalf of the 16,500 Border Patrol agents which I represent.

I am going to stick to my comments on the national security threat of the border and leave out the rhetoric and what might have led to it. But what I will tell you is that the Obama administration and CBP Commissioner Kerlikowske have repeatedly told the American public that the border is more secure today than it has ever been. As a Border Patrol agent, I will tell you the exact opposite.

Commissioner Kerlikowske and the administration have pointed to a decrease in arrests over the past several years, but they failed to give the American public key indicators such as the number of arrests of persons from countries with known terrorist ties or from countries that compete economically with our interests.

In all of fiscal year 2015, the United States Border Patrol arrested five persons from Afghanistan, 57 from Pakistan, and 1,327 from the People's Republic of China. Already in the first 5 months of this fiscal year, the United States Border Patrol has arrested 18 from Afghanistan—the first quarter, five of all last year, the first quarter—18 from Afghanistan, 79 from Pakistan—all of 2015, again, was 18—and 619 from the People's Republic of China. Those numbers should alarm everyone.

We are seeing a similar trend from other key countries like Albania, Bangladesh, and Brazil.

If the single factor for the litmus test is lower numbers, then compared to fiscal year 2015, one must conclude we are failing.

As someone who has been involved in border protection for over 18 years, I can unequivocally tell you the border is not secure, and the situation is getting worse instead of better.

Arrests are not the only factor in determining whether the border is secure. We have to look at the totality of the situation, such as violence, the number of persons evading arrest, and whether organized crime continues to turn a profit.

In the context of the times, we must also look at whether persons from country who would do us harm are able to exploit our weaknesses through our policies or the lack of manpower on the border.

It is well-documented that criminal cartels control the border in the same way inmates control most prison facilities. The cartels are extremely well-organized, pathologically violent, and have an entire infrastructure on both sides of the border.

In Mexico, it is estimated that over 150,000 people have been killed in cartel-related violence. They have killed police officers, judges, elected officials, and ordinary civilians who have crossed their path.

This is the opponent Border Patrol agents face daily. It is an opponent that controls all aspects of border crimes, including narcotics and illegal immigrant smuggling.

One key way to determine whether the cartels are winning is to analyze key data of entries to arrest. Two weeks ago, I was visiting

a station in the Del Rio Border Patrol sector. During that week that I was there—I was there 1 day, but during that week in which I was there, a total of 157 known entries came into the United States through that station's area of responsibility.

Of those 157: 74 were arrested; 54 were known to have evaded arrest and furthered their entry into the United States; 17 were able to evade arrest and make it back to Mexico; and 12 were still outstanding and unaccounted for.

That is a 47 percent arrest rate. That is not very good.

But it's not the Border Patrol agents' fault. We're just simply overmanned. We don't have the resources that are necessary.

In fact, yesterday I received an email from an agent in Arizona, and that email said that there was a 10-mile stretch for 2 days, and this is documented on the reports from the Border Patrol management, a 10-mile stretch of border that was unmanned for 2 whole days.

Criminal cartels were able to go to the fence, cut a hole in the fence, drive two vehicles through that hole and escape. They were able then to put the fence back up and try to hide the cuts that they had made.

Border Patrol agents were able to go down and see the vehicle tracks. There was actually a camera that did catch the two vehicles on the border. They didn't see the vehicle drive through the border, but the tracks clearly indicate that it was, and there was no were no other vehicles coming from east, so it had to be those two vehicles that crossed the border.

The scariest part of those vehicles entering into the United States is we don't know what was in this vehicles. We have no idea.

Of those persons that were able to evade arrest in this Del Rio station, those 54 and the 12 outstanding, we don't know where they were from.

It's unfortunate that we're currently in this situation in which it appears that we invite what we're currently experiencing. And because we are overmanned—and it's not that they didn't want to man the border in these two areas in Arizona that this vehicle drove through, they just didn't have the manpower to do it. That is the unfortunate situation today.

I look forward to answering any and all of your questions. Thank you very much.

[Prepared statement of Mr. Judd follows:]



National Border Patrol Council

**Testimony of Brandon Judd
On behalf of the
National Border Patrol Council
In front of The Oversight and Government Affairs Committee,
Subcommittee on National Security
March 23, 2016**

Chairman DeSantis and Ranking Member Lynch thank you for providing me the opportunity to testify on behalf of the National Border Patrol Council (NBPC).

The NBPC represents the interests of 16,500 line Agents at the Border Patrol. My name is Brandon Judd and I am President of the Council. I have been a Border Patrol Agent for nearly 20 years and although I am currently assigned in Montana, I have worked the majority of my career in the El Centro California and Tucson Arizona sectors.

Current Situation on the Border

The Obama Administration and CBP Commissioner Kerlikowske have repeatedly told the American Public that the border is more secure today than it's ever been. As a Border Patrol Agent, I will tell you the exact opposite. Commissioner Kerlikowske and the administration have pointed to a decrease in arrests over the past several years, but they fail to give the American public key indicators such as the number of arrests of persons from countries with known terrorist ties or from countries that compete economically with our interests. In all of Fiscal Year 2015, the United States Border Patrol arrested 5 persons from Afghanistan, 57 from Pakistan and 1,327 from the Peoples Republic of China. Already in the first five months of this fiscal year, the United States Border Patrol has arrested 18 from Afghanistan, 79 from Pakistan and 619 from the Peoples Republic of China. Those numbers should alarm everyone and we are seeing a similar trend from other key countries like Albania, Bangladesh and Brazil. If the single factor for the litmus test is lower numbers, then compared to fiscal year 2015, one must conclude that we are failing.

As someone who has been involved in border protection for over 18 years, I can unequivocally tell you the border is not secure and the situation is getting worse instead of better. Arrests are not the only factor in determining whether the border is secure. We have to look at the totality of the situation such as violence, the number of persons evading arrest and whether organized crime continues to turn a profit. In the context of the times, we must also look at whether persons from countries who would do us harm are able to exploit our weaknesses, through our policies or the lack of manpower on the border.

It is well documented that criminal cartels control the border in the same way inmates control most prison facilities. The cartels are extremely well organized, pathologically violent and have an entire infrastructure on both sides of the border. In Mexico, it is estimated that over 150,000 people have been killed in cartel related violence. They have killed police officers, judges, elected officials, and ordinary civilians who have crossed their path. And this is the opponent Border Patrol Agents face daily. It is an opponent that controls all aspects of border crimes, including narcotics and illegal immigrant smuggling.

One key way to determine whether the cartels are winning is to analyze key data of entries to arrest.

Two weeks ago, I was visiting a station in the Del Rio Border Patrol Sector. During the two weeks in question, the station had a total of 157 known entries, of which 74 were arrested, 54 were known to have evaded arrest and furthered their entry into the United States, 17 were able to evade arrest and make it back into Mexico, and 12 were still outstanding and unaccounted for. Simply put, Border Patrol Agents are being overwhelmed and not being given the resources necessary to complete the mission and the cartels are making a profit. The scariest part of these statistics is that of those who got away, we don't know who they are or from what country they came.

Administration Policies are another area in which cartels are able to exploit our weaknesses. The new prosecutorial discretion guidelines determine whether or not we release someone with a notice to appear, without a notice to appear or hold them in our custody until deportation proceedings commence. This is another key factor. Since January of 2015, it is my understanding that the United States Border Patrol, due to DHS prosecutorial discretion guidelines, released more than 3,800 illegal aliens who were in our custody and were subject to deportation proceedings. These 3,800 persons were from countries all over the globe such as India, China, the United Kingdom, Brazil, etc. They were released simply because they claimed to have been in the United States continuously since January of 2014 and were not issued a notice to appear. This is amnesty through policy. In short, the administration is choosing to bypass congress whose job it is to determine the laws by legislating through policy.

Why this disconnect between the reality of what Border Patrol Agents see every day and what you are being told here in Washington by the Administration? Unfortunately, I believe that it is politics.

One of the main arguments used against immigration reform last Congress was that if you provided legal status to illegal immigrants, you would only be incentivizing the next wave of illegal immigrants. That is what happened after Congress passed the Immigration Reform Control Act (IRCA) of 1986. The year before Congress passed IRCA, the Border Patrol was apprehending approximately 1 million illegal aliens per year. The year IRCA passed this figure jumped to 1.6 million.

The Administration in their desire to pass comprehensive immigration reform, told Congress and the American people that this time it would be different. It was different because the border was secure and even if there was a wave, we could stop it. The

Administration boasted that Border Patrol catches more than 75 percent of the border crossers.

The problem was that these assertions had no basis in reality. If you ask any Border Patrol Agent what we catch, they will tell you it is no more than 40 percent of the traffic on the southern border. On the northern border, that figure is probably less than 10 percent because we only have 300 Border Patrol Agents on duty at any one time. This is for a northern border that is 4,000 miles long.

The “border is secure” was the Administration’s sales pitch and the problem now is that they cannot walk it back. The Administration cannot ask for more Border Patrol Agents or resources because they have painted themselves into a corner. For the field Agents that I represent, this is completely unacceptable. You cannot begin to fix a problem until you admit that a problem exists.

Steps that can be taken

There are a number of factors that are driving most of the traffic we are seeing. Many point to the endemic violence in Central America. Without a doubt, violence and instability in Central America is a factor and about 50 percent of the traffic now consists of Central Americans. It is not however the primary factor driving this migration.

When Border Patrol Agents arrest illegal immigrants, we interview them. Most illegal immigrants believe that they will either not be caught, or even if they are caught, they will not be deported back to their home country. Most believe, especially family units, that they will simply be issued a Notice to Appear (NTA) and will be released.

The second driver is the idea that they need to get here before some ambiguous deadline. Some of them do not even know when the deadline is, only that they need to beat it if they want to stay permanently in the United States. We call this the myth of the “permisso” and it is most likely being advanced by the drug cartels that control all the illegal alien and drug smuggling along the border.

For the cartels, human smuggling is big business worth hundreds of millions of dollars each year. Most aliens are paying close to \$10,000 per person. Higher value aliens, such as those from the Middle East or Asia, pay almost double this figure. These unaccompanied minors and family groups also serve another more lucrative purpose. They are human screens that tie up Border Patrol Agents while the cartels smuggle narcotics and higher value aliens behind them who, if caught, will be deported back to their home country.

If there is one thing that could be done to correct this problem, it would be to end the catch and release policy we currently have. The individuals that we apprehend are not foolish. Before investing nearly a lifetime in savings, they weigh the costs and benefits of attempting to cross the border. If they knew that if they were caught they would be detained, adjudicated, and repatriated to their home country, the calculation changes dramatically. I guarantee that if this was the case, the numbers would fall dramatically.

The second action deals with resources. As I stated earlier, at best we are apprehending 40 percent of the illegal immigrants crossing. This low capture rate leaves the perception that crossing the border illegally is a viable option. I am happy to discuss this in greater detail during the question and answer period, but we need more manpower to do our job.

Another disturbing trend is the rise of criminal aliens. Twenty years ago, the individuals we were arresting were hard working people that simply wanted to earn money for their family. Across the southwest border, we are finding today that about 20 percent of the individuals apprehended have been previously criminally deported. I was in San Diego last month and the Agents there told me that some nights the percentage of criminal aliens is well over 50 percent. Again, the numbers of apprehensions are lower, but the mix of hardened criminals is completely different from what we have previously seen.

Today our largest trouble area is in Texas. Criminal cartels are once again proving adept at understanding and working around our policies. Late in the year of 2013 and throughout all of 2014, an unprecedented number of unaccompanied minors entered our country illegally through the Rio Grande Valley Sector of operations. Instead of presenting themselves legally at Ports of Entry and asking for asylum, the unaccompanied minors were forced by the cartels to enter illegally at dangerous points along the border. In most cases, these minors were not trying to escape or evade apprehension; they were simply crossing the border illegally and giving themselves up.

The cartels understood that the unaccompanied minors would force the Border Patrol to deploy Agents to these crossing areas in order to take the minors into custody. I want to stress this point because it has been completely overlooked by the press. The unaccompanied minors could have walked right up to the Port of Entry and asked for asylum. Why did the cartels drive them to the middle of the desert and then have them cross over the Rio Grande, only to surrender to the first Border Patrol Agent they came across? The reason is that it completely tied up our manpower and allowed the cartels to smuggle whatever they wanted across our border.

The creation of holes in Border Patrol operations was only one benefit to the cartels by the unaccompanied minor surge. The other was the exploration of our "catch and release" policy. As this surge became too much to handle, the Border Patrol and the Enforcement and Removal Office began releasing nearly everyone we arrested.

I believe this release allowed the cartels to increase their smuggling profits. With catch and release, the cartels could credibly say to potential customers that they would be able to remain in the United States without fear of deportation, as long as they asked for asylum upon being apprehended. Although the problem began with unaccompanied minors, as word quickly spread of everyone being released, we started to see more crossings of complete family units, leading to a bigger problem than what we had in 2014. And once again, we are playing catchup to a problem that in part we created through policy.

All individuals that were released during this period of time were given an official document that ordered them to appear before an immigration judge at some future date. These orders are called Notices to Appear (NTA). The only problem however, is that these official orders are usually ignored, so much so that Border Patrol Agents have dubbed

them Notices to Disappear. The latest data that I have seen shows that approximately 40 percent of the individuals being issued NTAs do not show up.

The willful failure to show up for court appearances by persons that were arrested and released by the Border Patrol has become an extreme embarrassment for the Department of Homeland Security. It has been so embarrassing that DHS and the U.S. Attorney's office has come up with a new policy.

Simply put, the policy makes mandatory the release, without an NTA, of any person arrested by the Border Patrol for being in the country illegally, as long as they do not have a previous felony arrest conviction and as long as they claim to have been continuously in the United States since January of 2014. The operative word in this policy is "claim." The policy does not require the person to prove they have been here, which is the same burden placed on them during deportation proceedings. Instead, it simply requires them to claim to have been here since January of 2014.

Not only do we release these individuals that by law are subject to removal proceedings, we do it without any means of tracking their whereabouts. Agents believe this exploitable policy was set in place because DHS was embarrassed at the sheer number of those who choose not to follow the law by showing up for their court appearances. In essence, we pull these persons out of the shadows and into the light just to release them right back to those same shadows from whence they came.

Let me give you an example from my sector in Montana. Several months ago we arrested an illegal alien with a felony domestic violence arrest from another state. He was released because his trial had not occurred and therefore had not been convicted. Mind you he had not been acquitted either, but we had to let him go all the same.

Under the law he should have been set up for removal proceedings, but under the policy he was let go. And he was let go even though he first proved that he cared so little about our laws that he entered the United States illegally, and once here, he proved further disdain by getting arrested for a serious violent act against another. What did we teach him and everyone else he undoubtedly told about his experience? We taught him our laws mean very little, but policies mean everything.

Immigration laws today appear to be mere suggestions. There are little or no consequences for breaking the laws and that fact is well known in other countries. If government agencies like DHS or CBP are allowed to bypass Congress by legislating through policy, we might as well abolish our immigration laws altogether.

I believe it is all our hope that people choose to govern themselves by honoring and sustaining the laws without compulsion. However if they do not, there must be a consequences and an enforcement mechanism that oversees compliance. In the absence of consequences and enforceable laws, innocent people are hurt, criminals are rewarded, chaos abounds, and cartels reap huge financial benefits.

I look forward to answering any of your questions.

Mr. DESANTIS. Thank you.
Professor Jan Ting, 5 minutes.

STATEMENT OF JAN C. TING

Mr. TING. I share the comments of my copanelists. Thanks to the two subcommittee chairmen and all the members for inviting us here today.

I also share the concern over the statistical information that the members, particularly Mr. Meadows, have referred to. And I share the concern that Mr. Judd has just expressed about the situation at our border.

I want to talk about two issues, in particular, expedited removal and credible fear, that I think bear on the concern that many of us here share.

Prior to 1996, we had no expedited removal, and arriving aliens in the United States could basically stay for a long time by making an asylum claim. There was an enormous backlog, and they were put in line and released on their own recognizance.

There was also a 60 Minutes piece which showed that people were landing at Kennedy Airport every single day without documentation and being released into the general population. That I think pushed Congress in 1996 to enact expedited removal, which on its face provides a way to turn arriving aliens around who lack any documentation.

The problem is, as I discuss in my written comments, in one of the classic bipartisan compromises for which Congress is alternately praised and condemned, Congress enacted expedited removal in a way that provides that if the—first of all, they did two things.

First of all, they determined that the first interview would be a credible fear interview. In the end, even though they tried to take the immigration judges out, as I discuss in my written comments, the immigration judges get back into the process anyway. So while it looks good on its face, expedited removal in practice hasn't worked out very well, even though it has been expanded not just to arriving aliens but within 100 miles of the border.

So expedited removal is potentially a useful tool, but it's hobbled by this credible fear determination and by the ultimate right to delay removal by an appeal to an immigration judge. So there are two problems.

I talked in my written comments about credible fear, and where did credible fear come from anyway? I have some knowledge about that, because I know that in 1991 in the midst of the Haitian migrant crisis, when we had a lot of Haitians heading for the United States, we were trying to kind of in a chaotic situation manage that flow and provide asylum interviews for people. It was very difficult. In fact, we started operating the detention facilities at Guantanamo in an effort to cope with that migrant crisis.

And the Immigration and Naturalization Service invented credible fear kind of on-the-fly as a way of screening out people who obviously were not entitled to asylum. If people couldn't even present a story, which, if true, would entitle them to asylum, we determined that they could be turned around immediately and returned to Haiti without a full-blown asylum interview.

On the other hand, for those people who could articulate a coherent story that seemed credible, they would be allowed to advance to a full-blown asylum interview, recognizing there was a backlog for that and it would slow the process down. But for those people, they would get the full asylum interview.

As it turns out, that credible fear practice was very short-lived, because the numbers were so enormous that President Bush, George H.W. Bush, determined that we couldn't continue processing migrants from Haiti. And he determined that they would all be returned to Haiti without any processing at all.

Obviously, that was challenged by many advocates and went all the way to the Supreme Court of the United States, and the Supreme Court of the United States in 8-to-1 decision in a case called *Sale v. United States*, which I cite in my written remarks, the Supreme Court of the United States held that that was fine, that the United States had no obligation under its own laws or under international law to conduct asylum interviews on the high seas.

So credible fear was a temporary measure that probably wasn't even necessary in the end. It only lasted for a few months.

And I was startled to see credible fear appear in the statute of the United States as part of our expedited removal process. When expedited removal came in, credible fear shows up in the statute. Where does that come from?

So while it was invented as a device to screen out migrants, as has been commented on, it's being used now as a device to screen people in, so they don't have to actually approve their asylum claims. All they have to do is state a credible fear and they are basically in. They join the queue for an immigration judge, so they can make their asylum claim in removal proceedings. And we know that can sometimes take a long time.

And that the word is out, this is how you do it. You make a good credible fear claim and you're in. In this age of modern, instantaneous communications, that word spreads quickly.

So I am very concerned about that. And I have a number of proposals. I'm over time already, but I do want to say, I think we need to train more asylum officers. We ought to train all of our immigration offices, including Border Patrol agents, in asylum law, and we ought to have them do asylum interviews.

I think we ought to, as I propose in my written comments, remove credible fear from the statute. It doesn't belong there. We should go straight to an asylum interview. And we ought to have enough asylum officers, including trained Border Patrol agents and other Customs and Border Patrol officers, to do that.

I have other recommendations, and I refer you to my written comments. Thank you.

[Prepared statement of Mr. Ting follows:]

Testimony of Jan C. Ting

Professor of Law, Temple University Beasley School of Law, Philadelphia (Former Assistant
Commissioner, Immigration and Naturalization Service, U.S. Department of Justice)

United States House of Representatives

Committee on Oversight and Government Reform

Subcommittees on National Security and Government Operations

March 23, 2016, Rayburn House Office Building 2154, 9 a.m.

“National Security: Threats at Our Borders”

I. Introduction

I thank Chairman DeSantis and Chairman Meadows and all the members of Subcommittees on National Security and Government Operations of the U.S. House of Representatives Committee on Oversight and Government Reform for the invitation and opportunity to testify today on the adequacy and enforcement of our nation’s immigration laws.

I commend the two subcommittees for holding this hearing in light of the December 2015 report of the Government Accountability Office (GAO) finding limited capabilities at both USCIS and EOIR to detect asylum fraud, reliance on a paper-based system for asylum applications at USCIS, and the absence of clear and specific fraud detection responsibilities for USCIS asylum officers.¹ Committee members are aware that in FY 2014 there was an unprecedented surge of unaccompanied alien minors (UAMs) and alien minors accompanied by alien adults claiming to be parents (family units), nearly 137,000 aliens in these two categories, who illegally entered the United States through our southern border.² Initial reports suggest that we are headed for an even greater surge of UAMs and family units projected to illegally enter the United States in FY 2016.³

¹ U.S. Government Accountability Office, GAO-16-50, “ASYLUM: Additional Actions Needed to Assess and Address Fraud Risks” (2015). See also Dan Cadman, “GAO Vets Asylum Vetting and Finds It Lacking”, Center for Immigration Studies, Dec. 9, 2015, <http://cis.org/cadman/gao-vets-asylum-vetting-and-finds-it-lacking>.

² U.S. Customs and Border Protection, “Southwest Border Unaccompanied Alien Children FY 2014”, <http://www.cbp.gov/newsroom/stats/southwest-border-unaccompanied-children/fy-2014>.

³ U.S. Customs and Border Protection, “United States Border Patrol Southwest Family Unit Subject and Unaccompanied Alien Children Apprehensions Fiscal Year 2016”, <http://www.cbp.gov/newsroom/stats/southwest->

It seems almost self-evident that bureaucratic weaknesses in our border security combined with high numbers of undocumented aliens attempting to illegally enter the United States present compelling opportunities for foreign terrorists and criminals to gain entry to this country, and an enormous security risk for the American people.

U.S. Customs and Border Protection (CBP) has reportedly apprehended members of known Islamist terror organizations crossing our southern border, including Somali members of al-Shabab and other terrorist groups in Somalia, and members of terrorist organizations in Sri Lanka and Bangladesh. Undocumented aliens from 35 countries in the Middle East and Asia have been arrested in the Rio Grande Valley in recent years.⁴ Syrians in possession of stolen European passports intending to gain entry to the U.S. have been reported arrested in Central America,⁵ and Syrians have been arrested at our southern border.⁶

So the concern of Congress for border security and how it can be improved is both timely and appreciated.

II. Expedited Removal

Before 1996, unauthorized aliens arriving in the U.S. could delay their removal by making a claim for asylum, which because of backlogs in processing and a shortage of detention space, often resulted in release on their own recognizance with an order to appear for a removal hearing before an immigration judge at a later date when their asylum claim would be considered. Most such arriving aliens failed to comply with their orders to appear for their scheduled hearing. In a famous report on the television program “60 Minutes” on CBS, Leslie Stahl showed that undocumented aliens were arriving at Kennedy International Airport every single day, and were routinely being released into the population the day of their arrival without any background check or assurance that they would appear for their scheduled hearing.

[border-unaccompanied-children/fy-2016](#). See also Caroline May, “Border Surge Accelerates – On Pace to Exceed 177,000 Migrants By End of Fiscal Year”, January 12, 2016, <http://www.breitbart.com/big-government/2016/01/12/border-surge-accelerates-on-pace-to-exceed-177000-migrants-by-end-of-fiscal-year>.

⁴ “Texas Officials Warn of Immigrants with Terrorist Ties Crossing Southern Border”, Washington Post, Feb. 26, 2015, <https://www.washingtonpost.com/blogs/govbeat/wp/2015/02/26/texas-officials-warn-of-immigrants-with-terrorist-ties-crossing-southern-border>.

⁵ Alan Gomez, “Report: U.S.-bound Syrians arrested in Honduras with fake passports”, USA TODAY, Nov. 19, 2015, <http://www.usatoday.com/story/news/world/2015/11/18/report-us-bound-syrians-arrested-honduras-fake-passports/76016812/>.

⁶ Beth Breeding, “Goodlatte & Grassley Press DHS for Info on Threat of Isis Entering U.S. at SW Border”, Nov. 24, 2015, http://goodlatte.house.gov/press_releases/818.

In 1996 Congress responded to that situation by enacting “expedited removal” for arriving aliens who either lacked proper documentation or engaged in misrepresentation in attempting to enter the U.S., a reform which had long been requested by U.S. immigration enforcement authorities. The new provision nominally provided for the removal of such aliens without a formal removal hearing and without the order of an immigration judge.

But in one of the classic bi-partisan compromises for which Congress is alternately praised and condemned, Congress combined tough, mandatory removal with an enormous loophole. The statute enacted by Congress provided that, “If an immigration officer determines that an alien... who is arriving in the United States or is described in clause (iii) is inadmissible under section 212(a)(6)(C) (misrepresentation) or 212(a)(7) (without documents), the officer shall order the alien removed from the United States without further hearing or review unless the alien indicates either an intention to apply for asylum... or a fear of persecution.”⁷ Clause (iii) of the new statute permitted the Attorney General to designate other, non-arriving aliens for expedited removal if they could not prove 2 years of physical presence in the United States.

Clause (iii) was invoked in 2002 to extend expedited removal to aliens who arrived by sea but don’t have 2 years of physical presence.⁸ Expedited removal was expanded again in 2004 to aliens who entered without inspection, within 100 miles of a land border, and who can’t prove continuous presence for more than 14 days.⁹ That rule was further extended to within 100 miles of a maritime border in 2006.¹⁰

So expedited removal now clearly applies to recent alien arrivals near our land and maritime borders. The problem is the loophole for any alien who “indicates either an intention to apply for asylum... or a fear of persecution.”

The statute provides that aliens subject to expedited removal but who indicate an intention to apply for asylum or a fear of persecution shall be referred to an asylum officer for an interview. The asylum officer shall conduct interviews of referred aliens either at a port of entry “or at such place designated by the Attorney General.” If the asylum officer determines an alien has “a credible fear of persecution” then “the alien shall be detained for further consideration of the application for asylum.” If the asylum officer determines an alien does not have a credible

⁷ INA Section 235(b)(1)(A). 8 USC Section 1225(b)(1)(A).

⁸ 67 Fed. Reg. 68924 (2002).

⁹ 69 Fed. Reg. 48877 (2004).

¹⁰ “DHS Announces Expedited Removal Along Northern Border and All Coastal Areas”, 83 Interpreter Releases 253 (2006).

fear of persecution, “the officer shall order the alien removed from the United States without further hearing or review.”¹¹

That sounds tough until a second loophole kicks in which provides that even these aliens determined by an asylum officer to lack a credible fear of persecution, “upon the alien’s request” shall receive a “prompt review by an immigration judge” of the lack of credible fear determination by the asylum officer.¹² So immigration judges are taken out of the expedited removal process at the beginning, only to be brought back in at the end before expedited removal can actually be executed.

III. Credible Fear

The number of “credible fear” referrals has increased from less than 5,000 in FY 2008 to over 36,000 in FY 2013, to over 51,000 in the peak year of the border surge in FY 2014. While the number of referrals dipped to just over 48,000 in FY 2015, the 21,492 referrals received in the first quarter of FY 2016 along suggest that we may be headed for a new record this year.¹³ The percentage of all referred cases where credible fear was found by asylum officers has fluctuated from year to year but the trend has been generally upwards from 64.15% in FY 2008 to 77.72% in the first quarter of FY 2016.¹⁴ So credible fear has not been very effective at reducing the numbers of unauthorized aliens waiting in line for immigration judge hearings.

The concept of “credible fear” was instituted by the former Immigration and Naturalization Service as an informal device for screening the large number of Haitians interdicted on boats on the high seas headed for the United States after the Haitian coup of 1991. The idea was that people interdicted on boats who could not even articulate a credible fear that might qualify them for asylum would be repatriated to Haiti without further deliberation, and that Haitians who were able to articulate a credible fear of persecution would receive full asylum interviews either at the Guantanamo Naval Base in Cuba or elsewhere.

As it turned out, this informal screening out device had a short life, quickly superseded by events. Because the increasingly large number of Haitian migrants on boats became unmanageable, President Bush in 1992 issued an executive order that all migrants interdicted on the high seas should be repatriated directly without any refugee processing at all. The executive

¹¹ INA Section 235(b)(1)(A), (B). 8 USC Section 1225(b)(1)(A), (B).

¹² INA Section 235(b)(1)(B)(iii)(III). 8 USC Section 1225(b)(1)(B)(iii)(III).

¹³ Data provided by U.S. Citizenship and Immigration Services (USCIS) on March 10, 2016. See also Cindy Chang and Kate Linthicum, “U.S. seeing a surge in Central American asylum seekers”, Los Angeles Times, Dec. 15, 2003, <http://articles.latimes.com/2013/dec/15/local/la-me-ff-asylum-20131215>.

¹⁴ Ibid.

order was challenged in court as a violation of both U.S. and international refugee law. The district court upheld the executive order against the challenge. The U.S. Court of Appeals for the Second Circuit reversed the district court. And the U.S. Supreme Court by an 8 to 1 majority vote reversed the Second Circuit and upheld the executive order, concluding that neither U.S. nor international refugee law limits the President's power to repatriate undocumented aliens intercepted on the high seas.¹⁵

So when Congress enacted "expedited removal" in 1996, I was surprised to see that Congress had incorporated the concept of "credible fear" into the statute, possibly in the hope that it might again serve as a screening-out device to reduce the number of arriving and recently arrived undocumented aliens allowed to join the line waiting to make asylum claims in removal proceedings before immigration judges. Congress for the first time provided a statutory definition of "credible fear" as "a significant possibility, taking into account the credibility of the statements made by the alien in support of the alien's claim and such other facts as are known to the officer, that the alien could establish eligibility for asylum".¹⁶

Congress also as part of the enactment of "expedited removal" for the first time included a definition of "asylum officer" in the statute as meaning "an immigration officer who—(i) has had professional training in country conditions, asylum law, and interview techniques comparable to that provided to full-time adjudicators of application under section 208 (asylum), and (ii) is supervised by an officer who meets the condition described in clause (i) and has had substantial experience adjudicating asylum applications."¹⁷

IV. Recommendations. What should be done?

- A. All Border Patrol and other Customs and Border Protection officers should receive training in country conditions, asylum law, and interview techniques as part of their basic training. All current Border Patrol and other CBP officers should be offered such training if they did not receive it in basic training. Such trained and qualified officers should be authorized by statute to make asylum adjudications as part of the expedited removal process.
- B. All references to "credible fear", and involvement of immigration judges in expedited removal should be removed from the statute. INA Section 235(b)(1)(B)(iii)(I) could then be amended to read: "If an asylum-trained officer determines that an alien subject to INA Section 235(b)(1) is not a refugee as defined in INA Section 101(a)(42), the officer shall

¹⁵ *Sale v. Haitian Centers Council*, 509 U.S. 155 (1993).

¹⁶ INA Section 235(b)(1)(B)(v). 8 USC Section 1225(b)(1)(B)(v).

¹⁷ INA Section 235(b)(1)(E). 8 USC Section 1225(b)(1)(E).

order the alien removed from the United States without any further hearing or review.” Such trained officers should also be able to recommend asylum grants in appropriate expedited removal cases subject to supervision from an officer who “has had substantial experience adjudicating asylum applications” and who can exercise the statutory requirement of discretion in granting asylum on behalf of the Secretary of Homeland Security.

- C. Mandatory detention should be explicitly required by statute for all aliens in the U.S. subject to expedited removal until they are either removed or granted legal status. Increased reliance should also be placed on INA Sec. 235(b)(2)(C) which authorizes the return of arriving aliens to contiguous territory from which they arrived pending immigration proceedings. The statute should be clarified to specify that, “In the case of any alien who is arriving on land (whether or not at a designated port of arrival) from a foreign territory contiguous to the United States, the Secretary of Homeland Security may return the alien to that territory pending any proceeding to determine the alien’s immigration status.”
- D. Just as the credible fear device may have been quickly devalued as alien smugglers gamed the system to spread the stories that “work” in demonstrating credible fear, so the asylum statute itself, INA Section 208, perhaps a useful addition to our immigration law when enacted in 1980, may also have lost value as the stories have spread that “work” in convincing an adjudicator to grant asylum. Two years ago in testimony to another committee of the U.S. House of Representatives on February 11, 2014, I suggested that making asylum claims has become commonplace as a path to an immigrant green card for aliens without other alternatives, and that false asylum claims have become common and often deceive U.S. asylum adjudicators into granting asylum.¹⁸ The perception that false asylum claims often work and at least delay removal of illegal aliens from the U.S., sometimes for long periods, adds to the benefit side of the cost/benefit analysis attracting illegal immigration to the U.S., and adds to the administrative and processing costs of immigration law enforcement and the U.S. taxpayers.

How did the U.S. meet its international law obligations under the Convention and Protocol on the Status of Refugees before 1980? The answer is through withholding of deportation, now called withholding of removal, INA Section 241(b)(3), 8 USC Section 1231(b)(3). That statute prevents the removal of an alien to any country if, “the alien’s life or freedom would be threatened in that country because of the alien’s race, religion, nationality, membership in a particular social group, or political opinion.”

¹⁸ <http://judiciary.house.gov/cache/files/ce51425e-3e89-4007-a98d-7153ac6f2b4c/ian-c-ting-asylum-fraud-testimony-final.pdf>.

I would like to see Congress consider enhancing Section 241(b)(3) by adding to it some of the benefits of asylum like work authorization and adjustment of status to legal permanent resident, and the following to join of a spouse and minor children, with the goal of replacing the asylum statute with a single enhanced withholding of removal state for the protection of refugees. That statute has and will have a higher burden of proof than the asylum statute,¹⁹ and should therefore be less susceptible to fraud.

That concludes my testimony. I'll close by again thanking Chairman DeSantis, Chairman Meadows, and all the members of the two subcommittees for the invitation and opportunity to testify today.

¹⁹ See *I.N.S. v. Cardoza-Fonseca*, 480 U.S. 421 (1987).

Mr. DESANTIS. Thank you.

Ms. Acer, you are up for 5 minutes.

STATEMENT OF ELEANOR ACER

Ms. ACER. Thank you so much, Chairman DeSantis, Chairman Meadows, Ranking Member Lynch, and members of the subcommittees. It is an honor to be here today to offer our views regarding national security at our borders and the importance of the U.S. commitment to protect refugees.

The horrific terrorist attacks in Brussels yesterday are yet another reminder of the terrible harms that terrorists are inflicting on innocent civilians around the world.

Human Rights First is a nonprofit organization with offices in Texas, New York, and Washington, D.C. We operate one of the largest pro bono legal representation programs for asylum-seekers in the country, working in partnership with lawyers from some of the Nation's leading law firms.

The United States can and must protect its national security, and can and must do so while also complying with its human rights and refugee protection commitments, as made clear in the letter from leading national security experts of both parties referenced earlier by Ranking Member Lynch.

Both at the formal points of entry as well as at our land borders, CBP has extensive tools and databases to identify individuals who present a risk to national security, including databases that contain information from various U.S. agencies and foreign sources. For cases that enter the process through credible fear as well, DHS asylum officers also conduct a range of vetting and checks. Before an individual can be granted asylum, they have to be either interviewed by an asylum officer or through an immigration court hearing.

Only a very small portion of the world's refugees seek protection here in the United States. The increase in Central American claims from the Northern Triangle, including children and families, have not only affected the United States. The U.N. refugee agency has reported that the countries of Mexico, Belize, Costa Rica, Nicaragua, and Panama have seen the number of asylum applications from the Northern Triangle countries grow to nearly 13 times what it was in 2008.

While a very small portion of asylum-seekers also come from outside the hemisphere, many of those small numbers come from top refugee-hosting states, as well as from China.

U.S. leadership in protecting refugees is not only a reflection of American ideals, it also advances U.S. national security and foreign policy interests.

Earlier this year, I too visited Jordan, Lebanon, and Turkey to assess the Syrian refugee crisis. The critical infrastructures of frontline refugee-hosting states are under severe pressure. And as Ryan Crocker, former U.S. Ambassador to Syria, Iraq, and Lebanon, has explained, U.S. efforts to share in hosting some Syrian refugees affirmatively advance U.S. national security interests by helping to protect the stability of a region that is home to some key U.S. allies.

In our policies and practices, as well as in public rhetoric, it's critical to distinguish between the victims of terror and repression on the one hand, and the perpetrators of horrific acts on the other.

As a number of leading U.S. national security experts have described, efforts to bar Syrian refugees, for example, are counter-productive from a national security perspective, as they actually help the ISIL narrative. Former DHS Secretary Michael Chertoff has cautioned that you don't want to play into the narrative of the bad guy. That's giving propaganda to the enemy.

A strong asylum and immigration system that adjudicates the immigration removal cases before it in a timely and fair manner is essential both for ensuring the integrity of the U.S. immigration process as well as for protecting refugees from return to places of persecution.

Yet, over 480,000 immigration court removal cases have now been pending for an average of 667 days in the U.S. immigration courts, with projected average wait times around 3 years. We urge Congress to support the addition of immigration judges and additional support staff to address this backlog.

Finally, the current asylum system is actually failing to provide protection in a manner consistent with this country's commitments. Over the years, so many barriers and hurdles and technical complexities have been added to the asylum system that refugees who seek the protection of the United States often find themselves denied asylum, delayed in receiving protection, or, in many cases that we see from our work day in and day out, lingering for months in jails and jail-like immigration detention facilities.

In our experience, the expedited removal system and the credible fear process, which I think has a 78 percent pass right now, is actually preventing many legitimate refugees from even applying for asylum. I am happy to answer questions about this.

Many cannot navigate this increasingly complicated system without legal counsel, and many go unrepresented because they cannot afford that.

In my testimony, I have outlined a number of additional recommendations, and I'm happy to talk about those. Thank you so much for the opportunity.

[Prepared statement of Ms. Acer follows:]

Testimony of Eleanor Acer
Senior Director, Refugee Protection
Human Rights First

**The Oversight and Government Reform Committee Joint Subcommittee Hearing
with the Subcommittee on National Security and the Subcommittee on
Government Operations**
“National Security: Threats at Our Borders”

March 23, 2016

Human Rights First is a non-profit, nonpartisan human rights advocacy organization that challenges America to live up to its ideals. For over 30 years, we've built bipartisan coalitions and teamed up with frontline activists and lawyers to tackle issues that demand American leadership, including the protection of the rights of refugees. With offices in Houston, Texas, New York, and Washington D.C., Human Rights First oversees one of the largest pro bono legal representation programs for refugees in the country, working in partnership with volunteer attorneys at many of the nation's leading law firms. Human Rights First appreciates the opportunity to testify at this hearing.

This hearing is focused on “National Security: Threats at Our Borders” including steps that the U.S. government can take to mitigate the potential of terrorists trying to enter the country. Human Rights First believes that the United States can and should protect its national security while also complying with its human rights and refugee protection commitments. As a bipartisan group of former national security advisors, CIA directors, defense secretaries, secretaries of state, and homeland security secretaries pointed out in December 2015, in the context of resettlement of Syrian refugees, “America can and should continue to provide refuge to those fleeing violence and persecution without compromising the security and safety of our nation.”

Overall apprehensions at the U.S. borders are at a 40-year low and the number of border patrol officers is at an all-time high. According to a December 22, 2015 statement by Secretary of Homeland Security Jen Johnson, Department of Homeland Security (DHS) statistics show a “drastic decrease in those apprehended at the border in FY2015 - 337,117 - the second lowest apprehension number since 1972, reflecting a lower level of attempted illegal migration at our borders.” United States Customs and Border Protection (CBP), both at ports of entry and along the borders, has extensive access to tools and databases designed to identify individuals who present a threat to national security. For instance, CBP has an extensive law enforcement and national security database that contains records relating to law enforcement, inspection and intelligence. This database contains various types of information from a variety of federal, state, local, and foreign sources, and the database contains records pertaining to

known or suspected terrorists, wanted persons, and persons of interest for law enforcement and counterterrorism purposes.

Globally, in the wake of escalating and unresolved conflicts and persecution around the world, the number of refugees has increased, reported by the UN Refugee Agency (UNHCR) to be 19.5 million in total. Only a very small portion of the world's refugees have sought protection from the United States. The number of people, including children and families, seeking protection from the escalating violence and persecution in the Northern Triangle countries of Central America has increased in recent years. (This increase has not just affected the United States; as UNHCR explained in its recent report, *Women on the Run*, "[c]ombined, Mexico, Belize, Costa Rica, Nicaragua, and Panama have seen the number of asylum applications from citizens fleeing the [Northern Triangle Countries] grow to nearly 13 times what it was in 2008.") Some of those who seek asylum in the United States come from countries outside this region, including from other top refugee-producing places such as Afghanistan, Iraq and Syria, as well as from China. This is not a new phenomenon. America has long provided refuge to people fleeing political, religious and other forms of persecution around the world. And the United States, pursuant to its commitments under U.S. law and international conventions, has a process for identifying those who meet the standards for refugee protection, and those who do not.

Protecting the persecuted is a core American value. Reflecting this country's deep-seated commitment to liberty and human dignity, as well as its pledge under the Refugee Convention's Protocol, the United States has long led efforts to protect those who flee from political, religious, and other persecution. The U.S. asylum system has protected thousands of refugees from being returned to places where they would face political, religious, or other persecution. Through its pro bono legal representation initiatives, Human Rights First and its pro bono attorneys see these people day in and day out: they are victims of religious persecution from China; women escaping honor killings, trafficking and horrific domestic violence; gay men attacked in countries where they face constant threats; human rights advocates who stand up against oppression in Syria or against the perpetrators of brutal violence in Central America; and ordinary people who are persecuted for who they are or what they believe.

U.S. leadership in protecting refugees is not only consistent with American ideals, it also advances U.S. national security and foreign policy interests. Earlier this year, I visited Jordan, Lebanon, and Turkey to assess the impact of the Syrian refugee crisis on these front-line states and to assess the U.S. response. Over 4.8 million refugees have fled from Syria to other countries in the region, and over 11 million are displaced within Syria. I had previously visited the region last year, as well as a year earlier. The critical infrastructures of these front line refugee hosting states – Jordan, Lebanon, and Turkey – are straining under pressure of hosting so many refugees. Lebanon is hosting over 1 million registered Syrian refugees (making one out of every four persons in Lebanon a Syrian refugee), Jordan is hosting over 600,000, and Turkey is hosting over 2.8 million. U.S. leadership in addressing the plight of refugees is not only necessary from a humanitarian and human rights perspective, it also advances U.S. national security interests. Ryan Crocker, former U.S. Ambassador to Syria, Iraq and Lebanon, has explained that a U.S. initiative to share in hosting some Syrian refugees "affirmatively advances U.S. national security interests" and that increased aid and resettlement of refugees from Syria "helps protect the stability of a region that is home to U.S. allies." Similarly, the bipartisan group of former high level national security officials referenced above concluded that initiatives to resettle refugees "help advance U.S. national security interests by supporting the stability of our allies and partners that are struggling to host large numbers of refugees."

The United States is facing much smaller numbers of asylum seekers at our borders than the numbers facing the states surrounding Syria and those countries have far fewer resources and much less capacity than the United States. The United States must lead by example in order to encourage other states to continue to do their part. As the Council on Foreign Relations Independent Task Force on Immigration Policy, co-chaired by former Florida Governor Jeb Bush and former Clinton White House chief of staff Thomas “Mack” McLarty, pointed out: “The treatment of refugees and asylum seekers is [a] dimension of immigration policy that reflects important American values.” That task force’s report also stressed the example that the United States sets for the world: the U.S. commitment to protect refugees from persecution is “enshrined in international treaties and domestic U.S. laws that set the standard for the rest of the world; when American standards erode, refugee face greater risks everywhere.”

In both our policies and practices, as well as in public rhetoric, it is critical to distinguish between the victims of terror and repression on the one hand, and the perpetrators of horrific acts on the other hand. This is not only essential from a refugee protection and human rights perspective, but labeling the victims of violence and terror as security threats also undermines U.S. national security and foreign policy objectives. As a number of leading U.S. national security experts have described, in the context of the resettlement of Syrian refugees, refusing to provide refuge to Syrian refugees is counterproductive from a national security perspective as it helps ISIL’s narrative. For instance, former DHS Secretary Michael Chertoff told the Wall Street Journal in November 2015 that admitting Syrian refugees “allows us to truthfully say that we’re not hypocrites or bigoted against Muslims or people from other cultures. That has a positive impact in terms of the disposition people around the world have toward the U.S. You don’t want to play into the narrative of the bad guy. That’s giving propaganda to the enemy.”

Rigorous Safeguards Exist at the U.S. Border

As noted above, the United States has rigorous systems at its borders and ports of entry for identifying potential threats, and access to a wide range of databases to identify security threats, foreign fighters, false passports and other risks. These include databases with access to a wide range of law enforcement and counter-terrorism related information from a variety of federal, state, local, and foreign sources, including records pertaining to known or suspected terrorists, wanted persons, and persons of interest for law enforcement and counterterrorism purposes. These mechanisms should be regularly reviewed and strengthened as necessary.

In addition to vetting through CBP and its databases, in connection with any protection requests at the border, U.S. authorities have a range of effective tools to identify potential threats or abuse. For protection requests that enter the system through the credible fear process, the Department of Homeland Security has explained that USCIS Asylum Officers conduct a mandatory check of both the CBP law enforcement and national security database (described above, and known as “TECS”) and US-VISIT/IDENT during the credible fear process. US-VISIT/IDENT is a DHS system managed by the National Protection and Programs Directorate’s (NPPD) Office of Biometric Identity Management (OBIM), and includes biometric information related to the travel history of foreign nationals and Watchlist information. It also contains visa application information owned by the Department of State. This system is used to confirm identity, determine previous interactions with government officials and detect imposters. Fingerprints are also electronically submitted to the US-VISIT/IDENT database, where they are stored and matched to existing fingerprint records. This system is used to confirm identity and

determine previous interactions with government officials. DHS has explained, in the written testimony cited below, that this information helps to confirm identity and inform lines of questioning.

Moreover, with respect to cases that enter the system through the credible fear process, asylum officers – at the credible fear stage - also ensure that the Federal Bureau of Investigation (FBI) name check and fingerprint checks have been initiated. DHS, in written testimony, stated that “[t]he USCIS asylum officer’s determination as well as information on the individual’s identity, including how he or she established it, results of the security checks, and any adverse information is recorded and placed in the alien’s file upon completion of the credible fear process. This information is then provided to ICE.”¹ As a result, ICE will have this information with respect to individuals who pass the credible fear screening process and are put into immigration court removal proceedings and to consider in connection with custody decisions and determinations.

Wrongdoers and Security Threats Excluded from Protection

In addition, the Refugee Convention’s “exclusion clauses” require host countries to exclude from the Convention’s protections any person who has committed heinous acts or grave crimes that make him undeserving of international protection as a refugee, even if that individual has a well-founded fear of persecution. A separate provision of the Convention allows the return of a refugee who poses a danger to the security of the host country. The United States incorporated into its law the Refugee Convention’s promise to provide protection to refugees, but also codified bars to asylum and withholding of removal intended to reflect the Convention’s exceptions.

U.S. immigration laws prohibit granting asylum and any form of refugee protection to: people who engaged in or assisted in or incited the persecution of others; people who have been convicted of a particularly serious crime in the United States; people who have committed a serious non-political crime abroad; people who have engaged in terrorist activity; people who are representatives of foreign terrorist organizations; or people who otherwise pose a threat to the security of the United States.² The inadmissibility provisions of U.S. immigration law are so broad that they have regularly ensnare refugees with no real connection to terrorism, such as a refugee from Burundi who had a rebel group rob him of four dollars and his lunch, an Iraqi former interpreter for the U.S. Marine Corps who was informed that his past connection to a Kurdish group allied with the United States and his opposition to Saddam Hussein made him inadmissible, and an Iraqi widow who had a member of a designated terrorist

¹ See Department of Homeland Security (DHS), Combined Testimony of DHS before the House Judiciary Homeland Security Committee for a hearing on “Asylum Abuse: Is it Overwhelming Our Borders” (December 12, 2013) available at http://judiciary.house.gov/_cache/files/e9043d83-e429-4d21-9621-c681c6499251/combined-dhs-testimony.pdf; fact sheet from U.S. Citizenship and Immigration Services (USCIS) on file with Human Rights First; USCIS, Affirmative Asylum Procedures Manual (November 2013) available at http://www.uscis.gov/sites/default/files/files/natedocuments/Asylum_Procedures_Manual_2013.pdf.

² INA § 208(b)(2) (8 U.S.C. § 1158(b)(2)) (bars to asylum); INA § 241(b)(3)(B) (8 U.S.C. § 1231(b)(3)(B)) (bars to withholding of removal).

organization buy flowers in her flower shop (incidentally while the group was under U.S. military protection).³

A Strong System is Staffed Adequately to be Timely, Fair, and Effective

A strong asylum and immigration system that adjudicates immigration removal cases in a fair and timely manner is essential both for ensuring the integrity of the U.S. immigration process as well as protecting refugees from return to places of persecution. However, in order to effectively secure the integrity of the system, the agencies responsible for asylum adjudication – the Department of Justice’s Executive Office of Immigration Review (EOIR) and the Department of Homeland Security’s United States Citizenship and Immigration Services (USCIS) – must be properly staffed and resourced to adjudicate cases in a fair and timely manner, and to eliminate backlogs that can leave the system vulnerable to abuse.

According to the most recent data, over 474,000 immigration removal cases have now been pending for an average of 667 days in the U.S. immigration courts, with projected average wait-times around three years – with many waiting much longer. While immigration enforcement and related funding have increased significantly in recent years, funding and staffing for the immigration courts have lagged well behind. Not only can delays increase the vulnerability of our immigration system to abuse and prevent refugees from having their cases adjudicated in a timely manner, but they often leave refugee families stranded in difficult and dangerous situations abroad. Human Rights First just issued a report assessing the need for additional staffing to address the backlogs in the U.S. immigration courts. Entitled the “U.S. Immigration Court: A Ballooning Backlog that Requires Action,” the report urges appropriations and other actions to address the backlogs and ensure timely and fair asylum and immigration proceedings.

Moreover, our current asylum system fails to provide protection in a manner consistent with this country’s commitments and legal obligations to protect refugees fleeing persecution. Over the years, so many barriers, hurdles and technical complexities have been added to the asylum system, including through multiple rounds of legislation, that refugees who seek the protection of the United States often find themselves denied asylum, delayed in receiving protection, or lingering for months in jails and jail-like immigration detention facilities. Many cannot navigate this increasingly complicated system without legal counsel, and many go unrepresented as they cannot afford to retain private counsel. In addition to supporting a fair and timely decision-making process for those seeking this country’s protection, Congress should eliminate unjust barriers that deny or delay U.S. protection to refugees and implement the recommendations of the U.S. Commission on International Religious Freedom relating to expedited removal and detention. America should stand firm as a beacon of hope that will not turn its back on those seeking protection from persecution.

Recommendations

In addition to continuing to review and update key databases and tools, Human Rights First recommends the following steps to strengthen U.S. processes for identifying and protecting refugees at U.S. borders and ports of entry:

³ For more background, see Human Rights First, *Refuge at Risk: The Syria Crisis and U.S. Leadership*, November 2013; Human Rights First, *Denial and Delay: The Impact of the U.S. Immigration Law’s “Terrorism Bars” on Asylum Seekers and Refugees in the United States*, 2009.

- **Address the ballooning backlog in the immigration courts.** Congress should allocate funding for 75 immigration judge teams in FY 2017 and another 75 judge teams in FY 2018, in addition to supporting the President's budget request for an infrastructure expansion to facilitate the onboarding of new immigration judges.
- **Support Expansion of Legal Orientation Programs and Access to Counsel Measures that Improve Fairness and Efficiency.** Over 80 percent of detained individuals do not have representation in their immigration proceedings. LOPs – and quality legal counsel - can help non-represented individuals understand their eligibility, and in some cases lack of eligibility, for asylum and other potential forms of immigration relief. Those who are represented overwhelmingly appear for their immigration court appointments. Congress should sufficiently fund DOJ to ensure that LOPs are funded and in place at *all* facilities used for immigration detention. According to a 2012 DOJ report, LOP reduced the amount of time to complete immigration proceedings by an average of 12 days. Factoring in the savings – primarily to DHS through reduced length of time spent in detention – LOP has been shown to have a net savings of approximately \$18 million.
- **Remove unnecessary impediments that delay cases and block refugees from this country's protection, including elimination of the asylum filing deadline.** As Dr. Richard Land has described, "When people escape horror and come to the United States in desperate need of freedom and safety, we shouldn't turn them away because of a bureaucratic technicality."
- **End Detention of Families seeking asylum.** DHS should stop sending families seeking asylum to immigration detention. Not only is such detention inconsistent with this country's human rights and refugee protection commitments, but it is also damaging to the health of children.
- **Implement U.S. Commission on International Religious Freedom (USCIRF) Recommendations on those fleeing religious and other forms of persecution.** The Department of Homeland Security and Immigration and Customs Enforcement should implement U.S. Commission on International Religious Freedom recommendations, including: maintaining, effectively implementing and codifying the existing parole guidance into regulations; expanding legal orientation presentations; only using detention facilities that do not have jail-like conditions when asylum seekers are detained; and limiting the use of expedited removal given implementation deficiencies.

Mr. DESANTIS. Thank you. The chair now recognizes himself for 5 minutes.

Mr. McCraw, your agency issued a report saying that several Somali immigrants crossing the border who are known members of al-Shabaab have been apprehended, as well as other Somali-based terrorist groups. Can you describe the aliens of special interest that you have seen coming across the border, the threat posed, and how Texas is dealing with that population?

Mr. MCCRAW. As previously testified by others here, clearly, there are special interest aliens anywhere from Afghanistan to Yemen that have been coming across the Texas-Mexico border that have been detected and apprehended by Border Patrol. That is a fact.

As it relates to al-Shabaab, the connection to Somalians, it's an FBI case. It was prosecuted and is open-source information regarding the support—a Somalian smuggling operation out of San Antonio that would bring Somalians across and help them resettle across the United States. And there had been a nexus determined in the investigation to terrorism.

We're mindful of that. We're also mindful of other aspects, in terms of it.

Until we get a handle on our borders, until we're secure between the ports of entry, and no one is able to cross between the ports undetected, there's no way to tell in terms of the scope and magnitude of the problem that we—exists right now, frankly.

And there's no excuse not to secure the border. It can be done. If the proper resources are applied and Border Patrol given those resources, it absolutely can be done.

Until that time, Texas has made it very clear the Governor and State Legislature want to spend whatever it takes to support Border Patrol to get it done, because it's too important to Texas.

Mr. DESANTIS. Mr. Judd, CBP will often say that since apprehensions are down, the border is more secure. How does that number account for those who the Border Patrol doesn't ever see?

Mr. JUDD. It doesn't. As I previously stated, those drive-throughs, because there were no agents assigned in that area in which the drive-through took place, if it wasn't for a camera that actually saw the vehicles, we wouldn't have even known that those vehicles had crossed.

So if we don't have the resources to assign to a specific area, then we don't know what is crossing that area.

And I would like to correct myself. I looked back at my notes. It wasn't 2 days that that area was open. It was open for a long stretch of period of time, but I don't know exactly how long. I know that it was at least one shift and more than that. So I just wanted to correct that.

Mr. DESANTIS. We have received reports from Border Patrol agents that sectors and offices reporting lower apprehension numbers are often rewarded, and that apprehensions when they fall between jurisdictions of different offices within a sector, those apprehensions are simply not counted.

Have you heard similar reports suggesting that CBP might be fudging the apprehension data?

Mr. JUDD. Not only have I heard similar reports, I've actually seen it. When I was assigned to the intel office at one of the Border Patrol stations which I worked, there was a note that came across the desk from a watch commander, a high-ranking manager, that said you must remove these numbers from the got-away report, because there's no entry point, and therefore, if there's no entry point, then we can't say where it entered, and therefore, we can't reconcile the numbers.

The question that was posed to this watch commander was, well, we know that they got away. Where are we going to report that they got away? He said, well, if there's no entry point, then there were no got-aways. And we said but we have the evidence that they got away. He said no, there are no got-aways, remove it. And we were forced to remove it.

Mr. DESANTIS. And I hear some of the witnesses talking about resources, and I agree resources are an issue.

But, Mr. Judd, isn't our functional policy basically catch-and-release at this point? In other words, you can have beefed up Border Patrol, but if people know that if they just get across the border, they are most likely going to be given a citation and be released and then they come back in a year or whatever, to me, that is still going to be a major incentive for people to come in illegally. Am I wrong?

Mr. JUDD. Well, the resources are important and, in part, you're correct. In part, you're wrong.

In, let's say, for instance, the Del Rio sector, the Del Rio sector does not necessarily release a whole lot of illegal aliens. Because they have Immigration and Customs Enforcement, they have the bed space to hold onto these people.

So the main determining factor is, do we have the space to hold onto these individuals? If we do have the space to hold onto them, then Immigration and Customs Enforcement, they do hold onto them. But if we don't have the space for them, then we release them. That's where the resources come into play.

Mr. DESANTIS. Professor Ting, CBP has confirmed that aliens from special interest countries are being apprehended by Border Patrol. USCIS has confirmed that aliens claiming credible fear have been subject to terrorism bars in the INA.

Do you think that the administration's policies regarding aliens who arrive at the border could encourage more nefarious actors to attempt to enter the United States illegally along the Southwest border?

Mr. TING. I think it's reasonable to assume that the nefarious actors you're referring to are constantly looking for ways to gain entry to the United States.

As I said earlier, in the age of instantaneous communications, the flaws in our border security system are known instantaneously and are carried in the media. I think it's a legitimate concern. And I applaud the committee here for taking an interest in this subject.

Mr. DESANTIS. So once that word gets out, as you say, basically, if you are somebody who wants to do the United States harm, you can come to the border, claim credible fear, you will likely be released, receive a work permit, and then you will have a court date, what, in a couple years?

Mr. TING. Yes. In the olden days, what used to happen, I believe, is that if people came to the border and wanted to make an asylum claim, we told them, fine, we'll schedule you for an appointment, come back to the border, but we're not going to admit you.

Indeed, there is still a code section, 235(b)(2)(C) in the Immigration and Nationality Act, which authorizes the return of arriving aliens to contiguous territory from which they arrived. So there is statutory authority for turning people around at the border, if we wanted to exercise it as we used to once upon a time.

Mr. DESANTIS. So do you think if we moved away from some of these loopholes, moved away from a more catch-and-release posture, obviously, people that would come could be apprehended, but then wouldn't that be a deterrent for other people to realize that is probably not the best use of my time and money to try to go across the southern border, if they think there is a probability that the law is actually going to be enforced?

Mr. TING. Yes, absolutely. I think it would help to have an administration that is really serious about defending the border and enforcing the laws enacted by Congress. But I also think there are things Congress can do to tighten up the laws: taking credible fear out; requiring asylum officer training for more immigration officers, so asylum officers are available in larger numbers so we can do processing on the border; and, as I mentioned, turning around people at the border and saying, if you want to make a claim, come back when we have time to interview you and we'll interview you. There's statutory authority for that already.

Mr. DESANTIS. Great. My time is expired.

I now recognize the ranking member, Mr. Lynch, for 5 minutes.

Mr. LYNCH. Thank you very much.

I really appreciate your opening statements and testimony. I want to drill down. I do not want to spend a lot of time on this, but let's talk about the credible fear standard.

As I read the 1951 Geneva Convention for refugees, it says "well-founded fear." That is the standard, well-founded fear. When I see this standard, you are talking about credible fear. When you go to Webster's or New Collegiate Dictionary, "well-founded" is "credible," and "credible" is "well-founded."

I don't understand what the dickering is all about. Isn't it really the same standard as the Geneva Convention?

Mr. TING. No, it is absolutely not the same standard. The Geneva Convention established what has become the international standard for asylum.

Mr. LYNCH. Just the fear. We are talking about the fear.

Mr. TING. A well-founded fear of persecution on account of one of five specific reasons—race, religion, nationality, social group, or political opinion.

So first of all, what is persecution, right? And what is race, religion, nationality, social group, and political opinion? There is a whole body of law that's developed around that standard in the United States and internationally.

Mr. LYNCH. We are talking about the fear that that person has.

Mr. TING. Credible fear is something that was, as I suggest, made up on-the-fly for administrative convenience.

Mr. LYNCH. It seems very close to the Geneva Convention standard, though. When you look it up, Webster's Dictionary, credible versus well-founded, it is not totally made up if it means exactly the same thing. I know in application, it is different. I am not questioning that.

Mr. TING. All I can say is that everyone on the ground who was dealing with that issue at the time, credible fear was a clearly different and lower standard.

Mr. LYNCH. Okay. I hear you. You said that already.

Ms. ACER, could you?

Ms. ACER. Thank you. I just want to also caution that the United States has to—not only does it have obligations under the international Refugee Convention, but we also have to think about the example we set to other states.

If we were to start turning away people at our border who apply for asylum, what message does that send to Jordan, to Lebanon?

Mr. LYNCH. Yes, but can we talk about my question, though?

Ms. ACER. Yes. I'm so sorry.

Mr. LYNCH. Thank you.

Ms. ACER. In terms of the credible fear process, to answer your question, it was set up, the 1996 law, instead of allowing people to actually go into immigration court removal proceedings, allowed people to be deported on the order of a CBP officer, essentially.

In order to make sure we were complying with our obligations, a screening process was set in, so that the U.S., the idea was, would not inadvertently deport someone who should have a shot at applying for asylum.

Mr. LYNCH. Okay.

Ms. ACER. We have found in our day-in-and-day-out practice, as I said, that actually many people who are legitimate refugees are not passing that process.

Mr. LYNCH. Okay.

Ms. ACER. And the immigration judge review that was mentioned happens in just a couple days, very quickly, and in rare cases.

Mr. LYNCH. Okay. I have 2 minutes left, and I want to get to this other issues.

There are pull factors and push factors. We did a couple codels. We went down to San Salvador. We went down to Tegucigalpa. And we went down to Guatemala City.

And so we were at the airport when the people—largely, mostly kids, but a few parents—when the kids arrived back in Tegucigalpa, I think it was.

So we had stopped them at the border and sent them back, and the plane arrived around 11 o'clock. By 1 o'clock in the afternoon, every kid had been picked up. Every child had been picked up and taken home by their families.

The deal there, in talking to the immigrants, these families that are trying to get into the United States illegally, they said the range was \$7,000 to \$8,000 per person, and they get three tries. They get three tries to get into the United States.

They call them "coyotes." I don't like using that term, because it has a romantic appeal to it. These are human traffickers, okay? And they are putting these kids at grave risk in this whole exercise here.

So what I am getting at is, there is a push factor. Actually, there is a pull factor by having low standards in this country for allowing immigrants to come in. But there is also a push factor, because there is an industry down there in Central America that it is much more profitable than smuggling drugs. And most of these countries don't have human trafficking laws in place down there, so they can do this, and there are no real dire consequences as there would be if they were trafficking in drugs or guns.

So I am asking my Border Patrol folks, is this the nature of the problem? What is a greater factor, the pull factor of the United States being lax or the push factor of the industry down there that is actually pushing people up to our border?

Mr. Vitiello?

Mr. VITIELLO. Thank you, Congressman.

We found in our reporting that there's a multitude of factors that drive folks away from their home country, and then, like you say, get pulled into the U.S. So smugglers have taken advantage of the situation wherein people believe that if they came to the United States, they would be able to stay. We have reports that smugglers are actually using that concept to draw more people that might otherwise not consider the trip.

Mr. LYNCH. Right. Okay.

Mr. McCraw?

Mr. MCCRAW. Clearly, the Mexican cartels have adopted people as a commodity, and human trafficking clearly is a core business now of the Mexican cartels.

The pull part is they want to encourage as many to come across, because unlike drugs, they don't need precursor chemicals. They don't have to grow it. They make an immediate profit, even when they get to the river. They don't even have to get across the river to get a profit.

Then they further compound it by when they move them across the river, often they will load them down in stash houses and continue to extort them for additional money, so it's an ongoing process.

Clearly, the cartels get a vote in terms of that push and that pull factors going into the United States.

Mr. LYNCH. Okay, Mr. Judd, do you have anything to add?

Mr. JUDD. Absolutely. It comes down to risk-reward.

There is very little risk when you are smuggling migrants. The laws of the United States, the accountability that we hold these human traffickers when we arrest them, it's a very low standard.

However, if we arrest a drug smuggler that's smuggling cocaine, methamphetamine, or something like that, then the consequences are much greater.

Mr. LYNCH. I spend a lot of time in the Middle East, and so do a lot of members on this committee.

When Angela Merkel back last August said Germany welcomes the Syrian refugees, we will take them, she ended up with 1.3 million. She never expected it. Now they are sort of backing away from that. That was a pull factor. That was a pull factor.

When you talk to the Syrians on the border, they all want to go to Germany, because they were beckoned to do so.

I am just wondering if we have a similar situation here because we didn't see the surge when there was civil war in El Salvador, when there was civil war in Nicaragua. We did not see the huge—and those people could've legitimately said, I have a civil war back home, and I need to come to the United States. We didn't see the requests at the border that we are seeing now.

I don't know. There is something else going on here. Maybe we are part of it up here creating this problem.

I yield back. You have been very courteous. I appreciate it, Mr. Chairman.

Mr. DESANTIS. I thank the gentleman.

The chair now recognizes the gentleman from North Carolina, Mr. Meadows, for 5 minutes.

Mr. MEADOWS. Thank you, Mr. Chairman.

Let me follow up a little bit on what Mr. Lynch just talked about, because as we start to look at this particular issue, there is a big difference between refugees and asylum-seekers.

Somehow we put those two together, assuming that they are one and the same. Indeed, they are not one and the same. We have different processes for those.

I serve on the Global Health and Human Rights Foreign Affairs Subcommittee. There is nothing that is more close to my heart, in terms of those who are truly in need.

But what Mr. Lynch was talking about really comes to mind, what are the places that are most troubled from a standpoint of people needing asylum or refugee status? What countries come to mind as being the most horrific right now?

Ms. Acer, what country would you put in the top two?

Ms. ACER. I guess you could look at it in terms of numbers and then, of course, you have Syria.

Mr. MEADOWS. So Syria would be number one.

Ms. ACER. I am not going to rank them right now, but I would say certainly —

Mr. MEADOWS. Is it in the top five?

Ms. ACER. Yes, I would say so.

Mr. MEADOWS. All right. The reason I come there is because what Mr. Lynch was talking about is, if indeed the worst place in the world is Syria, what we would see is coming across our southern border this mass infiltration from Syria. But really, when we start to look at the numbers, it is not bearing that out as much.

So, Mr. Ting, I need to understand the process, because Ms. Acer had talked about the fact that these asylum-seekers come and they sit in jail.

Now we have been led to believe that, since 2009, there was a different administration rule that would not actually put them in jail. Mr. Judd would apprehend them. They would go through and seek credible fear. And then they would be released and not sit in jail waiting for that.

Is that correct, Mr. Ting?

Mr. TING. Well, there are two distinct programs. You referred to refugees. We operate an overseas refugee program.

Mr. MEADOWS. Right.

Mr. TING. I think the most generous overseas refugee program in the world, taking well-over 55,000 a year —

Mr. MEADOWS. The State Department is involved with that. A number of other —

Mr. TING. But that is a pick-and-choose program.

Mr. MEADOWS. Right.

Mr. TING. We get to pick which refugees are of special interest to the United States and bring them to the United States.

The asylum program allows people who are already here to apply for asylum, and there is no numerical limit on asylum.

So if you can claim that you're a refugee and you're already here, under our law and international law, we cannot return you to your home country. You qualify for discretionary asylum status in the United States, which can put you on a path to a green card and eventually becoming a U.S. citizen along with everybody else. No numerical limit.

So it's very tempting, I think, given the fact that you may be a refugee in a displaced persons camp in Jordan or Turkey, and if the U.S. doesn't pick you, you are kind of stuck there. But if you can get yourself into the United States or at the border and make the claim, then you're going to get processed sooner or later.

I think that is a great temptation. As Mr. Lynch says, that is a pull factor, to the extent that people have a realistic expectation. And I think the administration, frankly, is trying to balance expectations and is deliberately, I think, trying to deter people by imposing some consequences on their coming to the United States and making claims.

Mr. MEADOWS. So I can tell by the nonverbal gestures to your right from my standpoint, that she does not agree, so go ahead. I will give you very short—I have very limited time.

Ms. ACER. Thank you.

We are certainly protected from a large Syrian influx at our border by our geographical location, but the Northern Triangle countries are incredibly dangerous. As I mentioned before, asylum requests are up significantly in the region as well.

I would just say, in our day in and day out, we represent asylum-seekers who pass through the credible fear process and are held in very jail-like facilities, which the U.S. Commission on International Religious Freedom has said are —

Mr. MEADOWS. So, Mr. Judd, you put them in jail? If they have credible fear claims, your Border Patrol puts them in jail?

Mr. JUDD. It strictly depends upon where it's at. If it's in RGV, most likely not. We just don't have the bed space. If it is in the Tucson sector, most likely not. We do not have the bed space. If it is in the Del Rio sector, I will tell you I drove by where we put them and it is anything but a jail. There's no fences. There's nothing around it. In fact, it's been described to me more like a country club.

Mr. MEADOWS. Okay. So we either let them go, or we put them in what you would classify as a country club setting, is what you're saying?

Mr. JUDD. From what I saw, yes.

Mr. MEADOWS. So part of the testimony here is that we deny a whole lot. Let me ask you this. It appears, in 2013, that we approved 92 percent of the people coming across our border, in terms of fiscal year 2013. Ninety-two percent of the people who came

across and said there is a credible fear got approved. I guess in the first quarter of this year, it is actually 86 percent.

So if we are looking at approving that many, everybody who comes across and says—it is almost everybody who comes across who says I have a credible fear, I want asylum.

Is that the reason those numbers continue to go higher, Mr. Judd?

Mr. JUDD. What I can tell you is what we see on the border. Unfortunately, I don't go through the entire process. All I do is I arrest people, and then I —

Mr. MEADOWS. So do they get a long interview? I guess when they —

Mr. JUDD. No. No.

Mr. MEADOWS. So what is the interview like?

Mr. JUDD. By Border Patrol agents, when we arrest them, if they're from countries other than Mexico, it's very quick. All they have to do is claim that they have a credible fear.

Mr. MEADOWS. So if I am speaking Farsi, I can come across and say I have a credible fear, and I do not get a real interview?

Mr. JUDD. No, you don't.

Mr. MEADOWS. So the very people that may be terrorists, and I don't want to categorize one particular group as speaking a particular language, but those are higher threat areas to us based on their past history, they get a shorter interview?

Mr. JUDD. Well, for special interest countries, we actually turn them—we notify the FBI immediately, if they are from a special interest country. We won't even interview those individuals.

For instance, in Sonoma, when we arrested the Afghanis and Pakistanis, the most recent that I am aware of, they were immediately turned over to the FBI. We didn't even interview them.

But from countries that are not considered special interest, from, say, China, Bangladesh would be the same, it's a very short interview. As long as they tell us that they have a credible fear, the interview basically ends at that point for the Border Patrol.

Mr. MEADOWS. All right. Thank you.

I yield back. I appreciate the patience of the chair.

Mr. DESANTIS. I thank the gentleman.

The chair now recognizes the gentlewoman from Illinois for 5 minutes.

Ms. KELLY. Thank you, Mr. Chair.

Welcome, witnesses.

In today's complex threat environment, effective counterterrorism and law enforcement efforts rely on sophisticated intelligence-gathering and sharing capabilities. Especially because of their exponential effects, we should focus our efforts to strengthen the border on these intelligence capabilities.

Mr. Vitiello, your written testimony states, and I quote, "A whole-of-government approach that leverages interagency and international partnerships as a force multiplier has been and will continue to be the most effective way to keep our borders secure."

Which other agencies does Customs and Border Patrol share intelligence or information with to secure the border?

Mr. VITIELLO. So all of the entities, State, local, tribal, that are at the immediate border, and then we have important relationships

in the contiguous countries, Canada and Mexico, with their federal police, with their immigration authorities, their customs group. And also CBP has the benefit of having a worldwide footprint. So in all the places where we're active, either providing services for people who are coming to the country or a liaison relationship in places like Mexico and Canada to exchange important law enforcement information.

So anybody that has the common interest of securing the border, gathering intelligence to aid in counterterrorism efforts, et cetera, those are all the people that we interact with.

Ms. KELLY. Can you further explain how these partnerships act as a force multiplier?

Mr. VITIELLO. As a simple example with Mexico's immigration authorities, when the surge of unaccompanied minors started in 2014, several requests through the liaison and then official government requests for Mexico to do more at their southern border and the INM group, their immigration authority group, stepped up and effectively shut down some of the more common routes of people coming to the United States and was seeking out to prosecute smugglers who were responsible for some of that activity.

That led to an overall reduction in people who could use those routes. We are still challenged by that, but we were able to support their work with liaisons and mentors in Mexico to understand the challenges that they have and give them, where we could, tips and advice and mentorship so that they could do their work better.

Ms. KELLY. That is a good example of how interagency and international partnerships can strengthen the border. Any other examples?

Mr. VITIELLO. So we have also a very important relationship in Canada as well. We share information about threats that we perceive coming from the U.S. into Canada and vice versa, lots of information exchange. Then it is the responsibility of our leadership in the field to maintain good relationships with all law enforcement communities, so that we can identify and understand which of the threats are most important by community and then work together to abate them.

Ms. KELLY. It seems as though, when you hear about threats to the border, it is always the southern border, not as much the northern border. What are the percentages? Or is that how you would describe it?

Mr. VITIELLO. So overwhelmingly, our resources are dedicated to the southern border. That is where the activity is represented by the large numbers, volumes of people, volumes of things, because of the nature of the real estate and the differences in both economies, et cetera.

But we also have important work that we do with Canada, and we do similar things as it relates to identifying where we need to be situationally aware on the border, technology to help us patrol and monitor. And then obviously the relationships are key in understanding the threats that are faced.

Ms. KELLY. Okay. Your testimony continues, "DHS works with our Federal, State, local, tribal, and international partners, particularly Canada and Mexico, to address transnational threats."

What types of helpful information does Canada and Mexico provide that the U.S. would not otherwise have access to?

Mr. VITIELLO. So at CBP, and obviously this is true with other Federal law enforcement, is we help identify the criminal networks that are responsible for human trafficking, gun smuggling, illicit financing.

So what we do is we try to understand amongst ourselves, with them and ourselves, what the threats are and how to combat them, and then help identify by network which are the most problematic criminal enterprises.

Ms. KELLY. Do you feel these partnerships have improved over time, and you are getting more and more information, and there is more of a comfort level with these other agencies?

Mr. VITIELLO. So it ebbs and flows, as it relates to the international engagement. I think in Canada, it has been stable and very well-used for quite some time.

In Mexico, it sort of ebbs and flows with the changes of administration, et cetera. But they have been a strong partner with us, especially at the Federal police level and their immigration authorities.

Ms. KELLY. Thank you so much.

Thank you, Mr. Chair.

Mr. DESANTIS. The chair now recognizes the gentleman from Florida, Mr. Mica, for 5 minutes.

Mr. MICA. Thank you, Mr. Chairman, for holding this joint hearing. I think there couldn't be a better time, with incidents that we have seen most recently and around the world relating to terrorism and our border vulnerability.

I guess you would probably conclude that our borders are porous, a sieve, and tens of thousands of illegals are coming across the border.

Would that be appropriate, Mr. Judd? Do you think that is correct?

Mr. JUDD. That is correct. Border Patrol agents, these are very motivated individuals. They want to do the best that they can. They do the best that they possibly can.

Mr. MICA. You described the vehicle. They cut the wires and came through. You don't know whether there were drugs, weapons, explosives. It could have carried great quantities of that across the border.

Mr. JUDD. It could've been anything.

Mr. MICA. Let me ask the DHS representative, I just heard that El Chapo, the noted drug kingpin and czar, crossed the border. He bragged about it, I guess after his capture, like he was coming on some regular vacation journey to the United States. Are you aware of that?

Mr. VITIELLO. No, I had not heard that.

Mr. MICA. Not only were we informed that he was crossing routinely, now we have evidence that some of the weapons, at least one of the weapons that was found when he was captured was from the Fast and Furious collection, which was provided by the U.S. Government. You are not aware of that either?

Mr. VITIELLO. I did see that in media reports.

Mr. MICA. Okay.

Most disturbing. Mr. Judd, you gave some excellent testimony. You described one of the issues, and you said the Border Patrol, due to DHS prosecutorial discretion guidelines, released more than 3,800 illegal aliens who were in our custody and were subject to deportation proceedings. And you said they were released simply because they claimed to have been in the United States continuously since January 2014.

This amnesty through policy of the administration, this is the President's policy of amnesty? Is that what rules the proceedings?

Mr. JUDD. If you ask Border Patrol agents, absolutely.

Mr. MICA. So we have allowed tens of thousands—I saw an estimate of about 50,000 criminal illegals in the United States, a guesstimate.

They are subject to deportation, aren't they?

Mr. JUDD. Yes. Anybody that's here illegally is subject to deportation.

Mr. MICA. But, again, we have allowed millions with a sort of waiver and tied your hands, which you put in your written testimony.

Not only the borders but the airports are now our borders where people are flying in, whether it is from Europe, or Central or South America, around the world.

And there is a Credential Screening Gateway System, which is outlined in an IG report, June 4, 2015. It says worker credentials, and these are workers at the airport that, in fact, we don't have thousands of passport numbers. These are people with, for example, no alien registration number for immigrants working in our airports, 14,000; no passport number for immigrants, 75,000; first names with two characters or less, 1,500; what is this, 87 some thousand-some working—87,000 active and we don't have those records.

Are you aware of that, Mr. Vitiello? This is a DHS inspector general report.

Mr. VITIELLO. It's not particularly my area, but I am aware of the reporting on that subject.

Mr. MICA. So the borders are a sieve. We have people working at our airports who are aliens who we don't even know anything about. We don't have confirmed their alien registration numbers or their passport numbers. Is that correct?

Mr. Chairman, I would like this page to be made part of the record.

Mr. DESANTIS. Without objection.

Mr. MICA. Finally, if I may, in my local community, my police chiefs, who I have met with the last few weeks—we have a big drug epidemic in Florida and around the Nation—but we were talking about that. And we talked about illegal aliens.

They say they arrest them. They detain them. They call the Border Patrol. And they advise them that they can't help. And they are often just escorted to the county line.

Are you aware that that is going on in our local communities, our local jurisdictions and borders?

Mr. VITIELLO. I was not, Congressman. What area is this?

Mr. MICA. Central Florida.

Mr. VITIELLO. We're not particularly well-staffed in Florida at all. Central Florida is not —

Mr. MICA. But they are dumping them back into the community, and you all are refusing to do anything.

Maybe some of it is what Mr. Judd described. We have let them through presidential edict stay here and not be accountable.

Thank you. I yield back.

Mr. DESANTIS. The gentleman's time has expired.

The chair now recognizes the gentleman from Virginia for 5 minutes.

Mr. CONNOLLY. I thank the chair, and I would ask unanimous consent that my statement be entered into the record in full.

Mr. DESANTIS. Without objection.

Mr. CONNOLLY. I thank the chair.

Mr. Vitiello, in listening to this last line of questioning, gosh, I seemed to think some progress has been made, but maybe I am wrong.

How many Border Patrol agents are there now on the southern border?

Mr. VITIELLO. On the southern border, approximately 17,500 or so.

Mr. CONNOLLY. And how many would there have been 8 years ago?

Mr. VITIELLO. Eight years ago, it would have been at least half that.

Mr. CONNOLLY. Right. So we have doubled them.

And the immigration reform bill that had been worked out on a bipartisan basis in the Senate would have doubled that again. Is that correct?

Mr. VITIELLO. I believe so.

Mr. CONNOLLY. Yes. So we doubled the Border Patrol agents.

Deportations, they have fallen to record lows in that 8-year time period, Mr. Vitiello?

Mr. VITIELLO. I think that our activity overall over the last several years has seen a reduction with the buildup of resources that we've had.

Mr. CONNOLLY. No, but is it not true that in this last 8-year period, we actually had record deportations?

Mr. VITIELLO. I've seen various reports of the numbers. I think there was a time that those numbers were higher, and now have dropped off commensurate with the reductions.

Mr. CONNOLLY. Because we more effective at deterring.

At the height of deportations in the last 8 years, Ms. Acer, were they higher than in the previous 8 years?

Ms. ACER. I believe they hit around 400,000, which was an all-time high.

Mr. CONNOLLY. An all-time high. In this administration?

Ms. ACER. Yes, that is my understanding.

Mr. CONNOLLY. Right. Not hiding by executive order and so forth. Sounds good.

But actually there is another record to be told.

Going back, Mr. Vitiello, to your point about secure borders, so you mean to say it is hard to get into the United States, the bor-

ders are less porous, because the measures that were put in place, including personnel, are in fact more effective? Is that correct?

Mr. VITIELLO. We are certainly more capable than we were, as far as the number of agents, the levels of technology, the infrastructure that has now been in place, and the improvements that we made.

Mr. CONNOLLY. And all of that combined has allowed us to catch people if they try to cross the border?

Mr. VITIELLO. Well, we certainly have gotten much more capability.

Mr. CONNOLLY. So we are deterring lots of people at the border?

Mr. VITIELLO. It is hard to measure deterrence. I think we have seen, if you look back over the historic highs in the number of arrests we were making, we have seen a reduction in that. The panel has already talked about insufficient measure of apprehensions alone, but we have seen reductions in activity that are commensurate with the improvements that we have made not only in sort of the physical structures, more agents, et cetera, but in other things that we're doing, post-arrest interviews, consequence delivery, et cetera.

Mr. CONNOLLY. Mr. Mica made the point, he used El Chapo as an example, but we hear it anecdotally, people who are deported, including bad actors, gang leaders, especially from El Salvador and Honduras, who multiple times they are deported and multiple times reenter the United States. Deportation is not, for them, some sort of penultimate punishment or deterrence, for that matter.

Could you comment on that? What are we doing to try to make sure that repeat entrants, illegal entrants, are in fact permanently barred and deterred, and we are effective at it?

Mr. VITIELLO. So we do track the number of arrests people have, both for criminal violations as well as their previous immigration history. Through things like the consequence delivery system, we target people who we know are going to be repeat offenders or re-cross multiple times, and then seek with the assistance of the U.S. Department of Justice, U.S. attorney offices locally, to prosecute those folks when we find them.

Mr. CONNOLLY. Do you have a special division or a special targeting task force or a system with respect to gang activities? Certainly, in a lot of our communities, we are worried about people, bad actors, who are vicious gang members, often from Central America, and we don't want them in our communities, and we don't want them in this country, and we want them back home, although that causes problems, too, we understand.

But are you targeting that particular subgroup in this context?

Mr. VITIELLO. So in the context of consequence delivery system, anybody that is a repeat offender we seek to use the maximum effect of Federal prosecutions when they are re-encountered by our officers in the United States. And in all the cities and the towns that are represented, we work with our State, local, Federal partners in the task force environment, and some of those are specifically dedicated to gang activity.

Mr. CONNOLLY. Mr. Chairman, if I could just follow up?

Okay, that is good, but I am asking, can we target them and profile them as a likely repeat offender to reenter, and that is what we want to deter to begin with?

Mr. VITIELLO. So what we do is we aggregate the data to understand that when that person is in front of us and the agent is doing the booking procedure, when they run the fingerprints, they'll have a complete record of their previous criminal and immigration histories. And those that tip the scale, if you will, toward gang activity or known criminal offenses inside of that kind of criminal activity, then we'll work with the local U.S. attorney's office to get them prosecuted.

Mr. CONNOLLY. Thank you.

My time is up. Thank you, Mr. Chairman.

Mr. DESANTIS. The gentleman's time has expired.

The chair now recognizes the gentleman from Georgia for 5 minutes.

Mr. HICE. Thank you, Mr. Chairman.

Mr. Judd, let me kind of go a little different direction here for a moment. You have noted in the past some of the challenges of securing the border on Federal lands.

Specifically, what sort of obstacles do agents face when access is limited, say due to endangered species or wilderness designations?

Mr. JUDD. I can tell you that I started my career in El Centro, California. In El Centro, California, if an illegal alien crossed the border, I could follow that illegal alien in my vehicle until I caught him forever. It didn't matter how long. I could go forever until—I followed him.

But if you go and look at Arizona, if an illegal alien crosses the border, I have to get out of my vehicle. I have to call somebody. They have to try to get ahead of me. And there are very, very few access roads, which then puts us behind the curve. And it's very difficult to apprehend those individuals on protected lands.

Mr. HICE. Mr. Vitiello, a similar type of thought with you regarding Federal lands. You are aware of the permitting delays on Federal lands, whether it is for road maintenance or forward-operating bases or mobile surveillance systems, what have you. What is an acceptable period of time for permitting to take place for your agency before you have lost your tactical advantage?

Mr. VITIELLO. In the concept of when agents are in what we call hot pursuit, when they are actively following a trail, even in a wilderness area, they have the ability to continue on that traffic. As it relates to infrastructure and other improvements that are made in certain protected lands, we have a three-agency memorandum of understanding with the Department of Agriculture and the Department of Interior to work through things like permitting, environmental assessments, for improvements that we want to make to install surveillance equipment or access roads, et cetera.

Mr. HICE. But at some point, your intel becomes irrelevant if permitting takes so long where you can't—what kind of time frame is reasonable?

Mr. VITIELLO. As soon as we can do it, as soon as possible, is the best time frame.

Mr. HICE. Are you receiving cooperation from other agencies?

Mr. VITIELLO. The MOU provides a mechanism for us to start the conversation and then work through the expectations and milestones to get things accomplished that we need to have done.

Mr. HICE. Okay. Of course, we all know that ISIS is attempting to exploit any and all of our loopholes on our Nation's national security and, in particular, our borders, from infiltrating the refugee program, and so forth.

But when it comes to our borders, how high are the security risks? And how can we mitigate those?

I will begin, Mr. Judd, with you quickly.

Mr. JUDD. They are extremely high. The best way that we can mitigate these risks are resources in the field, giving us the resources that are necessary, so that we're not leaving areas of the border just completely unmanned.

Mr. HICE. Okay.

Mr. Ting?

Mr. TING. I think it is very much related to the volume of border crossers that have to be processed. I mean, we're all aware that there was a tremendous border surge in Fiscal Year 2014, and preliminary statistics show that the border surge in the current fiscal year, 2016, may exceed that number.

I think when you have a historic border surge, that obviously stresses whatever resources are available at the border, and it makes it more likely that security risks can take advantage of that situation and penetrate our border, simply riding the tide of the high volume of processing that has to occur.

Looking at Fiscal Year 2016, I think a lot of us think we're confronting that situation this year.

Mr. HICE. Okay, let me ask you, Mr. McCraw, how high are the security risks? And how do we mitigate it?

Mr. MCCRAW. They're substantial. Until you secure it, you can't mitigate it fully.

I know Congressman Connolly was concerned about MS-13 and other criminal aliens that come across, and how do you keep them from coming back? The only way you do it is secure it. The way you secure it is you provide Border Patrol additional agents, detection technology, aviation assets, and unity of effort, and work the type of programs that will deter criminal activity. That's the only way that you're going to be able to actually mitigate the risks.

Ms. ACER. Mr. Chairman, could I weigh in?

Mr. DESANTIS. The gentleman's time has expired.

We are going to have votes here, so I want to make sure that other members have a chance to ask their questions.

So let me recognize the gentleman from Michigan for 5 minutes.

Mr. WALBERG. Thank you, Mr. Chairman.

And thanks to the panel for being here.

Mr. Judd, a constituent of mine who is a DHS officer contacted me. He has been working on the border in California. He expressed concerns about a policy, as he puts it, with California and Mexico where individuals who cross the border illegally cannot be sent home but are processed through, and then released into the U.S. with court dates as long as 7 to 10 years down the road. Are you aware of that policy?

Mr. JUDD. Yes, I am. We dub it the catch-and-release policy. It's extremely disconcerting to all Border Patrol agencies. If you ask Border Patrol agents, they believe that it's one of those driving factors that invite individuals to try to break our —

Mr. WALBERG. Is it unique to California?

Mr. JUDD. It is not.

Mr. WALBERG. Are all the aliens who cross the border given notices to appear before the court?

Mr. JUDD. No, they're not.

Let me take that back. I'm sorry.

Not all illegal aliens that we arrest are given notices to appear. There are different factors that go into that. I would generally say that if we see somebody cross the border, that that individual would be given a notice to appear, but not all illegal aliens that we arrest are given notices to appear.

Mr. WALBERG. What is the typical time frame for court hearings?

Mr. JUDD. I don't deal with the court hearings. From what I'm hearing from high-level DHS officials, I'm hearing anywhere between 5 to 7 years.

Mr. WALBERG. Mr. Vitiello? Did I get that right?

Mr. VITIELLO. Vitiello, correct.

Yes, I've heard the same thing. It varies by city, and it varies by the capacity that the Department of Justice has to schedule and notice those hearings.

Ms. ACER. I'm sorry, can I weigh in on immigration courts, because we have been recommending—we've just issued a report on the need to adequately fund the immigration courts to bring down those backlogs and delays.

Mr. WALBERG. So your contention is it is funding?

Ms. ACER. Yes. That's actually a major need, funding for the immigration courts. Thank you.

Mr. WALBERG. Let me ask Mr. Judd, are there any efforts to keep track of the whereabouts of the individuals that are awaiting these lengthy time frame court hearings?

Mr. JUDD. Not that I'm aware of. All they need to do is provide us an address, and it can be an obscure address.

For instance, in the mid-2000s, we were arresting a large number of Brazilians in the Tucson sector. All Brazilians were giving us—a large number of these Brazilians were giving us the exact same address.

Mr. WALBERG. Large buildings.

Mr. JUDD. Exactly. And we were releasing those individuals based upon the addresses that they were giving us.

Mr. WALBERG. I assume this is frustrating to your colleagues?

Mr. JUDD. It is extremely frustrating, but what gets even more frustrating is when we have a CBP Commissioner that tells us, if we don't like it, we can go find another job. That's even more frustrating.

Mr. WALBERG. Mr. McCraw, how are the administration's efforts or enforcement priorities and release policies affecting your organization?

Mr. MCCRAW. Clearly, we're concerned. The Governor expressed his concern about the potential Syrian refugees coming to Texas.

There's no adequate way to properly vet them. That's a concern from a national security standpoint. He's made it very clear.

We're concerned that we continue to see transnational gangs, criminal aliens, cartels, cartel operatives, and drugs, heroin, marijuana, methamphetamine, and cocaine infiltrate Texas, throughout Texas, really throughout the Nation.

Those are the key concerns that we have, and some of the other related transnational crime that happens when you become a transshipment center for cartel drug and human smuggling, including home invasions, including high-speed pursuits, including stash house extortions, including kidnapping, all those things that occur and we're having to address in Texas as a result of it.

And at the end of the day, the border is not secure.

Mr. WALBERG. I would assume you have ideas on how to secure that, and even policies that could be implemented rather rapidly. If you were allowed, as a State official responsible for securing your people's safety and borders, could you do it?

Mr. MCCRAW. I could tell you that this chief right next to me could do it, if provided the appropriate resources. If Border Patrol is given the sufficient Border Patrol agents, that detection technology and the aviation assets, they could do it today. There is no doubt in my mind they can do it.

Mr. WALBERG. So this isn't a problem but for the fact you are not allowed to do what you are able to do, and I would assume, Mr. Vitiello, as well.

Mr. MCCRAW. Well, the problem is it hasn't been properly resourced over the decades. The bottom line is border security has not been a priority, not been a concern as it relates to multiple administrations.

And in today's threat environment, you can't afford not to be concerned about border security. It impacts Texas from a public safety standpoint. It impacts us from a national security standpoint, a homeland security standpoint, and not just Texas, but the rest of the Nation.

Mr. WALBERG. Thank you.

Mr. DESANTIS. The gentlemen's time has expired.

We are going to go to Ken Buck for 5 minutes.

Mr. BUCK. Mr. Judd, real quickly, 2014, as a result of the change in the President's policy on immigration, in 2014, we saw a surge of minors crossing the borders. Is that true?

Mr. JUDD. That is correct.

Mr. BUCK. Do you know the percentage of those minors that are from contiguous countries, in other words, Canada and Mexico, versus noncontiguous countries?

Mr. JUDD. Very few. The vast majority of those that are entering the country are from noncontiguous countries.

Mr. BUCK. And how are they treated differently, if a juvenile from Mexico enters the country versus a juvenile from El Salvador?

Mr. JUDD. If it's a juvenile from Mexico, they're going to be treated basically the exact same. It doesn't matter what country you're from. If you claim a credible fear, if you say that you're seeking asylum, you're going to be treated the same by the Border Patrol. How ICE treats them, I don't know. But by the Border Patrol, they're going to be treated the same.

Mr. BUCK. Okay, Mr. Vitiello, any different treatment or process that is used for contiguous versus noncontiguous individuals?

Mr. VITIELLO. So in the case of Mexico and then others from Central America, both populations would be screened to make sure that they weren't victims of human trafficking. In most cases along the border with Mexico, we can facilitate their return into Mexico with the assistance of their government.

So the logistics and turning people over to ICE or to be placed with HHS doesn't necessarily always occur with folks from Mexico because we have a friendly neighbor, and they'll facilitate bringing their citizens back, repatriating them.

Mr. BUCK. Okay, so there is a legal distinction, though, between how individuals are treated in contiguous countries versus noncontiguous?

Mr. VITIELLO. The law requires that both—all the populations are screened, so that they are not victims of human trafficking, these juveniles. So if they are from noncontiguous countries, then the law allows for us to do that screening, to do the booking procedure.

And once we recognize that they are unaccompanied children, then it's the work of DHS to transfer them to another government department, the Department of Health and Human Services, which puts them in a setting to where they can either be reunited with family in the States or cared for appropriately given their age.

Mr. BUCK. And that's individuals in noncontiguous countries.

Mr. VITIELLO. Correct.

Mr. BUCK. But many of those noncontiguous countries, you use the term "friendly" in terms of our relationship with Mexico. Many of those noncontiguous countries we have a friendly relationship with also, don't we?

Mr. VITIELLO. We do.

Mr. BUCK. If the law changed, we could arrange, in the situation where they are not victims of human smuggling or seeking asylum, we could arrange for those individuals to be returned to those countries without going through the 5- to 7-year hearing process that we now have.

Mr. VITIELLO. That would require a change in the law, as far as I know.

Mr. BUCK. Do you see any reason, any adverse effects in changing that law?

Mr. VITIELLO. I'm not sure. I mean, I guess we'd have to look at exactly what—the contours of that. Certainly, in our relationship with Mexico, this is a smaller problem.

Mr. BUCK. Ms. Acer indicated that all we need is more money. If we just printed more money, increased our national debt above the \$19 trillion, we could take care of this problem.

A much simpler solution, a much less costly and, frankly, much more humane to the individuals that are coming into this country, would be to change that law and allow those individuals to return to their homes and set a policy in this country, frankly, that doesn't attract juveniles like magnets.

I think it would be more humane, rather than putting someone in limbo for 5 years where they don't know if they are in this country or not.

I thank the chairman, and I yield back.

Mr. DESANTIS. The gentleman yields back.

The chair now recognizes the gentleman from Wisconsin for 5 minutes.

Mr. GROTHMAN. I may cover some territory you have already covered a little bit. But I want, in general, and this is a question maybe for Mr. Judd and Mr. Ting, in general, how effective do you believe the administration's commitment to border security has been? And I also want you compare it, because I am not a partisan person. I am under the impression that we were not getting a lot in the past administration either.

So I guess I would like to even change the question to say, how sincere has the commitment been both in this administration and the last administration to border security, which to me is just a basic part of being a country?

Mr. TING. Well, I was going to yield to Mr. Judd, but how serious are they about border security? I think there's a lack of concern for deterrence. I mean, I think deterrence is an important part of immigration policy. We will never have enough resources. We will never have enough Border Patrol agents on the line, if we don't deter people from attempting to violate our laws.

So I think deterrence is part of immigration policy, which has been abandoned by this administration and not been a high priority of previous administrations.

One of my colleagues said the poor people of the world may be poor but they're not stupid. They're as good at doing cost-benefit analysis to determine what's in their best interests as anyone in this room.

They can figure that out, and they are going to figure it out.

And if we don't deter people, they're going to figure out that, hey, you have a better life in the United States. Your kids go to school for free. There is better security. There are better job opportunities. You can compete with Americans for jobs in the United States.

So that fits into the cost-benefit analysis.

We can overwhelm whatever resources we are willing to put on the border by sending messages that we're willing, like Angela Merkel, willing to accept unlimited numbers of people to come and live with us in the United States.

We can do that, and it's not going to matter how much money we spend on the border and how many Border Patrol agents we put up.

Mr. GROTHMAN. Okay, so I don't mean to put words in your mouth, but it seems to me that at least under the last two administrations, maybe the past three administrations, while the average American knows we have a Border Patrol and thinks we have a Border Patrol because we want to have our immigration laws obeyed, there has not been a commitment for many years in this country by powerful people who presumably ran and said that they wanted to enforce immigration laws.

For whatever reason, past administrations of both parties don't really seem to care that much for enforcing our immigration laws. I do not know what is going on in their head, but do you think that is an accurate statement?

Mr. TING. This is the first election campaign that I can recall that immigration has been a major issue, that, historically, I think both political parties have not wanted to raise immigration because it is such an emotional and divisive issue. And really for the first time, this year, suddenly immigration has popped up as an issue.

Now maybe it is the unusual situations we've seen at the border. Certainly, it's the national security concerns that we're all feeling. But I think the American people are focused on immigration and are asking why we are having such overwhelming problems at our borders, and wanting something to be done about it.

But I think deterrence is part of it. The administration has to send a message that we're serious about enforcing our laws, and that we're going to do the best we can to enforce them efficiently. And people who are not entitled to be here ought to expect to be turned around at the border promptly, getting a prompt asylum interview on the spot, not a credible fear interview, but an asylum interview. And if they are denied asylum, they should be turned around immediately.

Mr. GROTHMAN. Mr. Judd?

Mr. JUDD. Yes, if you will, what you have to have, Mr. Grothman, Congressman Grothman, is you have to have agency officials who are going to tell you the truth—not the truth. They have to be open. They have to tell you everything.

I will tell you right now that you have a chief patrol agent right now who has been very open and has given you all candor. And I fear that because of that openness, because of that candor, our current acting chief patrol agent is not even going to be considered for the permanent chief patrol agent, because quote/unquote, "He can't be controlled."

Mr. GROTHMAN. Okay. Thank you.

Before my final 10 seconds, I want to correct Mr. Ting.

I think there are a lot of Republicans who want to enforce the border, and I think a lot of us are very concerned about what happened under President Bush and don't want another person that is anybody like Bush representing our party in the future. Thank you.

Mr. DESANTIS. The gentleman's time has expired.

I want to thank the witnesses. I think that this hearing was important in fleshing out really some problematic aspects of our national policy here. We do not have a secured border. We are inviting threats to our country. And it goes from having more resources, more physical security, but as Professor Ting said, you have to have laws that are actually enforced, and people need to see that, and that will deter a lot of people coming as well.

I will note, we are going to continue in this vein on this committee. And in particular, there was a recent report that ICE had in custody 124 different detainees who were here illegally that they later released, and that after ICE released them, they got charged with murder.

So that is the type of thing that had ICE simply done its job properly, maybe those people would not have been killed in our country. I think that is an absolute tragedy that that has happened.

With that, I will thank our witnesses again.

If there is no further business, without objection, the subcommittees stand adjourned.

[Whereupon, at 10:44 a.m., the subcommittees were adjourned.]

APPENDIX

MATERIAL SUBMITTED FOR THE HEARING RECORD

**USBP Nationwide OTM Apprehensions
FY2015 - FY2016TD through January**

Data includes Deportable Aliens Only

Data Source: EID (Unofficial) FY15 as of 10/7/15; FY16TD as of 3/3/16

Citizenship	FY2015	FY2016TD
AFGHANISTAN	5	18
ALBANIA	41	50
ALGERIA	2	
ANGOLA	1	1
ANTIGUA-BARBUDA	2	
ARGENTINA	26	6
ARMENIA	4	1
AUSTRALIA	6	2
AUSTRIA	1	
AZERBAIJAN	3	
BAHAMAS	41	19
BANGLADESH	309	163
BARBADOS	1	
BELARUS	1	1
BELGIUM	3	1
BELIZE	35	14
BHUTAN	1	
BOLIVIA	47	18
BOSNIA-HERZEGOVINA	3	
BRAZIL	1,344	838
BULGARIA	5	3
BURKINA FASO	1	2
BURMA	2	
CAMBODIA	2	2
CAMEROON	2	
CANADA	296	34
CHILE	10	6
CHINA, PEOPLES REPUBLIC OF	1,327	619
COLOMBIA	310	90
CONGO		1
COSTA RICA	95	23
CROATIA	3	
CUBA	1,153	532
CZECH REPUBLIC	1	1
CZECHOSLOVAKIA	1	
DENMARK	1	
DOMINICA	1	
DOMINICAN REPUBLIC	660	293
ECUADOR	2,593	847
EGYPT	4	1
EL SALVADOR	43,564	22,405
ERITREA	4	2
ESTONIA	1	
ETHIOPIA	3	4
FIJI	2	
FRANCE	7	4
GABON		1
GAMBIA		1
GEORGIA	10	5
GERMANY	6	5

Citizenship	FY2015	FY2016TD
GHANA	9	3
GREECE	1	
GRENADA	1	
GUATEMALA	57,160	26,152
GUYANA	7	1
HAITI	379	121
HONDURAS	33,848	15,670
HUNGARY	3	5
INDIA	2,578	1,280
INDONESIA	6	3
IRAN	10	3
IRAQ	7	2
IRELAND	2	3
ISRAEL	28	4
ITALY	11	5
IVORY COAST	1	1
JAMAICA	59	16
JAPAN	6	
JORDAN	8	3
KAZAKHSTAN	4	1
KENYA	10	3
KOREA	10	2
KOSOVO	3	6
KUWAIT	5	1
KYRGYZSTAN	3	1
LAOS	2	
LATVIA	1	1
LEBANON	4	1
LIBERIA	2	1
LITHUANIA	2	1
MACEDONIA	8	3
MALAYSIA	4	
MALI	1	2
MOLDOVA	17	2
MONGOLIA	6	
MONTENEGRO	1	1
MOROCCO	1	1
NAMIBIA	1	
NEPAL	409	105
NETHERLANDS	7	
NEW ZEALAND	3	
NICARAGUA	1,034	383
NIGERIA	29	11
PAKISTAN	57	79
PANAMA	15	3
PARAGUAY	2	2
PERU	426	160
PHILIPPINES	24	7
POLAND	15	8
PORTUGAL	5	3
ROMANIA	405	403
RUSSIA	17	5
SAUDI ARABIA	18	5
SENEGAL	5	
SERBIA	5	
SERBIA AND MONTENEGRO	1	
SIERRA LEONE	1	

Citizenship	FY2015	FY2016TD
SOMALIA	1	
SOUTH AFRICA	3	1
SOUTH KOREA	31	8
SPAIN	21	4
SRI LANKA	109	20
ST. LUCIA	4	
STATELESS	1	
SUDAN	1	
SWEDEN	1	2
SWITZERLAND	2	1
SYRIA	5	1
TAIWAN	11	
TAJIKISTAN	9	
TANZANIA	1	1
THAILAND	7	6
TRINIDAD AND TOBAGO	8	1
TUNISIA	3	2
TURKEY	42	27
TURKMENISTAN	2	
TURKS AND CAICOS ISLANDS	1	
UGANDA		1
UKRAINE	13	3
UNITED ARAB EMIRATES	1	2
UNITED KINGDOM	18	10
UNKNOWN	7	1
URUGUAY	5	1
UZBEKISTAN	8	3
VENEZUELA	28	21
VIETNAM	18	4
YEMEN	4	1
YUGOSLAVIA	1	
ZIMBABWE	2	2
Total	148,995	70,609

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Credible Fear Nationality Report
FY2016 Q1
10/01/15- 12/31/15

Nationality	Receipts
EL SALVADOR	8,205
HONDURAS	4,855
GUATEMALA	3,558
MEXICO	1,478
INDIA	800
CHINA	459
ECUADOR	387
BANGLADESH	138
NICARAGUA	131
GHANA	124
BRAZIL	117
SOMALIA	111
DOMINICAN REP	88
CAMEROON	82
PERU	78
COLOMBIA	72
NEPAL	66
ERITREA	56
PAKISTAN	55
NIGER	50
ARMENIA	47
VENEZUELA	45
SYRIA	40
ROMANIA	34
ALBANIA	31
HAITI	31
ETHIOPIA	28
DOMINICA	21
RUSSIA	21
SRI LANKA	20
GUINEA	17
EGYPT	16
UKRAINE	16
NIGERIA	12
JAMAICA	11
TURKEY	11
IRAN	10
AFGHANISTAN	9
BELIZE	9
JORDAN	9

BURKINA FASO	8
CONGO	8
COTE D' IVOIRE	7
IRAQ	7
BOLIVIA	6
BURUNDI	6
TOGO	6
ARGENTINA	5
COSTA RICA	4
GEORGIA	4
THE GAMBIA	4
UNKNOWN	4
BURMA	3
MACEDONIA	3
VIETNAM	3
ZIMBABWE	3
BENIN	2
CANADA	2
CHILE	2
DJIBOUTI	2
ISRAEL	2
KENYA	2
PARAGUAY	2
SIERRA LEONE	2
TUNISIA	2
UGANDA	2
UZBEKISTAN	2
YEMEN	2
ALGERIA	1
AUSTRALIA	1
AZERBAIJAN	1
BULGARIA	1
CHAD	1
EQUATORIAL GU	1
GERMANY	1
HONG KONG	1
INDONESIA	1
IRELAND	1
KUWAIT	1
LIBERIA	1
MALAWI	1
MAURITANIA	1
MOLDOVA	1
MONGOLIA	1
MOROCCO	1
PHILIPPINES	1
POLAND	1

RWANDA	1
SAUDI ARABIA	1
SENEGAL	1
SINGAPORE	1
SPAIN	1
STATELESS	1
SUDAN	1
TAJIKISTAN	1
URUGUAY	1
CUBA	0
GUYANA	0
KOSOVO	0
TOTAL	21,481

**Credible Fear Nationality Report
FY2015
10/01/14- 9/30/15**

Nationality	Receipts
EL SALVADOR	14,376
HONDURAS	7,590
GUATEMALA	7,253
MEXICO	7,088
INDIA	1,881
ECUADOR	1,713
CHINA	1,223
BANGLADESH	784
SOMALIA	776
NEPAL	503
NICARAGUA	501
GHANA	480
BRAZIL	320
PERU	296
COLOMBIA	239
ERITREA	212
DOMINICAN REP	194
HAITI	191
PAKISTAN	191
ROMANIA	186
ETHIOPIA	174
CAMEROON	169
NIGER	143
SRI LANKA	123
VENEZUELA	89
ARMENIA	87
DOMINICA	80
SYRIA	80
NIGERIA	77
UKRAINE	75
IRAQ	62
GUINEA	56
RUSSIA	48
TURKEY	42
ALBANIA	40
EGYPT	39
BOLIVIA	32
JAMAICA	31
SENEGAL	31
BELIZE	30

COSTA RICA	26
UNKNOWN	26
BURKINA FASO	25
IRAN	24
AFGHANISTAN	20
TOGO	19
ARGENTINA	16
GEORGIA	15
REP OF CONGO	13
LEBANON	13
THE GAMBIA	13
BURMA	11
CANADA	11
SUDAN	10
COTE D' IVORE	9
BELARUS	8
STATELESS	8
TAJIKISTAN	8
ANGOLA	7
BENIN	7
MACEDONIA	7
SIERRA LEONE	7
JORDAN	6
RWANDA	6
SPAIN	6
UZBEKISTAN	6
AUSTRALIA	5
BAHAMAS	5
BULGARIA	5
BURUNDI	5
KENYA	5
MOLDOVA	5
ZIMBABWE	5
CUBA	4
KUWAIT	4
PANAMA	4
PHILIPPINES	4
UGANDA	4
YEMEN	4
DEM REP OF CONGO	3
GUINEA-BISSAU	3
LIBERIA	3
MALI	3
MOROCCO	3
SAUDI ARABIA	3
ST. LUCIA	3
TRINIDAD AND TAB.	3

CENTRAL AFRICAN REP.	2
CHILE	2
GUYANA	2
INDONESIA	2
ISRAEL	2
KOSOVO	2
MALAYSIA	2
MONGOLIA	2
NETHERLANDS	2
SOUTH AFRICA	2
SOUTH KOREA	2
SWAZILAND	2
TUNISIA	2
VIETNAM	2
ALGERIA	1
AUSTRIA	1
AZERBAIJAN	1
BAHRAIN	1
BHUTAN	1
BOSNIA-HERZEGOV.	1
CAMBODIA	1
CHAD	1
CZECHOSLOVAKIA	1
DENMARK	1
GABON	1
GERMANY	1
ITALY	1
KAZAKHSTAN	1
KYRGYZSTAN	1
LAOS	1
MAURITANIA	1
MONTENEGRO	1
NAMIBIA	1
NORWAY	1
PARAGUAY	1
POLAND	1
TAIWAN	1
TOTAL	47,966

**Credible Fear Nationality Report
FY2014
10/01/13- 9/30/14**

Nationality	Receipts
EL SALVADOR	19,262
HONDURAS	8,254
GUATEMALA	6,732
MEXICO	4,878
ECUADOR	3,300
CHINA	1,589
INDIA	872
NICARAGUA	771
BANGLADESH	540
PERU	482
NEPAL	460
DOMINICAN REP	318
SOMALIA	294
ROMANIA	257
CAMEROON	248
ALBANIA	239
HAITI	217
COLOMBIA	181
ERITREA	159
ETHIOPIA	159
GHANA	156
BRAZIL	155
NIGER	142
UNKNOWN	124
DOMINICA	112
SRI LANKA	90
NIGERIA	83
SYRIA	78
VENEZUELA	78
EGYPT	52
PAKISTAN	44
COSTA RICA	39
IRAQ	38
TURKEY	36
ARMENIA	33
BOLIVIA	29
BELIZE	28
RUSSIA	25
GUINEA	21

RWANDA	21
UKRAINE	20
JAMAICA	17
IRAN	16
BURMA	14
AFGHANISTAN	11
SUDAN	11
CANADA	10
LEBANON	10
PHILIPPINES	10
REP OF CONGO	9
ARGENTINA	7
DEM REP CONGO	7
JORDAN	7
TOGO	7
GEORGIA	6
MOROCCO	6
UGANDA	6
ANGOLA	5
AZERBAIJAN	5
BURKINA FASO	5
CHILE	5
COTE D' IVORE	5
GUYANA	5
KENYA	5
LIBERIA	5
TUNISIA	5
BELARUS	4
BENIN	4
CHAD	4
INDONESIA	4
LIBYA	4
MOLDOVA	4
MONGOLIA	4
SAUDI ARABIA	4
SIERRA LEONE	4
STATELESS	4
AUSTRALIA	3
BAHAMAS	3
BULGARIA	3
ITALY	3
PARAGUAY	3
SENEGAL	3
SOUTH AFRICA	3
SOUTH KOREA	3
SPAIN	3
THE GAMBIA	3

UNITED KINGDOM	3
URUGUAY	3
VIETNAM	3
YEMEN	3
ZIMBABWE	3
FRANCE	2
MACEDONIA	2
MALI	2
OMAN	2
POLAND	2
TRINIDAD AND TAB.	2
UZBEKISTAN	2
ALGERIA	1
BELGIUM	1
BURUNDI	1
CAMBODIA	1
CENTRAL AFRICAN REP	1
CUBA	1
GUINEA-BISSAU	1
IRELAND	1
ISRAEL	1
KAZAKHSTAN	1
KOSOVO	1
LITHUANIA	1
MALAYSIA	1
MAURITANIA	1
MAURITIUS	1
NETHERLANDS	1
NORTH KOREA	1
PANAMA	1
SAMOA	1
SINGAPORE	1
SWAZILAND	1
TAIWAN	1
TAJKISTAN	1
THAILAND	1
USSR	1
YUGOSLAVIA	1
ZAMBIA	1
TOTAL	50,941

Source: USCIS Asylum Pre-Screening System, APCNAT02 report

Credible Fear Cases	FY-07	FY-08	FY-09	FY-10	FY-11	FY-12	FY-13	FY-14	FY-15	FY-16 Q1
Subject to Expedited Removal	111,448	118,457	111,394	120,075	123,180	183,691	241,442	240,908	unavailable	unavailable
Referrals from CBP or ICE	5,252	4,995	5,369	8,959	11,217	13,880	36,035	51,001	48,052	21,492
Completed	5,286	4,828	5,222	8,777	11,529	13,579	36,174	48,637	48,415	21,675
CF Found	3,182	3,097	3,411	6,293	9,423	10,838	30,393	35,456	33,988	16,845
CF Not Found	1,062	816	1,004	1,404	1,054	1,187	2,587	8,977	8,097	2,574
Closed	1,042	915	807	1,080	1,052	1,554	3,194	4,204	6,330	2,256
Of cases decided on the merits, % where CF was found	74.98%	79.15%	77.26%	81.76%	89.94%	90.13%	92.16%	79.80%	80.76%	86.74%
Of all referred cases, % where CF was found	60.20%	64.15%	65.32%	71.70%	81.73%	79.81%	84.34%	72.90%	70.20%	77.72%

Source: USCIS Asylum Division, Asylum Pre-Screening System (APSS)

Affirmative Asylum Cases	FY-07	FY-08	FY-09	FY-10	FY-11	FY-12	FY-13	FY-14	FY-15	FY-16 Q1
Applications Filed	33,348	30,385	27,043	29,972	36,460	43,312	45,392	57,853	84,236	26,289
Applications Received	25,674	25,505	24,553	28,444	35,067	41,883	44,446	56,912	83,254	26,068
Applications Re-opened	7,674	4,880	2,490	1,528	1,393	1,429	946	941	982	18
Cases Completed	59,534	45,459	32,698	29,580	33,500	36,958	28,381	28,972	37,324	7,024
Approved	10,191	9,796	9,614	9,174	10,700	12,991	10,981	10,811	14,344	2,513
Denied	3,996	4,188	1,992	958	1,064	922	766	582	365	40
Referred (Interviewed)	22,712	17,374	15,291	15,784	17,305	17,948	12,308	12,034	17,106	3,242
Referred (Un-interviewed)	4,535	3,227	1,721	1,871	2,807	3,714	3,293	3,506	2,380	496
Administratively Closed	18,100	10,780	3,900	1,677	1,529	1,318	1,001	2,008	3,107	421
Approval Rate	28%	31%	36%	35%	37%	41%	46%	46%	45%	43%

Source: USCIS Asylum Division, Refugees, Asylum and Parole System (RAPPS)

Wednesday, March 23, 2016
9 a.m. – 2154 Rayburn

Statement of Ranking Member Gerald E. Connolly (VA-11th)

**Joint hearing of the Oversight Subcommittees on National Security and Government Operations:
“National Security, Threats at Our Borders”**

Mr. Chairman, I want to step back for a moment here at the outset to address what has become a disturbing undercurrent with respect to the national debate about immigration. Later today, I will be traveling to a naturalization ceremony in my district, where 453 new Americans representing 79 countries will be taking their oath of U.S. citizenship. They will join generations of immigrants stretching back to the founding of our nation with the first settlement in the Commonwealth of Virginia at Jamestown in 1607. Like those first settlers, these individuals have come to America in search of better opportunities for themselves and their families.

Perhaps the excitement surrounding this day will help mask the tragic irony that as they are reciting their oath to support and defend the Constitution, the frontrunners for the Republican Presidential nomination are actually talking about eroding the very rights conferred to them under the Constitution. The Republican candidates have talked of not only rounding up illegal immigrants for mass deportation but also of shutting the door to an entire class of immigrants based solely on their religion. Their religion, Mr. Chairman. I can recall my Catholic grandmother retelling stories of the discrimination and hardships she and our family endured from growing up in a Protestant community in Northern Ireland. Now, here I am, the third generation of my family in America, serving in Congress. Just think of the possibilities awaiting these new Americans here in my district and those of my colleagues.

How have we fallen so far from the principles the Founders set forth? The very title of today's hearing, “Threats at Our Borders,” is part of the problem. Are there enforcement challenges that must be addressed? Yes, absolutely, and that is a legitimate scope of oversight for this Committee. However, immigrants do not pose some shadowy threat to America. In fact, it's just the opposite.

We are, after all, a nation of immigrants, and America, as it's been said before, truly has become the land of opportunity. In my Northern Virginia district, we have vibrant immigrant communities from across the globe, yet we share a common bond and commitment to our community and to one another. More than one-in-four residents are foreign born. More than 100 languages are spoken in our schools. We are home to more minority-owned technology companies than anywhere else in the nation. That success is directly linked to our embracing the rich tapestry of immigrant cultures and making them part of the fabric of our community. We have built a tremendous quality of life that has made ours one of the most sought after communities in which to live, work, and raise a family.

Yet some on the other side would have you believe that immigration has weakened America, that immigration is somehow the source of people's frustration about jobs being lost to technology and automation or the root of people's fears about change. The fear mongering and demagoguery in our politics right now is sadly reminiscent of some of the most painful chapters of the 20th century that we should hope to, and strive to, never repeat.

I find it a bit odd that we're having this hearing just two days after the House adopted, through an overwhelming bipartisan vote, legislation that will accelerate the transfer of technology and best

practices to our international partners to improve the screening of travelers bound for the U.S. or other destinations. This will help our foreign partners improve their own border security standards and also help crack down on the flow of foreign fighters and terrorists, such as those seeking to further fuel the conflict in Syria.

Of course, the Counterterrorism Screening and Assistance Act builds on recent bipartisan action taken by Congress in the wake of the horrific attacks in San Bernardino, California, Paris, France, and now in Brussels, Belgium. The Visa Waiver Program Improvement and Terrorist Travel Prevention Act, which passed as part of the omnibus spending bill for fiscal year 2016, enhances information-sharing requirements to better assess traveler risk. It requires travelers to use an E-passport with technology that stores prior travel information, a digital photograph, along with biographic and biometric information. That bill also tightens the eligibility restrictions for the Visa Waiver Program. For example, it prohibits participation in the waiver program by anyone who has traveled to Syria, Iraq, Iran, Sudan, and other designated areas of concern within the past five years and dual nationals of those countries. Such individuals may still apply to travel through the normal visa process and would be subject to even more rigorous screening.

Mr. Chairman, when we have candidates for the highest office in the land talking about “taking our country back,” I have to ask, “from whom?” We’re all Americans; we’re all in this together. Yes, we have different philosophies, different values, different experiences, but they are not to be despised or demonized. We need to respect each other even if we don’t agree, yet, sadly the current debate is creating a breakdown in our polity. We must remember that each new wave of immigrants revitalizes the American spirit, making it and us stronger as a nation. These are our neighbors, our doctors, our teachers, our first responders, our community leaders, and they are striving each day, just like you and me, to provide for their families, to protect our freedoms, and to promote a better life here for all Americans.

