

UNITED STATES DEPARTMENT OF
HOMELAND SECURITY

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HOUSE OF REPRESENTATIVES
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UNITED STATES DEPARTMENT OF HOMELAND SECURITY

TUESDAY, JULY 14, 2015

HOUSE OF REPRESENTATIVES
COMMITTEE ON THE JUDICIARY
Washington, DC.

The Committee met, pursuant to call, at 10:20 a.m., in room 2141, Rayburn House Office Building, the Honorable Bob Goodlatte (Chairman of the Committee) presiding.

Present: Representatives Goodlatte, Smith, Chabot, Forbes, King, Franks, Gohmert, Jordan, Poe, Marino, Gowdy, Labrador, Farenthold, Holding, DeSantis, Buck, Ratcliffe, Trott, Bishop, Conyers, Nadler, Lofgren, Jackson Lee, Cohen, Johnson, Chu, Deutch, Gutierrez, Jeffries and Peters.

Staff Present: (Majority) Shelley Husband, Chief of Staff & General Counsel; Branden Ritchie, Deputy Chief of Staff & Chief Counsel; Allison Halataei, Parliamentarian and General Counsel; George Fishman, Chief Counsel, Subcommittee on Immigration and Border Security; Andrea Loving, Counsel, Subcommittee on Immigration and Border Security; Kelsey Williams, Clerk; (Minority) Perry Apfelbaum, Staff Director & Chief Counsel; Danielle Brown, Parliamentarian and Chief Legislative Counsel; Aaron Hiller, Chief Oversight Counsel; Tom Jawetz, Chief Counsel, Subcommittee on Immigration and Border Security; Maunica Sthanki, Counsel; and Veronica Eligan, Professional Staff Member.

Mr. GOODLATTE. Good morning. The Judiciary Committee will come to order, and without objection, the Chair is authorized to declare recesses of the Committee at any time.

We welcome everyone to this morning's hearing on Oversight of the United States Department of Homeland Security. In a moment, I will begin by recognizing myself for an opening statement, and then I will recognize Mr. Conyers, when he arrives. I do want to advise everyone, as the Secretary is already aware, many Members on the Democratic side are meeting with former Secretary Clinton, and when they arrive, we will recognize Mr. Conyers for his opening statement, but we are going to proceed, because we appreciate the Secretary's time as well.

Good morning to everyone, and I want to extend our welcome to Secretary Johnson for testifying before us today for the second time. When Secretary Johnson testified last year, I stated that he was not responsible for the dangerous and irresponsible decisions made by DHS before he was sworn in. I stated that we could only

hope that he would bring back a level of adult responsibility to the enforcement of our immigration laws.

Unfortunately, since that hearing, and under Secretary Johnson's leadership, the deterioration of immigration enforcement has accelerated. DHS, under the Obama administration, has taken unprecedented steps in order to shut down the enforcement of the immigration laws for millions of unlawful and criminal aliens not considered high enough priorities. This is done under the guise of prosecutorial discretion.

Unfortunately, new priorities issued by Secretary Johnson last November have turned the flight from enforcement into a headlong rush. Although DHS previously deemed fugitive aliens to be a priority for removal, Secretary Johnson's guidelines, these aliens are no longer a priority if they were issued a removal order before January 1, 2014.

This means that DHS is disregarding removal orders that have already been issued and wasting the millions of taxpayer dollars spent to obtain the orders.

Although DHS claims that gang members are a top priority for removal, gang members are most often convicted under State, not Federal law, and State convictions for gang-related activity are ignored under Secretary Johnson's priorities.

Secretary Johnson considers that secondary as priorities for removal of aliens convicted of significant misdemeanors, such as domestic violence, sexual abuse, or exploitation, burglary, unlawful possession of a firearm, drug trafficking, or drunk driving. Yet, even this priority falls away if the aliens simply show factors warranting relief.

Despite DHS' pledge to prioritize the removal of serious criminal aliens, in the last year, the number of administrative arrests of criminal aliens has fallen by a third, and the Department continues to release thousands of such aliens onto our streets.

U.S. Immigration and Custom Enforcement has admitted to releasing 30,558 aliens with criminal convictions in 2014. Last Friday, we received data from DHS regarding the recidivist activity of these criminal aliens ICE released in 2014. 1,423 have already been convicted of new crimes like vehicular homicide, domestic violence, sexual assault, DUI, burglary, and assault, among many others.

Because of the failure of this and previous Administrations to detain criminal aliens and the failure to vigorously pursue fugitives, there are almost 180,000 convicted criminal aliens currently in removal proceedings who are living in our neighborhoods, and almost 170,000 convicted criminal aliens who have been ordered removed yet are also living free.

Under the Obama administration, the total number of such convicted criminal aliens who are not being detained has jumped 28 percent since 2012, as shown by this chart. The tragic impact of the Department of Homeland Security's reckless policies on the safety of Americans was made all too apparent in recent weeks. A convicted criminal alien, who had been deported numerous times, killed an innocent American woman on a popular pier in San Francisco.

ICE had recently issued a detainer for the alien, which San Francisco, a sanctuary city, simply ignored and proceeded to release him. Unfortunately, DHS openly advertises that jurisdictions can ignore its detainers.

While testifying this March, ICE Director Saldaña expressed her enthusiastic support for mandatory detainers. Then, the very next day, she retracted that statement made under oath and called mandatory detainers highly counterproductive.

There are now more than 200 jurisdictions, including San Francisco, which refuse to honor ICE detainers. This effectively releases criminal aliens onto the streets with all too tragic results.

Secretary Johnson's solution, the Priorities Enforcement Program, is a failure. Politely asking for cooperation from sanctuary cities is a fool's errand. The clear answer to this problem is for DHS to mandate compliance with detainers and for this Administration to defend the mandatory nature of detainers in Federal court.

Unfortunately, the Administration has taken neither of these crucial steps to keep our communities safe. Prior to Secretary Johnson's appointment, DHS, under the Obama administration, went beyond simple nonenforcement and took the leap of granting administrative amnesty to a class of hundreds of thousands of unlawful aliens. Then, last November, Secretary Johnson announced that DHS would grant such deferred action to over 4 million more unlawful aliens. By granting these classes of people deferred action, he would bestow benefits such as legal presence, work authorization, and access to the Social Security trust fund, and the earned income tax credit.

It is within the constitutional authority of Congress, not the Administration, to grant such benefits to classes of unlawful aliens. Twenty-six States believe that Secretary Johnson's planned grant of deferred action en masse would cause them irreparable harm. They challenged the plan in Federal court. The judge agreed with the States and has granted a temporary injunction.

The court stated that the Administration is not just rewriting the laws. It is creating them from scratch. An appeals court has rejected the Administration's request of a stay of that injunction. While the continuing injunction against unconstitutional affirmative grant of deferred action is a welcome development for the health of our Constitution, the court was clear that it was not interfering in any way with Secretary Johnson's nonenforcement of our immigration laws.

The American people have rightly lost all confidence in this Administration's willingness to enforce our current immigration laws. This has become the single biggest impediment to Congress' ability to fix our broken immigration system. I look forward to testimony of Secretary Johnson.

And now it is my pleasure to recognize the Ranking Member of the Committee, the gentleman from Michigan, Mr. Conyers, for his opening statement.

Mr. CONYERS. Thank you, Mr. Chairman, Members of the Committee, and our distinguished witness, Secretary Jeh Johnson. When you last testified before this Committee, I said that given his distinguished record of public service, I could think of no person

better equipped to lead the Department of Homeland Security, and to carry out the President's directive that we carry out our immigration policies in the most humane way possible.

Much has happened in the past year, and I am pleased to say that I stand by my initial assessment, which is not to say, Mr. Secretary, that there is not still a great amount of work to do.

In your written testimony, you speak in great detail about your efforts to counter the global terrorist threat, which has become decentralized, more diffuse, and more complex. I agree that ISIL and al-Qaeda have moved to a new phase of the conflict, recruiting, at risk, individuals hoping to inspire attacks in the West. The Department rightly combats this threat with a combination of heightened security measures and community outreach.

But I wonder if the Department has also taken note of a recent study by New America which demonstrates that since September 11, 2001, nearly twice as many people have been killed by White supremacists, antigovernment fanatics, and other non-Muslim extremists than by radical Muslims?

Another study released last month by the Police Executive Research Forum shows that State and local law enforcement agencies feel far more threatened by right wing and antigovernment terrorism as they are about ISIL-inspired attacks. And I hope that you will provide us with some assurance today that our priorities are in order and that the Department focuses on homegrown extremism with the same forcefulness it has shown in countering threats from abroad.

The immigration actions you initiated last November through a series of memoranda should make our immigration enforcement system smarter, more efficient, and ultimately more humane. Carrying out these reforms clearly has not been easy, but meaningful reforms rarely are. Your job has been made harder by the refusal of conservative leadership in the House to allow a vote on the immigration reform bill that passed the United States Senate 2 years ago with 68 votes.

It has been made harder by their refusal to consider the bipartisan House bill, H.R. 15, which had 201 cosponsors in the last Congress, and is made harder by the barrage of litigation that you had to fight off as you have attempted to implement common sense and entirely lawful immigration reform.

At the end of the day, it only makes sense that people who commit serious crimes and pose a danger to the public should be our highest priorities. Those with strong ties to this country, the spouses of citizens and permanent residents, the parents of citizens and dreamers, and those who have worked productively in the United States for many years should not be. Who could disagree with that?

We are already seeing a positive impact from the reforms that have been implemented, and I thank you for your tenacity. Certainly, we may disagree about the implementation of some of the enforcement reforms, and that is something that we will monitor, but I believe we are heading in the right direction.

One area that is particularly in need of urgent reforms involves the detention of mothers and children in secure jail-like facilities. You recently acknowledged that substantial changes must be made

to the current policy of detaining thousands of these families, some for many months, and some for longer than a year. We are monitoring these changes because we know from experts that family detention is causing real lasting damage to these children.

We look forward to continuing to work with you to ensure that all aspects of the Department of Homeland Security operate in a way that reflects our American values and continue to honor the contribution of immigrants to our great Nation.

One final note. The Chairman spoke about the tragic death of Katie Steinle, an innocent young woman who was walking with her father on a San Francisco pier. Our hearts go out to her family. But as we think about the proper way to respond to the situation, we must make sure we do not adapt policies that would diminish public safety and undermine our commitment to the Constitution and civil liberties.

And so I ask, Mr. Chair, unanimous consent to enter into the record yesterday's New York Times editorial entitled, "Lost in the Immigration Frenzy." I thank you and I look forward to hearing the testimony of our witness, and I yield back the balance of my time.

Mr. GOODLATTE. The Chair thanks the gentleman, and without objection, the editorial will be made a part of the record.

[The information referred to follows:]

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The Opinion Pages | EDITORIAL

Lost in the Immigration Frenzy

By THE EDITORIAL BOARD JULY 13, 2015

Kathryn Steinle was killed on a pier in San Francisco on July 1, allegedly by a troubled immigrant who had a stolen gun and a long criminal history and had been deported five times. The shooting was inexplicable, yet Ms. Steinle's family and friends have been shunning talk of politics and vengeance, while expressing the hope that some good might emerge from this tragedy.

The shooting has turned the usual American tensions over immigration into a frenzy. The accused, Juan Francisco Lopez-Sanchez, has become the dark-skinned face of the Mexican killers that Donald Trump — in a racist speech announcing his presidential campaign, and numerous interviews thereafter — has been warning the nation about.

Others in the race and in Congress have eagerly joined him in exploiting the crime, proposing bills to punish “sanctuary cities,” like San Francisco, that discourage local involvement in immigration enforcement, and to force them to cooperate with the federal government in an ever-wider, harsher deportation dragnet.

Mr. Lopez-Sanchez was a repeat illegal border-crosser with a drug record, but he somehow ended up back on the street. His case led to epic rounds of blame-shifting last week, as the various government agencies that had Mr. Lopez-Sanchez in their custody at some point — like the San Francisco sheriff's office and Immigration and Customs Enforcement — tried to explain why this wasn't their fault. Right-wing commenters and politicians, shamelessly willing to scapegoat 11 million unauthorized immigrants as a criminal class and national-security threat, were pointing fingers at anyone and everyone, from President Obama on down.

Lost in the screaming were the sound reasons that cities and localities shun the role of immigration enforcers. They are balancing public safety with a respect for civil rights and the Constitution. San Francisco had received an ICE request, called a detainer, to hold Mr. Lopez-Sanchez, but detainees are unconstitutional; a person can't be held without charge just for ICE's convenience. Turning the local police and sheriff's deputies into de facto ICE agents heightens fear and distrust in immigrant communities, which makes fighting crime harder.

Lost, too, is the truth that immigrants are by no definition a population of criminals. A report published last week by the American Immigration Council found that immigrants — whether legal or unauthorized, and no matter their country of origin or education level — are less likely to be criminals than native-born Americans, that periods of high immigration correspond with lower crime rates, and that this has been true in this country as long as this issue has been studied.

Separating real threats from the harmless, productive majority of immigrants has long been a challenge. For years the Obama administration made the problem worse through a misguided program of local-level immigration policing called Secure Communities. It became a dragnet, shredding trust between residents and the local police in immigrant communities. Over time, hundreds of jurisdictions refused to participate.

The Homeland Security secretary, Jeh Johnson, last fall announced his plan to replace Secure Communities with a new Priority Enforcement Program, which would only seek custody of immigrants convicted of certain serious crimes, and only by asking the local authorities to notify ICE about their imminent release. If the program had been in place in San Francisco earlier in the year, a phone call might have kept Mr. Lopez-Sanchez off the streets.

The Priority Enforcement Program needs to work with cities and law-enforcement agencies across the board — to reassure those that are rightly wary of ICE and to restrain those that are only too eager to overreach and abuse their power. But with strong protections against racial profiling, it could strike the balance. “It’s irresponsible,” Mr. Johnson told The Times, “not to have some sort of program or protocol by which we work with local sheriffs and police chiefs to transfer dangerous criminals who are undocumented to us.”

A version of this editorial appears in print on July 13, 2015, on page A18 of the New York edition with the headline: Lost in the Immigration Frenzy.

Mr. CONYERS. Thank you, sir.

Mr. GOODLATTE. Without objection, all other Members' opening statements will be made a part of the record as well, and we will, again, welcome our distinguished witness. And Secretary Johnson, if you would please rise, I'll begin by swearing you in.

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

Secretary JOHNSON. I do.

Mr. GOODLATTE. Thank you very much. Let the record reflect that the witness responded in the affirmative, and we'll proceed to the introduction.

Jeh Charles Johnson was sworn in on December 23, 2013, as the fourth Secretary of Homeland Security. Prior to joining DHS, Secretary Johnson served as general counsel for the Department of Defense, where he was part of the senior management team and led more than 10,000 military and civilian lawyers across the Department.

Secretary Johnson was general counsel of the Department of Air Force from 1998 to 2001, and he served as Assistant U.S. Attorney for the Southern District of New York from 1989 to 1991.

In private law practice, Secretary Johnson was a partner in the New York City based law firm Paul, Weiss, Rifkind, Wharton & Garrison. Secretary Johnson graduated from Morehouse College in 1979 and received his law degree from Columbia Law School in 1982.

Mr. Secretary, your entire written statement will be entered into the record, and we ask that you summarize your testimony in 5 minutes or less, and we welcome you again.

**TESTIMONY OF THE HONORABLE JEH CHARLES JOHNSON,
SECRETARY OF HOMELAND SECURITY**

Secretary JOHNSON. Thank you, Chairman. I can do that. You have my prepared testimony, as you noted. Chairman Goodlatte, Congressman Conyers, Members of this Committee, it's a pleasure to see you again.

Chairman, last time I was here, I noted, or you noted that 38 years ago, I was an intern for Congressman Hamilton Fish, who was a Member of this Committee. I recall, after talking to some of the congressional interns who were here, 38 years ago very vividly, Congressman Fish sent me to a hearing of the Senate Judiciary Subcommittee on the Constitution over on the Senate side 38 years ago this month. I remember it like it was yesterday. The witness was talking about the abolition of the electoral college, and in the middle of his testimony, he had a massive heart attack and dropped dead. I hope not to make such news today.

Mr. GOODLATTE. We hope and pray not either.

Secretary JOHNSON. In all seriousness, as you know, Chairman, the Department has many missions. We have 22 components, 225,000 people. We are focused on a number of things. My top priority for 2015 has been management reform, ensuring that our Department functions most effectively and efficiently for the American people.

I am pleased that we have filled almost all the vacancies that existed in my Department when I came in 18 months ago, most recently with the Senate confirmation of our now TSA administrator, Vice Admiral Pete Neffenger. We are doing a number of other things to reform and make more efficient how we conduct our business. We are focused on aviation security; of course, we are focused on counterterrorism, which, in my view, remains the cornerstone of our Department's mission.

We're focused on cybersecurity. I refer the Members to an op-ed that I submitted, which appears today in Politico on Federal cybersecurity and how I think we need to improve our mission there and the things we are doing in DHS to improve our Federal civilian.gov network

On immigration. Respectfully, it is a fiction to say we are not enforcing the law. Apprehensions are down. They are down considerably from where they were a year ago, but there are still apprehensions daily, in particular, on the southern border. I am pleased that the spike we saw last summer on the southern border has not returned, and apprehensions, which are an indicator of total attempts to cross the border, are down considerably. If the current pace continues, apprehensions will be at the lowest since some time in the 1970's.

In terms of enforcement and removal. Without a doubt, the new policy that I announced and am directing prioritizes threats to public safety and border security. Without a doubt, we are moving increasingly in the direction of deporting criminals, absolutely, and I stand by that because I believe it is good for public safety.

I am pleased that of those in immigration detention now, 96 percent are in my top two priorities for removal. Seventy-six percent are in my top priority for removal, that is, those apprehended at the border, convicted felons. That is the direction we are moving in with the resources we have. I believe we need to continue to focus our resources on criminals, on threats to public safety, on border security.

Part of that is fixing our relationship with State and local law enforcement. The Secure Communities Program had become legally and politically controversial to the point where something like 300 jurisdictions had enacted or imposed limitations on their law enforcement's ability to cooperate with our immigration enforcement personnel. That needed to be fixed because it was inhibiting our ability to get at the criminals.

And so what the President and I did was to replace the Secure Communities Program with the new Priority Enforcement Program, which I believe resolves the legal and political controversy, and we are actively reaching out to State and local law enforcement and jurisdictions to introduce the program and encourage them to work with us. Of the 49 biggest, I am pleased to report that some 33 have indicated an agreement and a willingness to work with us. Only five of those 49 have said no, so far, but we are going to go back to them. This is a work in progress.

The County of Los Angeles is a big one that has agreed to work with us in the new program, to more effectively get at threats to public safety. That is the direction, I believe, we should go in for the sake of public safety, homeland security, and border security.

As the Chairman referenced, our deferred action program for adults is pending right now in litigation. The district court issued an injunction. That matter is on appeal right now. Oral argument on the appeal was last Friday. We await the decision.

And Chairman, Congressmen, I look forward to your questions. Thank you.

[The prepared statement of Secretary Johnson follows:]



Statement

by

Secretary of Homeland Security Jeh Charles Johnson

**United States House of Representatives
Committee on the Judiciary**

July 14, 2015

Chairman Goodlatte, Ranking Member Conyers, and distinguished members of the Committee, thank you for the opportunity to be here. I will devote this prepared statement to (i) counterterrorism, (ii) aviation security, (iii) federal .gov cybersecurity and (iv) immigration/border security, all matters I know this Committee is interested in. At the hearing, I will be pleased to take questions on these and other homeland security topics.

COUNTERTERRORISM

Counterterrorism remains the cornerstone of our homeland security mission. It's still a dangerous world. In 2015, the global terrorist threat has evolved to a new phase. Today, the terrorist threat is more decentralized, more diffuse, and more complex.

We are concerned about the foreign fighter who leaves his home country, travels to another country to take up the fight there, links up with terrorist extremists, and may return home with a terrorist purpose – whether it's to this country or elsewhere.

We are concerned about terrorist organizations' adaptive and skilled use of the Internet to publicly recruit individuals to conduct attacks within their own homelands. Al Qaeda in the Arabian Peninsula no longer hides its intent to build bombs; it publicizes its instruction manual, and urges people to use it.

We are concerned about the domestic-based terrorist threat that may lurk in our midst – the “lone wolf” – who may become inspired by violent extremist propaganda on the Internet, and who could strike with little or no notice.

In late October, following the attacks in Ottawa and in reaction to terrorist groups' public calls for attacks on government installations in the West, I directed the Federal Protective Service to enhance its presence and security at various United States Government buildings in Washington, DC and other major cities and locations around the country.

We are taking action with our international partners to prevent the travel of foreign terrorist fighters.

In May, I represented the United States at an unprecedented interior ministry session of the United Nations Security Council to discuss the problem of foreign fighters. We discussed the progress of implementing UN Security Council Resolution 2178, which underscores the need for member states to prevent travel of foreign terrorist fighters. At this session of the UN, I encouraged implementation of UNSCR 2178, whether through

information sharing, cooperative application of DHS border security expertise, or bilateral security programs.

We are also making security enhancements to the Visa Waiver Program. This Program, by which we do not require travelers from 38 countries to not obtain a visa, is a good program that should be continued. But, in 2014 DHS strengthened the security of the Program by adding additional data elements to the Electronic System for Travel Authorization application. We are now preparing additional measures that will achieve our goals of even better security for the United States and increased security partnerships with Visa Waiver Program countries as we maintain the economic benefits of the Program.

Given the new reality of the global terrorist threat – which involves the potential for small-scale homegrown attacks by those who could strike with little or no notice -- we are working in closer collaboration with state and local law enforcement. As often as several times a week, DHS and the FBI share terrorist threat information and intelligence with Joint Terrorism Task Forces, state fusion centers, local police chiefs and sheriffs.

We have also enhanced our information sharing with businesses and critical infrastructure. Our DHS office of Infrastructure Protection, together with the FBI and the National Counterterrorism Center, are engaged in a multi-city campaign with commercial businesses to review and enhance their security plans.

Given the evolving nature of the homegrown terrorist threat, I and other government officials have engaged in community outreach to counter violent extremism here at home. In my view, this is indispensable to our homeland security efforts. We must reach communities that they themselves have the ability to reach those individuals who may succumb to the slick internet appeal of ISIL and turn to violence. In 2014, DHS held over 70 meetings, roundtables and other events in 14 cities. I personally participate in these efforts. Since becoming Secretary I have met with community leaders in Chicago, Columbus, Minneapolis, Los Angeles, Boston, New York City, Houston, Maryland and northern Virginia.

The new reality is that our homeland security efforts must involve public vigilance and engagement. At the Super Bowl earlier this year, we refashioned our "If You See Something Say Something" campaign with a new look. This is more than slogan.

AVIATION SECURITY

Much of our homeland security/counterterrorism efforts continue to center around aviation security.

Last summer, DHS started requiring enhanced screening at select overseas airports with direct flights to the United States. The United Kingdom and other countries followed suit with similar enhancements, and the European Union passed legislation for both near and long-term enhancements to cabin baggage screening requirements.

Earlier this year I asked the Aviation Security Advisory Committee to review and make recommendations to address concerns about whether aviation workers with airport identification badges could bypass security and smuggle weapons or explosives into an operation area or even onto an aircraft. This issue was raised by an incident last December at Hartsfield-Jackson Atlanta International Airport. In April, in response to the ASAC's report, I directed the TSA to take several immediate actions, including "real-time recurrent" criminal history background checks, reducing the number of access points to secured areas, and encouraging airport workers to report suspicious activity.

I have also prioritized the expansion of preclearance operations at foreign airports with flights to the United States. Preclearance allows Customs and Border Protection officials overseas, to screen passengers bound for the United States, at the front end of the flight, protecting the plane, its passengers, and our country. We now have 15 preclearance sites overseas, in 6 different countries, operated by more than 600 law enforcement offices and agriculture specialists. The most recent preclearance operation was set up early last year in Abu Dhabi. Since that time, in Abu Dhabi alone, we have already screened more than 500,000 passengers and crew bound for the United States, and have denied boarding to 785 individuals, including a number who were found in the terrorist screening database. We are now seeking to enter into negotiations to expand preclearance operations to ten new foreign airports. I view preclearance as an important piece of our aviation security and our counterterrorism mission.

A little over a month ago the preliminary results of an Inspector General's test of TSA's screening at airports leaked to the press. The IG's tests were fairly discreet -- just 70 tests across eight airports. But, the results were completely unsatisfactory. In response, I immediately directed, and TSA has undertaken, a 10-point plan to address the concerns raised. Many of these measures have already been completed and others are underway.

I am very pleased that, on June 22, the Senate confirmed retiring Coast Guard Vice Admiral Pete Neffenger to be the next TSA Administrator. Pete has now taken office. He will be a strong, effective and innovative leader of TSA.

CYBERSECURITY

Cybersecurity is a top priority for me, the President, and this Administration.

To be frank, our federal .gov cybersecurity, in particular, is not where it needs to be. In the case of the breach of the Office of Personnel Management, a large amount of highly personal and sensitive information was taken by a very sophisticated actor. In response, on June 12 the White House announced the establishment of a Cybersecurity Sprint Team, comprised of OMB, the NSC, DHS DoD, and other personnel from across the government to conduct a 30-day review of the Federal government's cybersecurity policies, procedures and practices.

This response is part of a much broader federal cybersecurity effort that has been underway for some time. There is a great deal that has been done and is being done now to secure our networks. We do in fact block a large number of intrusions and exfiltrations, including those by state actors.

But, there is more to do, by the Administration and by Congress.

The Department of Homeland Security's National Cybersecurity and Communications Integration Center, or "NCCIC," is the U.S. government's 24/7 hub for cybersecurity information sharing, incident response, and coordination. Thirteen U.S. departments and agencies, and 16 private sector entities have regular, dedicated liaisons at the NCCIC, while over 100 private sector entities collaborate and share information with the NCCIC on a routine basis.

The NCCIC shares information on cyber threats and incidents, and provides on-site assistance to victims of cyberattacks. In this fiscal year alone, the NCCIC has shared over 6,000 bulletins, alerts, and warnings, and responded on-site to 32 incidents – over double the number of on-site responses for the entire prior year.

The NCCIC is also the place where we manage the EINSTEIN system. EINSTEIN is the first basic layer of protection we provide at the network perimeter of each federal civilian department and agency. EINSTEIN consists of three programs:

EINSTEIN 1 observes and records basic information about all activity entering and exiting an agency network. EINSTEIN 2 detects known, prohibited adversaries that have entered or exited the fence, and alerts us to them. Today, EINSTEIN 1 and 2 protect all federal civilian traffic routed through a secured gateway to the Internet.

Then there is EINSTEIN 3 Accelerated, also known as "E3A." E3A has the capacity to both identify and block known malicious traffic. E3A was first deployed in 2013. By December 2014, E3A protected 237,414 federal personnel. Today, E3A protects over 931,000 federal personnel, or approximately 45% of the federal civilian government. I have directed that DHS make E3A fully available to all federal departments and agencies, and have challenged us to make aspects of E3A available to all federal civilian departments and agencies by the end of 2015.

E3A has demonstrated its value. Since its introduction, E3A has blocked over 550,000 requests to access potentially malicious websites. Importantly, EINSTEIN 3A is also a platform for future technologies and capabilities to do more. This includes technology that will automatically identify suspicious Internet traffic for further inspection, even if, as was the case with the OPM breach, we did not already know about the particular cybersecurity threat.

As an additional line of defense, DHS helps federal agencies identify and fix problems in near-real-time using Continuous Diagnostics and Mitigation programs – or “CDM.” Once fully deployed, CDM will monitor agency networks internally for vulnerabilities that could be exploited by bad actors that have breached the perimeter. To date we have made the first phase of CDM available to eight agencies, covering over 50% of the federal civilian government. I have directed, and we expect, that DHS make the first phase of CDM tools available to 97% of the federal civilian government by the end of this Fiscal Year. I have already requested authorization from Congress to reprogram additional funding to speed up CDM Phase 2.

The NCCIC also provides on-site assistance to federal agencies, as well as to private companies operating critical infrastructure. We, in effect, make house calls. When an incident like the OPM breach occurs, the NCCIC helps the victim organization find the adversary, drive them out, and restore service.

By the authority given to me by Congress in the Federal Information Security Modernization Act of 2014, I can now, as Secretary of Homeland Security, issue Binding Operational Directives to federal departments and agencies. A Binding Operational Directive is a direction to agencies to mitigate a risk to their information systems. I issued the first Binding Operational Directive on May 21 of this year. In response, departments and agencies responded quickly, and have already reduced critical vulnerabilities covered by the Binding Operational Directive by more than 60%.

Information sharing is also fundamental to achieving our mission. To that end, we are supporting the development of Information Sharing and Analysis Organizations, as called for in the President’s Executive Order 13691 issued on February 13, 2015. Next month, we will select the organization that will develop best practices for these ISAOs.

I have also directed an aggressive schedule for deployment of next-generation information sharing techniques by the NCCIC. DHS itself now has a system to automate our sharing of cyber threat indicators, and we are working to extend this capability across the federal government and to the private sector, so we can send and receive this information in near-real-time. We are working closely with other agencies of our government to stand up the Cyber Threat Intelligence Integration Center, or “CTIIC.”

This new center will help us better understand the various threats and provide more actionable and timely intelligence to the NCCIC to share with our private sector partners.

There is more Congress can do. We believe there should be three basic things in any cyber legislation:

First, Congress should expressly authorize the EINSTEIN program. This would eliminate any remaining legal obstacles to its deployment across the federal government. The House has passed H.R. 1731, which accomplishes this, by ensuring agencies understand they are legally permitted to disclose network traffic to DHS for narrowly tailored purposes.

Second, we must incentivize the private sector to share cyber threat indicators with the federal government through the NCCIC in a manner that provides protection from civil and criminal liability for private entities that share threat indicators, and protects privacy.

Third, we need a national data breach reporting system, in lieu of the existing patchwork of state laws on the subject, and enhanced criminal penalties for cybercrime.

We cannot detect and stop every single intrusion. That is not news. So often, the most sophisticated actors penetrate the gate because they know they can count on a single user letting his guard down to an act of spearphishing. But, we have increased, and will continue to increase, the instances in which attempted intrusions are either stopped at the gate, or rooted out from inside the system before they cause damage.

IMMIGRATION

Border security

Over the last 15 years, while other government agencies have faced cutbacks and limits in these times of fiscal constraint, our national leaders in Congress and the Executive Branch have chosen to build our U.S. Border Patrol to an unprecedented level in resources. Today's Border Patrol is itself one of the largest agencies of our government, with a budget of \$3.5 billion, a total of 22,000 personnel, including 20,499 border patrol agents, and the largest-ever level of technology and equipment. Today the Border Patrol has the largest deployment of people, vehicles, aircraft, boats and equipment along the southwest border in its 90-year history.

And, this Nation's long term investment in border security has produced significant, positive results over the years.

Unlawful migration into this country peaked in the year 2000, reflected by over 1.6 million apprehensions that year. In fact, unlawful migration into this country has dropped considerably since then, reflected by the decline in total apprehensions from 1.6 million in 2000 to around 400,000 a year in recent years. Last fiscal year the number of apprehensions on the southwest border was 479,371.

The slight increase in fiscal year 2014 was due mostly to the unprecedented spike in unlawful migration into the Rio Grande Valley sector of the border, in South Texas. Almost all of it came from Guatemala, Honduras and El Salvador. It consisted of large numbers of unaccompanied children and adults with children. In fact, more than 53% of all apprehensions across the southwest border in FY 2014 were in the Rio Grande Valley sector.

We responded with a surge of resources and personnel, and beginning in mid-June 2014, the number of illegal migrants crossing into south Texas dropped sharply.

So far this year we have not seen a return of the spike from last year, or anything close to it. In Fiscal Year 2014, through the month of June, apprehensions on our southern border were at 381,459. Through the month of June this fiscal year, total apprehensions on our southern border are at 242,435 – a 36% decrease. If this pace continues – and I’m not saying it will necessarily -- through the last third of this fiscal year, the total will be the lowest since the 1970s. Apprehensions of unaccompanied children across the southwest are down significantly as well. During the first nine months of Fiscal Year 2015, apprehensions of unaccompanied children along the southwest border were 26,685, a 54% decrease when compared to the same period during last year’s surge.

The bottom line of all this is, it’s now much harder to cross our border illegally and evade capture than it used to be – and people know that.

Though the numbers have in fact declined dramatically, we are not – repeat not -- declaring mission accomplished. The poverty and violence that are the “push factors” in Honduras, Guatemala and El Salvador still exist. The economy in this country – a “pull factor” -- is getting stronger.

The President and I are committed to building an even more secure border, and a smart strategy to get there.

Our Fiscal Year 2016 budget proposal includes a \$373 million request for improved border technology and infrastructure, to include more remote video surveillance capability, sensors, night vision detection devices, wireless sensor data link systems, re-locatable towers, and replacement fence.

Our executive actions also strengthen border security. As part of the executive actions, we have prioritized the removal of anyone who came to this country illegally after January 1, 2014.

We have created the Southern Border and Approaches Campaign. To promote border security, this Campaign will, for the first time, put to use in a combined and strategic way, the assets and personnel of Customs and Border Protection, Immigrations and Customs Enforcement, Citizenship and Immigration Services, the Coast Guard, and other resources of the Department when necessary. We are discarding the stove pipes.

Finally, we must address underlying “push” factors from Central America. President Obama has requested \$1 billion for aid to Central America, to address the underlying causes of illegal migration in El Salvador, Guatemala, and Honduras. This would be a sound investment, and we seek your support for it. Last year, the United States spent over \$1.5 billion managing the migrant surge then. In Fiscal Year 2014, DHS alone spent over \$500 million processing unaccompanied children and family units immediately following their detention at the border. It is a far better investment to help Central America create jobs, push back against violent crime, and help address the conditions in Central America that prompt desperate families to send their children to the United States.

Family detention

Let me say something additional about immigration detention – specifically, family residential centers. Last summer a large part of the spike we saw consisted of unaccompanied children. By law, DHS transferred those children to the Department of Health and Human Services, which was then required to promptly place them in a setting that is in the best interests of the child. Another large part of the spike was adults who brought their children with them.

Prior to last year, out of 34,000 beds for immigration detention in all of DHS, we had only 95 beds for adults with children, as they waited for resolution of their immigration cases. We needed to build more, and we did.

I understand the sensitive and unique nature of detaining families, and we are committed to continually evaluating this. I and other DHS officials have conducted numerous visits to family residential centers. I personally visited the Karnes, Texas facility on June 15, 2015.

We are making substantial changes in our detention practices with respect to families with children. In short, once a member of a family has established a credible fear or reasonable fear of persecution or torture, long-term detention is an inefficient use of our resources and should be discontinued.

More specifically:

First, we are reviewing the cases of any families detained beyond 90 days to evaluate whether detention during the pendency of their immigration case is still appropriate.

Second, we have discontinued invoking general deterrence as a factor in custody determinations in all cases involving families.

Third, we are undertaking additional measures to ensure access to counsel, attorney-client meeting rooms, social workers, educational services, comprehensive medical care, and continuous monitoring of the overall conditions at these centers.

Fourth, we are appointing a Federal Advisory Committee of outside experts to assist us in identifying family residential center areas for improvement.

On June 24, I adopted a plan to offer release with an appropriate monetary bond or other condition of release to families at residential centers who are successful in stating a case of credible or reasonable fear of persecution in their home countries.

Additionally, I am directing that USCIS conduct credible fear and reasonable fear interviews within a reasonable timeframe. During that time, we will have the opportunity to confirm accurate address and sponsor information so that ICE can more effectively monitor and ensure compliance with immigration obligations.

Finally, ICE has been rapidly ramping up its use of Alternatives to Detention (ATDs), expanding program capacity from approximately 23,000 individuals in 2014 to a planned 53,000 in 2016. ICE has enrolled thousands of family members apprehended since last year's surge in the ATD program, and plans to expand the use of ATDs to facilitate release of individuals from Family Residential Centers if appropriate.

Our executive actions

There were ten executive actions the President and I announced last November to fix our broken immigration system. While two of them are the subject of litigation, the other eight of them are well underway. Overall, these actions are devoted to strengthening border security, prioritizing the deportation of dangerous criminals, promoting and increasing access to citizenship, supporting high-skilled businesses and workers, and a number of other things to reform our immigration system.

As part of our executive actions we are also promoting and increasing access to U.S. citizenship. We are working to permit payment of the application fee by credit card.

We will also launch a multi-lingual citizenship awareness program, to encourage those who are eligible for citizenship to apply. The first phase is moving forward in July and the second phase will launch in September. The President's Task Force on New Americans, which USCIS Director Leon Rodriguez co-chairs, is hard at work implementing its strategic action plan.

As part of our executive actions, we are working quickly and aggressively to implement reforms to strengthen the program that provides Optional Practical Training for students in the STEM fields who are studying at U.S. universities. We finalized and have begun implementing a new policy that allows certain spouses of high-skilled workers on the path to a green card to apply for work authorization.

As part of our executive actions, we have published draft guidance on the L-1B program that allows specialized foreign employees to work temporarily at an American office of a multinational company. This guidance will be implemented in August.

We are creating a single career path for our immigration enforcement personnel.

As part of our executive actions we have issued new enforcement priorities. This is clearer and sharper guidance to the field, stating that we must prioritize the use of our immigration enforcement resources on the removal of those who are dangerous criminals, national security threats, and recent border crossings, rather than on those who have been here for years, have committed no serious crimes, and have, in effect, become integrated members of our society.

Consistent with these new priorities, Immigration and Customs Enforcement has begun a new push in the interior of this country to search for and apprehend undocumented immigrants who have been convicted of serious crimes, through "Operation Cross Check" and other initiatives. Currently, 96% of all those detained by ICE and the Border Patrol fit within the top two out of the three enforcement priorities; 76% of those currently detained by ICE and the Border Patrol are in the top priority – convicted felons, those convicted of an offense that involves participation in a criminal street gang, those apprehended at the border while attempting to cross illegally, and anyone suspected of terrorism or espionage, or who otherwise poses a danger to national security.

We have ended the controversial Secure Communities program, and are replacing it with a new Priority Enforcement Program. Secure Communities was a program by which our immigration personnel lodged orders known as "detainers" to hold individuals in local jails, so that they could be handed directly over to federal authorities for immigration enforcement purposes after their time in police custody. But, Secure Communities became embroiled in political and legal controversy. A rapidly expanding list of city, county and state governments – depending on how you count, about 200 --

enacted laws, ordinances, executive orders and policies that limit or outright prohibit their cooperation with federal immigration enforcement personnel. The results of this have, regrettably, led to a number of instances – some notorious on national level -- in which dangerous undocumented criminals were released to the streets to commit further crime.

We acted to stop this program, and the growing resistance to it. Our new Priority Enforcement Program is a balanced, common-sense approach to help us achieve this goal. We are now reaching out to governors, mayors and local communities to seek cooperation with us in the new program. In engaging a number of state and local jurisdictions, we are seeing good progress. Our overarching goal is to enforce our immigration laws in a way that promotes public safety, national security and border security.

Finally, we must reckon with the estimated 11.3 million undocumented immigrants who are here in this country. More than half have been here over 10 years. Many have spouses and/or children who are United States citizens or legal permanent residents. We must reckon with these people.

These people are here, they live among us, and they are not going away. They are not going to “self-deport.” No administration is going to deport this large a population of people. We simply do not have the resources to do that.

In 2012, we created the Deferred Action for Childhood Arrivals program. As part of this program, to date, 670,000 people have come forward, submitted to a background check, and got on the books to become accountable and pay taxes. This is not citizenship, it’s not lawful permanent residence, and it is not amnesty. It is simply a determination by the government to defer deportation for a period of two years, and an authorization to work during that same period.

President Obama and I want to go further, and extend eligibility for deferred action to parents who are not removal priorities, have kids who are citizens or lawful permanent residents, and have been here five years or more.

Although these programs have been temporarily enjoined and are currently on appeal, we continue to believe we have the legal authority to do this. This was one of the executive actions we announced in November. A federal district court in Texas disagreed, and temporarily enjoined this new deferred action program, along with an expansion of the deferred action for childhood arrivals program we announced at the same time. That case is on appeal, and we will continue to fight to defend it. I believe we will prevail, as deferred action is a tool that has been in use by Republican and Democratic Administrations for decades.

To those in Congress who say we do not have the authority to issue deferred action without a change in law, I say change the law.

From the perspective of homeland security and law enforcement, we should encourage people who have lived here for years, and are not going anywhere, to come out of the shadows and get on the books. We want to know who these people are, and we want to encourage them to report crime. We want these people to work on, not off, the books, and pay taxes.

I submit it's also the right thing to do. In the United States, do we say to a class of people who have lived here for years and are not going away: we know you are here, your family is here, but you are destined to live in this country as a second-class person? Or do we give them an opportunity to earn a better place?

Moving forward, I remain firmly committed to enforcing our immigration laws effectively and sensibly, in line with our Nation's values, and in a manner that promotes national security, border security and public safety.

I look forward to your questions.

Mr. GOODLATTE. Thank you, Mr. Secretary, and I'll recognize myself.

You claim to prioritize immigration enforcement against criminal aliens, and the number of available immigration detention beds you utilize continues to fall. Thirty-four thousand are authorized. Only 24,000 to 26,000 are being utilized.

So can you explain to me the continued increase in the number of convicted criminal aliens in removal proceedings who have already been ordered removed who are not being detained by DHS? The number of these convicted criminal aliens allowed on our streets has gone up by 28 percent in less than 3 years. And again, I'll direct your attention to the chart over there. From 270,000 to almost 350,000, these people are out on the streets, and many, many of them are committing new crimes.

And I would very much like you to explain how this priority system is working when you're not fully utilizing it, not removing 350,000 people who have been ordered removed, and not even using the capabilities that the Congress is paying for.

Secretary JOHNSON. Well, last time I looked, the number of those detained in immigration detention has been going up. Last time I checked, it was up to around 31,000. That's a day-to-day report I get, and the last time I checked, it was up to around 31,000. That is less than the full capacity that Congress has given us of some 34,000, to be sure, but it is moving in the direction of—

Mr. GOODLATTE. Given that there is 350,000 on the street, should we be providing you with additional capacity, or when are you going to get to the 34,000?

Secretary JOHNSON. Well, like I said, it's trending in that direction. We have, as you know, established greater capability to detain those who bring their children with them, and I have issued policies to reform those practices because of the special considerations that go into dealing with children, but we have increased the capacity. It is going up, and one of the reasons I think it's lower than 34,000 is, frankly, the apprehension rates are lower, and because of the problem we had with Secure Communities, which was inhibiting our ability to conduct interior enforcement. Some—

Mr. GOODLATTE. Let me ask you about that. Why do you think that cooperation with ICE and their detainer should be voluntary?

Secretary JOHNSON. Well, if I could just finish my sentence.

Mr. GOODLATTE. Sure.

Secretary JOHNSON. Some 12,000 detainees last year were not acted upon by State and local jurisdictions. I do not believe that we should mandate the conduct of State and local law enforcement through Federal legislation. I believe that the most effective way to work with jurisdictions, particularly the larger ones, is through a cooperative effort, and I believe State and local law enforcement believes that as well, through a cooperative effort with a program that removes the legal and political controversy. One of the problems we have—

Mr. GOODLATTE. Let me ask you about that. Isn't it true that some of the worst offending jurisdictions have declined to even participate in your New Priority Enforcement Program?

Secretary JOHNSON. I would disagree with that, sir.

Mr. GOODLATTE. It's my understanding that five Priority A jurisdictions, the highest priority have said, outright, no.

Secretary JOHNSON. And as I indicated a moment ago, 33 have indicated a willingness to participate in one way or another. Of the 49 top, 11 are still considering it, and we've contacted literally hundreds. But the 49 I'd mentioned are the 49 top priorities because they are the largest jurisdictions, and the overwhelming number have indicated a willingness to work with us.

Mr. GOODLATTE. Of the 276 so-called sanctuary cities where they have publicly taken a position to not cooperate with ICE, last year, some 8,000 criminal aliens were released by those communities onto the streets of their communities and of this country. And in the short time since those 8,000 were released, they have already committed nearly 1,900 new crimes. Why wouldn't it be a priority to do everything possible to mandate, influence, whatever the case might be, for them to honor ICE detainers rather than to see this occur?

Now, I have to say, the Department is not operating with clean hands when they go to these communities and say don't release 8,000, because the Department released 30,000 last year under their own procedures. And again, that helped to contribute to this growing list now of nearly 350,000 individuals who are either under a deportation order or have deportation proceedings pending who have been released by ICE or by others and are out on our streets.

Secretary JOHNSON. Well, if you're asking me should we reduce or eliminate the criminals who are undocumented who were released by sanctuary cities—

Mr. GOODLATTE. And by the Department.

Secretary JOHNSON. I agree that we should work to reduce that number, absolutely. I agree with the spirit of your question.

Mr. GOODLATTE. But the trend is going the wrong way.

Secretary JOHNSON. I disagree that through Federal legislation we should mandate how State and local law enforcement relates to us. I don't think that that's going to solve the controversy in the courts. And in terms of the 30,000, as you know, Chairman, I have issued—

Mr. GOODLATTE. How about incentivizing them?

Secretary JOHNSON. As you know, Chairman, I have issued new guidelines to deal with releases of those who have been convicted of something from immigration detention to tighten up on it, higher level approval authority, and that we should no longer release somebody for budgetary or reasons of lack of space. We will find the space if there is somebody that we think should be detained and we can detain them consistent with the law. That has been my directive. I want to see that number go down, too.

Mr. GOODLATTE. Thank you. The gentleman from Michigan is recognized.

Mr. CONYERS. Thank you, Mr. Chairman, and welcome, Mr. Johnson. We are very pleased to have you here. And I was just looking over your article in the newspapers today about cybersecurity, and you say "Often, sophisticated actors penetrate the gate because they know they can count on a single user letting

his guard down, but we've increased and will continue to increase, with Congress' help, to do much more."

Do you have an additional comment about that? I'm going to put this in the record.

Secretary JOHNSON. Yes, Congressman. I have been struck by the fact that very often, the most sophisticated far-reaching attacks, whether in the private sector or in the government, by the most sophisticated actors often starts with a simple act of spear phishing, someone opened an email that they shouldn't have, and so a large part of our efforts have to be education of our workforce about not opening suspicious emails, emails they don't recognize

Mr. CONYERS. Thank you. On immigration enforcement priorities. Over the past 6½ years, this Administration has set many new immigration enforcement records. Over the first 6 years, the number of people removed was so much greater than it had been under past Administrations, but the President was famously described as the deporter in chief. The Washington Post recently reported that your Department is now on pace to remove fewer people in the current fiscal year than in the past fiscal years. Can you explain why the removal numbers went down in this past year?

Secretary JOHNSON. Well, as I mentioned, Congressman, I'd like to see us move in the direction of focusing on threats to public safety, and that's what we're doing. While the overall number of deportations has been going down, an increasing percentage of those we detain, and hopefully those we ultimately remove are convicted criminals, recent border arrivals illegally, and threats to public safety. That is the direction that I believe we need to go in.

Mr. CONYERS. Good. Let me ask you about the decision to replace Secure Communities with Priority Enforcement Program. I understand the Secure Communities, the fingerprints of every person arrested and booked for a crime by local law enforcement are checked not only by the FBI, but also against Department of Homeland Security immigration records. Will that interoperability still be present under the Priority Enforcement Program?

Secretary JOHNSON. Yes.

Mr. CONYERS. Excellent. Now the Montgomery County chief of police recently said his office notifies ICE when serious criminals are set to be released, and ICE is always able to get there on the day of release to assume custody. Would you say ICE will generally take appropriate action when notified about the release of a serious criminal?

Secretary JOHNSON. We will generally take appropriate action to avoid the release of a serious criminal, absolutely, yes

Mr. CONYERS. Very, very good. And finally, can you comment on this shooting of Kate Steinle in California. In general, how do you respond to people who say that our southwest border is not secure? How secure is our southwest border compared to other times in our history?

Secretary JOHNSON. Over the last 15 years in the Clinton, Bush, and Obama administrations, we—and I include in the statement, we, the Congress as well—have made historic investments in border security. For example, 15 years ago, there was only 70 miles of fence on the southwest border. Now there is 700 miles of fence. We are up to 18,000 and change in terms of border patrol per-

sonnel on the southwest border, and I believe that is reflected in the numbers.

In the year 2000, apprehensions on the southern border were 1.6 million. In recent years, they are down around 400,000. This year, I suspect, will be somewhere in the 300,000's, even lower. That is due, in very large part, to the investments we have made in border security with this Congress, and I want to continue that progress through investments in technology, surveillance equipment, and so forth.

In terms of the San Francisco case, Kate Steinle, and I hope I pronounced her last name correctly. It's a tragedy.

Mr. CONYERS. Thank you. Just finally, I understand that Mr. Lopez-Sanchez has returned to the country multiple times after being deported, but in most instances, hasn't he been apprehended right away? Can you give us a little illumination on that subject?

Secretary JOHNSON. My understanding is that he was deported five times and returned five times and he was prosecuted for unlawful reentry three times, and served fairly significant jail sentences.

Mr. CONYERS. Uh-huh.

Secretary JOHNSON. He was in BOP custody serving his last sentence. We put a detainer on him. Then he was transferred to the San Francisco sheriff. We put another detainer on him, and he was released. My hope is that jurisdictions like San Francisco, San Francisco County will cooperate with our new program.

I was pleased that Senator Feinstein wrote the mayor and asked that San Francisco participate. As the sheriff himself has acknowledged, I personally met with the sheriff in April to ask for his participation in the PEP program, along with other San Francisco area sheriffs in the month of April.

And so as I said, I'm making the rounds with a lot of jurisdictions. My Deputy Secretary and I and other leaders in DHS have been very, very active for the purpose of promoting public safety to get jurisdictions to cooperate with us on this.

Mr. CONYERS. Thank you, Mr. Secretary. Thank you, Mr. Chairman.

Mr. GOODLATTE. Thank you. The Chair now recognizes the gentleman from South Carolina, Mr. Gowdy, the Chairman of the Immigration and Border Security Subcommittee for 5 minutes.

Mr. GOWDY. Thank you, Mr. Chairman. I also want to thank the gentleman from Texas for letting me go in his spot.

Mr. Secretary, I've been on this Committee for almost 5 years now, and I have listened as witnesses primarily called by our colleagues on the other side of the aisle have repeated with almost catatonic frequency, certain phrases, phrases like "citizenship for 11 million aspiring Americans," as if 11 million of any category could all pass a background check. Phrases like "functional control of the border," phrases as benign sounding as "sanctuary cities," and I've listened pretty carefully, Mr. Secretary, as I've heard argument after argument after argument made against empowering State and local law enforcement to actually enforce immigration laws. Have you had a chance to look at the criminal history of Mr. Lopez-Sanchez?

Secretary JOHNSON. I believe I have, yes.

Mr. GOWDY. It dates back to 1991. The criminal conduct occurred in five separate States. He's committed local, State, and Federal crimes. He was and is, by any definition, a career criminal. He violated at least three separate statutes when he simply picked up the gun before he shot and killed an innocent woman walking with her father.

So, to me, Mr. Secretary, he is exhibit A that we must not have functional control over the border or he wouldn't have reentered so many times. And he is, I'm assuming, not able to pass anyone's background check. I would hope that somebody with his criminal history couldn't even pass our friend in the Senate's comprehensive immigration reform background check.

Now, I want us to look at a legal issue in a second, Mr. Secretary, but I want to read a quote to you, and I want to ask you if you know who said it. "I want people who are living in the country undocumented to come forward, to get on the books and subject themselves to a background check so I can know who they are and whether it's the current DACA program or a path to citizenship, whether it's deferred action or earned path to citizenship. From a Homeland Security perspective, I want people to come forward." Do you know who said that?

Secretary JOHNSON. Well, I don't know if I said it or not, but that is consistent with my own sentiment, so I could have said that.

Mr. GOWDY. You did say that. Now, I want you to tell me what in defendant Lopez-Sanchez's background leads you to believe that he would, to use your words, come forward?

Secretary JOHNSON. Well, clearly he is not the type of person that would ever qualify for any sort of deferred action.

Mr. GOWDY. I know that. Nor is he the type of person that would come forward, Mr. Secretary. So my point is, my point is when you have a—

Secretary JOHNSON. May I finish my sentence, sir?

Mr. GOWDY. Sir?

Secretary JOHNSON. May I be allowed to speak?

Mr. GOWDY. You are welcome to answer the question that was asked, yes.

Secretary JOHNSON. Well, give me a chance, please. He is not any kind of person who would qualify for any type of version of deferred action in my book or earned path to citizenship. He is a criminal, a dangerous criminal multiple times over.

When we talk about encouraging people to come forward, what we're talking about are people who we hope will report crime, who will participate in American society fully. Obviously somebody like this is not coming forward. That case is a tragedy.

Mr. GOWDY. No, he is not coming forward, Mr. Secretary. I'll let you answer the question, Mr. Secretary, but I'm not going to let you run out the clock.

You're right, he's not coming forward, and he doesn't need to get on the books because he's already been on the books. In fact, better that being on the books, Mr. Secretary, he was in Federal prison. So I want to know why was somebody in Federal prison with a Federal detainer on him released to a sanctuary city?

Secretary JOHNSON. You'd have to ask the Bureau of Prisons.

Mr. GOWDY. Have you asked the Bureau of Prisons?

Secretary JOHNSON. We've had detainer on him, both when he was in BOP custody and when he was in the custody of San Francisco.

Mr. GOWDY. I know you did. My question to you is——

Secretary JOHNSON. I'm quite sure that there are a lot of questions being asked right now. In my book, he is exhibit A for why jurisdictions need to work with our Priority Enforcement Program. Secure Communities was not working. There were over 12,000 detainees of mine that were not acted upon——

Mr. GOWDY. Well, then why don't you make them mandatory, Mr. Secretary?

Secretary JOHNSON [continuing]. Because the program was not working.

Mr. GOWDY. Why don't you make the detainers mandatory? If cities like San Francisco are not complying with Federal detainers, why don't you make them mandatory?

Secretary JOHNSON. I think that would be a huge setback in our ability to work with State and local law enforcement, and I suspect they would agree as well.

Mr. GOWDY. Well, I do not agree, and I'll tell you why I don't agree, Mr. Secretary. What I find ironic is you are not willing to mandate Federal detainers, but you are willing to mandate that State and local law enforcement cannot assist you in enforcing immigration laws. I mean, help me understand that. You can empower a city like San Francisco to ignore Federal law, but you won't empower State and local law enforcement to actually enforce immigration laws. Help me reconcile that.

Secretary JOHNSON. Can I speak?

Mr. GOWDY. Yes, sir. You can have the rest of the time.

Secretary JOHNSON. Thank you. Thank you for giving me 7 seconds.

Mr. GOWDY. No, you take all the time you want to answer the question because I think it's important.

Secretary JOHNSON. I'm sure you're aware of this. The Secure Communities Program was hugely problematic in the courts. The courts were saying that State and local law enforcement does not have the authority under the due process clause of the Constitution to hold people until we could come and get them. Last time I looked at the Federal legislation, you cannot rewrite the due process clause of the Constitution, so that is a problem.

I do not believe that mandating through Federal legislation, the conduct of sheriffs and police chiefs is the way to go. I think it will be hugely controversial. I think it will have problems with the Constitution. I want to see us work cooperatively with State and local law enforcement, and I believe that they are poised to do that.

Mr. GOWDY. Well, my time is up, Mr. Secretary. The last time I looked, we had a supremacy clause, and Federal law trumps State laws, so God knows it trumps the law in San Francisco. And when I hear the phrase "sanctuary city," as benign sounding as it is, it may have been a sanctuary for that defendant, but it sure as hell was not a sanctuary for a young woman walking with her father.

So at a minimum, change the name of whatever benign sounding program cities like San Francisco want to follow, and the money

ought to be caught, and I would hope that you would insist that Federal detainees be honored and not be discretionary, and with that, I would yield back to the Chairman.

Mr. GOODLATTE. The Chair thanks the gentleman and recognizes the gentleman from New York, Mr. Nadler, for 5 minutes.

Mr. NADLER. Mr. Chairman, first I want to welcome Secretary Johnson, and as the former Chairman of the Constitution Subcommittee, I would like to remind Mr. Gowdy that the supremacy clause does not trump the Fourth Amendment, and that the Federal courts have held detainees unconstitutional as violations of the Fourth Amendment. So when Secretary Johnson said there were troubles in the courts, there were, indeed, troubles in the courts, and I want to commend the Administration for trying to follow a policy that is not unconstitutional and illegal on its face as the prior policy was.

Now, Secretary Johnson, I have heard significant concerns about mistaken, even fraudulent issuance—I realize this is off the one topic we're supposed to talk about, of O-1B and O-2 visas to aliens coming to the U.S. to work in the motion picture industry. Movie and TV production jobs provide the livelihood for a great many New Yorkers, so I take very seriously allegations that CIS is improperly allowing unqualified aliens to fill those jobs.

I would like your agency to take a serious look at these assertions or allegations. Would you commit to working with me on this issue?

Secretary JOHNSON. Yes.

Mr. NADLER. Thank you. On an allied topic, we have been asked, and I've looked at it sympathetically, frankly, to increase the number of H-1B visas. And, in fact, we voted out of this Committee an increase of 50,000 H-1B visas, which most of us on our side of the aisle voted against only because of the provision to eliminate an equivalent number of diversity visas, but the assertion that we need more H-1B visas because we have to bring engineers and others to this country to fill positions that we can't fill here, we've heard that repeatedly.

And yet we see the recent stories about the Disney Company and others laying off hundreds of their own American employees who were then forced to train foreigners who came here on H-1B visas to replace them. Now, if that is true, that is a very serious failing of the H-1B program, and it being used to displace American workers rather than to supply people for slots that American workers can't fill.

Is the Department looking into that, as to how that program is being abused, and can it be fixed properly?

Secretary JOHNSON. Through the H-1B program, those who hold visas are not supposed to replace Americans with the jobs, as you know, as you pointed out.

Any such allegations are very troubling to me. I believe that such matters should be investigated. I also believe that Congress can help in this regard. I think that Congress can help through increased enforcement mechanisms for situations where an employer does, in fact, replace American workers with H-1B holders. That is a recommendation that has been made to me, and I support that.

Mr. NADLER. Thank you. Mr. Secretary, the United States has a longstanding commitment to refugee protection. We pride ourselves in our open and welcoming refugee and asylum laws. I understand that these laws need to be balanced with legitimate border security initiatives, obviously, but I'm concerned that in our quest to expedite the removal of individuals from our country, we may be deporting those with serious persecution claims.

Recently, DHS instituted a pilot program expediting the deportation of Central Americans beyond the normal expedited removal process. These detainees are apprehended by CBP and then detained by ICE away from the general population. They are not given any "know your rights" presentations or access to attorneys, and are deported in a matter of days.

Advocates on the ground are being told that these detainees are being held at facilities, particularly in the Port Isabel Detention Centers and other facilities in South Texas. I'm also concerned that we may have transferred our burden of border security to the Mexican Government, and that they are summarily deporting Central American refugees without offering them any protection under international law.

Under U.S. pressure, Mexico has more than doubled its detention of deportation of Central American children, families, and adults over the last year without commensurate resources into identifying and offering protection to legitimate refugees. I find these practices troubling, given that there are several news reports about the horrific violence in the region, especially against women and girls, an article stating that Central Americans are being killed upon their deportation to Mexico and the United States.

I would like to enter some of these into the record, Mr. Chairman.

Mr. GOODLATTE. If the gentleman will at some point designate which one, we'll put them in the record.

Mr. NADLER. I will indeed. Law enforcement involves enforcing those laws that provide protection from persecution, too, and we have an obligation to make sure that we don't undermine that at our borders or at our friends' borders.

What is the Administration doing to ensure that Central Americans' refugees' international protection claims are being honored by both our government, and, that is to say, that they have an adequate opportunity make their claims with proper legal assistance, and by the government of Mexico?

Secretary JOHNSON. Well, a couple of things there, Congressman. First, we have prioritized, among our CIS personnel, interviews of people on the border, particularly from Central America who may have a reasonable fear claim and a credible fear claim.

In the most recent guidance I issued, I directed that these interviews be conducted in a reasonable period of time as quickly as possible. My hope is that we can get those done, on average, around 14 days after apprehension, so that's one thing when it comes to refugees.

The other thing that we have begun, which I'd like to see more use of is in-country processing in Central America. Advice we got last summer when we were dealing with the spike there is we need to offer people a lawful safe path to the United States. And so we

set up in-country processing, the ability to interview kids in the three Central American countries who have parents who are lawfully here to see if they would qualify for refugee status.

Frankly, not enough people have taken advantage of the program. It's in the low thousands. I would like to see more use that method versus trying to make the journey through Mexico, which is very dangerous and crossing our border illegally. And so we are encouraging people to make use of that program in Central America, and I want to see us publicize it, put emphasis on it because it is the lawful safe path to come to the United States.

Mr. NADLER. My time is expired. I yield back. Thank you.

Mr. GOODLATTE. The Chair thanks the gentleman, and recognize the gentleman from Ohio, Mr. Chabot, for 5 minutes.

Mr. CHABOT. Thank you, Mr. Chairman. I preface my questions with just a comment. And that's, we mentioned the Secure Communities Program several times this morning, Mr. Secretary, and I would just note that the Administration never went to court to defend the Secure Communities Program when the issue was before the courts. But let me turn to my questions.

First of all, what is the Administration's position on sanctuary cities?

Secretary JOHNSON. I'd like to see—

Mr. CHABOT. Does it have one?

Secretary JOHNSON. Well, yes, in the sense that I want to reduce, if not eliminate, the jurisdictions that don't want to cooperate with us and—

Mr. CHABOT. But as far as the existence of actual cities, has the Administration actually come out and either condemn them on the one hand, or condone them on the other hand?

Secretary JOHNSON. Well, whatever label you put on it, there are a whole lot of jurisdictions, something like 300 that—

Mr. CHABOT. What's the definition of a sanctuary city?

Secretary JOHNSON [continuing]. Do not cooperate with our immigration enforcement personnel.

Mr. CHABOT. What's your operating definition of a sanctuary city?

Secretary JOHNSON. There are so many around. I just know that there are 300—something like 300 jurisdictions that have enacted ordinances, executive orders, acting pursuant to State law that will not cooperate with us because of the controversy around the Secure Communities Program.

Mr. CHABOT. So, in essence, these communities are refusing to cooperate with the Federal Government in the enforcement of the Federal immigration laws. Would that be a fair representation?

Secretary JOHNSON. To one degree or another.

Mr. CHABOT. To one degree or another. Okay. Thank you. And one of the things that's so annoying, so aggravating, so frustrating to a lot of us, and a lot of people that bring this whole topic up with me is the fact that this Administration seems to be anxious to aggressively pursue communities, States, that are enforcing the immigration laws. Arizona is an example, and all the way to the U.S. Supreme Court on that.

So when a State is enforcing our immigration law or immigration laws, we go after them. We pursue them. We basically, in that

case, stop them. However, we have communities all over the country that are refusing to enforce the immigration laws, and we saw this tragic incident in California with this totally innocent 32-year old woman who was brutally murdered by somebody who shouldn't even have been here.

And the Administration really, in essence, hasn't actively opposed cities that are flaunting our immigration laws. Can you understand that frustration that a lot of people have?

Secretary JOHNSON. Well, all I know is I've been spending a whole lot of time of my own meeting with mayors, governors, county execs, sheriffs who have been opposed to cooperating with us to encourage them to eliminate those barriers. That has not included Arizona. That's including a lot of very large jurisdictions that have passed these types of laws to encourage them, to repeal them, or interpret them in a certain way consistent with our new program, which is aiming at getting at the criminals.

Mr. CHABOT. Let me switch gears. Has the Administration reached out to the Steinle family, to your knowledge?

Secretary JOHNSON. To who?

Mr. CHABOT. To the family of the woman who was brutally murdered by this individual who had committed seven different felonies in four different States in my understanding, who had been deported, kept coming back, has the Administration reached out to that family?

Secretary JOHNSON. I'm sorry, I don't know the answer to that question, sir.

Mr. CHABOT. If I would just note that the Administration has reached out in a whole range of homicide cases, criminal cases around the country, and I'm not being critical of them having done that. I think certainly there are times when the Administration should do that, but there are also times—perhaps they need to do that. I would—

Secretary JOHNSON. I don't know the answer to that.

Mr. CHABOT [continuing]. Strongly recommend that. Could you check into that and see if they have or haven't?

Secretary JOHNSON. Speaking for myself, I have developed a practice of reaching out to every sheriff or commissioner or chief who has had a law enforcement officer who has died in the line of duty myself. I write a letter personally.

Mr. CHABOT. My understanding is they have not, but I would ask that the Administration check into that. I'm almost out of time. Let me ask you: The fence, how long is our border with Mexico?

Secretary JOHNSON. Twenty-seven hundred miles, I believe.

Mr. CHABOT. And how much of the fence is actually complete at this point?

Secretary JOHNSON. Seven hundred, pursuant to congressional direction, something around 700, yes, sir.

Mr. CHABOT. Okay. What did the Administration do back in 2010 which suspended expansion of the virtual portion of the fence?

Secretary JOHNSON. Well, my understanding is that the 700 miles, it's 700 and change, was built pursuant to congressional mandate. I know that there was some litigation around an environmental issue. I also know that a lot of the southwest border is very remote, as I'm sure you know. Some of it includes the Rio Grande.

Other parts of the border are very mountainous, and so the fence we have built has been built in places where it makes the most sense to have a fence.

Mr. CHABOT. And my time is expired, but just let me conclude by noting that that's one of the other things that I think is very frustrating to the American public is the fact that the law says the fence is to be built. I know not all of it is a fence, as we all understand it. Some of it is virtual. But the length of time this has taken and the environmental lawsuits that have been filed and all the rest, the fence needs to be completed. We need to have a secure border. I yield back my time.

Secretary JOHNSON. I believe that it's almost all completed pursuant to the mandate we have from Congress, sir.

Mr. CHABOT. I don't think that's correct, but I'll follow up on it. Thank you.

Mr. GOODLATTE. The Chair thanks the gentleman. Recognizes the gentlewoman from California, Ms. Lofgren, for 5 minutes.

Ms. LOFGREN. Thank you, Mr. Chairman, and thank you, Mr. Secretary, for being here and for the work that you do on behalf of our country to keep us safe. It is a tough job, but you have approached your duties with skill and dignity, and we very much appreciate that.

I want to touch just briefly on the tragedy in San Francisco, the young lady who was walking with her father, obviously an outrageous situation. She was shot and killed, and I think whenever an innocent citizen loses their life, it should cause us to review what are the policies, what could be changed that would make our communities safer?

Some have said we ought to do mandatory sentencing, but my understanding is Mr. Sanchez just had finished 4 years in prison for the prosecution, so it doesn't appear that that is necessarily the answer.

One of the questions I wanted to explore was the policy of transferring from the Bureau of Prisons to a locality on a warrant. It's my understanding that there was like a 20-year old warrant, it was a bench warrant for Mr. Sanchez, but the underlying offense was possession of a small amount of marijuana.

Now, I don't fault—I don't know. I mean, we've asked the Bureau of Prisons, you know, what discretion they had, and clearly, if you had an outstanding warrant against somebody who committed a crime, you know, 2 weeks ago, you don't want the Department of Homeland Security to thwart that criminal prosecution or locality, but if you have a very old warrant with an offense that, you know, probably wouldn't be prosecuted, is there some way that we could explore either clearing those warrants if there is no intent to prosecute?

I mean, in that case, you would have a situation where probably the arresting officer is retired, there would be no witnesses, you couldn't really have an effective prosecution. Further, in the State of California today, possession of a small amount of marijuana is an infraction. I mean, it doesn't even give rise to a prosecution. What are your thoughts on that process?

Secretary JOHNSON. I agree with the spirit of your question. I think that in a situation where the Bureau of Prisons has someone

that they are about to release because that person has completed his sentence and there's an immigration detainer, and there's a 20-year old warrant on a marijuana charge, there ought to be some discretion and balancing built into that so that——

Ms. LOFGREN. Or maybe some communication with the locality to find out whether they intend to prosecute?

Secretary JOHNSON. Look, I think we need to look at this question.

It may be that they give priority to a criminal warrant, which in all cases is not necessarily the best outcome. And so I want to look at the question of whether or not we and BOP can work more effectively together to make the appropriate assessment that it's better that this person go to immigration detention versus go to a jurisdiction on a 20-year-old warrant. So——

Ms. LOFGREN. Well, I'm glad to hear that, and I would like to keep apprised of the progress on that, because I think it's an important element of this situation that has sort of not been examined.

I want to talk today about the GAO report just released today. You may not have had a chance to review it. But it really talks about the manner in which the DHS is screening and caring for unaccompanied children when it comes to Mexican children at the border.

And this is an issue that I've raised in the past both publicly and privately, that Mexican children under the age of 14 are presumed not to be competent to make a decision about whether to voluntarily return. But what the GAO found is that we're not really getting the kind of examination that the law envisioned under the trafficking provisions.

It does trouble me, and I know there are several Members on both sides of the aisle who are concerned. You have a child who may be a victim of trafficking, they may have been a victim of sexual abuse, and yet their interrogation is conducted by a uniformed officer who may or may not speak their language in front of other people, other children. You wouldn't have a police agency in the whole United States that would interview a child sexual abuse victim in that manner.

So I'm wondering, now that we have the GAO report, whether we can revisit how we are doing these interviews and whether we might take a clue from police agencies around the United States to make sure that potential sex-trafficking victims who are children are interviewed in an appropriate setting by skilled nonuniformed people so that we can get the truth of whether they're in fact a victim or whether they're not.

When you've had a chance to take a look at that report, could we discuss this further?

Secretary JOHNSON. I'm aware of the report and its conclusions. I haven't had a chance to carefully study it, but it is something that we will look at, yes, ma'am.

Ms. LOFGREN. Thank you. My time has expired, Mr. Chairman.

Mr. GOODLATTE. Chair thanks the gentlewoman.

I recognize the gentleman from Virginia, Mr. Forbes, for 5 minutes.

Mr. FORBES. Thank you, Mr. Chairman.

Mr. Secretary, it's always good to see you. Thank you for being here.

Secretary JOHNSON. Always good to see you too, Mr. Forbes.

Mr. FORBES. At the opening of this hearing, the Ranking Member, for whom I have enormous respect, complimented the conservative leadership of the House for impacting and even slowing some of the policies of this Administration. I assumed he was talking about the policy of releasing terrorists from Guantanamo Bay or perhaps releasing criminals on our streets. And while I'm sure the leadership would be flattered, they'd be the first to say we still have a lot of work to do.

He also mentioned that your job needs to be done humanely. You know, and we've talked about before, we have a huge gang problem in the country. It's a growing problem. And, in fact, if we took gang members in the United States today, they would equal the sixth-largest army in the world.

So my question to you is this: Is it humane to leave individuals who are here illegally and who have been active participants in a criminal street gang, or who intentionally participated in an organized criminal gang, to remain in the United States?

Secretary JOHNSON. Such an individual is among my top priorities for removal, sir.

Mr. FORBES. Good. If that's the case, and that is indeed the memo that you mentioned, we had a little difficulty because 3 months ago your Director of ICE, Sarah Saldaña, did not have a clue when she was asked—and you can look at the testimony and the record—when we asked her how many criminal aliens with violent gangs has ICE and/or CBP processed and deported since DHS updated its policies, the policies you reference? How many has ICE or CBP released? And, third, what type of process is DHS using to determine who is a member of a criminal gang?

So my first question to you is, can you give us today the number of criminal aliens with violent gang ties that ICE and/or CBP has processed and deported since your policy was updated?

Secretary JOHNSON. Well, that is a knowable number, which we can get to you for the record.

Sitting here right now, I don't know the number, but it is a knowable number.

Mr. FORBES. And here is the problem we have. This is one of your top priorities. The Director said she didn't have a clue. And today when we have a hearing to look at this, we don't have that number. So if you would get it back to us. But I would assume then that you also don't know how many ICE or CBP has released.

Secretary JOHNSON. Again, it's a knowable number, sir. I just did not come prepared with the number. If I could have anticipated your question, I would have.

Mr. FORBES. I would have just thought if it was one of your top priorities, that might have been a metric you would look to see if it was working. So let me ask you this third one—

Secretary JOHNSON. It absolutely is one of my top priorities, sir.

Mr. FORBES. But you just don't know whether it's working or not?

Secretary JOHNSON. Like I said, it is a knowable number. I just don't have it with me.

Mr. FORBES. But you don't know the knowable number.

Secretary JOHNSON. I do know this. I have mandated as part of that same directive that we track who we remove——

Mr. FORBES. Can I ask you this, because I don't have but 5 minutes. What type of process are you using to doing that tracking that you've mandated? How do you know who is a member of a criminal gang? Do you ask them?

Secretary JOHNSON. Well, in fact, we have tightened up the guidance so that we can more effectively identify——

Mr. FORBES. Share with us, if you would, as a Committee how you've tightened it up. Do you ask the individuals if they are members of violent criminal gangs?

Secretary JOHNSON. Well, if you're referring to applicants for deferred action, the answer is yes.

Mr. FORBES. So your testimony today is that you ask every member who was an applicant whether they're a member of a violent criminal gang. Because that would be in conflict with what the Director said. So that is your testimony today?

Secretary JOHNSON. My understanding is that when——

Mr. FORBES. Let me just make sure. You're saying it is the policy, you're sure of that, or you don't know what the policy is?

Secretary JOHNSON. I know that being a member of a criminal street gang is certainly a disqualifier.

Mr. FORBES. I understand that, but if we don't know who they are, it doesn't help us. Can you state under oath today that you know that each one of those applicants are asked whether they're even a member of a violent criminal gang?

Secretary JOHNSON. I believe the answer is yes, sir.

Mr. FORBES. You believe it is. But you do not know?

Secretary JOHNSON. Well——

Mr. FORBES. Can you confirm that and get it back to us for the record?

Secretary JOHNSON. Yes.

Mr. FORBES. Do you know whether or not they're reviewing their criminal records, their trial records?

Secretary JOHNSON. I'm sorry, what's the question?

Mr. FORBES. Do you know whether the applicant's trial records are reviewed before a decision is made as to whether or not they will be released?

Secretary JOHNSON. A trial record?

Mr. FORBES. Yes, sir.

Secretary JOHNSON. What's a trial record?

Mr. FORBES. A trial order would be when they are going to court and they are prosecuted for a crime, there would be a record of that. And the reason it's important is because oftentimes it doesn't say on their conviction that they were a member of a violent criminal gang. Unless you're reviewing the records, you wouldn't have any way of knowing.

I know, Mr. Chairman, my time is up, but——

Secretary JOHNSON. I know what a criminal record is. I don't know if I've ever heard the term "trial record."

Mr. FORBES. Well, let's use your word then, as criminal record, if you want to, but the problem with the criminal record is it doesn't always show all the details that were in the trial. And if

you don't know that, you won't know whether when they plead they were actually a member of a violent criminal gang or not.

Mr. Chairman, with that I yield back.

Very concerning that you have a major priority and we don't even know the metrics as to whether or not it's working or not.

Thank you, Mr. Chairman.

Secretary JOHNSON. Well, that would be a mischaracterization of what I said, sir.

Mr. GOODLATTE. The time of the gentleman has expired.

And the Chair recognizes the gentlewoman from Texas, Ms. Jackson Lee, for 5 minutes.

Ms. JACKSON LEE. Let me thank you very much.

Mr. Secretary, thank you for your testimony.

To my colleagues, I think I've said this before, that I have sat on the Homeland Security Committee since 9/11, the tragedy of 9/11. I think it is important to note that Secretary Johnson has made incredible advances in securing this Nation. And I always say, when we are apt to criticize the Transportation Security Administration and other agencies within Homeland Security, that we have faced challenges, but America has been made safer and more secure with the creation of this Department.

In particular, let me thank Secretary Johnson for noting the decrease in the surge of unaccompanied children. But as well, when a group of us went to visit Karnes and Dilley in San Antonio and viewed circumstances that were unacceptable to us, viewing children and mothers, that the Department was responsive. And we appreciate the decrease in population legally of mothers and children dealing with the unaccompanied circumstances.

I think it is important to take note that this is a huge challenge in securing this Nation. And so allow me to quickly—and, Mr. Secretary, if you would just say yes or no—the reasons, because I want to get to my real questions. But I just want to say the PEP program that you have announced, would that have been a sizeable intervention for the sheriff's department and other sanctuary cities to be able to respond to a circumstance like Mr. Sanchez? Does this give them a greater latitude and remain their sanctuary city—

Secretary JOHNSON. Yes.

Ms. JACKSON LEE [continuing]. Status?

Secretary JOHNSON. Yes.

Ms. JACKSON LEE. And let me just say for my colleagues, a sanctuary city is not the choosing of the Secretary of Homeland Security, it is states' rights. It is individual cities making their determination.

I would offer to say and ask unanimous consent to put into the record, and might I do this so my colleagues know with my deepest sympathy to that family, and I personally apologize to the family for this tragedy that has occurred in San Francisco, none of us would want to counter that or to support that or to be supporters of comprehensive immigration reform and support that violent act.

But I do think it's important to note that murders in San Francisco, for example, compared to cities of Indianapolis and Dallas of the same size, those murders are at 5.75 and Indianapolis at 15.17 and 11.39. Over the years, the homicides in San Francisco have gone down.

I don't necessarily want to condemn sanctuary cities, but I do want to condemn the idea of communication. And I want to join with Mayor Ed Lee who said: Could somebody simply pick up the phone?

I'm looking at an order of activities here, and I see that ICE sent a detainer on 3/27/2015. And my question to the law enforcement of that city, it would not negate the sanctuary city authority to have simply picked up the phone and called ICE to be able to say: This individual who has a long criminal history is in our facilities.

Mr. Secretary, was that a possibility, in light of this horrible tragedy, that we don't diminish, could that have been a phone conversation to ICE at that time from the sheriff's department and not violate their sanctuary city rules per se?

Secretary JOHNSON. My strong intent with the new PEP program is that we have the type of cooperative relationship with local law enforcement such that we get notification before somebody is released——

Ms. JACKSON LEE. Right. But they could have also——

Secretary JOHNSON [continuing]. So that we get there in time to pick them up when they are released.

Ms. JACKSON LEE. And they could have also made a call at that time as well.

Secretary JOHNSON. Yes.

Ms. JACKSON LEE. I won't get into warrants and order, but they could have made a call.

Let me move quickly to this issue of violent extremism and just cite for you an article from The New York Times that made it clear that since 9/11 there were 19 non-Muslim extremist attacks versus 7 Islamic militant attacks. And we all know that we are concerned about ISIL and a cell in every state. But I am concerned as well about Homeland Security looking at violent extremism that are dealing with antigovernment feeling or racist feelings.

I have every respect for opinion and speech that expresses hatred toward me because I'm an African American, but not violence, as evidenced by Mother Emanuel.

Can you explain what you will be doing about capturing those who are engaged in violent, antigovernment activities, and, of course, racial violence that is rising as a perspective of domestic terrorism?

Secretary JOHNSON. Well, of course, there's always the law enforcement approach to hate crime, to violence. Our CVE efforts across the Department should be comprehensive, in my view. I have personally spent a lot of time on CVE engagements, as you know. We attended one together in Houston about a month ago.

At the moment, my priority has been focusing on communities that I believe are most vulnerable, at least some members of the community, to appeals from ISIL, al-Qaeda, and other terrorist groups overseas who are actively targeting individuals in these communities. And so I think we need to focus on communities that themselves have the ability to influence somebody who may be turning in the direction of violence.

Without a doubt, there is the potential, the very real potential of domestic acts of terrorism. I just went to Oklahoma City for the 20th anniversary of the bombing there in April. A program that

counters domestic violent extremism, domestic-based violent extremism, is in my judgment a little more complicated.

The terrorist threat to the homeland from overseas that I'm concerned about is one that is making active efforts to recruit people in response to ISIL's recruitment efforts. And so we've been, as you know, very focused on that. But I do agree with the spirit of your question that violent extremism in this country can exist in a lot of different forms, ma'am.

Ms. JACKSON LEE. Let me thank you.

Mr. Chairman, may I ask unanimous consent to include these two documents in the record? And may I just put one sentence on the record—I thank you for your indulgence—is, Mr. Secretary, I implore you to consider domestic terrorism. And I'd like to work with the Department to seriously add that to its broad agenda. I think it would be a vital and important step forward. And let me thank you for your service.

Mr. GOODLATTE. The time of the gentlewoman has expired. That was a long run-on sentence, but we will allow it. And those two documents will be made a part of the record.

[The information referred to follows:]

Homegrown Extremists Tied to Deadlier Toll Than Jihadists in U.S. S... <http://www.nytimes.com/2015/06/25/us/tally-of-attacks-in-us-challeng..>



The New York Times <http://nyti.ms/1K9INvI>

U.S.

Homegrown Extremists Tied to Deadlier Toll Than Jihadists in U.S. Since 9/11

By SCOTT SHANE JUNE 24, 2015

WASHINGTON — In the 14 years since Al Qaeda carried out attacks on New York and the Pentagon, extremists have regularly executed smaller lethal assaults in the United States, explaining their motives in online manifestoes or social media rants.

But the breakdown of extremist ideologies behind those attacks may come as a surprise. Since Sept. 11, 2001, nearly twice as many people have been killed by white supremacists, antigovernment fanatics and other non-Muslim extremists than by radical Muslims: 48 have been killed by extremists who are not Muslim, including the recent mass killing in Charleston, S.C., compared with 26 by self-proclaimed jihadists, according to a count by New America, a Washington research center.

The slaying of nine African-Americans in a Charleston church last week, with an avowed white supremacist charged with their murders, was a particularly savage case.

But it is only the latest in a string of lethal attacks by people espousing racial hatred, hostility to government and theories such as those of the “sovereign citizen” movement, which denies the legitimacy of most statutory law. The assaults have taken the lives of police officers, members of racial or religious minorities and random civilians.

Non-Muslim extremists have carried out 19 such attacks since Sept. 11, according to the latest count, compiled by David Sberman, a New America program associate, and overseen by Peter Bergen, a terrorism expert. By comparison, seven lethal attacks by Islamic militants have taken place in the same period.

If such numbers are new to the public, they are familiar to police officers. A survey to be published this week asked 382 police and sheriff’s departments nationwide to rank the three biggest threats from violent extremism in their jurisdiction. About 74 percent listed antigovernment violence, while 39 percent listed “Al Qaeda-inspired” violence, according to the researchers, Charles Kurzman of the University of North Carolina and David Schanzer of Duke University.

“Law enforcement agencies around the country have told us the threat from Muslim extremists is not as great as the threat from right-wing extremists,” said Dr. Kurzman, whose study is to be published by the Triangle Center on Terrorism and Homeland Security and the Police Executive Research Forum.

John G. Horgan, who studies terrorism at the University of Massachusetts, Lowell, said the mismatch between public perceptions and actual cases had become steadily more obvious to scholars.

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"There's an acceptance now of the idea that the threat from jihadi terrorism in the United States has been overblown," Dr. Horgan said. "And there's a belief that the threat of right-wing, antigovernment violence has been underestimated."

Counting terrorism cases is a subjective enterprise, relying on shifting definitions and judgment calls.

If terrorism is defined as ideological violence, for instance, should an attacker who has merely ranted about religion, politics or race be considered a terrorist? A man in Chapel Hill, N.C., who was charged with fatally shooting three young Muslim neighbors had posted angry critiques of religion, but he also had a history of outbursts over parking issues. (New America does not include this attack in its count.)

Likewise, what about mass killings in which no ideological motive is evident, such as those at a Colorado movie theater and a Connecticut elementary school in 2012? The criteria used by New America and most other research groups exclude such attacks, which have cost more lives than those clearly tied to ideology.

Some killings by non-Muslims that most experts would categorize as terrorism have drawn only fleeting news media coverage, never jelling in the public memory. But to revisit some of the episodes is to wonder why.

In 2012, a neo-Nazi named Wade Michael Page entered a Sikh temple in Wisconsin and opened fire, killing six people and seriously wounding three others. Mr. Page, who died at the scene, was a member of a white supremacist group called the Northern Hammerskins.

In another case, in June 2014, Jerad and Amanda Miller, a married couple with radical antigovernment views, entered a Las Vegas pizza restaurant and fatally shot two police officers who were eating lunch. On the bodies, they left a swastika, a flag inscribed with the slogan "Don't tread on me" and a note saying, "This is the start of the revolution." Then they killed a third person in a nearby Walmart.

And, as in the case of jihadist plots, there have been sobering close calls. In November 2014 in Austin, Tex., a man named Larry McQuilliams fired more than 100 rounds at government buildings that included the Police Headquarters and the Mexican Consulate. Remarkably, his shooting spree hit no one, and he was killed by an officer before he could try to detonate propane cylinders he drove to the scene.

Some Muslim advocates complain that when the perpetrator of an attack is not Muslim, news media commentators quickly focus on the question of mental illness. "With non-Muslims, the media bends over backward to identify some psychological traits that may have pushed them over the edge," said Abdul Cader Asmal, a retired physician and a longtime spokesman for Muslims in Boston. "Whereas if it's a Muslim, the assumption is that they must have done it because of their religion."

On several occasions since President Obama took office, efforts by government agencies to conduct research on right-wing extremism have run into resistance from Republicans, who suspected an attempt to smear conservatives.

A 2009 report by the Department of Homeland Security, which warned that an ailing economy and the election of the first black president might prompt a violent reaction from white supremacists, was withdrawn in the face of conservative criticism. Its main author, Daryl Johnson, later accused the department of "gutting" its staffing for such research.

William Braniff, the executive director of the National Consortium for the Study of Terrorism and Responses to Terrorism at the University of Maryland, said the outsize fear of jihadist violence reflected memories of Sept. 11, the daunting scale of sectarian conflict overseas and wariness of a strain of Islam that seems alien to many Americans.

"We understand white supremacists," he said. "We don't really feel like we understand Al Qaeda, which seems too

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complex and foreign to grasp."

The contentious question of biased perceptions of terrorist threats dates back at least two decades, to the truck bombing that tore apart the federal building in Oklahoma City in April 1995. Some early news media speculation about the attack assumed that it had been carried out by Muslim militants. The arrest of Timothy J. McVeigh, an antigovernment extremist, quickly put an end to such theories.

The bombing, which killed 168 people, including 19 children, remains the second-deadliest terrorist attack in American history, though its toll was dwarfed by the roughly 3,000 killed on Sept. 11.

"If there's one lesson we seem to have forgotten 20 years after Oklahoma City, it's that extremist violence comes in all shapes and sizes," said Dr. Horgan, the University of Massachusetts scholar. "And very often, it comes from someplace you're least suspecting."

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The Opinion Pages | OP-ED CONTRIBUTOR

The Growing Right-Wing Terror Threat

By CHARLES KURZMAN and DAVID SCHANZER JUNE 16, 2015

THIS month, the headlines were about a Muslim man in Boston who was accused of threatening police officers with a knife. Last month, two Muslims attacked an anti-Islamic conference in Garland, Tex. The month before, a Muslim man was charged with plotting to drive a truck bomb onto a military installation in Kansas. If you keep up with the news, you know that a small but steady stream of American Muslims, radicalized by overseas extremists, are engaging in violence here in the United States.

But headlines can mislead. The main terrorist threat in the United States is not from violent Muslim extremists, but from right-wing extremists. Just ask the police.

In a survey we conducted with the Police Executive Research Forum last year of 382 law enforcement agencies, 74 percent reported anti-government extremism as one of the top three terrorist threats in their jurisdiction; 39 percent listed extremism connected with Al Qaeda or like-minded terrorist organizations. And only 3 percent identified the threat from Muslim extremists as severe, compared with 7 percent for anti-government and other forms of extremism.

The self-proclaimed Islamic State's efforts to radicalize American Muslims, which began just after the survey ended, may have increased threat perceptions somewhat, but not by much, as we found in follow-up interviews over the past year with counterterrorism specialists at 19 law enforcement agencies. These officers, selected from urban and rural areas around the country, said that radicalization from the Middle East was a concern, but not as dangerous as radicalization among right-wing extremists.

An officer from a large metropolitan area said that “militias, neo-Nazis and sovereign citizens” are the biggest threat we face in regard to extremism. One officer explained that he ranked the right-wing threat higher because “it is an emerging threat that we don’t have as good of a grip on, even with our intelligence unit, as we do with the Al Shabab/Al Qaeda issue, which we have been dealing with for some time.” An officer on the West Coast explained that the “sovereign citizen” anti-government threat has “really taken off,” whereas terrorism by American Muslim is something “we just haven’t experienced yet.”

Last year, for example, a man who identified with the sovereign citizen movement — which claims not to recognize the authority of federal or local government — attacked a courthouse in Forsyth County, Ga., firing an assault rifle at police officers and trying to cover his approach with tear gas and smoke grenades. The suspect was killed by the police, who returned fire. In Nevada, anti-government militants reportedly walked up to and shot two police officers at a restaurant, then placed a “Don’t tread on me” flag on their bodies. An anti-government extremist in Pennsylvania was arrested on suspicion of shooting two state troopers, killing one of them, before leading authorities on a 48-day manhunt. A right-wing militant in Texas declared a “revolution” and was arrested on suspicion of attempting to rob an armored car in order to buy weapons and explosives and attack law enforcement. These individuals on the fringes of right-wing politics increasingly worry law enforcement officials.

Law enforcement agencies around the country are training their officers to recognize signs of anti-government extremism and to exercise caution during routine traffic stops, criminal investigations and other interactions with potential extremists. “The threat is real,” says the handout from one training program sponsored by the Department of Justice. Since 2000, the handout notes, 25 law enforcement officers have been killed by right-wing extremists, who share a “fear that government will confiscate firearms” and a “belief in the approaching collapse of government and the economy.”

Despite public anxiety about extremists inspired by Al Qaeda and the Islamic State, the number of violent plots by such individuals has remained very low. Since 9/11, an average of nine American Muslims per year have been involved in an average

of six terrorism-related plots against targets in the United States. Most were disrupted, but the 20 plots that were carried out accounted for 50 fatalities over the past 13 and a half years.

In contrast, right-wing extremists averaged 337 attacks per year in the decade after 9/11, causing a total of 254 fatalities, according to a study by Arie Perliger, a professor at the United States Military Academy's Combating Terrorism Center. The toll has increased since the study was released in 2012.

Other data sets, using different definitions of political violence, tell comparable stories. The Global Terrorism Database maintained by the Start Center at the University of Maryland includes 65 attacks in the United States associated with right-wing ideologies and 24 by Muslim extremists since 9/11. The International Security Program at the New America Foundation identifies 39 fatalities from "non-jihadist" homegrown extremists and 26 fatalities from "jihadist" extremists.

Meanwhile, terrorism of all forms has accounted for a tiny proportion of violence in America. There have been more than 215,000 murders in the United States since 9/11. For every person killed by Muslim extremists, there have been 4,300 homicides from other threats.

Public debates on terrorism focus intensely on Muslims. But this focus does not square with the low number of plots in the United States by Muslims, and it does a disservice to a minority group that suffers from increasingly hostile public opinion. As state and local police agencies remind us, right-wing, anti-government extremism is the leading source of ideological violence in America.

Correction: June 19, 2015

An Op-Ed article on Tuesday omitted the given name of a scholar of counterterrorism at West Point. He is Arie Perliger.

Charles Kurzman teaches sociology at the University of North Carolina at Chapel Hill. David Schanzer is director of the Triangle Center on Terrorism and Homeland Security at Duke University.

Follow The New York Times Opinion section on Facebook and Twitter, and sign up for the Opinion Today newsletter.

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Mr. GOODLATTE. And the Chair now recognizes the gentleman from Iowa, Mr. King.

Mr. KING. Thank you, Mr. Chairman. I appreciate this hearing. Mr. Secretary, I appreciate also your testimony here.

But listening to the testimony about ICE detainers—and I want to pause for a minute here.

Can I have a clear path? Thank you.

Listening for the moment about ICE detainers, this first question occurs to me, and that is that, how long have we been operating under ICE detainers when they were mandatory? Do you know when their inception was?

Secretary JOHNSON. ICE detainers go back a long way. They go back—

Mr. KING. 1996?

Secretary JOHNSON. When I was a Federal prosecutor 25 years ago, we had immigration detainers.

Mr. KING. Okay. So they were mandatory for a long time. And how long has this been a problem? In your testimony you said that in the last year 12,000 ICE detainers were ignored or not responded to by local law enforcement, 12,000. Is that indicative of a problem we've had over a 20-year period of time or is that a short-term anomaly?

Secretary JOHNSON. I think that that number has been growing with the number of jurisdictions that have been passing ordinances and laws and signing executive orders that limited their ability to cooperate with us. So I suspect the number has been growing annually, sir.

Mr. KING. Would it be perhaps in sync with a 2012 ACLU “fact sheet” that was sent to local law enforcement nationwide that said that ICE detainers are not mandatory because no penalty existed, and they have this legal rationale, reach, if there is no penalty then there is no law to be enforced? Are you familiar with that?

Secretary JOHNSON. I'm not familiar with that fact sheet, sir, no.

Mr. KING. Okay. And I would make sure you'll get a copy of that so you are. But February 25, 2014, so can you tell me if that's about the date that the number of local jurisdictions ignoring the detainers began to accelerate?

Secretary JOHNSON. I do not know the answer to that question, sir.

Mr. KING. But we do know that the Department has cooperated to some degree with ICE—or, excuse me, with ACLU. And I'm looking at a letter that was sent to a Member of Congress, Member of this Committee, dated February 25, 2014, from U.S. Immigration, it's from ICE. It says: “While immigration detainers are an important part of ICE's effort to remove criminal aliens who are in Federal, state, and local custody, they are not mandatory as a matter of law.”

The Congress was informed February 25 that ICE and your Department was going to back away from detainers. And I'm listening to ICE spokesmen tell the people that are trying to enforce the law in San Francisco that's it's all their sanctuary city policy, not a policy that has to do with ICE's decisions.

So I'd just raise this as a point that there are a whole series of jurisdictions that are culpable here. And I want to ask, have you

sat down or do you have people in your Department that have sat down and calculated the resources necessary to enforce all of the law? And I would express that in synch with Rudy Giuliani's former policy in New York, the broken windows policy, we arrest people that break the law as quickly as we can and enforce the law so that there is an expectation that it's a deterrent.

To get to that point, to restore the respect for immigration law, which has been damaged perhaps—I still believe we can repair it—what would the calculation be for the resources necessary to accomplish such a thing?

Secretary JOHNSON. Congressman, you refer to restoring respect for immigration law——

Mr. KING. Let's just call it full enforcement, then, so I don't run out of time.

Secretary JOHNSON. That's exactly what I'm trying to do with our new Priority Enforcement Program.

Mr. KING. And what resources do you need then to do that? You've got more beds than you're using. You've increased the number of officers. We've got significantly fewer arrests taking place. That doesn't convince me that there are fewer border crossings. I mean, if the order were issued to arrest half the people you were, that would be all that it would take to see those numbers go down. It's never been indicative to me of lower border crossings.

Secretary JOHNSON. Well, I'm glad you asked that question, what resources do we need? I would like to see our immigration enforcement personnel put on a pay scale with other law enforcement personnel. As you probably know, a lot of them are topped out at GS-9. One of our executive actions was to have pay reform for immigration enforcement personnel.

Mr. KING. I'm happy to take that conversation up, as I do believe that we ought to be as supportive as we can of especially the people that put their lives on the line. But they want to also do their job, and I want to make sure we have the foundation to get that done. And when you were asked the length of the fence, how long is the border, the southern border?

Secretary JOHNSON. How long is the southern border?

Mr. KING. Yes.

Secretary JOHNSON. I believe it's 2,700 miles, sir.

Mr. KING. I brought that up because I want to give you an opportunity to state that. It's actually very close to 2,000 miles. The estimates run just a little bit under that.

But I bring this up because I think it's important for this Committee and for you and the public to consider what we're doing. We're spending \$13 billion on our southern border to secure our border. That's the 50-mile line when you add everything up. I don't know anybody else that even tracks that number. That comes out to be a little less than \$6.6 million a mile.

Now, that might not be astonishing unless you think that about 25 percent of those that are attempting to cross the border actually are interdicted, and many of them are released again, maybe for five times. Actually 27 times is the highest number that I see.

We're building interstate highway across expensive Iowa cornfields for \$4 million a mile. That's two fences. That's grading, paving, shouldering, and signage and all the things necessary, plus ar-

cheological and environmental. If we can build interstate highway for \$4 million a mile, we could take a third of that budget down there. In a matter of 2 years we'd have that whole thing, a fence, a wall and a fence. We would have patrol roads in between two no-man's land zones.

And, by the way, if we do that, these fences don't have prosecutorial discretion. They will be effective. The Israelis' is up to at least 99-point-something percent effective. They put \$1.8 million a mile in theirs. They had 14,000 illegal crossings. In one section it cut it to 40.

And so I think there's an economic equation that your Department could bring forward. And I'd very happy to sit down and go through the numbers, I spent my life in the contracting business, and I think that we could put a lot better application to these resources than are being used today.

And I thank you for your testimony.

And I yield back the balance of my time.

Mr. GOODLATTE. The time of the gentleman has expired.

The gentleman from Tennessee, Mr. Cohen, is recognized for 5 minutes.

Mr. COHEN. Thank you, Mr. Chair.

And first I'd like to recognize and say hello to Mr. Johnson, who is from the other great city in Tennessee, which has the second-best barbecue, but the greatest HBCU in the country in Fisk, where his father was actively involved.

I want to follow up on Ms. Jackson Lee's questions. We need to be concerned about threats from afar and recruitment of our people from afar in ISIS. But the fact is we've got more of a threat domestically to our lives than we do internationally.

An article in The New York Times just this past year, June 16, just this past month, cites the fact that since 9/11 an average of nine American Muslims per year have been involved in an average of six terrorism-related plots against targets in the U.S. Most were disrupted. But the 20 plots that were carried out accounted for 50 fatalities over the past 13½ years.

In contrast, right-wing extremists averaged 337 attacks per year in the decade after 9/11, causing 254 fatalities, over 5 times as many as the Muslim-caused fatalities. This was according to a study by a professor at the United States Military Academy's Combating Terrorism Center. And that total has increased since the study was released in 2012.

So I ask you about our efforts to curtail domestic right-wing extremists. I believe that in 2011, it might have been a department, that funding was cut or even abolished. And is there any consideration that you've given to increasing funding and/or renewing that department? I think the Department of Homeland Security in 2009, the Department disbanded the Extremism and Radicalization Branch of the Homeland Environment Threat Analysis Division. Do you think it would be appropriate to have that division recreated or reinstated?

Secretary JOHNSON. Congressman, if you don't mind, let me answer it this way. We fund over \$2 billion a year in grants to state and local law enforcement for homeland security/public safety purposes of a lot of different stripes. So the first responder equipment

that we fund is valuable whether it's a terrorist attack, a mass shooting incident, motivated by whatever purpose.

So, for example, the Boston Marathon attack, which is very definitely an act of terrorism, the first responders there were funded, to a very large measure, by my Department, even though they were local.

And so our grant money goes to a lot of valuable things to promote public safety. We have active shooter training, for example.

Mr. COHEN. I understand that and appreciate that, sir. But what I'm asking about is the Department had a department called the Extremism and Radicalization Branch of the Homeland Environment Threat Analysis Division, and apparently that division was not reinstated. That's different than grants. That's something specifically looking at the Internet and seeing if they can't ferret out some of these folks before they get their weapon and go to a church and commit a mass atrocity.

Have you considered reinstating such a division in light of the fact that the statistics are overwhelming that they are continuing to threaten our people?

Secretary JOHNSON. Well, I agree with the spirit of your question when it comes to the statistics. I would have to look into your specific question, sir.

Mr. COHEN. I'd appreciate if you would.

After Charleston, the Union of Orthodox Jewish Congregations of America noted that we need, as everybody I think would agree, freedom of worship, we need freedom from fear. Houses of worship need to be safe. The national security grant program provides grants to communities to buy surveillance equipment and shatter-proof windows. Much of that goes and has been going and I'm pleased it has been going to Jewish organizations and synagogues which have been targeted over the years with threats.

But now that we see in the South in particular, and we've seen it over the years, but a rash recently of attacks on African American churches, can your Department look into requesting an increase in funding so that it can cover African American churches that are also threatened in this day and time?

Secretary JOHNSON. We can, sir. I just met with officials of the American Jewish Committee last week who are very complimentary of the relationship that we have with the Jewish community in this regard.

And as I think I mentioned to you, Congressman, my great grandfather was a Baptist preacher in southwest Virginia near Roanoke in a little town on the Virginia-Tennessee line called Bristol. And back in the turn of the century 115 years ago, a lot of that—being a Baptist preacher in that part of the world meant breaking up the occasional lynching attempt. So I appreciate the importance of your question, sir.

Mr. COHEN. And I appreciate your service. Thank you, sir.

I yield back.

Mr. GOODLATTE. The Chair thanks the gentleman and recognizes the gentleman from Arizona, Mr. King, for 5 minutes—I mean, Mr. Franks for 5 minutes.

Mr. FRANKS. You've insulted both of us, Mr. Chairman. Thank you, sir.

Secretary Johnson, a report from the National Academy of Sciences places “an estimate of \$1 trillion to \$2 trillion during the first year alone for the societal and economic costs of a ‘severe geomagnetic storm scenario’ with recovery times of 4 to 10 years.” Another report, from Lloyds of London, stated that between 20 million and 40 million people in America are at risk of extended outages for up to 1 to 2 years in duration. And I can read you excerpts of 11 major government reports that all share very similar findings for hours here, as you know. And yet the Federal Government has really done next to nothing to help protect the electric grid.

And so I just would remind you that year you testified that it was the main responsibility of the National Programs and Protections Directorate, or the NPPD, within Department of Homeland Security, along with other, of course, relevant agencies, to protect the electric grid. So I’d like to ask you what is being done today at DHS to protect the grid from geomagnetic disturbance or from weaponized electromagnetic pulse, and do you support legislative efforts like the Critical Infrastructure Protection Act that has now come out of the Homeland Security Committee to actually focus on this threat and act upon it?

Secretary JOHNSON. In general, sir, I’m very supportive of the efforts being made. I know that the threat that you mentioned is one that we study and evaluate. I’m happy to get back to you more specifically for the record in answer to what detailed steps we are taking and how we regard this particular threat, sir.

Mr. FRANKS. Well, I appreciate that. I hope that you would take a special look at the Critical Infrastructure Protection Act. It’s going to be entirely within your purview to respond to it. And I think it’s something you’ll probably support.

I sort of changed the subject there, but I have to get back to the subject now of the Constitution. I have the privilege here of chairing the Constitution Subcommittee, and so that’s part of the predicate.

Article I, Section 8, clause 4 of the Constitution—provides that the Congress shall have power to “establish a uniform Rule of Naturalization,” and grants Congress plenary power over immigration policies. That’s very, very, very clear.

Aren’t your administrative actions and your agency’s administrative actions to exempt millions of unlawful and criminal aliens from any threat of enforcement of our immigration laws a usurpation of Congress’ constitutional role?

Secretary JOHNSON. Inherent in the enforcement of any law, sir, is the exercise of prosecutorial discretion, and that’s what we do in the enforcement of our laws, that’s what the Department of Justice does, and that’s what multiple other agencies do.

Mr. FRANKS. Well, in all due deference to you, prosecutorial discretion is one thing, the suspension of the law is another.

And I will probably leave it right there, Mr. Chairman.

Mr. GOODLATTE. The Chair thanks the gentleman.

I recognize the gentleman from Georgia, Mr. Johnson, for 5 minutes.

Mr. JOHNSON OF GEORGIA. Thank you, Mr. Chairman.

This is a hearing where Republicans are arguing that the Administration is not enforcing the immigration laws and that this is leading to increased crime.

Exhibit A, the murder of Ms. Steinle in San Francisco. And that event happened within the last 2 weeks. And I am really impressed with the speed by which this Committee has sprung into action to bring this issue before a hearing, you know, I mean, and then going to take advantage of it for political purposes is basically what's happening.

However, something like the flying of Confederate battle flags in national park space is something that is salient, germane, and current. They want to put that off to a Committee for a study or for a hearing that will never be held.

So it's politics what we're playing up here, Secretary Johnson. I appreciate your service, by the way. What we have is a situation where Ms. Steinle was allegedly murdered by Mr. Juan Francisco Lopez Sanchez, who had been in Federal custody for about 6 years on a felony illegal entry into the U.S. ICE had a hold on him, so that when he was released from the Bureau of Prisons he would go into ICE custody for deportation again.

However, ICE also has a policy that when a local jurisdiction has an active warrant against an individual, then ICE yields to that local authority holding that warrant. And that local authority, San Francisco County in this case, decided to pursue its warrant. So it took custody of Mr. Sanchez, Mr. Lopez Sanchez, and after they took custody of him, ICE had a warrant or a detainer lodged against Mr. Lopez Sanchez so that when San Francisco finished its prosecution, then it would turn Mr. Lopez Sanchez back over to ICE for deportation.

And then what happened was, after Mr. Lopez Sanchez was in the custody of San Francisco County, the authorities there decided not to prosecute him, which meant that he was eligible for release, and ideally it would have been to ICE which had the detainer in place. However, due to its local politics, San Francisco County had a situation, a sanctuary policy, where they did not honor those warrants.

So I go through that to say that it was not the fault of ICE, or it was not a breakdown in Federal immigration enforcement that resulted—that resulted in Kathryn Steinle's murder allegedly by Mr. Lopez Sanchez. It was not the fault of your Department, although they're trying to make it appear to be that way.

And in fact, under this President, there have been—this President is now known as the Deporter in Chief. Why is that, Mr. Johnson? Is it because over 2 million people have been deported under his Presidency, which is more than were deported under the previous Administration in 8 years with 17 months left on this term? Is that the reason why he's known as the Deporter in Chief?

Secretary JOHNSON. Well, let me answer your question. Let me answer—let me say two things, sir. One, as I have mentioned, I believe it is important that we focus our deportation resources on threats to public safety. And with our new policy, I believe we are doing that increasingly so.

A higher percentage of those in immigration detention today than used to be the case are those who are in my top two priorities

for removal. Seventy-six percent of those in immigration detention today are in my top priority for removal, the felons, those apprehended at the border. So I want to focus our resources on threats to public safety, and I know the President supports that and he shares that view.

The other thing I'll say in response to your question, sir, is, as I mentioned earlier, I think we need to evaluate carefully whether it is appropriate in every case for a criminal warrant to be a priority over an immigration detainer.

Mr. JOHNSON OF GEORGIA. I agree.

Secretary JOHNSON. It may not be. There may need to be some additional flexibility and discretion built into that. So I want to evaluate any such policy.

Mr. JOHNSON OF GEORGIA. Thank you. And I yield back.

Mr. GOWDY [presiding]. The gentleman yields back.

The Chair would now recognize the gentleman from Ohio, Mr. Jordan.

Mr. JORDAN. Thank the Chairman.

Secretary Johnson, on November 20, 2014, the President issued his now somewhat famous executive order. You did a memo regarding DACA and deferred action. You recall all that, Mr. Johnson?

Secretary JOHNSON. Yes, sir.

Mr. JORDAN. All right. And then February 16 of this year, Judge Hanen has a ruling that blocks the action of the President and the action outlined in your memo, correct?

Secretary JOHNSON. Yes, sir.

Mr. JORDAN. And during the hearing in front of Mr. Hanen, Judge Hanen's court, January 15, 2015, your counsel represented to the court, "No applications for revised DACA would be accepted until the 18th of February 2015." Is that correct, Mr. Johnson?

Secretary JOHNSON. I don't know exactly what the colloquy was, sir.

Mr. JORDAN. Okay. This is from your counsel and from the court. But regardless of what it was, the representation that no applications would be—for revised DACA—would be accepted until the 18th of February, that turned out to be wrong. Is that accurate, Mr. Johnson?

Secretary JOHNSON. Well, in fact—

Mr. JORDAN. That representation that was made in front of the court was not accurate.

Secretary JOHNSON. Like I said, I don't know the exact colloquy. I do know that in November we began issuing 3-year renewals consistent with the policy. It was on the face of the policy and it was in the—

Mr. JORDAN. Well, let me read what Judge Hanen said, because your counsel actually filed an advisory with the court clarifying, saying that even though you said you would not accept applications and they would be not be revised, they in fact were up to 100,000. And here's what the advisory—you advised the court, and here's what the judge said.

"The court expects all parties, including the Government of the United States, to act in a forthright manner and not hide behind deceptive representations and half-truths. That is why the court is extremely troubled by the multiple representations made by the

government's counsel, both in writing and orally, that no action would be taken pursuant to the 2014 DHS directive until February 18, 2015."

So here's what I want to understand. You said you weren't going to issue, but you had already issued 100,000 3-year deferrals. You had to go tell the court: Oh, what we told you in the earlier hearing wasn't in fact true. When did you know as the head of this agency, the head of this Department, that the representation made to Judge Hanen and to the court was in fact not accurate?

Secretary JOHNSON. Well, I definitely know that this is an issue for the judge that he is very troubled by.

Mr. JORDAN. That's not my question. When did you know what you had told the court—your counsel had told the court, when did you personally know as the head of the agency that it wasn't accurate? Did you know when they said it? Did you know clear back in January when they had the hearing that what they were conveying to the court wasn't true?

Secretary JOHNSON. No, I did not know when they said it because I was not—

Mr. JORDAN. Okay. So when did you learn?

Secretary JOHNSON. Sometime around—sometime shortly—I don't have the exact timeframe, but sometime in early March I became aware that this was an issue and wanted to—

Mr. JORDAN. And who told you?

Secretary JOHNSON. I don't recall, sir. And wanted to be sure that we promptly advised the court of this issue and we did.

I will say also that the fact that we began issuing 3-year renewals was on the face of the policy, which was in the record of the court. I know this is an issue, I know the judge is troubled by it but—

Mr. JORDAN. He's not troubled by it. He said it was half-truths, deceptive representation. He's extremely troubled by it, and that's his words, not mine. So when a judge says that, that you falsely represented something in front of the court, you later learn you did that, according to what you just told me, and then you convey it to them, I want to know when exactly you learned and how long after you learned did you convey to it the court. Do you know that?

Secretary JOHNSON. I've already answered that question.

Mr. JORDAN. No, no. But when you learned, did you convey it that very day? Did you wait a couple days? When did you convey it?

Secretary JOHNSON. I don't know how many days it was. Could have been same day, could have been 2 days. I don't know, sir.

Mr. JORDAN. Do you know what day you happened to advise the court that you in fact had misrepresented the facts to the court? Do you know what day you had sent that advisory? Do you know that date?

Secretary JOHNSON. I don't know when the advisory was filed. I do know—

Mr. JORDAN. March 3, 2015.

Secretary JOHNSON. I was going to say, I do know that it was in early March.

Mr. JORDAN. Okay. Do you know what else happened on March 3, 2015?

Secretary JOHNSON. A lot of things, sir.

Mr. JORDAN. Well, relative to your agency, do you know what happened that day?

Secretary JOHNSON. Refresh my recollection.

Mr. JORDAN. Same day we were having a little debate in Congress about the funding bill for your agency. So the same day that the DHS funding bill passes Congress is the same day you decide to tell the court: Oh, by the way, we lied to you back when we didn't give you all the facts earlier on.

Now, don't you think it would have been nice if the Congress during that heated debate—in fact, I remember you, Secretary, you were on TV that entire weekend, that March 1 to March 2, that entire weekend, you were talking about if this bill doesn't get done, if we don't get funding—

Secretary JOHNSON. You have your—

Mr. JORDAN. No, no, hang on. Sky's going to fall, world. It would have been nice if you'd have also told the Congress and the American people: Oh, by the way, we misrepresented the facts to the court dealing with this issue. But you send the advisory the same day—the same day that we pass the bill? Be nice if we'd have had that information before the date we actually voted on this and went on record.

Secretary JOHNSON. There are so many things wrong with that question. I do not have 37 seconds to answer it.

Mr. JORDAN. Well, let me ask—let me just—Mr. Chairman, if I could real quick.

Secretary JOHNSON. There are so many things wrong in the question.

Mr. JORDAN. March 3 you filed the advisory, right? March 3 you filed the advisory. March 3, the DHS bill passes. Those are two facts. That just a coincidence?

Mr. GOWDY. Gentleman's out of time, but I'm going to allow the Secretary to answer the question.

Secretary JOHNSON. First of all, my recollection is that I was on the Sunday shows earlier in the month of February. So that doesn't work, okay? Second—

Mr. JORDAN. That's why I'd like to know when you found out.

Secretary JOHNSON. I don't recall when exactly in the course of the day, sir, the funding bill was passed. And I really don't think one has anything to do with the other. I knew this was an issue. I found out about it in early March. And I wanted the court to be—

Mr. JORDAN. It was important enough to advise the court. It might have been important enough to let Congress know in the heat of that debate when this is the central issue of that debate that, oh, by the way, our counsel didn't represent the facts to the court like they should have. That's an important element for this body, the Congress of the United States, and the American people to know in the course of that fundamental debate we were having, and you don't think it's important to know that?

Mr. GOWDY. The gentleman really is out of time this time, and I'm going to allow you to respond, and then I need to go to Ms. Chu from California.

Secretary JOHNSON. I do not believe one has anything to do with the other. I do not recall whether Congress voted for our funding on March 3 or March 4. I tend to think, but I don't have the calendar in front of me, that it was on March 4.

So that is my recollection. I was intensely interested, obviously, in the debate going on in this Congress about funding our Department so that I wasn't going to have to furlough a whole lot of people. So my recollection is that it passed the Congress on March 4, but I could be wrong. But I don't have a calendar in front of me.

Mr. GOWDY. The gentleman from Ohio yields back.

The Chair would now recognize the gentlelady from California, Ms. Chu.

Ms. CHU. Yes, Secretary Johnson, I was one of the eight Congress Members that visited the Dilley and Karnes Family Detention Center, and I was horrified by the situation. And I thank you for reevaluating DHS' family detention policy and your announcement yesterday that ICE will generally not detain families if they've received a positive finding for credible or reasonable fear. It's a huge step forward and I hope it'll bring our policies in line with our international obligation to protect those that are fleeing persecution.

The families that I spoke with when I was there were not criminals. They were victims escaping extreme violence. I heard from a mother from Honduras whose son and daughter were forced into the drug cartels. She was raped, as well as her 15-year-old daughter. She and her daughter escaped but ended up in the detention facilities for months.

The mother had a credible fear determination, but then she was given a \$10,000 bond obligation, which made her desperate because she couldn't afford it, and it might as well have been \$1 million because it was unattainable. And then her daughter, in reaction to the desperation, had to be taken to the medical unit for wanting to commit suicide.

It's my hope that DHS' new policy means that families like these will no longer be detained and no longer subject to such unreasonable bonds. So, Secretary Johnson, could you describe how the agency will implement this new policy, and how long do you expect the review to take?

Secretary JOHNSON. Well, much of the reforms that we announced and that I directed are underway already. In terms of the review of the cases, the older cases, that review has already been undertaken, and it has produced results.

In terms of the new bond policy, I believe also that that policy has in fact been implemented and is underway. The review that Director Saldaña directed of the facilities themselves, the advisory committee, I would have to get back to you in terms of the exact status of that.

Thank you also for visiting the facility, and thank you for meeting with me after you did so.

Ms. CHU. Thank you. In fact, I wanted to get more clarity on the bonds for the families. Will ICE continue using bonds for these families? And how will you work to ensure that these bonds remain reasonable for them?

Secretary JOHNSON. Well, I've directed that they be realistic and be reasonable. And I have asked that I receive regular reports on what the bond levels are. And I know that ICE is developing, if they haven't already developed criteria for setting bonds at a consistent and affordable rate.

When I was at one of these facilities, I was struck by the number of people who were there who had a bond set, but they were not able to produce the cash. And so this is one of the things that I want to be sure we set at a realistic rate.

Ms. CHU. I also wanted to ask about a different detention center, that's Adelanto Detention Center in California. There have been numerous reports documenting inadequate care for the detainees.

This facility is run by a private company, GEO Group. And we know that GEO's failure to provide adequate medical care resulted in the death of at least one detainee, Mr. Fernando Dominguez, who was detained for 5 years and died of intestinal cancer several days after he was rushed to the hospital with unusual bleeding.

Now, this facility has recently been expanded by 640 beds, and it's of concern, considering the history of medical neglect. So, Mr. Secretary, what is ICE doing to ensure that the private companies that it contracts with provides adequate medical care and abides by the ICE Performance-Based National Detention Standards?

Secretary JOHNSON. This is a priority of mine. It's a focus of mine. And I believe it is a priority and a focus of Director Saldaña. I've heard concerns raised about private contractors running detention facilities, and I want to be sure that we get this right both with respect to the conditions and with respect to clarity about lines of authority and responsibility.

So when you have a private contractor in the mix, whose responsibility is it day-to-day to ensure the conditions of confinement? And so it's something that we're looking into and it's something I'm very interested in.

Ms. CHU. Thank you. And I yield back.

Mr. GOWDY. Gentlelady yields back.

The Chair will now recognize the gentleman from Pennsylvania, former U.S. Attorney, Mr. Marino.

Mr. MARINO. Thank you, Chairman.

Good afternoon.

Secretary JOHNSON. Good afternoon.

Mr. MARINO. Mr. Secretary, I first, as a former U.S. Attorney, realize the complications involved with dealing all kinds of local law enforcement entities. It can be quite chaotic. However, I am disappointed with the Administration in the way it is not, I think, directly handling sanctuary cities. I think the Administration can have a much more direct impact by being aggressive, as it has in other areas, to force sanctuary cities to be in contact with ICE.

I've worked with ICE for a great deal of time. I think they are some of the best agents that we have in the Federal system. And I do agree with your position on the pay. But I put most of the blame on sanctuary cities at this point, however, I put part of the blame on Homeland because of the void between the detainer and a warrant. Now, I know in some situations a warrant may not be applicable.

But give me some insight on how you see or what directive you can give to sanctuary cities in particular of letting ICE know when an illegal individual, an illegal person that is in this country is being released from any facility. Do you have anything on mind at this point?

Secretary JOHNSON. Well, if it's somebody that we want for detention purposes, for removal purposes, my hope is that they not be released, period. I honestly believe the most effective way to go about getting at undocumented criminals in local jails is through a cooperative, constructive effort without—

Mr. MARINO. I'm sorry to interrupt. I only have a little bit. But that isn't working. So I think you have the authority, I think that you need to take the tough position to say—hand out a directive: You will respond to us. And if you need something done legislatively, come back to us. With all due respect, sir, I think that the Administration is avoiding this because of its propensity to want amnesty the way that it does. But that's a matter for another day. But if you want to respond to that, please.

Secretary JOHNSON. The problem, if I may, is for a long time we did take the position that detainers were mandatory, and that was leading to a lot of litigation in the courts—

Mr. MARINO. Right. I'm aware of that, sir.

Secretary JOHNSON [continuing]. We were losing. We were losing for reasons of the Due Process Clause of the Constitution.

Mr. MARINO. So maybe you need us to help out a little bit.

Secretary JOHNSON. Frankly, we were losing with a lot of these jurisdictions who were passing all these laws saying: Thou shalt not cooperate with ICE.

Mr. MARINO. I understand that.

Secretary JOHNSON. And that led to a real public safety problem, in my view, which I think we are correcting now.

Mr. MARINO. Well, if any time you think that you need the legislation to help you in that direction, please contact us.

I want to switch to another situation here, particularly in my district, but it's happening across the U.S. Last year the U.S. Sentencing Commission promulgated an amendment to the Federal Sentencing Guidelines, Amendment 782, which reduced the base offense level for all drug trafficking by two levels. The amendment was also made retroactive, and as a result, more than 10,000 drug trafficking offenders will be released early from prison beginning on November 1 of this year.

And I have in front of me—this pertains to the Middle District—there'll be 68 people released between November 1, 2015, and December 31, 2016, and many more after 2016. And as a State gets closer to the border, those numbers increase, because on my list of 68 people there are about 20 percent, 19 of them, are from outside the country. Now, this list doesn't tell me whether they're illegals or not.

But I would ask if you could take a look at this, pay attention to particularly the list of people that are from outside the country to see if they are violent illegals. And that's probably another way that we could stop a great deal of what has been taking place, particularly what has happened over the last 2 weeks, and my condolences do go out to that family. Would you please respond?

Secretary JOHNSON. Yes, I'm aware of this issue. I'm aware of the adjustment to the Federal Sentencing Guidelines. I'm aware that a number of individuals will be released as a result. I'm aware that a number of them are probably undocumented, and we've been working with DOJ to do the most effective thing for public safety in that regard, and we will continue to do so, sir.

Mr. MARINO. I appreciate that, and I yield back the 1 second of my time.

Mr. GOWDY. Gentleman yields back.

The Chair will now recognize the former attorney general from Puerto Rico, Mr. Pierluisi.

Mr. PIERLUISI. Thank you, Chairman.

Secretary Johnson, welcome back to the Committee.

Secretary JOHNSON. Thank you.

Mr. PIERLUISI. When you testified here last May, we spoke about drug-related violence in Puerto Rico, the same subject I raise with virtually every senior DHS and DOJ official that comes before this Committee. Like I did then, I want to outline a narrative for you and ask you to comment. I will be brief so you have sufficient time to respond.

In 2011, there were 1,136 homicides in Puerto Rico, an average of over 3 a day, the most violent year in the territory's history. That was nearly the same number of murders as were committed that year in Texas, which has over 25 million residents compared to 3.5 million in Puerto Rico. Most murders in Puerto Rico are linked to the drug trade since Puerto Rico is within the U.S. Custom Zone and is used by organizations transporting narcotics from South America to the U.S. mainland.

When I examined the level of resources that DHS and DOJ were dedicating to combat drug-related violence in Puerto Rico, it was clear that the Federal law enforcement footprint on the island was woefully inadequate. Accordingly, I did everything within my power to change that dynamic. Starting in 2012, under your predecessor, Secretary Napolitano, the message finally began to sink in. DHS component agencies like the Coast Guard, ICE, CBP, started to step up their games. The Coast Guard has massively increased the number of hours that its ships and planes spend conducting counter-drug patrols around Puerto Rico. ICE surged its agents to Puerto Rico where they arrested hundreds of violent criminals and seized vast quantities of illegal drugs and firearms. CBP assumed control of the aerostat program from the Air Force and moved quickly to repair the radar in southern Puerto Rico that had been inoperative since 2011.

The actions taken by DHS, in conjunction with its Federal and local partners, have made a major difference in a very short period of time. Each year the murder rate has declined. In 2014, there were 681 homicides in Puerto Rico. That is 40 percent lower than 2011. In 2015 to date, there have been 287 homicides. If current trends continue, there will be half as many murders this year as there were in 2011. I am not sure if there's any other jurisdiction in the world that has experienced such a steep and rapid crime drop.

It is critical that we keep our eye on the ball and that we sustain and strengthen these efforts, especially since, notwithstanding the

improvements, Puerto Rico's homicide rate is still four times the national average. Rest assured that I will continue to do my part. As you know, the Coast Guard is modernizing its fleet of vessels in Puerto Rico, replacing our six older vessels with six modern vessels. Last week, I met with Peter Edge, The Executive Associate Director of ICE HSI, which is doing great work in Puerto Rico, to discuss the agency's current posture and future plans on the island.

On the legislative front, I secured language in the DHS appropriations bill that will enable CBP to use both revenues from the Puerto Rico Trust Fund and general appropriations from Congress to support its air and marine operations in the territory.

I would welcome any comments you might have and hope you can assure me that Puerto Rico will continue to be a top priority for DHS. Thank you.

Secretary JOHNSON. The answer is yes. And since we'd last met last year, we have created and operationalized my southern border campaign strategy, which brings to bear all the resources of my Department in different regions in a coordinated fashion. We are doing away with the stovepipes.

So we have a Joint Task Force East, for example, which is for the southeast part of the country and the maritime approaches, where we now have, in a combined and coordinated way, all of the border security law enforcement assets of my Department devoted toward the southeast. And, so, we now have the Coast Guard, CBP, ICE, CIS, working together in a coordinated fashion for—

Mr. PIERLUISI. Great.

Secretary JOHNSON [continuing]. Public safety and border security. And I think that's a very positive step, and I think it will be a positive step for Puerto Rico as well.

Mr. PIERLUISI. Thank you so much.

Mr. GOWDY [presiding]. The gentleman from Puerto Rico yields back. The Chair will now recognize the gentleman from Texas, former Chairman of the Committee, Mr. Smith.

Mr. SMITH. Thank you, Mr. Chairman.

Secretary Johnson, I'd like to go to the 30,000 convicted criminal aliens the Administration released last year. It was 36,000 the year before. It's been over 30,000 for the last several years. Arguably, about 2,000 of the 30,000 had to be released because of the Zadvydas Supreme Court case, but that left 28,000 that I don't believe needed to be released.

A partial breakdown of the 28,000 convicted criminal aliens the Administration released and didn't have to, include 5,000 convicted or dangerous thugs, 500 convicted of stolen vehicle, 200 convicted of sexual assault, 60 convicted of homicide, over 300 convicted of commercialized sexual offenses, and over 100 convicted of kidnapping.

Why did the Administration release them? And is the Administration going to continue to release these types of individuals?

Secretary JOHNSON. Congressman, as you and I have discussed previously, I would like to see that number greatly reduced to the extent legally possible. And so, last year, ICE, at my encouragement and direction, issued new policies to tighten up on the situation where somebody who has been convicted of a crime and who

has served their sentence and transferred to immigration is then released.

Mr. SMITH. Okay.

Secretary JOHNSON. And so we have a higher level of approval for doing so. We should not release people for lack of space or budgetary concerns.

Mr. SMITH. Right. Do you expect this number to come down dramatically in the next year?

Secretary JOHNSON. I would very much hope and like to see it come down in fiscal year 2015.

Mr. SMITH. That's pretty much up to the Administration whether it continues to release individuals back into our communities, and as you know, many of them are convicted of additional crimes, which I think could have been avoided. Doesn't sound like you disagree with me.

Secretary JOHNSON. Well, like I say, I want to see that number come down dramatically. As you point out, there is the Supreme Court decision which constrains our discretion somewhat.

Mr. SMITH. Right. That only applies to about 8 percent.

Secretary JOHNSON. But like I said, and also a lot of it is up to the immigration judges, but I want to see this number come down, sir.

Mr. SMITH. Okay. I hope that you can succeed. That number has been at 30,000 or over for the last several years, and I haven't seen any improvement.

A 1996 bill that I happen to have introduced became law, and a part of that law mandated that local officials cooperate with Federal immigration officials. Do you feel that San Francisco and other sanctuary cities are violating current Federal law?

Secretary JOHNSON. I don't have a judgment with regard to that, sir. I do believe that the most effective approach is a cooperative one. I don't have—

Mr. SMITH. I know—I heard you say that a while ago. You have no opinion as to whether you think sanctuary cities are violating current Federal law, which I'm assuming you're familiar with?

Secretary JOHNSON. I do not have a legal judgment on that question, sir.

Mr. SMITH. Okay. I'm appalled that you don't. One fact is that under this Administration, the number of sanctuary cities has been increasing dramatically.

Has the Administration done anything to discourage a city from becoming a sanctuary city?

Secretary JOHNSON. Absolutely, every day. We are with the new—

Mr. SMITH. No, all these new sanctuary cities where you had city councils who had voted to become sanctuary cities, has the Administration—

Secretary JOHNSON. I personally—

Mr. SMITH [continuing]. To discourage any of them?

Secretary JOHNSON [continuing]. Along with other senior officials of this Department, engaging mayors, governors, county supervisors, city council members, about cooperating with us pursuant to the new program.

Mr. SMITH. No, not cooperating. I'm asking you if you discouraged any city from becoming a sanctuary city?

Secretary JOHNSON. I am encouraging people to cooperate.

Mr. SMITH. So the answer is no, you have not tried to discourage any city?

Secretary JOHNSON. I have answered yes.

Mr. SMITH. No, no, you said you're encouraging cooperation. That's after they become a sanctuary city. I'm asking you, did you discourage any city from trying to become a sanctuary city?

Secretary JOHNSON. Well, look, there are 300 jurisdictions—

Mr. SMITH. That's pretty critical if you're not doing anything to discourage cities from becoming these sanctuaries.

Secretary JOHNSON. Irrespective of what label you put on it, there are now 300 jurisdictions that have, to one degree or another, erected limitations on their ability to cooperate with us. I am trying to—

Mr. SMITH. And did you do anything to prevent any of those—

Secretary JOHNSON.—I am flying back—

Mr. SMITH. Did you do anything to prevent any of those 300 cities—

Secretary JOHNSON [continuing]. For the sake of public safety.

Mr. SMITH. Mr. Secretary, did you do anything to prevent any of those cities from becoming a sanctuary city?

Secretary JOHNSON. A lot of jurisdictions I meet with probably regard themselves as sanctuary cities. I don't know that there is a magic—

Mr. SMITH. I think it's clear you—you don't want to admit it, but I think it's clear you did not try to discourage any city from becoming a sanctuary city.

One more question. The President said in regard to the surge last summer of illegal immigrants, particularly those coming from Central America, that they were going to be sent home. It's my understanding that roughly 92 percent are still in the United States. Why hasn't the President kept his promise to return those individuals home?

Secretary JOHNSON. When you're talking about children, and I think that's what you're asking about.

Mr. SMITH. Not entirely, but regardless of how you want to label them, the President has said that they would be returned home.

Secretary JOHNSON. Inevitably, removal and repatriation of a family or a child from Central America becomes a time-consuming process, because as I'm sure you know, they very often assert an asylum claim.

Mr. SMITH. Do you agree with my statistic that 92 percent, roughly, are still in the United States of the individuals the President said we could return?

Secretary JOHNSON. I haven't heard it put that way before, so I don't know. I do know that an awful lot of them are still here in deportation proceedings right now.

Mr. SMITH. I think it's 92 percent contrary to the President's pledge to the American people.

I yield back, Mr. Chairman.

Mr. GOWDY. The gentleman from Texas yields back. The Chair now recognizes the gentleman from Illinois, Mr. Gutierrez.

Mr. GUTIERREZ. Welcome, Mr. Secretary. I'm happy to have you back here before this Committee.

First of all, I think the gentlemen just misspoke on the issue. Not all jurisdictions call themselves sanctuary cities. It's a political term, political term of art some people appropriate and others don't.

But it is clear that a Federal district court in Oregon ruled that a county violated a person's Fourth Amendment right to be free from unreasonable seizure by keeping the person in custody, based on nothing more than an ICE detainer. Now, that's a Federal court that made that determination, not the Secretary of Homeland Security.

A Federal circuit court, the Third Circuit ruled that because ICE detainers are not mandatory but voluntary, with all due respect to the gentleman from Texas and the law that he passed in 1996, that's what a Federal court said in the Third Circuit, voluntary, law enforcement agencies are free to disregard them, and that is exactly what we're doing.

So instead of having the Secretary of Homeland Security here asking him, well, how many people have you tried to dissuade, the Federal courts have said that the detainers are a violation and are not enforceable, regardless of what we here believe they are.

And so why don't you just haul in the mayor of San Francisco and then haul in the mayor of Chicago and haul in the mayor of New York and just 300 jurisdictions and bring them before him. What are you going to do, lock them up, too? Because they don't abide by the way you look at the world and how things should be enforced? These are local jurisdictions that have made a decision that as they carry out local police enforcement, which is a local issue, this is the way they want to do it, and that they are not going to cooperate.

Now, what they can do, instead of having this hearing here, which will lead to absolutely nothing, unfortunately, Mr. Chairman, this will lead to nothing. This will not lead to a solution. Everybody will feel better. They'll get a few headlines. They'll put something on their Facebook and they'll say, well, we put in a day's work, but it will lead to nothing. Why don't we get to the business of making sure.

Mr. Secretary, I'd like to ask you a question. Of the 11 million or so undocumented immigrants, did all of them cross the border between Mexico and the United States?

Secretary JOHNSON. No. As you know, sir, a lot of the undocumented didn't come here by crossing the southern border. I mean, there are a variety of different ways.

Mr. GUTIERREZ. Did millions of them come here legally to the United States with a tourist visa, a student visa, a worker's visa, and overstay those visas eventually?

Secretary JOHNSON. Some are visa overstays, yes, sir.

Mr. GUTIERREZ. Okay. So that if you shut down the border, there would still be millions of undocumented workers in the United States of America?

Secretary JOHNSON. Well, I think we have done a lot for border security. We could always do a lot more, but we have, over the last number of years, done a lot, but the reality is that there are mil-

lions of people here undocumented. I am struck by the fact that something like more than half of them have been here more than 10 years. They are not going away. We don't have the resources to deport 11 million people.

So in my judgment, we have to reckon with this population one way or another to make them accountable and to account for them. And so, a lot of us want to see us address this population of people in a way that promotes law enforcement, and it's simply the right thing to do.

Mr. GUTIERREZ. So 11 million people, if not one of them crossed the border ever again, there would still be hundreds of thousands, indeed millions of visa overstays because the only border into the United States of America, isn't to the surprise of many probably, not the border between Mexico and United States, if not LAX and JFK and Chicago O'Hare where people enter into the country legally every day, and have overstayed their visas.

And that we need to also do something—as we look at the broken immigration system, we should not just focus on that border, because I think focusing on the border really doesn't give us the true nature of the problem that we confront.

I'd like to just end because you were asked earlier about whether or not when people apply for deferred action, if they're asked if they're a gang member. Now, of course, if Members of Congress actually filled out the forms or helped people fill out the forms, they'd know that they're asked, so I understand that if you've never filled out one of these forms, or your staff has never filled one out, you wouldn't know, but I just wanted to make sure that you gave the right answer, Mr. Secretary. It is asked. They ask them—

Secretary JOHNSON. That's my—

Mr. GUTIERREZ. Have you every—that was your answer.

Secretary JOHNSON [continuing]. We direct them.

Mr. GUTIERREZ. But it says have you ever been arrested for, charged with, convicted of a crime in any country other than the United States? So not only do you ask them about here, but you ask them about the country of origin, and you ask them particularly if they have ever been a gang member, and they must—and I'll just add this, just so that we can—if you answered yes, that you've ever been arrested, charged with, convicted of a felony or misdemeanor, including incidents when you were in juvenile court, which usually are sealed, but not in this case. You want to be a DREAMer, you got to tell everybody about everything.

If you answered yes, you must include a certified court disposition, arrest record, charging document, sentencing record, except—for each arrest, unless disclosure is prohibited under State law.

So I just wanted to make sure that the Committee understood that when people apply for deferred action, they not only have to—if they answer yes to all those questions, all of those documents must be presented, and they do ask. And lastly, they have to be fingerprinted, and those fingerprints are checked, Mr. Secretary, by? I just want to make sure. Who checks the fingerprints that are—that the—DACA recipients?

Secretary JOHNSON. I believe it's a combination of agencies. I believe that's an interagency process.

Mr. GUTIERREZ. Interagency process. That's what I thought. So it's an interagency process. Thank you so much, Mr. Secretary, for coming before us today.

Mr. GOWDY. I thank the gentleman from Illinois.

I think Mr. Forbes' broader point, Mr. Secretary, and I think he meant to ask you about transcript as opposed to record. The transcript of a guilty plea or a trial is—you can very well be a member of a gang and never be charged or prosecuted with that. I think that was his broader point, but with that, I would go to the judge from Texas, Judge Gohmert.

Mr. GOHMERT. Thank you. And thank you, Mr. Secretary for being here. It was hearing my friend from Tennessee, Mr. Cohen, talk about all these threats that are apparently, in his mind, conservatives, but I don't know where his numbers were coming from. They are nothing like what I've been seeing.

As I understand, the Underwear Bomber was certainly not an evangelical Christian, not a conservative. Do you know for sure, was he a member of al-Qaeda in the Arabian Peninsula? I know that was floated at one time, the Underwear Bomber?

Secretary JOHNSON. I would regard him as part of AQAP, yes, sir.

Mr. GOHMERT. Okay. And I know that was before your watch, obviously. The Boston bomber—

Secretary JOHNSON. That actually happened when I was at the Department of Defense.

Mr. GOHMERT. Right.

Secretary JOHNSON. So I'm very familiar with the case.

Mr. GOHMERT. Yeah. But you aren't going to take credit for letting it happen, though.

Secretary JOHNSON. I was at DOD, part of the national security apparatus of our group at the time.

Mr. GOHMERT. You were not in charge of TSA when he got through wearing a bomb in his underwear.

Secretary JOHNSON. I was not in charge of TSA on December 25, 2009, no, sir.

Mr. GOHMERT. All right. Thank you. And then Fort Hood, I know some of my colleagues prefer to call that workplace violence, but when someone is yelling—indicating that he's doing it in the name of Allah, that doesn't seem to be exactly a right wing, radical, evangelical Christian.

But I know there has been a lot of discussion about Francisco Sanchez in San Francisco, and I know as a former judge, we had an ongoing problem. One guy in particular, I sentenced him—I think he had nine DWIs before he got to my felony court, and I thought, well, if he's going to be a threat, I'll send him to prison, and 6 months later, he's back in my court.

He said that he was deported 30 days or so after I sent him to prison, and I come back, and that's what keeps bringing me back to Francisco Sanchez. He was deported five times. Secretary, have you analyzed each of those deportations, where they occurred, and where Sanchez may have reentered the country?

Secretary JOHNSON. I have looked at a very detailed timeline of each of the five removals. I don't, sitting here, recall exactly where he was removed, from what point, from what station, and we don't

know, for obvious reasons, how and when he reentered the United States, or, at least, I don't know. Maybe in a guilty plea or something he acknowledged how and when he did it, but sitting here, I don't know where he reentered or crossed the border each of those five times, sir.

Mr. GOHMERT. Wouldn't that seem to be important to know where somebody reenters five times?

Secretary JOHNSON. Yes, absolutely.

Mr. GOHMERT. I would encourage you, and I would like to find out from somebody in your Department where those five reentries were. I mean, were they all down in South Texas or were some in the Arizona area, were they California? It doesn't seem like we'll ever be able to get a grip on dealing with reentries by people that come in illegally if we don't know where they're reentering.

The fella I mentioned that I had dealt with when he was back in my court, I asked how he came back in, and he said, well, they took him to the border and watched him walk across, and then after the officials, they took him to the border, drove off, then he came back across and ended up back in our county. And so it just seems like that ought to be where the focus is.

Is there any indication that if Mr. Sanchez had been given amnesty somewhere between the first illegal entry and the fifth, that he would not have shot Kathryn Steinle? Are there any indications that amnesty would have prevented this?

Secretary JOHNSON. I'm not sure I understand your question.

Mr. GOHMERT. I think it's a pretty basic question. The White House is saying that the fault for the shooting of this beautiful young lady in San Francisco was because Republicans have not passed comprehensive immigration reform, and we know we've passed laws, we've appropriated money to build a fence, to build a virtual fence, things that have not been done, and I'm just wondering if we can figure out what the White House is thinking, because, obviously, an amnesty was going to be part of a comprehensive immigration reform, and I'm just wondering if we, all of a sudden, declare Mr. Sanchez as being legally here, if that would have kept him from pulling a gun and killing Ms. Steinle.

I can't find any correlation to that, and I'm just trying to figure out what in the heck the White House thinks would have occurred differently if this man had been granted amnesty. I can't see that it would have prevented her shooting.

Secretary JOHNSON. Well, I don't—to be honest, sir, I don't know what to say.

Mr. GOHMERT. And I do prefer you to be honest. Thank you.

Secretary JOHNSON. I am interested in promoting cooperation with local law enforcement for reasons of public safety so that we can, more effectively, get at people like this individual.

Mr. GOHMERT. So if there were an amnesty, I don't see how that particularly helps. You just declare everybody legal, then I don't see that it makes a difference, but—and I realize time is running out.

Is DHS still shipping people to different parts of the country after they enter illegally, depending on where they have family or where they asked to be shipped?

Secretary JOHNSON. I don't know that that's our policy, sir.

Mr. GOHMERT. Are you saying DHS has not done that?

Secretary JOHNSON. I don't know that that's our policy, as you stated. Some people—

Mr. GOHMERT. I didn't state it was a policy. I'm just saying you've done it.

Secretary JOHNSON. Some people are able to make bond, some people are put in our alternatives to detention programs, sir.

Mr. GOHMERT. So the question was, are you still sending people to different parts of the country after they enter illegally?

Mr. GOWDY. The gentleman's time is expired. The Secretary may answer if he wants to.

Secretary JOHNSON. I don't know, logistically, where we send people or how they are placed. I do know that a large number of people are making bond and a large number of people are being placed in our alternatives to detention program.

Mr. GOHMERT. So that would be a yes, you're shipping around the country. I yield back.

Mr. GOWDY. The Chair would now recognize the gentleman from Idaho, Mr. Labrador.

Mr. LABRADOR. Thank you, Mr. Chairman.

Mr. Johnson, thank you for being here today. Ever since Kate Steinle's murder, DHS in San Francisco have been pointing fingers of the blame at each other. In fact, I heard several people on the other side say that it wasn't the fault of ICE that Lopez-Sanchez was released.

But we had a telephone conference last week with a DHS official, and my congressional staff asked last Tuesday that even if BOP had released Mr. Sanchez to ICE, ICE's answer said ICE likely would have released him to San Francisco because of the outstanding criminal warrant, despite San Francisco being a known sanctuary city that does not comply with detainers and routinely releases hardened criminal aliens.

Does it make sense to release a hardened criminal alien who was already deportable to a jurisdiction that will never return him to you for deportation purposes?

Secretary JOHNSON. No.

Mr. LABRADOR. How often does ICE release such criminal aliens to sanctuary cities?

Secretary JOHNSON. I don't know, but no, to your first question.

Mr. LABRADOR. So if it doesn't make sense, why is ICE saying that they would have released him to—

Secretary JOHNSON. I was not part of the conversation with your congressional staff, sir, but I'll stand by my answer.

Mr. LABRADOR. You're standing by your answer, but that's not your policy. I mean, it's great to come here to Congress and give us an answer when the policy of the Administration is to release these people to these sanctuary cities.

Secretary JOHNSON. Like I said, it does not make sense to, in response to your question, release somebody.

Mr. LABRADOR. So what are you going to do about it?

Secretary JOHNSON. As I said earlier, I think we need to evaluate whether greater discretion needs to be built into a situation where there is a choice, or there is a jurisdiction that wants the individual on an arrest warrant and an immigration detainer. I think that

there should be some discretion built into what is the best course for purposes of public safety.

Mr. LABRADOR. But it took this young lady's death to actually get to that determination when this is not the first time this has happened? In fact, you keep telling the American people that they are safe, that we are stopping illegal aliens, but the only reason we knew that Lopez-Sanchez was here is because he killed somebody, because we keep releasing him. He's been detained five times. He's crossed the border. We are not stopping him from entering the United States. We just keep catching him committing crimes once he's here in the United States.

I don't know that we can say that America is safe when people like this continue to come into the United States.

I'm going to give the rest of my time to the Chairman.

Mr. GOWDY. All right. I thank the gentleman from Idaho. I think Mr. Labrador's point, Mr. Secretary, and I'm sure given your background as a law enforcement officer and as a prosecutor, I'm sure you can feel and understand the frustration. We kick him out five times, he comes back. He reoffends when he does come back. We put him in Federal prison, he violates supervised release. We put him back in Federal prison, and he is released to a city where we knew ahead of time this was going to happen.

And it would be one thing to release someone to a jurisdiction for a murder charge, sexual assault, serious, serious drug offense, it would be one thing to do that so they can prosecute him and—particularly if there's a victim involved, that's exactly what you would want to do.

But this is an old drug case. If they were going to dismiss it, why didn't they dismiss it while he was in the Bureau of Prisons? Why did it require his presence in San Francisco to decide to dismiss a case? He wasn't going to be a witness anyway. I mean, you get the frustration, and—I think it's being directed to you because we perceive that you are in a position to change that.

And I know you say "cooperation," that you are trying to pursue cooperation, but I think maybe this week or last week when you were talking to some folks on Judiciary, and if I'm wrong, correct me, there are five municipalities that have flat out told you they're not going to cooperate with you. So what do we do with them?

I mean, if they really are refusing to cooperate, surely we have to have something more than just going back to them and talking to them again. I mean, you work for the United States of America. How in the hell can a city tell you no?

Secretary JOHNSON. First of all, I intend to reattack on the five. That was prior to San Francisco. I am not giving up on the five. The overwhelming majority have said, yes, they are interested. So we are going to continue to push at this.

And sir, I agree totally with the spirit of your question, and I want to evaluate whether some discretion can be built into the process so that when we're faced with a choice like that, we are able to make the best choice for reasons of public safety. I won't argue with you there, sir.

Mr. GOWDY. And I'm not going to pick on somebody who used to be a prosecutor, because I know you spent a lot of your career standing up for victims, but I swear, when I hear the term "sanc-

tuary city,” the only sanctuary it ought to be is for law-abiding citizens. If we’re going to have a sanctuary, it ought to be for them. When a young woman is shot walking with her father, with somebody with this resume, either you got to do something or we got to do something or maybe we can do it together.

With that, I would recognize the gentleman from Georgia, Mr. Collins.

Mr. COLLINS. Thank you, Mr. Chairman.

Again, I share the Chairman’s frustration and other frustrations that have been here, because at a certain point in time, you say, again, that they just don’t want to cooperate. We’ve got five cities say we’re just not going to cooperate. I was just looking on your Web site, DHS Web site, which you’ve got a vast array that you deal with.

I want to get ahead of the game. Let’s decide—because I was in the State legislature, and I know cities and States are struggling financially right now. They have, as you’ve used the term, which I do not agree with, that this is simply a prosecutorial discretion issue, resources issue.

One of the things is cybersecurity that you deal with, and you enforce cybersecurity laws, you work with law enforcement on the local and State level to do that. What if now they just don’t have the resources to do that, and they said, you know, we’re just not going to enforce that, we’re not going to cooperate with you, Mr. Secretary. Would you have an opinion on that?

Secretary JOHNSON. Absolutely. We would engage—we would encourage them to do otherwise presumably, yes, sir.

Mr. COLLINS. Okay. But we would—interesting thing. Because you said to Mr. Smith earlier, and there’s other things, you know, from economic security and everything. You said you had no opinion on sanctuary cities, but yet to the Chairman just now, you said you agree with the spirit of his question.

Secretary JOHNSON. Yes.

Mr. COLLINS. So what is it? Do you have an opinion, do you have a spirit, do you have a sudden moving internally, what do you feel about this issue? Why can we not have the United States Government pass law, and then you have an opinion? You either have an opinion, you don’t have an opinion, you agree with the spirit, you don’t agree with the spirit. For the American people, it’s just hard to understand here.

Secretary JOHNSON. Well, let me make this clear. I believe that the most effective way to address and enhance public safety is to work cooperatively with State and local law enforcement. As a result of our prior—

Mr. COLLINS. So I’m going to stop right there, though. So the supremacy clause is optional?

Secretary JOHNSON. May I finish?

Mr. COLLINS. Is the supremacy clause optional? I’ll let you answer.

Secretary JOHNSON. May I finish my sentence?

Mr. COLLINS. Go ahead.

Secretary JOHNSON. I believe that as a result of the prior policy, we were inhibited in our ability to promote public safety. With the new policy, I believe we’ll be in a much better position to work ef-

fectively and cooperatively with law enforcement. I do not believe that Federal legislation mandating the behavior of a lot of sheriffs and police chiefs is the way to go. I believe it will lead to more litigation, more controversy, and it will be counterproductive.

Mr. COLLINS. One, the supremacy clause questions you never answered, but the question you just said there, so you don't believe that mandating what law enforcement in the country does from a congressional perspective, because we're the only ones that Congress does the law writing.

Secretary JOHNSON. I do not believe—

Mr. COLLINS. So they can pick and choose what they want to, just overwhelmingly?

Secretary JOHNSON. I do not believe that the Federal Government and the U.S. Congress should mandate the behavior of State and local law enforcement.

Mr. COLLINS. So civil rights could be optional?

Secretary JOHNSON. The most effective way to do this is cooperatively with the new program, and I believe it is going to yield very positive results, sir.

Mr. COLLINS. In the spirit of this, your request. So civil rights are optional for States and locals to enforce?

Secretary JOHNSON. I don't think that mandating an approach by this Congress is the way to go. I think it will be hugely counterproductive, and it will set back—

Mr. COLLINS. So the Civil Rights Act was counterproductive?

Secretary JOHNSON [continuing]. My public safety efforts in this regard.

Mr. COLLINS. No, it's not. I want to go back to what you're saying because it goes at the heart of what we're saying. So you're saying the Civil Rights Act was overreach. You're saying that they shouldn't be enforcing this? I think we're getting at the issue of it here, because at a certain point in time, when does it become just wholesale abandonment of prosecutorial discretion when you just say we're not going to do this?

I agree with prosecutorial discretion, but what you're saying, if you just take a whole class off the table in the best sentiments that you want, because it leads to other issues like the earned income tax credit, are they folks who are eligible? The decisions you have affect other issues than simply saying we're going to hold somebody or not. We're going to address the earned income tax credit issue with legislation I'm going to draw, but it has more to do with what do we pick and choose to enforce?

I'm not sure still what your opinion is because you've, again, not answered it. You just said we'll work with them. My question is, before you come back next year, whenever it is, if we have this hearing again, is what if some of these agencies decided they didn't want to enforce something you thought they should? Where is the screaming? Where is the outrage? Where is the intent? When should Congress pass anything if there is no supremacy clause, if there is no worth to what we do to protect civil rights, to protect other things? When does each department get to decide that they're not going to enforce their Federal jurisdiction on States and localities who simply say, you know, we're not going to do it right now?

Secretary JOHNSON. May I answer?

Mr. COLLINS. Well, I stop, and it's asked a question. That's your response time.

Secretary JOHNSON. Yes.

Mr. COLLINS. All right.

Secretary JOHNSON. I have 2 seconds.

Mr. COLLINS. The Chairman will give you all the time. If you'll answer that, he'll give you all the time you need.

Secretary JOHNSON. I want to enforce the law.

May I, Chairman?

Mr. GOWDY. Yes, sir, you may answer the question.

Secretary JOHNSON. I want to enforce the law in a way that maximizes public safety and border security. That means going after the criminals. A big problem with doing that are the number of jurisdictions, I don't know what label you want to put on them, sanctuary cities or otherwise, that have erected ordinances, laws, policies that inhibit cooperating with immigration enforcement.

In my judgment, and in the judgment of a lot of other border security immigration enforcement experts, the way to most effectively work with these jurisdictions, again, is a cooperative one, not by hitting them over the head with Federal legislation that will engender a lot more litigation. And I believe we're on the path to do that, sir.

Mr. COLLINS. Mr. Secretary, I respect that opinion. I think what you have opened up, though, is a Pandora's box on other things that they don't want to enforce because of other reasons that they'll come up with, and just because this is a political issue for this Administration, they're going to let that go, but you do open a Pandora's box to what they will enforce and what they won't enforce, and that's not what the average American understands when they learn Black Letter law and they understand what's right and what's wrong. With that, I yield back.

Mr. GOWDY. The gentleman's time is expired. The Chair will now recognize the gentleman from Texas, Judge Poe.

Mr. POE. Thank you, Mr. Chairman. Thank you, Mr. Secretary, for being here. Once again, thank you for coming to Houston. I appreciate your personal involvement and FEMA doing an excellent job during the floods of May, as I refer to them.

I direct some questions about foreign fighters, not only from the United States going to help ISIS, but foreign fighters in other countries. We know that ISIS uses social media, Twitter, others to recruit, to raise money and to spread their propaganda. What is DHS doing to counteract that?

Secretary JOHNSON. A number of things, sir. Thank you for that question. First of all, to deal with the foreign fighter issue, one of the things we did last year was to add information fields to the ESTA system, the Electronic System for Travel Authorization, so that we know more about people who want to travel to the United States from countries for which we do not require a visa.

We have also developed and are developing an additional set of security assurances that we can get from visa waiver countries, because a large number of foreign fighters, as you know, I'm sure, are coming from and returning to countries for which we do not require a visa, and so I want to see us enhance the security assurances we

get from these countries with respect to people who travel from those countries to this country.

Additionally, on the international level, we've done a lot. I sat in on and represented the U.S. and the U.N. Security Council session in May on the issue of foreign fighters. And in terms of our efforts here at home, one of the things that we're spending a lot of time on, that I'm spending a lot of time on are see what we refer to as CD engagements in communities in the United States like Houston, for example.

I had a very good session in Houston on the same visit where you and I were together at your middle school, and so in my view, enhancing and refining our CD efforts in this country, which DHS participates in, which the FBI participates in and other law enforcement agencies, along with State and local law enforcement, is a priority, given how the global terrorist threat is evolving.

Mr. POE. The other thing I want to discuss with you is repatriation, and what the law is currently in the United States and how it's being implemented, if it is.

We have this problem that a person comes to this country, commits a crime, goes to Federal prison. While in prison, the way the system works, he's ordered deported. The country doesn't take him back. Six months later, he's released back across America. What are we doing to those countries to encourage them, you take your convicted criminals back?

Secretary JOHNSON. The State Department and I have been in dialogue about this, and we have been in dialogue with countries that are slow to repatriate people. I have personally had this discussion with my Chinese counterparts when I was in Beijing in April, and I believe we made some progress there where they agreed to additional repatriation flights, and so China is one of the big ones. So we made good progress there, but I think, and I agree that there is more work to do in that regard.

Mr. POE. If I understand, China, number 1, the other top five, Vietnam, Cuba, India, Jamaica, refused to take back their lawfully deported citizens. Doesn't the law already allow the State Department, under some circumstances similar to that scenario, to revoke visas from that country?

Secretary JOHNSON. I believe it does, but I'm not sure.

Mr. POE. Do you encourage the State Department to do that, when appropriate?

Secretary JOHNSON. I would not, at this time, encourage that, sir, no, sir.

Mr. POE. All right. Thank you, Mr. Chairman. I will yield back.

Mr. GOWDY. The judge yields back. The Chair will now recognize my friend from Florida, Mr. Deutch.

Mr. DEUTCH. Thank you, Mr. Chairman.

Secretary Johnson, thanks for being with us today and I want to applaud your recent decision to change detention practices for families awaiting their appearance in immigration court, and that's because many of those awaiting their day in court are mothers with young children.

Why they fled their home countries is no mystery. Central America has been gripped by transnational gang violence, and these families are not, as Republican presidential candidate Donald

Trump has described, to be violent criminals, drug dealers, and rapists. These families are fleeing violent criminals, drug dealers, and rapists. And many of the mothers currently in custody have suffered sexual abuse, witnessed extreme violence, and received death threats against themselves and their children.

How we treat them, Mr. Secretary, colors the reputation of the United States on the international stage, and our practice of welcoming these most vulnerable families by essentially incarcerating them was wrong and called for change.

After all, the purpose of civil detention is to ensure that individuals show up in immigration court. These families have every reason to do so. They pose no flight risk and indeed, for many of them, returning home would mean risking death. Likewise, we have no national interest in subjecting children of any nationality to the detrimental psychological impact of detention, which has been documented in several recent studies.

Your written testimony includes plans to rapidly increase the use of ATDs, or alternatives to detention, and it deserves our praise. Expanding the use of ATDs from 23,000 in 2014 to 53,000 in 2016 is the morally respectable and the fiscally responsible thing to do, and I am encouraged by this development, and I want to encourage you to expand the use of ATDs throughout our greater immigration enforcement system.

Our overreliance on immigrant detention has disturbing implications. A recent report by Detention Watch Network revealed that ICE often agrees to contracts with for-profit detention corporations that include guaranteed minimum numbers of detainees for specific facilities each day. These local lockup quotas in detention contracts obligate ICE to pay for a minimum number of immigration detention beds at specific facilities referred to in contracts as guaranteed minimums. And for the government to contractually guarantee specific detention center prepaid numbers of detainees, each day is a waste of taxpayer dollars, it's a violation of best practices of law enforcement, and it is an affront to our basic concept of justice in America.

The financial implications for taxpayers will also raise in a November 2014 GAO report, and that's because such quotas often pad the profits of private-person companies at taxpayer expense, even when slots go unfilled.

Certainly, detention is invaluable to law enforcement. It's invaluable when dealing with immigrants who officers determine are flight risk or whose release could threaten public safety, but detention is intended to be one of many tools available to ICE to ensure individuals show up for immigration court, not the only one.

But evidence of local lockup quotas may just be the latest symptom of the real disease, which is the mandate imposed by Congress in the annual Homeland Security appropriations that requires ICE to maintain the detention of 34,000 individuals each day. This detention-bed mandate cost taxpayers over \$2 billion a year, \$5.5 million per day to enforce, because placing someone in detention for nearly \$160 a day is far more expensive than proven alternatives, like ankle bracelets and supervised release, which are just as effective and far more humane at a fraction of the cost.

We could save taxpayers nearly \$15 billion over the next decade through the greater use of alternatives to detention. But as sensible and as fiscally sound as this policy may be, I'm concerned that the incorporation of local quotas into ICE contracts is only further entrenching the national detention bed mandate into our communities, and I have just a series of questions. I'd ask you can respond now or you can provide responses after, Mr. Secretary.

I would like to know if you're aware of ICE's practice of signing these contracts with private detention companies that contain lock-up quotas? We're interested to know whether, during contract negotiations, private detention companies insist the contract for specific facilities contain these provisions? Is it the lockup quota for a specific facility, is that lockup quota negotiable during negotiations?

And finally, the November 2014 GAO report that addressed lock-up quotas for specific facilities was critical of those, and I'd like to know whether DHS made any policy changes in response to that report addressing lockup quotas in contracts with private detention companies?

You're moving in the right direction, Mr. Secretary, and I hope you can respond to these questions so that we can save the taxpayers money so we can have a policy that is more humane as well. Please.

Secretary JOHNSON. I would refer you to the directive that I issued on June 24th in the announcement concerning family detention, which you alluded to in your statement, and I'd like to take those questions for the record, sir.

Mr. DEUTCH. Thank you. Thank you, Mr. Chairman. I yield back.

Mr. GOWDY. The gentleman from Florida yields back. The Chair will now recognize the gentleman from Michigan, Mr. Bishop.

Mr. BISHOP. Thank you, Mr. Chair.

And thank you, Mr. Secretary, for being here today. I have a number of questions I intended to ask about cybersecurity, but as I sit here, we have now been through most of the Members on the panel. I need to ask you a question, and I feel like I need to ask you it as not a Member of Congress, neither Republican or Democrat, but just as an American.

And you were a former prosecutor. I respect your insight on this, and I hope that you can share your thoughts in a candid way, and this is actually, you know, a follow-up question, in particular, to Mr. Collins' and Mr. Gowdy's questions.

We're a Nation of laws, and as I sit here and listen to this discussion, we are a Nation of laws. It's what differentiates us. It's what distinguishes us as a civilized society, and in this country we don't discriminate when it comes to the application of the law. In fact, the Fifth Amendment of our Constitution, equal protection doctrine, and which extends to States as well, specifically says, it requires us, people in similar circumstances are to be treated in the same way, in similar ways.

And as I think about sanctuary cities and how they have been applied and how we have discussed them in this context, how has this continued on? How do we continue to accept sanctuary cities and its selective application of law? And I would say, historically,

Americans would view the selective enforcement of laws as a sign of tyrannical government.

It's inherently unjust. It's a blatant misuse and abuse of power to allow for such an environment to exist. And I'm wondering how we expect Americans to respect the rule of law if the Administration's policy is to enforce them, based solely on edicts from rulers rather than from actual rule of law?

Secretary JOHNSON. Is your question with regard to sanctuary cities?

Mr. BISHOP. It is with regard to sanctuary cities, and to me, as a person who represents a good 700,000 people, and one of the very issues that I hear about every day is the fact that we have lost the ability to enforce the laws as they are written, that we do it in such a way that applies in one way to one group in such a way, and another way to another group. And when that happens, we lose the rule of law, and folks just simply do not want to comply with the law.

Secretary JOHNSON. Well, if I could answer it this way: Last year, when I took a look at the number—the growing number of jurisdictions, States, cities, counties that were refusing to cooperate with my own Department in the enforcement of our immigration laws, I said, this is something that we have to fix because the number is growing, and it's affecting public safety, in my judgment.

And so we took a hard look at the Secure Communities Program. We saw how it was becoming an item of litigation in court, and the defendant was losing in court in these cases, and we look at the political controversy that had been built up around Secure Communities. I concluded that we needed to make a clean break with the past and develop a fresh program that I believe is going to fix the situation and promote public safety.

And so that's what we've been doing since the announcement of the new program in November. Unfortunately, there is no one-size-fits-all answer to this, because a lot of these jurisdictions have erected different types of limitations on their ability to cooperate with us.

Mr. BISHOP. May I—sir.

Secretary JOHNSON. We have to do this one by one.

Mr. BISHOP. And I gathered that from the testimony. I know my question was a duplication of many other questions. I apologize for the fact that I'm asking a question that's already been answered, but the frustration is, how is it possible that we live in a country of laws, a Nation of laws that allows these local jurisdictions to set up these little buffer areas where the law does not apply to them?

And I know that we've heard about the Fourth Amendment and the concerns about the Fourth Amendment, and I respect the Fourth Amendment, but we can't hide behind the Fourth Amendment when the rest of the Constitution applies, when in fact, it's endangering citizens, and when it really prevents us from applying the rule of law in a way that's consistent with every American.

And I just sit here in frustration as I listen to this discussion. I'm wondering why isn't the Federal Government insisting upon these local units of government following the rule of law and not allowing this to happen, not allowing this selective application to happen?

Secretary JOHNSON. Well, again, I believe that the best approach is a constructive one, and I believe that it will lead to much better results. It will raise the level of trust and cooperation, because we have not been in a good place when it comes to a lot of jurisdictions that are just very distrustful of our immigration enforcement efforts, and I want to put us in a better place as long as I'm Secretary.

Mr. GOWDY. The gentleman yields back. The Chair will now recognize the gentleman from Texas, former United States Attorney, Mr. Ratcliffe.

Mr. RATCLIFFE. Thank you, Mr. Chairman.

Secretary Johnson, earlier today, as you gave your testimony and responded, I think, to the first question, you said something, you said, and I'm quoting you here, "It is a fiction to say that we are not enforcing the law," when it comes to deporting criminal aliens. Did I hear you correctly?

Secretary JOHNSON. Yes, sir.

Mr. RATCLIFFE. Okay. And in fairness, and the Department clearly is deporting some folks, but I'd hope that you'd agree with me that what's not a fiction is that this Administration has been attempting to change the law when it comes to deporting criminal aliens, a fact reflected by the President's executive orders back in November?

Secretary JOHNSON. I disagree.

Mr. RATCLIFFE. Why would you disagree with that?

Secretary JOHNSON. Because in my judgment, and in the judgment of the Department of Justice, our executive actions were within and are within our existing legal authority.

Mr. RATCLIFFE. I'm not talking about within the authority. I'm asking you about changing the law here.

Secretary JOHNSON. Well, if it's in your legal authority to act, you're not, by definition, changing the law.

Mr. RATCLIFFE. Well, let me ask you about that then. You do agree with me that the President's executive orders in November attempts to allow executive amnesty to 4- to 5 million illegal aliens, you'd agree with that?

Secretary JOHNSON. Not the way you've characterized it, no.

Mr. RATCLIFFE. All right. Then how would you characterize it?

Secretary JOHNSON. One of the executive actions I signed was to create a program by which we can offer deferred action on a case-by-case basis to those who come forward and who meet certain criteria and who, in the judgment of the agency, should be given deferred action.

Mr. RATCLIFFE. Which could result in amnesty to up to 4- to 5 million—

Secretary JOHNSON. No.

Mr. RATCLIFFE [continuing]. Folks here?

Secretary JOHNSON. I don't agree with that. That's not my definition of amnesty.

Mr. RATCLIFFE. Okay. Well, you've gone on record, regardless, of saying that you think the President's actions in that regard, that he acted constitutionally.

Secretary JOHNSON. Yes, sir.

Mr. RATCLIFFE. All right. And I've gone on record as saying I don't think that he has acted constitutionally, and right now a Federal judge in a court of appeals in the Fifth Circuit has agreed with me that the President's request to lift that stay and to proceed to take those actions shouldn't be allowed. But you've been asked today and talked a lot today about the issue of prosecutorial discretion, and we're both former prosecutors, so I'd like to ask you about something that you said previously in a hearing last year.

You said, and I'm quoting, "There comes a point when something amounts to a wholesale abandonment to enforce a duly enacted constitutional law that is beyond simple prosecutorial discretion," end quote. Does that sound like something you said?

Secretary JOHNSON. That sounds like me, yes.

Mr. RATCLIFFE. Okay. And do you believe that?

Secretary JOHNSON. I still do.

Mr. RATCLIFFE. Okay. So I know the answer to this question, but I'm going to ask you anyway. Do you think that DHS has already crossed that line by suspending the law for almost 5 million folks that are here illegally?

Secretary JOHNSON. Well, again, I would not characterize our executive actions that way, and I would refer you to the opinion of the DOJ Office of Legal Counsel issued in November in terms of where that line exists. I thought it was a pretty thoughtful discussion.

Mr. RATCLIFFE. Okay. But again, you don't think that wherever you think that line is, you don't think DHS has crossed it at this point?

Secretary JOHNSON. No, sir.

Mr. RATCLIFFE. Okay. So that begs the question—

Secretary JOHNSON. I know that there are people who disagree with me, but no, sir.

Mr. RATCLIFFE. Sure. That begs the question from me, what would it take, in your opinion, for DHS to cross that line because I think there's every possibility that this President will attempt to move this line again, and so if this President were to seek to grant deferred action to, say, all 11- or 12 million unlawful aliens in this country, I would like to hear you on the record on whether or not you think that would cross this line?

Secretary JOHNSON. Well, again, I'm no longer practicing law. I'm just a Secretary. And so I think what you're asking me for is a legal judgment, and again, I believe that the opinion of DOJ's Office of Legal Counsel has a pretty good discussion of this exact topic, and I recall when I read it, agreeing with the analysis. I don't have it with me, but I recall then agreeing with the analysis.

Mr. RATCLIFFE. Well, let me ask you about that. So that analysis extends—since you had a good discussion with them, would it extend to possibly 11- or 12 million folks?

Secretary JOHNSON. Doubtful.

Mr. RATCLIFFE. And if it did, would you have an opinion on whether it should?

Secretary JOHNSON. Well, it depends on the circumstances, but I would say I doubt it.

Mr. RATCLIFFE. So when you say you doubt it, you doubt that amnesty should be granted to 11- or 12 million people?

Secretary JOHNSON. Well, if you're referring to the estimated population of undocumented in this country, a lot of those people are and should be priorities for removal, so in my judgment, someone who is a priority for removal should not receive deferred action.

Mr. RATCLIFFE. I see my time is expired.

Mr. Chairman, I yield back.

Mr. GOWDY. The gentleman yields back.

Mr. Secretary, I thought we were kind of getting toward the end, and then two Members came up. Would you want or desire a short break, or you want to keep marching on in hopes that we—

Secretary JOHNSON. I'm happy to keep going for a little while longer.

Mr. GOWDY. Okay.

Secretary JOHNSON. Thank you for asking.

Mr. GOWDY. Yes, sir. The gentleman from New York, my friend, Mr. Hakeem Jeffries, is recognized.

Mr. JEFFRIES. Thank you, distinguished Chair from South Carolina, my good friend, and I want to thank the Secretary for your presence here today, your patience, as well as the tremendous job that I believe you've done as the Secretary of Homeland Security, and your prior service.

Secretary JOHNSON. Who's known you a lot longer than the gentleman from South Carolina.

Mr. JEFFRIES. I want to begin by just asking that there are 11 million undocumented immigrants in this country approximately; is that correct?

Secretary JOHNSON. That is a Pew estimate from a few years ago, 11.3, yes.

Mr. JEFFRIES. Okay. And has this Congress or any other Congress ever given the Department of Homeland Security the resources that will be required to deport all 11 million undocumented immigrants?

Secretary JOHNSON. No.

Mr. JEFFRIES. And so, therefore, is it reasonable to have a priority policy that focuses on those undocumented immigrants who would potentially pose the most danger to the American citizens?

Secretary JOHNSON. Yes.

Mr. JEFFRIES. Is that what DHS has done?

Secretary JOHNSON. Yes.

Mr. JEFFRIES. Okay. In New York City, we've got a technology innovation economy that has begun to develop in some significant ways for our city and our State as has been the case across the Nation, and I've been very supportive of that. Many within the technology sector have indicated that there's approximately a 20 percent vacancy rate, if not more, of jobs that they cannot fill here in America, that's been part of the impetus for an increase in H-1B visas, which I've supported.

I was disturbed, however, by the revelations as to what appears to have taken place down in Florida at the Disney Company. I just wanted to ask a few questions about that. Before I did, I'd just asked unanimous consent that an article from the New York Times dated June 3, 2015, titled "Pink Slips at Disney, But First Training Foreign Replacements" be entered into the record.

Mr. GOWDY. Without objection.

[The information referred to follows:]



The New York Times | <http://nyti.ms/1H02mFN>

U.S.

Pink Slips at Disney. But First, Training Foreign Replacements.

By **JULIA PRESTON** JUNE 3, 2015

ORLANDO, Fla. — The employees who kept the data systems humming in the vast Walt Disney fantasy fief did not suspect trouble when they were suddenly summoned to meetings with their boss.

While families rode the Seven Dwarfs Mine Train and searched for Nemo on clamobiles in the theme parks, these workers monitored computers in industrial buildings nearby, making sure millions of Walt Disney World ticket sales, store purchases and hotel reservations went through without a hitch. Some were performing so well that they thought they had been called in for bonuses.

Instead, about 250 Disney employees were told in late October that they would be laid off. Many of their jobs were transferred to immigrants on temporary visas for highly skilled technical workers, who were brought in by an outsourcing firm based in India. Over the next three months, some Disney employees were required to train their replacements to do the jobs they had lost.

"I just couldn't believe they could fly people in to sit at our desks and take over our jobs exactly," said one former worker, an American in his 40s who remains unemployed since his last day at Disney on Jan. 30. "It was so humiliating to train somebody else to take over your job. I still can't grasp it."

Disney executives said that the layoffs were part of a reorganization, and that the company opened more positions than it eliminated.

But the layoffs at Disney and at other companies, including the Southern California Edison power utility, are raising new questions about how businesses and outsourcing companies are using the temporary visas, known as H-1B, to place immigrants in technology jobs in the United States. These visas are at the center of a fierce debate in Congress over whether they complement American workers or displace them.

According to federal guidelines, the visas are intended for foreigners with advanced science or computer skills to fill discrete positions when American workers with those skills cannot be found. Their use, the guidelines say, should not "adversely affect the wages and working conditions" of Americans. Because of legal loopholes, however, in practice, companies do not have to recruit American workers first or guarantee that Americans will not be displaced.

Too often, critics say, the visas are being used to bring in immigrants to do the work of Americans for less money, with laid-off American workers having to train their replacements.

"The program has created a highly lucrative business model of bringing in cheaper H-1B workers to substitute for Americans," said Ronil Hira, a professor of public policy at Howard University who studies visa programs and has testified before Congress about H-1B visas.

A limited number of the visas, 85,000, are granted each year, and they are in high demand. Technology giants like Microsoft, Facebook and Google

repeatedly press for increases in the annual quotas, saying there are not enough Americans with the skills they need.

Many American companies use H-1B visas to bring in small numbers of foreigners for openings demanding specialized skills, according to official reports. But for years, most top recipients of the visas have been outsourcing or consulting firms based in India, or their American subsidiaries, which import workers for large contracts to take over entire in-house technology units — and to cut costs. The immigrants are employees of the outsourcing companies.

In 2013, those firms — including Infosys, Tata Consultancy Services and HCL America, the company hired by Disney — were six of the top 10 companies granted H-1Bs, with each one receiving more than 1,000 visas.

H-1B immigrants work for less than American tech workers, Professor Hira said at a hearing in March of the Senate Judiciary Committee, because of weaknesses in wage regulations. The savings have been 25 percent to 49 percent in recent cases, he told lawmakers.

In a letter in April to top federal authorities in charge of immigration, a bipartisan group of senators called for an investigation of recent “H-1B-driven layoffs,” saying, “Their frequency seems to have increased dramatically in the past year alone.”

Last year, Southern California Edison began 540 technology layoffs while hiring two Indian outsourcing firms for much of the work. Three Americans who had lost jobs told Senate lawmakers that many of those being laid off had to teach immigrants to perform their functions.

In a statement, the utility said the layoffs were “a difficult business decision,” part of a plan “to focus on making significant, strategic changes that can benefit our customers.” It noted that some workers hired by the outsourcing firms were Americans.

Fossil, a fashion watchmaker, said it would lay off more than 100 technology employees in Texas this year, transferring the work to Infosys. The company is planning “knowledge sharing” between the laid-off employees and about 25 new Infosys workers, including immigrants, who will take jobs in Dallas. Fossil is outsourcing tech services “to be more current and nimble” and “reduce costs when possible,” it said in a statement.

Among 350 tech workers laid off in 2013 after a merger at Northeast Utilities, an East Coast power company, many had trained H-1B immigrants to do their jobs, several of those workers reported confidentially to lawmakers. They said that as part of their severance packages, they had to sign agreements not to criticize the company publicly.

In Orlando, Disney executives said the reorganization resulting in the layoffs was meant to allow technology operations to focus on producing more innovations. They said that over all, the company had a net gain of 70 tech jobs.

“Disney has created almost 30,000 new jobs in the U.S. over the past decade,” said Kim Prunty, a Disney spokeswoman, adding that the company expected its contractors to comply with all immigration laws.

The tech workers laid off were a tiny fraction of Disney’s “cast members,” as the entertainment conglomerate calls its theme park workers, who number 74,000 in the Orlando area. Employees who lost jobs were allowed a three-month transition with résumé coaching to help them seek other positions in the company, Disney executives said. Of those laid off, 120 took new jobs at Disney, and about 40 retired or left the company before the end of the transition period, while about 90 did not find new Disney jobs, executives said.

Living in a company town, former Disney workers were reluctant to be identified, saying they feared they could jeopardize their chances of finding new jobs with the few other local tech employers. Several workers agreed to interviews, but only on the condition of anonymity.

They said only a handful of those laid off were moved directly by Disney to other company jobs. The rest were left to compete for positions through Disney job websites. Despite the company's figures, few people they knew had been hired, they said, and then often at a lower pay level. No one was offered retraining, they said. One former worker, a 57-year-old man with more than 10 years at Disney, displayed a list of 18 jobs in the company he had applied for. He had not had more than an initial conversation on any one, he said.

Disney "made the difficult decision to eliminate certain positions, including yours," as a result of "the transition of your work to a managed service provider," said a contract presented to employees on the day the layoffs were announced. It offered a "stay bonus" of 10 percent of severance pay if they remained for 90 days. But the bonus was contingent on "the continued satisfactory performance of your job duties." For many, that involved training a replacement. Young immigrants from India took the seats at their computer stations.

"The first 30 days was all capturing what I did," said the American in his 40s, who worked 10 years at Disney. "The next 30 days, they worked side by side with me, and the last 30 days, they took over my job completely." To receive his severance bonus, he said, "I had to make sure they were doing my job correctly."

In late November, this former employee received his annual performance review, which he provided to The New York Times. His supervisor, who was not aware the man was scheduled for layoff, wrote that because of his superior skills and "outstanding" work, he had saved the company thousands of dollars. The supervisor added that he was looking forward to another highly productive year of having the employee on the team.

The employee got a raise. His severance pay had to be recalculated to include it.

The former Disney employee who is 57 worked in project management

and software development. His résumé lists a top-level skill certification and command of seven operating systems, 15 program languages and more than two dozen other applications and media.

"I was forced into early retirement," he said. The timing was "horrible," he said, because his wife recently had a medical emergency with expensive bills. Shut out of Disney, he is looking for a new job elsewhere.

Former employees said many immigrants who arrived were younger technicians with limited data skills who did not speak English fluently and had to be instructed in the basics of the work.

HCL America, a branch of a global company based in Noida, India, won a contract with Disney in 2012. In a statement, the company said details of the agreement were confidential. "As a company, we work very closely with the U.S. Department of Labor and strictly adhere to all visa guidelines and requirements to be complied with," it said.

The chairman of the Walt Disney Company, Robert A. Iger, is a co-chairman with Michael R. Bloomberg, the former mayor of New York, and Rupert Murdoch, the executive chairman of News Corporation, in the Partnership for a New American Economy, which pushes for an overhaul of immigration laws, including an increase in H-1B visas.

But Disney directly employs fewer than 10 H-1B workers, executives said, and has not been prominent in visa lobbying. Mr. Iger supports the partnership's broader goals, including increased border security and a pathway to legal status for immigrants here illegally, officials of the organization said.

A version of this article appears in print on June 4, 2015, on page A1 of the New York edition with the headline: Pink Slips at Disney. But First, Training Foreign Replacements. .

Mr. JEFFRIES. And so, as I understand it, approximately 250 Disney workers were laid off at some point in 2014, and then many were replaced by immigrants hired by an outsourcing company based in India; is that correct?

Secretary JOHNSON. That's basically my understanding, yes.

Mr. JEFFRIES. And is it also your understanding—

Secretary JOHNSON. That's my understanding of the public reporting of it. The matter is under investigation.

Mr. JEFFRIES. Okay. So, as I understand it, those individuals were allegedly laid off and then asked, prior to their departure, to train individuals connected to this company to replace them who were given H-1B visas. Is that the current allegation, as you understand it?

Secretary JOHNSON. Yes, I believe so, but the matter is under investigation.

Mr. JEFFRIES. Okay. And so I understand what the law is in this area, am I correct that the H-1B visa program, which provides a limited number of temporary visas. I believe it's somewhere in the neighborhood of 85,000 a year for foreigners with computer science, engineering, or other advanced skills, to fill jobs in American companies when American workers are not otherwise available. Is that a correct description of the program?

Secretary JOHNSON. That sounds basically correct to me, sir. Yes, sir.

Mr. JEFFRIES. And if your investigation determines that this particular company or any other company violated the actual law related to the issuance of H-1B visas and the employment constraints, what are the potential consequences related to a violation of the policy?

Secretary JOHNSON. Well, that's actually something where I think Congress may be able to help us.

It's my understanding that we don't have enough tools legally to deal with that kind of situation, assuming it occurs. And so what people have told me is that we could use some help from Congress to bolster our enforcement capabilities in a situation such as that one. And I can get you a more informed opinion on that answer, but that's what I'm advised of.

Mr. JEFFRIES. Well, thank you, Mr. Secretary. I'd be interested in your further thoughts in that area.

And I yield back.

Mr. GOWDY. The Chair thanks the gentleman.

The Chair will now recognize the gentleman from Texas, Mr. Farenthold.

Mr. FARENTHOLD. Thank you, Mr. Chairman.

Secretary Johnson, thank you for being here. We appreciate your service to the country.

First of all, just can you give me a quick response with the percentage, how secure do you think our southern border is?

Secretary JOHNSON. How secure—

Mr. FARENTHOLD. How secure is the southern border, percentage?

Secretary JOHNSON. It's tough to quantify by percentage. As I mentioned earlier, I think that over the last 15 years we've come a long way in our border security—

Mr. FARENTHOLD. So are we 50, 75? I mean, what do you think? You can't put a number on it? I mean, how can you measure results if you can't quantify it?

Secretary JOHNSON. The percentage of the border that is secure?

Mr. FARENTHOLD. How secure is it? What percentage of folks are getting away that are crossing? Do you have any idea?

Secretary JOHNSON. Apprehensions, which are an indicator of total attempts to cross the border illegally, have gone down considerably in the last year.

Mr. FARENTHOLD. So you can't give me a number. That's fine.

I spent some time on our southern border talking to the men and women actually in the field. I represent south Texas. Used to represent the border down at Brownsville. So it's kind of right in the backyard of the district that I represent. And I have to tell you, I'm hearing a lot of frustration from the rank and file of the Border Patrol. I'm hearing restrictions on overtime are causing smaller teams of Border Patrol agents to be sent in pursuit of crossers and that prosecutorial discretion means that aliens and drug smugglers that our agents risk their lives to apprehend are just getting released. I've also recently heard the Administration is planning to cut proposed fleet purchases to replace the vehicles that our Border Patrol agents desperately need to secure our borders.

These men and women are brave in danger in a very rough environment. I actually did a ride-along out in the brush, and I understand that it's tough to protect this country, especially in some of the terrain in south Texas. But the Administration's policies seem to completely ignore the fact that they need the equipment and the manpower to do what they need to do, and it seems like they're almost intentionally reducing the morale of Border Patrol agents.

Tell me, if you had to be on the border working shifts with the men and women in uniform, and you know that in all likelihood that you're putting your life in danger to catch illegal aliens and dangerous drug smugglers that most likely end up getting released from custody and walking away in the end, how would you feel about it?

Secretary JOHNSON. Well, again—well, let me answer it this way, if I may. Under our new policy, those apprehended at the border are priorities for removal, and those apprehended who arrived in this country after January 1, 2014, are priorities for removal.

Mr. FARENTHOLD. But what I'm hearing from the Border Patrol agents is they're catching somebody, and then just a few days later they're catching the same person again. So you deport them, they're taken basically back across the bridge, and my understanding of the contracts with the coyotes is you get three tries to get across.

Secretary JOHNSON. That person should be a priority for removal. And I believe that in our current budget request to Congress we are asking for more surveillance technology, more border security to do a better job. We've come a long way in the last 15 years. I'm very pleased about that. But I know that there's a lot more to do, sir.

Mr. FARENTHOLD. And I know Mr. Gowdy's bill helps with some of that, and we look forward to getting that through Congress.

Let me take it from the other side. If you were an alien or a drug smuggler with the knowledge that as long as you don't bring more than a handful of people across or a certain amount of drugs, under the prosecutorial discretion limits that everybody knows, you'd get away scot-free. Wouldn't that just be an incentive to keep going? I mean, it doesn't seem like that would be a deterrent.

Secretary JOHNSON. I disagree. Those apprehended at the border, irrespective of whether they have narcotics with them, irrespective of whether they're smuggling, our priority is removal.

Mr. FARENTHOLD. All right. But what about the drug smugglers with small amounts of drugs or the coyotes that are only bringing over three folks? My understanding from the Border Patrol agents is that if you have less than four, you basically walk as the coyote.

Secretary JOHNSON. We've also, beginning last year, cracked down on the smuggling organizations. That's something that the Department of Justice and I instituted last summer.

Mr. FARENTHOLD. But are you telling me that it's not a fact that if you have a small number of aliens or a small amount of drugs with you, you're certainly not going to face any jail time, at worst you're going to be taken back across the border?

Secretary JOHNSON. Well, that's a matter of law enforcement and prosecutorial discretion by the Department of Justice. I do know that since last year, since about a year ago, we have prioritized going after the coyote organizations.

Mr. FARENTHOLD. All right. Well, thank you very much.

I see I've only got 5 seconds left, so I'll yield back the remainder of my time.

Mr. GOWDY. The gentleman yields back.

Mr. Secretary, you've been here a good long while. I know you have other commitments. I wanted to recognize Mr. Gutierrez for any closing reflections that he may have, and then I wanted, at the Chairman's request, to mention a couple matters, and then we'll have you out of there.

Mr. Gutierrez

Mr. GUTIERREZ. First, thank you, Mr. Gowdy, for your excellent presiding over these hearings.

One of the reasons, Mr. Secretary, one of us always stays behind as part of the minority, to protect the interests of the minority, and in the case yours. I was totally unnecessary. As you can see, the Chairman is very well balanced and evenhanded in everything.

I just want to just for the record, because I think it's very important, I want to say to you, Mr. Gowdy, I share with you the same anguish and pain, as I know the Secretary does and every American, at the death of that woman, and that nobody has come here to look for excuses or anything else. That woman should be alive. That woman should be enjoying life in the United States of America. Mr. Lopez should never have been allowed on the streets of our Nation again.

But I think it is important that we have the facts straight, that our system does work, and sometimes it fails us. He was sentenced 63 months, 51 months, 21 months, 46 months. Four consecutive times he was sentenced to over 10 years—and he served them—over 10 years in jail because he illegally entered the United States

of America time and time again, violating. I mean, this is a career criminal that we had on our hands.

So I think we should just try to figure out a way, because I really believe this, and I want to put this on the record even though it might cause you great damage back in South Carolina, I really believe that if you and I and the Secretary and men and women who wanted to solve the problem, we could solve this problem and we could save future people from harm.

This man is not an immigrant. Immigrants come here to work hard, sweat, and toil. We should be warm and receiving. This man's a foreigner who came here to cause damage. And let's fix our broken immigration system so we can get rid of the foreigners that come here to cause damage and harm and welcome the immigrants.

Thank you so much, Mr. Secretary, for a long day here with us.

Mr. GOWDY. I thank the gentleman from Illinois and for what he said and for being always very consistent. In the entire time I've been on this Committee you have zero tolerance for those who come here to do harm to anyone, and that has been your position as long as I've known you.

Mr. Secretary, the Chairman wanted me to mention really quickly to you that he had written in March about alleged fraud in the Special Immigrant Justice Visa Program, and he pledged again his willingness to work with you to cooperate to identify any of the sources of the fraud so that it can be eliminated.

I can tell by the look on your face you may—I'm sure you get a lot of letters—you may not specifically recall that one, but I know the folks behind you will bring it up. I think it was in March of this year. But if not, if we need to get you another copy of that, we will.

Secondarily, it sounds like you are well aware of the Sentencing Commission's change and that you and the Department of Justice are working on that.

I'm not going to ask you about the Fifth Circuit. You couldn't comment on it. I can ask about it anyway.

The only thing I would add to what my friend from Illinois said, there are parts of immigration that you and I and Mr. Gutierrez are probably not ever going to agree on, and that's good, that's fine, that's the beauty of a democracy.

I think what we can all agree on is to return someone with his criminal history to a jurisdiction that had no intention whatsoever of ever prosecuting him, and in the process he is released, should be an affront to everyone, irrespective of political ideation. San Francisco had no intention of prosecuting him. They dismissed the case. You can dismiss it when he's halfway through his Federal prison sentence just as easily as you can when he's in your custody.

So I will tell you, I am happy to work within, and I get the commandeering clause, I get the due process considerations. I know that those are legitimate. You got court cases out there. If there's a way to get around that—you know, what I find instructive—I don't doubt your power of persuasion, and I know that you're going to go back and talk to those five municipalities that told you no. But even after this young woman was murdered San Francisco is

already on the record saying they're not going to change their policy.

So when you have a city like that, I don't know that cooperation and persuasion's going to work. So we may need to consider something else. I mean, when I look at you, I see the Secretary of Homeland Security for the United States of America. He shouldn't have to ask San Francisco. You shouldn't have to get their cooperation. You, to me, outrank the city supervisors in San Francisco.

So with that, thank you for your patience. You have a really hard job. And we appreciate your current service and your previous service.

With that, we are adjourned.

[Whereupon, at 1:29 p.m., the Committee was adjourned.]

A P P E N D I X

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POLITICO



IN THE ARENA

Federal Cybersecurity Needs Improvement

By JEH JOHNSON | 07/13/15, 07:15 PM EDT

Cybersecurity is a top priority for me, for President Barack Obama and for this administration. It is my personal mission to significantly enhance the Department of Homeland Security's role in the cybersecurity of this nation.

Our federal cybersecurity is not where it needs to be. In the case of the breach of the Office of Personnel Management, a large amount of highly personal and sensitive information was taken by a very sophisticated actor. In response, on June 12, the White House announced the establishment of a Cybersecurity Sprint Team, composed of officials from the Office of Management and Budget, National Security Council, Defense Department, DHS and other large agencies to conduct a 30-day review of the federal government's cybersecurity policies and practices.

This response is part of a much broader federal cybersecurity effort that has been underway for some time. There is a great deal that has been done and is being done now to secure our networks. We do in fact block a large number of intrusions and exfiltrations, including those by state actors.

However there is more to do — by the administration and by Congress.

DHS's National Cybersecurity and Communications Integration Center is the U.S. government's 24/7 hub for cybersecurity information sharing, incident response and coordination. Thirteen U.S. departments and agencies and 16 private sector entities have dedicated liaisons at the NCCIC, while over 100 private sector entities routinely collaborate and share information with the NCCIC.

The NCCIC shares information on cyberthreats and incidents, and provides on-site assistance to victims of cyberattacks. In this fiscal year alone, the NCCIC has shared over 6,000 bulletins, alerts and warnings, and responded on-site at victim locations to 32 incidents — more than double the number of on-site responses for the entire prior fiscal year.

The NCCIC is also where we manage the EINSTEIN system, the first basic layer of protection we provide at the network perimeter of each federal civilian department and agency. EINSTEIN consists of three programs:

EINSTEIN 1 observes and records basic information about activity entering and exiting an agency network. EINSTEIN 2 detects known, prohibited adversaries that have entered or exited agency networks and alerts us to them. Today, EINSTEIN 1 and 2 protect all federal civilian traffic routed through a secured gateway to the Internet.

EINSTEIN 3 Accelerated, also known as "E3A", has the capacity to both identify and block known malicious traffic. Since its introduction in 2013, E3A has blocked over 550,000 requests to access potentially malicious websites.

Today, E3A protects over 931,000 federal personnel, approximately 45 percent of the federal civilian government. I have directed that DHS make E3A fully available to all federal departments and agencies and have challenged my team to make E3A available to all federal civilian departments and agencies, including to OPM, by the

end of 2015.

Importantly, EINSTEIN 3A is also a platform for future technologies and capabilities to do more. This includes the ability to automatically flag suspicious Internet traffic, even if we did not already know about the particular threat.

DHS also helps federal agencies identify and fix problems inside their networks in near-real-time using programs called Continuous Diagnostics and Mitigation programs. Once fully deployed, CDM will constantly scan agency networks for vulnerabilities that bad actors that have breached the perimeter could exploit. To date we have made the first phase of CDM available to eight agencies, including OPM. These agencies cover over 50 percent of the civilian federal government and are expected to deploy these CDM tools on their networks within the next several months. I have directed, and we expect, that DHS will make the first phase of CDM tools available to 97 percent of federal civilian agencies by the end of this fiscal year. I am also requesting authorization from Congress to provide additional funding to expedite the program's second phase, which will identify whether users are engaging in unauthorized activity on the network.

The NCCIC also provides on-site assistance to federal, state and local agencies and to private companies operating critical infrastructure. We, in effect, make house calls. When an incident like the OPM breach occurs, we help the victim find the adversary, drive them out and restore service.

By the authority Congress gave me in the Federal Information Security Modernization Act of 2014, I can now, as secretary of Homeland Security, issue Binding Operational Directives requiring agencies to mitigate a risk to their information systems. I issued the first Binding Operational Directive in May of this year mandating that departments and agencies fix critical vulnerabilities. In response, departments and agencies responded quickly and have already reduced identified critical vulnerabilities by over 60 percent.

Information sharing is also fundamental to achieving cybersecurity, so we are supporting the development of Information Sharing and Analysis Organizations, as called for in President Barack Obama's Executive Order 13691 of Feb. 13, 2015. Next month, we will select the organization that will lead a collaborative process to

develop best practices for these ISAOs.

I have also directed an aggressive schedule for deployment of the NCCIC's next-generation information sharing techniques. We now have an automated system to share cyberthreat indicators, and we are working to extend this capability across the federal government and to the private sector, so we can send and receive this information in near-real-time. We are working closely with other federal agencies to stand up the Cyber Threat Intelligence Integration Center. This new center will help us better understand the various threats and provide more actionable and timely intelligence to the NCCIC to share with our private sector partners.

Finally, there is more Congress can do. We believe there should be three basic things in any cyber legislation:

First, Congress should expressly authorize the EINSTEIN program. This would eliminate any remaining legal obstacles to its deployment across the federal government. The House passed H.R. 1731 by a large bipartisan majority, which accomplishes this by ensuring agencies understand they are legally permitted to disclose network traffic to DHS for narrowly tailored purposes.

Second, we must incentivize the private sector to share cyberthreat indicators with the federal government through the NCCIC in a manner that protects privacy and provides protection from civil and criminal liability for private entities that share threat indicators. I am encouraged that, though we have some concerns about the scope of them, H.R. 1731 creates liability protections for sharing information with the NCCIC. Third, as the administration has proposed, we need a national data breach reporting system, in lieu of the existing patchwork of state laws on the subject, and we need enhanced criminal penalties for cybercrime.

We cannot detect and stop every single intrusion. That is not news. So often, the most sophisticated actors penetrate the gate because they know they can count on a single user letting his guard down. But we have increased — and will continue to increase — the instances in which attempted intrusions are either stopped at the gate or rooted out from inside the system before they cause damage.

We are aggressively strengthening our defenses. With Congress's help we will do much more.

9/15/2015

Mexico Now Detains More Central American Migrants than the United States | Washington Office on Latin America


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MEXICO NOW DETAINS MORE CENTRAL AMERICAN MIGRANTS THAN THE UNITED STATES

Mexico Takes on the United States' Role as Immigration Enforcer, Raising Humanitarian Concerns

11 Jun 2015

Press Release

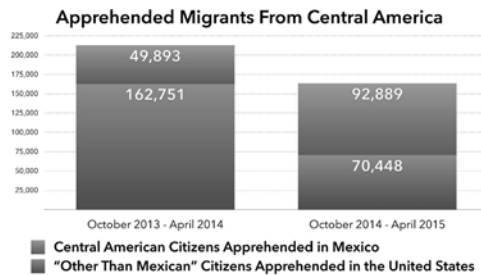
Washington, D.C.—After a 2014 “surge” of unaccompanied minor migrants from Central America that set off alarms in the United States, the government of Mexico is now detaining more Central Americans than the United States, according to government data analyzed by the research and advocacy organization Washington Office on Latin America (WOLA).

This shift becomes apparent when combining data from U.S. Customs and Border Protection (CBP) and Mexico’s National Institute for Migration (*Instituto Nacional de Migración*, INM) for the first seven months of fiscal year 2015. Between October 2014 and April 2015, U.S. Customs and Border Patrol detained 70,448 “Other than Mexican” citizens at its border. The overwhelming majority of these were Central Americans, but we do not yet know exactly how many. During this same period, Mexican authorities detained 92,889 Central Americans in Mexico.

SEE ALSO: [Assessing the Alarming Impact of Mexico’s Southern Border Program](#)

http://www.wola.org/news/new_data_highlights_the_alarming_impact_of_mexico_s_southern_border_program

“These numbers are striking. They show that the so-called ‘surge’ of 2014 hasn’t really ended. Enormous numbers of Central Americans are still fleeing, but most of them are now getting caught in Mexico instead of the United States,” said [Adam Isaacson](#) (<http://cityreps.com/c/?WashingtonOfficeonLatAm14feb7&c=d/TEST/96a3d45Dc0>), WOLA Senior Associate for Regional Security. “This means it’s just as urgent as it was last year to address the violence and poverty driving Central American migration. But Mexico’s aggressive efforts against migrants have masked the sense of urgency that we should be feeling here in the United States about Central America’s humanitarian crisis.”



http://www.wola.org/news/mexico_now_detains_more_central_american_migrants_than_the_united_states

1/2

9/15/2015

Mexico Now Detains More Central American Migrants than the United States | Washington Office on Latin America

Without that sense of urgency, Congress has been less willing to focus on "root causes" in Central America. Today, the House Appropriations Committee is approving a 2016 foreign aid bill that deeply cuts the Obama administration's requested US\$1 billion in new assistance for the region.

"The Obama administration has found a way to hide the so-called crisis of Central American migrants at the border, but at what cost?" said [Maureen Meyer](http://cts.vresp.com/c/2/WashingtonOfficeonLatAm/f14feb7dcd/TEST/ad5a982c581) [\[http://cts.vresp.com/c/2/WashingtonOfficeonLatAm/f14feb7dcd/TEST/ad5a982c581\]](http://cts.vresp.com/c/2/WashingtonOfficeonLatAm/f14feb7dcd/TEST/ad5a982c581), WOLA Senior Associate for Mexico and Migrant Rights. "We are asking Mexico to detain and deport migrants for us, and Mexico has clearly done that. But in the process tens of thousands of vulnerable children and families are getting sent back into harm's way without getting the chance to seek protection or refugee status," Meyer continued.

The dramatic increase of detention and deportation from Mexico raises [troubling humanitarian questions](http://cts.vresp.com/c/2/WashingtonOfficeonLatAm/f14feb7dcd/TEST/04744002731) [\[http://cts.vresp.com/c/2/WashingtonOfficeonLatAm/f14feb7dcd/TEST/04744002731\]](http://cts.vresp.com/c/2/WashingtonOfficeonLatAm/f14feb7dcd/TEST/04744002731). Migrant shelters have reported excesses in the use of force by authorities involved in raids on freight trains and in communities. Asylum lawyers have noted multiple violations of due process for asylum seekers in Mexico; few migrants have the opportunity to tell their stories before they are deported. Widespread crimes against migrants in Mexico, including human trafficking, kidnapping, and rape, continue unpunished. And operations along traditional migrant routes may simply be pushing migrants to more treacherous overland and maritime routes, resulting in shifts in the criminal networks preying on migrants and further enriching smugglers who can charge more for their services.

In the past week, the [Inter-American Commission on Human Rights](http://cts.vresp.com/c/2/WashingtonOfficeonLatAm/f14feb7dcd/TEST/841c16c2d31) [\[http://cts.vresp.com/c/2/WashingtonOfficeonLatAm/f14feb7dcd/TEST/841c16c2d31\]](http://cts.vresp.com/c/2/WashingtonOfficeonLatAm/f14feb7dcd/TEST/841c16c2d31), the [United Nations human rights ombudsman](http://cts.vresp.com/c/2/WashingtonOfficeonLatAm/f14feb7dcd/TEST/462feaf9f91) [\[http://cts.vresp.com/c/2/WashingtonOfficeonLatAm/f14feb7dcd/TEST/462feaf9f91\]](http://cts.vresp.com/c/2/WashingtonOfficeonLatAm/f14feb7dcd/TEST/462feaf9f91), and [Mexico's own human rights ombudsman](http://cts.vresp.com/c/2/WashingtonOfficeonLatAm/f14feb7dcd/TEST/27e78975431) [\[http://cts.vresp.com/c/2/WashingtonOfficeonLatAm/f14feb7dcd/TEST/27e78975431\]](http://cts.vresp.com/c/2/WashingtonOfficeonLatAm/f14feb7dcd/TEST/27e78975431) (National Commission for Human Rights, *Comisión Nacional de los Derechos Humanos*, CNDH), have called on the government of Mexico to do more to protect vulnerable children and other migrants. Meanwhile, the United States government has been quietly supplying Mexico with border security equipment and training while praising Mexico's crackdown.

"The United States has officially displaced the problem to Mexico, and Mexico has taken on the role of the new 'Deporter-in-Chief,'" said Meyer.

###

Contact:

[Kristel Mucino](http://cts.vresp.com/c/2/WashingtonOfficeonLatAm/f14feb7dcd/TEST/d9884ebd1d1) [\[http://cts.vresp.com/c/2/WashingtonOfficeonLatAm/f14feb7dcd/TEST/d9884ebd1d1\]](http://cts.vresp.com/c/2/WashingtonOfficeonLatAm/f14feb7dcd/TEST/d9884ebd1d1)

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"You can't have a good life here" - CBS News

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By MANUEL BOJORQUEZ / CBS NEWS / July 24, 2014, 7:53 PM

"You can't have a good life here"

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SAN SALVADOR, El Salvador - The Bureau of Customs and Border Protection said this week nearly all the immigrant children who had been held in Nogales, Arizona, have been moved and taken to other facilities.

Last month, 1,000 were crammed into the Nogales center. They were part of the surge of unaccompanied children from Central America that has overwhelmed border agents in Texas.

Every day, more of these children attempt the dangerous journey to the United States. To better understand why they do it, CBS News went to El Salvador's capital.

More than 15 buses arrive every week carrying dozens of young people - some as young as a year old.

They had fled for the U.S., but were caught in Mexico and deported back to a government processing center in San Salvador.

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 "A better life," she said in Spanish. "You can't have a good life here," she said. "There are too many problems, too much crime."

Her parents left El Salvador 10 years ago for the U.S. She's been trying to join them ever since.

A 16-year-old girl said she wanted a better future for her son.

"It was one of the toughest decisions of my life," she said. "But I'm afraid for my son because of the violence and gangs here, so I had to try."

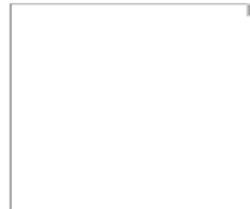
On this day, the teens were among 60 registered at the center. Here, they're asked why they left, warned about the risks of trying again, and then released.

When young people return to their neighborhoods, there is no safety net. And most have no faith their government is working to protect them.

"They are afraid of organized crime, they're afraid of gangs," said Elizabeth Kennedy.



"It's very common for children here to have seen a murder. It's common for children to have already lost a family member," says researcher Elizabeth Kennedy. / **CBS NEWS**



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"You can't have a good life here" - CBS News

Kennedy is a Fulbright scholar who has interviewed more than 500 Salvadoran children as part of her research.

"It's very common for children here to have seen a murder. It's common for children to have already lost a family member. That's something no one should have to live with because you're not really living your life if every moment you're afraid you're going to die," she said.

El Salvador has the world's fourth-highest murder rate, fueled by powerful gangs and a growing drug trade. Those sent back from the U.S. are prime targets.

Kennedy says that more than half of the children she's interviewed after they were sent back plan on trying to make the journey again.

Does she think the Obama administration coming out and saying they can't stay here will actually decrease the flow?

"I do not. Until root causes are addressed, until people can feel safe at home, until they are not afraid for their life, people are going to keep migrating because it is a human instinct to want to survive," she said.

It's a tough proposition for these kids once they return to life outside the processing center gates.

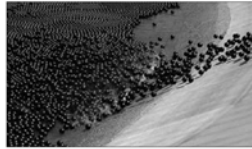
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**CWS Statement to the U.S. House of Representatives Judiciary Committee, regarding its Hearing:
Oversight of the U.S. Department of Homeland Security, Tuesday July 14, 2015**

As the Committee discusses the Department of Homeland Security's enforcement of immigration laws, Church World Service (CWS) urges all Members of Congress to consider the thousands of families that have been torn apart by our nation's broken immigration system. There is not a lack of enforcement in our policies. For decades, the United States has increased border and interior enforcement efforts. In 2013, the United States spent more than \$18 billion on immigration enforcement, more than all other federal law enforcement agencies combined.¹ However, border militarization and fence construction, workplace and home invasion raids, utilizing local police to enforce immigration laws, and inhumane detention, coupled with congress's failure to enact real solutions, have only further damaged an already broken system.

On November 20th 2014, President Obama announced executive actions that could provide temporary relief from deportation for some of our undocumented community members. The president has the full constitutional authority, and a moral obligation to keep families together and stop needless deportations. President Obama has signed fewer executive orders than most presidents,² and deferred action is one of the many long-standing forms of prosecutorial discretion available to the Executive Branch.³ CWS supports these executive actions, and is concerned that they are not being implemented as they should. The administration is not abusing prosecutorial discretion, as it rarely implements it. While the Deferred Action for Parents of Americans (DAPA) and expanded Deferred Action for Childhood Arrivals (DACA) programs are delayed due to an injunction by the Fifth Circuit Court, ICE should still be implementing prosecutorial discretion.

However, individuals who are not enforcement priorities continue to be detained and deported. This includes long-standing community members, parents of children, elderly persons and victims of crime. Despite statements by Immigration and Customs Enforcement (ICE) declaring that the agency targets "the worst of the worst" criminals, we have seen grandparents, mothers and fathers, and pastors deported. In March of 2015, ICE engaged in a week-long raid during which officials stole over two thousand immigrants from their homes. More than two thirds of the individuals picked up were convicted only of nonviolent offenses. "Operation Cross Check" showed just how ICE is not implementing the President's November 2014 memo.⁴

In the aftermath of the recent tragedy in San Francisco, there are many outstanding questions. As we grieve for Kathryn Steinle's family and investigators learn more about this situation, it is important that we do not over-correct and end up hurting intentional, community-based policing efforts that are vital in communities across the country. Many cities recognize how requests by Immigration and Customs Enforcement (ICE) to hold individuals beyond their court-appointed sentences violate due process and have been found unconstitutional by Federal Courts⁵. Choosing not to honor ICE detainer requests without probable cause or a signed warrant from a judge actually improves public safety by increasing community trust in its police force. When all individuals can report dangerous situations without the fear of being deported and separated from their families, safety is increased for all community members. When local police collaborate with ICE, more crimes go unreported⁶ because victims and witnesses are afraid of being deported if they contact the police. Many local law enforcement agencies and community leaders have spoken out about the harm that this collaboration inflicts on their communities. CWS opposes proposals that would punish or infringe on the rights of states, cities, localities and police departments from regulating how they interact with ICE.

CWS urges Congress to support immigration policies that treat our neighbors with the dignity and respect that all people deserve, and to affirm DHS's role in utilizing prosecutorial discretion and respecting local law enforcement officer's efforts to build trust with their communities.

¹ *Immigration Enforcement in the United States: The Rise of a Formidable Machinery*. The Migration Policy Institute.

<<http://www.migrationpolicy.org/pubs/enforcementpillars.pdf>>.

² "Executive Orders: Washington - Obama," The American Presidency Project. <www.presidency.ucsb.edu/data/orders.php>.

³ Immigration and Nationality Act (INA) § 103(a), 8 U.S.C. § 103(a).

⁴ "Worst of the Worst?" March 2015 Report. Mennonite Central Committee.

<http://mcc.org/sites/mcc.org/files/media/common/documents/worstoftheworstreport-march242015_0.pdf>.

⁵ *Miranga-Olivares, Plaintiff, v. Clackamas County, Defendant*. United States District Court, D. Oregon, Portland Division. 11 April 2014. <https://scholar.google.com/scholar_case?case=7183853698243436215&hl=en&as_sdt=20006>.

⁶ Anita Kashu, "The Role of Local Police: Striking a Balance Between Immigration Enforcement and Civil Liberties." The Police Foundation. April 2009. <[www.policefoundation.org/sites/g/files/q798246/f/Khashu%282009%29-The Role of Local Police.pdf](http://www.policefoundation.org/sites/g/files/q798246/f/Khashu%282009%29-The%20Role%20of%20Local%20Police.pdf)>.

**Response to Questions for the Record from
the Honorable Jeh Charles Johnson, Secretary of Homeland Security**

Question#:	1
Topic:	Unattended Ground Sensors
Hearing:	DHS Oversight
Primary:	The Honorable Robert W. Goodlatte
Committee:	JUDICIARY (HOUSE)

Question: Secretary Johnson, your testimony references the Department's FY 2106 budget request for improved border technology and infrastructure, including sensors. As you know, in September of 2012, the Border Patrol proposed a comprehensive communications study to assess and resolve frequency saturation issues related to next-generation of Unattended Ground Sensors (UGS), technology developed by the Department's Science and Technology Directorate. In the FY 2015 Department of Homeland Security Appropriations bill, Congress provided \$10,000,000 to perform this study.

Please update the Committee on the status of this study and the Department's plans, including a timeline, to transition away from legacy UGS, which have known operational issues, and towards next-generation technology which includes critical features such as reduced false alarm rates, increased bandwidth, sensor data security, over-the-air sensor programming, and interference and jamming resistance.

Background:

Earlier this year Chairman Goodlatte requested that HS Approps include report language in support of moving to the procurement and development phase of next generation unattended ground sensor technology. The report language that has since been included in the HS Approps committee report is: "The Committee urges the Department to obligate funds provided in the Fiscal Year 2015 Homeland Security Appropriations Act to resolve outstanding technological issues and move expeditiously to the procurement and deployment phase of next generation unattended ground sensor technology, which will make the Southwest and Northern Borders more secure while reducing agent risks and improving response efficiency."

Response: For Fiscal Year 2015, U.S. Customs and Border Protection has allocated a total of \$4,000,000 to both procure replacement Unattended Ground Sensors (UGS)/Imaging Sensors (IS) for the Rio Grande Valley Sector and South Texas Corridor areas, and conduct a comprehensive UGS/IS communications study. The cost of the replacement UGS was approximately \$2,400,000. Procurement of the replacement UGS is in progress and deployments will commence as they are received. The UGS/IS communications study is underway and is focused on investigating communications issues and identifying solutions to technology shortfalls in the current UGS. The study is scheduled for completion in mid-2016. The Department will continue to develop its plans to pursue next-generation UGS based on the results of the UGS/IS communications study.

Question#:	2
Topic:	Homegrown Domestic Terrorists
Hearing:	DHS Oversight
Primary:	The Honorable Stephen I. Cohen
Committee:	JUDICIARY (HOUSE)

Question: *Letters referenced below can be found on page 7.

As you know, in addition to threat of internationally influenced terrorism, our nation also faces serious threats from homegrown domestic terrorists. According to the Southern Poverty Law Center, the number of hate groups in this country has increased 30 percent since 2000.

We are also seeing more "lone wolf" episodes, like what took place recently in Charleston, SC, where someone becomes radicalized by merely surfing the internet. Before killing 9 innocent people, the suspect there actively engaged with white supremacist web sites. As horrible as this incident was, it would be naïve to assume that he is the only one out there looking to act in pursuit of this warped agenda.

I am interested to know what kind of resources the department is devoting to tracking down and thwarting these kind domestic terrorists. In particular, does the Department of Homeland Security monitor extremist internet activity that could lead to violence? Does the department mine chat rooms to find and thwart future domestic terrorist plots?

Relative to the amount of resources the department devotes to internationally-influenced terrorist threats, how much do you devote to these domestic, homegrown domestic terrorist? How many people does the department have devoted to this kind of domestic terrorism? How does this compare with the number of people the department has devoted to internationally influenced terrorism?

Response: Our efforts and resources dedicated to counterterrorism, including domestic terrorist threats, are robust. The Department is continually working to expand and improve our initiatives and resources related to countering domestic terrorism.

The Department's Office of Intelligence and Analysis (I&A) has analysts dedicated to studying and analyzing all forms of terrorism. In 2015, I&A has delivered numerous threat briefings to federal, state, local, tribal, territorial (SLTT) and private sector customers to enhance their understanding of the domestic terrorist threat. These products and briefings addressed such topics as violent white supremacist extremist threats in Arizona; violent sovereign citizen extremist attempts to access military bases; and strategic implications of a violent animal rights extremist attack in Nevada.

The Department also supports state and major urban area fusion centers by sharing intelligence and information with its SLTT and private sector partners. I&A deploys

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Question#:	2
Topic:	Homegrown Domestic Terrorists
Hearing:	DHS Oversight
Primary:	The Honorable Stephen I. Cohen
Committee:	JUDICIARY (HOUSE)

intelligence personnel to fusion centers located in each state, as well as other strategic locations. These intelligence professionals work hand-in-hand with their state and local partners and the private sector to collect, report, analyze, and share information and intelligence, including information on domestic terrorism threats, with fusion centers.

Additionally, I have appointed a Countering Violent Extremism (CVE) Coordinator who has expanded current CVE efforts by updating community briefings to add more information on domestic terrorist groups and movements; updating community exercises to further address requests raised by community members concerned about domestic terrorism; and promoting resources intended to help law enforcement and community members respond to a diverse array of terrorist threats. The Department will continue to work with its partners to identify and mitigate potential domestic terrorist threats.

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Question#:	3
Topic:	Right-wing Extremism
Hearing:	DHS Oversight
Primary:	The Honorable Stephen I. Cohen
Committee:	JUDICIARY (HOUSE)

Question: In 2009, the Department of Homeland Security released a study entitled, "Right-wing Extremism: Current Economic and Political Climate Fueling Resurgence in Radicalization and Recruitment". Following public criticism of the study, the Department disbanded the Extremism and Radicalization Branch of the Homeland Environment Threat Analysis Division. On June 7, 2011, the Washington Post reported, "The department has cut the number of personnel studying domestic terrorism unrelated to Islam, canceled numerous state and local law enforcement briefings, and held up dissemination of nearly a dozen reports on extremist groups..." A copy of the article is attached for your convenience.

On June 24, 2015, the New York Times reported, "Since Sept. 11, 2001, nearly twice as many people have been killed by white supremacists, antigovernment fanatics and other non-Muslim extremists than by radical Muslims..." A copy of the article is attached for your convenience.

It would seem to me that reinstituting the Extremism and Radicalization Branch of the Homeland Environment Threat Analysis Division would be more important now than ever. Will the department be reinstituting this division? If not, why not?

Response: The Department currently devotes substantial efforts to the study and understanding of the threats posed by domestic terrorism. Intelligence analysts in the Department's Office of Intelligence and Analysis (I&A) study and analyze various aspects of the domestic terrorism threat. Over the past year, I&A analysts have disseminated numerous analytic products and threat briefings to federal, state, local, tribal, territorial, and private sector customers to enhance their understanding of domestic terrorism. We also partner with the Federal Bureau of Investigation (FBI) and its Domestic Terrorism Analysis Unit to further enhance the Department's understanding. Additionally, the Department's Office of Science and Technology (S&T) sponsors research on violent extremism across the spectrum of ideological motivation, including domestic terrorism. We will continue these and other efforts as we seek to further our understanding of the underpinnings of terrorist threats of all forms.

Question#:	4
Topic:	Freedom of Worship
Hearing:	DHS Oversight
Primary:	The Honorable Stephen I. Cohen
Committee:	JUDICIARY (HOUSE)

Question: In the wake of the tragedy in Charleston, the Executive Director of the Union of Orthodox Jewish Congregations of America wrote in the Washington Post that if we want freedom of worship, we need freedom from fear. A copy of the article is attached for your convenience.

Houses of worship need to be safe.

The National Security Grant Program provides grants to communities to buy things like surveillance equipment and shatterproof windows. Funding in recent years has been cut, but efforts are underway in Congress to restore this program to full funding.

Would you agree that Congress needs to fully fund this program so we can help keep houses of worship safe?

Response: I wholeheartedly agree that the Nation's houses of worship must be safe and secure and free from fear, and all of us at the Department of Homeland Security share the grief and outrage stemming from the tragic event in Charleston.

The Department's preparedness grant programs offer several sources of funds that may assist in efforts to enhance the security of the facilities of religious organizations. These include the State Homeland Security Program; the Urban Area Security Initiative (UASI), which offers funds to urban areas designated by the Department to be at high risk of a terrorist attack; and the Nonprofit Security Grant Program (NSGP), which offers funds to eligible nonprofit organizations located within designated UASI jurisdictions. In Fiscal Year 2015, the NSGP is providing \$13,000,000 in funding support to eligible nonprofit organizations for physical security enhancements, such as perimeter security fencing, physical security barriers, surveillance equipment, and alarm systems.

Question#:	5
Topic:	Immigration Detention
Hearing:	DHS Oversight
Primary:	The Honorable Theodore E. Deutch
Committee:	JUDICIARY (HOUSE)

Question: The October 2014 Government Accountability Office (GAO) report entitled: Immigration Detention: Additional Actions Needed to Strengthen Management and Oversight of Facility Costs and Standards - and a 2015 report released by Detention Watch Network and the Center for Constitutional Rights entitled - Banking on Detention: Local Lockup Quotas & the Immigrant Dragnet - describe guaranteed minimums for specific facilities in ICE contracts with private detention companies. "Guaranteed minimums" are the number of beds ICE pays for each day regardless of whether they are used or not in a facility operated by a private detention company. According to the reports, guaranteed minimums for specific facilities are contractual provisions between ICE and private detention companies.

Question: Is it common practice in ICE contracts with private detention companies to include provisions containing guaranteed minimums for specific facilities?

Response: Yes, U.S. Immigration and Customs Enforcement (ICE) contracts for the Service Processing Centers and Contract Detention Facilities typically contain a guaranteed minimum, which is either expressed as a number of beds or a flat monthly facility usage fee. ICE utilizes these contract provisions as a method to achieve economies of scale in order to reduce detention costs. Additionally, several other agreements with non-commercial sources, such as ICE's intergovernmental service agreement with the City of Adelanto, California, to house detainees at the Adelanto Detention Facility, also contains a requirement for a guaranteed minimum number of beds.

Question: During contract negotiations, do private detention companies insist that contracts for specific facilities contain a guaranteed minimum? Or does the guaranteed minimum for a specific facility originate from ICE?

Response: ICE has found that private detention companies generally request, and some strongly insist on, a minimum requirement, either expressed as a number of beds or a flat monthly facility usage fee, so that the companies are assured that their fixed costs will be recovered. Typically, ICE includes a guaranteed minimum in its Request for Proposal; however, it is not uncommon for a company to provide proposals with different guaranteed minimums as part of its response.

Question: How is the guaranteed minimum determined for a specific detention facility?

Question#:	5
Topic:	Immigration Detention
Hearing:	DHS Oversight
Primary:	The Honorable Theodore E. Deutch
Committee:	JUDICIARY (HOUSE)

Response: ICE Determines the appropriate guaranteed minimum for a specific detention facility by first calculating the region's historical average daily population, based on multiple fiscal years of data. ICE then applies this information to determine the minimum bed space required to support enforcement operations in that region. Factoring in a specific detention facility's operational role within the overall detention network, an appropriate guaranteed minimum is estimated. The contract terms and the Government's related per diem rate is finalized through the negotiation process.

Question: Is the guaranteed minimum proposed by the private detention company?

Response: As part of negotiations, it is not uncommon for offerors to provide several offers with differing levels of guaranteed minimums.

Question: Is the guaranteed minimum for a specific detention facility a negotiable provision during contract negotiations between ICE and a private detention company?

Response: Yes.

Question: Did the Department of Homeland Security or ICE make any policy changes in response to the October 2014 GAO report on guaranteed minimums? If "yes," what were the policy changes?

Response: U.S. Government Accountability Office Report 15-153 recommended that ICE "develop an oversight mechanism to ensure that field offices comply with guidance to appropriately consider costs in making detainee placement decisions." In response to this recommendation, ICE has begun developing an oversight mechanism to monitor the placement of detainees in facilities where guaranteed minimums have been established and plans to have this capability in place this calendar year.

Question#:	6
Topic:	Jose Berardo Chicas-Hernandez
Hearing:	DHS Oversight
Primary:	The Honorable Theodore E. Deutch
Committee:	JUDICIARY (HOUSE)

Question: Jose Berardo Chicas-Hernandez - A number: A205-993-149, date of birth: 2/21/97 - is currently in removal proceedings in Miami, Florida. In April 2013, Jose fled El Salvador at 16 years old to reunite with his parents. His parents live in the United States and have received Temporary Protected Status.

Jose was apprehended trying to cross the border. He was released into the custody of his father. Jose's paternal grandparents are legal permanent residents and he has two siblings who are United States citizens. Jose is a sophomore in college and maintains a 3.0 GPA. His only close relative currently living in El Salvador is his grandmother. However, she is severely ill and is unable to care for Jose.

Jose has no criminal history or immigration history. Jose does not fall under any of the priorities described in the November 20, 2014 memorandum on Policies for the Apprehension, Detention and Removal of Undocumented Immigrants. He also is not a recent border crosser. ICE has made clear that people who entered the United States before January 1, 2014 should not be considered a "recent border crosser."

Jose's attorney, a constituent in my District, followed the specific chain of command to escalate Jose's case. In fact, Jose's attorney brought the case to the attention of the Acting Director of Field Legal Operations. On July 7, 2015, the Acting Director of Field Legal Operations denied Jose's request for prosecutorial discretion stating: "Your client is a priority case for the Department as a recent entrant into the United States."

Jose Chicas is not a recent entrant to the United States as defined in the November 20th memorandum. Why is Jose being classified as a recent entrant and being prosecuted as a priority case?

Response: Pursuant to the Department's privacy policy, we cannot provide an answer to this question unless the individual in question provides a privacy waiver authorizing disclosure to a third party. The requisite form is available at <http://www.ice.gov/doclib/news/library/forms/pdf/60-001.pdf>. Please also note that ICE recently established a case escalation process. This process is described at <http://www.ice.gov/contact/detention-information-line>.