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BORDER SECURITY

HEARING

BEFORE THE

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS UNITED STATES SENATE

ONE HUNDRED FIFTEENTH CONGRESS

FIRST SESSION

THE EFFECTS OF BORDER INSECURITY AND LAX IMMIGRATION ENFORCEMENT ON AMERICAN COMMUNITIES, MARCH 1, 2017

IMPROVED BORDER SECURITY AND PUBLIC SAFETY, APRIL 5, 2017

BORDER INSECURITY: THE RISE OF MS–13 AND OTHER TRANSNATIONAL CRIMINAL ORGANIZATIONS, MAY 24, 2017

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THE EFFECTS OF BORDER INSECURITY AND LAX IMMIGRATION ENFORCEMENT ON AMERICAN COMMUNITIES

WEDNESDAY, MARCH 1, 2017

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

The Committee met, pursuant to notice, at 9:59 a.m., in room SD–342, Dirksen Senate Office Building, Hon. Ron Johnson, Chairman of the Committee, presiding.

Present: Senators Johnson, Portman, Lankford, McCaskill, Carper, Tester, Heitkamp, Peters, Hassan, and Harris.

OPENING STATEMENT OF CHAIRMAN JOHNSON[1]

Chairman JOHNSON. Good morning. This hearing of the Senate Homeland Security and Governmental Affairs Committee (HSGAC) will come to order.

This is actually a pretty simple hearing—not a whole lot of complexity to what I am trying to accomplish here. I am just trying to lay out, with some powerful stories, what happens when a nation does not secure its borders or enforce its immigration laws.

We are going to be hearing some powerful testimonies. I want to thank all of the witnesses for appearing, for taking the time, and for your thoughtful testimonies. I want to particularly thank Julie Nordman, who I realize is going to be telling a story that is going to be very painful—very tragic for you to tell, but it is just one of many stories that we have heard around the country. We are all, obviously, familiar with Kate Steinle, but there are so many other names of individuals that have had their lives shattered because people are in this country illegally—and they commit crimes, they traffic drugs, and they traffic humans.

President Trump, in his State of the Union (SOTU) address, asked a pretty simple question. He said: "To any in Congress who do not believe we should enforce our laws, I would ask you this question: What do you say to the American family that loses their jobs, their income, or a loved one because America refused to uphold its laws and defend its borders?"

To me, the role of the Federal Government—the top priority is the defense of this Nation—defense of this homeland, the security of its borders and the security of its citizens. And, that is really all this hearing is about—is to lay out a reality through some powerful

[1] The prepared statement of Senator Johnson appears in the Appendix on page 19.

examples. And, again, we have Julie here. We have Sheriff Eric Severson from Waukesha County, Wisconsin, who will be laying out and talking about the problem of drug abuse, because our borders are so porous.

In the 1980s, heroin cost $3,200 per gram. Deputy Rectenwald, we were talking yesterday. You think it is about $80 a gram. Ten doses per gram—that is $8 for a hit of heroin. It is a very affordable, destructive habit. And, that is because our borders are so porous.

So, there is a lot of destruction occurring. We have a sheriff and a deputy sheriff here, describing those things. And, of course, Deputy Sheriff Rectenwald will be talking about another tragedy—another young mom, Jill Sundberg, who was murdered by five individuals—criminals that were in this country illegally. Again, we are going to allow these powerful stories to be told, so we understand the consequences of not enforcing our immigration laws and securing our borders.

With that, I will turn it over to my Ranking Member, Senator McCaskill.

OPENING STATEMENT OF SENATOR MCCASKILL[1]

Senator MCCASKILL. Thank you, Mr. Chairman. And, thank you for this hearing today.

This morning we will hear from a constituent of mine named Julie Nordman, who, on the morning of March 8, 2016, was forced to run to the attic of her home in Montgomery County, Missouri, while her husband, Randy—a hero—desperate to save his wife and protect her, struggled with a stranger with a gun, downstairs, in the couple's garage. The man who allegedly shot and killed Randy—and four other men the night before, in Kansas City, Kansas—never should have been in this country. According to the information I have, Pablo Antonio Serrano-Vitorino, who is set for trial in a capital murder case in Missouri, was deported in 2004, after serving a year in prison for a felony conviction in California. At some point, he illegally reentered the country. And, despite his prior felony, he managed to slip through the cracks during at least three run-ins with the Kansas police.

I am told that, in one case in Coffey County, Kansas, Mr. Serrano was arrested for driving under the influence (DUI), but his fingerprints were never taken—so a match was never made with the Department of Homeland Security's (DHS's) immigration database. After again being arrested and charged with domestic assault in Wyandotte County, Mr. Serrano's fingerprints were sent to DHS, but Immigration and Customs Enforcement (ICE) did not take him into custody before he was released. Just 3 months later, when Mr. Serrano showed up at the Overland Park, Kansas Municipal Court to pay a traffic fine, his fingerprints were taken again. ICE was notified that they had an undocumented individual with a history of violent offenses within their grasp. ICE issued a detainer, requesting that Mr. Serrano be held until Federal authorities could get there, but, amazingly, the detainer was sent to the wrong place: It went to the Johnson County, Kansas Sheriff's Office instead of the

[1] The prepared statement of Senator McCaskill appears in the Appendix on page 20.

Overland Park Municipal Court Building. How did that happen? I do not know. Why did ICE not pursue Mr. Serrano further? I do not know.

What I do know is that, 6 months later, Mr. Serrano allegedly shot and killed five men in Kansas and Missouri, including Randy Nordman. And, it appears that, while the local authorities were doing their jobs, the Federal Government—specifically ICE—dropped the ball.

Now, Mrs. Nordman, I know none of this is going to bring your husband back. And, I would never try to say that it would. Mr. Serrano should not have been in this country. Your husband should still be with you today. I want to know how this was allowed to happen. And, I am sure you have some of the very same questions.

That is why I am so disappointed that someone with ICE could not be here, today. As you know, I invited Director Thomas Homan or—when I found out that he was not available—anyone in his organization to come and testify this morning. I would hope that he would be able to speak to some of the specifics of this case and the other cases we will be hearing about this morning.

I have also asked for a copy of Mr. Serrano's case file from ICE, but, at every turn, my staff and I have been met with resistance. The Agency told us that, due to privacy concerns, Mr. Serrano's case files cannot be released. But, that flies directly in the face of the Trump administration's new policy that says, and I quote, "The Department will no longer afford Privacy Act rights and protections to persons who are neither U.S. citizens nor lawful permanent residents." How can you, on one hand, have an Administration that says that privacy rights do not attach and also have someone in your Administration tell a U.S. Senate office that we are not allowed to look at a file that is critically important, in terms of us fixing these problems? If we want to stop future tragedies, we have to see that file, we have to understand the mistakes that were made, and we have to have our questions answered.

One of the reasons I have devoted so much of my time here, in the Senate, to oversight is that I truly believe that, as legislators, we have an obligation to understand the problems before we try and pass new laws. Sometimes, passing new laws does more harm than good, if you do not really understand the underlying problem. What happened in this case was an absolute tragedy. But, was it caused by a failure in our immigration laws and policies? Or, was it instead the result of human beings failing to follow the rules, the policies, or the directives?

Unfortunately, Immigration and Customs Enforcement are the only people capable of answering that question, and, to date, have refused to either provide the information to my office or to participate in today's hearing.

Mrs. Nordman, despite the resistance from ICE, I am going to do everything in my power to get you some answers. And, I appreciate you and your sister being here, today. I think Missouri should be very proud of your courage. I know that I am.

Thank you, Mr. Chairman.

Chairman JOHNSON. Thank you, Senator McCaskill.

We do have a vote that is going to be called at 10:30, so what I would like to do is, get to the witnesses—make sure we go

through their entire testimony. We are going to be kind of canvassing staff for the people who want to come back—whether we want to recess or just continue this hearing, as we frequently do.

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

Ms. NORDMAN. I do.

Mr. SEVERSON. I do.

Mr. RECTENWALD. I do.

Chairman JOHNSON. Please be seated.

Our first witness is Julie Nordman. Ms. Nordman is from Wentzville, Missouri. On March 8, 2016, as Senator McCaskill talked about, Julie's husband, Randy Nordman, was murdered by an illegal immigrant who had previously been deported.

Julie, you have our deepest sympathies for your loss. And, we thank you for being here, today. And, take your time. We realize this is not going to be an easy story to tell, so we will be more than understanding. But, again, thank you for appearing.

TESTIMONY OF JULIE NORDMAN,[1] WENTZVILLE, MISSOURI

Ms. NORDMAN. Hello. My name is Julie Nordman, and I was asked to speak you today, following the tragic and preventable murder of my husband, Randy Nordman. Although this happened less than a year ago and the pain is still unbearable, this story starts nearly two decades ago.

The man who murdered my husband, Pablo Serrano-Vitorino, first encountered law enforcement in 1998 in California. He was here illegally and was charged with making a threat with the intent to terrorize. He pled guilty to disturbing the peace and spent 3 days in jail. He was allowed to remain in the United States, and between 1993 and 2003, he was arrested twice more for domestic violence. Then, in 2003, he pointed a rifle at the mother of his three children and threatened her life. Later that year, he was convicted on those felony charges and was sentenced to 2 years in prison. Following his release in 2004, he was deported for being in the United States illegally.

No one knows when he returned to the United States—or how—but he did. And, in November 2014, he was arrested in Kansas for driving while intoxicated, driving without a license, and speeding. He pled guilty and, again, was allowed to remain in the United States. Then, less than a year later, in June 2015, he was arrested and charged with domestic battery. While being held in the county jail, the sheriff's office notified Immigration and Customs Enforcement that he was in custody. ICE is required to respond within a 4-hour deadline, yet they failed to do so. And, the sheriff was required to release him. He later pled guilty to the charge and received a fine.

Only 2 months later, in August 2015, he was again arrested for driving without a license. While at the municipal courthouse, he was fingerprinted and ICE issued a detainer for his immigration

[1] The prepared statement of Ms. Nordman appears in the Appendix on page 24.

violation. However, because of their carelessness, ICE mistakenly sent the detainer paperwork to the incorrect location—and it never reached the proper authorities.

That brings you to my story. In the 18 months before the senseless murder of my husband, this killer had been in custody on three occasions, yet Federal officials failed to detain or deport him. Had they just done their jobs and followed the laws, my husband would still be alive—and so would four other innocent victims he brutally murdered.

On March 7, 2016, in Kansas City, Kansas, four men were found dead. Mike Capps, Jeremey Water, and brothers Clint and Austin Harter were Pablo's neighbors. And, he murdered them, from what I have heard, over a parking spot. Authorities started a manhunt, but they did not find him until it was too late.

On the early morning of March 8, 2016, my husband was getting ready for work. I was awoken from my sleep when I heard my husband shouting, "What are you doing?" And then, he called out for me, "Julie! Julie!" I looked out of the window into our garage and saw a man and my husband fighting over a rifle. I immediately grabbed my phone and called 911 as I ran to the attic. I was scared out of my mind, and I whispered to the 911 operator that we needed help. I asked them to hurry, and I prayed and prayed for Randy to be OK. I saw our dog at the top of the stairs and told 911 that I was worried that the dog was going to give my location away. I then remember asking the operator, if the gunman shot me, would it hurt? I tried to climb out of the attic window, but it was stuck. So, I stayed put. I also asked if I could go check on my husband, and they told me no. Then I heard a pop. I heard the gunman rustle through our things. And, we believe he was trying to find car keys so he could steal one of our vehicles and continue fleeing from law enforcement.

I looked out of the attic window, and I saw a police car racing toward our house. But then, it raced past our house. I told the dispatcher that the officer needed to turn around. And, that is when I saw the killer run across my property and jump, face first, into a ditch.

When the police arrived, I saw my husband on the kitchen floor, but I thought he was unconscious. The police then escorted me out of the house. And, I kept screaming, "Where is the ambulance?" But, they kept telling me that it was a secured area. Officers told me that they had located the man's vehicle right off of the highway near our house, and then showed me a picture to identify him. After I identified him, that is when the ambulance personnel came over and told me that my husband had passed away—and I just lost it.

They searched for him for 17 hours, using dogs and what seemed like hundreds of policemen and two helicopters, but no one could find him. We later found out that he was lying 800 feet from my house in the grass. He waited until it had gotten dark and then walked to a gas station where he tried to hijack someone else. However, because my husband had removed the clip from his gun, the killer's only remaining bullet was used on my husband, Randy. My husband was a hero for not only saving my life, but also saving all of the other people this man would have attacked. Authorities

quickly apprehended the man near the gas station, and he is now in custody awaiting trial for the death of my husband.

Following the incident, I was never contacted by ICE or anyone else from the government to express their remorse. However, I read in the paper that ICE said that they would monitor Randy's case and place a detainer on the man. They also said that they "would remain focused on smart, effective immigration enforcement that prioritizes threats to national security, public safety, and border security." I find that their statement could not be further from the truth. Their actions were not smart. In 2015, they sent his detainer paperwork to the wrong place. Their actions were not effective. In 2015, they also failed to respond to the immigration query. They did not properly prioritize the threat. After this man was arrested, on numerous occasions, for violent crimes, he went on to kill five completely innocent men.

Not only has ICE failed us, but our borders have failed us. They are, obviously, wide open, as the man was able to enter—not once, but twice—without being detected. But, I suppose, if your policy is to let them go even after you arrest them for committing violent crimes, why even secure the border at all?

If the ICE authorities had just done their jobs, Andrew Harter would still be alive. Clint Harter would still be a husband and would have seen his second child being born. Mike Capps would still be alive. Jeremey Water would still be alive. And, most importantly to me, my husband, Randy, would still be here. Instead, every day that I am at our house, I am reminded of this tragic event. I wish you could bring my husband back, but we all know that cannot happen. What you can do is, make sure that this does not happen to another innocent family in the future.

And, also, before I go, I would like to publicly thank the Missouri State Highway Patrol (MSHP) and the nearby county officers for catching and arresting this monster.

Chairman JOHNSON. Thank you, Julie. I am sure I speak for everybody in this room when we offer our sincere condolences. I will guarantee you that this Committee will provide oversight and we will get the answers that you deserve. But, again, thank you for testifying.

Our next witness is Sheriff Eric Severson. Sheriff Severson is the sheriff of Waukesha County, Wisconsin. Sheriff Severson was elected to his current position in 2014 and has 13 years of experience as a law enforcement officer (LEO). Sheriff Severson.

TESTIMONY OF THE HONORABLE ERIC J. SEVERSON,[1] SHERIFF, WAUKESHA COUNTY, STATE OF WISCONSIN

Mr. SEVERSON. Chairman Johnson, Ranking Member McCaskill, and distinguished Members of the Committee, it is my honor to address you today on behalf of the citizens of Waukesha County and the State of Wisconsin.

As Senator Johnson indicated, my name is Eric Severson. I am the Sheriff of Waukesha County. Waukesha County is a mix of rural and suburban communities located west of and adjacent to

[1] The prepared statement of Mr. Severson appears in the Appendix on page 27.

Milwaukee County. And, I have served my community as a law enforcement officer for over 32 years.

To provide context for my testimony, I have included a brief biography. I would highlight that I currently serve on the Board of Directors of the National Sheriffs' Association (NSA) and I serve on the Board of Directors of the Wisconsin High Intensity Drug Trafficking Area (HIDTA).

The greatest impact on the safety of our community, as it relates to border insecurity, is the ease of bringing controlled substances into our community by way of the Mexican-American border.

The lion's share of the controlled substances consumed in southeast Wisconsin is sourced from south of the border. Heroin and opiate pharmaceuticals have been the chief drug threat in Wisconsin for years. Heroin consumed in my community was transported through the Southern Border in its entirety. Today, Mexican drug cartels are growing poppy plants to manufacture locally produced heroin, making Mexico a source country for heroin for the United States.

Methamphetamine (meth) is an emerging drug threat in Wisconsin—and 95 percent of methamphetamine in Wisconsin comes from Mexico.

The drug public health crisis is not limited to border communities or major cities, alone. In the last 10 years, my county has lost 387 of our citizens due to controlled substance overdose deaths. Last year, alone, we experienced over 35 drug-related deaths. One-third of that total involved heroin. Fentanyl, an adulterant often added to heroin, has increased the lethality of heroin. And, we now see fentanyl as yet another illicit drug entering the United States through the Southern Border.

On a local level, we are doing all that we can to protect our citizens. And, last year, my deputies administered Narcan (naloxone) 21 times—but only saving 17 lives.

Along with the drug trafficking business, comes violence. Robberies, home invasions, burglaries, and thefts are all the byproduct of drug users seeking the resources to fuel their addictions.

Our community's drug enforcement officers must face the dangerous realities of the drug trade in Wisconsin. One example of this is the growing use of mobile drug crews. These dealers sell heroin from stolen vehicles that are often car-jacked at gunpoint and will evade apprehension by recklessly eluding police by ramming squads and even citizen-owned vehicles in an effort to escape apprehension. These dangerous drug dealers are frequently well armed and use countersurveillance techniques, which add to the danger to law enforcement and the community.

The thrust of my testimony has been on border security as it relates to drug trafficking. This is because my fellow sheriffs, police chiefs, and I see this as the greatest border-related threat to our communities in Wisconsin. My testimony would be incomplete, however, if I failed to acknowledge the criminal threat posed by foreign nationals that are in our country in violation of our immigration statutes. Candidly, I see criminal offenses by foreign nationals as relatively infrequent occurrences within the confines of my county's border. It would be incorrect—and, in fact, dan-

gerous—to conclude, however, that these events do not occur in Wisconsin.

Some specific examples include a Drug Trafficking Organization (DTO) involving at least 2 undocumented Mexican nationals, where 15 kilograms of cocaine was seized. Another DTO, containing several undocumented Mexican nationals, was attempting to illegally sell firearms to undercover agents. This DTO also had human-trafficking ties.

A recent 25-kilogram seizure of methamphetamine resulted in the arrest of several undocumented Mexican nationals in southeast Wisconsin. The actors, in this case, were purporting the methamphetamine to be cocaine in hopes of expanding the organization's methamphetamine market and aiding in its distribution. Many other examples exist.

I have included a copy of the National Sheriffs' Association position paper on comprehensive immigration reform. I respectfully ask that you to consider all recommendations. In particular, I would hope that a strong focus is placed on providing appropriations to adequately secure the border—which would include providing sufficient law enforcement presence, in the form of U.S. Customs and Border Protection (CBP) officers—and sufficiently supporting the highly effective HIDTA programs and the Edward Byrne Memorial Justice Assistance Grant (JAG) programs that currently help communities that are not located near the border.

It is truly my honor to be here, today. And, I am happy to answer any questions you may have.

Chairman JOHNSON. Thank you, Sheriff Severson.

Our next witness is Deputy Sheriff Ryan Rectenwald. He is the Chief Deputy of Special Operations for the Grant County Sheriff's Office in Washington State. Mr. Rectenwald is an Army veteran with over 25 years of public safety experience. Chief Deputy Rectenwald.

TESTIMONY OF RYAN RECTENWALD,[1] CHIEF DEPUTY OF SPECIAL OPERATIONS, GRANT COUNTY SHERIFF'S OFFICE, STATE OF WASHINGTON

Mr. RECTENWALD. Chairman Johnson and Ranking Member McCaskill, thank you for the invitation to come and speak with you today. I am here to talk about a horrific murder, which took place in our rural community of Grant County, Washington—an incident that, to this day, remains the most dreadful scene I have encountered in my nearly 20-year law enforcement career.

We received a call around noon, just 3 days before Christmas in 2016. A woman was out walking her dog near the Columbia River, in a picturesque recreational area, which is popular with tourists and rock climbers and is endeared by residents. She said that she had found a dead body.

What I saw when I arrived at the crime scene can only be described as straight out of a horror movie. The body was lying face down in the snow. Detectives found 13 bullet casings. Eleven of those bullets found their mark, striking the victim in the back of her head, her neck, and her shoulder area.

[1] The prepared statement of Mr. Rectenwald appears in the Appendix on page 117.

A box from a case of beer had a message written in Spanish and was secured to the victim's back with a kitchen knife—signed "Gulf Cartel." The victim was later identified as Jill Marie Sundberg, age 31, the mother of four young children. We later learned that she was kidnapped by five men after an argument at a party. She was forced into this vehicle with those 5 men, driven 10 miles to this remote location, and was executed. The fear and brutality that this woman faced during that 10-mile drive and in the moments prior to her death will forever haunt case investigators.

During the investigation, we developed a list of persons of interest who lived in the same trailer park where Jill occasionally lived. With the help of Immigration and Customs Enforcement as well as the U.S. Marshals Service (USMS), we were able to pick up and interview three of those five men. All five were later arrested on murder, kidnapping, and other charges. What is important to know is that all five men were determined to be in this country illegally—and one had two prior felony convictions.

The fact that these suspects were here illegally is not my point. It is that the shooter was still in the United States after being convicted of crimes and previously deported. So, how did this happen?

It turns out, the alleged shooter had been previously deported in May 2007, after his first felony conviction. He then illegally reentered our country. And, in June 2013, he was arrested on new felony charges in Grant County. He served out his sentence, and, in January 2014, he was released to ICE again. But, prior to his deportation hearing, he was allowed to post an $8,000 cash bail. He never returned for this hearing. No failure-to-appear warrants were ever issued. He was then later rearrested in September 2015, in our county, on new domestic violence charges.

That is not how legal residents are treated when we miss court dates. You and I would have had warrants issued for our arrest.

Meanwhile, after the shooter returned to our community, local law enforcement had opportunities to bring him back into custody during unrelated contacts, but, due to the fact that no Federal warrants were ever issued, he was never arrested.

I was asked to provide insight on policies that Congress and the Administration should be considering to stem the unlawful movement of people, illegal drugs, and other contraband into this country. Can we start with just some basic principles?

It makes sense that, after being convicted of a felony, you should not be allowed to bail out on your immigration hearing. If you abscond, warrants should be issued for your arrest—and ICE and local law enforcement should be able to pick you up.

Now, I realize that this may present administrative and budgetary concerns, but we need easier access to the bad guys. This is not about illegal immigrants who reside in our communities peacefully alongside us.

Allowing us these tools would help us to distinguish between the truly law-abiding and those whose purpose is to harm through violence or drug distribution via enabling policies and practices. This, certainly, is not justice.

Although I can empathize with the discussion about ripping families apart, when it comes to immigration enforcement, I can assure

you, the Sundberg family has been ripped apart, because of the lack of enforcement of current immigration laws.

Lastly, I would like to publicly commend the hard work our men and women put into this complex investigation. We live by an unwritten code that dictates that they will never stop, they will never quit, and they will always work for the ones who no longer can speak for themselves. Their efforts have truly made our community a far safer place to live.

Thank you.

Chairman JOHNSON. Thank you, Deputy Rectenwald.

Julie, I am going to start with you, but I am not going to ask for an answer right away. But, I just want you thinking about this until the very end. I do want to know what information you want. What have you not been told from ICE? What can we get for you? So, just kind of think about that. And, I am going to start with Deputy Rectenwald.

You have been in law enforcement for how long?

Mr. RECTENWALD. Over 25 years, now.

Chairman JOHNSON. Have you seen a change in—you said that legal residents would not be treated the way that we treated the illegal immigrants—or illegal aliens. Have you seen a shift over those 20 years, in terms of how we handle this?

Mr. RECTENWALD. I have. Early in my career, I was a corrections officer (CO) for the same county—for the Grant County Sheriff's Office. And, ICE regularly came into our facility and regularly picked up people on immigration holds—ICE detainers. For example, I was a detective in 2008, when there was a rape in our county. I was the investigator, and I knew the location of the supposed suspect. And, I asked ICE if we could work together and try to pick this individual up—not only to help my investigation, but to get someone, who was previously deported on felony drug charges, out of our county. And, in 2008, they said that they could not help me.

So, my investigation took longer—a lot longer than it should have. And, while this investigation was going on, I finally made an arrest, after we had a positive deoxyribonucleic acid (DNA) hit from the crime lab. I picked the suspect up and arrested him. While the suspect was awaiting trial, my female victim died in a car crash, and charges were dropped.

So, to answer your question, all we want is for some simple principles and simple things, to be able to help us during our investigations.

Chairman JOHNSON. I think the thrust of my question is, if policies have changed, in terms of how you handle legal residents versus illegal aliens, was that a law change—something imposed on you? Were these just administrative guidelines—Executive Orders (EOs)? In other words, do we have to legislate something here to correct this problem? Or, is this something that can be done just through executive action or policy change?

Mr. RECTENWALD. I think the current laws in place should be effective. They are not. There are some in law enforcement careers that are afraid of a lawsuit—they are afraid of the challenges that present.

Chairman JOHNSON. Sheriff Severson, I made a swing through Wisconsin early in 2016. We called it a "national security listening

session." And, every public safety official—whether it was local, State, or Federal—when I asked, "What is the biggest problem you are dealing with, as a law enforcement official?"—without exception, the answer was unanimous. They said, "Drug abuse." Is that how you would answer that question as well?

Mr. SEVERSON. Yes, it is. And, more striking is that, in recent years, it has become focused on heroin and opiates. For the first time in the history of HIDTA, about 3 years ago, we had 100-percent conformity, where all law enforcement agencies were reporting heroin as the chief drug threat in their community. And, given the number of deaths that we have experienced—again, in my county, in the last 10 years, 387 families have lost their husbands, children, wives and daughters. So, it is clearly a major threat for us.

Chairman JOHNSON. There has been a debate about sanctuary cities, but also about sanctuary jurisdictions. And, Deputy, you alluded to this. Because of some civil lawsuits, sheriffs that I have talked to in Wisconsin, who want to help enforce immigration laws, feel constrained, because they may be subject to a lawsuit. Can either one of you comment on that, before I go to Julie?

Mr. RECTENWALD. Well, thankfully, I work for a very good sheriff, Sheriff Tom Jones. And, his number one priority is the protection and safety of our citizens. So, he has given us the backing—and we work very well with Immigration and Customs Enforcement and the U.S. Marshals Service. And, there are no qualms with allowing them into our jail or our facilities—allowing ICE agents into our jails or our facilities to allow them to make our community safer.

Chairman JOHNSON. He is not concerned about civil liabilities. Sheriff Severson, is that something that you have heard from your fellow chiefs and sheriffs?

Mr. SEVERSON. Yes, it is. We are concerned about civil liability. We are concerned about some of—and I am not an attorney, Senator, but we are concerned about some litigation that sheriffs have faced, whereby there are questions as to whether or not the detention—or the detainers—contain sufficient probable cause for us to detain folks, solely on the basis of those detainers. And, the frustration that chiefs and sheriffs in Wisconsin are feeling is that there does not seem to be any movement to clarify how ICE is going to solve the problem of giving us the sufficient probable cause, so that we can make those detentions without fear of litigation. And, for the most part, we are communicative with ICE. And, we are trying to share information as best we can. And, we are limiting our detentions to very short periods of time, to give them an opportunity to resolve their legal issues. But, one of the frustrations that we have experienced is that ICE will not take responsibility for developing clear, defendable probable cause for those detentions.

Chairman JOHNSON. Again, if you are really facing a civil lawsuit, that may be outside of their jurisdiction. We may have to actually change the law to make sure that we provide those types of liability protections, correct?

Mr. SEVERSON. I would agree with that.

Chairman JOHNSON. Again, Julie, we are so sorry for your loss. And, we want to do everything we can to provide you the informa-

tion. Giving you some time, are there some specific questions you have that you want answered?

Ms. NORDMAN. I just want to know why. And, I just want to make sure this does not happen to somebody else. I want the laws strengthened or changed—more security. That is all I have to say.

Chairman JOHNSON. OK. Well, again, we do appreciate you coming here. We know how hard it is to tell this story, especially when it is so recent and so raw. We will continue to stay in contact with you and to provide you with those types of answers—and strengthen our laws, so we can try and prevent these types of tragedies in the future. Senator McCaskill.

Senator MCCASKILL. Both the Chairman and I have reached out to ICE with a list of questions. And, I will make sure that you have a copy of the letter that I have sent them. I think it is unfortunate that they are not here, today, to apologize to you—at a minimum. It would have been nice to have somebody from ICE at this table to look at you and say, "I am sorry," and to acknowledge the failures of that Agency. I wish they were—here and they were doing that.

Let me make sure I understand this liability issue, because I want to make sure that law enforcement is protected here. The liability you are worried about is, if you are detaining someone for ICE—if you are holding them past a certain amount of time, like if you bring somebody in for questioning on something, and you have to release them, because you cannot charge them—but there is an ICE hold on them—you are worried about holding them longer than you, typically, would hold them? Explain to me where the liability part comes in. That is what I want to make sure I am clear on, so we can try to get it fixed.

Mr. SEVERSON. The challenge of working with ICE, under these detainers, exists when we have no other underlying criminal offense that we can hold an individual on. So, in other words, if we make an arrest in Waukesha County and we have probable cause to detain them for a particular charge, and we also have immigration status issues, and we notify ICE of that—if they say, "Well, we would like you to detain that person for our purposes," that is not going to be an issue as long as they come to our jail and take care of their business before we are forced to release the individual on local charges.

Where it becomes a challenge is when we have exhausted the reasoning—the rationale for detaining an individual on our local charges or other precedent charges and ICE would like us to detain them solely on the basis of their detainer. And, there have been several lawsuits that are working their way through appeals that have suggested that local law enforcement does not have the authority to detain an individual based solely on the ICE detainer. And, again, I am not an attorney, but the argument, generally, is that the ICE detainer is not sufficient due process, in and of itself.

Senator MCCASKILL. That is the argument that is being made?

Mr. SEVERSON. That is the argument that is being made.

Senator MCCASKILL. So, we will track that down, follow those cases, and figure out exactly what the facts are and see what we can do to be helpful in that—especially if this is a priority deportation based on criminal activity. I am assuming both of you would

agree that that should be the priority for our resources—going after people who have committed crimes in this country. Correct, Sheriff, Deputy?

Mr. SEVERSON. Yes.

Senator MCCASKILL. You both agree with that?

Mr. RECTENWALD. Yes, I would agree.

Senator MCCASKILL. OK. Great. I was struck, Deputy, by your testimony about ICE and the no failure-to-appear warrant. What I was even more struck by is, this was a convicted felon that was given an $8,000 cash bail. I find that wildly inappropriate. Have either of you ever seen instances where they are giving someone with a prior felony conviction, who is in this country illegally—who was deported once and came back to this country—they are letting them walk out of the door for eight grand? Do you have any knowledge as to whether or not that is common?

Mr. RECTENWALD. This was news to me. And, I was very shocked and surprised and, actually, appalled.

Senator MCCASKILL. Yes. That should not be the case—a cash bail, in those circumstances. I think that is a situation where detaining someone is appropriate, particularly, for prioritizing the criminals. We need to be putting the necessary resources into detaining the criminals—maybe, not the children that are showing up unaccompanied on our border that are saying, "Please help me," who are 4 years old and 5 years old. But, certainly, for someone who has committed a felony in this country and who is here illegally, we ought to prioritize those resources and never let them get bail and hold them until the hearing. That is where I think we should be shifting these resources.

Let me ask you this, too: In 2008, it is interesting to me that you are saying that, in calendar year 2008, ICE would not assist you—when you had converging interests in a suspect, they said that they could not assist you. Did they give you a reason why they would not assist you?

Mr. RECTENWALD. They did not give me a reason, other than they just were not able to pick that individual up—knowing that he had been previously deported on felony drug charges—he had a felony drug conviction.

Senator MCCASKILL. Yes. So, they did not say whether it was resources or it was just their policy not to?

Mr. RECTENWALD. It may have been a policy or something back then. And, that is my point, that——

Senator MCCASKILL. It would be nice to be able to ask them that question. I do not understand, for the life of me, how anybody with ICE would not want to prioritize someone who had been previously deported for a felony drug conviction. That is very hard to understand.

What about—have you seen ICE work effectively with you when you have converging interests, in terms of a criminal suspect and someone who is illegally in this country—either one of you? Have you seen them do a good job?

Mr. SEVERSON. In the case of Wisconsin, I am happy to report that we do not have a lot of issues of illegally present foreign nationals who are committing a lot of criminal activity in my county. That being said, for the most part, we are very blessed, because we

have a local ICE office in Milwaukee, which is very close to us, and we have a good working relationship. But, I will also report to you that sheriffs throughout the Nation do not necessarily have that immediate access to ICE officials. So, resourcing can become a challenge. The time it takes to respond to a detainer can be a challenge—beyond the obvious policy questions on whether or not there is an aggressive and vigorous effort on the part of ICE to work cooperatively to deal with these problems.

Senator MCCASKILL. It seems to me that, if we are going to prioritize, which we should—I mean, that is one thing the President is doing—is continuing the policy that has been in place—that we should be prioritizing illegal immigrants who are committing crimes—that a working relationship with law enforcement in this country would be step one, making sure you are on the same page, that you have a communication, and that you have a working relationship. And, certainly, I will be working hard on that.

In that regard, do you plan, Sheriff, to try to apply and be part of the 287(g) agreements? Have you made a decision in that regard?

Mr. SEVERSON. At this time, I do not have the resources to participate with that, nor is our community structure such that—I do not know that that is, necessarily, a high priority for us, right now. Again, I am fortunate enough to report to you today that it is—instances of criminal activity by illegally present immigrants—beyond their status—is relatively uncommon in my county.

Senator MCCASKILL. Right.

Mr. SEVERSON. And, generally, in Wisconsin, it is less common than in some other communities.

Senator MCCASKILL. Right. And, what about you, Deputy? Do you know if your sheriff is interested in participating in 287(g) agreements, which are the agreements that would, essentially, perform the legal function of deputizing local law enforcement to perform immigration functions—immigration enforcement functions?

Mr. RECTENWALD. I have not had that conversation with my sheriff, so I do not know what his stance is.

Senator MCCASKILL. At the height of the program, we only had 72 agencies participating—and I do not know how many thousands there are. As a former prosecutor, I know that, just in my jurisdiction, there were a lot of police jurisdictions, and, certainly, if you multiply that across the country—I am not sure that is the key to the kingdom. I think ICE doing a better job and developing a working relationship with the law enforcement that is out there—better communication is, probably, where we need to be focusing our attention.

Thank you both for being here. Please thank all of your departments for the work they do. And, once again, Julie, I could not be more proud of you.

Chairman JOHNSON. Thank you, Senator McCaskill.

So, the vote has been called. The time will expire at about 10:50 a.m. They will hold the vote open until 11:00 a.m., so let us go on to Senator Heitkamp. Then, we will talk to other Senators, in terms of how they want to proceed with the hearing. Senator Heitkamp.

OPENING STATEMENT OF SENATOR HEITKAMP

Senator HEITKAMP. Thank you, Mr. Chairman. And, thank you, Ranking Member.

Julie, Senator Kamala Harris, who was here, from California, Claire, and myself have all been prosecutors, we all ran large agencies, and we have all sat across the table from victims. And, I remember their faces. And, we are not going to forget yours—and we are not going to forget your story and we are going to get to the bottom of this. And so, I just want you to know that it is hard to do what you just did. And, we are really proud of you, but it makes a difference, because it unites us all in this tragedy to try and fix what is wrong. So, thank you so much for coming.

I want to turn my attention to local law enforcement grants. I am very concerned that—I ran the Byrne Grant Program. I was, probably, one of the first States that had a HIDTA program in the Great Plains—ran the drug task forces out of my office, in collaboration with local law enforcement. I was the State Attorney General (AG). And so, one of the things that I am deeply concerned about is that we have Operation Stonegarden, which deals with on-the-border jurisdictions. We have cut that program. We have cut the Byrne Grant Program to the point where we cannot get those resources. It is harder and harder to find Community Oriented Policing Services (COPS) money. It is harder and harder to find HIDTA money. And, we have a growing national crisis with drugs. And, the fact that people are pouring across the border—they are pouring across—the criminal element is pouring across the border, because there is a market for what they are selling here. And, they are competing for territory. We know what is going on.

So, can either one of you tell me what you would do if we plussed up the Byrne Grant Program the way it was before—or even more—if we plussed up the COPS Program and if we extended Operation Stonegarden, to recognize that a lot of the problems off of the border actually come to the interior? What could we do with additional resources? And, how would you approach that? And, I guess, we will start with you, Sheriff.

Mr. SEVERSON. Thank you. I agree that those programs have suffered over the last few years. Again, by way of background, I did run one of the largest metropolitan drug enforcement agencies within the State of Wisconsin, so I am very familiar with Byrne. I have been on the Board of Directors of HIDTA for almost 20 years. And, I am here to tell you that HIDTA, in my opinion, is a great success story. HIDTA is one of the real flagship Federal programs, in part, because it did not create an Agency. It created a cooperative nature and——

Senator HEITKAMP. Collaboration.

Mr. SEVERSON [continuing]. Collaboration. And so, that has been exceptionally effective in Milwaukee. It started in Milwaukee. And, now, we are actually multi-state, so that is a great thing. So, anything that we can do to support HIDTA funding is going to really do a lot to get boots on the ground in the local communities, particularly, in the non-border areas.

One of the things that concerns me is that we focus our attention in the community and ignore what is happening at the border. It makes no sense to me to have somebody working at home plate so

hard and nobody working around the diamond, trying to help us control the influx of controlled substances. If we can seize large quantities at the border, that is going to, in my opinion, have more impact on the local communities. And so, we need to do both. And so, to me, the border security issue, in my conversations with border sheriffs and other members of the National Sheriffs' Association—we are just at our wits' end that we are having to continue to sit and look at the border and watch this continue. And so, anything that we can do to increase staffing at the border, increase the use of technology, and create infrastructure that will allow us to patrol the border, is going to be important.

Locally, we are getting to the point where local law enforcement agencies do not have the resources anymore to participate in cooperative drug enforcement efforts. And, that is, in part, because of the reduction of Byrne Grant Programs. When I started in drug enforcement, we were getting three times or four times what we are getting now.

Senator HEITKAMP. I mean, I think it is clear—and the ability to collaborate, with those resources, is so critical.

Mr. SEVERSON. It is.

Senator HEITKAMP. I will tell you that we spent a lot of time talking about the open border in rural areas—and that absolutely needs to be addressed. But, it is DHS's position that most of the contraband—especially heroin and methamphetamines—are actually coming through the ports of entry (POEs). And so, we need to do everything we can to plus-up the resources, plus-up the inspections, and find out, cross-border, how we can really attack this problem—whether it is detecting tunnels or whether it is, in fact, making sure that we have the resources at the border. But, I am concerned that, with the lack of Federal resources, it takes that great collaboration and pulls it apart. And, people say, "I am not going there. I have other things to do. This is your job." And, I am not saying that we are doing that, but I do see that the cohesiveness that I saw in the 1990s on these programs has really fallen apart, because of the lack of resources.

Deputy Sheriff, you mentioned—I do not have it in my paperwork—I am sure it is in your testimony—the Sheriffs' Association's recommendations. We will be very interested in reading those and understanding. I spent a fair amount of time with the sheriffs down at the border. I know their level of frustration. But, from your perspective, what can we do that is going to get you the resources that you need to tackle this problem?

Mr. RECTENWALD. Just a little background about myself. I am the commander of our Interagency Narcotics Enforcement Team (INET), so we are a little different, as in we do have the Drug Enforcement Administration (DEA) office that is located in Spokane, Washington and we also have the DEA office that is located in Yakima. And, we are somewhere in the middle, on an island.

Senator HEITKAMP. So, no DEA is assigned to your region?

Mr. RECTENWALD. Correct.

Senator HEITKAMP. OK.

Mr. RECTENWALD. So, we are kind of on an island, and we are a collaborative of smaller agencies. We are a county of 93,000 peo-

ple. That does not mean that we do not have a huge drug problem, which we do.

Senator HEITKAMP. Absolutely.

Mr. RECTENWALD. As I previously stated, the price of heroin is between $80 and $100 a gram—and the price of methamphetamine is even cheaper. It is $60 a gram. And, it is not uncommon for us to make seizures of 10 to 15 pounds of heroin and——

Senator HEITKAMP. In your county?

Mr. RECTENWALD. In our county. And, methamphetamine. I think we do have cartel action, and they are very well embedded in our State. And, having that money and having those funds to be able to support an Interagency Narcotics Enforcement Team, which is supported by funds—and it is allowing these smaller counties, who otherwise could not afford to have a detective assigned to the unit——

Senator HEITKAMP. I just have one more question. I am curious about whether you are in proximity of any reservation or Indian country, and whether that has created issues for your county.

Mr. RECTENWALD. We are close to the Yakima Nation, but, no, that really does not—other than——

Senator HEITKAMP. I raise this because, in North Dakota, we see a lot of trafficking on and off of the reservation. And, the jurisdictional issues that we have, trying to tackle that, are absolutely horrible—and we need Federal help. We need DEA, we need the Federal Bureau of Investigation (FBI), and we need any kind of Federal assistance that we can get, to have a cop on the beat on the Indian reservation, because, if you are the bad guy and you think there is no cop on the beat, where are you going to go?

And so, we will work very actively to try and figure out the relationship between you, ICE, and the Federal authorities, but also to get us back where we need to be—in the 1990s and even beyond—that, given the crisis that we are confronting—to recognize the important role that you all play as boots on the ground to help us keep our communities safe. And, thank you again, Julie.

Thank you, Mr. Chairman, for the indulgence and the extra time.

Chairman JOHNSON. Thank you, Senator Heitkamp.

It is difficult to deal with these votes. We have two of them, so I think what we will do here is just thank the witnesses for your testimonies and for coming in. Gentlemen, thank you for your service. Julie, again, our sincere condolences. You have the commitment of this Committee that we will do everything we can to work with you to get you the answers—but also work with the new Administration to secure our borders and to start enforcing immigration laws, so we can try and prevent these types of tragedies from happening again. Your testimony was powerful. Thank you for coming. It will make a difference.

With that, the hearing record will remain open for 15 days until March 16th, at 5 p.m., for the submission of statements and questions for the record.

This hearing is adjourned.

[Whereupon, at 10:52 a.m., the Committee was adjourned.]

APPENDIX

Opening Statement of Chairman Ron Johnson
"The Effects of Border Insecurity and Lax Immigration Enforcement on American Communities"

March 1, 2017

As prepared for delivery:

Good morning and welcome.

Today we will examine how our porous southwest border affects American communities thousands of miles away. Some of this testimony will be difficult to hear—accounts of graphic violence and drug abuse fueled by border insecurity and lax immigration enforcement. It is important that we hear these stories because they represent the real-world consequences of our insecure border and our failure to enforce our immigration laws.

America's borders are not secure. To truly secure our borders, the United States must identify and eliminate the incentives for illegal immigration. Our failure to do so can have tragic consequences. We've heard the stories of Dennis McCann, Kate Steinle, Grant Ronnebeck, Jamiel Shaw II, Josh Wilkerson, Detective Michael Davis Jr., and Deputy Danny Oliver—lives cut short at the hands of criminal illegal aliens. In each case, we learned that federal policies and procedures played a role in these horrific tragedies.

Today we welcome Julie Nordman from New Florence, Missouri. On March 8, 2016, Julie's husband, Randy, was murdered in his home by an illegal alien. Authorities allege that one day earlier, the same man murdered four other individuals in neighboring Kansas. The man had numerous run-ins with the law, and had even been deported once before. Julie, you have our sincerest condolences, and we thank you for sharing your experiences today.

Our committee's work on border security last Congress led to the conclusion that the key driver of our borders' insecurity is America's insatiable demand for drugs. According to the Drug Enforcement Administration, 10,574 Americans died from heroin-related overdoses in 2014. As Homeland Security Secretary John Kelly described in his testimony before this committee in January, heroin is produced solely outside the United States, most often from Mexico, and enters the country through our porous southwest border.

Local law enforcement leaders are on the front lines of America's battle with opioids and the many problems that have accompanied the opioid epidemic. Between 2006 and 2015, deadly heroin overdoses in Wisconsin increased from 0.5 per 100,000 residents to 4.9 per 100,000—an increase of 880% over that period. I am pleased to welcome Sheriff Eric Severson of Waukesha County, Wisconsin. Sheriff Severson can explain how drug interdiction efforts at the southwest border affect the drug trade in Wisconsin. We will also hear testimony today from Ryan Rectenwald of the Grant County Sheriff's Office in Washington State. He will describe how the drug trade through the southwest border incites violence in his northern border community.

Border security and immigration laws are not just a concern for communities along the border. They affect all Americans. I thank the witnesses for their willingness to be here today and I look forward to your testimony.

U.S. Senate Committee on Homeland Security and Governmental Affairs
Immigration Enforcement Hearing
March 1, 2017

Ranking Member Claire McCaskill

Opening Statement

Thank you Mr. Chairman.

This morning we will hear from a constituent of mine named Julie Nordman, who on the morning of March 8, 2016, was forced to run to the attic of her home in Montgomery County, Missouri, while her husband, Randy, struggled with a stranger with a gun downstairs in the couple's garage. The man who allegedly shot and killed Randy and four other men the night before in Kansas City, Kansas, never should have been in this country. According to the information I have, Pablo Antonio Serrano-Vitorino, who is set for trial in a capital murder case, was deported in 2004, after serving a year in prison for a felony conviction in California. At some point, Mr. Serrano illegally re-entered the country, and, despite his prior felony, he somehow managed to slip through the cracks during at least three run-ins with Kansas police.

I'm told that, in one case in Coffey County, Kansas, in 2014, Mr. Serrano was arrested for DUI, but his fingerprints were never taken, so a match was never made with the Department of Homeland Security's immigration database. After

again being arrested and charged with domestic assault in Wyandotte County, Kansas in June 2015, Mr. Serrano's fingerprints ***were*** sent to DHS, but Immigration and Customs Enforcement (ICE) did not take him into custody before he was released. Just three months later, when Mr. Serrano showed up at Overland Park, Kansas Municipal Court to pay a traffic fine, his fingerprints were taken again. ICE was notified that they had an undocumented individual with a history of violent offenses within their grasp. ICE issued a detainer requesting that Mr. Serrano be held until federal authorities could get there, but, amazingly, the detainer was sent to the wrong place: It went to the Johnson County, Kansas, Sheriff's Office instead of the Overland Park Municipal Court Building. How did that happen? I don't know. Why didn't ICE pursue Mr. Serrano further? I don't know.

What I do know is that, six months later, Mr. Serrano allegedly shot and killed five men in Kansas and Missouri, including Randy Nordman. And it appears that while the local authorities were doing their jobs, the federal government – specifically ICE – dropped the ball.

Now Mrs. Nordman, I know: None of this is going to bring your husband back. I'd be lying if I said it would. Mr. Serrano should not have been in this country. Randy Nordman should still be here today. I want to know how this was

allowed to happen. And Mrs. Nordman, I'm sure you have the very same questions.

That's why I'm so disappointed that someone with ICE couldn't be here today. As you know, I invited Director Homan or, when I found out that he wasn't available, anyone in his organization to come this morning and testify. I had hoped he would be able to speak to some of the specifics of the Serrano case and the other cases we will be hearing about this morning.

I have also asked for a copy of Mr. Serrano's case file from ICE, but, at every turn, my staff and I have been met with resistance. The agency told us that, due to privacy concerns, Mr. Serrano's case files cannot be released. But that flies in the face of the Trump Administration's new policy that, and I quote, "The Department will no longer afford Privacy Act rights and protections to persons who are neither U.S. citizens nor lawful permanent residents." How can you hide behind the shield of privacy and then, in the same breath, say that noncitizens have no privacy rights?

One of the reasons I have devoted so much of my time here in the Senate to oversight is that I truly believe that, as legislators, we have an obligation to understand the problems before we try and pass new laws. What happened in this case was an absolute tragedy. But was it caused by a failure in our immigration laws or policies, or was it instead the result of human beings failing to follow the

rules? Unfortunately, ICE – the only people capable of answering that question – has refused to either provide information to my office or participate in today's hearing.

Mrs. Nordman, despite the resistance from ICE, I'm going to do everything I can to get you some answers.

Thank you Mr. Chairman, and I look forward to hearing from the witnesses.

Julie Nordman
Senate Committee Hearing Testimony
03-01-2017

Hello, my name is Julie Nordman and I was asked to speak you today following the tragic and preventable murder of my husband, Randy Nordman. Although this happened less than a year ago and the pain is still unbearable, this story starts nearly two decades ago.

The man who murdered my husband, Pablo Serrano-Vitorino, first encountered law enforcement in 1998 in California. He was here illegally and was charged with making a threat with the intent to terrorize. He plead guilty to disturbing the peace and spent three days in jail. He was allowed to remain in the US and between 1993 and 2003, he was arrested twice more for domestic violence. Then, in 2003, he pointed a rifle at the mother of this three children and threatened her life. Later that year, he was convicted on those felony charges and was sentenced to two years in prison. Following his release in 2004, he was deported for being in the United States illegally.

No one knows when he returned to the US, or how, but he did. And in November 2014, he was arrested in Kansas for Driving While Intoxicated, Driving without a License and Speeding. He pled guilty and again was allowed to remain in the United States. Then, less than a year later in June of 2015, he was arrested and charged with domestic battery. While being held at the County Jail, the sheriff's office notified Immigration and Customs Enforcement [ICE] that he was in custody. Immigration is required to respond within a 4 hour deadline, yet, they failed to do so, and the Sheriff was required to release him. He later pled guilty to the charge and received a fine.

Only two months later, in August of 2015, he was again arrested for driving without a license. While at the municipal courthouse, he was fingerprinted and ICE issued a detainer for his immigration violation. However, because of their carelessness, ICE mistakenly sent the detainer paperwork to the incorrect location, and it never reached the proper authorities.

That brings you to my story. In the 18 months before the senseless murder of my husband, this killer has been in custody on three occasions, yet federal officials failed to detain or deport him. Had they just done their jobs and followed the laws, my husband would still be alive, and so would the four other innocent victims he brutally murdered.

On March 7, 2016 in Kansas City, Kansas, four men were found dead. Mike Capps, Jeremey Water, and brothers Clint & Austin Harter were Pablo's neighbors, and he murdered them, from what I've heard, over a parking spot. Authorities started a man hunt, but they didn't find him until it was too late.

On the early morning of March 8, 2016, my husband was getting ready for work. I was awoken from my sleep when I heard my husband shouting "What are you doing" and then he called out for me, "Julie! Julie!" I looked out the window into our garage and saw a man and my husband fighting over a rifle. I immediately grabbed my phone and called 911 as I ran to the attic. I was scared out of my mind and I whispered to 911 that we needed help. I asked them to hurry and then I prayed and prayed for Randy to be okay. I saw our dog at the top of the stairs and told 911 I was worried that the dog was going to give my location away. I then remember

asking the operator if the gunman shot me, would it hurt? I tried to climb out the attic window, but it was stuck. So I stayed put. I also asked if I could go check on my husband, and they told me "no." But then, I heard a "pop." I heard the gunman rustle through our things and we believe he was trying to find car keys so he could steal one of our vehicles and continue fleeing from law enforcement.

I looked out the attic window and I saw a police car racing toward our house. But then, it raced on past our house. I told the dispatcher that the officer needed to turn around and that was when I saw the killer run across my property and jump face-first into a ditch to hide.

When the police arrived, I saw my husband on the kitchen floor, but I thought he was just unconscious. The police then escorted me out of the house. I kept screaming "Where is the ambulance" but they kept telling me it was a secured area. Officers told me they had located the man's vehicle right off the highway near our house and then showed me a picture to identify him. After I identified him, that's when the ambulance personnel came over and told me that my husband had passed away, and I just lost it.

They searched for him for 17 hours using dogs and what seemed like hundreds of policemen, and two helicopters but no one could find him. We later found out that he had been lying 800 feet from my house in the grass. He waited until it had gotten dark and then walked to a gas station where he tried to high jack someone else. However, because my husband had removed the clip from his gun, the killer's only remaining bullet was used on my husband. My husband was a hero for not only saving my life, but also saving all of the other people this man would have attacked. Authorities quickly apprehended the man near the gas station, and he's now in custody awaiting trial for the death of my husband.

Following the incident, I was never contacted by ICE or anyone else from the government to express their remorse. However, I read in the paper that ICE said they would monitor Randy's case and place a detainer on the man. They also said they "would remain focused on smart, effective immigration enforcement that prioritizes threats to national security, public safety and border security." I find their statement couldn't be further from the truth. Their actions were not smart, in 2015 they sent his detainer paperwork to the wrong place. Their actions were not effective, in 2015 they also failed to respond to the Immigration Query. They did not properly prioritize the threat; after this man was arrested on numerous occasions for violent crimes, he went on to kill five completely innocent men.

Not only has ICE failed us, but our borders have failed us. They are obviously wide open as this man was able to enter, not once, but twice, without being detected. But I suppose if your policy is to let them go even after you arrest them for committing violent crimes, why even secure the border at all?

If the ICE authorities had just done their jobs, Andrew Harter would still be alive. Clint Harter would still be a husband, and would have seen his second child being born. Mike Capps would still be alive. Jeremey Water would still be alive. And most importantly to me, my husband would still be here. Instead, every day that I'm at our house, I'm reminded of this tragic

event. I wish you could bring my husband back, but we all know that can't happen. What you can do, is make sure that this doesn't happen to another innocent family in the future.

Also, before I go, I would just like to publically thank the Missouri State Highway Patrol, and the nearby county officers, for catching and arresting this monster.

Statement of

Eric J. Severson
Sheriff,
Waukesha County Wisconsin

Before the U.S. Senate Committee
on Homeland Security and Governmental Affairs

**"The Effects of Border Insecurity
and
Lax Immigration Enforcement on American Communities"**

March 1, 2017

Introduction

Chairman Johnson, Ranking Member McCaskill, and distinguished members of the Committee. It is my honor to address you today on behalf of the Citizens of Waukesha County and the State of Wisconsin.

My name is Eric Severson and I am the Sheriff of Waukesha County. Waukesha County is a mix of rural and suburban communities located West of and adjacent to Milwaukee County. I have served my community as a law enforcement officer for over 32 years.[1]

To provide context for my testimony today, I have included a brief biography. I would highlight that I currently serve on the Board of Directors of the National Sheriff's Association. I am also a member and past Chairman of the Board of Directors of the Wisconsin HIDTA.

The Drug Threat

[1] Prior to my service in the Sheriff Office, I served just under two years as a municipal police officer in rural Grant County, Wisconsin. I have familiarity with both large and small agencies as well as familiarity with communities that have varying population densities.

The greatest impact on the safety of our community as it relates to "Border Insecurity," is the ease of bringing controlled substances into our community by way of the Mexican-American border.

The lions share of the controlled substances consumed in SE Wisconsin is sourced from south of the border.[2] Heroin and Opiate pharmaceuticals have been the chief drug threat in Wisconsin. Heroin consumed in my community was transported through the southern border, in its entirety. Today, Mexican drug cartels are growing Poppy plants, to manufacture locally produced heroin, making Mexico a source country for heroin. [3]

Methamphetamine is an emerging drug threat.[4] 95 percent of methamphetamine in Wisconsin comes from Mexico.

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[2] The Poppy plant needed to produce opium which is refined into heroin, is not produced at all, in the United States. Heroin consumed in my community was all trafficked through the southern border. In fact, Mexican drug cartels are growing Poppy plants, to manufacture locally produced heroin, making Mexico a source country for heroin.

[3] High grade marijuana, and edible marijuana products continue to be available. West coast suppliers are a significant source for the south east Wisconsin market. Much of this drug supply is also sourced from south of the border.
Cocaine availability is now again on the rise. We are seeing very high availability and low prices. Again Nearly all Cocaine consumed in the united states is sourced from south of the U.S. Mexican Border.

[4] In Wisconsin we have taken the legislative steps to limit the availability of the precursor Pseudoepedrine to the extent that we have virtually eliminated local production of home-made methamphetamine.

Life and Health Safety

The drug public health crisis is not limited to border communities or major cities alone. In the last 10 years my county has lost 387 of our citizens due to controlled substance overdose deaths. Last year alone we experienced over 35 drug related deaths. One third of that total involved heroin. Fentanyl, an adulterant often added to heroin, has increased the lethality of heroin.[5] We now see Fentanyl as yet another illicit drug entering the U.S. through the southern border. [6]

On a local level we are doing all we can to protect my citizens. Last year my deputies administered Narcan 21 times saving 17 lives.

Crime and Violence Relating to Drug Importation Trade

Along with the drug trafficking business comes violence. Robberies, home invasions, burglaries, and thefts are all the byproduct of drug users seeking the resources to fuel their addiction.[7]

Our community's drug enforcement officers must face the dangerous realities of the drug trade. One example of this is the growing use of mobile drug house crews. These dealers sell heroin from stolen vehicles (often car-jacked) and will evade apprehension by recklessly eluding police by ramming squads and even citizen-owned vehicles in their efforts to escape apprehension. These dangerous drug dealers are frequently well armed and use counter surveillance techniques which add to the danger to law enforcement and the community.

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[5] Fentanyl laced heroin is a very dangerous public health risk. Dealers lace an already deadly heroin with the synthetic opioid, which creates an elevated risk of respiratory arrest and death.

[6] As soon as we recognize the impact of fentanyl as a component of the overdose situation, we learn of other analogs such as carfentanil emerging opioid analogs that further to threaten our communities.

[7] While my county has been somewhat insulated by being removed from the urban center of Milwaukee, we do experience these crimes.

Immigration Status and Crime

The thrust of my testimony has been on border security as it relates to drug trafficking. This is because my fellow Sheriffs, Police Chiefs, and I see this as the greatest border-related threat to our communities. My testimony would be incomplete, however, if I failed to acknowledge the criminal threat posed by foreign nationals that are in our our country in violation of our immigration statutes. Candidly, I see criminal offenses by foreign nationals as relatively infrequent occurrence within the confines of my county's border. It would be incorrect, and in fact dangerous to conclude however, that these events do not occur in Wisconsin.

Several specific examples include:[8]

A Drug Trafficking Organization (DTO) involving at least two undocumented Mexican Nationals where 15 kg of cocaine was seized.

A DTO containing several undocumented Mexican Nationals was attempting to illegally sell firearms to undercover agents. This DTO also had human trafficking ties.

A recent 25 kg seizure of methamphetamine resulted in the arrest of several undocumented Mexican Nationals in SE Wisconsin. The actors in this case were purporting the methamphetamine to be cocaine in hopes of expanding the organization's methamphetamine market and aid in its distribution.

Many other examples exist. [9]

Federal Intervention and Assistance

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[8] Other examples include-

- An Illegal Mexican National who was distributing Methamphetamine to western Wisconsin communities who ultimate fled the jurisdiction and remains at large.
- Two undocumented Mexican Nationals were arrested in SE Wisconsin with 3 kg of cocaine and 6 illegal firearms.

[9] Prior to my completing the draft of my testimony, I spoke with leadership from many agencies within my State including the Milwaukee office of the DEA. From these discussions I have distilled numerous significant drug trafficking cases involving undocumented Mexican Nationals who were directly involved in high level drug trafficking and other criminal activity. Some are mentioned in this oral statement. The drug trafficking business is responsible for the lion's share of violent and property crimes in our communities.

I have included a copy of the National Sheriff's Association Position Paper on Comprehensive Immigration Reform. I respectfully ask that you to consider all recommendations.[10] In particular I would hope that a strong focus is placed on providing appropriations to:

- adequately secure the border which would include providing sufficient law enforcement presence in the form of CBP Officers, and
- sufficiently support the highly effective HIDTA programs, and the Edward Byrne Justice Assistance Grant.

Conclusion

It is truly an honor to be here today. I will be happy to answer any questions you may have.

Respectfully Submitted,

Sheriff Eric J. Severson

Appendix 1

Background - Waukesha County Demographic

Waukesha County is situated directly west of Milwaukee County, the most populated county in Wisconsin, and approximately 25 miles east of Dane

[10] Of particular importance are the recommendations relating to border security and local community drug impact which include:

- The effective and efficient securing of the southern and northern borders by the Federal Government.
- The appropriation of the funding necessary to substantially increase the number of immigration and customs enforcement (ICE) agents.
- An increase in agents is critical to securing and patrolling the nations borders, particularly along the South West border. A substantial increase in Customs and Border Patrol (CBP) agents also alleviates the burden of border security from local law enforcement. Greater security at our nation's borders means fewer law enforcement challenges to non-border communities.
- The appropriation of funding to build necessary infrastructure along the border to allow for more efficient patrol of critical areas, as well as the effective use of sensor and aviation technology to improve border surveillance.
- Full funding for the Edward Byrne Memorial Justice Assistance Grant (known as Byrne JAG). Byrne JAG provides vital funding to local law enforcement agencies to operate multi-jurisdictional drug and gang task forces.
- Full funding for the HIDTA program.

County, the second most populated county in the state. The county is a rapidly growing area for upscale, residential subdivisions with five of the ten wealthiest zip codes in the Milwaukee metropolitan area.

Waukesha County, population 396,488 (2015 US Census), offers a blend of urban and rural living. Overall population of the county grew 1.7% between April 2010 and July 1, 2015. The population consists of 93.4% white, 1.5% black/African American, 3.4% Asian and 4.7% Hispanic/Latino. The median household income from 2011-2015 was $76,545 and per capita income $36,684.

While Wisconsin currently has lower immigration rates than many other states, the foreign-born population is growing. The Federation of American Immigration Reform estimates that between the 2000 census and July 2008, Wisconsin's population increased by about 58,365 residents from net international migration (more foreign-born arriving than leaving). This is an annual average increase of about 7,995 foreign-born residents, representing more than one-fourth of the state's total population increase during that period. (Wisconsin Extended Immigration Data – FAIR Federation of American Immigration Reform June 2011) Foreign-born residents make up an estimated 5% of the Waukesha County population. (2015 US Census)

The 2014-2017 Waukesha County Department of University of Wisconsin-Extension Strategic Plan notes that the poverty rate in Waukesha County increased from 3% in 2000 to 5% in 2010. This is lower than the state rate but impacts almost 20,000 people in the county. Census block data reveals that poverty rates are much higher for Latino/a and African-American populations in the county. In Waukesha County, 13% of children in schools are eligible for free and reduced lunch. In the City of Waukesha, Waukesha County's largest city, the number of elementary schools that became eligible for free and reduced lunch programs increased from one in 2001 to six in 2012.The 2035 Regional Housing Plan for Southeastern Wisconsin recommended reducing the concentration of minorities in the region's central cities (SEWRPC, 2013). This concentration of minorities is continuing to grow in neighborhoods surrounding downtown Waukesha. In these neighborhoods, the number of Latinos/as and African Americans continues to grow. Poverty rates for these minority families exceed 25%.

Also per the 2014-2017 Waukesha County Department of University of Wisconsin-Extension Strategic Plan, minority populations in Waukesha County

are growing at a faster rate than white populations. In 2010, almost 10% of the total county population was minority. Between 2000 and 2010, the Latino/a population in Waukesha County grew by 6,620 residents. This was the sixth highest county growth in the state. In 2010, 5% of the state's Latino/a population (16,123) resided in Waukesha County. Between 2000 and 2010, every city, village, and town in the county experienced growth in the Latino/a population except for two villages (UW-Extension, 2014). Collectively, Latinos/as make up the population of one county board district in Waukesha County. Waukesha County is one of eight counties in the state where 80% of the Latino/a population lives and works (UW-Extension, 2014). For the first time, between 2000 and 2010 the Latino/a population that was born in Wisconsin exceeded the number of Latino/a residents born outside of the United States (UW-Extension, 2014). The growing Latino/a population is important for Waukesha County, as a greater proportion (more than 23%) are employed in manufacturing. Another 18% of the Latino/a population is employed in arts, entertainment, accommodation and food service. The Latino/a population also has a younger median age (23-years-old) and a larger household size (3.4 persons). Latinos/as are also entrepreneurial, as they own and operate over 5,000 businesses in Wisconsin.

Asian and African-American populations continue to grow in the County as well. For example, 10% of the student population in the Elmbrook School District located in Waukesha County is Asian, and 10% of the student population in the Menomonee Falls School District, also located within the county is African American. The growth in diversity is further explained by changes over the past ten years in the City of Waukesha. The City of Waukesha had 70,718 residents in 2010. The city's growth was slightly lower than Waukesha County's from 2000 to 2010. One major trend in the City of Waukesha is growing diversity. The city grew in population from 64,825 in 2000 to 70,718 in 2010. During this period, the Latino/a population grew from 5,563 to 8,529, the Asian population grew from 1,407 to 2,502, and the Black or African-American population grew from 861 to 1,570. The city as a whole grew by 5,893 people from 2000 to 2010. The total growth in population of the Latino/a population, Asian population, and Black or African-American population in the City of Waukesha between 2000 and 2010 was 4,770. These populations were responsible for 80% of the population growth in the City of Waukesha between 2000 and 2010. Currently over 12% of the population, counted by the U.S. Census, in the City of Waukesha is Latino/a. This percentage is over twice the state average.

According to the Office of National Drug Control Policy High Intensity Drug Trafficking Area Program in Southeastern Wisconsin, Wisconsin's population, being located on the northern border of the United States and near major source cities Chicago and Minneapolis, make the state a destination state for illegal drugs and drug activity. Wisconsin HIDTA threat assessments found that the vast majority of drugs enter Wisconsin via passenger vehicles on one of the major highways intersecting the state. The threat assessments also indicate that opioid abuse, including both heroin and prescription drug abuse, remain the number one drug threat in Wisconsin. The vast majority of heroin in Wisconsin is sourced from Chicago-based traffickers with connections to the southwest border of the United States and the major Mexican cartels. Wisconsin traffickers, in particular Milwaukee-based traffickers, will often travel 90 miles south to Chicagoland area several times per week and return with 100-150 gram quantities of heroin usually of the Mexican or South American variety.

Appendix 2

Action-Based Solutions by Local Government

Local solutions and programs bring relief to citizens. Local law enforcement is best suited to understand geographic community needs and solutions based on the expectations of citizens.

The Metropolitan Drug Enforcement Unit (Metro) was formed in 1985 when the Sheriff and Waukesha County Chiefs of Police recognized a cooperative effort in fighting drugs and drug dealing was best for the community. The Waukesha County Sheriff's Department has administered the program since its inception which works closely with many local, state and federal agencies. In 2016, the Metro Unit completed several long-term drug investigations. These extensive investigations compiled 289 drug buys, 24 search warrants, $35,153 in seized funds and 15 seized vehicles.

Metro also works jointly with the Office of National Drug Control Policy High Intensity Drug Trafficking Area Program (HIDTA) in southeastern Wisconsin to apply enhanced intelligence processes and greater operational coordination and prosecution to reduce organized drug distribution, drug related violent crime and money laundering, and the demand for illegal drugs. The program also strives to halt the distribution of illegal drugs through the Milwaukee HIDTA to urban areas throughout Wisconsin and beyond. Through this cooperative effort, in 2016 Waukesha County experienced the following activity:

300 HIDTA Initiative Cases Opened
400 Incidents of Provided Analytical Support and Assistance to Other Agencies
93 Cases Referred
14 Warrants Executed
$86K Spent on Drug Buys
Controlled Substances Seized/Purchased Included:
176 Grams Heroin
9 Marijuana Plans
33,696 Grams Marijuana
85 Grams Cocaine
88 MDMA
117 Doses of Alprazolam
70 Grams of Amphetamine
30 Grams of Methamphetamine

73 Doses of Oxycodone
80 Doses of Sub Oxone
181 Grams of Psilocybin
437 Doses of LSD
5 Doses of Percocet
In reaction to community demand, in 2016 the Waukesha County Board approved an additional full time detective position to work exclusively on drug-related cases. Adding more police officers and adopting strong, proven management techniques has been proven to reduce the rate of crime. (What Caused the Crime Decline? 2015, Oliver Roeder, Lauren-Brook "L.B." Eisen, Julia Bowling)

In response to the current heroin and prescription opiate crisis, Waukesha County Sheriff's Department Deputies employ automatic external defibrillator (AED)/Narcan kits. Deployment of Narcan, an opioid antagonist used to reverse opioid overdoses, helped reduce drug-related deaths 34% between 2012 and 2013. In 2016, the department deployed 48 automatic external defibrillator (AED)/Narcan kits. Of the 21 incidents where Narcan was administered alone or in combination with an AED, deputies revived 17 people. (The number of Waukesha County Sheriff's Department Narcan deployments is lower than county-wide actuals because the department works in tandem with area fire departments on medically-related calls which could include the administration of Narcan.)

The Waukesha County Sheriff's Department works closely with the Waukesha County District Attorney's Office to pursue and prosecute Len Bias charges. The departments also cooperate closely to utilize Good Samaritan Laws, which were enacted to remove the fear of calling police and emergency services for help during an overdose situation for people suffering from addition.

Appendix 3

SCAAP

The Bureau of Justice Assistance State Criminal Alien Assistance Program (SCAAP) reimburses state and local governments for the partial costs of incarcerating unauthorized immigrants who have committed felonies or at least two misdemeanor convictions for violations of state or local law and who are incarcerated for at least four consecutive days. Waukesha County can be reimbursed 100% of jail personnel costs incurred for inmates born outside of the United States. The reimbursement rate drops to 85% of personnel costs for inmates whose country of birth is unknown. SCAAP does not reimburse costs for housing, feeding, or providing medical care to these prisoners.

Federal funding for SCAAP fluctuated from $130 million in FY1995 to $565 million in FY2002 to $238 million in FY2013 according to the Federal Funds Information for States. In FY2013, this amount covered only 18% of state costs for housing unauthorized immigrants.

SCAAP funding for Waukesha County Jail expenses for unauthorized immigrants falls woefully short of providing reimbursement of actual costs. Between 2012 to 2016, slightly less than 17% of total costs for unauthorized immigrants in Waukesha County was covered by SCAAP payments.

Waukesha County SCAAP Awards

Year	Per Diem Cost	Total Costs	Award Amount	Shortfall
2016	$44.40	$151,290	$26,147	-$125,143
2015	$45.69	$202,447	$31,060	-$171,387
2014	$44.50	$235,391	$35,374	-$200,017
2013	$38.56	$184,456	$35,027	-$149,432
2012	$38.06	$199,594	$36,797	-$162,797

Threat Assessment 2017

Specially prepared for the ONDCP High Intensity Drug Trafficking Areas Program.
Approved by the Wisconsin HIDTA Executive Board on May 12, 2016

Wisconsin HIDTA 2017 Threat Assessment
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I. Executive Summary

The Wisconsin HIDTA Threat Assessment for Program Year 2017 was developed after a thorough collection of information and data from the law enforcement counter-drug experts of the Wisconsin HIDTA region. This region encompasses Milwaukee, Racine, Kenosha, Waukesha, Brown, Rock, and Dane Counties. These are the most populated counties within the state, which provides the primary markets for the illicit drug activity. These drug markets are closely connected to the illicit drug source suppliers from the Chicago, Illinois area, which is a significant base of transshipment to all states in the Midwest. Mexican-based drug trafficking organizations (DTOs) are most commonly linked to sourcing heroin, cocaine, marijuana, and, to some extent, methamphetamine to the WI HIDTA region. Some of the key findings drawn from this assessment are listed below:

- Heroin and opiate/opioid-based pharmaceuticals continue to be the greatest threat to the region. A greater percentage of DTOs and drug traffickers are distributing heroin as an illicit substance from the past several years. Availability of heroin in the marketplace is high, with prices holding stable if not somewhat lower. Overdose deaths attributed to opiates remain consistently high, similar to reporting from the last 2 years. No lessening of this trend is predicted.
- Fentanyl has emerged as a serious threat involving overdose deaths. Overdoses linked to this potent opioid have increased dramatically over the last two years. Traffickers of heroin appear to be including some mixed quantity of Fentanyl in the product leading to deadly levels of potency. It is not clear at this time what is leading to this practice by certain heroin distributors.
- High-grade marijuana and related edible and extract products are readily available in the region, and user demand is very high. West coast suppliers of high-grade marijuana are plentiful, and parcel shipments of products from these states appear to be increasing. Prices appear to be declining for these products despite the demand. Commercial grade marijuana is rarely encountered by law enforcement due to this demand for high grade products.

- Cocaine continues to have a significant presence in the HIDTA region, as availability and prices remain stable in the user to wholesale quantities. Cocaine overdose deaths continue to remain high in Milwaukee County. Other areas of the state, especially in the southern and south central areas, have seen a resurgence of crack cocaine trafficking and abuse.
- Methamphetamine is an emerging threat throughout the HIDTA region and the state of Wisconsin. Suspected Asian DTOs and source suppliers from the Minneapolis, Minnesota, area appear to be most closely connected to these activities with strong links to the Brown County and Fox Valley areas. Other areas in the southern areas of the state such as Rock and Kenosha Counties are reporting increased seizures and abuse of this drug. These indicators are predictive of an increase of this threat in the foreseeable future.
- Of great concern to law enforcement are the emerging distribution styles and groups of heroin traffickers. These distribution styles are commonly referred to as "mobile drug house crews" by regional law enforcement. These groups are identified by their methods of conducting drug trafficking from heavily tinted window vehicles, reckless driving behavior, and refusal to stop for law enforcement in conducting traffic stops or attempts to affect arrests. Quite frequently these traffickers are armed with firearms and are driving stolen vehicles with a nexus to carjacking and armed robberies. Many times these traffickers are engaged in counter surveillance techniques and utilize social media sites to communicate.
- Violent activities relating to drug trafficking continue to remain high as robberies, home invasions, assaults, and homicides are more commonly attributed to drug traffickers, gangs, and DTOs. High profits, significant currency exchanges, and competition to distribute to addicted users especially as they relate to high-grade marijuana trafficking and heroin trafficking provide the largest nexus for the threat.

The following sections provide a full overview of these findings. It is with the description of these threats in this document that the WI HIDTA and its Executive Board will

form the basis for the Strategy in Program Year 2017.

II. Description of the Threat

a. Drugs Trafficked

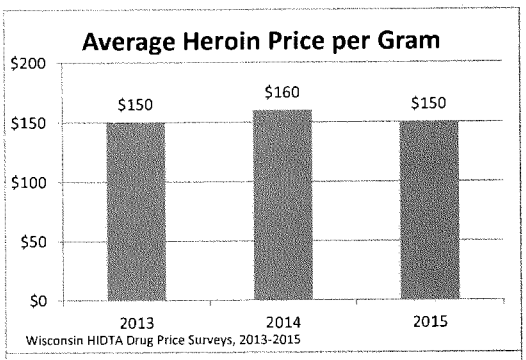
i. Heroin

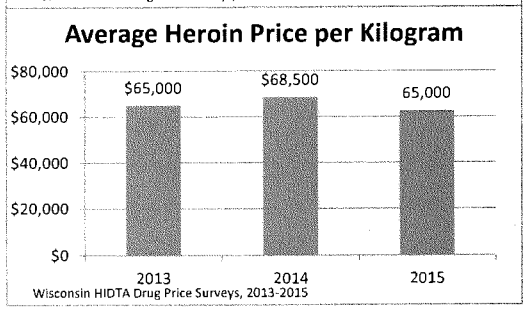
As observed over the past several years, the trend of heroin abuse continues to be the number one drug threat to the Wisconsin HIDTA region. Ninety-six percent of responding agencies rate heroin as the most prevalent drug threat to their area of operations.[1] Of those, 72% rated that the negative impact of heroin was increasing while the remaining rated the negative impact of heroin as stable.[2] None of the responding agencies rated the negative impact of heroin as declining.[3] About half of the agencies reported heroin as the drug that most contributes to violent crimes and the majority reported heroin as the drug that most contributes to property crime in their area of operations.[4] These factors along with the consistently high number of overdose deaths attributed to heroin abuse exacerbate this negative impact.[5] Furthermore, the threat is increased by heroin's relatively low price and high availability when compared to opiate-based pharmaceuticals. Eighty-six percent of responding agencies reported heroin as high availability in their area, while less than 10% reported

[1] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2016.
[2] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2016.
[3] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2016.
[4] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2016.
[5] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2016.

moderate availability and less than 5% reported low availability.[6] All the aforementioned trends are consistent with last several years' assessments.

According to the Wisconsin HIDTA Drug Price Survey the average price for a gram of heroin within the Wisconsin HIDTA region this past year was $150 with $180 listed as the highest price for a gram and $100 listed as the lowest. Similarly, in 2014 the average price for a gram of heroin was approximately $160 and $150 in 2013.[7] The chart below illustrates consistency across the three years. The average reported wholesale kilogram of heroin has decreased in price from $68,500 in 2014 to approximately $65,000 in 2015.[8]





Most reports from law enforcement indicate that heroin is sourced to Wisconsin from suppliers and DTOs from Chicago, North Chicago, and less frequently, Rockford, Waukegan and Zion Illinois.[9] HIDTA Initiatives to the west -central area of the state including Rock and Dane Counties

[6] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2016.
[7] Wisconsin High Intensity Drug Trafficking Area Drug Price Survey, 2014 and 2015.
[8] Wisconsin High Intensity Drug Trafficking Area Drug Price Survey, 2015 and 2016.
[9] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2016.

indicate much of the heroin supply can be traced to Rockford, Illinois.[10] Suburban agencies around Milwaukee, such as the West Allis and Oak Creek Police Departments, as well as other southeastern Wisconsin counties like Waukesha and Ozaukee, reported that much of the heroin entering their jurisdictions originated from the north side of the city of Milwaukee. North side Milwaukee traffickers have also been known to supply heroin to Sheboygan and Brown counties.[11] The Jefferson County Drug Task Force indicates that most heroin abusers in the southern part of their county will travel to Rockford, IL, while the heroin abusers in the northern part of the county will travel to the Milwaukee and Madison areas.[12]

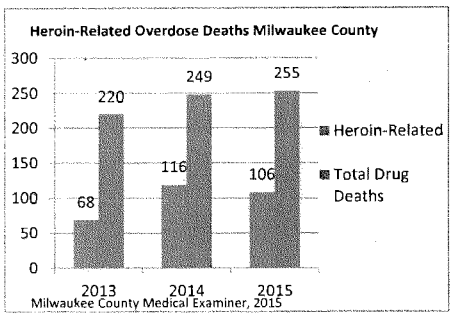
According to the Wisconsin Department of Justice-Division of Criminal Investigation, a recent change has been observed with respect to seller demographics with a greater proportion of Caucasians selling heroin.[13] By comparison, in 2014, it was reported that most traffickers of heroin were primarily African American and Hispanic individuals or groups, with Mexican DTOs as the primary suppliers.[14]

There are several gangs and known DTOs in the Wisconsin HIDTA region that are associated with trafficking heroin. These include, but are not limited to, the Gangster Disciples, Cheddar Boys, Latin Kings, Outlaws, MS-13, and South Side Locals. In April of 2015, the Kenosha Drug Operations Group reported a significant heroin trafficking DTO known as "The Firm," which was later dismantled. The Firm was created by a group of Gangster Disciples in Kenosha, Wisconsin, for the sole purpose of distributing heroin and other drugs. Twenty-three members

[10] Jefferson County Sheriff's Office/Jefferson County Drug Task Force, 2016; Rock County Sheriff's Office, 2016.
[11] Brown County Drug Task Force, 2016; Sheboygan Metropolitan Enforcement Group, 2016.
[12] Jefferson County Drug Task Force, 2016.
[13] Wisconsin Department of Justice-Division of Criminal Investigation, 2016.
[14] Wisconsin High Intensity Drug Trafficking Area Threat Assessment, 2015.

were arrested on federal arrest warrants and 13 state arrest warrants. The "Bless Team" is another emerging group located within the city of Milwaukee that principally traffics heroin. This group utilizes non-typical methods to avoid law enforcement detection and apprehension. More discussion on this group and their techniques is referenced in the Drug Transportation and DTO/MLO sections of this document.

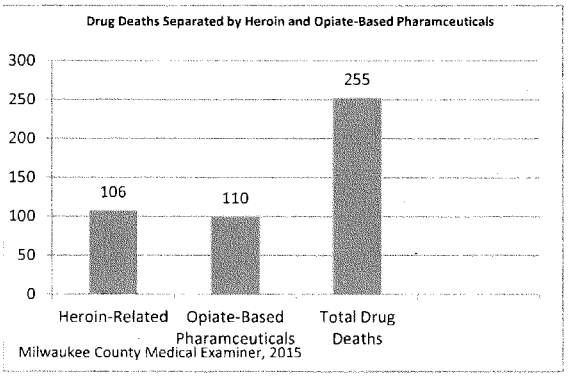
Seizures of heroin by Wisconsin HIDTA enforcement initiatives totaled 8.87 kilograms in 2015, which almost doubles the amount from last year.[15] Heroin seized throughout the Wisconsin HIDTA region varies in color and consistency.[16] Most of the responding agencies noted the color of heroin in their area of operation as ranging from tan to brown or gray. Other variations of color have been seen by law enforcement officials, such as purple heroin; however this variation has not been linked to a particular group of traffickers at this time.[17] Off-white and black tar were also reported, but to a lesser extent.[18] The consistency of heroin in the Wisconsin HIDTA region also varied from chunky powder to a brownie like consistency.[19]



In Milwaukee County alone, there were approximately 106 heroin overdose deaths (alone or in combination) in 2015,

[15] Wisconsin High Intensity Drug Trafficking Area Performance Management Process, 2016.
[16] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2016.
[17] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2016.
[18] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2016.
[19] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2016.

which is a slight decrease compared to the 116 recorded in 2014.[20] In addition, of the 255 drug deaths, approximately 110 were pharmaceutical related with opiate-based pharmaceuticals being the leading cause.[21]



See table in Appendix for a complete medical examiner's report on overdose deaths in Milwaukee County over the last 10 years.

Other WI HIDTA designated counties are also seeing significant numbers of overdose deaths related to heroin. The Kenosha County Medical Examiner's Office reports that out of the 43 drug deaths that occurred in 2015, 20 involved heroin, whether it was acute heroin intoxication or a mixture of heroin and other drugs.[22] The Waukesha County Medical Examiner's Office reported there were 14 total heroin-related deaths in 2015, similar to the 15 reported in 2014.[23] They further reported that for 2015 there had been 14 deaths by opiate medications (alone or in combination) compared to 29 that occurred in 2014.[24] The Brown

[20] Milwaukee County Medical Examiner's Office, 2016.
[21] Milwaukee County Medical Examiner's Office, 2016.
[22] Kenosha County Medical Examiner's Office, 2016.
[23] Waukesha County Medical Examiner's Office, 2016.
[24] Waukesha County Medical Examiner's Office, 2016.

County Drug Task Force noted that of the 29 drug overdose deaths in 2015, eight (8) involved heroin.[25]

The Milwaukee County Department of Health and Human Services – Emergency Medical Services (EMS) indicated that in 2015, 904 patients were administered Narcan®, a slight decrease from the 990 in 2014, but nonetheless very high.[26] Some municipalities have now equipped law enforcement personnel with Narcan® in an effort to address the high overdose death issue. Seven agencies responded to having administered Narcan® this past year.[27] The Sheboygan County Sheriff's Office reports a high number of Narcan® saves, 58 in 2015.[28]

Closely tied to the abuse of heroin, is the use and abuse of fentanyl. Since 2014, fentanyl has been increasingly appearing in Wisconsin HIDTA counties and is contributing to the fatal overdose problem. Milwaukee County Medical Examiner has reported 34 fentanyl-related since early April of this year.[29] More information on the abuse of fentanyl can be found in the Emerging Drug section.

[25] Brown County Drug Task Force, 2016.
[26] Milwaukee County Department of Health and Human Services-Emergency Medical Services, 2016.
[27] Oak Creek Police Department, 2016; Ozaukee County Sheriff's Office Drug Task Force, 2016; Racine County Sheriff's Office, 2016; Sheboygan Metropolitan Enforcement Group, 2016; Walworth County Drug Unit, 2016; Waukesha County Metropolitan Enforcement Group, 2016;Waukesha Police Department, 2016.
[28] Sheboygan Metropolitan Enforcement Group, 2016.
[29] Milwaukee County Medical Examiner, 2016.

ii. Pharmaceuticals

The abuse of pharmaceuticals in the Wisconsin HIDTA region continues as the second greatest threat for the fourth year in a row.[30] Many of the respondents reported the negative impacts of the threat as increasing, while the remainder reported the threat as stable, and not declining.[31]

In Milwaukee County, pharmaceutical-related overdose deaths within the past year have increased slightly from 96 in 2014 to approximately 110 in 2015.[32] Since early April of this year there have been approximately 34 pharmaceutical-related deaths.[33] Medical Examiners and law enforcement are continually seeing a steady occurrence of opiate/opioid related overdose deaths.

One major factor for the large number of abusers of pharmaceuticals is due to the high availability of the drugs. Seventeen out of the twenty-three responding agencies stated that pharmaceuticals are highly available in their areas of operations, while five of those respondents stated pharmaceuticals were moderately available.[34] Further analysis of pharmaceutical types indicated there was high availability of narcotic pharmaceuticals such as Vicodin, OxyContin, Dilaudid followed by depressant pharmaceuticals such as Valium, Xanax, Klonopin.[35] Stimulant pharmaceuticals such as Adderall, Ritalin, and Dexedrene were ranked as

[30] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2016.
[31] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2016.
[32] Milwaukee County Medical Examiner's Office, 2016.
[33] Milwaukee County Medical Examiner's Office, 2016.
[34] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2016.
[35] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2016.

having a moderate rate of availability, and steroid pharmaceuticals such as Anadrol, Oxandrin, and Durabolin were ranked as low rate of availability.[36]

The majority of the responding agencies reported seizures of pharmaceuticals in the Wisconsin HIDTA regions.[37] However, few agencies reported very large or significant single event seizures.[38] In 2015, Wisconsin HIDTA law enforcement task forces seized pharmaceuticals with a street value of approximately $ 600,000.[39]

Typically, pharmaceutical case demographics have involved Caucasian males and females ranging in age eighteen to thirty, which includes selling and buying. Prices have remained stable for opiate/opioid-based pharmaceuticals, typically at about $1.00/milligram.[40]

Sources of pharmaceutical diversion include doctor shopping, prescription fraud, and unethical prescribing by doctors.[41] Obtaining pharmaceuticals through pharmacy robberies and thefts from residences is still occurring.[42] There are a few reports that suggest diverted pharmaceuticals are coming into the HIDTA region from outside of Wisconsin. For instance, according to the Native American Drug & Gang Initiative Task Force (operating in northeast Wisconsin), there has been an influx of Chicago and Minneapolis/St. Paul based traffickers,

[36] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2016.
[37] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2016.
[38] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2016.
[39] Wisconsin High Intensity Drug Trafficking Area Performance Management Process, 2015.
[40] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2016.
[41] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2016.
[42] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2016.

along with links to more traditional gangs in many areas of the state establishing distribution rings in and near reservations (i.e. – the Latin Kings, Native Mob, Vice Lords).[43]

The violence associated with pharmaceutical abuse is still prevalent as users engage in robberies, burglaries, and home invasions to obtain the drugs. Dealers within distribution rings often trade these drugs for weapons, which are then transported to larger metropolitan areas.[44] It is also commonly reported that opiate-based pharmaceuticals are leading to heroin abuse when the source of supply for pharmaceuticals becomes scarce or too expensive.

It is projected that the trend of pharmaceutical abuse will continue at present levels in the foreseeable future and will be continue to be closely tied to heroin abuse.

iii. Cocaine

In the Wisconsin HIDTA region, cocaine base (crack) was ranked as the third greatest drug threat, while powder cocaine was ranked as fifth.[45] While there remains a presence of violence with the trafficking of cocaine, the significance of the threat has dropped slightly. The availability of both crack and powder cocaine is reported to be moderate to high.

The availability of cocaine has been on a decline since 2007; however a reversal of this trend occurred in 2014 and continues at similar levels in 2015.[46] Wisconsin HIDTA seizures of

[43] Native American Drug & Gang Initiative Task Force, 2016.
[44] Native American Drug & Gang Initiative Task Force, 2016.
[45] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2016.
[46] U.S. Drug Enforcement Administration 2015 NDTA Report, 2016.

cocaine have remained steady within the last year, with a slight decrease to 20.25 kilograms.[47] Locally there is no reported data available on the purity level of cocaine seized in the Wisconsin HIDTA region. Reporting agencies indicated seizing white to off-white coloring and standard consistency of crack rocks and cocaine salts. [48]

Reporting from 2012 indicated a 15% increase in wholesale price from previous years.[49] Since then, prices have dropped slightly for powder cocaine, but remain close to the prices reported in 2014. [50] For 2015 the average prices for powder cocaine were reported at approximately $33,000 per kilogram.[51]

Milwaukee and Chicago were identified as the primary source areas for the entire Wisconsin HIDTA region.[52] After the supply reaches the Wisconsin HIDTA region it is primarily distributed by Hispanic, and African American traffickers and DTOs.[53] Of the Hispanic suppliers, the Mexican distributers are the most prominent.

Traditionally Wisconsin is primarily an end user state; however, hubs in the southeastern part of the state are responsible for providing cocaine to several of the smaller cities and counties throughout Wisconsin. Cocaine is generally sourced from nearby major distribution cities such as Rockford, and Chicago, IL, and, less frequently, cities in northeastern

[47] Wisconsin High Intensity Drug Trafficking Area Performance Management Process, 2016.
[48] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2016.
[49] Milwaukee High Intensity Drug Trafficking Area Drug Threat Assessment 2015.
[50] Wisconsin High Intensity Drug Trafficking Area Drug Price Survey, 2016.
[51] Wisconsin High Intensity Drug Trafficking Area Drug Price Survey, 2016.
[52] Jefferson County Sheriff's Office, 2016; Ozaukee County Sheriff's Office Drug task Force, 2016; Racine Metropolitan Enforcement Group, 2016; Sheboygan Metropolitan Enforcement Group, 2016
[53] Milwaukee Metropolitan Enforcement Group, 2016; Milwaukee High Intensity Drug Trafficking Area Drug Gang Task Force, 2016; [53] Wisconsin High Intensity Drug Trafficking Area Performance Management Process, 2016.

Illinois such as Waukegan, Gurnee, and North Chicago.[54] These supplies are then conveyed to DTOs and traffickers in the Wisconsin HIDTA region, primarily in Kenosha, Milwaukee, Racine, and Rock Counties.[55] A majority of the cocaine supply is then converted to crack cocaine and distributed to drug markets across the state.[56] A large percentage of the mid-level and low-level distributers remain African American.

Though cocaine is commonly transported into the Wisconsin HIDTA region by vehicle, it is not uncommon for suppliers to ship cocaine in parcels, especially from the west coast or the southwest border. For instance, in 2015 the Wisconsin HIDTA Interdiction Task Force seized a parcel originating in Los Angeles, California, that contained 1.48 kilograms of cocaine, destined for Milwaukee.[57] The National Seizure System reported 10 significant seizures of cocaine destined for Wisconsin. One of these included 19.8 pounds of cocaine originating from Texas and located during a vehicle stop in Arkansas.[58]

A past and continuing concern for law enforcement is the correlation between cocaine trafficking and violent crime. However, there currently appears to be a shift toward violence being more closely associated with heroin trafficking. This is corroborated by numerous survey responses from law enforcement.

Law enforcement agencies within the Wisconsin HIDTA region also report a number of gangs associated with the trafficking of powder and crack cocaine. The Latin Kings, Gangster Disciples, Vice Lords, and Mexican Posse were identified as the most prominent gangs

[54] Kenosha Drug Operations Group, 2016; Native American Drug & Gang Initiative Task Force, 2016; Racine Metropolitan Enforcement Group, 2016; Rock County Sheriff's Office, 2016.
[55] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2016.
[56] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2015.
[57] Wisconsin HIDTA Interdiction Task Force, 2016.
[58] El Paso Intelligence Center State Nexus Report – Wisconsin as Origin, 2016.

trafficking cocaine in the Wisconsin HIDTA region.[59] In addition, approximately 75% of responding agencies stated that in their area of operations gangs with medium to high levels of violence are trafficking cocaine in either crack or powder form.[60]

Milwaukee County has had an increase in cocaine related overdose deaths in the last several years, to which this trend continues. [61] Milwaukee County reports a higher occurrence of cocaine related deaths when compared to the other Wisconsin County Medical Examiner's Offices.[62]

Overall, cocaine distribution remains a serious threat to the Wisconsin HIDTA region, and associated violent activities will likely occur with the trafficking of the drug.

iv. Marijuana

Based on the responses from the Wisconsin HIDTA Threat Assessment Survey (2015) high-grade marijuana has been identified as the fourth greatest drug threat in the Wisconsin HIDTA region, and low-grade marijuana was ranked as seventh.[63] Marijuana is one of the most commonly abused drugs in the region and remains popular across all demographics.[64] However, marijuana is not considered the most detrimental drug to the user.[65] Seizures from

[59] Kenosha Drug Operations Group, 2016; Oak Creek PD, 2016; Rock County Sheriff's Office, 2016; U.S. Federal Bureau of Investigation – Milwaukee Field Office, 2016; Waukesha County Metropolitan Enforcement Group 2016.
[60] Dane County Narcotics and Gang Task Force, 2016; Kenosha Drug Operations Group, 2016; Rock County Sheriff's Office, 2016; U.S. Federal Bureau of Investigation – Milwaukee Field Office, 2016; Waukesha County Metropolitan Enforcement Group 2016; Wisconsin Department of Justice-Division of Criminal Investigation, 2016.
[61] Milwaukee County Medical Examiner's Office, 2015, 2016.
[62] Brown County Medical Examiner's Office, 2015, 2016; Kenosha County Medical Examiner's Office, 2015, 2016.
[63] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2015
[64] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2015
[65] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2015

the Wisconsin HIDTA Initiatives totaled approximately 1891.5 pounds of marijuana and marijuana plants in 2015, a decrease of approximately 34% from 2014.[66] There has also been a decrease in law enforcement observing an association between marijuana trafficking, violent crimes and property crimes since 2013.[67]

According to law enforcement survey respondents, the availability of commercial grade or less potent marijuana has decreased.[68] Some responding agencies, such as West Allis and Brown County, have reported that low grade marijuana is nonexistent.[69] In 2012, approximately 54% of surveyed agencies reported the availability of commercial grade marijuana as "high."[70] In 2013, that number dropped to approximately 28%, and has been dropping steadily ever since.[71] This drop is evident in the 85% decrease of seized commercial grade marijuana by the Wisconsin HIDTA Initiatives from 2014 to 2015.[72] The growing demand and user preference for high-grade marijuana is clear and the price of high-grade marijuana has dropped from the previous year, from $4,000/pound to approximately $3500/pound.[73] This would indicate a large supply of high grade marijuana is accessible to meet the growing demand.

Marijuana grow operations of varying size and sophistication were present throughout the state, and approximately 74% of responding agencies reported dismantling indoor or

[66] Wisconsin High Intensity Drug Trafficking Area Performance Management Process, 2014,2015
[67] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2014,2015
[68] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2015
[69] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2014,2015
[70] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2013
[71] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2014
[72] Wisconsin High Intensity Drug Trafficking Area Performance Management Process, 2014,2015
[73] Wisconsin High Intensity Drug Trafficking Area Drug Price Survey, 2014,2015

outdoor grows in their area of operations in 2015.[74] This is comparable to 76% reported in 2014.[75] The majority of these grows were small to mid-sized indoor operations. For more information about marijuana production within the Wisconsin HIDTA region, please see the Marijuana Production portion of this document.

High-grade marijuana products such as kief (or keef), extracts, and, less frequently, edible products continue to enter the region via vehicle and parcel.[76] The Wisconsin HIDTA Interdiction Initiative noted a slight decrease in food-based products in 2015, but stated that overall there continues to be a steady supply of various products.[77]

Though there are marijuana grows in the Wisconsin HIDTA region, the majority of the supply continues to come into the area from outside sources via interstate vehicle travel and parcel services.[78] Surveys report that the sources for a majority of this marijuana can be traced to Western states where marijuana has been legalized to some extent including Colorado, Washington, Oregon, and California (please see chart below for Current Marijuana Legal Status).[79]

[74] Brown County Drug Task Force, 2015; Jefferson County Drug Task Force, 2015; Kenosha County Drug Operations Group, 2015; Native American Drug &Gang initiative Task Force, 2015; Racine County Metropolitan Enforcement Group, 2015; Rock County Drug Task Force, 2015; Sheboygan County MEG unit, 2015; Walworth County Drug Enforcement Unit, 2015; Washington County Drug Enforcement Group, 2015; Waukesha Police Department, 2015; Wisconsin Department of Justice – Division of Criminal Investigation, 2015

[75] Wisconsin High Intensity Drug Trafficking Area Threat Assessment for Program Year 2014, 2015.

[76] El Paso Intelligence Center State Nexus Report – Wisconsin as Origin, 2015; Wisconsin State Patrol, 2015; Wisconsin High Intensity Drug Trafficking Area Interdiction Initiative, 2015; Wisconsin State Patrol, 2015.

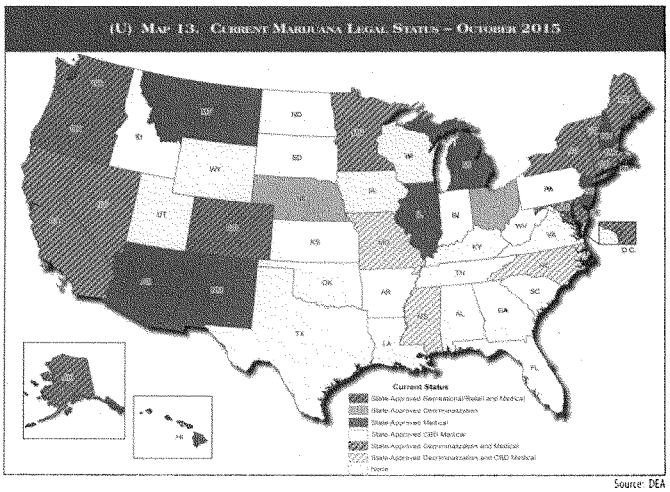
[77] Wisconsin High Intensity Drug Trafficking Area, Interdiction Initiative, 2015.

[78] Wisconsin High Intensity Drug Trafficking Area, Interdiction Initiative, 2015.

[79] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2015.

Marijuana is also entering the area via parcel service from these same states.[80] Numerous parcels have been seized via public and private parcel services providers. There is no clear evidence which service is preferred. [81] The Wisconsin HIDTA Interdiction Initiative, working in cooperation with law enforcement from other western states, has identified numerous DTOs that specialize in parcel transportation of high grade marijuana to various areas across the country, including Wisconsin.[82]

With an abundant supply of higher potency products, the demand for and use of high-grade marijuana will continue to grow, especially if prices continue to decline. As distributors benefit from the large profit margins and increasing demand, associated violent and property crimes will continue to pose a potential threat to the region.



Source: DEA

[80] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2015.
[81] Wisconsin High Intensity Drug Trafficking Area Interdiction Initiative, 2015
[82] Wisconsin High Intensity Drug Trafficking Area Interdiction Initiative, 2015

v. Methamphetamine

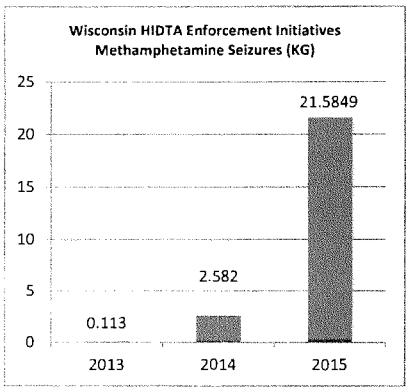
Methamphetamine is currently ranked as a relatively low drug threat for most of the Wisconsin HIDTA region, however, there is evidence that this threat is significantly increasing.[83] Five responding agencies ranked methamphetamine as the second greatest threat to their area of operations, and all five reported its threat as increasing.[84] The methamphetamine threat is much greater in the northern and western areas of Wisconsin.[85] However, Brown County ranked methamphetamine as its second greatest threat, and Rock County reported a notable increase in the presence of methamphetamine over the past year, citing an increase from one (1) seizure in 2014, to 18 in 2015.[86]

The reported number of methamphetamine cases in the Wisconsin HIDTA region and across the state has continued to increase over the past five years. Last year alone, the number of methamphetamine cases in Wisconsin reported by the State Crime Laboratory Bureau increased over 15%, from 920 in 2014 to 1,063 in 2015.[87] Similarly, the number of methamphetamine cases in HIDTA designated counties increased over 20%, from 68 in 2014 to 82 in 2015.[88] The majority of the cases in HIDTA designated counties continue to be reported in Brown County.[89]

[83] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2016.
[84] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2016.
[85] U.S. Federal Bureau of Investigation – Madison Field Office, 2016; Wisconsin Department of Justice – Division of Law Enforcement Services, State Crime Laboratory Bureau, 2016; Wisconsin Statewide Information Center "07 08 2015 (U-FOUO) Drug Intelligence Bulletin – Joint Wisconsin Statewide Meth Assessment Discussions" 07/08/2015.
[86] Brown County Drug Task Force, 2015; Native American Drug Gang Initiative, 2016; Rock County Sheriff's Office, 2016.
[87] Wisconsin Department of Justice – Division of Law Enforcement Services, State Crime Laboratory Bureau, 2016.
[88] Wisconsin Department of Justice – Division of Law Enforcement Services, State Crime Laboratory Bureau, 2016.
[89] Wisconsin Department of Justice – Division of Law Enforcement Services, State Crime Laboratory Bureau, 2016.

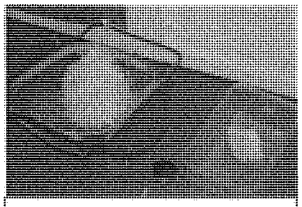
The increase in methamphetamine cases reported by the Wisconsin State Crime Laboratory Bureau is corroborated by an increase in methamphetamine-related drug convictions reported by the Wisconsin Department of Corrections – Division of Community Corrections (DCC). In January of 2013, DCC reported 210 active offenders with methamphetamine convictions, 26 of which were in regions including HIDTA designated counties.[90] By March of 2016, those numbers had increased significantly: DCC reported 1,165 active offenders with methamphetamine convictions, 162 of which were in regions including HIDTA designated counties.[91] That is an increase of 455% in methamphetamine-related drug convictions in Wisconsin in just over three years: more than two and a half times the increase of heroin-related drug convictions in the state over the same period of time (176%).[92]

Total methamphetamine seizures reported by Wisconsin HIDTA law enforcement initiatives have also increased significantly over the past year, from 2.58 kilograms in 2014 to 21.56 kilograms in 2015.[93] This notable increase was due to multiple distribution-level seizures throughout Wisconsin HIDTA counties.

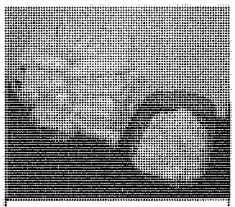


[90] Wisconsin Department of Corrections – Division of Community Corrections, 2013.
[91] Wisconsin Department of Corrections – Division of Community Corrections, 2016.
[92] Wisconsin Department of Corrections – Division of Community Corrections, 2016.
[93] Wisconsin High Intensity Drug Trafficking Area Performance Management Process, 2016.

In December 2015, the Kenosha Drug Operations Group (KDOG) conducted an investigation that resulted in the seizure of more than 17 kilograms of methamphetamine and 11 kilograms of marijuana, the arrest of four Mexican males, and the dismantling of a methamphetamine processing laboratory.[94] The suppliers were processing crystal methamphetamine sourced from Tennessee, and converting it into a white powder that resembled cocaine in appearance and taste.[95] This was an apparent attempt to market the product as cocaine. It is unknown what the motivation was for this product alteration, although it is possible that greater profits could be attained from this practice. The suppliers were selling this processed methamphetamine at powder cocaine prices, and stated in interviews that they were selective about their customers because they did not want anyone attempting to make crack cocaine from their disguised methamphetamine.[96]



Crystal Methamphetamine
Kenosha Drug Operations Group, 2016.



Converted Methamphetamine
Kenosha Drug Operations Group, 2016.

In April 2015, investigators assigned to the Wisconsin HIDTA Interdiction Task Force seized a parcel containing 1.62 kilograms of crystal methamphetamine destined for an Asian male trafficker located on Milwaukee's east side.[97] The parcel originated from an Asian female

[94] Kenosha Drug Operations Group, 2016.
[95] Kenosha Drug Operations Group, 2016.
[96] Kenosha Drug Operations Group, 2016.
[97] Wisconsin High Intensity Drug Trafficking Area Interdiction Initiative, 2016.

source-of-supply operating out of Fresno, California, and utilized the common concealment method of vacuum sealed bags and odor masking agents.[98]

While these and other seizures provided some disruption of methamphetamine trafficking throughout the state, there is evidence that distribution-level quantities of methamphetamine will continue to enter the region. In early 2016, the Brown County Drug Task Force has already reported a identifying and dismantling a large-scale methamphetamine DTO involving at least 41 defendants, and which spanned 11 Wisconsin counties, resulting in the seizure of 1,068 grams of methamphetamine, over 8,300 grams of marijuana, and 30 firearms.[99]

In the course of conducting their investigations, investigators have found that it is relatively uncommon to seize larger quantities of methamphetamine, unless the seizures are well-timed and generally executed during or shortly after the drug's transit.[100] Methamphetamine tends to be bought and used quickly once it enters a region.[101]

According to El Paso Intelligence Center (EPIC) reporting, there were approximately 3.51 kilograms of methamphetamine seized enroute to Wisconsin in 2015.[102] These seizures were reported as originating in Arizona, California, and Oklahoma.[103] This is an increase from the 1.45 kilograms of methamphetamine destined for Wisconsin as reported to EPIC in 2014.[104]

[98] Wisconsin High Intensity Drug Trafficking Area Interdiction Initiative, 2016.
[99] Brown County Drug Task Force, 2016.
[100] U.S. Federal Bureau of Investigation – Madison Field Office, 2016.
[101] U.S. Federal Bureau of Investigation – Madison Field Office, 2016.
[102] El Paso Intelligence Center State Nexus Report – Wisconsin as Destination, 2015.
[103] El Paso Intelligence Center State Nexus Report – Wisconsin as Destination, 2015.
[104] El Paso Intelligence Center State Nexus Report – Wisconsin as Destination, 2014.

The majority of methamphetamine seizures by Wisconsin HIDTA law enforcement initiatives in 2015 were of crystalline methamphetamine (aka "crystal" or "ice").[105] However, powder methamphetamine continues to be available throughout the region, and the largest single seizure reported in 2015 was of powder methamphetamine.[106]

The methamphetamine entering the Wisconsin HIDTA region is primarily trafficked from the Minneapolis/St. Paul, MN, area and from California.[107] There were also less frequent reports of methamphetamine being trafficked into the region via the Chicago and Rockford, IL, areas, and one report of methamphetamine sourced from Tennessee.[108] From these major distribution cities, the methamphetamine is trafficked into Wisconsin counties and hubs throughout the state, such as Eau Claire, the Fox Valley area, La Crosse, Sheboygan, and Wausau.[109] From these hubs, it is further distributed throughout the surrounding areas.[110] The primary methods of methamphetamine transportation are private or rental vehicle and, increasingly, parcels.[111]

Methamphetamine can also be dissolved and concealed within liquids, a product commonly referred to as "liquid meth". Due to its liquid nature, liquid meth can easily be

[105] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2016.
[106] Kenosha Drug Operations Group, 2016; Wisconsin High Intensity Drug Trafficking Area Performance Management Process, 2015; Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2016.
[107] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2016.
[108] Kenosha Drug Operations Group, 2016; Native American Drug Gang Initiative, 2016; U.S. Federal Bureau of Investigation – Madison Field Office, 2016; Wisconsin Department of Justice –Division of Criminal Investigation – Madison, 2016.
[109] Brown County Drug Task Force, 2016; Lake Winnebago Area Metropolitan Enforcement Group, 2016; Native American Drug Gang Initiative, 2016; Sheboygan County Metropolitan Enforcement Group, 2016; U.S. Federal Bureau of Investigation – Madison Field Office, 2016.
[110] Brown County Drug Task Force, 2016; Federal Bureau of Investigation – Milwaukee, 2016; Sheboygan County Metropolitan Enforcement Group, 2016; U.S. Federal Bureau of Investigation – Madison Field Office, 2016; Waukesha County Metropolitan Enforcement Group, 2016.
[111] Brown County Drug Task Force, 2016; U.S. Federal Bureau of Investigation – Madison Field Office, 2016; Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2016.

concealed in various containers and disguised as a variety of legitimate products.[112] And while there no liquid meth seizures were reported by any Wisconsin HIDTA law enforcement initiatives in 2015, it is important for law enforcement officers in Wisconsin to be aware of this method due to the possibility of it being overlooked. Methamphetamine-in-solution can pose an increased threat to law enforcement due to the dangerous chemicals involved; therefore, officers encountering this type of concealment should contact appropriate personnel for assistance in seizing and disposing of the drugs.[113]

Local distributors of methamphetamine were reported as Asian males, specifically of Hmong descent, as well as Hispanic and white males.[114] Local Asian gangs with low to medium levels of violence, such as the Sheboygan Boy Gangsters (SBG) and the Hmong Nation Society (HNS) were also reported.[115] Sources of supply in Minnesota and California were reported as Asian or Hispanic.[116] Methamphetamine users were predominantly reported as white, although Asian and Hispanic users were also reported with slightly less frequency.[117] There were no reports of African Americans buying or selling methamphetamine.[118]

[112] Chicago Police Department – Crime Prevention & Information Center and U.S. Department of Homeland Security Field Analysis Report, "(S—LES) FAR Maturation of Narcotics Smuggling in the Greater Chicago..." 08/14/2015; Federal Bureau of Investigation – Madison, 2016; Wisconsin Statewide Information Center "09 21 2015 (U-LES) Drug Intelligence Digest" 09/21/2015; Wisconsin Statewide Information Center "(U-LES) WSIC Weekly Intelligence 04 10 2015 (2)" 04/10/2015.
[113] Wisconsin Statewide Information Center "09 21 2015 (U-LES) Drug Intelligence Digest" 09/21/2015.
[114] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2016; U.S. Federal Bureau of Investigation – Madison Field Office, 2016.
[115] Lake Winnebago Area Metropolitan Enforcement Group, 2016; Sheboygan County Metropolitan Enforcement Group, 2016.
[116] Brown County Drug Task Force, 2016; U.S. Federal Bureau of Investigation – Madison Field Office, 2016; Wisconsin High Intensity Drug Trafficking Area Interdiction Initiative, 2016.
[117] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2016.
[118] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2016.

The Lake Winnebago Area Metropolitan Enforcement Group reported a case in which a group of Asian traffickers from Minnesota were traveling to the Fox Valley area to sell methamphetamine and traffic sex workers.[119] A similar practice was reported last year in which heroin dealers from the Wisconsin HIDTA region traveled out of state to traffic heroin and sex workers.[120] While this is not believed to be a significant trend at this time, law enforcement should be aware of this potential scenario.

In 2015, the approximate average prices for methamphetamine in the Wisconsin HIDTA region were reported as: $100/gram; $1300/ounce; and $27,500/kilogram.[121] These prices are consistent with those reported in 2014.[122] In the Wisconsin HIDTA region, a gram of methamphetamine is approximately $50 cheaper than a gram of heroin.[123]

There is concern that the methamphetamine threat in Wisconsin will continue to increase due to these relatively low prices and an increasing supply entering the state. There were reports of traffickers providing free samples of methamphetamine to users in an attempt to infiltrate new drug markets.[124] This is consistent with reporting from 2014.[125] In addition, there were reports of traffickers switching from heroin to methamphetamine due to greater

[119] Lake Winnebago Area Metropolitan Enforcement Group, 2016.
[120] Wisconsin High Intensity Drug Trafficking Area Annual Threat Assessment for Program Year 2016, 2015.
[121] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2016.
[122] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2015.
[123] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2016.
[124] U.S. Federal Bureau of Investigation – Madison Field Office, 2016.
[125] Wisconsin High Intensity Drug Trafficking Area Drug Gang Task Force, 2015.

customer demand, greater profits, and the misguided belief that methamphetamine is "safer" than heroin, possibly because there is less likelihood of an overdose.[126]

The methamphetamine trade may also contribute to increased levels of violence; however, it is more commonly linked to property crimes than violent crimes at this point. There was a trend reported that many methamphetamine users will carry firearms for self-protection, often because they have been victims of robberies in the past.[127] This trend, along with the paranoia and other stimulant effects of methamphetamine use, poses an increased threat of violent crime to law enforcement officers who come in contact with methamphetamine users. In addition, methamphetamine use poses an increased threat of drugged driving.[128]

With an increasing methamphetamine supply coming into the region, relatively low stable prices, and signs of an expanding market, it is believed that methamphetamine will continue to pose a significant threat to communities throughout WI and the seven-county HIDTA region going forward.

[126] U.S. Federal Bureau of Investigation – Madison Field Office, 2016; Wisconsin Department of Justice – Division of Criminal Investigation – Madison, 2016.
[127] U.S. Federal Bureau of Investigation – Madison Field Office, 2016.
[128] U.S. Federal Bureau of Investigation – Madison Field Office, 2016.

vi. Club Drugs

Club drugs were ranked as the lowest threat by law enforcement in the Wisconsin HIDTA designated counties.[129] Sixty percent (60%) of responding agencies reported the availability of club drugs in their area of operation as low, while 34% of the agencies reported moderate availability.[130] Only one agency reported that club drugs are highly available in their area of operation, that being the Waukesha County Metropolitan Enforcement Group.[131]

The most prevalent club drug observed by law enforcement continues to be MDMA (3, 4 methylenedioxy-methamphetamine), also known by the street names "ecstasy" and "Molly." MDMA is usually observed in powder or tablet form and is reportedly the most commonly abused club drug in the Wisconsin HIDTA region. While most seizures of ecstasy are in powder form,[132] there have been reported cases where MDMA was seized in pill and/or gel capsule form.[133] The average price for an MDMA (Molly) tablet is approximately $20, which is consistent with 2014 prices.[134]

Other club drugs seen include lysergic acid diethylamide (LSD), and N-methoxybenzyl (NBOMe).[135] NBOMe is a potent psychedelic drug that falls under the phenethylamine class of synthetic drugs and has been primarily seen in the Waukesha County area.[136] While raves are

[129] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2016.
[130] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2016.
[131] Waukesha County Metropolitan Drug Unit, 2016.
[132] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2016.
[133] Waukesha County Metropolitan Drug Unit, 2016; Ozaukee County Sheriff's Office Drug Task Force, 2016.
[134] Wisconsin High Intensity Drug Trafficking Area Drug Price Survey, 2014; Wisconsin High Intensity Drug Trafficking Area Drug Price Survey, 2015; Wisconsin High Intensity Drug Trafficking Area Drug Price Survey, 2016.
[135] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2016.
[136] Drug Enforcement Administration-National Drug Threat Assessment, 2015; Waukesha County Metropolitan Drug Unit, 2016.

not very popular in the Wisconsin HIDTA region, they still do exist. Club drug use is usually associated with Caucasian males and females in their late teens to early twenties.[137]

The Wisconsin HIDTA Interdiction Task Force noted for the year of 2015 they seized 76 grams of Molly, 207 pills of ecstasy, 150 grams of bath salts, and 120 dosage units of LSD all packed in parcels going to younger white males.[138] U.S. Immigration and Customs Enforcement and Customs Border Patrol made multiple MDMA seizures via parcel interdiction that were ordered on the internet through Silk Road destined for Wisconsin.[139] No MDMA labs or pill presses were reported by agencies this year.[140]

While seizures of club drugs other than MDMA are low, they are still occurring. The Waukesha County Metro Drug Unit seized quantities of NBOMe referenced above. The drug was attached to plotter paper wrapped in aluminum foil, and in another incident, the NBOMe was poured into Sweet Tarts.[141] They further noted that they have seen a small decline in LSD sales.[142] The majority of club drugs are still being supplied by international sources emanating from China and Canada.[143] To what extent these sources have direct trafficking connections to the Wisconsin HIDTA region is unknown. As seen in recent years, the prominent demographic for trafficking club drugs involves Caucasian and Asian males.

[137] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2016.
[138] Wisconsin High Intensity Drug Trafficking Area Interdiction Initiative, 2016.
[139] U.S. Immigration and Customs Enforcement - Homeland Security Investigations – Milwaukee Field Office, 2016.
[140] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2016.
[141] Waukesha County Metropolitan Drug Unit, 2016.
[142] Waukesha County Metropolitan Drug Unit, 2016.
[143] Drug Enforcement Administration Strategy Report-International narcotics Control Strategy Report, 2016.

b. Drug Trafficking and Money Laundering Organizations

In 2015, the Wisconsin HIDTA identified 85 DTOs that were involved in the distribution of illicit drugs to the region.[144] Of the 85 DTOs, nine (9) were identified as international in scope, 32 were multi-state, and 44 were local. International DTO operations included Mexico and Puerto Rico.[145] Of the multi-state DTOs, most involved distribution activities occurring in Chicago, Illinois, as well as Wisconsin. However, a significant number involved activities in California and states along the southwest border. Of the 85 total DTO's, 49% were determined to be violent and 31% were related to organized gang activity. In 2015, the Wisconsin HIDTA initiatives reported a total of 27 DTOs as being either disrupted or dismantled.[146]

Of the DTOs identified in the Wisconsin HIDTA region, 59% were comprised of primarily African American membership, 27% Caucasian, 15% Hispanic, and less than 1% Asian and Native American.[147] Source supplier demographics were reported as 44% African American, 34% Hispanic (including Mexican, Puerto Rican, and Dominican), and 22% as other (i.e. - Asian and Caucasian).[148] The 2015 reporting showed a smaller percentage of Hispanic source suppliers compared to previous years.[149]

Approximately half of the law enforcement agencies surveyed indicated some level of gang activity in their jurisdictions.[150] Although gangs are traditionally involved in a number of crimes such as homicides, assaults, robberies, burglaries, prostitution, and property crimes, the

[144] Wisconsin High Intensity Drug Trafficking Area Performance Management Process, 2016.
[145] Wisconsin High Intensity Drug Trafficking Area Performance Management Process, 2016.
[146] Wisconsin High Intensity Drug Trafficking Area Performance Management Process, 2016.
[147] Wisconsin High Intensity Drug Trafficking Area Performance Management Process, 2016.
[148] Wisconsin High Intensity Drug Trafficking Area Performance Management Process, 2016.
[149] Wisconsin High Intensity Drug Trafficking Area Performance Management Process, 2015, 2016.
[150] Wisconsin High Intensity Drug Trafficking Area Trends Survey, 2016.

primary illicit activity gangs are involved in is drug trafficking. [151] Overall, there was not an increase in the level of gang activity from the previous year.[152]

Traditionally, African American and Hispanic gangs are the most active in the Wisconsin HIDTA region. In 2015, approximately 75% of the reported gangs were either Hispanic and/or African American.[153] Law enforcement agencies also reported significantly smaller Asian and Caucasian levels of gang activity in the region.[154] Hispanic gangs have had a long, well-defined presence in the Wisconsin HIDTA region. The Hispanic gangs in the Milwaukee area are reported to be primarily trafficking heroin, cocaine, and marijuana. In addition, some on the Hispanic gangs on Milwaukee's south side are reportedly starting to become involved in crystal methamphetamine trafficking and activity.[155] The most common Hispanic gangs reported in the region are the Latin Kings, Spanish Cobras, and Mexican Posse.[156]

While gang activity has historically been associated with a territorial component, the "Kings" and "Cobras" continue to be motivated more by criminal enterprise profits. Latin King and Spanish Cobra members continue to commit home invasions and robberies. These incidents are not limited to a particular neighborhood or territory, but occur throughout the south side of Milwaukee and surrounding counties. These Hispanic gangs will commonly invade known targets, often brutally beating their victims during these home invasions.[157]

[151] Wisconsin High Intensity Drug Trafficking Area Trends Survey, 2016.
[152] Wisconsin High Intensity Drug Trafficking Area Trends Survey, 2016.
[153] Wisconsin High Intensity Drug Trafficking Area Performance Management Process, 2016.
[154] Wisconsin High Intensity Drug Trafficking Area Performance Management Process, 2016.
[155] Wisconsin High Intensity Drug Trafficking Area Trends Survey, 2016.
[156] Wisconsin High Intensity Drug Trafficking Area Trends Survey, 2016; Milwaukee High Intensity Drug Trafficking Area Heroin Initiative, 2016.
[157] Wisconsin High Intensity Drug Trafficking Area, Drug Gang Task Force, 2016.

As mentioned, African American gangs in the Wisconsin HIDTA region are also prevalent. In the Wisconsin HIDTA region, it's typical for African-American gangs such as the Gangster Disciples and Vice Lords to share a name with their national-level namesake, but share no further ties to the national organizations.[158] The African American gangs most often reported operating in the Wisconsin HIDTA region are identified (but not limited to) the Bless Team, Wild 100s, Hot Boyz, Burleigh Zoo, and HPT (Hustlers, Pimps, and Thugs).[159] Many of these African American gangs in the city of Milwaukee continue to be loosely organized, neighborhood-based groupings.[160] The members of these groups have a sense of loyalty to the larger group, but can be also motivated by personal profit.[161] Many participate in strong-arm street robberies, shootings, automobile thefts, and drug trafficking, as well as human trafficking and prostitution.[162] Many members of these groups commit strong- arm robberies against other drug dealers as well as their customers. African American gangs are primarily trafficking heroin, but continue to deal crack cocaine and marijuana.[163] Some of the younger African American gang members utilize social media sites (such as Facebook, Instagram and Twitter) and phone applications (such as Snap Chat) to communicate with fellow and rival gang members, and to show off their weapons and drug proceeds.[164]

[158] Wisconsin High Intensity Drug Trafficking Area Drug Gang Task Force, 2016.
[159] Wisconsin High Intensity Drug Trafficking Area Trends Survey, 2016; Wisconsin High Intensity Drug Trafficking Area Drug Gang Task Force, 2016.
[160] Wisconsin High Intensity Drug Trafficking Area Drug Gang Task Force, 2016.
[161] Wisconsin High Intensity Drug Trafficking Area Drug Gang Task Force, 2016.
[162] Wisconsin High Intensity Drug Trafficking Area Drug Gang Task Force, 2016; Wisconsin High Intensity Drug Trafficking Area Trends Survey, 2014, 2016.
[163] Wisconsin High Intensity Drug Trafficking Area Drug Gang Task Force, 2016.
[164] Wisconsin High Intensity Drug Trafficking Area Drug Gang Task Force, 2016.

Asian street gangs have historically had the most sophisticated hierarchy and organization compared to gangs of different ethnicities.[165] Law enforcement officers have a limited knowledge base concerning Asian gangs, given factors such as language barriers, inherent distrust of non-Asians, and a general lack of overt illegal behavior.[166] Asian gangs known to the Wisconsin HIDTA region are the "Asian Crips" and the "Tiny Man Crew."[167] The Asian gangs in the Wisconsin HIDTA region are of Hmong, Laotian, and Vietnamese origin.[168] They are primarily involved in the distribution of crystal methamphetamine and high-grade marijuana.[169] Recently, Asian suppliers and DTOs have been identified trafficking crystal methamphetamine from the Minneapolis/St. Paul area in Minnesota, to the Brown County region. In addition, Asian suppliers from California distribute marijuana and methamphetamine to the central and northeastern areas of Wisconsin. Investigators assigned to the Wisconsin HIDTA who have worked on Asian gang and DTO investigations have noted international ties with Canada and Laos. Case agents also have recently connected their investigations to Asian countries such as Laos, Thailand, and Vietnam, through wire transfers and criminal associates traveling between these countries and Wisconsin.[170]

Though not overly apparent, Outlaw Motorcycle Gangs (OMGs) continue to have a presence in the Wisconsin HIDTA region. OMGs in the Wisconsin HIDTA region have been

[165] National Gang Intelligence Center, National Gang Threat Assessment, 2011.
[166] National Gang Intelligence Center, National Gang Threat Assessment, 2011.
[167] Wisconsin High Intensity Drug Trafficking Area Trends Survey, 2014; Wisconsin High Intensity Drug Trafficking Area Drug Gang Task Force, 2016.
[168] Wisconsin High Intensity Drug Trafficking Area, Drug Gang Task Force, 2015; 2016.
[169] Wisconsin High Intensity Drug Trafficking Area, Drug Gang Task Force, 2015; 2016.
[170] Wisconsin High Intensity Drug Trafficking Area Drug Gang Task Force, 2016.

reported to be involved in the distribution of guns, cocaine, and heroin.[171] The most prominent OMG in the Wisconsin HIDTA region continues to be the "Outlaws," who exercise influence over a variety of smaller motorcycle clubs such as the "Black Pistons," the "Troggs," the "Wisconsin Riders," and the "Hells Lovers."[172] Outlaws have been known to be one of the more discrete drug gangs/organizations, as some of their members hold professional careers and try to avoid law enforcement contact.[173] Known Outlaw clubhouses exist in the Milwaukee and Waukesha areas and typically operate with a low profile. Outlaws in the Wisconsin HIDTA region have had a low level of violence in recent years; however, past criminal history with this group involve a wide spectrum of violence including homicide and assaults, thefts of motorcycles and automobiles; drug trafficking of pharmaceuticals, cocaine, marijuana, and methamphetamine; intimidation, and prostitution.[174] Members of a larger, well-established motorcycle club such as the Outlaws have the potential to pose a particular threat to law enforcement as evidenced by these historical activities. In addition, associates from all areas of the county provide a network and support structure, as well as distribution pipelines.[175]

In general, law enforcement agencies in the Wisconsin HIDTA region are noticing an increased level of counter-surveillance activity by local drug trafficking street groups, especially around the Milwaukee area. Some groups are developing sophisticated surveillance techniques directed toward law enforcement, including social media communications describing undercover vehicles, law enforcement movements, and locations. Many of these traffickers

[171] Oak Creek PD, 2016; Waukesha County Metropolitan Enforcement Group, 2016.
[172] Wisconsin High Intensity Drug Trafficking Area, Drug Gang Task Force, 2016.
[173] Wisconsin High Intensity Drug Trafficking Area, Drug Gang Task Force, 2016.
[174] Wisconsin High Intensity Drug Trafficking Area, Drug Gang Task Force, 2016; Oak Creek PD, 2016.
[175] Wisconsin High Intensity Drug Trafficking Area, Drug Gang Task Force, 2015, 2016.

will work in concert among its members to provide support for their street trafficking operations, ultimately making detection and apprehension more difficult for law enforcement.

c. Drug Transportation Methods

The Wisconsin HIDTA region serves as a distribution center for the much of the state and surrounding states due to its abundance of ground, air, and maritime connections. With the city of Milwaukee being only 90 miles north of Chicago, it is a convenient transshipment point and market for drug trafficking. There are various methods used to transport drugs to the Wisconsin HIDTA region, with the most prevalent means being via private and rental vehicles. Parcel service carriers continue to be significantly utilized by source-of-supply organizations from the west coast and southwest Border States. Transportation via railways and airlines have been reported, but to a much lesser extent.[176] Several agencies ranked drugs being transported via bus as the third most common source of distribution; however, there is limited information at this time on seizures involved with this mode of transportation.[177] None of the responding agencies reported known incidents of drug transportation via the waterway of Lake Michigan or within the local marinas.[178]

Interstates 90 and 94 are Wisconsin's main roadways that link Illinois, Wisconsin, and Minnesota. These same interstates also further connect to the eastern and western regions of

[176] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2016.
[177] Brown County Sheriff's Office/Brown County Drug Task Force, 2016; Racine Metropolitan Enforcement Group, 2016.
[178] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2016.

the United States.[179] Chicago area sources-of-supply primarily use this transportation route to distribute supplies to the southern regions of Wisconsin, especially the Milwaukee metropolitan area. In addition, US Highway 51 is also used by drug suppliers to travel from Illinois and Wisconsin to Michigan's Upper Peninsula.[180] These interstates and major roadways allow for the expeditious transportation of drugs into and through the Wisconsin HIDTA region. The majority of the drugs transported into Wisconsin are from the Chicago region, with the exception of high-grade marijuana, which principally emanates from California and other western states such as Colorado, Oregon, and Washington.[181]

A growing trend that has recently emerged in the Wisconsin HIDTA region, primarily Milwaukee County, is that of "mobile drug dealers." These mobile drug dealers are using vehicles, often stolen, with darkly tinted windows to sell drugs, primarily heroin, throughout the metropolitan area.[182] They also frequently change the license plates on the vehicles, use stolen license plates, or use temporary license plates, thus making it harder for law enforcement to identify or track them and their activities. In addition, these traffickers typically disregard traffic laws and drive from location to location at high rates of speed. Frequently these traffickers will attempt to (and quite often successfully) elude officers who attempt to stop them. Many of these individuals can also be linked to auto theft, armed robberies, car jacking's and other violent crime. Two prominent African American DTOs in the Milwaukee area that use these tactics are the Bless Team and Wild 100's. Other traffickers not associated with these groups are also engaging in these tactics. Another tactic seen by law enforcement

[179] Wisconsin Department of Transportation <www.dot.wisconsin.gov> 2016.
[180] Wisconsin Department of Transportation <www.dot.wisconsin.gov> 2016.
[181] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2016.
[182] Journal Sentinel- 'Tint Crew' Drug Dealer Gets Stiff Prison Term, March 11, 2016 < www.jsonline.com>.

involves male traffickers directing their wives/girlfriends to drive their vehicles when transporting illicit substances. This is occurring to inhibit law enforcement from identifying traffickers and making it less likely they will be stopped.[183]

Parcels continue to be a popular method of transportation for high-grade marijuana among drug trafficking organizations.[184] Pharmaceuticals and club drugs have also been seized in parcels.[185] As previously mentioned, marijuana is primarily shipped from western states, such as California, Colorado, Oregon, and Washington. There has been an increase in parcels being shipped with high-grade marijuana as there is more of a demand for this product.[186] Law enforcement is also observing that parcels concealing high-grade marijuana are being shipped with lower weights. The parcels mostly encountered are in the three-to-seven pound range, whereas four-to-five years ago the seized parcels were more commonly in the 20-pound range.[187] Traffickers continue to use product and/or odor concealment methods when sending drugs through parcels. The most common is to put red pepper in the parcel with marijuana or with money, in between the layers, and then place it inside a vacuum sealed bag.[188] The Sheboygan County MEG unit seized marijuana packages coming from California that were packaged in three-to-four vacuum sealed bags that had a faint fish odor.[189]

[183] Kenosha County Sheriff's Office/ Kenosha Drug Operations Group, 2016.
[184] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2016.
[185] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2016.
[186] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2016.
[187] Wisconsin High Intensity Drug Trafficking Area Interdiction Initiative, 2016.
[188] Wisconsin High Intensity Drug Trafficking Area Interdiction Initiative, 2016.
[189] Sheboygan Metropolitan Enforcement Group, 2016.

Traps and hidden compartments in vehicles also continue to be observed by law enforcement. There have also been several incidents reported of drugs concealed in vehicles being hauled on a semi-truck or towed trailer.[190]

d. Marijuana Production

Over 83% of responding agencies reported indoor or outdoor marijuana grows within their jurisdiction in 2015.[191] The majority of these continue to be indoor grow operations. These operations continue to be geared toward the production of a high-grade product in order to meet the user demand in the area.

While law enforcement continues to observe indoor grow operations, there has been a notable decrease in seizures of plants from the previous year. In 2013, Wisconsin HIDTA law enforcement initiatives seized approximately 1008 pounds of indoor marijuana plants. Seizures increased in 2014 to approximately 2,923 pounds.[192] However, in 2015, this number dropped to approximately 218 pounds.[193] The majority of marijuana seized in 2015 was processed and packaged. [194] This would indicate that more supply is likely coming from other source states and less grown regionally.

[190] Jefferson County Sheriff's Office/Jefferson County Drug Task Force, 2016; Kenosha County Sheriff's Office/ Kenosha Drug Operations Group, 2016; Native American Drug & Gang Initiative Task Force, 2016; Racine County Sheriff's Office, 2016.
[191] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2016.
[192] Wisconsin High Intensity Drug Trafficking Area Performance Management Process 2014, 2015.
[193] Wisconsin High Intensity Drug Trafficking Area Performance Management Process 2016.
[194] Wisconsin High Intensity Drug Trafficking Area Threat Assessment for Program Year 2015, 2016.

There is also evidence of a possible emerging threat regarding hash oil production within the Wisconsin HIDTA region. In 2014, there were two incidents of commercial quantities of hash oil production reported.[195] One involved large amounts of high-grade marijuana shipped from northern California, which was then converted locally to hash oil.[196] The Dane County Narcotics Task Force also conducted an investigation in which a hash oil production operation and an indoor marijuana grow were located on the same site. In 2015, Wisconsin HIDTA law enforcement initiatives seized a total of 2050 grams of hashish and marijuana extract products such as hash oil.[197] These cannabinoid extract products pose a threat to the public, as concentrated THC levels have greatly increased effects on users including stronger, extended highs and even psychosis and hallucinations.[198] Additionally, extract production operations pose a threat to law enforcement and the general public as the extraction process is extremely dangerous and involves the use of large amounts of volatile chemicals.[199]

Very few outdoor grows have been reported in the seven county Wisconsin HIDTA region. In one notable seizure, the Waukesha Metropolitan Enforcement Group seized approximately 100 plants in an outdoor grow, however, very few similar operations have been uncovered.[200] This supports the belief that much of the marijuana demand is met from imports from the western states.

[195] Wisconsin High Intensity Drug Trafficking Area Performance Management Process, 2016; Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2016.
[196] Wisconsin High Intensity Drug Trafficking Area Drug Gang Task Force, 2016.
[197] Wisconsin High Intensity Drug Trafficking Area Performance Management Process, 2016.
[198] El Paso Intelligence Center Bulletin, 02/18/2016, Southeastern Wisconsin Threat Analysis Center Daily Intelligence Bulletin, 9/03/2015.
[199] Southeastern Wisconsin Threat Analysis Center Daily Intelligence Bulletin, 9/03/2015.
[200] Waukesha Metropolitan Enforcement Group, 2016.

e. Methamphetamine Production

The reported number of clandestine methamphetamine laboratories seized in the State of Wisconsin decreased from 43 in 2014 to 28 in 2015, and methamphetamine production continues to remain low within HIDTA-designated counties.[201] Three HIDTA counties reported instances of methamphetamine production in their area of operations in 2015.[202] Methamphetamine production sites recovered in 2015 were located throughout the state with no particular areas of concentration (see map below).[203] This is a change from 2014, when a majority of recovered methamphetamine production sites were concentrated throughout the Fox Valley area (Calumet, Fond du Lac, Outagamie, and Winnebago Counties).[204]

The majority of methamphetamine production sites in Wisconsin continue to utilize the one-pot "shake and bake" method. Of the 28 labs reported statewide, 25 were one-pot labs.[205] This method involves combining pseudoephedrine or ephedrine and other ingredients in a sealed container (such as a two-liter bottle) and flipping or shaking the container to cause the chemical reaction producing methamphetamine. Methamphetamine producers often have multiple production pots active at the same location.

[201] Wisconsin Department of Justice – Division of Criminal Investigation, 2016.
[202] Dane County Narcotics and Gang Task Force, 2016; Kenosha Drug Operations Group, 2016; Rock County Sheriff's Office, 2016; Wisconsin Department of Justice – Division of Criminal Investigation, 2016.
[203] Wisconsin Department of Justice – Division of Criminal Investigation, 2016.
[204] Wisconsin Department of Justice – Division of Criminal Investigation, 2015.
[205] Wisconsin Department of Justice – Division of Criminal Investigation, 2016.

In 2015, a clan lab was discovered and later dismantled following a traffic stop in Jefferson County.[206] The driver had two one-pot setups and methamphetamine production ingredients in the rear trunk of his vehicle.[207]

Methamphetamine producers utilizing the one-pot clan lab method are generally producing smaller quantities primarily to support their own illegal drug use habit, and by selling small quantities to other users. Individuals who produce methamphetamine in Wisconsin have gained this knowledge from inmate populations, internet instruction, or peer users that also produce methamphetamine.[208]

Due to the volatile chemicals, reactive metals, and pressurized containers involved in methamphetamine production, these labs can often result in fires, explosions, and the release of toxic gases.[209] Even in the event of successful, accident-free methamphetamine production, these clandestine laboratories produce large amounts of hazardous waste byproducts that pose an increased threat to public health and the environment.[210]

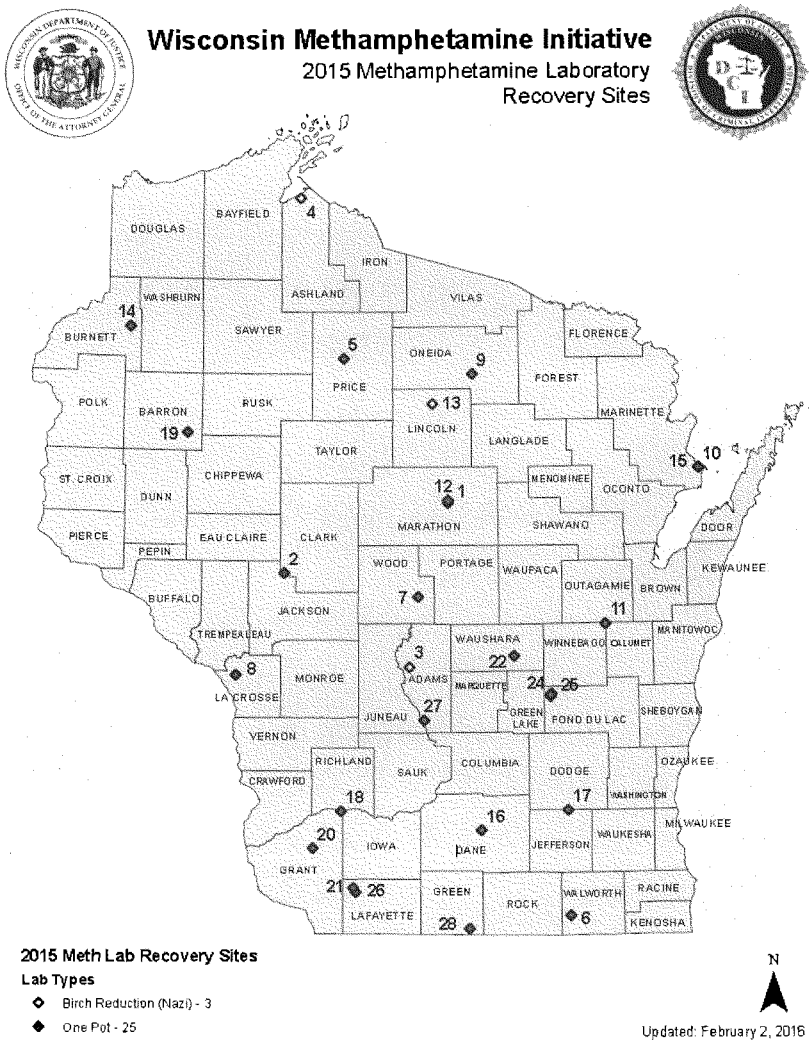
Many methamphetamine ingredients are common household items that can be purchased at hardware stores. Items to be aware of include: acetone, anhydrous ammonia or fertilizer, ether, drain cleaner, Freon®, iodine crystals, lithium (often taken from batteries),

[206] U.S. Immigration and Customs Enforcement – Homeland Security Investigations – Milwaukee Field Office, 2016; Wisconsin High Intensity Drug Trafficking Area Drug Gang Task Force, 2016.
[207] U.S. Immigration and Customs Enforcement – Homeland Security Investigations – Milwaukee Field Office, 2016; Wisconsin High Intensity Drug Trafficking Area Drug Gang Task Force, 2016.
[208] Federal Bureau of Investigation – Madison, 2016.
[209] "Meth Awareness,: U.S. Department of Justice < https://www.justice.gov/archive/olp/methawareness/> retrieved 03/28/2016.
[210] "Meth Awareness,: U.S. Department of Justice < https://www.justice.gov/archive/olp/methawareness/> retrieved 03/28/2016.

paint thinner, and red phosphorous (often from the tips of matches).[211] Pseudoephedrine and ephedrine are commonly found in cold medicines that can be purchased at a local pharmacy.[212] There have been historic reports of "smurfing" in the Wisconsin HIDTA region, in which multiple individuals purchase pseudoephedrine or ephedrine in small amounts to avoid suspicion and then pool their purchases to produce methamphetamine.[213]

Despite a decrease of reported methamphetamine production sites over the last year there still are serious threats to the user and the community by these activities. Of concern is the apparent growing demand for methamphetamine throughout all areas of the state. It is difficult to predict the extent of production and importation from out-of-state sources, and how this trend will be impact the Wisconsin HIDTA region in the future.

[211] "Meth Awareness,: U.S. Department of Justice < https://www.justice.gov/archive/olp/methawareness/> retrieved 03/28/2016.
[212] "Meth Awareness,: U.S. Department of Justice < https://www.justice.gov/archive/olp/methawareness/> retrieved 03/28/2016.
[213] Brown County Drug Task Force, 2015.


Wisconsin Methamphetamine Initiative
2015 Methamphetamine Laboratory
Recovery Sites
DOUGLAS
BAYFIELD
IRON
ASHLAND
VILAS
WASHBURN
BURNETT
SAWYER
FLORENCE
ONEIDA
PRICE
FOREST
POLK
BARRON
RUSK
MARINETTE
LINCOLN
LANGLADE
TAYLOR
ST. CROIX
DUNN
CHIPPEWA
MENOMINEE
OCONTO
MARATHON
SHAWANO
DOOR
PIERCE
PEPIN
EAU CLAIRE
CLARK
WOOD
PORTAGE
WAUPACA
KEWAUNEE
BUFFALO
JACKSON
OUTAGAMIE
BROWN
TREMPEALEAU
WAUSHARA
WINNEBAGO
CALUMET
MANITOWOC
MONROE
ADAMS
MARQUETTE
LA CROSSE
JUNEAU
GREEN LAKE
FOND DU LAC
SHEBOYGAN
VERNON
RICHLAND
SAUK
COLUMBIA
DODGE
OZAUKEE
CRAWFORD
WASHINGTON
MILWAUKEE
IOWA
DANE
JEFFERSON
WAUKESHA
GRANT
GREEN
ROCK
WALWORTH
RACINE
LAFAYETTE
KENOSHA
2015 Meth Lab Recovery Sites
Lab Types
Birch Reduction (Nazi) - 3
One Pot - 25
N
Updated: February 2, 2016

f. Prescription Drug Diversion

In the Wisconsin HIDTA region there were a number of methods reported for illegally obtaining pharmaceuticals, including but not limited to, pharmacy robberies, residential burglaries or thefts, doctor shopping, and fraudulent prescriptions. In addition, many doctors engage in the practice of indiscriminately prescribing medications or prescribing simply for profit.

The easiest method for abusers to divert pharmaceuticals is to steal from family or friends who have been legitimately prescribed medications. However, this source is usually eliminated at some point and other criminal methods are then relied upon.

Violent activities are increasingly being associated with prescription drug abuse. Pharmacy robberies continue to be a large source of diverted pharmaceuticals in Milwaukee and in other HIDTA regions. Wisconsin is ranked number two (2) out of the top 20 states for pharmacy robberies.[214] From January 2015 through June 2015, Wisconsin reported 32 pharmacy robberies.[215] This number significantly exceeded the 21 robberies occurring in all of 2014.[216] The DEA indicated that the typical pharmacy robbery suspect is a white male between

[214] Drug Topics-Top 20 States for Pharmacy Robberies <http://www.drugtopics.modernmedicine.com> June 30, 2015.
[215] Drug Topics-Top 20 States for Pharmacy Robberies <http://www.drugtopics.modernmedicine.com> June 30, 2015.
[216] Drug Topics-Top 20 States for Pharmacy Robberies <http://www.drugtopics.modernmedicine.com> June 30, 2015.

20-30 YOA, who is most commonly seeking opiate/opioid products.[217] This is consistent with the trend seen in the Wisconsin HIDTA region.[218]

Doctor shopping and the use of fraudulent prescriptions are increasing as a means to obtain diverted pharmaceuticals. There have been several reports of these types of incidents within the HIDTA region. The DEA Green Bay Resident Office, Oak Creek Police Department, and Wisconsin HIDTA Interdiction Task Force, indicated it is relatively common for individuals to find disreputable online pharmacies, or doctors who indiscriminately write prescriptions.[219] Both The Native American Drug & Gang Initiative Task Force and Waukesha County Metro Drug Unit reported subjects going to different "pain management clinics" in order to obtain substantial amounts of prescription drugs.[220] Jefferson and Racine Counties also reported several cases involving fraudulent prescriptions.[221] According to the Jefferson County Sheriff's Office and Drug Task Force, there has been an increase in the sale of Suboxone at the street level. They report that individuals enter into treatment to receive the Suboxone, and then sell a portion to obtain their next dose of heroin.[222]

There is still a consistent use of schedule II narcotics and schedule III depressants.[223] The Oak Creek Police Department has observed more high school aged teenagers using

[217] Pharmacy Times-Pharmacy Robberies on the Rise, DEA Data Suggests <http://www.pharmacytimes.com> May 6, 2015.
[218] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2016.
[219] U.S. Drug Enforcement Administration- Green Bay Office, 2016; Oak Creek Police Department, 2016; Wisconsin High Intensity Drug Trafficking Area Heroin Initiative, 2016.
[220] Native American Drug & Gang Initiative Task Force, 2016; Waukesha County Metropolitan Enforcement Group, 2016.
[221] Jefferson County Sheriff's Office/ Jefferson County Drug Task Force, 2016; Racine Metropolitan Enforcement Group, 2016.
[222] Jefferson County Sheriff's Office/ Jefferson County Drug Task Force, 2016.
[223] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2016.

stimulants, while opioids and depressants are being utilized by middle aged adults.[224] The Prescription Drug Monitoring Program (PDMP), a statewide program that gathers information on prescription drugs, shows hydrocodone as the number one monitored prescription drug for 2015.[225] One potential explanation for this is due to physicians prescribing less dosages of oxycodone and prescribing hydrocodone instead. [226]

g. Drug Consumption

In the Wisconsin HIDTA region, the most commonly abused drugs are heroin, pharmaceuticals, cocaine, marijuana, and methamphetamine.[227]

Ninety-six percent (96%) of responding agencies ranked heroin as the greatest drug threat in their area of operations. In addition, 70% of these agencies listed the negative impact of heroin as "increasing."[228] This negative impact is attributed in large part to the number of heroin related overdose deaths.[229] Reporting received from HIDTA designated County Medical Examiners Offices indicated a similar number of heroin-related overdose deaths in 2014 and 2015.[230] This plateau in numbers could be a result of the efforts made to address this overdose death issue, including the use of Narcan®. The primary users of heroin in the Wisconsin HIDTA

[224] Oak Creek Police Department, 2016.
[225] Wisconsin Prescription Drug Monitoring Program, 2015.
[226] U.S. Drug Enforcement Administration - Milwaukee District Office, 2016.
[227] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2016.
[228] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2016.
[229] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2016.
[230] Brown County Medical Examiner's Office, 2014, 2015; Kenosha County Medical Examiner's Office, 2014, 2015; Milwaukee County Medical Examiner's Office, 2014, 2015.

region were reported as Caucasian males and females, ranging in age from 18 to 30.[231] However, heroin abuse was reported across all user demographics.[232]

Abuse of pharmaceuticals, specifically opiates and opioid-based pharmaceuticals such as oxycodone and hydrocodone, is closely linked to heroin abuse. Pharmaceutical abusers often begin to use heroin due to its lower cost and greater availability.[233] Abusers of pharmaceuticals in the Wisconsin HIDTA region were primarily reported as Caucasian males and females ranging in age from 18 to 35, the same demographics reported with heroin.[234]

In 2015, pharmaceutical-related overdose deaths in Wisconsin HIDTA counties remain similar to the past year. Reports from Milwaukee County Medical Examiner's Office state there have already been 34 pharmaceutical-related deaths from January to April of 2016.[235] The potential threat of pharmaceutical-related overdoses remains high due to the reported high availability of pharmaceuticals within the Wisconsin HIDTA region, and the fact that pharmaceuticals are often abused in conjunction with other substances such as heroin, marijuana, alcohol, and other types of pharmaceuticals.[236]

The demand for cocaine (both crack and powder) continues to be reported as "moderate" within the Wisconsin HIDTA region.[237] Powder cocaine abusers are predominantly

[231] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2016.
[232] Wisconsin Department of Justice-Division of Criminal Investigation, 2016; U.S. Drug Enforcement Administration – Green Bay District Office, 2016; Dane County Narcotics and Gang Task Force, 2016.
[233] Wisconsin Department of Health Services, Wisconsin Epidemiological Profile on Alcohol and Other Drug Use, 2014.
[234] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2016.
[235] Milwaukee County Medical Examiner's Office, 2015, 2016.
[236] Brown County Medical Examiner's Office, 2015; Dane County Medical Examiner's Office, 2015; Kenosha County Medical Examiner's Office, 2015; Milwaukee County Medical Examiner's Office, 2015; Waukesha County Medical Examiner's Office, 2015; Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2015.
[237] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2016.

white males.[238] In previous year's, African American males were the prominent abusers of crack cocaine.[239] The 2015 survey responses indicated that the gap between African American and white male crack abusers narrowed to almost equal percentages, with white males being more prominent.[240] The number of cocaine-related overdoses reported by Wisconsin HIDTA counties remained relatively stable over the last year.[241]

There continues to be a demand in the region for high-grade marijuana and high-grade marijuana products. This is evidenced by officers' experiences in the field and is corroborated by the fact that the majority of marijuana seizures by HIDTA law enforcement initiatives were of high-grade marijuana and marijuana products.[242] Marijuana is one of the most popular and commonly abused drugs across the Wisconsin HIDTA region.[243] Marijuana abuse was reported among all races, ages, and genders.[244] Reporting of synthetic cannabinoids has been minimal; however, the Native American Drug & Gang Initiative Task Force cited synthetic cannabinoids as the largest threat to their region.[245]

Methamphetamine demand within the Wisconsin HIDTA region is reported as increasing, particularly within Brown, Rock, and Walworth counties.[246] Methamphetamine

[238] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2016.
[239] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2015.
[240] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2016
[241] Brown County Medical Examiner's Office, 2015; Kenosha County Medical Examiner's Office, 2015; Milwaukee County Medical Examiner's Office, 2015.
[242] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2016; Wisconsin High Intensity Drug Trafficking Area Performance Management Program, 2016.
[243] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2016.
[244] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2016.
[245] Native American Drug & Gang Initiative Task Force, 2016.
[246] Walworth Drug Task Force, 2016; Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2016. U.S. Drug Enforcement Administration –Green Bay District Office, 2016.

users were primarily reported as white males, although Hispanic male users were also reported.[247]

h. Illicit Finance

DTOs' and drug traffickers utilize a variety of techniques to financially benefit from their illegal activities. The most common method to move drug profits out of the Wisconsin HIDTA region is still through bulk currency movement. Fifty-two percent of responding agencies indicated bulk currency movement as the most prevalent illicit financial activity.[248] The destinations of these drug profits primarily include the Chicago area, the southwest border, and the Pacific Northwest, especially the states of California, Colorado, Oregon, and Washington.

The Wisconsin HIDTA's Interdiction Initiative seized over $355,210 in bulk cash in 2015, primarily through public parcel services;[249] however, this was a reported decrease from 2014 when over $546,000 in bulk cash was seized.[250] Analysis of the National Seizure System indicates that bulk currency moving from the Wisconsin HIDTA region is being shipped primarily to Illinois and some western areas of the United States.[251] According to the National Seizure System, 12 of 37 bulk currency seizures interdicted on Wisconsin highways were the result of investigations into high-grade marijuana.[252]

[247] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2016.
[248] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2016.
[249] Wisconsin High Intensity Drug Trafficking Area Performance Management Process, 2016.
[250] Wisconsin High Intensity Drug Trafficking Area Performance Management Process, 2015.
[251] El Paso Intelligence Center-National Seizure System, State Nexus Report, retrieved 2016.
[252] El Paso Intelligence Center-National Seizure System, Bulk Currency Report, retrieved 2016.

Parcel carriers remain popular to transport bulk cash. The DTOs and criminal groups are using various methods to conceal their currency such as placed in vacuum sealed bags sometimes with red pepper or grease/oil and duct tape found in between the layers in effort to avoid police detection.[253] Currency is also often hidden in various items such as backpacks, DVD and CD cases, magazines, and books.[254]

Approximately 50% of responding agencies reported that another common method for drug traffickers is the structuring of deposits or withdrawals at banks.[255] Traffickers will utilize various banks to withdraw smaller amounts of currency, or keep deposits under the $10,000 limit set by the Department of Treasury, which would require the business to report the transaction.

It is believed that DTOs in the Wisconsin region still use wire transfer services. Wire transfers are popular because the transfer is quick and the service is fairly inexpensive. While investigators believe that drug traffickers send their profits to relatives in Mexico and other Latin American countries, there has been little reported documentation of the tactics used. Emerging digital methods such as xoom.com, as well as Bitcoin have been recently cited as a means to transfer money as well; however, there is very limited information on how these methods relate to the HIDTA region at this time.

[253] Wisconsin High Intensity Drug Trafficking Area Interdiction Initiative, 2016.
[254] Wisconsin High Intensity Drug Trafficking Area Interdiction Initiative, 2016.
[255] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2016.

Reloadable cards and prepaid cards are starting to appear in the Wisconsin HDITA region.[256] Prepaid cards differ from debit and credit cards in that they utilize an account that is associated with multiple funds.[257] These multiple funds are then "pooled" together and managed by a single user.[258] Other techniques involve converting any magnetic strip card into a financial prepaid card.[259] The Wisconsin Statewide Intelligence Center (WISIC) stated an individual can buy a reader/writer used for skimming cards on eBay for around $130.[260] Drug traffickers are repurposing anything with a magnetic strip from gift cards to hotel room keys to load and transfer money.[261] Thirty-nine percent of responding agencies within the Wisconsin HIDTA region reported seeing this illicit financial activity in their area of operation.[262] The Oak Creek Police Department has seen reloadable cards being used in conjunction with prostitution activity within their area of operation. The girls receive them as "gifts" and then use the cards to purchase drugs.[263] They have also come across dealers with several cards on them and in houses during drug search warrants.[264]

Direct spending continues to be seen as a disposal method used by DTOs, although not as prevalent as it once was. Common items purchased include high-end jewelry, clothing, shoes, electronics, vehicles, and boats. Non-cash assets seized by the Wisconsin HIDTA task

[256] Oak Creek Police Department, 2016.
[257] Wisconsin Statewide Intelligence Center-Financial Crimes Intelligence Quarterly Bulletin, Jan. 1, 2016.
[258] Wisconsin Statewide Intelligence Center-Financial Crimes Intelligence Quarterly Bulletin, Jan. 1, 2016.
[259] Wisconsin Statewide Intelligence Center-Financial Crimes Intelligence Quarterly Bulletin, Jan. 1, 2016.
[260] Wisconsin Statewide Intelligence Center-Financial Crimes Intelligence Quarterly Bulletin, Jan. 1, 2016.
[261] Wisconsin Statewide Intelligence Center-Financial Crimes Intelligence Quarterly Bulletin, Jan. 1, 2016.
[262] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2016.
[263] Oak Creek Police Department, 2016.
[264] Oak Creek Police Department, 2016.

forces this past year totaled approximately $415,350.[265] This is a significant decrease from $1,815,488 seized in non-cash assets in 2014.[266]

Money laundering such as money service businesses, real estate and mortgage fraud remain consistent from recent assessments.[267]

i. Emerging and Other Drug Threats

Methamphetamine

Methamphetamine is an emerging drug threat that is drawing concern within the state and in the HIDTA counties. Although methamphetamine has traditionally had a more prominent presence in some western and northern Wisconsin counties, 2015 saw an increase in its presence in other Wisconsin regions as well, including many of the HIDTA-designated counties. Recently, the Brown County Drug Task Force (BCDTF) arrested 38 defendants involved in methamphetamine distribution in Brown, Oconto, and Kewaunee counties.[268] These defendants are believed to have been involved in a large drug trafficking ring operating in northeastern Wisconsin for some time.[269] In 2015, the BCDTF seized 1,268 grams of methamphetamine, which is more than five times the amount seized in 2014.[270] So far in 2016,

[265] Wisconsin High Intensity Drug Trafficking Area Performance Management Process, Exportable Asset Seizure Data, 2015.
[266] Wisconsin High Intensity Drug Trafficking Area Performance Management Process, Exportable Asset Seizure Data, 2014.
[267] Wisconsin High Intensity Drug Trafficking Area Drug Trafficking Trends Survey, 2016.
[268] Brown County Drug Task Force, 2016.
[269] Brown County Drug Task Force, 2016.
[270] Brown County Drug Task Force, 2016.

the BCDTF has seized 882 grams of methamphetamine.[271] For more information regarding this threat, please refer to the Methamphetamine section of this document, *infra*.

Fentanyl

Fentanyl is a synthetic opioid analgesic with an increasing presence in the Wisconsin HIDTA region. Fentanyl is a Schedule II substance under the Controlled Substances Act and is commonly prescribed as a transdermal patch or as a lozenge for pain management. Fentanyl is commonly seen in a powder form and mixed with heroin when abused. When abused in the form of a transdermal patch, fentanyl can be chewed, or the contents can be extracted and smoked, injected, or snorted. Patches can be either diverted from prescribed users or bought on the street for approximately $20 per 12 mg patch.[272] In powder form, fentanyl ranges in appearance from a dark brown, chunky substance to a tan, off-white, or white powder.[273]

Fentanyl is quickly absorbed by the body and can easily be inhaled or absorbed through the skin. The side effects of fentanyl include numbness, disorientation, respiratory depression, nausea, sedation, and death.[274] Officers and emergency personnel should be aware of the serious health hazards presented by fentanyl and should use extreme caution, including skin protection and proper ventilation, when handling any substances suspected of containing fentanyl.

Fentanyl has been reported to have a more intense effect on the nervous system; however, the effect is shorter in duration, which can lead users to abuse more of the substance.

[271] Brown County Drug Task Force, 2016.
[272] Wisconsin HIDTA Intelligence Bulletin, September 2014.
[273] Wisconsin Statewide Information Center Drug Intelligence Bulletin, February 20, 2015.
[274] Wisconsin Statewide Information Center Drug Intelligence Bulletin, February 20, 2015.

In 2015, there were 30 fentanyl-related overdose deaths in Milwaukee County.[275] This was an increase from 16 in 2014.[276] In the first quarter of 2016, there have been 27 reported fentanyl-related overdose deaths.[277] According to the Milwaukee County Examiner's Office, Fentanyl deaths have increased by 500% from 2012 in Milwaukee County.[278] Several other HIDTA counties also reported fentanyl-related deaths in 2015 and already in 2016. Dane County Medical Examiner's Office had reported nine (9) fentanyl-related deaths this past year and Kenosha County medical Examiner's Office reported three (3) fentanyl-related overdose deaths in 2015.[279] Fentanyl's presence in Wisconsin is increasing and law enforcement should remain aware of the threat it poses to both users and emergency responders.

Synthetic Cannabinoids

Synthetic cannabinoids, also commonly referred to as "Spice" and "K2," are chemicals synthesized in laboratories overseas, which are intended to mock the biological effects of THC, which is the main ingredient in marijuana.[280] Since March 2011, synthetic cannabinoids have been categorized as a Schedule I substance under the Controlled Substances Act.[281] Users can purchase these synthetic drugs online, or at convenience stores and smoke shops, and are usually snorted or swallowed in their powder or crystal forms.[282]

[275] Fox 6 News Report-An alarming number: More than 250 drug-related deaths in Milwaukee County in 2015 <Fox6now.com>, March 16, 2016.
[276] Fox 6 News Report-An alarming number: More than 250 drug-related deaths in Milwaukee County in 2015 <Fox6now.com>, March 16, 2016.
[277] Milwaukee County Medical Examiner, 2016.
[278] Fox 6 News Report-An alarming number: More than 250 drug-related deaths in Milwaukee County in 2015 <Fox6now.com>, March 16, 2016.
[279] Dane County Medical Examiner's Office, 2015;Kenosha County Medical Examiner's Office, 2015.
[280] El Paso Intelligence Center Intelligence Note, Nov. 18, 2015.
[281] U.S. Drug Enforcement Administration National Drug Assessment, 2015.
[282] U.S. Drug Enforcement Administration National Drug Assessment, 2015.

Synthetic cannabinoids are typically manufactured in China and then imported into the United States through parcel services.[283] The DEA reported that the packaging forms on shipping boxes or containers containing these substances are often inaccurately documented or falsified in order to appear as legitimate pharmaceuticals easing them into the country.[284] Synthetic cannabinoids are also sold on the internet, primarily on the "dark net," making it more difficult for law enforcement authorities to identify website owners.[285]

Synthetic cannabinoids and other designer drugs are often used by younger individuals and therefore packaged with bright colors and cartoon figures to attract these younger users.[286] Potential health risks of these substances include cardiac arrest, kidney or liver failure, paranoia, panic attacks, and breakdown of muscle tissue.[287]

The Milwaukee District Office of the U.S. Drug Enforcement Administration (DEA) is involved in long-term investigations into the importation and distribution of synthetic cannabinoids.[288] There are several shops and smaller gas stations located on Milwaukee's north and south sides that are selling synthetic cannabinoids that can be smoked (SSCs) in packet amounts, typically containing 1-10 grams of product, ranging in price between $10-$70.[289] The Ozaukee County Sheriff Office and West Allis Police Department reported several instances of arrests involving drivers charged with OWI-SSC, in which the drivers stated the

[283] U.S. Drug Enforcement Administration National Drug Assessment, 2015.
[284] U.S. Drug Enforcement Administration National Drug Assessment, 2015.
[285] U.S. Drug Enforcement Administration National Drug Assessment, 2015.
[286] U.S. Drug Enforcement Administration National Drug Assessment, 2015.
[287] U.S. Drug Enforcement Administration National Drug Assessment, 2015.
[288] U.S. Drug Enforcement Administration-Milwaukee Office, 2016.
[289] U.S. Drug Enforcement Administration-Milwaukee Office, 2016.

product had been purchased from Atomic Glass, a smoke shop located in Milwaukee.[290] The Native American Gang & Drug Initiative, located in northern Wisconsin, has also reported an abundancy of synthetic cannabinoids on the Menominee and Lac du Flambeau Reservations.[291] They further stated that this trend has led to mass purchases from stores based in Milwaukee, where the product is then transported back to the Reservations and sold for up to four times the listed price.[292]

It is anticipated that synthetic cannabinoid use will remain stable, or possibly increase, and that law enforcement will continue to see overdoses and possible deaths as a result of the abuse of these substances.

III. Designated Areas

The Wisconsin HIDTA area of responsibility includes seven counties in southeast, southcentral, and northeast Wisconsin. The WI HIDTA Executive Board has reviewed the status of these counties and determined that they all meet the statutory criteria for designation in the HIDTA initiative. All of these areas encounter significant drug trafficking activities by a variety of Drug Trafficking Organizations.

[290] U.S. Drug Enforcement Administration-Milwaukee Office, 2016.
[291] Native American Drug & Gang Initiative Task Force, 2016.
[292] Native American Drug & Gang Initiative Task Force, 2016.

IV. Outlook

After a thorough analysis of the information provided from law enforcement and other data available, it is clear that the Wisconsin HIDTA seven-county region, as well as areas across Wisconsin, will be threatened by the abuse and trafficking of many illicit substances.

The greatest of these threats will remain opioid addiction and abuse. Readily available supplies of heroin and other drugs will be sourced from the Chicago area by Mexican and African American DTOs. This supply will be transported to major distribution groups and individuals from southeast and southcentral Wisconsin, where it will be made readily available in drug markets across the state. Fueling the demand for heroin will be the abuse of prescription opiates/opioids. Of particular concern is Fentanyl, which is a dangerously potent opioid. Drug overdoses and deaths will continue to be associated with the abuse of these illegal drugs, with no clear indication at this time if/when a plateau or decline in opiate/opioid abuse is anticipated.

Other long standing drug threats, such as cocaine powder, cocaine base (crack), and high-grade marijuana, will also continue to be prevalent and popular among a wide spectrum of abusers. Supplies of these drugs will be readily available.

Methamphetamine poses the newest threat across Wisconsin. In addition to the historical presence of methamphetamine in the western portions of the state, a methamphetamine market has now developed in the Fox Valley and Brown County areas. It is expected that this threat will increase, but to what level cannot be determined at this time.

Most sources-of-supply are likely to be linked to the Minneapolis/St. Paul area, and will primarily involve Asian DTOs and traffickers.

Violence and property crime will also continue to be closely associated with drug trafficking around Wisconsin, especially in the more populated counties around southeast and southcentral Wisconsin. Mobile styles of drug trafficking, utilizing counter surveillance and reckless arrest avoidance tactics, will continue in southeast Wisconsin, especially in the Milwaukee and Waukesha counties.

V. Methodology

The 2017 Wisconsin HIDTA Threat Assessment was prepared by the Wisconsin HIDTA Investigative Support Center (ISC). Intelligence analysts used both quantitative and qualitative research to collect information on drug trafficking trends in the region. The sources of this data collection were primarily local, state, and federal law enforcement and government agencies in the Wisconsin HIDTA region and throughout the State of Wisconsin. The primary methods used to collect this data were surveys to law enforcement (copy contained in V. Appendices), and interviews of law enforcement personnel.

VI. Appendices

Wisconsin HIDTA 2016 Drug Price Survey Results

All Regions

Drug Type	Quantity	Most Accepted Estimated Price
Heroin	1 gram	$150
	1 kilogram	$65,000
Oxycontin (Oxycodone)	10 mg tablet	$10
	20 mg tablet	$20
	40 mg tablet	$40
	80 mg tablet	$95
Crack Cocaine	1 gram	$125
	1 ounce	$1,850
	1 kilogram	$31,000
Cocaine Powder	1 gram	$100
	1 ounce	$1,800
	1 kilogram	$33,000
Marijuana - High-Grade	1 ounce	$325
	1 pound	$3,500
Marijuana - Commercial-Grade	1 ounce	$150
	1 pound	$1,500
Methamphetamine	1 gram	$100
	1 ounce	$1,800
	1 kilogram	$27,500
Over the Counter Synthetic Cannabinoids	1g, 3.5g, 4g, 10g	$15-75

CITY/COUNTY OF MILWAUKEE DRUG DEATHS 2006 - 2015

DATA PROVIDED BY MILWAUKEE COUNTY MEDICAL EXAMINER

	2006 COUNTY	% OF DEATHS	YEARLY +/-	2006 CITY	% OF DEATHS	YEARLY +/-	2007 COUNTY	% OF DEATHS	YEARLY +/-	2007 CITY	% OF DEATHS	YEARLY +/-
COUNTY/CITY DRUG DEATHS	[illegible]			112			[illegible]			110		
Cocaine Only	[illegible]	[illegible]	***	24	21.4%	***	[illegible]	[illegible]	[illegible]	29	26.4%	4.9%
Cocaine Present	[illegible]	[illegible]	***	60	53.6%	***	[illegible]	[illegible]	[illegible]	51	46.4%	-7.2%
Heroin Only	[illegible]	[illegible]	***	4	3.6%	***	[illegible]	[illegible]	[illegible]	6	5.5%	1.9%
Heroin Present	[illegible]	[illegible]	***	12	10.7%	***	[illegible]	[illegible]	[illegible]	13	11.8%	1.1%
Combo Heroin/Cocaine	[illegible]	[illegible]	***	8	7.1%	***	[illegible]	[illegible]	[illegible]	5	4.5%	-2.6%
RX Drugs Only	[illegible]	[illegible]	***	45	40.2%	***	[illegible]	[illegible]	[illegible]	53	48.2%	8.0%
RX Drugs Present	[illegible]	[illegible]	***	79	70.5%	***	[illegible]	[illegible]	[illegible]	60	54.5%	-16.0%
Combo Heroin/Cocaine/RX	[illegible]	[illegible]	***	1	0.9%	***	[illegible]	[illegible]	[illegible]	1	0.9%	0.0%
Opiates Present	[illegible]	[illegible]	***	79	70.5%	***	[illegible]	[illegible]	[illegible]	63	57.3%	-13.3%
Morphine Present	[illegible]	[illegible]	***	14	12.5%	***	[illegible]	[illegible]	[illegible]	18	16.4%	3.9%
Fentanyl Present	[illegible]	[illegible]	***	5	4.5%	***	[illegible]	[illegible]	[illegible]	3	2.7%	-1.7%
Oxycodone Present	[illegible]	[illegible]	***	24	21.4%	***	[illegible]	[illegible]	[illegible]	16	14.5%	-6.9%
SUICIDE	[illegible]	[illegible]	***	5	4.5%	***	[illegible]	[illegible]	[illegible]	3	2.7%	-1.7%
MALE	[illegible]	[illegible]	***	77	68.8%	***	[illegible]	[illegible]	[illegible]	68	61.8%	-6.9%
FEMALE	[illegible]	[illegible]	***	35	31.3%	***	[illegible]	[illegible]	[illegible]	42	38.2%	6.9%
WHITE	[illegible]	[illegible]	***	72	64.3%	***	[illegible]	[illegible]	[illegible]	56	50.9%	-13.4%
BLACK	[illegible]	[illegible]	***	34	30.4%	***	[illegible]	[illegible]	[illegible]	46	41.8%	11.5%
NATIVE AMERICAN	[illegible]	[illegible]	***	0	0.0%	***	[illegible]	[illegible]	[illegible]	0	0.0%	0.0%
HISPANIC	[illegible]	[illegible]	***	6	5.4%	***	[illegible]	[illegible]	[illegible]	8	7.3%	1.9%
ASIAN/PACIFIC ISLANDER	[illegible]	[illegible]	***	0	0.0%	***	[illegible]	[illegible]	[illegible]	0	0.0%	0.0%
MULTI-RACIAL	[illegible]	[illegible]	***	0	0.0%	***	[illegible]	[illegible]	[illegible]	0	0.0%	0.0%
EASTERN INDIAN	[illegible]	[illegible]	***	0	0.0%	***	[illegible]	[illegible]	[illegible]	0	0.0%	0.0%

	2008 COUNTY	% OF DEATHS	YEARLY +/-	2008 CITY	% OF DEATHS	YEARLY +/-	2009 COUNTY	% OF DEATHS	YEARLY +/-	2009 CITY	% OF DEATHS	YEARLY +/-	2010 COUNTY	% OF DEATHS	YEARLY +/-	2010 CITY	% OF DEATHS	YEARLY +/-
COUNTY/CITY DRUG DEATHS	[illegible]			114			[illegible]			114			[illegible]			117		
Cocaine Only	[illegible]	[illegible]	[illegible]	21	18.4%	-7.9%	[illegible]	[illegible]	[illegible]	18	15.8%	-2.6%	[illegible]	[illegible]	[illegible]	15	12.8%	-3.0%
Cocaine Present	[illegible]	[illegible]	[illegible]	35	30.7%	-15.7%	[illegible]	[illegible]	[illegible]	37	32.5%	1.8%	[illegible]	[illegible]	[illegible]	37	31.6%	-0.9%
Heroin Only	[illegible]	[illegible]	[illegible]	9	7.9%	2.4%	[illegible]	[illegible]	[illegible]	10	8.8%	0.9%	[illegible]	[illegible]	[illegible]	7	6.0%	-2.8%
Heroin Present	[illegible]	[illegible]	[illegible]	25	21.9%	10.1%	[illegible]	[illegible]	[illegible]	25	21.9%	0.0%	[illegible]	[illegible]	[illegible]	23	19.7%	-2.3%
Combo Heroin/Cocaine	[illegible]	[illegible]	[illegible]	8	7.0%	2.5%	[illegible]	[illegible]	[illegible]	3	2.6%	-4.4%	[illegible]	[illegible]	[illegible]	8	6.8%	4.2%
RX Drugs Only	[illegible]	[illegible]	[illegible]	58	50.9%	2.7%	[illegible]	[illegible]	[illegible]	47	41.2%	-9.6%	[illegible]	[illegible]	[illegible]	60	51.3%	10.1%
RX Drugs Present	[illegible]	[illegible]	[illegible]	84	73.7%	19.1%	[illegible]	[illegible]	[illegible]	78	68.4%	-5.3%	[illegible]	[illegible]	[illegible]	88	75.2%	6.8%
Combo Heroin/Cocaine/RX	[illegible]	[illegible]	[illegible]	5	4.4%	3.5%	[illegible]	[illegible]	[illegible]	1	0.9%	-3.5%	[illegible]	[illegible]	[illegible]	4	3.4%	2.5%
Opiates Present	[illegible]	[illegible]	[illegible]	86	75.4%	18.2%	[illegible]	[illegible]	[illegible]	77	67.5%	-7.9%	[illegible]	[illegible]	[illegible]	95	81.2%	13.7%
Morphine Present	[illegible]	[illegible]	[illegible]	18	15.8%	-0.6%	[illegible]	[illegible]	[illegible]	19	16.7%	0.9%	[illegible]	[illegible]	[illegible]	17	14.5%	-2.1%
Fentanyl Present	[illegible]	[illegible]	[illegible]	6	5.3%	2.5%	[illegible]	[illegible]	[illegible]	6	5.3%	0.0%	[illegible]	[illegible]	[illegible]	5	4.3%	-1.0%
Oxycodone Present	[illegible]	[illegible]	[illegible]	17	14.9%	0.4%	[illegible]	[illegible]	[illegible]	25	21.9%	7.0%	[illegible]	[illegible]	[illegible]	34	29.1%	7.1%
SUICIDE	[illegible]	[illegible]	[illegible]	4	3.5%	0.8%	[illegible]	[illegible]	[illegible]	5	4.4%	0.9%	[illegible]	[illegible]	[illegible]	6	5.1%	0.7%
MALE	[illegible]	[illegible]	[illegible]	76	66.7%	4.8%	[illegible]	[illegible]	[illegible]	79	69.3%	2.6%	[illegible]	[illegible]	[illegible]	72	61.5%	-7.8%
FEMALE	[illegible]	[illegible]	[illegible]	37	32.5%	-5.7%	[illegible]	[illegible]	[illegible]	35	30.7%	-1.8%	[illegible]	[illegible]	[illegible]	45	38.5%	7.8%
WHITE	[illegible]	[illegible]	[illegible]	66	57.9%	7.0%	[illegible]	[illegible]	[illegible]	65	57.0%	-0.9%	[illegible]	[illegible]	[illegible]	75	64.1%	7.1%
BLACK	[illegible]	[illegible]	[illegible]	41	36.0%	-5.9%	[illegible]	[illegible]	[illegible]	41	36.0%	0.0%	[illegible]	[illegible]	[illegible]	28	23.9%	-12.0%
NATIVE AMERICAN	[illegible]	[illegible]	[illegible]	1	0.9%	0.9%	[illegible]	[illegible]	[illegible]	0	0.0%	-0.9%	[illegible]	[illegible]	[illegible]	0	0.0%	0.0%
HISPANIC	[illegible]	[illegible]	[illegible]	8	7.0%	-0.3%	[illegible]	[illegible]	[illegible]	7	6.1%	-0.9%	[illegible]	[illegible]	[illegible]	12	10.3%	4.1%
ASIAN/PACIFIC ISLANDER	[illegible]	[illegible]	[illegible]	0	0.0%	0.0%	[illegible]	[illegible]	[illegible]	0	0.0%	0.0%	[illegible]	[illegible]	[illegible]	0	0.0%	0.0%
MULTI-RACIAL	[illegible]	[illegible]	[illegible]	0	0.0%	0.0%	[illegible]	[illegible]	[illegible]	1	0.9%	0.9%	[illegible]	[illegible]	[illegible]	2	1.7%	0.8%
EASTERN INDIAN	[illegible]	[illegible]	[illegible]	0	0.0%	0.0%	[illegible]	[illegible]	[illegible]	0	0.0%	0.0%	[illegible]	[illegible]	[illegible]	0	0.0%	0.0%

	2011 COUNTY	% OF DEATHS	YEARLY +/-	2011 CITY	% OF DEATHS	YEARLY +/-	2012 COUNTY	% OF DEATHS	YEARLY +/-	2012 CITY	% OF DEATHS	YEARLY +/-
COUNTY/CITY DRUG DEATHS	[illegible]			131			[illegible]			120		
Cocaine Only	[illegible]	[illegible]	[illegible]	21	16.0%	3.2%	[illegible]	[illegible]	[illegible]	11	9.2%	-6.9%
Cocaine Present	[illegible]	[illegible]	[illegible]	43	32.8%	0.4%	[illegible]	[illegible]	[illegible]	33	27.5%	-4.8%
Heroin Only	[illegible]	[illegible]	[illegible]	12	9.2%	3.2%	[illegible]	[illegible]	[illegible]	8	6.7%	-2.5%
Heroin Present	[illegible]	[illegible]	[illegible]	33	25.2%	5.5%	[illegible]	[illegible]	[illegible]	35	29.2%	4.0%
Combo Heroin/Cocaine	[illegible]	[illegible]	[illegible]	8	6.1%	-0.7%	[illegible]	[illegible]	[illegible]	14	11.7%	5.6%
RX Drugs Only	[illegible]	[illegible]	[illegible]	60	45.8%	-5.5%	[illegible]	[illegible]	[illegible]	66	55.0%	9.2%
RX Drugs Present	[illegible]	[illegible]	[illegible]	77	58.8%	-16.4%	[illegible]	[illegible]	[illegible]	91	75.8%	17.1%
Combo Heroin/Cocaine/RX	[illegible]	[illegible]	[illegible]	2	1.5%	-1.9%	[illegible]	[illegible]	[illegible]	7	5.8%	4.3%
Opiates Present	[illegible]	[illegible]	[illegible]	98	74.8%	-6.4%	[illegible]	[illegible]	[illegible]	101	84.2%	9.4%
Morphine Present	[illegible]	[illegible]	[illegible]	20	15.3%	0.7%	[illegible]	[illegible]	[illegible]	17	14.2%	-1.1%
Fentanyl Present	[illegible]	[illegible]	[illegible]	10	7.6%	3.4%	[illegible]	[illegible]	[illegible]	4	3.3%	-4.3%
Oxycodone Present	[illegible]	[illegible]	[illegible]	34	26.0%	-3.1%	[illegible]	[illegible]	[illegible]	46	38.3%	12.4%
SUICIDE	[illegible]	[illegible]	[illegible]	5	3.8%	-1.3%	[illegible]	[illegible]	[illegible]	6	5.0%	1.2%
MALE	[illegible]	[illegible]	[illegible]	94	71.8%	10.2%	[illegible]	[illegible]	[illegible]	65	54.2%	-17.6%
FEMALE	[illegible]	[illegible]	[illegible]	37	28.2%	-10.2%	[illegible]	[illegible]	[illegible]	57	47.5%	19.3%
WHITE	[illegible]	[illegible]	[illegible]	66	50.4%	-13.7%	[illegible]	[illegible]	[illegible]	64	53.3%	3.0%
BLACK	[illegible]	[illegible]	[illegible]	50	38.2%	14.2%	[illegible]	[illegible]	[illegible]	40	33.3%	-4.8%
NATIVE AMERICAN	[illegible]	[illegible]	[illegible]	2	1.5%	1.5%	[illegible]	[illegible]	[illegible]	2	1.7%	0.1%
HISPANIC	[illegible]	[illegible]	[illegible]	12	9.2%	-1.1%	[illegible]	[illegible]	[illegible]	11	9.2%	0.0%
ASIAN/PACIFIC ISLANDER	[illegible]	[illegible]	[illegible]	0	0.0%	0.0%	[illegible]	[illegible]	[illegible]	0	0.0%	0.0%
MULTI-RACIAL	[illegible]	[illegible]	[illegible]	0	0.0%	-1.7%	[illegible]	[illegible]	[illegible]	2	1.7%	1.7%
EASTERN INDIAN	[illegible]	[illegible]	[illegible]	0	0.0%	0.0%	[illegible]	[illegible]	[illegible]	0	0.0%	0.0%

	2013 COUNTY	% OF DEATHS	YEARLY +/-	2013 CITY	% OF DEATHS	YEARLY +/-	2014 COUNTY	% OF DEATHS	YEARLY +/-	2014 CITY	% OF DEATHS	YEARLY +/-	2015 COUNTY	% OF DEATHS	YEARLY +/-	2015 CITY	% OF DEATHS	YEARLY +/-
COUNTY/CITY DRUG DEATHS	[illegible]			157			[illegible]			174			[illegible]			186		
Cocaine Only	[illegible]	[illegible]	[illegible]	23	14.6%	5.5%	[illegible]	[illegible]	[illegible]	16	9.2%	-5.5%	[illegible]	[illegible]	[illegible]	9	4.8%	-4.4%
Cocaine Present	[illegible]	[illegible]	[illegible]	44	28.0%	0.5%	[illegible]	[illegible]	[illegible]	45	25.9%	-2.2%	[illegible]	[illegible]	[illegible]	38	20.4%	-5.4%
Heroin Only	[illegible]	[illegible]	[illegible]	13	8.3%	1.6%	[illegible]	[illegible]	[illegible]	36	20.7%	12.4%	[illegible]	[illegible]	[illegible]	19	10.2%	-10.5%
Heroin Present	[illegible]	[illegible]	[illegible]	44	28.0%	-1.1%	[illegible]	[illegible]	[illegible]	77	44.3%	16.2%	[illegible]	[illegible]	[illegible]	64	34.4%	-9.8%
Combo Heroin/Cocaine	[illegible]	[illegible]	[illegible]	10	6.4%	-5.3%	[illegible]	[illegible]	[illegible]	17	9.8%	3.4%	[illegible]	[illegible]	[illegible]	16	8.6%	-1.2%
RX Drugs Only	[illegible]	[illegible]	[illegible]	77	49.0%	-6.0%	[illegible]	[illegible]	[illegible]	69	39.7%	-9.4%	[illegible]	[illegible]	[illegible]	80	43.0%	3.4%
RX Drugs Present	[illegible]	[illegible]	[illegible]	111	70.7%	-5.1%	[illegible]	[illegible]	[illegible]	121	69.5%	-1.2%	[illegible]	[illegible]	[illegible]	137	73.7%	4.1%
Combo Heroin/Cocaine/RX	[illegible]	[illegible]	[illegible]	5	3.2%	-2.6%	[illegible]	[illegible]	[illegible]	7	4.0%	0.8%	[illegible]	[illegible]	[illegible]	6	3.2%	-0.8%
Opiates Present	[illegible]	[illegible]	[illegible]	123	78.3%	-5.8%	[illegible]	[illegible]	[illegible]	153	87.9%	9.6%	[illegible]	[illegible]	[illegible]	167	89.8%	1.9%
Morphine Present	[illegible]	[illegible]	[illegible]	29	18.5%	4.3%	[illegible]	[illegible]	[illegible]	23	13.2%	-5.3%	[illegible]	[illegible]	[illegible]	40	21.5%	8.3%
Fentanyl Present	[illegible]	[illegible]	[illegible]	8	5.1%	1.8%	[illegible]	[illegible]	[illegible]	11	6.3%	1.2%	[illegible]	[illegible]	[illegible]	23	12.4%	6.0%
Oxycodone Present	[illegible]	[illegible]	[illegible]	38	24.2%	-14.1%	[illegible]	[illegible]	[illegible]	64	36.8%	12.6%	[illegible]	[illegible]	[illegible]	39	21.0%	-15.8%
SUICIDE	[illegible]	[illegible]	[illegible]	6	3.8%	-1.2%	[illegible]	[illegible]	[illegible]	1	0.6%	-3.2%	[illegible]	[illegible]	[illegible]	4	2.2%	1.6%
MALE	[illegible]	[illegible]	[illegible]	92	58.6%	4.4%	[illegible]	[illegible]	[illegible]	100	57.5%	-1.1%	[illegible]	[illegible]	[illegible]	111	59.7%	2.2%
FEMALE	[illegible]	[illegible]	[illegible]	65	41.4%	-6.1%	[illegible]	[illegible]	[illegible]	73	42.0%	0.6%	[illegible]	[illegible]	[illegible]	72	38.7%	-3.2%
WHITE	[illegible]	[illegible]	[illegible]	87	55.4%	2.1%	[illegible]	[illegible]	[illegible]	107	61.5%	6.1%	[illegible]	[illegible]	[illegible]	115	61.8%	0.3%
BLACK	[illegible]	[illegible]	[illegible]	50	31.8%	-1.5%	[illegible]	[illegible]	[illegible]	55	31.6%	-0.2%	[illegible]	[illegible]	[illegible]	57	30.6%	-1.0%
NATIVE AMERICAN	[illegible]	[illegible]	[illegible]	2	1.3%	-0.4%	[illegible]	[illegible]	[illegible]	2	1.1%	-0.1%	[illegible]	[illegible]	[illegible]	3	1.6%	0.5%
HISPANIC	[illegible]	[illegible]	[illegible]	16	10.2%	1.0%	[illegible]	[illegible]	[illegible]	12	6.9%	-3.3%	[illegible]	[illegible]	[illegible]	10	5.4%	-1.5%
ASIAN/PACIFIC ISLANDER	[illegible]	[illegible]	[illegible]	2	1.3%	1.3%	[illegible]	[illegible]	[illegible]	1	0.6%	-0.7%	[illegible]	[illegible]	[illegible]	0	0.0%	-0.6%
MULTI-RACIAL	[illegible]	[illegible]	[illegible]	1	0.6%	-1.0%	[illegible]	[illegible]	[illegible]	1	0.6%	-0.1%	[illegible]	[illegible]	[illegible]	1	0.5%	0.0%
EASTERN INDIAN	[illegible]	[illegible]	[illegible]	1	0.6%	0.6%	[illegible]	[illegible]	[illegible]	0	0.0%	-0.6%	[illegible]	[illegible]	[illegible]	0	0.0%	0.0%

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SUMMARY ON NEXT PAGE

801 West Michigan Street
Milwaukee, WI 53233

Phone : (414) 220-4740
Fax : (414) 224-7548

2016 Drug Trafficking Trends Survey for Program Year 2017

Title/Rank _____ Name _____

Law Enforcement Agency / Task Force _____

Agency Address _____

City _____ State _____ ZIP Code _____

Phone Number _____ Fax Number _____

Email Address _____

This survey is for intelligence gathering purposes.
All responses are Law Enforcement Sensitive.

Threat Ranking & Drug Availability

Please rank the following drugs in order of greatest to least negative impact to your area (with a rank of 1 being the drug with the MOST negative impact and a rank of 7 or 8 being the drug with the LEAST negative impact). Please use each ranking only once.

Cocaine (crack)		Marijuana (low grade)	
Cocaine (powder)		Methamphetamine	
Heroin		Pharmaceuticals	
Marijuana (high grade)		Other	

Please rate how your top two drugs with negative impacts are trending (increasing, decreasing, or stable).

(select one) (select one)

Indicate the level of availability of the following drugs in your area:

	Low	Moderate	High	Not Available		Low	Moderate	High	Not Available
Bath Salts	○	○	○	○	Marijuana (high grade)	○	○	○	○
Club Drugs	○	○	○	○	Marijuana (low grade)	○	○	○	○
Cocaine (crack)	○	○	○	○	Methamphetamine (ice)	○	○	○	○
Cocaine (powder)	○	○	○	○	Methamphetamine (powder)	○	○	○	○
Heroin	○	○	○	○	Pharmaceuticals	○	○	○	○
K2 Spice or similar	○	○	○	○	Psilocybin	○	○	○	○
Khat	○	○	○	○					

Drug-Specific Information

Club Drugs

Were there any club drug (MDMA, GHB, ketamine, etc.) seizures in your area?

◉ Yes ○ No

Please provide any information regarding the types of club drugs seized:

Have you recovered any pill presses? ◉ Yes ○ No

Have you seen gel capsules in your area? ◉ Yes ○ No

Were there markings on any pills or packaging? ◉ Yes ○ No

Click above to attach an image of markings

+ Add Another Image | - Remove Last Image

Were there any large or unusual club drug seizures in your area? Any unusual concealment methods?

◉ Yes ○ No

Please describe:

Please provide any additional comments regarding recent trends, or any other items not covered by the questions above:

Cocaine (crack & powder)

Were there any cocaine seizures in your area?

◉ Yes ○ No

Which type of cocaine are you seizing more of? ○ Crack ○ Powder

Were there markings on any packaging? ○ Yes ○ No

Were there any large (over 100 grams) or unusual cocaine seizures in your area? Any unusual concealment methods?

◉ Yes ○ No

Please describe:

Have you seen any variations in color of the cocaine?

◉ Yes ○ No

Please describe:

Please provide any additional comments regarding recent trends, or any other items not covered by the questions above:

Heroin

Were there any heroin seizures in your area?

◉ Yes ○ No

Were there markings on any packaging? ◉ Yes ○ No

Click above to attach an image of markings

+ Add Another Image | - Remove Last Image

Were there any large (over 100 grams) or unusual heroin seizures in your area? Any unusual concealment methods?

◉ Yes ○ No

Please describe:

Have you seen any variations in color of the heroin?

◉ Yes ○ No

Please describe:

Regarding heroin overdoses in your area, please provide information (if available) on:

Total number of overdoses in 2015 [ ]

Number of overdoses involving fentanyl in 2015 [ ]

Number of fatal overdoses in 2015 [ ]

Number of Narcan saves in 2015 [ ]

Number of non-fatal overdoses in 2015 [ ]

Please provide any additional comments regarding recent trends, or any other items not covered by the questions above:

[ ]

Marijuana

Were there any marijuana seizures in your area?

◉ Yes ○ No

Were there any large (over 5 lbs) or unusual marijuana seizures in your area? Any unusual concealment methods?

◉ Yes ○ No

Please describe: [ ]

Were there marijuana grows found in your area in 2014?

◉ Yes ○ No

○ Indoor ○ Outdoor ○ Both

Where was your largest marijuana grow located and how many plants were seized?

[ ]

Please provide any additional comments regarding recent trends, or any other items not covered by the questions above:

Methamphetamines

Were there any methamphetamine seizures in your area?

◉ Yes ○ No

Which type of meth are you seizing more of? ○ Crystalline ○ Powder

Were there markings on any packaging? ○ Yes ○ No

Were there any large or unusual meth seizures in your area? Any unusual concealment methods?

◉ Yes ○ No

Please describe:

Are you seeing any meth labs?

◉ Yes ○ No

Please describe:

Please provide any additional comments regarding recent trends, or any other items not covered by the questions above:

Pharmaceuticals

Were there any pharmaceutical seizures in your area?

◉ Yes ○ No

Please indicate the level of diversion/illicit use for the following types of pharmaceuticals in your area:

Drug	Low	Moderate	High	None
Narcotics (i.e. Vicodin, OxyContin, Dilaudid)	○	○	○	○
Depressants (i.e. Valium, Xanax, Klonopin)	○	○	○	○
Stimulants (i.e. Adderall, Ritalin, Dexedrene)	○	○	○	○
Steroids (i.e. Anadrol, Oxandrin, Durabolin)	○	○	○	○

Were there any large or unusual pharmaceutical seizures in your area? Any unusual concealment methods?

◉ Yes ○ No

Please describe:

Are you seeing any connections to wholesale out of state suppliers?

◉ Yes ○ No

Please describe:

Are you seeing any cases of doctor shopping?

◉ Yes ○ No

Please describe:

Please provide any additional comments regarding trends related to pharmaceutical-related violence, specifically pharmacy robberies:

Please provide any additional comments regarding other recent trends, or any other items not covered by the questions above. For example, if you know you are seeing more Schedule II vs. Schedule I drugs, etc.

Demographics

What is the main demographic that is **BUYING**?

Drug	African-American	Asian/Pacific Islander	Hispanic	White	Male	Female	< 18	18-29	30 +
Club Drugs	☐	☐	☐	☐	☐	☐	☐	☐	☐
Cocaine (crack)	☐	☐	☐	☐	☐	☐	☐	☐	☐
Cocaine (powder)	☐	☐	☐	☐	☐	☐	☐	☐	☐
Heroin	☐	☐	☐	☐	☐	☐	☐	☐	☐
Marijuana (high grade)	☐	☐	☐	☐	☐	☐	☐	☐	☐
Marijuana (low grade)	☐	☐	☐	☐	☐	☐	☐	☐	☐
Methamphetamine	☐	☐	☐	☐	☐	☐	☐	☐	☐
Pharmaceuticals	☐	☐	☐	☐	☐	☐	☐	☐	☐

What is the main demographic that is **SELLING**?

Drug	African-American	Asian/Pacific Islander	Hispanic	White	Male	Female	< 18	18-29	30 +
Club Drugs	☐	☐	☐	☐	☐	☐	☐	☐	☐
Cocaine (crack)	☐	☐	☐	☐	☐	☐	☐	☐	☐
Cocaine (powder)	☐	☐	☐	☐	☐	☐	☐	☐	☐
Heroin	☐	☐	☐	☐	☐	☐	☐	☐	☐
Marijuana (high grade)	☐	☐	☐	☐	☐	☐	☐	☐	☐
Marijuana (low grade)	☐	☐	☐	☐	☐	☐	☐	☐	☐
Methamphetamine	☐	☐	☐	☐	☐	☐	☐	☐	☐
Pharmaceuticals	☐	☐	☐	☐	☐	☐	☐	☐	☐

Have there been any recent changes in the demographics of **SELLERS** for each type of drug?

	Yes	No	If yes, please indicate the change:
Club Drugs	◉	○	
Cocaine (crack)	◉	○	
Cocaine (powder)	◉	○	
Heroin	◉	○	
Marijuana (high grade)	◉	○	
Marijuana (low grade)	◉	○	
Methamphetamine	◉	○	
Pharmaceuticals	◉	○	

Transportation & Distribution

How are drugs being transported in and out of your area? Please check all that apply.

Drug	Private Vehicle	Rental Vehicle	Commercial Vehicle	Parcels	Air	Water	Train	Bus
Club Drugs	☐	☐	☐	☐	☐	☐	☐	☐
Cocaine (crack)	☐	☐	☐	☐	☐	☐	☐	☐
Cocaine (powder)	☐	☐	☐	☐	☐	☐	☐	☐
Heroin	☐	☐	☐	☐	☐	☐	☐	☐
Marijuana (high grade)	☐	☐	☐	☐	☐	☐	☐	☐
Marijuana (low grade)	☐	☐	☐	☐	☐	☐	☐	☐
Methamphetamine	☐	☐	☐	☐	☐	☐	☐	☐
Pharmaceuticals	☐	☐	☐	☐	☐	☐	☐	☐

Are you seeing an increase in the transportation and distribution of drugs via parcels?

◉ Yes ○ No

Are you noticing any trends with the sources of parcels you are interdicting?

◉ Yes ○ No

Please describe:

Have you observed any unusual patterns or changes in transportation methods in your area (to include the use of hidden traps or compartments)?

◉ Yes ○ No

Please describe:

If you know what **specific** geographic areas (e.g. Milwaukee - north side, Milwaukee - south side, Chicago - north suburbs, etc.) are most commonly associated with the source suppliers for drug traffickers in your region, please provide the information below. Please be as specific as possible.

		No Information
Club Drugs		☐
Cocaine (crack)		☐
Cocaine (powder)		☐
Heroin		☐
Marijuana (low grade)		☐
Marijuana (high grade)		☐
Methamphetamine		☐
Pharmaceuticals		☐

Is your area considered a distribution point for any other areas in the state of Wisconsin? If so, for what areas? What specific routes are being utilized (roads, highways, etc.)?

	Yes	No
Club Drugs	○	○
Cocaine (crack)	○	○
Cocaine (powder)	○	○
Heroin	○	○
Marijuana (high grade)	○	○
Marijuana (low grade)	○	○
Methamphetamine	○	○
Pharmaceuticals	○	○

Illicit Finances

Were there any notable money seizures made in your area?

◉ Yes ○ No

Please describe:

Please indicate the money laundering or illicit financial activities used by wholesale-level traffickers in your area. (Check all that apply.)

- Bulk cash movement ☐
- Money services businesses (i.e. wire transmitters, check cashing, currency exchanges, etc.) ☐
- Banks (i.e. structuring of deposits or withdrawals under $10,000) ☐
- Cash intensive businesses (i.e. restaurants, nail salons, adult clubs, etc.) ☐
- Informal value transfer systems (i.e. black market peso exchange, hawala, etc.) ☐
- Value reloadable cards (gift cards, prepaid credit cards, etc.) ☐
- Unknown ☐

Which is most prevalent?

Drug-Related Violence / Gangs

Please provide any known drug trafficking gangs, street gangs, or outlaw motorcycle gangs active in your jurisdiction and indicate the most common drug(s) trafficking by that gang.

		Estimated Level of Violence		
Gang	Drug(s)	High	Medium	Low
		○	○	○

+ Add Row - Remove Row

Which, if any of these gangs are new to the area and for how long have you seen activity? Are you seeing any new gang trends?

Please provide the following information for STREET GANGS in your jurisdiction.

Estimated # of street gangs	Estimated # of street gang members	Estimated % of street gangs involved in drug activities	Change in street gang drug activity in the past year
(select one)	(select one)	(select one)	(select one)

Please indicate the drug that MOST contributes to violent crime and the drug that MOST contributes to property crime in your area.

Violent Crime	Property Crime
(select one)	(select one)

What kind of gang structure are you seeing in your area? (e.g. neighborhood-based, familial-based, hierarchical-based, etc.)

Additional Data

Are you seeing any trends regarding concurrent drug use in your area? (e.g. heroin users also using meth, etc.)

Would you like a follow-up interview to discuss information/details not covered in this questionnaire?

◉ Yes ○ No

Do you have information on any other drugs or drug trends that have not already been discussed?

◉ Yes ○ No

Please describe:

Any other comments you would like to add?

Drug Price Survey

Please fill in the average prices seen in your jurisdiction for the quantities of drugs listed below, if known.
If the average price is not known, please leave the field blank.

Drug Type	Quantity	Average Price
Cocaine (crack)	1 gram	
	1 ounce	
	1 kilogram	
Cocaine (powder)	1 gram	
	1 ounce	
	1 kilogram	
Heroin	1 gram	
	1 kilogram	
Marijuana (commercial grade)	1 ounce	
	1 pound	
Marijuana (high grade)	1 ounce	
	1 pound	
MDMA / Ecstasy	1 tablet	
	100 tablets	
Methamphetamine	1 gram	
	1 ounce	
	1 kilogram	
Oxycodone	10mg tablet	
	20mg tablet	
	40mg tablet	
	80mg tablet	

Please provide information on any additional drug types, quantities, and average prices for drugs currently trending in your area of operations that are not listed above:

A special thank you to the following agencies for providing information for this report:

- Brown County Medical Examiner's Office
- Brown County Sheriff's Office
- Dane County Medical Examiner's Office
- Dane County Sheriff's Office
- Jefferson County Sheriff's Office
- Kenosha County Medical Examiner's Office
- Kenosha County Sheriff's Office
- Lake Winnebago Area Metropolitan Enforcement Group
- Madison Police Department
- Milwaukee County Department of Health and Human Services – Emergency Medical Services
- Milwaukee County District Attorney's Office
- Milwaukee County Medical Examiner's Office
- Milwaukee County Sheriff's Office
- Milwaukee Police Department
- Native American Drug Gang Initiative (NADGI)
- Oneida Nation Police Department
- Ozaukee County Sheriff's Office
- Racine County Medical Examiner's Office
- Racine County Sheriff's Office
- Rock County Sheriff's Office
- University of Wisconsin - Madison
- University of Wisconsin-Milwaukee
- Walworth County Sheriff's Office
- Washington County Sheriff's Office
- Waukesha County Medical Examiner's Office
- Waukesha County Sheriff's Office
- Waukesha Police Department
- West Allis Police Department
- Wisconsin Department of Justice – Division of Criminal Investigation
- Wisconsin Department of Safety and Professional Services
- Wisconsin Department of Transportation
- Wisconsin National Guard
- Wisconsin State Patrol
- US Attorney's Office – Eastern & Western Districts of Wisconsin
- US Bureau of Alcohol, Tobacco, Firearms, and Explosives
- US Coast Guard Investigative Service
- USDA Forest Service
- US Department of Homeland Security – Immigration and Customs Enforcement
- US Drug Enforcement Administration
- US Federal Bureau of Investigation
- US Internal Revenue Service
- US Marshal's Service
- US Postal Inspection Service
- US Secret Service

TESTIMONY OF

CHIEF DEPUTY RYAN RECTENWALD
SHERIFF'S OFFICE, GRANT COUNTY, WASHINGTON

BEFORE THE

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
OF THE
UNITED STATES SENATE

MARCH 1, 2017

HEARING:
The Effects of Border Insecurity and
Lax Immigration Enforcement on American Communities

Chairman Johnson, Ranking Member McCaskill, thank you for the invitation to come and speak with you today. I'm here to talk about a horrific murder which took place in our rural community of Grant County, Washington. An incident that to this day remains the most dreadful scene I've ever encountered in my nearly 20-year law enforcement career.

We received a call around noon, three days before Christmas 2016. A woman was out walking her dog near the Columbia River in a picturesque recreational area which is popular with tourists and rock climbers and endeared by residents. She said she'd found a dead body.

What I saw when I arrived at the crime scene can only be described as straight out of a horror movie. The body was lying face down in the snow. Detectives found 13 bullet casings, 11 of those bullets found their mark, striking the victim in the back of the head, neck, and shoulder area.

A box from a case of beer had a message written in Spanish and secured to the victim's back by a kitchen knife. The victim was later identified as Jill Marie Sundberg, age 31, the mother of four young children. We later learned she was kidnapped by five men after an argument at a party. She was forced into a vehicle with those five men, driven ten miles to this remote area, and was executed. The fear and brutality this woman faced during that ten-mile drive, and in the moments prior to her death will forever haunt the case investigators.

During the investigation, we developed a list of persons-of-interest who lived in the same trailer park where Jill had occasionally lived. With the help of Immigrations and Customs Enforcement agents and the U.S. Marshals Service, we were able to pick up and interview three of the five men. While all five were later arrested on murder, kidnapping, and other charges, what's important to know is that all five were determined to be in this country illegally and one had two prior felony criminal convictions.

The fact that these suspects were here illegally isn't my point. It's that the shooter was still in the U.S. after being convicted of crimes, and previously deported. So, how did this happen?

It turns out the alleged shooter had been previously deported in May 2007 after his first felony conviction. He then illegally re-entered our county and in June 2013, he was arrested on new felony assault charges in Grant County. He served out his sentence and in January 2014 he was released to Immigration again. Prior to his deportation hearing, he posted $8,000 cash bail in March 2014. He never returned for his hearing. **No failure to appear warrants were ever issued**. He was then later re-arrested in September 2015 in our county on a new domestic violence assault charge.

That's not how *legal* residents are treated when they miss court dates; you and I would have had warrants issued for our arrest.

Meanwhile, after the shooter returned to our community, local law enforcement had numerous opportunities to bring him back into custody during unrelated contacts, but due to the fact that no Federal warrants were ever issued, he was never arrested.

I was asked to provide insight on policies that Congress and the Administration should be considering to stem the unlawful movement of people, illegal drugs, and other contraband into the country. Can we start with just some basic principles?

It makes sense that after being convicted of a felony, you should not be allowed to bail out of your immigration hearing. If you abscond, WARRANTS SHOULD BE ISSUED and ICE and local law enforcement should be able to pick you up

Now, I realize that this may present administrative and budgetary concerns, but we need easier access to the bad guys. This isn't about illegal immigrants who reside in our communities peacefully alongside us.

Allowing us these tools would help us distinguish between the truly law abiding and those whose existence is to harm through violence or drug distribution via enabling policies and practices. This certainly is not justice.

Although I can empathize with the discussion about ripping families apart when it comes to immigration enforcement, I can assure you the Sundberg family has been ripped apart because of the lack of enforcement of current immigration laws.

Lastly, I would like to publicly commend the hard work our men and women put into this complex investigation. They live by an unwritten code that dictates they will never stop, they will never quit, and they will always work for the ones who can no longer speak for themselves. Their efforts have truly made our community a far safer place to live.

About...

Ryan Rectenwald
Chief Deputy of Special Operations
Grant County (Washington) Sheriff's Office

Ryan Rectenwald has been a member of the Grant County Sheriff's Office since 2003. He has over 25 years of public safety experience.

After graduating from High School in Middleburg, Florida, he enlisted in the U.S. Army in 1988, serving as a Military Police Officer for over seven years.

Upon his honorable discharge, he joined the Grant County Sheriff's Office in 1996 as a Corrections Officer. In June 1997, Ryan was hired as a Police Officer by the Ephrata (Wash.) Police Department. In 2003, he returned to the Grant County Sheriff's Office.

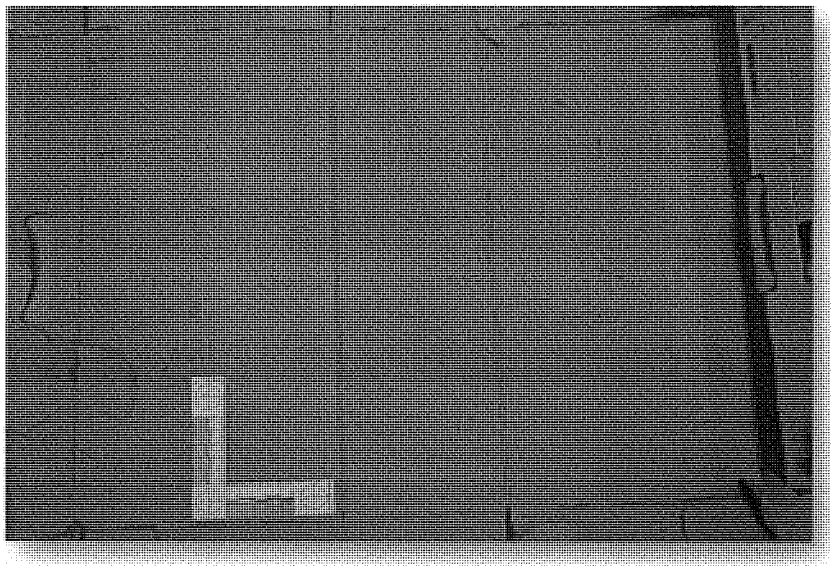
Ryan's career has traveled in the path of investigations. He served as a narcotics detective for three years and major crimes detective for three years. In 2011, Ryan was appointed by Sheriff Tom Jones as the Chief Deputy of Special Operations, overseeing the Major Crimes Unit, Narcotics Unit, Marine Unit, and Off Road Vehicle Unit.

SUPPORTING DOCUMENT A

Murder victim Jill Marie Sundberg

SUPPORTING DOCUMENT B

Message attached by a knife to Jill Sundberg's body



12/22/2016 Sundberg Homicide, Old Vantage Highway

Sign is made from an 18 count Modelo beer can box opened up and written on the inside.
Originator used a pencil to write.
Sign affixed to victim's back with black plastic-handled knife with a 3" fine serrated blade reads:

ESTO LES
Pava todas las chivas ke la alden cagando mujeres I chivas culeves (culeres?) keno respite el cartel del golfo
AJ or AI [initials at the end of the message]

Translation:

For all those whores, bitches and assholes that show no respect to the gulf cartel.

SUPPORTING DOCUMENT C

JILL SUNDBERG HOMICIDE SUSPECTS

JANUARY 2017

1. **Pablo ZAMORA-HERNANDEZ (AKA: Gustavo TAPIA-RODRIGUEZ)** Primary Suspect - shooter FBI 340244FB4 ALIEN # 200 006 198	• Has an Immigration Judge (IJ) Order to have him removed from the U.S. • He appealed the Order of Removal, and bonded out on the appeal. • He did not appear at appeal hearings; appeal exhausted and denied. • He was never actually removed. • During this homicide investigation, after the detectives interviewed him and he denied knowing anything about it, GCSO turned him over to ICE. He was at the ICE Tacoma Detention Center, awaiting removal, all appeals exhausted, when arrested on this homicide. Washington State Felony Convictions: 1. **Bail Jumping 2014 -** This started out as an assault 2nd involving a firearm. Happened in August, 2003; a citizen called Quincy PD and reported that a party in his house, he was first assaulted by punches by a third party, then Tapia put a gun to his head. Charge not filed until 2006. He bonded out a month after conditions of release were set and was taken into custody by ICE. He then took a voluntary return to Mexico. Victim no longer cooperative, and other witnesses changed their story. The police officer died long before 2013. He went to trial on Bail Jumping, which we could prove, got convicted. During trial in 2013 his wife, Vicki Tapia, testified. She stated after his removal Mr. Tapia called her from Mexico and she sent him some money. She testified he had returned approximately six years prior to the date of her testimony, which would have been very shortly after his removal to Mexico.

	He did 6 months in jail. He appealed, and conviction affirmed. • May 2007 was deported to Mexico after his conviction. 2. **Malicious Mischief 2nd, 2014 -** Originally charged on 6//30/2013 as Assault 2nd from a stabbing at a social party (baptism) between George and Quincy. Victim Etzael Perez did not know Tapia. By the time trial came, victim could not be found and other witnesses said they were not sure who did it. Defendant accepted a plea bargain of Malicious Mischief 2nd, a compromise. **He did 45 days in jail** • After his conviction was sent to Tacoma on a deportation order. • Filed an appeal on the deportation order, granted bail in the amount of $8000 • March 12 2014, bailed out of custody.
2. **Julio ALBARRAN–VARONA** Secondary Suspect FBI# A#	• No criminal history and no immigration history. • Has a non-criminal Entry Without Inspection (EWI). • This means he has a civil finding that he crossed into the U.S. without presenting himself at a port of entry for inspection.
3. **Ambrosio MENDEZ-VILLANUEVA** Secondary Suspect FBI # None A # None	• No criminal history and no immigration history. • Has a non-criminal EWI.
4. **Fernando JIMENEZ-MENDOZA (AKA: Fernando MARCOS-GUTIERREZ)** Material Witness FBI # A # 208 933 194	• No criminal history. • one Voluntary Removal via Border Patrol in 2009.

5. Salvador ESPINOZA GOMEZ Material Witness FBI # A #	• No criminal history. • Currently charged with Alien in Possession of Firearm and Possession of Meth with Intent to Deliver in Grant County, Wash. • Per ICE Agent J. Waite, the federal government is charging Mr. Espinoza him with a violation of 8 USC 1325 alien in the US w/o being admitted or paroled. This is due to the Grant County charges.

SUPPORTING DOCUMENT D
CALLS FOR SERVICE TO SHADY TREE RV PARK
JAN 2016- JAN 2017

02/24/17 Grant County Sheriff's Office 1083
10:29 Law Incident Summary Report, by Incident Number Page: 1

Number	Time and Date	Nature	Address	Loctn	Dsp
Agency: Grant Co Sheriff's Office					
16GS01597	05:55:28 02/12/16	B Missing Pers	1099 SR 283 N; SHADY TREE	GS204	CLO
16GS01654	10:22:20 02/13/16	D Fraud	1099 SR 283 N; SHADY TREE	GS204	CLO
16GS01721	16:02:07 02/15/16	Trespassing	1099 SR 283 N; SHADY TREE	GS204	CLO
16GS01772	05:06:36 02/17/16	Domestic	1099 SR 283 N; SHADY TREE	GS204	CLO
16GS01833	10:28:06 02/19/16	C Suspicious	1099 SR 283 N; SHADY TREE	GS204	ACT
16GS02005	23:18:42 02/23/16	C Susp Person	1099 SR 283 N; SHADY TREE	GS204	CLO
16GS03344	16:11:12 03/27/16	O Pub Srvc Ref	1099 SR 283 N; SHADY TREE	GS204	CLO
16GS03348	18:06:08 03/27/16	@ 911 Hang Up	1099 SR 283 N; SHADY TREE	GS204	CLO
16GS03393	19:27:41 03/28/16	Trespassing	1099 SR 283 N; SHADY TREE	GS204	CLO
16GS03450	19:09:24 03/29/16	D Vehicle Theft	1099 SR 283 N; SHADY TREE	GS204	CLO
16GS03477	13:12:28 03/30/16	B Physical Dv	1099 SR 283 N; SHADY TREE	GS204	CLO
16GS03498	21:10:27 03/30/16	@ 911 Hang Up	1099 SR 283 N; SHADY TREE	GS204	CLO
16GS03761	09:27:54 04/06/16	Trespassing	1099 SR 283 N; SHADY TREE	GS204	CJA
16GS03797	21:30:26 04/06/16	D Physical Dv	1099 SR 283 N; SHADY TREE	GS204	CLO
16GS04058	06:05:30 04/13/16	B Vehicle Theft	1099 SR 283 N; SHADY TREE	GS204	CLO
16GS04293	08:49:44 04/18/16	D Threats	1099 SR 283 N; SHADY TREE	GS204	CLO
16GS04418	19:46:40 04/20/16	Trespassing	1099 SR 283 N; SHADY TREE	GS204	CLO
16GS04584	16:40:04 04/24/16	B Past Burglary	1099 SR 283 N; SHADY TREE	GS204	CLO
16GS05084	05:35:20 05/06/16	Trespassing	1099 SR 283 N; SHADY TREE	GS204	CLO
16GS05802	19:18:06 05/21/16	Suspicious/Want	1099 SR 283 N; 9C, QUINCY,	GS204	CLO
16GS05832	14:17:34 05/22/16	Suspicious/Want	1099 SR 283 N; #12; SHADY	GS204	CLO
16GS06021	18:19:53 05/26/16	Trespassing	1099 SR 283 N; SHADY TREE	GS204	CLO
16GS06034	05:48:22 05/27/16	Trespassing	1099 SR 283 N; SHADY TREE	GS204	CLO
16GS06251	10:49:47 05/30/16	D Vehicle Theft	1099 SR 283 N; SHADY TREE	GS204	CAA
16GS06252	10:55:14 05/30/16	Trespassing	1099 SR 283 N; SHADY TREE	GS204	CAA
16GS06873	18:30:09 06/10/16	D Verbal Dv	1099 SR 283 N; SHADY TREE	GS204	CLO
16GS06964	20:29:56 06/12/16	Trespassing	1099 SR 283 N; SHADY TREE	GS204	CLO
16GS07251	13:56:10 06/19/16	Domestic	1099 SR 283 N; SHADY TREE	GS204	CLO
16GS07485	17:54:35 06/23/16	D Physical Dv	1099 SR 283 N; SHADY TREE	GS204	CLO
16GS07575	01:56:32 06/25/16	Suspicious/Want	1099 SR 283 N; SHADY TREE	GS204	CLO
16GS08402	16:30:18 07/09/16	B Past Burglary	1099 SR 283 N; #3; SHADY T	GS204	CLO
16GS08407	19:13:39 07/09/16	Trespassing	1099 SR 283 N; SHADY TREE	GS204	CLO
16GS08479	08:51:26 07/11/16	B Vehicle Theft	1099 SR 283 N; SHADY TREE	GS204	CLO
16GS08543	13:12:04 07/12/16	@ 911 Hang Up	1099 SR 283 N; SHADY TREE	GS204	CAA
16GS08805	16:24:33 07/17/16	Trespassing	1099 SR 283 N; SHADY TREE	GS204	CLO
16GS08890	14:06:41 07/19/16	B Vehicle Theft	1099 SR 283 N; SHADY TREE	GS204	CLO
16GS09003	21:32:56 07/21/16	C Shots Fired	1099 SR 283 N; SHADY TREE	GS204	CLO
16GS09008	21:43:00 07/21/16	B Past Burglary	1099 SR 283 N;#4 SHADY THE	GS204	ACT
16GS09171	13:48:53 07/25/16	Trespassing	1099 SR 283 N; SHADY TREE	GS204	CAA
16GS09310	13:13:17 07/28/16	Trespassing	1099 SR 283 N; SHADY TREE	GS204	CLO
16GS10356	19:41:52 08/16/16	D Harassment	1099 SR 283 N; SHADY TREE	GS204	CLO
16GS10390	16:37:04 08/17/16	Trespassing	1099 SR 283 N; SHADY TREE	GS204	CJA
16GS10791	19:13:28 08/25/16	B Assault	1099 SR 283 N; SHADY TREE	GS204	CLO
16GS10796	20:41:18 08/25/16	C Shots Fired	1099 SR 283 N; SHADY TREE	GS204	ACT
16GS10911	14:29:24 08/28/16	C Susp Vehicle	1099 SR 283 N; SHADY TREE	GS204	CLO
16GS11506	19:36:50 09/09/16	O Pub Srvc Ref	1099 SR 283 N; SHADY TREE	GS204	CLO
16GS11579	01:19:22 09/11/16	Disturbance	1099 SR 283 N; SHADY TREE	GS204	CLO
16GS11695	18:38:02 09/13/16	D Weapons	1099 SR 283 N; SHADY TREE	GS204	CLO
16GS11898	21:50:43 09/17/16	C Shots Fired	1099 SR 283 N; SHADY TREE	GS204	CLO
16GS11954	10:52:23 09/19/16	D Weapons	1099 SR 283 N; SHADY TREE	GS204	CLO
16GS12013	20:44:00 09/20/16	C Shots Fired	1099 SR 283 N; SHADY TREE	GS204	CLO
16GS12020	23:02:15 09/20/16	C Susp Person	1099 SR 283 N; SHADY TREE	GS204	CLO
16GS12076	21:38:39 09/21/16	C Shots Fired	1099 SR 283 N; SHADY TREE	GS204	CLO
16GS12257	13:09:55 09/26/16	D Theft	1099 SR 283 N; SHADY TREE	GS204	CLO

SUPPORTING DOCUMENT D
CALLS FOR SERVICE TO SHADY TREE RV PARK
JAN 2016- JAN 2017

02/24/17 Grant County Sheriff's Office 1083
10:29 Law Incident Summary Report, by Incident Number Page: 2

Number	Time and Date	Nature	Address	Loctn	Dsp
16GS12473	04:38:27 10/01/16	C Shots Fired	1099 S R 283 N; SHADY TREE	GS204	CLO
16GS12626	22:26:55 10/04/16	C Suspicious	1099 S R 283 N; SHADY TREE	GS204	CLO
16GS12711	09:43:35 10/07/16	D Assault	1099 S R 283 N; SHADY TREE	GS204	CAA
16GS12873	14:26:41 10/11/16	D Physical Dv	1099 S R 283 N; SHADY TREE	GS204	CAA
16GS12991	21:35:02 10/13/16	C Susp Person	1099 S R 283 N; SHADY TREE	GS204	CLO
16GS13049	23:16:15 10/14/16	C Shots Fired	1099 S R 283 N; SHADY TREE	GS204	CLO
16GS13796	11:28:57 10/31/16	B Past Burglary	1099 S R 283 N; SHADY TREE	GS204	CAA
16GS14093	11:25:47 11/08/16	Trespassing	1099 S R 283 N; SHADY TREE	GS204	CLO
16GS14798	10:21:08 11/26/16	B Past Burglary	1099 S R 283 N; SHADY TREE	GS204	CLO
16GS14856	19:40:07 11/27/16	B Past Burglary	1099 S R 283 N; SHADY TREE	GS204	CLO
16GS14910	09:09:54 11/29/16	B Past Burglary	1099 S R 283 N; SHADY TREE	GS204	CLO
16GS14954	10:30:09 11/30/16	C Convulsions	1099 S R 283 N; SHADY TREE	GS204	ACT
166515056	20:11:38 12/02/16	B Theft	1099 S R 283 N; SHADY TREE	GS204	CLO
16GS15077	09:07:07 12/03/16	B Past Burglary	1099 S R 283 N; SHADY TREE	GS204	CLO
16GS15185	18:47:29 12/05/16	B Past Burglary	1099 S R 283 N; SHADY TREE	GS204	CLO
16G515321		09:34:54	1099 S R 283 N; SHADY TREE	GS204	CLO
17GS00561	12/09/16,	Trespassing 22:09:48	1099 S R 283 N; SHADY TREE	GS204	CLO
17GS00581	01/14/17	Suspicious/Want 19:07:06	1099 S R 283 N; SHADY TREE	GS204	CLO
17GS00704	01/15/1/	Trespassing 01:47:02	1099 S R 283 N; SHADY TREE	GS204	CLO
17GS01158	01/19/17	C Shots Fired 12:59:59	1099 S R 283 N; SHADY TREE	GS204	CLO
17GS01793	02/01/17	B Vehicle Theft 15:20:39	1099 S R 283 N; SHADY TREE	GS204	CLO
Total	02/20/17	Trespassing Incidents for This Agency:			

TOTAL INCIDENTS 75

SUPPORTING DOCUMENT E

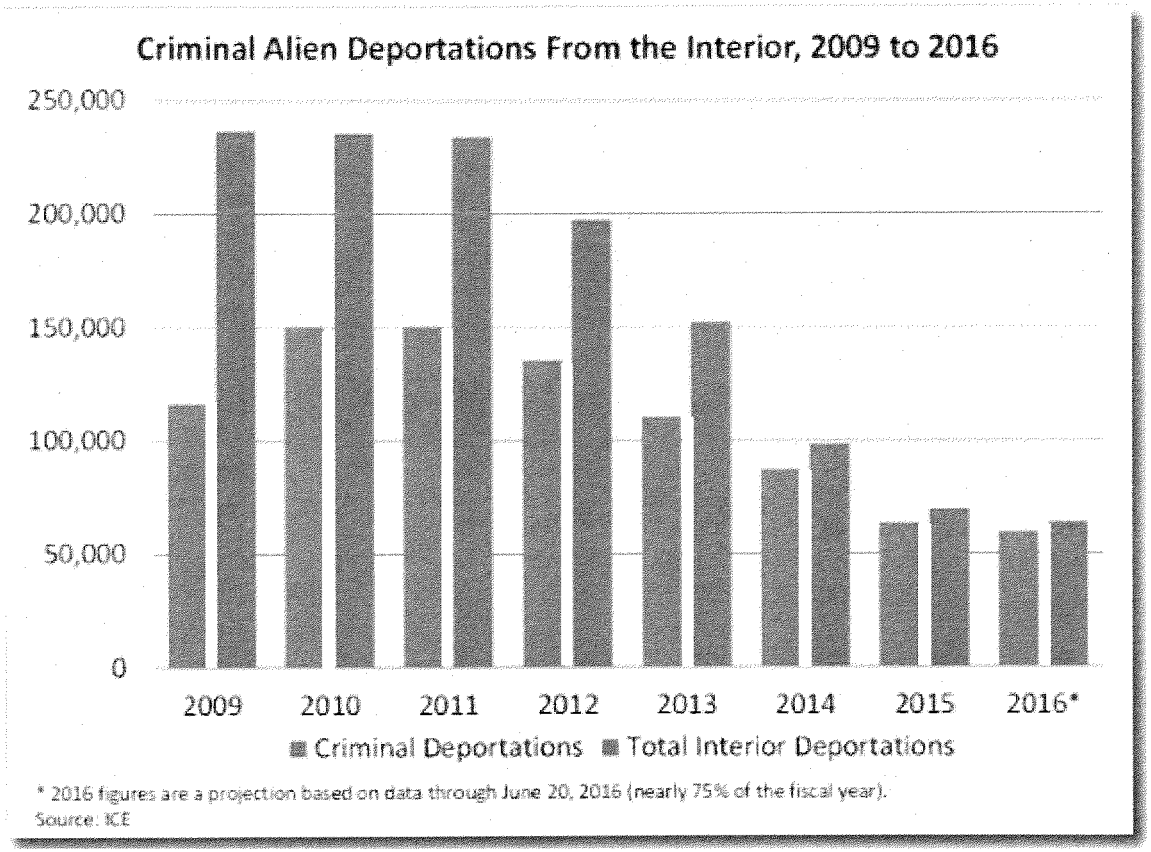
Arrest history of
Pablo Zamora Hernandez
DOB 11/06/1978

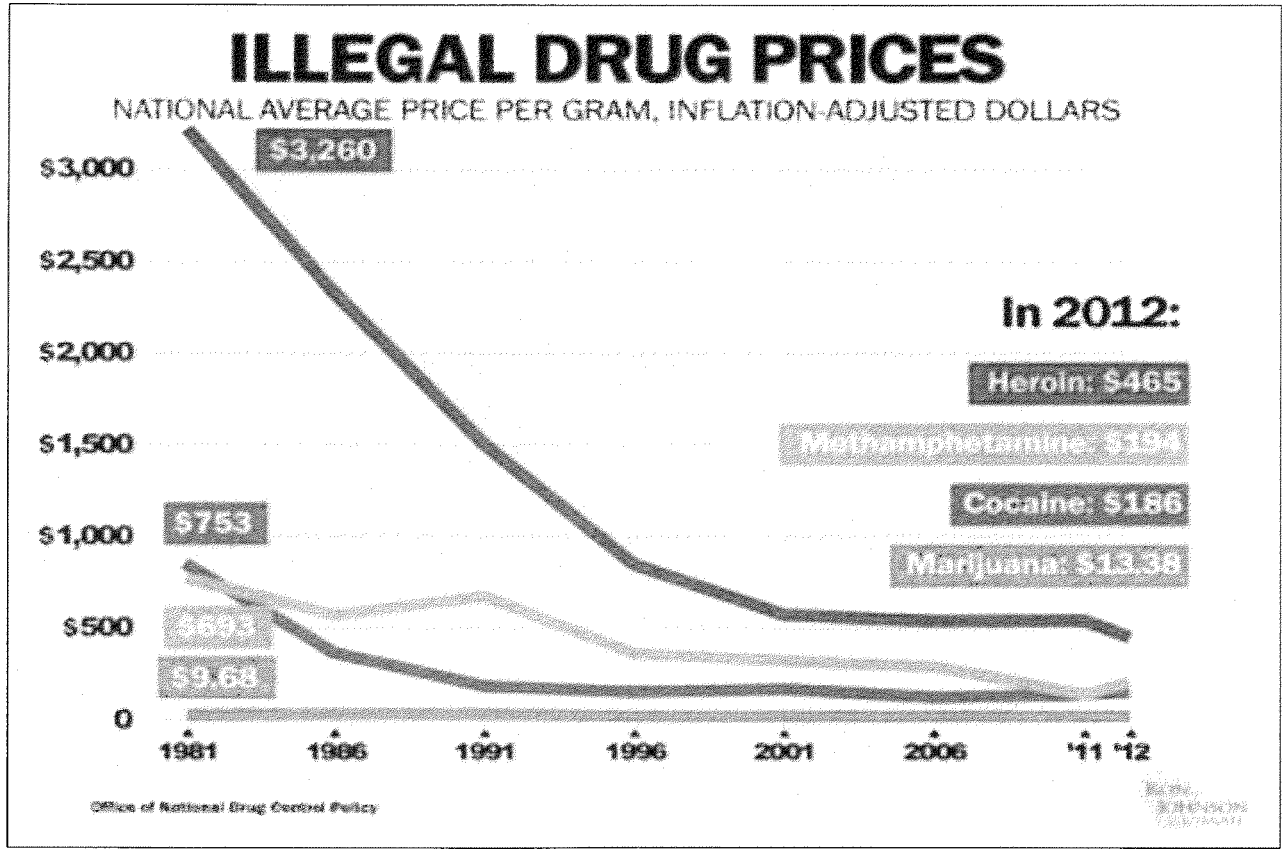
Date	Offense/Activity	Disposition
08/17/97	Arrested for driving under the influence	Released 08/18/97 on a personal recognizance bond.

03/07/99	Arrested for:
	▪ Two district court warrants
	  ▪ One for failure to pay court fines for a third degree theft case
	  ▪ One for driving a vehicle without a valid driver license
	▪ New charges: third degree driving while license suspended and giving false information
		Released 03/07/99 on bail

08/05/99	Turned self in to Grant County Jail to serve sentence for third degree driving while license suspended	Released 08/08/99. Sentence complete.
03/27/07	Arrested on: ▪ Superior Court warrant for second-degree assault ▪ District Court warrant for DUI	Pled guilty to the DUI and served a one-day sentence Released 04/24/07 on a $5,000 signature bond for the assault case
06/30/13	Arrested on: ▪ Second-degree assault (new charge) ▪ Superior Court warrant for failure to appear in court on the prior assault charge ▪ District Court warrant for failure to appear in court on the prior DUI charge	Served 285 days in jail: ▪ 60 days in jail on the DUI. ▪ 180 days in jail on the older assault charge ▪ 45 days in jail for recent assault charge Release 01/29/14 to ICE
09/13/15	Arrested for: ▪ Fourth degree assault (domestic violence)	Released 09/13/15 on a personal recognizance bond
01/09/17	Arrested on immigration detainer	Released 01/10/17 to ICE
01/24/17	Arrested for second-murder (Sundberg homicide)	Currently in custody

Source: Grant County Sheriff's Records Division


Criminal Alien Deportations From the Interior, 2009 to 2016
250,000
200,000
150,000
100,000
50,000
0
2009
2010
2011
2012
2013
2014
2015
2016*
Criminal Deportations
Total Interior Deportations
* 2016 figures are a projection based on data through June 20, 2016 (nearly 75% of the fiscal year).
Source: ICE


ILLEGAL DRUG PRICES
NATIONAL AVERAGE PRICE PER GRAM, INFLATION-ADJUSTED DOLLARS
$3,000
$2,500
$2,000
$1,500
$1,000
$500
0
$3,260
$753
$693
$9.68
In 2012:
Heroin: $465
Methamphetamine: $194
Cocaine: $186
Marijuana: $13.38
1981
1986
1991
1996
2001
2006
'11
'12
Office of National Drug Control Policy

1
2
3
4
5
6
7 IMMIGRATION POLICY FORUM
8
9 TRANSCRIPT OF PROCEEDINGS
10
11
12 HOSTED BY
13 SENATOR KAMALA D. HARRIS (CALIFORNIA)
14
15 Entered into the record of the Senate Committee on
16 Homeland Security and Government Affairs
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2 PANEL MEMBERS

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4 HONORABLE KAMALA D. HARRIS, UNITED STATES SENATOR
(CALIFORNIA)

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SHERIFF JIM MC DONNELL,
6 COUNTY OF LOS ANGELES

7 KENNY SALAS,
CAMINO FINANCIAL

8

9 ANTHONY NG,
ASIAN AMERICANS ADVANCING JUSTICE IN LOS ANGELES

10

11 ANGELICA SALAS,
COALITION FOR HUMANE IMMIGRANT RIGHTS OF LOS ANGELES

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13 MARIELENA HINCAPIE,
NATIONAL IMMIGRATION LAW CENTER

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16 AUDIENCE MEMBERS

17 ANDREA VALLES,
SECRETARY/TREASURER OF SEIU WORKERS WEST.

18

19 ANDREA GUERRERO,

EXECUTIVE DIRECTOR, ALLIANCE SAN DIEGO.

20

21 CHRIS NEWMAN,
NATIONAL DAY LABORER ORGANIZING NETWORK

22

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1 LOS ANGELES, CALIFORNIA, WEDNESDAY, FEBRUARY 22, 2017

2 10:38 A.M.

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6 SENATOR HARRIS: Welcome everyone.

7 I'm glad that we were able to convene so many

8 leaders under one roof to have a conversation today to

9 share information, to share ideas, to talk about a

10:38 10 strategy and highlight some of the best work that's

11 happening in the country around the support and the work

12 that we need to do to make sure that we are true to the

13 values that we have as a country.

14 I will say that in these times I find myself

10:38 15 often thinking about this point, which is, flawed though

16 we may be, we are a great country. We are a great
17 country. And part of what makes us great is we are a
18 country that was founded on certain ideals; the ideals
19 that are present in the First Amendment; the ideals that
10:39 20 are present when we talk about the freedom of information
21 and association; the ideals that are present when in 1776
22 we said: we are all and should be treated as equals.
23 These are the ideals upon which our country was
24 founded. And this is a moment in time that is
10:39 25 challenging us to fight for those ideals.

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10:39 1 And in fighting for those ideals we are being
2 patriots. We are doing this because we love our country
3 and we are going to fight for the best of who we are.
4 So with that spirit in mind, I welcome everyone
10:39 5 to our forum. As your newly elected senator I'm very
6 proud to be here and to represent our great state, great
7 State of California.
8 And I am here, also, more specifically, in my
9 role as a member of the United States Senate Committee on
10:40 10 Homeland Security and Government Affairs.
11 And this committee, as many of you know,

12 provides oversight over the nation's principal
13 immigration agency, which is the United States Department
14 of Homeland Security.
10:40 15 So that is the reason and the purpose for this
16 convening today. I am here as an official member of that
17 committee. And what we will be doing is having a
18 discussion that will actually be transcribed by a court
19 reporter, and a full transcript of today's forum will be
10:40 20 placed in the official United States record on this
21 issue, and the committee's proceedings on immigration and
22 the administration's executive actions as they relate to
23 immigration.
24 So when I go back to Washington, D.C., we have
10:41 25 a date that is -- can you tell me the date, please?

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10:41 1 THE FLOOR: March 1st.
2 SENATOR HARRIS: March 1st is the date when we're
3 going to be submitting the hearing. We just got the date
4 from D.C.
10:41 5 So that is the purpose and the spirit behind
6 why we are here. And to set the table, I'll say that as
7 we all know, over the last few weeks this new

8 presidential administration has issued an unprecedented
9 series of executive actions. And these actions have been
10:41 10 directed at and targeting our immigrant communities, our
11 Muslim communities.
12 And so we know that through these executive
13 actions also that it is clear there's now more widespread
14 detention of immigrants with far less prioritization than
10:42 15 existed before. We know this based on also the executive
16 action that just came down yesterday.
17 We also know that this administration has not
18 made a firm commitment around its policy as it relates to
19 the 250,000 Dreamers. Many of you may know that as a
10:42 20 member of the committee on Homeland Security I actually,
21 on the record twice, questioned General Kelly during
22 those hearings on whether the administration, and his,
23 the director of this department, would honor the promise
24 we made to those Dreamers, to those DACA kids, when we
10:42 25 said that if they give us the information that is

5

10:42 1 necessary to vet them so that they qualify for DACA, we
2 said we would not share that information with ICE.
3 And I asked him twice on the record to confirm

4 that we would keep our commitment to those young people
10:43 5 who I described correctly as being college students,
6 enlisted people in our military, young people who are
7 working for Fortune 100 companies.
8 I asked him if he would keep that promise, and
9 he would not commit to keeping that promise.
10:43 10 And there is nothing about the executive
11 actions at this point that has made clear that we are
12 going to keep that commitment as it relates to those who
13 may be swept up in the most recent executive action that
14 came down yesterday, which is a broad definition of who
10:43 15 can be detained, including those who might be charged
16 with a crime, any level of crime.
17 Last week we even saw some in the
18 administration float the idea of dispatching 100,000
19 members of the National Guard to participate, which is of
10:43 20 course shocking, the thought of it, especially for us as
21 California where we have experienced huge harm in terms
22 of natural disasters.
23 I'm going to later this week tour the dam. I
24 am corresponding with the Mayor of San Jose around the
10:44 25 harm that the flooding has caused to his residents.

10:44 1 The National Guard was charged, and is charged,
2 in our system of government for helping with national
3 disasters, natural disasters, not doing something like
4 the work of ICE. So these are obviously troubling words
10:44 5 and perspective that we're hearing from the
6 administration.
7 And let's be clear that these issues are not
8 only troubling in terms of just what is morally right,
9 what is right in terms of who we are and what our ideals
10:44 10 are as a country. These administrative actions also harm
11 us economically as a state and as a country.
12 In California 44 percent of Fortune 500 firms
13 were founded by immigrants or their children. This
14 includes household names like eBay, Yahoo and Qualcomm.
10:45 15 This also includes brand-new companies.
16 In 2015 in L.A. County alone, six of the 13
17 Fortune 500 companies were founded by immigrants or their
18 children. It's obviously a huge share of our economy.
19 In California immigrant-owned businesses and
10:45 20 firms generate - immigrant-owned businesses and firms
21 generate - $20 billion a year. And those businesses are
22 giving back to California as we know. In 2014 immigrants
23 paid $56.5 billion in state and local taxes. 56 billion,

24 with a "B" dollars in state and local taxes.

10:46 25 And, of course, these bans and these actions

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10:46 1 not only cost us in terms of our economy but do cost us

2 in terms of public safety.

3 As a career prosecutor I have long known and

4 seen that those who would commit crimes against

10:46 5 immigrants will always have in their tool belt to look at

6 the victim and say: if you report the crime against you -

7 be it rape, domestic violence, fraud - if you report the

8 crime against you, it is you who will be treated as the

9 criminal.

10:46 10 And let's be clear: when any predator is

11 empowered to think they can get away with their crime,

12 all of us are at risk. This is not just about that

13 victim, it is about all of us. And all of us in terms of

14 those of us who pride ourselves in fighting for and

10:46 15 living in a civil society.

16 And as a prosecutor I can tell you, I think it

17 is a serious mistake for us to conflate criminal justice

18 policy with immigration policy as though they are the

19 same thing. They are two policy areas with their own

10:47 20 factors and pathologies and problems and solutions.

21 And it is a mistake for any, any one who holds

22 a position of authority or leadership to conflate the

23 two. And it is only feeding a climate of fear. It is

24 not productive.

10:47 25 I'll also talk about the strain on local law

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10:47 1 enforcement. I know as the former top law enforcement

2 officer of this state, local law enforcement is strapped

3 in terms of the limited resources they have as compared

4 to the job that they are charged with doing.

10:47 5 The job of responding to a call that relates to

6 a homicide; the job of responding to a call that relates

7 to human trafficking; the job of responding to a call

8 that relates to domestic violence or child sexual

9 assault - these police departments have limited resources

10:48 10 and so much work that they take a sincere oath to do.

11 And the notion that we would put on top of them

12 then, and pile on top of them then, beyond their own

13 responsibilities, the job of performing the work of the

14 Federal Government, and in particular our immigration

10:48 15 laws, is just unrealistic. And it is a bad use and

16 distribution of limited resources.

17 So on the public policy in terms of just what

18 is appropriate distribution of resources in a trifurcated

19 form of government - local, state and federal - it's just

10:48 20 a bad idea to require local government to do the work of

21 the Federal Government on an issue like this.

22 Not to mention the fact that I want to know

23 that that victim of a crime will feel that she can run

24 out in the middle of the street and wave down a patrol

10:49 25 car as it is driving by, knowing that will be how she

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10:49 1 receives help and safety, instead of standing back and

2 not doing that for fear that to do that might mean that

3 she is ripped apart from her children.

4 We have to talk about what is the sign of a

10:49 5 civil society. So we are here today to talk about the

6 impact of these actions and the impact that they are

7 having on the streets of Los Angeles, on the streets of

8 California; and I'm going to take these stories back.

9 They will be part of the official record and we will all

10:49 10 be talking about them, but I think it's very, very

11 important, as we all know, that we put dimension on these

12 executive actions; that we put faces and names to what is
13 actually happening because I am sure that there are many
14 well-intended people who don't know or understand what
10:50 15 these actions are actually doing to hardworking families.
16 And so the stories need to be told. And I
17 believe we have the power and the ability to be
18 persuasive in asking people to reconsider how we are
19 approaching these issues and are these the consequences
10:50 20 that we intend, and are these consequences reflective of
21 the ideals of who we are as a country.
22 So with that, I'm going to now turn it over to
23 Sheriff McDonnell. And thank you, Sheriff McDonnell, you
24 are -- you've been extraordinary in terms of your
10:50 25 leadership in Los Angeles and as a great law enforcement

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10:51 1 leader and a colleague to me.
2 And thank you for being here.
3 SHERIFF MC DONNELL: Thank you, Senator.
4 Good morning everyone, and thank you for the
10:51 5 opportunity to be able to talk on this issue.
6 We've heard a lot of rhetoric over the campaign
7 season and since that time and trying to translate that

8 into what does that mean for people here in Los Angeles.

9 We're committed to public safety. We're

10:51 10 committed to working with all of the residents of L.A.

11 County to be able to ensure that everybody is as safe as

12 they can possibly be.

13 So in doing that we continue to do business in

14 a way where we don't stop people on the street to find

10:51 15 out what their immigration status is. We have no

16 interest in that. We do the job. We try and work with

17 every community that we are privileged to have the

18 opportunity to protect and to serve.

19 And in doing so our currency is trust, is

10:51 20 credibility. And if people are afraid to come forward,

21 then we can't do the job the way it needs to be done. We

22 can't fulfill our obligation to protect our society.

23 So as we move forward, we plan on continuing to

24 do things the way we have been doing them, the way

10:52 25 that -- the foundation of trust that we've been able to

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10:52 1 build. We want to be able to further build on that. We

2 want none of that to erode in any of our communities.

3 Community policing, policing and public safety

4 is a team sport and we can only do it well if we do it
10:52 5 all together. So we've learned a lot of lessons over the
6 years. We're in a position now where I think we have a
7 strategy to be able to deal with the issues of the day in
8 a way that protects our communities, that enables us to
9 be able to maintain the level of trust that we've worked
10:52 10 hard to achieve; but at the same time we're able to use
11 the tools necessary to remove true predators from our
12 communities as well. And that's a balance that we have
13 to try and achieve.
14 There's people on one side that will say, you
10:52 15 know: don't talk to ICE at all. There's people on the
16 other side that, you know, completely cooperate with ICE
17 and work with them and go to the other extreme.
18 I think probably the right answer is somewhere
19 in the middle in that HSI, a part of ICE, is probably our
10:53 20 best partner on sex trafficking and on dealing with some
21 very difficult issues. They're very, very helpful to us.
22 So the task forces that we're on - and there is
23 some that would like us to remove ourselves from any task
24 force that ICE is involved in or that there's any
10:53 25 immigration issues addressed in those task force - the

10:53 1 Joint Terrorism Task Force, the Joint Regional
2 Intelligence Center; a lot of the ways with limited
3 resources, as the Senator mentioned, that we're able to
4 get the job done is in task force configuration by using
10:53 5 the benefits of what others have to offer on federal,
6 state and local partners.
7 So we do that, but we do it in a way where I
8 think we strike that balance between being trusted, being
9 approachable and being what every segment of our
10:53 10 community is looking for. And at the same time being
11 able, with limited resources, to effectively protect
12 everyone across the board.
13 As the Senator mentioned, our responsibilities
14 are very diverse. We go from the day-to-day, day-to-day
10:54 15 crime prevention and solving crimes, to the
16 counterterrorism overlay, and on and on and on.
17 And in the L.A. County Sheriff's Department we
18 not only provide policing services for four million
19 people over 4,083 square miles; but we also do the jails,
10:54 20 the courts, the community colleges, the hospitals, the
21 parks, search and rescue, the MTA.
22 And so we have a tremendous, you know,
23 diversity of responsibility. We are stretched very thin.

24 So as the Senator mentioned, even if someone was inclined
10:54 25 to try and do what some would like, the personnel

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10:54 1 resources are not there to be able to achieve that,
2 certainly at the local level here. And I would argue
3 that any police chief or sheriff across America would
4 argue that as well.
10:54 5 So my commitment is to continue to be in a
6 position where we're serving all aspects of our
7 community, all members of our community across the
8 county, and to be able to work with all of our partners
9 to ensure the safety of everybody who resides in
10:55 10 Los Angeles County. Thank you for this opportunity.
11 SENATOR HARRIS: Thank you, Sheriff.
12 Next I'm going to turn it over to Kenny Salas,
13 who co-founded an online lending site that helps connect
14 small business owners who are first-time borrowers to
10:55 15 those who have had a hard time getting a loan with banks
16 and other lenders.
17 Kenny, thank you for being here and for telling
18 your story and representing our community and our state
19 so well. And perhaps you can share a bit, also, about

10:55 20 the economic impact and significance of these executive
21 actions.
22 KENNY SALAS: I would love to do that. And really I
23 want to share the perspective of not only an entrepreneur
24 but an entrepreneur that is the son of an immigrant that
10:55 25 came from Mexico.

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10:56 1 The power that immigration, the immigration
2 story has, as an entrepreneur, transcends multiple
3 generations. She moved out -- my mother moved out here
4 in the '50s from Mexico and she, in her teens, opened a
10:56 5 taco stand; and this transformed into about 25 fast food
6 restaurants that she opened in Los Angeles called The
7 Mexicana.
8 The only degree she had was a beauty
9 certificate that she got at a community college out here,
10:56 10 but she had the entrepreneurial spirit.
11 Unfortunately, as her business grew, it just
12 became a little too much to manage. Right? As you think
13 about the cost of -- different costs of managing a
14 business, it was above her means.
10:56 15 And unfortunately, she closed her restaurants.

16 And my brother and I moved to Mexico with her and -- but
17 always had wanted to move back to the United States to
18 repursue that American dream that my mother had at her
19 grasp. And that really inspired us to eventually get our
10:57 20 education after we worked on Wall Street for five years
21 and eventually get our degree at Harvard and to incubate
22 this concept of Camino Financial, a technology company
23 with the mission of serving underserved businesses.
24 And I'm proud to say that currently we are an
10:57 25 employer of 17 people out here in Los Angeles, the

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10:57 1 representative of seven different countries. So
2 immigration in that spirit is inherent in the DNA of
3 Camino Financial.
4 And, also, 70 percent of the businesses we help
10:57 5 are owned by immigrants. And despite what is going on in
6 Capitol Hill, Camino Financial is redoubling its effort
7 to invest in this community. We're raising an additional
8 $10 million. Currently we have 1,200 applications come
9 in every month from the -- from small business owners
10:58 10 seeking capital and also advisory.
11 In order to illustrate the economic impact that

12 a loan can have is, in many ways, when business owners
13 come, there are many family-owned businesses informally
14 run. I'll be the first to say that the majority of them
10:58 15 probably don't reflect everything on their taxes.
16 What does that mean? And that's not only
17 immigrant companies, that's across the spectrum. So let
18 me be very clear on the record: across the spectrum.
19 Okay?
10:58 20 Being able to give that business owner capital
21 incentivizes them to report their taxes, to pay more
22 taxes to the government, to enter into the formal
23 economy. And I'll give you one illustrative example:
24 Gabriel Latuga. He owns a specialty manufacturing
10:59 25 company in Palm Springs. And we were able to give him a

10:59 1 $250,000 loan when he was not able to secure this capital
2 from a bank.
3 I'm proud to say that with that capital he,
4 within a year he hired four more people to his business,
10:59 5 and he grew the top line and the bottom line by over
6 double digits.
7 So capital can really serve as a driver, not

8 only to incentivize people to formalize their business
9 and enter into that - to the formal economy - which we
10:59 10 can really help them; and they can take advantage of the
11 resources, such as those offered by the Small Business
12 Administration. But in addition to that, it gives them
13 the capital to grow their business and employ more people
14 in this beautiful state. Thank you.
11:00 15 SENATOR HARRIS: Thank you, Kenny.
16 Next, I want to welcome Anthony Ng of Asian
17 Americans Advancing Justice organization. He applied for
18 and qualified for protection under DACA and, as a result,
19 he has been contributing to our state and our nation in a
11:00 20 pretty significant way.
21 Welcome, and thank you for being here.
22 ANTHONY NG: Thank you so much, Senator Harris.
23 My name is Anthony Ng. I came to the
24 United States from the Philippines when I was 12 because
11:00 25 there was an economic crises in Southeast Asia that

11:00 1 bankrupt our small business in the Philippines.
2 When I first moved to the United States, I
3 didn't know what my life was going to be like. All I

4 knew was I was with my family.

11:00 5 When DACA happened in 2012, I remember waking

6 up one morning, looking on my social media feed and

7 seeing some buzz around the president making an

8 announcement around deferred action. So I didn't know

9 what that meant. I was, like, this must be some sort of

11:01 10 joke. Until I really understood what was happening.

11 That day was actually my first day interning at

12 Asian Americans Advancing Justice, and there was an

13 opening retreat for the program that I was part of.

14 And I remember seeing the announcement with

11:01 15 about 150 undocumented youth and really understanding

16 that DACA was an organizing victory led by undocumented

17 youth that was won by the immigrant community; and,

18 really, that allowed me to understand the power that we

19 have as community members, as immigrant communities.

11:01 20 And although I did have hesitation about

21 applying for DACA in the beginning: like, what does this

22 mean? Why am I going to give my information to the

23 government? For someone that's lived, "quote unquote,"

24 in the shadows for the longest time, to be able to give

11:01 25 your information to the government. Right? And not

11:01 1 knowing what's going to happen with that.

2 When I applied for DACA - and many of us

3 applied for DACA - we had the faith in this government

4 that our information would be kept confidential; it would

11:01 5 not be using our information for immigration enforcement

6 purpose.

7 And I think just hearing what's happening all

8 over the country and with executive orders and the folks

9 in D.C., really not feeling confident that that is going

11:02 10 to be -- that trust that I had was going to be upheld.

11 Right? And a lot of us that are DACA recipients are

12 scared of what's going to happen, not just to us. Right?

13 I think it's beyond me. It's beyond folks who

14 have DACA. It's about our families and about the

11:02 15 communities that we live in. Right? What happens to

16 those information knowing that we all live in mix-status

17 families, and how is that going to be used against us,

18 immigrants who do live in mixed-status families?

19 And I think -- although DACA did have a lot of

11:02 20 positive impact. Like I remember graduating from college

21 in 2011 thinking I had no future and being able to get

22 out of the depression and being able to -- like, I did

23 have a future. Right? Like, even though it was a

24 two-year incremental kind of period - process - it has
11:03 25 allowed me to be able to think beyond like the next day

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11:03 1 or the following week, how am I going to be able to
2 survive?
3 And I think it allowed me to really harness my
4 passion for social justice and immigrant rights work, and
11:03 5 be able to do that in a nonprofit setting. Right?
6 So I've been doing immigrant rights work for
7 the past five years, working on various issues from
8 immigration reform in 2013 to some of our most proactive
9 immigrant agenda here in California, which is a driver's
11:03 10 license, some of the really great policies we've had.
11 I've had the pleasure of working with folks here on the
12 panel, around some of our local work, disentangling ICE
13 with local law enforcement.
14 And it's really great to have Sheriff McDonnell
11:03 15 here next to me, really having to talk about how to make
16 L.A. County as safe as possible. And really, the trust
17 that needs to be further built between the law
18 enforcement and our communities.
19 I think DACA has different impacts on different

11:04 20 folks. Right? I think it does create a sense of ease
21 that you're not necessarily the target for priority of
22 enforcement. Right? But you know as yesterday, seeing
23 that, it really is chaotic. Right? We don't know, like,
24 DACA folks will be second priority, third priority,
11:04 25 fourth priority. Right?

20

11:04 1 Like I think there is a sense of anxiety of
2 what's going to happen with information that's out there
3 or what's going to happen to the program and what
4 precedent does this create for our government - right -
11:04 5 to say that we are creating this program and then take
6 back the word and actually use it against the folks who
7 apply for it. Right?
8 So I think, as a DACA recipient, I'm going to
9 continue fighting with the immigrant community to ensure
11:04 10 that folks are not marginalized, that folks -- the
11 numbers that we're hearing. Right? Like the amount of
12 folks from DACA, the amount of undocumented folks in this
13 country - that it's not just about the numbers: it's
14 really about the human face of it. Right?
11:05 15 Whether it's the people that got caught in the

16 raids that happened a couple of weeks ago, or even the
17 folks that are here on the streets, fearful of what's
18 going to happen to them, to their families, or the kids
19 that don't know what's going to happen to their parents
11:05 20 who might be stranded in school, not knowing are their
21 parents going to be able to come because their parent got
22 caught up in the raids.
23 I think we're in a very unique time in our
24 country's history where we are really figuring out our
11:05 25 values as a country. Are we welcoming folks from all

11:05 1 sorts of walks of life. Right? Are we really harnessing
2 the talents and the contributions, not just economic
3 contributions of immigrants but the social, economic and
4 cultural contributions of immigrants?
11:05 5 SENATOR HARRIS: Next I want to introduce Angelica
6 Salas who is a tremendous leader and has been doing a lot
7 of work through CHIRLA for people in Los Angeles, but
8 really statewide and nationally.
9 Thank you, for your partnership.
11:06 10 ANGELICA SALAS: I really want to begin by saying
11 thank you for bringing us together in this very important

12 moment. So thank you for your leadership,
13 Senator Harris. We're very proud to have you as our
14 senator from California.
11:06 15 CHIRLA's mission is to advance the human and
16 civil rights of immigrants and refugees and to build a
17 just society in which immigrants are included.
18 I, myself, am an immigrant from Mexico. My
19 parents came here in the '70s as undocumented workers,
11:06 20 and I and my sister joined them when we were four and
21 five. The '70s were a period in our country where there
22 were mass roundups: mass roundups in factories, mass
23 roundups in communities.
24 I know that because that is the experience that
11:07 25 my family had where my mother was picked up from a

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11:07 1 garment factory, and -- as that factory was raided. And
2 uncles and aunts have similar stories of being picked up
3 in that way. And just not feeling safe. Not feeling
4 safe at work; not feeling safe in the community. And I
11:07 5 am so concerned that we're going back to that moment of
6 mass roundups in this country.
7 So I want to be very, very clear today that our

8 immigrant families are feeling terrorized. They're
9 feeling attacked. They're feeling vilified; they are
11:07 10 being vilified; and all their contributions - everything
11 that they give to this country - is being absolutely
12 ignored. They are being painted as individuals who they
13 are not. They're contributors. They're builders of this
14 nation. They're strivers for their families. They are
11:07 15 good people. They are Americans in every way.
16 The administration's executive orders that we
17 have seen are moving forward an agenda which is to
18 destroy families, plain and simple, and to attack whole
19 communities simply because of their religion, simply
11:08 20 because of what country they were born in.
21 And simply because our elected officials have
22 failed them in passing immigration reform in a system
23 that is just, in a system that is modern, in a system
24 that's going to actually allow for legal entry into this
11:08 25 country and not ballooning the undocumented migration

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11:08 1 into this nation.
2 It is a system that has not been -- that
3 refuses to recognize that individuals are fleeing for

4 their lives. People are in peril of losing their lives,
11:08 5 that is why they're coming to our nation as refugees,
6 whether they be from Syria, whether they be from many
7 countries in Africa, Asia or right down near us in --
8 both in Mexico and in Central America.
9 We're denying the fact that they need refuge.
11:09 10 They don't need more attacks, and they don't need denials
11 of their rights.
12 On February 8th and 9th in Los Angeles we saw
13 ICE sweeps. So for the community all that was promised
14 during the campaign and all that was written in paper on
11:09 15 an executive order now has become a realty in their
16 lives. In Los Angeles we had six Southland counties
17 targeted, 161 people picked up. Fifty-five neighborhoods
18 in which individuals saw people being picked up at their
19 jobs, at their homes and in their communities.
11:09 20 Individuals were picked up - were picked up -
21 in these different places, and all of these actions were
22 witnessed by their families, by their coworkers, by their
23 neighbors.
24 That is why at CHIRLA we received thousands of
11:09 25 calls from individuals who were reporting ICE in their

11:10 1 neighborhoods. They wanted to tell us what was
2 happening. ICE denied it. ICE denied that this was
3 happening in our communities.
4 But because of the pressure of individuals like
11:10 5 Senator Harris, our members of Congress, our local
6 elected officials and people of goodwill - they had to
7 force, come forward, with the information that, yes,
8 these kinds of raids were happening. And they weren't
9 just happening in Southern California. They were
11:10 10 happening all over the country.
11 The human cost is severe, and I'm most worried
12 about the children who are witnessing these actions.
13 Many of these children are being left behind without a
14 father, without a mother. Many of these children are
11:10 15 U.S. Citizens themselves.
16 For many of these individual families who are
17 mixed status, what is happening is many of the
18 individuals who are being picked up are the main
19 breadwinner; that is why they're being picked up at work.
11:11 20 I want to just really emphasize this. They
21 weren't being picked up doing illicit behavior. They
22 were being picked up at work and with their families. So
23 what we're doing in terms of the -- it's the human cost,

24 but it's also the economics to those -- economic cost to

11:11 25 those families where they don't -- no longer have a bread

25

11:11 1 winner.

2 And it's basically also leaving the family in

3 total trauma. Trauma about what has happened in the

4 destruction of their family, but also economic ruin.

11:11 5 What I know is that people do not feel safe,

6 and that is why we're also getting calls from legal

7 permanent residents. Legal permanent residents who feel

8 that even though they are legally in this country, who

9 have a permanent ability to stay in this country, they

11:11 10 want to become citizens because they don't believe their

11 legal permanent residency status is going to be honored

12 or respected.

13 So every day at our organization we have

14 individuals coming forward. And I know that many of my

11:11 15 sister organizations, whether its CARCEN, and others, are

16 seeing the same -- the same thing: individuals saying I

17 need to become a citizen because I don't think I, a legal

18 permanent resident, will be protected.

19 Finally, the cost of these enforcement actions

11:12 20 are exorbitant. The Center for American Progress did a
21 report in 2010 that basically stated that if we were to
22 deport 8 to 9 million people, it would cost us
23 $285 billion to deport this amount of people as promised
24 right now by Donald Trump.
11:12 25 Imagine this: $285 billion over a five-year

26

11:12 1 period to deport 8 to 9 million people - and they want to
2 do it faster. And so, imagine what we could do with
3 $285 billion invested in education, in housing, in health
4 care, and, yes, in the U.S. Citizenship and Immigration
11:12 5 Services, so that we actually could fund the departments,
6 to process legal paperwork so people can come in legally,
7 and their asylum claims and their citizenship
8 applications can be processed even faster.
9 This is a wrong way for our country to move
11:13 10 forward. We as citizens of this nation, as individuals
11 who believe in the values of liberty and justice, should
12 not accept what's happening right now.
13 Yesterday we saw the work plan, the way that
14 the executive orders are going to be implemented. And be
11:13 15 clear, we're going back to -- and I want to be clear - we

16 are going back to the time of mass roundups. And they
17 want to use our local law enforcement, as they call them,
18 as force multipliers.
19 We cannot allow this to happen. We need to
11:13 20 speak up, and I know good people all over this country
21 are speaking up. We need to stop this, and stress, and
22 show that Americans believe in justice, in due process;
23 and we believe in family; and we believe in fairness.
24 Thank you very much.
11:13 25 And I want to actually enter into the record a

11:14 1 letter with many of our concerns to Senator Harris so
2 that it can be entered into the record.
3 Thank you very much.
4 SENATOR HARRIS: It will be entered into the record.
11:14 5 Thank you.
6 And we have Marielena Hincapie, who is another
7 of our distinguished panelists. She is the executive
8 director of the National Immigration Law Center, and a
9 leader -- another leader, as everyone at this table,
11:14 10 around these issues, but particularly the pro bono legal
11 services component of this issue.

12 MARIELENA HINCAPIE: Thank you, Senator Harris.

13 And thank you for your leadership and for not

14 only representing us in Washington but here.

11:14 15 Many of us, this is our second time meeting

16 with you and you've only been in office for, I believe,

17 exactly a month. So that, again, it just speaks to, you

18 know, just speaks volumes on your leadership; and also

19 want to thank you on behalf of the National Immigration

11:14 20 Law Center for working with us to reunite literally a

21 Syrian family that was detained at LAX, and Lin, and

22 their 18-month-old son. Thank you very much for that

23 work.

24 So these are very dangerous times. I'm just

11:15 25 going to be really blunt. We are living in a period

11:15 1 where racism, xenophobia, hatred is the policy of the day

2 coming from Washington, D.C., from the White House.

3 I'm also an immigrant. I'm an immigrant from

4 Columbia. My father was a guest worker. He was

11:15 5 recruited to work at a time when textile, skilled textile

6 worker was considered a skilled worker. And he came.

7 And we were able to come actually with green cards

8 eventually in the 1970s.

9 My parents made a sacrifice to come to the

11:15 10 United States because they were fleeing poverty and

11 violence in Columbia. They came to the United States the

12 same way that millions, millions of immigrants and

13 refugees have come throughout our history.

14 That notion that our country can be a place

11:16 15 that welcomes people of all nationalities, of all faiths,

16 of all races, that we can come to this country and become

17 thriving individuals who can fulfill our full human

18 potential. Look, my father had a second-grade education.

19 My mom had a fifth-grade education.

11:16 20 Never in their dreams did they think that I

21 would be a lawyer today, sitting next to a senator of the

22 United States. Honestly, my parents, my father, thought

23 that I should become a nail salon owner.

24 He was an entrepreneur, speaking of

11:16 25 entrepreneurs. Right? He really didn't know, but he

29

11:16 1 knew this: so that hair salon and nail salon, that

2 will -- that will allow you to make a living.

3 But they also believed in the power of

4 education: the power of education as an equalizer and a
11:16 5 pathway out of poverty. That dream that they were
6 actually able to fulfill, my ten brothers and sisters,
7 all of us, are now contributing to this country as small
8 business owners, as educators, as health providers, a
9 biochemist, a corporate manager. I mean, we fulfill all
11:17 10 these different roles in society, and we are just a
11 sample of the immigrants that make this country great.
12 What is at stake today is that the White House,
13 and the person who is occupying that White House, has now
14 said that every immigrant is now a priority.
11:17 15 Yesterday the implementing memos that were
16 issued clarify, and the FAQ's, the fact sheets that were
17 issued with them. And yesterday on the call that the
18 White House and the Department of Homeland Security had
19 with media's - they clarified that everyone is now a
11:17 20 priority.
21 There are no longer any priorities: whether
22 you've been convicted of any crime, whether it's murder
23 or whether it's street vending, whether you have been
24 charged with a crime, even if you were charged for
11:17 25 mistaken identity.

11:17 1 We live in a country where our Constitution
2 protects everyone and demands that everyone is innocent
3 until proven guilty. But this administration is saying,
4 no, that does not matter for immigrants. If you've been
11:18 5 charged with a crime, you are now a priority for
6 deportation.
7 This administration also says, if you have
8 committed an act that could be interpreted to be a crime.
9 Just think at how Kafkaesque and dangerous that is: you
11:18 10 have committed a crime, or you committed some kind of act
11 that could be interpreted as a crime.
12 And then yesterday in a footnote they said the
13 guidance from November of 2014 that protects you as
14 citizen parents of children, that's going to be dealt
11:18 15 with in a future guidance. Our understanding is that
16 this administration is also prioritizing parents of U.S.
17 citizen children. They are now equal game.
18 DACA, as Anthony mentioned, we have no
19 guarantee that DACA will -- actually, in fact, the draft
11:18 20 executive order terminates DACA.
21 We also have no guarantee that all of the
22 priorities and guidances that have been put in place
23 because of the hard work of people in this room and

24 across the country under the Bush administration and to

11:19 25 the Obama administrations so that ICE cannot conduct

31

11:19 1 raids in sensitive locations.

2 What are sensitive locations? They are our

3 churches and temples; they are our health clinics, our

4 schools, our courts. There is no indication that that

11:19 5 continues to be on the books any more.

6 All of the guidances have been rescinded by

7 this administration. Travel and Muslim ban - fortunately

8 the courts are serving as a firewall.

9 We at National Immigration Law Center have sued

11:19 10 both, along with our partners at the International

11 Refugee Assistance Project, ACLU and Yale. That was the

12 initial lawsuit at -- with Mr. Darweesh and Mr. Alshawi

13 over at JFK, including everybody who was detained at

14 airports. We separately have filed a lawsuit against the

11:19 15 entire executive order in Maryland, but that is being

16 rewritten.

17 We, in any moment now, can, at least for the

18 next few hours or tomorrow, expect to see the revised

19 travel ban and Muslim ban. They are not stopping there.

11:20 20 And so I will close by saying that we at the
21 National Immigration Law Center are committed to working
22 with every single one of you.
23 And I say every single one of you because we
24 need everyone in the room. We need the media. This is
11:20 25 an administration that believes in alternative facts.

32

11:20 1 Yesterday on that call they said, this is
2 nothing different. The community is the one that's --
3 its notion of mass deportation is a figment of the
4 imagination of communities. This is what this
11:20 5 administration said yesterday to the media on call
6 explaining what -- the new deportation memo.
7 So it is the media's job to hold them
8 accountable and to speak truth to power. It is the job
9 of philanthropy that is hosting this, the California
11:20 10 Endowment, and private sector and the public sector.
11 It is our job as advocates and organizers, the
12 community leaders, to hold this administration
13 accountable and to work with our local elected officials
14 to ensure that our Constitution and the rights enshrined
11:21 15 in the Constitution continue to protect all of our

16 residents, all of our communities members, all of our
17 family members.
18 So I thank you again, Senator Harris, for your
19 commitment to working with us because we are going to
11:21 20 lose loved ones. We already are losing loved ones and we
21 need to ensure that we try to prevent as much harm as
22 possible. We'll do that through the courts but we must
23 also do that through the halls of Congress and the state
24 legislatures and local elected officials and in our
11:21 25 communities. Gracias.

33

11:21 1 SENATOR HARRIS: Gracias.
2 I'd like that the panel will have a discussion
3 and I'd like to kick it off with a couple of questions.
4 And I'll start with you, Sheriff, but I would
11:21 5 like that also, through this process, this conversation,
6 that we have in the record information that we're giving
7 people who are concerned that they may be caught up in
8 this, and what information we can give them that is
9 helpful to them, in addition to articulating, obviously,
11:22 10 all of our concerns.
11 So, Sheriff McDonnell, I read a study that

12 indicated that there was a questionnaire for Latinos in
13 California. And the response was that 40 percent of the
14 respondents said they would not report a crime against
11:22 15 themselves for fear that they would be deported or they'd
16 be asked about a family member who was not documented;
17 because as we know, and it has been mentioned, we have a
18 lot of mixed-status families: meaning, within one
19 household, or within one family, there are members of the
11:22 20 family who are documented and others who are not
21 documented.
22 So my question to you, Sheriff, is what, as a
23 career law enforcement official - you ran a police
24 department, you run the largest sheriff's department
11:22 25 within the country - what are your concerns about

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11:23 1 unintended public safety consequences of these executive
2 orders?
3 SHERIFF MC DONNELL: Thank you. Great question,
4 Senator.
11:23 5 When I look at it, when I mentioned in my
6 opening that trust is our currency, if people aren't
7 willing to come forward as victims, as witnesses, then

8 the system that we have in place for criminal justice
9 breaks down. So that is a critical component for us, to
11:23 10 be successful is to have -- serve a populace that's
11 willing to step up and to be able to say: hey, I was a
12 victim of a crime and -- or: I was aware of a crime and I
13 want to stand up and be able to raise my right hand and
14 testify, how to hold people accountable for their
11:23 15 actions.
16 The criminal element in our communities use the
17 fear and the anxiety that's in the immigrant communities
18 against us, against the victims in an effort to be able
19 to do what they want.
11:23 20 Many of our gang members frequently will tell
21 people: hey, don't call the police. You'll be deported.
22 And they use that leverage to be able to do what it is
23 they want to do and prey on the most vulnerable in our
24 communities.
11:24 25 So our goal is to be able to get out there and

35

11:24 1 be very clear on what we do and what we don't do. And
2 we're there for the people that we serve. Our focus is
3 on crime prevention, crime control and dealing with the

4 challenges that people face. We are not an arm of
11:24 5 immigration, and so we want to be very clear about that.
6 I had the opportunity to meet last week with
7 the Consul General of Mexico here in Los Angeles; and
8 we're moving forward to be able to try and do something
9 together that -- where we can, on Spanish-speaking
11:24 10 television, particularly, to be able to talk to people
11 and to ease that level of anxiety that we've seen and
12 hopefully be able to take a leadership role in that.
13 And I think what we do here in Los Angeles
14 could well be replicated in cities around the country.
11:24 15 SENATOR HARRIS: So you are seeing a level of
16 anxiety on the streets as a result of these orders?
17 SHERIFF MC DONNELL: A level of anxiety,
18 anecdotally, when we looked, and we did, at the number of
19 crime reports in -- particularly in our immigrant
11:25 20 communities, we have not seen a decrease, we have seen an
21 increase, in fact. So that leads us to believe that what
22 we're doing here locally is having a positive impact, and
23 that people are still willing to come forward and be part
24 of the system.
11:25 25 SENATOR HARRIS: And what would your recommendation

11:25 1 be for your colleagues around the country in terms of how
2 they should be responding to the anxiety in their
3 communities to the extent that it will have an impact on
4 the public safety of their jurisdiction?
11:25 5 SHERIFF MC DONNELL: I think a lot of them are doing
6 it. I was last week in D.C. for a meeting with major
7 county sheriffs and major city chiefs. And we met with
8 some of the -- some of the representatives of the new
9 administration. And we're very clear about what our
11:25 10 concerns were, what our challenges are, and what we see
11 as the best path for moving forward.
12 And I think people -- I think people would be
13 surprised at the belief and the feeling of major city
14 chiefs, major county sheriffs, that as we move forward
11:25 15 our primary focus is, as I just said, is on protecting
16 the people that are in our jurisdictions.
17 And as we move forward we have to do what, in a
18 way of -- by means of partnership with the communities
19 that we serve. And that we can only be successful if we
11:26 20 eliminate the anxiety and the fear that many have about
21 coming forward and being part of the solution.
22 SENATOR HARRIS: My final question for you for now:
23 Are there best practices around how you can train your

24 deputies, your officers, so that they work on this

11:26 25 relationship of trust that you so rightly prioritized;

11:26 1 and what are those best practices that can be shared with

2 other departments around the country?

3 SHERIFF MC DONNELL: I think with transparency, a

4 term that we hear all too frequently now but one that I

11:26 5 think is very applicable, is to basically come out and

6 talk to the public, to be able to say: Here is what your

7 expectations can be; here are our expectations.

8 We need to work together. We need to be able

9 to do so in a way where we're sharing information, we're

11:27 10 able to work together on solutions rather than just the

11 symptoms that we see in urban America, in particular.

12 So I think it's setting the bar high, holding

13 our people to a very high standard, but also holding the

14 expectations we have of the community to work with us, to

11:27 15 be able to get some long-lasting solutions to deal with

16 the underlying problems.

17 And we talk about the philosophy of community

18 policing, which is partnership primarily and problem

19 solving, and to be able to do that together, we have to

11:27 20 do it from a position of trust.

21 SENATOR HARRIS: And then I'd like to ask Kenny,

22 what impact has the executive order had on your workforce

23 as well as, perhaps, your clients? Have you seen any

24 impact?

11:27 25 KENNY SALAS: Absolutely. And I'll be fully

11:27 1 transparent. So our -- as I think about immigrants, we

2 primarily target Latino-owned businesses, just for

3 contextualization. And immediately after the election of

4 Trump and after the executive order related to

11:28 5 immigration, you know, the amount of applications we got

6 in January was about 1,200; that plummeted 30 percent as

7 we look at the amount of applications we received in

8 February.

9 And why is that? It's, at the end of the day,

11:28 10 what pushes people to innovate. Right? You don't have

11 to really dig too deep. It's the confidence that you can

12 invest in your business and have a certainty that your

13 rights are protected.

14 And if I would also piggyback on the concept of

11:28 15 trust that we've been discussing; to share a statistic

16 again, focused on Latino-owned businesses, there are --
17 currently there are 4.3 million Latino-owned businesses
18 in the United States. They represent currently about
19 $668 billion in revenue they contribute to the U.S.
11:29 20 economy.
21 Now, if we look at the average size of these
22 businesses, they're about $156,000 in revenue. That's
23 one quarter of the size of non-Latino-owned businesses.
24 Why do I mention that? One of the reasons -- there's
11:29 25 several reasons why they are smaller, but one reason that

39

11:29 1 you can argue is they under-index in their ability to
2 access capital, and capital is in many ways a driver for
3 growth.
4 Why do they under-index in accessing capital?
11:29 5 Again, one assumption is lack of trust. Right? It boils
6 down to the lack of trust in our institutions to help
7 this group. Right?
8 And that is -- and to circle back at the
9 question, this is just making it worse, and just the
11:30 10 numbers speak for themselves, which is why, you know,
11 we've taken a very strong position in helping this

12 community.

13 SENATOR HARRIS: Thank you.

14 Anthony, in this conversation we sometimes lose

11:30 15 sight of the impact on the Asian and the API community in

16 terms of the number of immigrants.

17 Can you talk a little bit about that piece of

18 it and which of the various Asian and API countries we're

19 seeing the executive order perhaps have the most impact?

11:30 20 ANTHONY NG: Yes. I think in terms of the impact of

21 the executive orders, like the Asian-American and Pacific

22 Islander community, is very diverse. Right? We

23 definitely see a lot of the executive orders attacking

24 Southeast Asian communities who are the most criminalized

11:30 25 within Asian-American communities.

40

11:30 1 And I think, just a lot of the DACA recipients

2 coming from the Philippines, Korea -- the attack on

3 family immigration. Right? And how that's been a

4 pivotal, pivotal piece of the growth of Asian-American

11:31 5 community is because we're able to migrate through family

6 immigration, or even the attacks on our Muslim

7 communities. Right? Many Asian-Americans are Muslims.

8 Right? So when Muslims are under attack, Asian-Americans
9 are under attack.
11:31 10 I think we see the flurry of different
11 executive orders, it's going to have varying degrees of
12 impact. Whether it's the public -- the leaked memos and
13 public benefits. Right? How that's going to impact the
14 ability of low-income immigrants to be able to support
11:31 15 themselves and be able to -- to feel that they are able
16 to survive day-to-day. Right?
17 Or even using that against folks who are
18 wanting to bring their family members over. Right?
19 Whether it's high school workers who have family members
11:31 20 that they want to bring over here to the United States
21 and we're targeting, like immigrants from different
22 aspects: that's going to impact the way immigrants are
23 coming to the United States, wanting to come to the
24 United States or wanting to be in the United States.
11:32 25 Right?

41

11:32 1 The executive orders definitely will continue
2 to create fear in various communities, whether it's fear
3 of calling local law enforcement when we see this

4 administration wanting to utilize the law enforcement as
11:32 5 immigration agent. I think that it's really great to
6 hear the Sheriff say he wants to ensure that trust is
7 building.
8 And one way you can do that, Sheriff, is
9 supporting the California Values Act SB 54 and SB 31
11:32 10 which is a conflict to those that we see are in the
11 state.
12 SENATOR HARRIS: Tell us about those.
13 ANTHONY NG: SB 54 will be simply a clear line
14 between state resources and not allow any of those
11:32 15 resources to go for immigration enforcement, which I
16 think is very -- very, very clear-cut. I think it makes
17 sense to my mom, to other folks that we've talked about.
18 Right?
19 And SB 31 relates to the creation -- or
11:33 20 prevents state and local funding from being utilized in
21 the creation of a Muslim registry or any kind of
22 registry -- I'm sorry. Right?
23 I think a lot of the fear that we see in the
24 community are being manifested in policies that our
11:33 25 elected officials shows both at the state, at local

11:33 1 levels, and the Sheriff, can really push forward.

2 SENATOR HARRIS: Angelica, Anthony mentions a really

3 important subsegment of the population we've been

4 speaking of, Asian Muslims.

11:33 5 What are we doing in terms of what resources

6 are available to them, and are there any unique issues?

7 Is there any way that this is impacting that subset of

8 these communities that we should talk about and highlight

9 as this point of education, public education?

11:33 10 And then, also, can you talk a little bit about

11 what you are experiencing in terms of the executive order

12 that will double the size of the employees of DHS? I

13 think it's going to be 10,000 new ICE officers and then

14 five thousand new CBP, customs and border patrol

11:34 15 enforcement officers.

16 And I know that the current number of staff

17 there is 7,000. So to increase it by 15,000, not to a

18 total of 15,000 but seven plus 15, is obviously going to

19 present, I think, certain challenges in terms of the

11:34 20 standards by which people will be employed and the

21 vetting that will take place to bring those folks on.

22 ANGELICA SALAS: I think that the first answer to

23 your question around Asian Muslims - I think the first

24 thing that CHIRLA is doing is partnering with

11:34 25 organizations like Asians Advancing Justice, like CAIR

11:34 1 Los Angeles, Counsel of American Islamic Relations, the

2 Southern California Islamic Center, different groups, so

3 that we're working in partnership and doing the work

4 together.

11:35 5 I think it's really important that as part of

6 this conversation we also talk about the need to continue

7 to work with law enforcement around the reporting of hate

8 crimes and hate incidents.

9 Many times the attacks don't just begin --

11:35 10 don't end up as hate crimes, but they are hate incidents

11 and hate -- and what I would just say, this sense of

12 feeling not welcome and not caring; that's an important

13 element to bring to this conversation.

14 I think that the other piece is really to fight

11:35 15 to have refugee status and also to have -- to be honored,

16 to honor our values in this country, which basically says

17 there is freedom of religion.

18 And I think that we have to stand firmly in not

19 allowing our immigration laws to suddenly be

11:35 20 determined -- or who gets -- who is allowed to come in on
21 a visa based solely on your religion.
22 And so I'm so thankful for NILC, for the ACLU,
23 folks who are here in this room who actually put this
24 through the courts, because I think we all have to stand
11:36 25 firmly united in that front around the enforcement and

11:36 1 the doubling of ICE agents and also border patrol.
2 To give you context, a lot of this doubling
3 ignores the fact that ICE and CBP personnel have already
4 doubled. Since 2001, after 9/11, the border patrol went
11:36 5 from 10,700 agents to 21,364, one of the largest
6 enforcement arms in this nation. 21,000 border patrol
7 agents. And they're asking to add an additional 5,000.
8 It took -- it was -- since 2001 to the present,
9 border patrol has been doubled. They're trying to, in
11:36 10 one year, literally, maybe even months, trying to bring
11 forward individuals who are -- to bring them into border
12 patrol.
13 And I actually want to really -- Andrea
14 Guerrero, who works with the Alliance for San Diego who
11:37 15 has done phenomenal work, is here with us. And she knows

16 the kind of abuse that happens at border -- in our border
17 regions, in our border communities because of ill-trained
18 officers, because of officers who are not held
19 accountable and officers who literally believe that
11:37 20 they're above the Constitution of the United States.
21 That is happening now. And so when I see
22 additional forces at the border patrol, I am just very
23 concerned for what we will see with our southern border
24 regions.
11:37 25 The other is ICE. So ICE right now has almost

11:37 1 close to $6 billion annual budget. And here we want to
2 double to 10,000 agents to go up -- to, again, to
3 participate in the rounding up, the detention, the
4 arresting of individuals.
11:38 5 Again I'm very concerned both because of our
6 tax dollars being spent in this way but also that I
7 want -- and this is what we tell our community, you are
8 protected by the Constitution. You are protected. If
9 you live in the United States, irrespective of your
11:38 10 immigration status, you are protected by the
11 Constitution.

12 So what we want to make sure is that
13 individuals understand that they have a responsibility to
14 abide by the law of the -- our current immigration laws
11:38 15 that have certain safeguards, but also our Constitution.
16 And my concern with the doubling so quickly of ICE
17 personnel is that they won't be trained properly.
18 And anybody in law enforcement knows that you
19 must train well because if you don't train officers that
11:38 20 then they will do what they will do anyway, you know, on
21 the ground. And even if there are policies, et cetera,
22 they won't follow them.
23 And the final piece is, this is my biggest
24 concern. So between CBP and ICE right now we have close
11:39 25 to a $20 billion annual budget. More personnel than many

11:39 1 of our Federal -- other Federal law enforcement agencies
2 combined. And I want to know is, when they're talking
3 about a force multiplier, just for Sheriff McDonnell, to
4 let us know, what is your budget?
11:39 5 And it seems to me that they have quite a bit
6 of resources, so to demand that our local law enforcement
7 with limited resources also do their job I think is

8 atrocious. And we should actually feel -- you know, we
9 should condemn that.
11:39 10 But I'm most concerned for the kind of
11 treatment that our immigrant community will be -- what
12 they are going to feel when they're encountering ICE
13 officers: just the lack of respect, the lack of
14 professionalism that we're seeing, because we're seeing
11:40 15 more aggressive -- a more aggressive tone in their
16 actions.
17 A more -- I would say even the lack of
18 communication is something that we're very disheartened
19 with, because we might disagree - over many, many years
11:40 20 we've disagreed as to their purpose and our purpose; but
21 one thing that we've always felt is at least
22 communication was forthcoming, and that is something
23 we're not seeing.
24 SENATOR HARRIS: I'm going to ask that a couple of
11:40 25 the folks on this panel, including you, and perhaps

11:40 1 Sheriff, you, as well, that you would submit for the
2 record, and for me, any recommendations you have about
3 what we will recommend to ICE that they do regarding

4 training these new officers they're going to bring on,
11:40 5 because they will bring them on.
6 And we know that we have cultivated in
7 Los Angeles and in California, I say with bravado, some
8 of the best training techniques for law enforcement in
9 the country. So I welcome and invite you to share that
11:41 10 with me in my office, so that as this starts to happen we
11 can at least -- we can ensure that there will be some
12 base level of standard on training.
13 And let's talk a little bit about the legal
14 assistance piece.
11:41 15 Marielena, what are you seeing as the
16 challenges in terms of the calls that you're getting,
17 questions you're getting about the executive orders and
18 what do we need to clear up about any confusion or
19 misinformation about legal rights?
11:41 20 MARIELENA HINCAPIE: So, very important questions.
21 So like everyone else in the room, and of
22 course all the panelists, we at National Immigration Law
23 Center have been overwhelmed. Like, we're not getting
24 calls just from immigrants and immigrant advocates and
11:41 25 allies, but also local and state elected officials around

11:41 1 the country, from Congressman, Senators, from health care
2 providers, pediatricians.
3 I have a meeting on Monday with the leadership
4 of the American Academy of Pediatricians because of what
11:41 5 they're seeing among their membership. Educators, right?
6 Just really be -- the number of -- this new world order
7 in which we're in is completely taxing every part of our
8 society; every part of our society is being impacted by
9 what is being proposed and soon to be implemented by this
11:42 10 administration.
11 Fortunately, we've also seen some of the silver
12 lining. Right? We saw the beauty of the power of
13 We-The-People at airports a couple of weeks ago. Right?
14 Where just average, everyday people said, "I'm going to
11:42 15 volunteer. This cannot be happening in our country."
16 So the number of law students; the number of
17 law firms, private; both large law firms as well as just
18 individual attorneys, some with immigration experience,
19 some with not. That's requiring many of our
11:42 20 organizations to work together to train attorneys so that
21 we can expand.
22 We're also, again, a number of the groups here
23 are working on creating rapid response networks for raids

24 so that we're prepared and we can match individuals. So

11:42 25 if there is deportation that somebody gets caught up in,

11:43 1 that there is representation.

2 Most importantly, though, we want to try to

3 prevent that, the front end. So the organizing, the

4 know-your-rights education is all really critical.

11:43 5 Many of our organizations at the national level

6 worked on a centralized website, which is

7 WWW.informedimmigrant.com, which is like a clearing house

8 of all the know-your-rights information.

9 And also it links, based on people's zip code

11:43 10 anywhere in the country, people can find access to a

11 referral: the local organization that has Board of -- BIA

12 accredited reps for lawyers of either low bono or

13 pro bono lawyers.

14 So there's a lot to be done, but the reality is

11:43 15 the resources for all of our organizations are really

16 limited. And we're all stretched beyond capacity.

17 So needing to really think very creatively, and

18 even the tech industry is helping us to think through,

19 like what are the apps and what are the different

11:43 20 platforms that can help expand capacity to reach people
21 so that they have the information; because, as many of us
22 have said already, the Constitution does protect all of
23 us, regardless of where we were born, regardless of how
24 much money we have, our race, our religion, et cetera.
11:44 25 So we want to make sure that people are

11:44 1 empowered with information, that they're empowered to
2 take action to protect themselves. And then if people
3 are detained or when people are detained, that they get
4 access to counsel.
11:44 5 You have introduced - at the Senate level,
6 right? Federal level - a bill on access to counsel here
7 in California. We have a bill giving universal
8 representation at the local county level.
9 We need to make sure that those bills all get
11:44 10 through the finish line, that they get signed, that the
11 resources are there to make sure that our community
12 members have a right to an attorney, which is the only
13 way they're going to be able to fight their deportation
14 with them, even in this new context that we're in.
11:44 15 SENATOR HARRIS: Can you share with us some of the

16 frequently asked questions and what are the responses?

17 MARIELENA HINCAPIE: Do I have a right to an

18 attorney? There is misinformation out there about

19 whether or not immigrants, one, are they protected by the

11:45 20 Constitution? Do they have any rights if they're

21 undocumented or not? What rights do they have vis-a-vis

22 law enforcement? Vis-a-vis immigration agents or border

23 patrol? Is that any different?

24 So, you know, what are their rights at home

11:45 25 versus on the street or in the workplace? So a lot of

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11:45 1 questions like that. And then now we're also getting,

2 because of some of the, as Anthony mentioned, the leaked

3 drafts of executive orders out there with respect to

4 public charge and that being a deport -- or reason for

11:45 5 someone to be deported if they have access or benefits,

6 even as to their U.S. citizen children.

7 So there's a lot of chaos and fear right now,

8 which I actually think a lot of that is intentional.

9 Part of the strategy at the Federal level is coming from

11:45 10 this administration to create such fear and chaos as the

11 attrition through enforcement strategy that was tried at

12 the state level in Arizona, Georgia, Alabama, Indiana,
13 Utah, South Carolina, et cetera - all of which we were
14 successfully able to get them struck down through the
11:45 15 courts. They're trying this at the Federal level now.
16 SENATOR HARRIS: So, thank you for mentioning the
17 first bill that I proposed as a Senator is a bill that we
18 are getting sponsors for now. And it is a bill that
19 would create a right for immigrants to have access to
11:46 20 counsel.
21 After the executive orders came out, and
22 regarding refugees, I got calls that Saturday through the
23 night from lawyers who were at Dulles or SFO or LAX,
24 literally pretty much on the other side of the door where
11:46 25 refugees were detained and without being provided counsel

11:46 1 and when requesting counsel were denied.
2 So this bill will create a right so that if
3 that person requests counsel they will be granted
4 counsel. Government doesn't have to pay for it but
11:46 5 government cannot deny them access to counsel.
6 So I look forward to everyone helping us get
7 that through and convincing everyone that it's just the

8 right thing to do and is reflective of the values of who
9 we are as a country and it's, just on general purpose
11:47 10 principles, something that is reflective of the values in
11 our Constitution.
12 But tell us, if you will, what are the three
13 top questions that you're receiving about what this means
14 for families and what are the answers to those three
11:47 15 questions?
16 MARIELENA HINCAPIE: So I'll start from of the
17 National Immigration Law Center, this may be different
18 for different organizations. I mean, we definitely --
19 DACA is a big question. DACA and DAPA. Right? If I
11:47 20 have DACA will I be able to continue with DACA? Have
21 this temporary protection from deportation, or will I be
22 deported?
23 The answer is that right now DACA continues to
24 exist. They have not rescinded the guidance. They have
11:47 25 indicated yesterday, I think, President Trump got caught

11:47 1 loving Dreamers. I won't editorialize on that.
2 But the answer is, yes, people with DACA
3 continue to be protected.

4 We are not -- you know, we are asking
11:48 5 individuals who would be eligible for DACA to first
6 consult with an organization or an attorney before
7 considering applying, definitely for the first time; that
8 I think is a huge, huge risk. And even renewals at this
9 time, but we want to make sure that people have
11:48 10 individualized assessments about that.
11 With DAPA, which is the parents of U.S.
12 citizens or lawful permanent residents, this was the
13 change of policy that President Obama announced back in
14 November 2014, which never went into effect, as folks
11:48 15 know, unfortunately because of a lawsuit filed by Texas
16 and 25 other states. They have not officially rescinded
17 that program.
18 In the past under President Obama parents of
19 U.S. citizens were not a priority. Unfortunately, our
11:48 20 read at the National Immigration Law Center is parents of
21 U.S. citizens are, just as much as everyone else, now a
22 priority.
23 And, again, the importance of making sure that
24 individuals know that they have a right under the
11:49 25 Constitution to remain silent; that they have a right not

11:49 1 to answer questions that will incriminate them, including
2 what country you are from.
3 By admitting that I am from Columbia, then I am
4 now admitting that I'm not a U.S. citizen. Making sure
11:49 5 people know not to sign any documents without the advice
6 of counsel.
7 We saw at the airports lawful, permanent
8 residents being coerced into signing Form 4407, which is
9 abandoning their permanent residency. And it's just
11:49 10 unheard of and un-American and unlawful that that's
11 happening to people with green cards.
12 So especially for anybody in detention,
13 absolutely do not sign any document without legal
14 counsel. If you are confronted with an immigration
11:49 15 agent, ask for a warrant. They're a Federal agent, they
16 have to identify themselves as Federal agents. They must
17 provide a warrant for arrest or a search warrant.
18 If they don't have that, you don't have to let
19 them in. So there are many ways that people can protect
11:50 20 themselves to try to prevent the detention to begin with;
21 and then definitely there are additional rights once
22 they're detained, like access to counsel, although not at
23 government expense.

24 SENATOR HARRIS: Angelica.

11:50 25 ANGELICA SALAS: So everything that Marielena said

11:50 1 is absolutely the similar questions that we're receiving.

2 I think the other major question, and I know

3 Felipe Carrera from the Mexican Consulate is here, as

4 well. But the question about how do I -- what do I do

11:50 5 with my children? So the issue of families, really

6 thinking about the well-being of their children if

7 they're detained and deported.

8 So how do I fill out a guardianship form? What

9 will happen to my children in terms of are they going to

11:50 10 be taken by social services? What will happen to them?

11 A lot of questions about the well-being of their

12 children. And then I would also say that the other piece

13 is individuals who are coming forward who actually have

14 applications pending.

11:50 15 So, for example, I mean, part of what in my

16 opening remarks I talked about UCIS, which is the

17 United States Citizenship and Immigration Services. So

18 many individuals who are undocumented actually are in

19 process of legalizing their status; but because there's

11:51 20 such a backlog, individuals obviously are waiting and
21 waiting inside the country, so -- and outside the
22 country. So they're asking, you know, what will happen,
23 especially for those here? What happens if I actually
24 have a petition pending? Will I have to be forced to
11:51 25 abandon that? What will happen?

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11:51 1 So a lot of very specific immigration questions
2 because they have that. But I think definitely I would
3 say of all the questions, the children - the question
4 about children and what to do in case they are detained
11:51 5 or picked up - I think would be the highest on people's
6 radar.
7 SENATOR HARRIS: And what have the answers been to
8 those questions?
9 ANGELICA SALAS: So what we have done is we help the
11:51 10 families. So the first thing is, maybe to step back, is
11 we tell people prepare to stay. Fight to stay in this
12 country. This is -- when you have deep roots, your kids
13 are here, you've given your life to this country so fight
14 to stay in this country.
11:52 15 What do you do? First, if you're detained,

16 exercise your right to ask for legal counsel. Do not --
17 everything that Marielena said - do not sign anything.
18 And before you are ever detained, connect with
19 an organization or a legal representative that you can --
11:52 20 that your family can call immediately.
21 In that preparation we're also asking
22 individuals to fill guardianship documents so that they
23 know who their children are going to be released to,
24 whether at school; and to really have a conversation
11:52 25 within the family to talk about if immigration comes to

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11:52 1 our home or to our work, what would be the steps that
2 we'd follow?
3 And one of the main things -- so at CHIRLA
4 we're helping them fill out guardianship forms. I know
11:52 5 the Mexican Consultate is helping that with -- helping
6 individuals with that process, as well. And to, just to
7 really have outlined the to-do's, what they would do.
8 And also to save some money, because the other
9 problem that we have with mass deportation is that
11:53 10 individuals are being picked up in the morning and
11 dropped off maybe -- especially from Mexico; by evening

12 they're in Tijuana, but they are penniless; they have
13 nothing. Sometimes they don't even have a coat with
14 them. And so it's very important for families to have
11:53 15 some way to transfer information to their family, to
16 their loved ones.
17 And then also to know if, once they are
18 deported, there are organizations like Casa Immigrante
19 and others where they can connect; because literally,
11:53 20 just being dropped off on the other side of the border
21 with nothing is one of the most horrendous things.
22 Just so that they understand what -- that
23 families really take seriously the plan. The plan to
24 stay, but then all the things that they need to know in
11:53 25 order to safeguard their well-being.

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11:53 1 SENATOR HARRIS: We have about five more minutes
2 left in the forum. I'd love to take questions from
3 anybody in the audience.
4 Yes.
11:53 5 ALEJANDRA VALLES: Hi.
6 SENATOR HARRIS: Hi.
7 ALEJANDRA VALLES: Good morning. My name is

8 Alejandra Valles and I represent 45,000 janitors,
9 security officers and airport workers across California.
11:54 10 And with your leadership, and all of the
11 leadership here in California, we've been able to fight
12 for like -- you know, against -- well, wage staff laws
13 and laws that emanate from the night shift and really
14 bring the huge underground economy that we have in
11:54 15 California above float.
16 Right now one of the bills, and really a
17 shining light at the end of the tunnel in California, is
18 the leadership that carwash workers, day laborers,
19 janitors, many of the workers in our organization have
11:54 20 been leading with SB 54.
21 So my question is, for the panel is: Are you
22 or your organizations signing on to endorse SB 54?
23 And, Senator Harris, anything you can do to
24 help elevate that and lift that up and endorse that and
11:54 25 be a champion for workers on that end would be really

11:54 1 helpful.
2 SENATOR HARRIS: Marielena. Yes.
3 MARIELENA HINCAPIE: Absolutely. We're following

4 SEIU's leadership and all of the workers and other united
11:55 5 workers organizations.
6 SENATOR HARRIS: Any other questions?
7 ANDREA GUERRERO: Yes.
8 SENATOR HARRIS: Yes.
9 ANDREA GUERRERO: I really appreciate all of your
11:55 10 comments. I was especially touched by Angelica and
11 Marielena.
12 But I wanted to ask you, Senator, if there's
13 anything that we can do to be proactive? I know we're
14 concentrating so much on being reactive.
11:55 15 But I was also reflecting on where we were in
16 the 1970s and 1980s and remembering that we've been here
17 before and we'll be here again unless we take proactive
18 steps to change our immigration laws. Right?
19 So in the absence of immigration reform we are
11:55 20 in the position of asking for mercy because of an
21 enforcement-only approach making use of laws that are on
22 the books that Congress passed many years ago. Right?
23 So, in my mind the way forward is -- is
24 twofold. One, to create pathways for legal status for
11:55 25 the many individuals who are here unlawfully because

11:56 1 there were no pathways. But, two, is to rein in the
2 powers of immigration agents who currently have
3 extraordinary and egregious powers to do things that
4 police aren't allowed to do.
11:56 5 And I hear you when you say the Constitution
6 protects us all, but I can tell you that immigration
7 agents have powers without warrant. Those might not
8 be -- though we have never successfully challenged those
9 in the courts. And -- because there's such deference to
11:56 10 Congress around immigration laws.
11 So are there things -- is there a willingness
12 in Congress to move forward, some proactive measures to
13 create pathways and also rein in these extraordinary and
14 egregious powers; because even if we get immigration
11:56 15 reform, we're still going to have these extraordinary and
16 egregious powers that are rounding up our communities.
17 SENATOR HARRIS: Well put.
18 So I'll say a few things. There's no question
19 in my mind that we have to be proactive as well as
11:57 20 reactive where necessary and when necessary and as
21 swiftly as possible.
22 Proactive. We have got to keep fighting for
23 comprehensive immigration reform. We can't let that fall

24 off the table because we're so busy trying to figure out
11:57 25 who's been picked up and where are they right now. We

11:57 1 have to do all of those things. We have to do all of
2 them.
3 So in our messaging, which is a part of this,
4 let's stay with our messaging about "You wouldn't have to
11:57 5 deal with this if we actually passed comprehensive
6 immigration reform, and this is what that looks like."
7 The point that has been made by many people at
8 this table about the economic impact of not only these
9 executive actions; Angelica mentioned $285 billion is
11:57 10 what it will cost us to deport over a five-year period.
11 Extraordinary amount of money.
12 The budget for the officers that will need to
13 be hired to do that. Extraordinary amount of money.
14 The economic benefit that immigrants bring in
11:58 15 terms of the businesses that they create and the taxes
16 they pay. Extraordinary benefit.
17 So I would urge us to, as much as anything,
18 always push in this environment for comprehensive
19 immigration reform. Let's not stop talking about that.

11:58 20 Let's be forceful about it. Let's talk about the
21 economic impact.
22 And then let's also recognize that we have
23 these three branches of government. And this is a moment
24 in time, the history of our country, that is probably
11:58 25 reinforcing the importance of remembering we have three

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11:58 1 coequal branches of government.
2 It's a moment in our history to remember that
3 and to remember that the judiciary, we are a nation of
4 laws. We respect the rule of law and a big part of this
11:59 5 battle is going to be fought in courts, as we have seen,
6 which is why there was a stay.
7 And now the administration has to go back to
8 the drawing board and figure out what they're going to do
9 with refugees, because the courts spoke up, because we
11:59 10 are a nation of laws.
11 So that highlights the importance of supporting
12 the legal organizations and the nonprofit organizations
13 that are fighting these battles in courtrooms.
14 There is the piece about, the legislative
11:59 15 piece, and that is about the comprehensive immigration

16 reform package.

17 And then there is highlighting, the -- I, you

18 know, being most deferential -- well, I don't do that

19 well; as deferential as I can - the unintended

11:59 20 consequences, I'm going to say unintended consequences of

21 these executive orders and highlighting what they mean in

22 terms of basic principles. Like we all want public

23 safety. We all want to know that victims will have their

24 day in court. Right?

12:00 25 We all want to know that people who commit

12:00 1 crimes which involve violence and pain, that they will

2 suffer serious and severe and swift consequence. All of

3 these things.

4 But we're going to have to -- we're going to

12:00 5 have to put equal priority and weight and energy and

6 resolve into each of these components. And, again, let's

7 just all remember, no matter how much somebody or anybody

8 would like to have us forget: three coequal branches of

9 government.

12:00 10 I can take one more question. You are press?

11 Not press? We'll take press afterwards.

12 CHRIS NEWMAN: I think everyone agrees that the
13 election of Donald Trump constitutes a crisis for the
14 country. But it's also opened up an opportunity. We're
12:01 15 seeing all around the country a reinvigoration of
16 sanctuary policies that delink police from immigration
17 and enforcement.
18 Many people have gone so far as to say this
19 whole notion of deporting so-called felons, not families,
12:01 20 is sort of our generation's super-predators. This idea
21 that casts immigrants under a cloud of suspicion and
22 putting them -- subject to double punishment.
23 I would like to ask the Sheriff whether he
24 believes that non-citizens have a right to rehabilitate
12:01 25 themselves after they're incarcerated and after having

12:01 1 served their time.
2 SHERIFF MC DONNELL: Sure. You know, I -- we
3 don't -- as I mentioned in my opening, we don't focus on
4 where somebody's from, what their immigration status is.
12:01 5 In our custody, to the degree that we can
6 provide that for people who are there longer term, we do
7 have a lot of programs where we get people into

8 rehabilitation, drug treatment, deal with people with
9 mental illness and try and help them as best we can.
12:01 10 We also have -- trying to get people back on
11 track; trying to be able to get people job skills so that
12 when they get out they have a vehicle to be more
13 successful than they were when they came in.
14 So we don't have any focus on somebody's
12:02 15 immigration status. Once they're in our custody, we try
16 and do the best we can with the resources we have to work
17 with.
18 SENATOR HARRIS: I can actually speak to that
19 because as Attorney General I reached out to the Sheriff
12:02 20 and partnered with him on an initiative that's called
21 Back on Track that we have been running out of the L.A.
22 Sheriff's jails with residents who are there, getting
23 them jobs and counseling and educational support, so that
24 when they come out they can actually live a productive
12:02 25 life, having paid for the crime that they committed and

12:02 1 wanting to give them a leg up instead of a handout.
2 So, I do applaud your work in that regard,
3 Sheriff.

4 We're going to close it out. And I'm just
12:02 5 going to -- again, I want to thank everyone, and in
6 particular our panelists because there's a lot of work
7 that needs to be done and I know you all well enough,
8 because I've been working with you for years, that you
9 work around the clock tirelessly on behalf of people who,
12:03 10 for the most part, never gonna know your name. You're
11 working on behalf of people we may never meet. But it is
12 important and good work, and I think it represents the
13 best of who we are as a state.
14 And I want to thank Bob Ross and California
12:03 15 Endowment for, yet again, hosting community and leaders -
16 all of us - to be able to have a discussion that
17 hopefully elevates public discourse around these trying
18 times and increases public education and information.
19 And we've got a lot more work to do, but I want
12:03 20 to thank everybody for being here and for all that you do
21 each day.
22 Thank you.
23
24 (Ending 12:03 p.m.)
25

1 STATE OF CALIFORNIA)
) SS.
2 COUNTY OF LOS ANGELES)
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5 I, WENDY SOBEL, CSR NO. 2341, A DEPOSITION
6 NOTARY IN AND FOR THE STATE OF CALIFORNIA, DO HEREBY
7 CERTIFY:
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9 THAT THE FOREGOING TRANSCRIPT IS A TRUE
10 RECORD OF THE PROCEEDINGS ON IMMIGRATION POLICY
11 FORUM.
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13 IN WITNESS WHEREOF, I HAVE HEREUNTO
14 SUBSCRIBED MY NAME THIS 28TH DAY OF FEBRUARY, 2017.
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2 COUNTY OF LOS ANGELES)
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16 Wendy Sobel
17 WENDY SOBEL
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February 21, 2017

United States Senator Kamala Harris
312 N. Spring St., Suite 1748
Los Angeles, CA 90012

Honorable Senator Harris,

On behalf of the immigrant communities across the state of California, the Coalition for Humane Immigrant Rights of Los Angeles (CHIRLA) would like to express our concerns and disappointments over the newly announced immigration measures signed by the Department of Homeland Security's, Secretary John Kelly.

The Trump Administration has been relentless and cruel during its first month in office when it comes to immigration measures. By signing the executive orders on immigration, Trump has chosen to ignore any semblance of unity and compassion for our immigrant families. Furthermore, the memos most recently issued by Secretary Kelly outdo themselves in clearing the way for wide spread terror on millions of families, children, workers, and anyone and everyone who is undocumented, even those whose contributions are well documented.

Moreover, the immigration enforcement memos are a one size fits all mass deportation approach and void the fairness and justice. These guidelines represent an unlawful, expedited process and inhumane approach to remove undocumented immigrants living and working in the United States.

As such, we strongly oppose these measures which threaten our families, hurt our nation's economy, and stand in directly opposite our nation's history and values. We urge you to prevent millions of families from becoming victims of these inhumane plans. Our nation needs leaders who can stand up to fairness and justice and fight back against these immoral policies.

Should you have any questions, please feel free to contact Isabel J. Sanchez at isanchez@chirla.org or at 213-353-1334.

Sincerely,

Angelica Salas
Executive Director, CHIRLA

Testimony of

Michael C. Koval
Chief of Police
Madison Police Department
Madison, Wisconsin

Hearing on
"The Effects of Border Insecurity and Lax Immigration Enforcement on American Communities"

Before the
U.S. Senate Committee on Homeland Security & Governmental Affairs
U.S. Senate
Washington, D.C.

March 1, 2017

Introduction

Chairman Johnson, Ranking Member McCaskill, and members of the committee, thank you for the opportunity to present this written testimony for today's hearing on the important issues of immigration enforcement and community safety.

I am Michael C. Koval, the Chief of Police of the Madison Police Department (MPD) in Madison, Wisconsin. I started my career with the Madison Police Department in 1983 as a patrol officer. I served as a Special Agent with the Federal Bureau of Investigations (FBI) for two years before I returned to the Madison Police Department. When I returned to the Department, I again worked in Patrol Services before becoming the Sergeant of Recruitment and Training where I spent 17 years. In 2014, I was given the honor of being hired as the Chief of Police. In terms of my educational background, I am a proud graduate of Madison West High School, a graduate of UW-Madison with a Journalism Degree and I obtained my Law Degree from William Mitchell College of Law. During my tenure with the Department, I have served in a variety of roles which includes police officer, field training officer, field training supervisor, SWAT hostage negotiator, critical response team supervisor, primary legal instructor and sergeant. I am an original member of the team which introduced the Department's first narcotics detection dog, assisted with the City of Madison's first police staffing analysis team, created open enrollment recruiting, served on the State of Wisconsin's Law Instructor Advisory Committee and led the Department's legal transition team in teaching mandatory arrest for domestic violence.

Madison is the second largest city in Wisconsin with approximately a quarter million residents and over 120,000 daily visitors. Located in the south/central part of the state, Madison is a diverse community with a long history of welcoming and integrating immigrants and refugees. According to U.S. Census Bureau figures released in December of 2016, Madison's population is about 7% Black or African-American, 8.4% Asian, and 7% Latino/Hispanic. Eleven percent of Madison's residents are foreign-born. Two-thirds of Madison's non-citizens have resided in the United States for more than 7 years, having entered the country prior to 2010.

Our Department is known for and committed to community policing. Our commitment to community policing has allowed Madison to engage its residents in a collaborative effort to maintain safe and secure neighborhoods for all of its residents.

Community Safety Requires Community Policing

The City of Madison has a vibrant immigrant constituency that contributes greatly to the safety of our community. The mission of the Madison Police Department is to provide "high quality police services that are accessible to all members of this community" and further believes in "the dignity of all people" and respects "individual and constitutional rights" in fulfilling this mission.

One of the core values of the MPD is community partnership. The MPD believes that "the police can only be successful in improving safety and the quality of life the community enjoys when police and community members work collaboratively to address issues of mutual concern."

In addition, the core value of embracing diversity enables MPD to engage in "continuous learning about difference cultures, values and people" and promotes "mutual acceptance and inclusion of all."

Federal Immigration Enforcement, Done the Wrong Way, Can Undermine Public Safety

The Madison Police Department has firsthand experience in the counterproductive outcomes that occur when federal immigration law enforcement initiatives take place without respect for local community policing principles.

During the implementation of enforcement initiatives under the banner of "Secure Communities" in the past, we experienced instances where Immigration and Customs Enforcement (ICE) would come to Madison and participate in "roundups" without our knowledge or participation. This practice created an incredible trust gap between our community and the police.

In the aftermath of these "roundups," the MPD attended a number of community meetings that were very contentious and passionate. We learned about families being torn apart and observed firsthand the overall lack of trust in law enforcement that resulted from these ICE actions. Members of the immigrant community do not generally distinguish between the various arms of local, state and federal law enforcement. To them, uniformed law enforcement officers conducting sweeps and making arrests throughout the community provided ample basis not to trust local law enforcement personnel. When ICE entered our community, conducted operations and then left, the MPD was left to pick up the pieces and repair the damage and fear that our community experienced. Many meetings were required in order for the MPD to reassure the immigrant community that our priorities were apprehending violent criminals in our community, not arresting those with immigrant status offenses.

More recently, with the issuance of new executive orders by the current administration, we are seeing a palpable concern and fear in our immigrant community that we are returning to the practice of immigration enforcement for status offenses and non-violent criminal behavior. This was clearly demonstrated at the latest monthly call-in show that I do on a Latino radio program here in Madison. Last month, there was a sudden increase in calls when somebody saw a Border Patrol vehicle parked at a local hotel in an adjacent jurisdiction. As it turns out, the Border Patrol was there recruiting for new employees, but the community immediately became concerned and anxious about the possibility of indiscriminate enforcement. It was only through the trust-based relationships that our Department has established, and my accessibility as the Chief of a community oriented police department, that I was able to alleviate the fears of our community at this time.

Our immigrant communities have worked closely with the MPD in supporting and implementing U.S. Immigration and Customs Enforcement's (ICE's) Priority Enforcement Program (PEP). This program focuses on convicted criminals and others who pose a real danger to public safety. Our immigrant communities have not only accepted this program, but have helped the MPD communicate the importance of the PEP plan to all Madison residents. We are concerned that the new directives from the administration are moving us away from this smart and widely-supported set of enforcement priorities.

It took many years to bridge the trust gap that had been created by ICE and their enforcement actions aimed at immigration status or other minor offenses. The immigrant community worked closely with our Department and agreed with our enforcement priorities, as they too did not want violent criminals, regardless of immigration status, in their community. We were able to build further trust by adopting a code of conduct and standard operating procedures with respect to immigration enforcement that have reassured our local community that we are first and foremost committed to community safety.

Collaboration with Federal Immigration Officials Must Be Consistent with Community Policing

The Madison Police Department recognizes its responsibility to work closely with all of our local, state and federal law enforcement partners. Over the last couple of years, we have worked closely with the Department of Homeland Security (DHS) and our regional ICE offices to establish a strong partnership where enforcement priorities are clearly understood and operational practices were agreed upon in advance. We will continue to work closely with those partners, focusing on our priority of apprehending those who commit serious crimes and endanger our local community. Our overall goal of keeping our community and nation safe requires the confidence, trust and participation of each and every part of our local community. When immigrants feel safe and trust the police, they will report crimes, cooperate in investigations, and work collaboratively to improve the overall safety of our community.

Our **Code of Conduct** with respect to the enforcement of immigration laws provides:

- In order to be true to our mission statement and to the precepts of community policing, it is imperative that MPD reflect and implement policies and procedures which place a particular emphasis on access to services which are inclusive to all constituents. Thus, an individual's right to file a report, participate in community activities or otherwise request police services should not be dependent upon their immigration status.

- With respect then, to issues of immigration, enforcement of the nation's immigration laws rests primarily with the federal government. To this end, MPD will not self-initiate contact, detain, arrest, or investigate any person(s) solely for a suspected violation of immigration status laws.

- MPD cooperation with requests from Immigration and Customs Enforcement (ICE) are predicated upon assisting only with those operations in which serious crimes directly relating to public safety are involved. MPD will not participate in coordinated operations or raids where the chief objective is to arrest individuals who are suspected to be in violation of immigration laws.

In order to preserve this relationship of trust, the MPD will not routinely inquire into the immigration status of persons it encounters during police operations. Immigration status is only relevant when an individual has committed serious crimes directly related to public safety. To make clear the areas where the MPD will cooperate with federal immigration law enforcement, we have adopted the following **Standard Operating Procedures:**

- The enforcement of immigration law is primarily the responsibility of the federal government, through the United States Immigration and Custom Enforcement Agency ("ICE"). Accordingly, MPD will not undertake any immigration-related investigation unless said operation involves an individual who has committed serious crimes directly related to public safety (as outlined below). Section 287(g) agreements under 8 U.S.C. § 1357 are voluntary agreements which require local consent. MPD will refrain from entering into these agreements as they are not consistent with furthering MPD's policing philosophy.

- Officers shall not detain or arrest an individual solely for a suspected violation of immigration law. MPD will only cooperate with a lawful request of ICE under the following circumstances:

  1. The individual is engaged in or is suspected of terrorism or espionage;
  2. The individual is reasonably suspected of participating in a criminal street gang;
  3. The individual is arrested for any violent felony; or
  4. The individual is a previously deported felon.

- When time and circumstances permit, an officer should obtain approval from a commander or Officer-in-Charge (OIC) prior to detaining any individual for the above-outlined reasons.

- An individual's right to file a police report or otherwise receive services from MPD is not contingent upon their citizenship or immigration status. MPD officers shall strive to treat all individuals equally and fairly regardless of their immigration status. Therefore, officers shall not routinely inquire into the immigration status of persons encountered during police operations.

- Officers shall not ask any individual to produce a passport, Alien Registration Card (Green Card) or any other immigration documentation in the normal course of business. This does not prohibit an officer from considering these documents as appropriate forms of identification when voluntarily provided by the individual.

Priorities and Resources

Our priority is ensuring the safety and well-being of every member of our Madison community. The Madison Police Department has limited resources that we believe should be used in a manner that is consistent with our priorities.

It takes a significant allocation of resources to participate in federal immigration law enforcement initiatives. Participation in a "287(g)" agreement alone requires that officers commit to four weeks of intensive training. The costs of training, time away from servicing priority calls for service and community-based policing duties, and the additional burdens of detention pending federal custody for immigration status violations are burdens that our local police department can ill-afford to bear.

Using our limited resources for enforcing immigration status offenses is not consistent with our priorities. Our resources will continue to be directed at apprehending individuals who commit violent crimes in our community, thereby making our community safer.

Community Engagement

The Madison Police Department works hard to engage our immigrant communities on a regular basis. Among our more creative initiatives include, but are not limited to the following:

- Amigos en Azul (Friends in Blue) is an officer-led group that engages our immigrant population on a regular basis.
- I participate in Spanish radio call-in shows monthly in an effort to educate and listen to all issues important to our immigrant community.
- The Madison Police Department has cultural police advisory groups from a number of communities within Madison, including our immigrant community.
- Our Department works closely with agencies such as Centro Hispano, Catholic Multi-Cultural Center, Latinos Professional Association (LPA), Latino Support Network (LASUP) and numerous other local agencies to improve police community relations with our immigrant community.
- Our Department engages and attends a number of community events and works closely with representatives from our community that are associated with multicultural media to create bridges of communication and relationships with our immigrant community.
- Our Department also conducts both a Latino and Black youth academy each year which provides young community members an opportunity to be exposed to our department and officers in a more intimate experience in an academy setting at our training center. From 2011 to 2016 our academies have graduated a total of 333 students.

Conclusion

The Madison Police Department has worked long and hard to build a relationship of trust with our various immigrant communities. We understand that in order to ensure public safety, all members of our community must have confidence in our police force, trust that the police will protect and defend them, and feel confident that they are not putting themselves in jeopardy by coming forward to report crimes and to cooperate with investigations.

In order to strengthen this relationship of trust, the MPD has adopted a code of conduct and standard operating procedures with respect to the enforcement of immigration laws.

The MPD believes that our best practices can be a model for other communities truly concerned about community safety and well-being. We hope that the U.S. Senate Committee on Homeland

Security and Governmental Affairs can understand that true security of the homeland requires not only strong enforcement, but a relationship of respect and trust with the communities we serve.

Respectfully Submitted,

Michael C. Koval
Chief of Police
Madison Police Department
Madison, Wisconsin

March 1, 2017

*****EMBARGOED UNTIL WEDNESDAY MARCH 1 AT 10 AM EST*****

Dear Senator:

As law enforcement leaders, our primary mission is to serve and protect our cities, counties and towns. In this respect, we are committed to a path to public safety – preserving the security of our communities and upholding the rule of law.

Immigration enforcement is, first and foremost, a federal responsibility. We believe that making our communities safer means better defining roles and improving relationships between local law enforcement and federal immigration authorities. Local control has been a beneficial approach for law enforcement for decades – having the federal government compel state and local law enforcement to carry out new and sometimes problematic tasks undermines the delicate federal balance and will harm locally-based, community-oriented policing.

The valuable expertise and resources of our officers and deputies should prioritize threats such as dangerous criminals and criminal organizations causing harm. We believe that state and local law enforcement must work together with federal authorities to protect our communities and that we can best serve our communities by leaving the enforcement of immigration laws to the federal government. Threatening the removal of valuable grant funding from jurisdictions that choose not to spend limited resources enforcing federal immigration law is extremely problematic. Removing these funds that contribute to the health and well-being of communities across the nation would not make our communities safer and would not fix any part of our broken immigration system.

The issue of so-called sanctuary jurisdictions is a complex one. There is no set definition of what comprises a "sanctuary jurisdiction" and the term is often defined much too broadly. The term often sweeps in localities that engage in well-established community policing practices or follow federal court decisions that have found federal immigration detainers violate the constitution.

We are concerned that many jurisdictions that cooperate with federal immigration authorities and are in compliance with federal law, including the information-sharing requirements of 8 U.S.C. § 1373, could find themselves facing penalties under various proposals under discussion, including the loss of important federal funding. We urge this Committee to be mindful of the current state of the law and the needs of local law enforcement while considering a legislative response that will ensure a path to public safety is achieved.

Our immigration problem is a national problem deserving of a national approach, and we urge Congress to lead the way in working towards taking the necessary steps to fix our

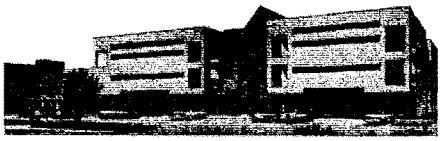
broken system through a permanent legislative solution. In so doing, we hope that this Committee will avoid taking actions that could harm community trust and make it harder for state and local law enforcement agencies to do our jobs.

Sincerely,

Chief Ernest Finley, Montgomery, AL
Lieutenant Andy Norris, Tuscaloosa County, AL
Sheriff Derrick Cunningham, Montgomery County, AL
Chief Lester C. Patrick, Tuskegee, AL
Chief Hayes Minor, Rogers, AR
Sheriff Tony Estrada, Santa Cruz County, AZ
Chief Chris Magnus, Tucson, AZ
Retired Chief John Meza, Mesa, AZ
Assistant Chief Michael Soelberg, Mesa, AZ
Chief Roy Minter, Peoria, AZ
Chief Silvia Moir, Tempe, AZ
Retired Chief Roberto Villaseñor, Tucson, AZ
Retired Chief James Lopez, Los Angeles County, CA
Chief David Huerta, Fresno State University, CA
Sheriff Margaret Mims, Fresno County, CA
Chief Jody Sharp, Los Angeles County, CA
Sheriff Donny Youngblood, Kern County, CA
Chief Dwight Henninger, Vail, CO
Sheriff Joe Pelle, Boulder County, CO
Chief John Mina, Orlando, FL
Sheriff Michael Chitwood, Volusia County, FL
Sheriff Timothy Lane, Scott County, IA
Sheriff Paul Fitzgerald, Story County, IA
Sheriff Bill McCarthy, Polk County, IA
Mark Prosser, Public Safety Director, Storm Lake, IA
Chief Mike Tupper, Marshalltown, IA
Officer Dustin Robinson, Refugee Liaison, Boise, ID
Sheriff Mark Curran, Lake County, IL
Michael Masters, Senior Vice President, The Soufan Group, Chicago, IL
Retired Chief Ron Teachman, South Bend, IN
Retired Chief James Hawkins, Garden City, KS
Chief Michael Utz, Garden City, KS
Chief Gordon Ramsay, Wichita, KS
Commissioner William Evans, Boston, MA

Chief Brian Kyes, Chelsea, MA
Sheriff Peter Koutoujian, Middlesex County, MA
Chief Tom Manger, Montgomery County, MD
Chief Ron Haddad, Dearborn, MI
Sheriff Richard Stanek, Hennepin County, MN
Chief Todd Axtell, Saint Paul, MN
Retired Chief Jose Lopez, Durham, NC
Chief Richard Biehl, Dayton, OH
Chief Eliot Isaac, Cincinnati, OH
Commissioner Richard Ross, Philadelphia, PA
Commissioner of Public Safety Steven Pare, Providence, RI
Sheriff Adell Dobey, Edgefield County, SC
Chief William Holbrook, Columbia, SC
Chief Jimmy Dixon, Clemson, SC
Sheriff Leon Lott, Richland County, SC
Chief Fred Fletcher, Chattanooga, TN
Chief Brian Manley, Austin, TX
Chief Art Acevedo, Houston, TX
Chief William McManus, San Antonio, TX
Sheriff Lupe Valdez, Dallas County, TX
Chief Mike Brown, Salt Lake City, UT
Retired Chief Chris Burbank, Salt Lake City, UT
Deputy Chief Carmen Best, Seattle, WA
Chief Kathleen O'Toole, Seattle, WA
Assistant Chief Randy Gaber, Madison, WI
Chief Mike Koval, Madison, WI
Chief Todd Thomas, Appleton, WI
Chief Andrew Smith, Green Bay, WI
Chief Dean M. Smith, Oshkosh, WI

OFFICE OF THE SHERIFF



515 W. Moreland Blvd.
Box 1488
Waukesha, WI 53187

Waukesha County Jail
Box 0217
Waukesha, WI 53187

Waukesha County Huber
1400 Northview Road
Waukesha, WI 53188

ERIC SEVERSON, *Sheriff*

April 27, 2017

To: Senator Ron Johnson, Homeland Security and Governmental Affairs Chair
Senator Claire McCaskill, Homeland Security and Governmental Affairs Vice Chair

Senator John McCain	Senator Rob Portman	Senator Thomas R. Carper
Senator Jon Tester	Senator Rand Paul	Senator James Lankford
Senator Heidi Heitkamp	Senator Gary C. Peters	Senator Michael B. Enzi
Senator John Hoeven	Senator Margaret Hassan	Senator Kamala Harris
Senator Steve Daines		

Dear Senators,

Before I begin to address the follow-up questions of the committee, I wish to make some opening remarks.

It has been an honor to appear before this committee and it has been an honor to represent my constituents as their Sheriff as we discuss important community safety issues.

When I was first approached by Senator Johnson's staff to discuss what value my law enforcement experience could add to this discussion of national immigration policy, I represented to them that the issues in my community that are immigration related are primarily focused on the availability of controlled substances and the effect a porous border has on this availability. I informed them that the issues relating to criminal immigration violations are relatively low in my community compared to border communities and that my experience may not be as useful to this committee on this topic as other law enforcement professionals may provide. I am not a subject matter expert on the topic of United States immigration law or its enforcement. I believe my prior testimony is also consistent with this.

I make this point again here, because a portion of the follow-up questions are focused on immigration enforcement and the application of Presidential Orders executed to address national immigration policy. In an effort to be as helpful as possible I have had to educate myself on immigration issues that, prior to my testimony, were not within my expertise. I remain convinced that I am not a subject matter expert on U.S. immigration policy and application. With this caveat, I am hopeful that my responses will provide the committee with useful information and one Sheriff's local perspective.

Thank you for your consideration.

Sincerely,

Eric Severson
Sheriff

Post-Hearing Questions for the Record
Submitted to Hon. Eric Severson
From Senator Claire McCaskill

"The Effect of Border Insecurity and Lax Immigration Enforcement on American Communities"
March 1, 2017

Booking Processes

1. **Can you please describe the process of how you deal with an individual you suspect may be engaged in illegal activity from the beginning of the encounter to incarceration? Is this process the same or different when encountering an individual who is suspected of being in this country illegally? If different, would you outline the differences?**

   Below is a basic outline of the processes followed when dealing with an individual suspected of engaging in illegal activity. There are many different varieties of these steps depending on the unique circumstances of each event. The processes remain the same for people who are suspected of being in the United States illegally. It should be noted that there is no database or computer system that Waukesha County can currently access to query individuals to see if individuals are in the country illegally.

   - Deputies make contact with individual.
   - Deputies attempt to identify individual by asking for identification.
   - Deputies contact dispatchers at the Waukesha County Communications Center to query the individual's name through the Wisconsin Department of Justice Crime Information Bureau TIME and Informer systems. Results may be shared with deputies verbally, on paper or electronically.
   - Deputies may also query the subject through the county's mobile devices, located in squad cars, using the Wisconsin Department of Justice Crime Information Bureau TIME System.
   - Deputies use the results to attempt to confirm the individual's identification is correct before proceeding.
   - Deputies collect information from the individual regarding circumstances leading up to the interaction to establish if reasonable suspicion or probable cause exists.
   - Deputies do a complete and thorough investigation of the situation.
   - Individuals are taken into custody if there is probable cause to do so.
   - Generally, deputies interview the individual in an interview room. Interviews with juveniles and adult possibly involved in felonies are recorded.
   - Individuals are asked to provide a written statement of the event.
   - When appropriate, individuals are transported to the jail where they may be booked and released, held for court or allowed to post bail. Arrests are reserved for criminal activity. Arrests for forfeiture actions do not normally result in detentions.
   - The booking release process takes place at the jail or the Waukesha County Law Enforcement Center and includes completion of a booking sheet, data entered into the Spillman System (our record management system), fingerprinting and booking photos taken. Fingerprints are captured with Certifix Livescan System and then transmitted to the Wisconsin Department of Justice Automated Fingerprint Identification System (AFIS). AFIS is a central repository of fingerprint records in the State of Wisconsin that interfaces with the FBI's Integrated Automated Fingerprint Identification System (IAFIS) and provides

Wisconsin law enforcement agencies access to nationwide and international criminal justice information.

- Those held for court may be ordered by the courts to be fingerprinted and have booking photos taken.
- Both the booking process and court-ordered fingerprinting/booking photos processes may involve the following systems the Wisconsin Court System Circuit Court Access, Wisconsin Department of Justice Crime Information Bureau TIME System, Wisconsin District Attorney's Information Technology PROTECT Case Management System/Wisconsin Department of Justice Criminal Justice Information System, Spillman System, Certifix Livescan System Wisconsin Department of Justice AFIS.

2. **What specific databases do you check when arresting an individual and taking them into custody?**

Databases that are checked by the Waukesha County Sheriff's Office or Waukesha County Communications Center when arresting individuals and taking them into custody could include:

- Wisconsin Court System Circuit Court Access (CCAP)
- Wisconsin District Attorney's Information Technology PROTECT Case Management System/Wisconsin Department of Justice Criminal Justice Information System
- Spillman (record management system used by Waukesha County)
- Wisconsin Department of Justice Automated Fingerprint Identification System (AFIS)
- Wisconsin Informer (WCC)
- Wisconsin Department of Justice Crime Information Bureau TIME System
  Data provided by the TIME System may come from or include:
  - National Crime Information Center (NCIC)
  - Wisconsin Department of Justice Criminal Information Bureau (CIB)
  - Wisconsin Department of Transportation
  - Other States' Departments of Transportation
  - Criminal History Record Information (CHRI)
  - Wisconsin Department of Corrections Sex Offender Registry
  - Wisconsin Department of Corrections Probation and Parole
  - Wisconsin Warrants and Protections Orders

Waukesha County Sheriff's Office does not currently have access to Department of Homeland Security or ICE databases. NCIC does provide access to ICE hits but none of the databases listed above contain citizenship or country of origin information.

3. **Do you know which of these databases provides information to ICE about the individual in your custody?**

In accordance with the United States Department of States' guidelines, when foreign nationals from most countries are arrested or detained in the Waukesha County Jail, they may, upon request, have their consular offices notified and communications to their consular offices forwarded without delay. In addition, foreign nationals must be advised of this information without delay. For foreign nationals of some countries, consular offices must be notified of the arrest or detention of a foreign national even if the foreign national does not request or want notification. Waukesha County Jail staff satisfy this and other requirements of the federal

immigration laws by forwarding the Waukesha County Inmates Non-US Citizens Report to ICE daily. ICE reviews information, reports and AFIS submissions.

4. **Do you check legal status as a regular matter when you encounter an individual who may be engaged in illegal activity?**

   We ask all inmates to disclose city of birth and citizenship status at booking. My office does not currently have access to Department of Homeland Security or ICE databases. NCIC provides information related to ICE warrants and/or detainers but beyond that we have no ability to directly check specific immigration status.

5. **How do you come to the suspicion that an individual may be in the country illegally?**

   Aside from the information derived from the aforementioned databases and computer systems, suspicions that an individual may be in the country illegally could come from several sources such as lack of lack of documentation or identification, the individual's inability to provide a permanent address, failure to appear on any governmental data bases, comments from the individual and/or family and friends that are interviewed, which may include an admission, etc.

Transferring Custody

6. **Please list any examples of specific issues and/or problems that the Waukesha County Sheriff's Office has encountered when transferring custody of someone to ICE.**

   Waukesha County has not had significant problems or issues when transferring custody of individuals to ICE. ICE has been very responsive to Waukesha County Sheriff's Office when notified that persons of interest are ready for release to date.

Liability Concerns

At the hearing, you mentioned concerns about liability issues when detaining an individual solely for the purpose of fulfilling a detainer request from ICE when otherwise the individual would be released. Additionally, you mentioned that there have been several lawsuits regarding whether or not local law enforcement has the ability to detain individuals solely on immigration status questions and that those are currently in the appeals process. The argument being made is that an ICE detainer alone is not sufficient from a due process standpoint.

7. **Please provide us with as much information as you are able to about the cases that you mentioned at the hearing.**

   It is important to emphasize that case and federal law relating to detainers is constantly changing. ICE policies and practices have changed since my first appearance before this committee. Sheriffs, individually and through representation by the National Sheriffs' Association and the Major Counties Sheriffs' Association, are working very hard to honor detainers while following federal law, applicable case law and the constitution.

   Information relative to the court cases mentioned at the hearing was previously forwarded by representatives of the National Sheriff's Association to Senator Johnson's office. Included in that package are the documents entitled "Legal Issues with Immigration Retainers" from the Immigrant Legal Resource Center, November 2016. This document contains some summary brief

language in relevant cases as well as footnote references, which have been helpful in understanding the case law. This is not an exhaustive list. These cases also do not provide complete clarity or direction because of the complexity of the issues, as well as the absence of definitive supreme court decisions on the issues.

Several court decisions have determined that in some cases sheriffs have unlawfully violated individual constitutional rights when detention was based solely on an ICE detainer. Generally, I concur with the following excerpt from the National Counties Association (NACo), March 28, 2017 press release titled *NACo Statement on Recent Sanctuary Jurisdiction Remarks by the U.S. Attorney General.*

> "As stated repeatedly by county executives and sheriffs, counties routinely comply with ICE detainer requests with the required court warrants or orders. Otherwise, ***when ICE requests a detainer without a court order or warrant, our counties are hit with lawsuits and legal actions based on Fourth Amendment protections against warrantless arrest, which extend to all individuals in the United States, regardless of immigration status.***" (Emphasis added.)

The first obligation of a sheriff is to protect individual constitutional rights. Several courts have ruled that some detentions by some sheriffs based solely on an ICE detainer have been constitutional violations, sheriffs can be left in an impossible situation when asked to both detain an individual without due process and also follow the constitution. The NACo press release further goes on to say:

> "NACo and our nation's county leaders are fully committed to working with the attorney general, secretary of Homeland Security and other federal officials to ensure the safety of our country and our local communities. County leaders, including our sheriffs, are steadfast in ensuring that all criminals, regardless of their immigration status, are held accountable. We look forward to sitting down with our federal partners and working through the practical issues, such as legal and financial costs, associated with assisting in this federal responsibility."

We are currently engaged in discussions with local ICE officials and our respective legal counselors to identify the constitutional issues and develop process changes to fully comply with detainer requests while complying with the law. It has been my policy to cooperate fully with ICE in all matters, however, we must very careful to not violate constitutional rights of any individual.

8. Prior to Executive Order 13768, would an ICE detainer be considered sufficient due process for individuals under the Priority 1 Enforcement?

I respectfully decline to answer this question because it calls for a legal conclusion that I do not feel qualified to provide.

9. Has this issue been affected by the signing of Executive Order 13768?

Liability issues for local law enforcement remain after the signing of Executive Order 13768. The Executive Order does not appear to address the due process that the federal courts say is lacking when individuals are detained solely on ICE detainers.

One law enforcement concern has emerged as it relates to Section 9b. 9b requires ICE to issue a Declined Detainer Outcome Report (DDOR). The issuance of this report was recently suspended after sheriffs pointed out serious inaccuracies of the report. ICE is currently reviewing the process by which the data used to compile the report is vetted.

The publication of the DDOR has been problematic because entries can be based on inaccurate information. It is also problematic because it does not acknowledge the legal realities or the lawfulness of detention based solely on the detainer. In other words, if a sheriff declines a detainer request because the case law and constitution indicates the detention is unlawful, I strongly submit that the entry should not be included in the report. Again the case law is in flux and different sheriffs and their counsel take different views on the unclear status of the law.

Post-Hearing Questions for the Record
Submitted to The Honorable Eric Severson
From Senator Ron Johnson

"The Effects of Border Insecurity and Lax Immigration Enforcement on American Communities"

March 1, 2017

1. **Please provide suggestions on how current immigration laws can be strengthened to prevent drugs from coming into the country and effecting local communities across the country.**

   I concur with the June 25, 2013, National Sheriffs' Association Position Paper on Comprehensive Immigration Reform. The following suggestions for strengthening laws to prevent drugs from coming into the country and affecting local communities across the country are taken directly from that paper.

   - Enforcement of the immigration laws currently in the federal code.
   - Effective and efficient securing of both the southern and northern borders by the federal government.
   - Increased funding for and expansion of Operation Stonegarden, which pays overtime and operational costs for local law enforcement officers to support and enhance Department of Homeland Security (DHS) efforts to interdict illegal border crossings.
   - Full funding for the State Criminal Alien Assistance Program (SCAAP) at a minimum authorized level of $950 million.
   - Full funding for the Edward Byrne Memorial Justice Assistance Grant (Byrne JAG) Program at a minimum authorized level of $1.1 billion.
   - Full funding for the High Intensity Drug Trafficking Areas (HIDTA) Program at a minimum authorized level of $280 million.
   - The appropriation of the funding necessary to substantially increase the number of Immigration and Customs Enforcement (ICE) agents.
   - The appropriation of the funding necessary to substantially increase the number of Customs and Border Protection (CBP) agents.
   - Increased funding for ICE's Criminal Alien Removal Programs, such as 287(g) and Secure Communities.
   - Provide additional resources to immigration courts and prosecutors.
   - Funding for the creation of an interoperable and integrated communications infrastructure.
   - Completion of the 700 miles of fencing along the border with Mexico and construction of double- and triple- layer fencing at appropriate locations along the southwest border.
   - Reestablishment of Operation Jump Start, where the deployment of the National Guard shall be used solely for Entry Identification Teams (EIT) in direct support of CBP.
   - The construction or acquisition of adequate facilities to detain and process all those lawfully arrested.
   - The administration and Congress work with other nations to stem the flow of illegal immigration into the United States.

- Requiring United States CBP to work with offices of sheriff and other state, local and tribal law enforcement to develop a strategic plan for the expenditure of all funds.
- Legislation that requires information sharing between the United States government and state, local and tribal law enforcement regarding criminal or homeland security threats.
- Mandate employers' use of E-Verify or a similar program that achieves the same end, to verify the identification and documents of the employee.
- Require the Social Security Administration (SSA) to issue letters to employers when withholdings submitted under a Social Security Number (SSN) do not match the name in SSA records.
- Issue a secure, tamper-resistant Social Security card as the sole evidence of eligibility for employment in the United States.
- Investigate and prosecute those who commit immigration fraud, including U.S. citizens and lawfully admitted aliens.
- Aggressively prosecute those who knowingly hire illegal aliens.
- Under the conditions and provisions of a guest worker program, persons here illegally must come forward and declare themselves to the United States government.
- In order to obtain citizenship, an applicant will be required to return to their country of origin, apply, and pay a financial penalty; however, the applicant must wait in line with those who have applied legally. An applicant must also submit a DNA sample, fingerprints, and iris scans for identification purposes.
- A more efficient use and expansion of existing federal resources to handle the influx of applications so that the applications can be processed in a timely fashion.
- Strengthening the oversight of due process for asylees within a legislated time period.
- Requiring DHS to oversee the application process, not a newly-created U.S. Citizenship Foundation or any other group that would outsource to community organizations.

2. How can we better improve collaboration between federal, state, and local law enforcement?

Generally, local law enforcement is not asking to be the primary enforcement arm of United States immigration policy. Law enforcement has a very important role in working collaboratively with federal partners to protect communities against unlawful acts perpetrated by illegal aliens.

The two greatest obstacles preventing collaboration are:

A. The fact that some local law enforcement detentions based solely on ICE detainers have been found by some courts to be unconstitutional.

B. The federal government's reluctance to take an active role in representing and indemnifying local law enforcement who comply with detainer requests. As a matter of United States Department of Justice policy, when a state or local law enforcement agency is sued for honoring those requests, neither DHS nor the DOJ will stand with that agency to defend and indemnify the agency that honored the detention.

3. **Recognizing that the majority of heroin enters the United States through our porous southwest border, how can we better allocate resources to assist local law enforcement in combatting against the rise of opioid overdose deaths and associated crimes that have plagued the United States?**

   The greatest impact on the safety to communities is the ease of bringing controlled substances into the country by way of the Mexican-American border. Other ways to assist law enforcement in its battle against opioid overdose deaths and crimes include:

   - Strengthening border security by providing resources to increase the physical presence of law enforcement and technology
   - Continuing to fund Operation Stonegarden and the State Criminal Alien Assistance Program (SCAAP)
   - Restoring Byrne JAG to original funding levels (I oppose current proposals to further reduce SCAAP and Byrne JAG funding.)
   - Continuing/increasing local HIDTA funding
   - Continuing to fund local naloxone programs
   - Providing federal funding to support state and local drug take back programs.

4. **How can the federal government improve grants and immigration/drug enforcement to aid local communities that are not located on the United States' borders?**

   As I indicated in my testimony in Washington D.C., funding levels for Edward Byrne Justice Assistance Grants have been drastically reduced over the last several decades. Restoring some of these funds along with funding for Operation Stonegarden, SCAAP, HIDTA, etc. would help local law enforcement be more effective in law enforcement tasks and operations.

   Do not allow a reduction or shift of current or authorized federal funds to state and local programs to pay for new federal immigration enforcement programs. State and local law enforcement resources should not be used to fund a federal responsibility.

   Local and state-run drug take back programs are an important component of prescription opiate supply reduction. Federal assistance in these efforts would greatly improve their effectiveness.

Post-Hearing Questions for the Record
Submitted to Hon. Eric Severson
From Senator Steve Daines

"The Effects of Border Insecurity and Lax Immigration Enforcement on American Communities"

March 1, 2017

Virtually all methamphetamines in Montana are now coming from south of the border. We have seen the price drop in half with this influx and now more than 90% of all drug offenses in Montana are meth related. This impacts our communities, from increases in violent crime to a disturbing rise in child endangerment and foster care caseloads.

Sheriff Severson, in your testimony you touched on the challenges meth has posed to your community and how border insecurity exacerbates them. Montana's Attorney General (AG) Tim Fox is leading efforts to develop a strategic plan to combat these drugs. What can federal law enforcement do to help state AGs protect our communities and prevent the flow of meth? Would establishing "sanctuary" jurisdictions help or harm these efforts?

I would reiterate the need for a secure border.

Many jurisdictions are seeing some promising results from the implementation and administration of drug courts. In my community we are struggling to maintain funding for drug and alcohol courts. Federal assistance would be welcome.

In my state, our attorney general is very active in partnering with local law enforcement in the areas of developing opiate awareness programs, leading strong legislative efforts and coordinating state-wide prescription drug take-back programs. I would encourage this committee to reach out to state's attorneys general for their input on further ways Congress can assist in their counter drug efforts.

Post-Hearing Questions for the Record
Submitted to Hon. Eric Severson
From Senator Jon Tester

"The Effect of Border Insecurity and Lax Immigration Enforcement on American Communities"

March 1, 2017

President Trump's Executive Order on Interior Enforcement broadly expands the definition of "criminal alien" to include immigration violations such as illegal entry and re-entry, driving without a license, and anyone ICE deems is a "risk to public safety or national security" even if they have not committed a crime.

1) **Should focusing resources on targeting and removing individuals who drive without a license take priority over identifying and removing serious criminals?**

   It seems this question is best directed to someone from DHS or ICE since it asks about federal immigration enforcement priorities. That said, for me to effectively answer your question, I feel compelled to respectfully take issue with your premise that the phrase "even if they have not committed a crime" does not apply when speaking about individuals who have in fact committed a crime by entering the country illegally, which is by definition criminal.

   Comparing minor criminal offenses to more serious criminal offense makes prioritization easy and is an over simplification of our challenges. Minor offenses would seldom take priority over more serious criminal offenses. However, there is no public appetite for law enforcement to look the other way on minor violations. The role of law enforcement is to enforce the law.

2) **Have you been in touch with or received guidance from any DHS officials regarding your department's enforcement priorities with regards to apprehending and detaining criminal aliens?**

   My office routinely communicates with local ICE officials. ICE officials have shared their priorities, such as pursuing individuals actively participating in criminal gang activities. ICE has indicated they want Waukesha County's help identifying violent criminals with unlawful immigration status. The Waukesha Sheriff's Office is supportive of listening to and working with ICE. We have supported and continue to support ICE in their law enforcement efforts.

Since the administration's new Executive Orders, we have seen quite a few non-criminal immigrants apprehended. Regardless of your opinion about whether this is right or wrong, such actions could hinder the effectiveness of departments, like yours, to keep communities safe, regardless of the immigration status of its residents.

3) **If you are asked to enforce federal immigration law, do you expect immigrants – undocumented or otherwise – to feel comfortable coming forward and reporting crimes or helping investigations if they are afraid they will be subject to deportation?**

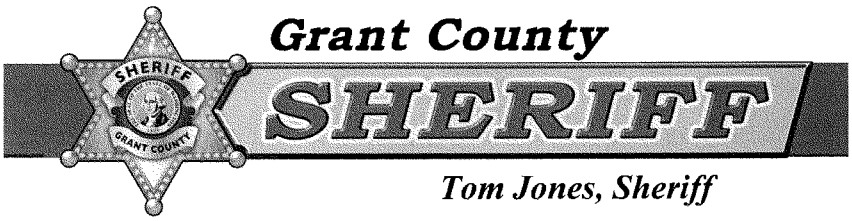
I do not think that local law enforcement efforts working collaboratively with ICE in their efforts to enforce federal immigration laws would decrease the level of comfort immigrants, undocumented or otherwise, would feel in coming forward and reporting crimes. I believe these fears are anecdotal and I am not aware of studies or large analysis to prove such fears exist. Having said that there will always be the reality that some people who know they have committed a crime will always be reluctant to interact with law enforcement. Local law enforcement working together will not change this in my opinion.

State and local law enforcement agencies work each and every day to build and strengthen relationships will all parts of their communities, including the immigrant community. We will continue to do this and we will look for new opportunities to strengthen these relationships.

4) **Do you feel this new Executive Order will affect your ability to do your job? Has it so far? If so, how?**

I do not understand this question well enough or know what Executive Order is being referred to in your question to provide a direct answer.

One recent Executive Order included directives to hire additional CBP agents and ICE officers which will, hopefully, alleviate some of the challenges faced by state and local law enforcement. This will help us do our job.



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April 12, 2017

VIA EMAIL

Senator Ron Johnson (R-Wisonsin)
328 Hart Senate Office Building
Washington, D.C. 20510

Ref: Answers to Post-Hearing Questions for the Record

Senator Johnson:

Thank you for the opportunity to address your questions regarding "The Effects of Border Insecurity and Lax Immigration Enforcement on American Communities".

My answers to your post-hearing questions are outlined on the following pages.

Sincerely,

<SIG>

Ryan Rectenwald
Chief Deputy of Special Operations
rrectenwald@grantcountywa.gov

Post-Hearing Questions for the Record
Submitted to Ryan Rectenwald
From Senator Ron Johnson

"The Effects of Border Insecurity and Lax Immigration Enforcement on American Communities"

March 1, 2017

Q: Please provide suggestions on how current immigration laws can be strengthened to ensure the types of tragedies discussed in the hearing, such as the murder of Jill Marie Sundberg, do not happen again.

A: As established now, sanctuary cities are protecting all immigrants, including those who have committed violent felonies and/or multiple previous deportations. This is a miscarriage of justice. As I testified before your committee, I believe that we need to start with some basic common sense principles and policies. We need to protect the innocent, legally or illegally in the country, by allowing law enforcement access to all data or information concerning violent and/or drug trafficking offenders. This would include all previously deported non U.S. citizens and suspected offenders.
To be clear: sheltering violent offenders because of their immigration status is a miscarriage of justice. There needs to be common sense bipartisan discussion and policy agreement that protects United States citizens.

Rural counties like Grant County, Washington, depend on some federal funding to help with existing law enforcement needs. We, in Grant County, do not believe in the concept of sanctuary cities or counties. We believe in the rule of law. Local jurisdictions should cooperate with federal authorities. However, we are concerned that citizens that live in "sanctuary" areas may suffer consequences because potential reduction in funding for law enforcement.

As stated in my testimony in Washington D.C., our priority is addressing and dealing with illegal violent offenders.

Q: How can we better improve collaboration between federal, state, and local law enforcement?

A: Common sense and common ground needs to be reached. We can start by making sure our computer databases are linked to each other, including access to finger prints. We need to make sure that all sides come together to determine that an ICE agent can come into a jail and do an ICE detainer. We need a common sense policy from the bipartisan effort by both political parties to protect our people.

Q: How can the federal government improve grants and immigration/drug enforcement to aid local communities that are not located on the United States' borders?

A: As established now, sanctuary cities are protecting all immigrants, including those who have committed violent felonies and/or multiple previous deportations. This is a miscarriage of justice. As I testified before your committee, I believe that we need to start with some basic common sense principles and policies. We need to protect the innocent, legally or illegally in the country, by allowing law enforcement access to all data or information concerning violent and/or drug trafficking offenders. This would include all previously deported non U.S. citizens and suspected offenders.
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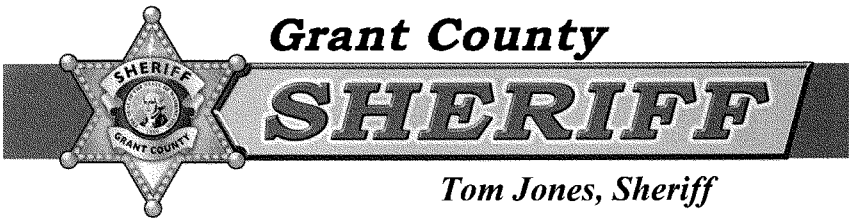
As stated before your committee, our priority is addressing and dealing with illegal violent offenders. We would continue to request federal funding for rural counties like ours who are not "sanctuary counties" to deal with these issues.



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April 12, 2017

VIA EMAIL

Senator Steve Daines (R-Montana)
320 Hart Senate Office Building
Washington, D.C. 20510

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Senator Daines:

Thank you for the opportunity to address your questions regarding "The Effects of Border Insecurity and Lax Immigration Enforcement on American Communities".

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Sincerely,

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rrectenwald@grantcountywa.gov

Post-Hearing Questions for the Record
Submitted to Ryan Rectenwald
From Senator Steve Daines

"The Effects of Border Insecurity and Lax Immigration Enforcement on American Communities"

March 1, 2017

Q: Sanctuary cities willfully violate federal law and allow illegal immigrants to remain in the United States. These cities may forbid its local law enforcement from sharing information on illegal immigrants with federal immigration officials or complying with an immigration detainer.

Deputy Rectenwald, do you believe that the loss of some federal funds to these cities will help improve compliance with our nations' immigration laws?

A: As established now, sanctuary cities are protecting all immigrants, including those who have committed violent felonies and/or multiple previous deportations. This is a miscarriage of justice. As I testified before your committee, I believe that we need to start with some basic common sense principles and policies. We need to protect the innocent, legally or illegally in the country, by allowing law enforcement access to all data or information concerning violent and/or drug trafficking offenders. This would include all previously deported non U.S. citizens and suspected offenders.

To be clear: sheltering violent offenders because of their immigration status is a miscarriage of justice. There needs to be common sense bipartisan discussion and policy agreement that protects United States citizens.

Rural counties like Grant County, Washington depend on some federal funding to help with existing law enforcement needs. We in Grant County do not believe in the concept of sanctuary cities or counties. We believe in the rule of law. Local jurisdictions should cooperate with federal authorities. However, we are concerned that citizens that live in "sanctuary" areas may suffer consequences because potential reduction in funding for law enforcement.

As stated before your committee, our priority is addressing and dealing with illegal violent offenders. We would continue to request federal funding for rural counties like ours who are not "sanctuary counties" to deal with these issues.

Q: Some Montana cities are considering enacting "sanctuary" policies. What advice do you have for those elected officials?

> *A: This blanket amnesty policy is not working. Frankly, those in the policy-making positions should be held accountable for sheltering those later found to be guilty of violent crimes against our citizens. We need to quit polarizing the issue and take a common sense approach which allows local law enforcement authorities to deal with violent offenders at the same level as those living here legally. Local proponents of sanctuary cities and counties need to bear in mind, if one of these non-U.S. citizen violent offenders killed or committed a violent crime against their loved ones, they would have an entirely different perspective concerning this issue.*

Q: Last year, the US Border Patrol nationally seized nearly 5,500 pounds of cocaine, nearly 1.3 million pounds of marijnana, and over 400,000 people attempting to enter the country illegally. A small but non-negligihle number came across the northern border.

Washington, like Montana, has a long border with fewer resources than our southern horder. As we clamp down on the south, the northern border will hecome more attractive to traffickers. What can we do to mitigate this trafficking route?

> *A: We should continue to fund the Byrne-JAG grant at a sustainable level so that smaller law enforcement agencies inside each state can effectively combat drug trafficking.*

Q: In your testimony you touched on something unnerving – a judge not issuing a warrant when a known criminal skips their immigration court date. This whole hearing is about having and using the tools to remove criminals. Do you think President Trump's action plan for increased enforcement is a step in the right direction?

> *A: We can start by NOT allowing bail on a convicted violent felony offender in a deportation hearing? If, for some reason bail is granted, then follow-up warrants MUST be issued if the defendant fails to appear for any hearing. Notification of the warrant MUST be shared with local law enforcement.*

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April 12, 2017

VIA EMAIL

Senator Claire McCaskill (D-Missouri)
503 Hart Senate Office Building
Washington, D.C. 20510

Ref: Answers to Post-Hearing Questions for the Record

Senator McCaskill:

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Post-Hearing Questions for the Record
Submitted to Chief Deputy Rectenwald
From Senator Claire McCaskill

"The Effect of Border Insecurity and Lax Immigration Enforcement on American Communities"

March 1, 2017

Booking Processes

1. **Can you please describe the process of how you deal with an individual you suspect may be engaged in illegal activity from the beginning of the encounter to incarceration? Is this process the same or different when encountering an individual who is suspected of being in this country illegally? If different, would you outline the differences?**

   A: We do not ask about immigration status. Grant County Sheriff's Office deals with individuals the same from start-to-finish regardless of race, religion, nationality, to include immigration status. Our policy states (the full policy is enclosed for your convenience):

   > *428.3.1 BASIS FOR CONTACT*
   > *Unless immigration status is relevant to another criminal offense or investigation (e.g., harboring, smuggling, terrorism), the fact that an individual is suspected of being an undocumented alien shall not be the sole basis for contact, detention or arrest.*
   >
   > *428.3.4 IDENTIFICATION*
   > *Whenever any individual is reasonably suspected of a criminal violation (infraction, misdemeanor, or felony), the investigating deputy should take reasonable steps to determine the person's identity through valid identification or other reliable sources.*
   > *If an individual would have otherwise been released for an infraction or misdemeanor on a citation, the person should be taken to the station and given a reasonable opportunity to verify his/her true identity (e.g., telephone calls). If the person's identity is thereafter reasonably established, the original citation release should be completed without consideration of immigration status.*

2. **What specific databases do you check when arresting and individual and taking them into custody?**

   > *A: Grant County Sheriff's Office uses the FBI's NCIC (National Crime Information Center). We also use Washington State Patrol's WACIC (Washington Crime Information Center).*

3. **Do you know which of these databases provide information to ICE about the individual in your custody?**

   A: Currently neither of these data bases provide information to ICE.

4. **Do you check legal status as a regular matter when you encounter an individual who may be engaged in illegal activity?**

   A: No. Please refer to our policy which states:

   > *428.3.1 BASIS FOR CONTACT*
   > *Unless immigration status is relevant to another criminal offense or investigation (e.g., harboring, smuggling, terrorism), the fact that an individual is suspected of being an undocumented alien shall not be the sole basis for contact, detention or arrest.*

   When a person is booked into our local county jail, our staff inquires as to their country of origin. This is a standard practice because the individual has the right to have access to their country's Consulate.

5. **How do you come to the suspicion that an individual may be in the country illegally?**

   A: We may learn from self-disclosure if voluntarily. Local law enforcement does not have the legal authority to arrest an individual simply because the person is in the country illegally.

Transferring Custody

At the hearing you mentioned a case from Grant County, Washington in 2008 in which ICE assisted Grant County after a request to detain an individual with a previous felony drug conviction who had previously been ordered to deport. ICE was unable to provide Grant County with a reason for why this assistance could not be provided.

6. **Please list any additional examples of specific issues and/or problems that the Grant County Sheriff's Office has encountered when transferring custody of someone to ICE.**

   A: I am not familiar with any other incidents when ICE was unable to provide assistance.

Liability Concerns

At the hearing, Sheriff Eric Severson mentioned concerns about liability issues when detaining an individual solely for the purpose of fulfilling a detainer request from ICE when otherwise the individual would be released. Additionally, Sheriff Severson mentioned that there have been several lawsuits regarding whether or not local law enforcement has the ability to detain individuals solely on immigration status questions and that those are currently in the appeals process. The argument being made is that an ICE detainer alone is not sufficient from a due process standpoint.

7. **Has the Grant County Sheriff's Department had any experience with any lawsuits similar to those that Sheriff Severson described?**

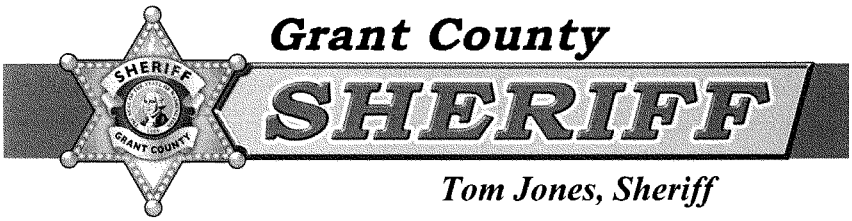
   A: No. Grant County Sheriff's Office has changed its policy regarding ICE Detainers in light of the case in Clackamas County, Oregon.

8. **Prior to Executive Order 13768, would an ICE detainer be considered sufficient due process for individuals under the Priority 1 Enforcement?**

   A: I do not have sufficient information to answer this question.

9. **Has this issue been affected by the signing of Executive Order 13768?**

   A: Please see answer to question above.



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VIA EMAIL

Senator Jon Tester (D-Montana)
311 Hart Senate Office Building
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Submitted to Chief Deputy Rectenwald
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1) **Should focusing resources on targeting and removing individuals who drive without a license take priority over identifying and removing serious criminals?**

   A: No. Please reference our policy (copied herein and attached for your convenience).

   As I stated in my testimony, law enforcement needs better access to those individuals committing violent crimes. The current policies and procedures, often times hinders law enforcement in Grant County from arresting / removing violent offenders. As my testimony illustrated, this tragically resulted in the death of an innocent Grant County resident, Jill Sundberg.

   There needs to be common sense bipartisan discussion and policy agreement which protects our citizens, who are unfairly caught in the middle of existing disastrous immigration policies.

2) **Have you been in touch with or received guidance from any DHS officials regarding your department's enforcement priorities with regards to apprehending and detaining criminal aliens?**

   A: Yes. Since the Clackamas County, Oregon lawsuit, our agency has been in contact with ICE. The County Sheriff's Office is currently in compliance with existing Federal law regarding Immigration detainers.

   However, we would respectfully request that current federal immigration policy be changed. Specifically, we would propose legislation that would allow local law enforcement authority to apprehend / detain individuals, who are flagged in NCIC or WACIC, as being previous deported. We would work with federal partners to make immediate arrangements for the processing and deportation of these individuals.

Since the administration's new Executive Orders, we have seen quite a few non-criminal immigrants apprehended. Regardless of your opinion about whether this is right or wrong, such actions could hinder the effectiveness of departments, like yours, to keep communities safe, regardless of the immigration status of its residents.

3) **If you are asked to enforce federal immigration law, do you expect immigrants – undocumented or otherwise – to feel comfortable coming forward and reporting crimes or helping investigations if they are afraid they will be subject to deportation?**

   A: This would require total speculation on our part. We believe in the rule of law. Specifically, we believe that all people entering this country should do so lawfully. Anyone that enters this county without going through necessary and established immigration procedures is subject to deportation.

   Congress has kicked this can down the road for the past 40 years without coming to a bipartisan solution. In our experience, a large number of, "illegal/undocumented" individuals are reporting crime and providing testimony. Non U.S. citizens who are victims of crimes are taking advantage of the U-Visa program which allows for temporary status in the U.S. Unfortunately, we are also seeing an increase in false reporting by these individuals in order for them to obtain U-Visa status.

4) **Do you feel this new Executive Order will affect your ability to do your job? Has it so far? If so, how?**

   A: We in Grant County do not feel that the new Executive Order has or will affect our ability to do our job. We see the current immigration problem as one of the most serious matters facing our country. This issue should be bipartisan with the goal to protect and defend all U.S. citizens.

   We need Congress to come up with an immediate and effective solution to this long term crisis. We need to reduce crime and the enormous expense and waste of federal tax dollars. Anecdotally, Grant County spent $1.7-million dollars in the past three years housing non-U.S. criminals in our jail. This figure does not take into account the tremendous amount of resources and time local law enforcement and prosecuting agencies processing these cases.

IMPROVING BORDER SECURITY AND PUBLIC SAFETY

WEDNESDAY, APRIL 5, 2017

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

The Committee met, pursuant to notice, at 9:29 a.m., in room SD–342, Dirksen Senate Office Building, Hon. Ron Johnson, Chairman of the Committee, presiding.

Present: Senators Johnson, McCain, Portman, Paul, Lankford, Hoeven, Daines, McCaskill, Carper, Tester, Heitkamp, Peters, Hassan, and Harris.

OPENING STATEMENT OF CHAIRMAN JOHNSON

Chairman JOHNSON. This hearing will come to order.

I would like to welcome the Secretary of the Department of Homeland Security, General Kelly. We appreciate you coming and taking the time and your thoughtful testimony. We are looking forward to your oral testimony and your answers to what should be a number of pretty interesting questions.

For the Members of this Committee, it should come as no surprise that the security of our border has been a top priority of this Committee. In November 2015, after about 13 hearings and 3 roundtables, we did publish a report, "The State of America's Border Security," which, by the way, we have a bunch of copies, so any new Members or older Members who did not get a copy, I would be happy to give you one.

We have learned an awful lot, and I would ask that my opening statement be entered in the record.[1]

Senator MCCASKILL. Without objection.

Chairman JOHNSON What I would like to do is read some of the findings out of that opening statement as well as just some other things we have learned, just kind of bullet points.

First and foremost, what we have learned during—now this is going to be our 23rd hearing on various aspects of border security. The first finding, our borders are not secure.

Number two, and we mentioned this in yesterday's hearing—America's insatiable demand for drugs is one root cause, perhaps the root cause, preventing the achievement of a secure border.

In order to secure our borders—we heard this yesterday in testimony on fencing and walls—agents need full situational awareness,

[1] The prepared statement of Senator Johnson appears in the Appendix on page 295.

which includes the ability to see on the other side of the border. This can be achieved with appropriate fencing and technology.

We had a hearing in November of last year. We had the former heads of U.S. Border Patrol (USBP) and Deputy Border Patrol, and they said that fencing works and we need more of it.

We found out last week in a hearing from the front lines that hiring is a challenge, and personnel issues must be addressed, and we are working with the Secretary and his Deputy to try and address that really based off of Senator Heitkamp's comments at the end of that one hearing when she said, "This is insane, this is crazy," and there are some insane and crazy policies which we want to work with you to get those addressed and fixed right away so you can actually staff up and provide the manpower element of securing our border.

Ports of entry must not be forgotten. The majority of drugs enter our country through our ports of entry, and that is something I would like to talk about.

One difficult hearing to have was victims of an unsecured border, victims of not enforcing our immigration laws. The truth is tragedies have occurred as a result of our insecure borders, tragedies that could have been prevented.

Going down another list, not in my opening statement, drug cartels and coyotes use minors to avoid prosecution. Unaccompanied children have been trafficked into sex trade and involuntary servitude. Drug cartels are as, if not more, brutal and depraved than the Islamic State of Iraq and Syria (ISIS).

Aerostats, good technology, but as we found out on one of our trips down to the border, they are not real good in wind, and so in certain areas, they can only operate about 40 percent of the time.

We had an incredibly interesting hearing—and this is something I am a big supporter of—to quadruple or quintuple the use of dogs because no technology can beat the nose of a dog.

In Brooks County on one of our trips, we found out that 435 deaths of people who crossed into the country illegally occurred just in the last 5 years. It is a very dangerous journey. We need to try to disincentivize people from making that dangerous journey.

Drug use is not a victimless crime. It has given rise to the drug cartels. Those drug cartels traffic little girls. We were down in Guatemala, and we went to one of those shelters, Senator Heitkamp, Senator Carper, and Senator Peters. I think the average age was 14. So, it is not a victimless crime. I think we all realize that. But, unfortunately, we need to understand the responsibility we bear because of our insatiable demand for drugs.

That is just a list. I do not want to keep droning on here, but we have learned an awful lot in 22 hearings. I think we are going to learn a lot more today. And, as Senator McCaskill said in yesterday's hearing, I do not think there is one United States Senator who does not believe we need a secure border. So let us start there, with that area of agreement. We share that goal. We want to secure our border. We want to keep the folks that we represent in our States, safe and secure. Now we have to figure out the details.

Again, I want to welcome General Kelly, and I will also turn it over to Senator McCaskill.

OPENING STATEMENT OF SENATOR MCCASKILL[1]

Senator MCCASKILL. Thank you. Thank you, Mr. Chairman.

Secretary Kelly, thank you so much for being here today. We are cognizant of the demands on your time, and part of our goal—and the Chairman and I agree on this—is trying to be careful about what we ask for and how much we ask for. But. we have to ask for stuff because our job is oversight. But, we are aware that you are being pulled a lot of different ways. That is why we look forward to you getting the full team in place so we can begin to have some of the people in charge in your operation come and answer some of these difficult policy and oversight questions.

You and I have worked together on the Armed Services Committee. I am a fan of how you have served as a Marine and a general, and no one can question the sacrifices you have made for our Nation. Ever since your confirmation, I have considered you a voice of reason within the Administration. You have displayed throughout your career a willingness to speak truth to power, to say no rather than nodding, and have made your decisions based on the facts, not political expediency.

Those characteristics are needed now more than ever. I am counting on you to speak truth to this Administration and to the President. But, I am also asking you to speak to us and the American people. Even though it may not seem like it, we are now 3 months into the new Administration. I know that you want time to settle in, and you need help to do your job. We are pleased that we confirmed Elaine Duke yesterday. I think she will be a terrific addition to your Department. And, by the way, I secured her vote tally, the original. I was going to bring it this morning and I forgot, but I will make sure I get that to her so she can have it to frame for her office.

We have two Executive Orders (EO) that ban travel from Muslim majority nations. The first was implemented without notice and caused chaos at our Nation's airports. Both have come under immediate constitutional scrutiny by the courts. The Department has overhauled its interior enforcement, in the words of the White House, to "take the shackles off" Immigration and Customs Enforcement (ICE) and the Border Patrol. You have ordered the Department to "immediately begin planning, design, construction, and maintenance of a wall" along the border. Even though Missouri is not on the border, my State is directly affected by it. The drugs that get through the Mexican border have a huge impact on the opioid crisis that is gripping my State and the entire Nation. It is causing death and destruction to families all over the United States.

I know you share my concern about drugs coming over the border, but I am deeply concerned that all of the rhetoric and all of the budget requests have focused on the border and not the ports of entry, that there is no plan to increase resources at the ports of entry, which we know, along with the mail, is the primary place that drugs are coming into our country. I certainly hope that we have a chance to address that today.

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[1] The prepared statement of Senator McCaskill appears in the Appendix on page 296.

Away from the border, I am concerned about the Secret Service and the unprecedented challenge of protecting the President and his family at numerous locations: the White House, Trump Tower, and Mar-a-Lago, as well as the international travel by the President's sons. In the meantime, the Secret Service is reviewing incidents that have threatened the physical security of the White House, including a case in March where a fence jumper was able to elude security and roam the grounds for 15 minutes.

I am deeply concerned that the Secret Service is being stretched to its breaking point. And, just yesterday, I read news reports that the extreme vetting procedures that the President has ordered could force visa applicants from places like Australia and Japan and the United Kingdom (U.K.) to disclose not only all the information on their mobile phones, social media passwords, financial records, even to answer questions about their beliefs.

I have to tell you, if my family was traveling to the United Kingdom and they told me that we would have to answer questions about my beliefs to get into the country, we would not go. And, I have a hard time imagining those countries would see us as their friends. I think this has a profound impact on our standing in the world, a profound impact on the nature of our alliances around the world, and a profound impact on our national security. And, I will ask questions about that today, as I indicated to you in our conversation yesterday, because I think we are doing things that in no way as a former prosecutor trips up the bad guys but changes our image forever in the eyes of the world, permanent and irreparable harm occurring.

Secretary Kelly, we have been trying to ask questions about policies and problems like these to your Department, and there have been times it has been very difficult to get answers. I am willing to do a reset and check that off as you not having all hands on deck, but going forward, I hope that together the Chairman and I can work to make sure that we have witnesses from the Department of Homeland Security (DHS) answer some of the questions that need to be answered. And, frankly, I think it works to the benefit of your Department because if you are not here explaining, then assumptions can be made that sometimes are unfair. So, going forward, I hope that we have a new beginning as it relates to not only getting questions answered but also having witnesses at hearings.

I am glad you are here today. There are a lot of important issues before us, and I have a lot of questions. I hope we can count on you and your Department being willing to answer them going forward. Thank you very much.

Chairman JOHNSON. Thank you, Senator McCaskill. I would point out that General Kelly has already made himself available for a secure briefing and now he is here already in early April. So I certainly appreciate his willingness to testify.

Senator MCCASKILL. So do I.

Chairman JOHNSON. Secretary Kelly, we do have a tradition in this Committee to swear in witnesses, so if you will please rise and raise your right hand. Do you swear that the testimony you will give before this Committee will be the truth, the whole truth, and nothing but the truth, so help you, God?

Secretary KELLY. I do.

Chairman JOHNSON. Please be seated.

Secretary John F. Kelly, General Kelly, was confirmed to be the fifth Secretary of Homeland Security on January 20, 2017. He previously served as United States Marine Corps (USMC) General and commander of the United States Southern Command (USSOUTHCOM). Less than a year after retiring from the Marine Corps, Secretary Kelly once again answered the call to serve the Nation and the American people by leading the Department of Homeland Security.

General, we thank you for your service, past, present, and future, and we look forward to your testimony.

TESTIMONY OF THE HONORABLE JOHN F. KELLY,[1] SECRETARY, U.S. DEPARTMENT OF HOMELAND SECURITY

Secretary KELLY. Well, thank you, Chairman, and certainly Ranking Member McCaskill, all of the Members of the Committee. It is really an honor to be here. I will make myself available anytime by phone, by drop-in.

Just recently, I met just yesterday with the entire Hispanic Caucus on the House side, a week prior to that with the entire Democratic Caucus on the House side. I have met with the Democratic Caucus on this side last week, and I think I am scheduled to speak with the Republicans. So, any time, any place, happy to do it. Just need a little notice.

Since unexpectfully taking on this assignment nearly 3 months ago, I have learned two very important lessons vis-a-vis the Department of Homeland Security and the defense of the homeland. The first is that the men and women of my Department are incredibly talented and devoted public servants who serve the Nation in very special ways. In particular are those who uphold the laws this institution, Congress, passes by way of the democratic process. It goes without saying the United States Coast Guard (USCG), supremely effective in their lane, one of the five military services of our country, they just happen to be lucky enough to be in the Department of Homeland Security.

Then there are the incredibly dedicated Immigration and Customs Enforcement agents, who have taken on the task of enforcing, again, the laws you have passed, and they do that in the interior of our country. They do it humanely, professionally, and always according to the law.

The ICE team also includes the amazingly effective investigators of Homeland Security Investigations (HSI), who are second to none in their investigative effectiveness.

Then there are the professionals of Customs and Border Protection (CBP), who, among many other functions, are the first and last line of defense, depending on how you look at it, doing the essential and often dangerous work of defending the borders. They are out there day and night, 24/7, suffering the heat of an Arizona summer or the deadly cold of a Montana winter.

Third, another group, the Secret Service, as you mentioned, Senator McCaskill, I want to highlight them, both the agents as well

[1] The prepared statement of Secretary Kelly appears in the Appendix on page 301.

as the uniformed force. They routinely work, and are overworked, to protect not only U.S. Government officials but foreign dignitaries as well. They are amazing public servants dedicated to taking a bullet and giving their life for people that they do not even know.

Then there is the Transportation Security Administration (TSA) who ensure the security of, among other things, the traveling public, aviation traveling public. TSA enjoys little credit as the work they have been ordered to do and complete by the laws of this Nation bring them in direct contact with a public that has little tolerance for minor inconveniences. Again, all of this required by the law. This same public forgets that the alternative to what the TSA does at our airports is possibly dying in a fireball falling from 30,000 feet. They are heroes. They do their effectively, and they work very hard at improving their performance.

The second lesson I have come to realize is what homeland security means. We must no longer think about the defense of the Nation in terms of defense and nondefensive initiatives and funding. In the world in which we live and the relentless and accumulating threats directed against our Nation and our way of life, we must adjust our thinking to think about security and non-security, which requires an increased melding of the thinking of the Departments of Defense (DOD) and Homeland Security. Secretary Mattis and his superb team fight the away game. They do it effectively every day. The equally superb men and women of Homeland Security that I am in charge of fight the home game. The defense of the homeland starts with allies and partners willing to fight the fight in places like Syria, Iraq, and Afghanistan while standing ready in Europe, Asia, and South Asia.

Closer to home and winning the home game, it is all about increasing the partnership with willing and reliable friends like Colombia, Mexico, Canada, indeed, all of the nations of this hemisphere and around the globe.

Securing a nation's border is the primary responsibility of any sovereign nation. To those of us who serve the Nation as part of DHS, this is nonnegotiable and sacred. Yet for a decade, the Federal Government, in spite of passing one law after another to do just that, has not lived up to its promise to the American people. President Trump in the early days of his Administration issued Executive Orders and focused interest on this very issue and tasked me to accomplish it. Various Executive Orders have been put out there, some of them effectively, some of them not so effectively, but all of them worth adhering to once the courts finish with their rulings.

But, what has happened in the last 90 days or so, we have seen an absolutely amazing drop in the number of migrants coming out of Central America that are taking that terribly dangerous route from Central America into the United States. In particular, we have seen a dramatic reduction in the number of families and the number of children that are in that pipeline. It will not last. It will not last unless we do something, again, to secure the border.

The wall or physical barrier, something to secure our border, you all know that we are looking at that. In fact, I think the proposals closed out yesterday. What it will look like, how tall it will be, how thick it will be, what color it will be is yet to be determined. All

we know is that physical barriers do work if they are put in the right places. And, of course, I have already pulsed the men and women that work the border, CBP. They know exactly where they want the wall, and they know exactly how long the wall should be in their sector.

They are also quick to point out that if they cannot have a wall from sea to shining sea, at least give them the wall, the physical barrier, the technology, that will do the job for them in the locations where they have identified to me, and we will do that.

Before I would conclude, I would like to highlight to the Committee and the American people to a relentless threat that thankfully we have stayed probably two or three steps ahead of over the years. I talk of those who would do us harm primarily operating out of the Middle East, and they are unyielding in their attempt to destroy commercial passenger aircraft in flight.

In response to this threat, DHS personnel, primarily from TSA and CBP, are deployed in the thousands overseas, working with airports, air carriers, and intelligence and law enforcement partners to deny the terrorists' attempt to kill the innocent in the largest numbers possible to make some sick statement. As I say, we—the Central Intelligence Agency (CIA), National Security Agency (NSA), Federal Bureau of Investigation (FBI), Office of the Director of National Intelligence (DNI), DOD, Department of Interior (DOI), Department of Justice (DOJ), Department of Transportation (DOT), and DHS, and all of our international partners—have been successful thus far.

I recently made several decisions that added additional baggage protocols at a number of foreign airports that fly flights directly to the United States. This decision was not—and I repeat not—about the Muslim religion, anyone's skin color, or ethnicity, but to impact the bottom line of foreign air carriers to the benefit of U.S. air carriers. My decisions were based entirely on saving lives and protecting the homeland. If we cannot get our arms around the current threat, you can expect additional protocol adjustments in the very near future.

I will end by saying I thank you so very much for the support you gave Elaine Duke, the fact that she is now confirmed, and with any kind of luck, I will return to my building after this meeting or after this Committee, swear her in, and put a very heavy pack on her back, fill it up with a lot of rocks, and make the Department of Homeland Security better than it already is.

So, with that, Mr. Chairman, Ranking Member, I stand by for questions.

Chairman JOHNSON. She ought to be looking forward to that.

Secretary Kelly, let me start. You talked about the study on the border barriers. Can you just tell me in a little more detail the status of that as well as any surprises in terms of the initial results of that?

Secretary KELLY. Yes, sir. We know that a physical barrier works. The parts of the border that have physical barrier now, roughly 650 miles, built some years ago, in those sectors it works. There are other places along the border—and, again, the professionals in CBP, if you walk the terrain—and I know some of you have—will tell your boss, if you can give me 27 more miles here,

16 more miles here, I do not really care about the other 140 miles I am responsible for, but I need something that works and to deflect the flow of people, primarily bad actors, and people, not all of whom are bad actors, people who are coming to the United States for various reasons, to primarily deflect them away from the cities. The idea with the coyotes and the traffickers, to get them as close to a city, cross over as close to a city as possible, get them into the city where they disappear. So, if you can deflect them away from the city, then it is easier to pick them up and return them, whether they are Mexican or whatever. And, it is actually safer in many ways.

Last year, I think somewhere in the neighborhood of 4,500 near-death individuals were saved by CBP primarily out in the desert, and, unfortunately, unknown specific numbers but some several hundred lost their lives in this attempt to get across the border. And, that is on our border. There is no telling how many—in addition to the rapes and the assaults and the abuse that they take in the network flowing up through Mexico, not done by the Mexicans but by the coyotes, the traffickers, there is no way to tell how many of those people lose their lives. But, the point is it is a very dangerous trip.

The barriers work. Technology also works. But, all of it does not work at all unless you have men and women who are willing to patrol the border, develop relationships, which they do with their Mexican counterparts directly across the border. But, that is where we are right now. There is no way I could give the Committee an estimate of how much this will cost. I do not know what it will be made of. I do not know how high it will be. I do not know if it is going to have solar panels on the side and what one side is going to look like and how it is going to be painted. I have no idea. So, I cannot give you any type of an estimate.

I will say this, that it is unlikely that we will build a wall or physical barrier from sea to shining sea, but it is very likely I am committed to putting it where the men and women say we should put it.

Chairman JOHNSON. In your written testimony, the quote is you are going to "implement a full complement of solutions to meet border security requirements." That is technology, that is manpower, that is going to be physical barriers. My assumption is you are going to target kind of a step-by-step basis and put walls and fencing in top priority areas where your border agents are telling you, correct?

Secretary KELLY. Exactly right, Senator.

Chairman JOHNSON. We had a hearing last week from the front lines with the heads of the unions from Border Patrol and the Office of Field Operations (OFO) and ICE. There were some real problems: The use of polygraphs, just way too high, rejection rate. Pay parity, Border Patrol saying once you go try and hire 10,000 ICE agents, they are just going to steal them from Border Patrol because of the lack of parity. Just work schedules from OFO talking about how agents are working multiple days in a row, 16-hour shifts.

So, can you just kind of address what you are finding out? We are going to try to do a very cooperative process with you, with the

White House, bipartisan—nonpartisan basis, really, and try to produce the oversight at the same time you are enacting the solutions. But, can you just kind of address those personnel issues?

Secretary KELLY. Yes, Senator. This is going to be kind of a cinder block-size rock in Secretary Duke's pack. One of the things my good friend Jeh Johnson started long before I obviously took this job was this unity-of-effort issue, to look at all of the Department that is still a fairly broken up and disparate organization, to look at all the Department, where it makes sense start to unify things, like acquisition, like pay. Even though it is my understanding that some of the pay problems in a couple of the unions—one of the unions, anyways, was actually negotiated that way by the union, it did not turn out so well, as I am informed.

So, what we are going to do is turn that over to Elaine and look at all—the Secret Service falls into the same category, another kind of different pay scale, and there is a better way to do this. So, that unity of effort, we are going to really breathe some life into it. Jeh started it, a great thing. We are really going to finish it over the next year or so, or more, but find ways to do exactly what the Senator is suggesting, and that is, come up with better pay systems, better benefits.

One of the things the CBP folks tend to migrate into ICE frequently is because they might be from, I do not know, the great State of Missouri, and they are working on the border in Arizona, and that is OK for a few years, but they want to maybe get back home. So, we will look at that, too, but that requires a lot of detail work, and I do not know what the exact number is in terms of a larger force, CBP particularly, well, ICE for that matter. And, for sure Secret Service needs to be bigger. For sure they need to be bigger. They are carrying a load that is almost crushing the individual agent, and we are going to fix that.

But, to your point, sir, we will take on all of that and improve it, with your help.

Chairman JOHNSON. OK, yes, and we will want to work with you on that. I come from a manufacturing background, continuous shift operation. You need four shifts, and I would love to work with you and the agencies designing a proper shift that does not overburden the personnel.

Just real quick, because you did raise this issue about the device searches. In fiscal year (FY) 2015, under the Obama Administration there were 8,500 devices searched, and they realized this is actually pretty effective. So, in 2016, they searched 23,877 devices. Can you just kind of talk about what—again, there is a big article, I think a lot of concern about that. Can you just allay some of those concerns and talk about really the effectiveness of why we should be doing this?

Secretary KELLY. Roughly a million people a day come into the United States, either by land or by aviation, and of that million, one-half of 1 percent might have their devices looked at. Generally speaking, these would be foreigners anyways. In fact, in almost every case they would be foreigners. A large percentage would be foreigners. But, it is the normal process of coming into the country.

And so, what do they look for? Frankly, a couple of examples I would give you. It is one of the ways they find these pedophiles.

And, the CBP people, in the course of interviewing travelers into the United States, will send people into secondary, for whatever reason—and there are a myriad of reasons they do this—will send people into secondary. Usually they are there for a short period of time. It might be to do—their passports look out of sync or something like that. Their stories do not match what the passport says. There is a myriad of reasons.

But, some of those reasons revolve around men who are coming from certain parts of the globe that—what do they call it? "Sexual tourism," I think, pedophiles anyway. So, that is one way we catch them. We go on, we look at their devices, and it is filled with child porn. That is one thing.

Recently, we had—again, a couple of examples. We had an individual traveling here from a Middle Eastern country. During the process, the profiling, if you will, there was something not quite right about him matching up with what he was telling about his past, where he comes from, his passport. So, they put him in secondary. They looked, ran his contact numbers out of his telephone, and he was in contact with several—I will not go into it too deeply, but several well-known terrorists, traffickers, and organizers in the Middle East. They then looked at the pictures and saw a full display of gay men being thrown off of roofs and people being beheaded and all that.

Now, we had no reason to hold him because he was not in any database, so we sent him back. That I think appeared shortly after that in the newspaper about how we were focusing on a Muslim male, and we did it because he was a Muslim and from the Arab part of the world. But, the point is there are reasons for it.

But, to Senator McCaskill's concerns, this is not routine. It is done in a very small number of cases. It will not be done routinely for people that are coming here from anywhere. It will not be done routinely from anywhere. But, if there is a reason to do it, we will, in fact, do it. But, whether it is France, Britain, Egypt, Saudi Arabia, or Somalia, it will not be routinely done at the port of entry.

Chairman JOHNSON. Thank you, General. Senator McCaskill.

Senator MCCASKILL. General, is the President OK with fencing instead of a wall?

Secretary KELLY. The President has told me, "Kelly, go do it." We need to protect the Southwest border in any way that that makes sense.

Senator MCCASKILL. So, he understands that——

Secretary KELLY. I have a lot of elbow room.

Senator MCCASKILL. So, he knows that we are not going to build a concrete wall, a 2,000-mile concrete wall? The President knows that, right?

Secretary KELLY. The President knows that I am looking at every variation on the theme, and I have no doubt when I go back to him and say, "Boss, the wall makes sense here, high-tech fencing makes sense over here, technology makes sense over here," I have no doubt that he will go tell me to do it.

Senator MCCASKILL. And, can you provide to the Committee the request by the border chiefs for how many miles they are requesting of barrier?

Secretary KELLY. Can I provide? Yes, ma'am.

Senator MCCASKILL. Yes, I mean, you are going to ask every border chief for their sector, "How many miles do you need and where?"

Secretary KELLY. Exactly right.

Senator MCCASKILL. And, are you also going to ask them for their technology requests?

Secretary KELLY. All of that will be part of—I mean, their input is absolute to what we are doing.

Senator MCCASKILL. Right. Can we get those requests as soon as you receive them?

Secretary KELLY. Absolutely.

Senator MCCASKILL. Because I think it is really important. The sooner we stop this, "We are going to build a wall from sea to shining to sea and the Mexicans are going to pay for it"—it is embarrassing. It is not going to happen. Everybody in Congress knows it is not going to happen. Every Republican knows it, every Democrat knows it. It appears the only person who will not say it out loud is the President of the United States, and it is embarrassing. I do not understand it. I mean, it makes no sense. And, frankly, the money we reprogrammed for the prototypes, the solicitation says no technology insertion is even a requirement of the prototype, and you know situational awareness is going to be key for these border chiefs. It does no good to build a big wall if they cannot see over it, because they are not able to respond to the ladder or to some kind of breach.

And so, it is just frustrating to me. You get it. We all get it. But, the President is so stubborn and will not say to the American people, "We are going to use your money wisely, and we are going to protect the border in a way that makes sense. And, by the way, Mexico is not going to pay for it."

So, I urge you to speak truth to power in that regard. The sooner the President gets some credibility on this, I think the better off we all are, and I think it would make your job much easier. My two cents' worth.

And, by the way, you will get a lot of bipartisan support immediately for budget requests that are based on sound ideas about securing the border. I think the majority of the Senate—and I cannot speak to the House—is not going to sign a blank check for a wall that we know is never going to be built. So, the sooner we all get honest about this, I think the better off we are.

On the extreme vetting, I get what you are saying that it will be applied to very few people. But, if it is the policy of our country to increase the questions asked for visa applications all over the world and to expose the 38 visa waiver countries to this possibility, it has a dramatic impact, and you have to understand, Secretary Kelly, that if they know we are going to look at their phones—I am talking about bad guys. I have had some experience with bad guys. If they know we are going to look at their phones and they know we are going to ask them questions about their ideology, they are going to get rid of their phones, and guess what they are going to do on ideology? They are going to lie. Are we going to use polygraphs?

Secretary KELLY. We could not do that for all of the people that we currently put into secondary, no. But, your point is well taken

in terms of if we were doing these things routinely, but there are databases we look at that cause us to bring someone into secondary. Travel patterns—I would prefer not to go into it, but travel patterns tell us a lot about a person, and that would get someone to go into secondary.

But, generally speaking, the average tourist coming into the United States is not going to have their—we are not going to ask them—they are not going to go into secondary.

Senator MCCASKILL. But, we are going to tell them we might ask them about what they—I think the things that have been—was the article accurate that they are going to be asked how applicants view the treatment of women in society, whether they value the sanctity of human life, and who they view as a legitimate target in a military operation? Are we going to explain to all of our friends across the world that they could be questioned like that if they come into the United States?

Secretary KELLY. I would not say those would be questions we would ask.

Senator MCCASKILL. So, this article is incorrect, that this is what is being considered?

Secretary KELLY. Which article is it?

Senator MCCASKILL. This was a Wall Street Journal article yesterday that said visitors to the United States could be forced to provide cell phone contacts, social media passwords, and answer questions about their ideology, according to Trump Administration officials.

Secretary KELLY. those questions you have indicated are not questions that I think would be used in the secondary kind of questioning. Once again, I go back to very small numbers. It is effective to catch people. They are coming into the country, but they are not really here yet. So, if they do not want to cooperate, they can go back.

Senator MCCASKILL. But are we not telling them what they need to do to get in? I mean, that is what is weird here. It seems to me we are signaling something that is very un-American to the rest of the world by announcing this policy. Every Ambassador in Washington read this article in the Wall Street Journal yesterday, and every Ambassador in Washington called back to their country and said, "Listen to this. They are going to start asking people for their social media passwords and about their ideology in America." That is incredibly damaging, and all the bad guys are going to like just lie. I do not get how we get anything out of it, except damage.

Secretary KELLY. As I say, very small numbers, and we will go to those questions or request social media—and I am talking right now about at our airports and ports of entry. We will go in that direction when the professionals at the counter decide that there is a reason to go in that direction. But, the vast majority of people will not be questioned in that way. It is just like the vast majority of people that come in the country, foreigners, for that matter American citizens, we do not go into their luggage and inspect their luggage. It is the same kind of thing. We will do it when we think there is a reason to do it.

Senator MCCASKILL. Well, as you can tell, my hair is on fire about this. I am really upset that America would be saying this to

the world. And, if this needs a classified briefing in terms of understanding better what the plans are and who would be pulled, and if somebody can explain to me how we get terrorists when they know all they got to do is lie to the questions, and buy a burner before they come to America?

Secretary KELLY. I think you know, Senator, I mean, this is nothing new. We have been doing this, to the best of my knowledge, my staff tells me, for a number of years.

Senator MCCASKILL. We have never announced that it is the policy of America that all foreign visitors to our country could be subjected to this kind of questioning and this kind of intrusion.

Secretary KELLY. Questioning, again, I am not aware—the questions you recited are not questions that I am familiar with at all, and I do not——

Senator MCCASKILL. That is what I want to get to the bottom of.

Secretary KELLY. Yes.

Senator MCCASKILL. And, I will just tell you, Americans would never put up with this in other countries. If all of these countries sent a signal that if you come to our country—can you imagine a U.S. Senator saying, "Oh, yes, well, let us go to Japan, and they are going to take my phone for 3 days if they feel like it. And, they are going to ask for my social media passwords or I cannot go in." Or, "They are going to ask me questions of my ideology." I mean, can you imagine anybody in America wanting to go there? And, we do not want to send that signal. That is the essence of my questions, Secretary, and if you could follow up with us about how this is going to be applied and clarify it to the world that we welcome our friends to America, I think that would be very helpful.

Chairman JOHNSON. Thank you, Senator McCaskill. Again, I will just remind you, in fiscal year 2016, approximately 24,000 devices were searched, so this is not new. I think it is being somewhat blown out of proportion.

Secretary KELLY. Mr. Chairman, if I could add to that, of the ones that were searched, a very small percentage are actually gone into forensically, if you will. It is essentially they turn it on, we would like to see the pictures. And, again, we find child pornography. We find really grisly photographs of terrorists acts. We are not sending these—we could if we want to, and in some small numbers we do, but we do not send them to a place to be forensically taken apart and——

Chairman JOHNSON. And, unfortunately, publicizing this does make it less effective.

Senator Hoeven has graciously allowed the Chairman of Armed Services the slot ahead of him, so, Senator McCain.

OPENING STATEMENT OF SENATOR MCCAIN

Senator MCCAIN. Thanks, Senator Hoeven.

You know what sets my hair on fire? The fact that we know that coming out of Raqqa are people that have been directed to come and get into the United States of America and commit acts of terror. Is that not true?

Secretary KELLY. Yes, sir.

Senator MCCAIN. That sets my hair on fire.

Secretary KELLY. That is absolutely true.

Senator MCCAIN. Does it set our hair on fire that there are now, we know, published reports, there are efforts at taking these devices and implanting explosives and committing acts of terror with this technology? Does that set your hair on fire?

Secretary KELLY. It does, Senator.

Senator MCCAIN. And, they are developing technology right now to put—one of the reasons why there has been some of the ban on what can be brought on an airliner sets my hair on fire right now. So, I am really worried about offending every Ambassador in Washington. That has always been one of my greatest concerns, is how they feel, and I certainly would not want to offend their feelings. But, the fact is that there are people being trained in Raqqa today that are leaving Raqqa and trying to get to the United States and use various devices to commit acts of terror in the United States of America. True?

Secretary KELLY. It is true.

Senator MCCAIN. Thank you. So, maybe we ought to put a little perspective on this in our hysteria.

Secretary KELLY. If I could add to it, Senator.

Senator MCCAIN. Go ahead.

Secretary KELLY. We know there are somewhat in the neighborhood of 10,000 European citizens who are in the fight, in the caliphate, Iraq and in Syria, and as that caliphate is being reduced, those individual fighters are being encouraged to return to Europe and do terrorist-type things.

Now, in many cases, because of the nature of Europe and the borders and what-not, lack of borders, in many cases the countries where their citizens do not know that they have been out of the country fighting in Syria, to the point of visa waiver countries, so we are in a position now where someone who is in Raqqa today returns to—pick a country—and basically can get on—he is not in any database, and can get on an airplane and fly here under the Visa Waiver Program (VWP) and be in the United States, that does not keep me up at night too much, but it does keep me up. So, we are looking at visa waiver; we are looking at all kinds of ways to keep these people out.

Senator MCCAIN. I want to make sure that we are not restricted from looking at anybody's electronic device given the public information that we know of their attempts at trying to develop these capabilities in order to set off bombs.

Also, by the way, I tell you what does set my hair on fire, and that is that we now have Phoenix, Arizona, as the major distribution point for Mexican-manufactured heroin coming into this country across the Sonoran border. Is that true?

Secretary KELLY. It is true, Senator.

Senator MCCAIN. And, it is killing people all over America, including some Governors in Northeastern and Midwestern States are saying it is an epidemic, particularly a group of Americans that I care about, and that is older white males. Is that right?

Secretary KELLY. It is absolutely right.

Senator MCCAIN. OK. So, we need to do one hell of a lot better job on this drug trafficking and human trafficking that is coming across our border. And, I am happy to tell you that I hear from my

friends on the Border Patrol who say their morale has gone up now that we have your kind of leadership.

By the way, I am not sure you should have taken all that bullet for the travel ban, but that is a subject for another day.

But, what are you going to do about—can you not interpret a wall the word "wall"—as being drones, towers, fences, attempts at detecting—using technology to detect tunnels, to have really what is an electronic wall plus the personnel? Could that fit the definition of a wall and maybe stop this flood of Mexican-manufactured heroin that is flooding into this country and killing people at a very great rate, including the fentanyl which is particularly lethal?

Secretary KELLY. Yes, sir. In my view, the wall is all of that. Just before you came in, we had this discussion. In my view, the wall is all of that.

Senator MCCAIN. So if we interpret the law as that, I think most Americans would support it.

Senator MCCASKILL. True.

Senator MCCAIN. But, however, we have a problem with Mexico. Right now there is a lot of anti-American sentiment in Mexico. If the election were tomorrow in Mexico, you would probably get a left-wing, anti-American President of Mexico. That cannot be good for America.

Secretary KELLY. It would not be good for America—or for Mexico.

Senator MCCAIN. OK. Then, finally, would you just tell us a little bit about—and I thank the indulgence of my colleagues—what kind of cooperation are you getting from the Mexican authorities and what kind of cooperation are you not getting?

Secretary KELLY. We are getting a huge amount of cooperation from the Mexicans. Senator, I go back to my time when I was in uniform at SOUTHCOM, very good relationships with the Mexicans, both on their Southern border where they stopped 160,000 illegal immigrants from Central America last year, all the way up to the Northern border. The relationship between the local authorities on our side of the border is pretty good with the local authorities on the other side. I count some of the—certainly, the head of the army and the navy as friends. I was down there about a month and a half ago, had a great meeting, all the way up through with the President.

Senator MCCAIN. How serious is the corruption?

Secretary KELLY. Corruption is very widespread, and much of that is due to the profits that come out of the drug use in the United States. There is no doubt it, corruption is widespread. They are trying to get after that. It is a dangerous place because of the corruption and the trafficking, most of it fueled by U.S. drug consumption.

Senator MCCAIN. Well, the heartbreaking one to me is the human trafficking, Mr. Secretary, and I wish all Americans were aware of how terrible this situation is, these young girls being transported up, hooked on drugs. It is so terrible, a lot of times we do not like to think about it. How high is that on your priority list?

Secretary KELLY. Very high. In fact, the good news is for really the fifth month in a row, but certainly the second big month in a row, the movement of—the human trafficking of people in general

is down significantly, and to your point, young girls in particular in the family units down even more significantly. And, that is all as a result of what we have started to do on the border and, frankly, my working personally with the Central American Presidents, attorneys general (AG), religious leaders, and with our relationship with Mexico.

Senator MCCAIN. Well, the next time you do a travel ban, how about thinking it through? Thank you.

Chairman JOHNSON. Senator Hoeven.

OPENING STATEMENT OF SENATOR HOEVEN

Senator HOEVEN. Thank you, Mr. Chairman.

General Kelly, good to see you again. Thank you for being here.

Secretary KELLY. Sure.

Senator HOEVEN. And, thanks for the important work you are doing. In terms of the mix, we are talking about infrastructure, we are talking about technology, we are talking about people. How do you make sure you have the right mix as you put that together?

Secretary KELLY. On the wall?

Senator HOEVEN. Yes.

Secretary KELLY. We really have to rely on the folks that work the border. The younger agents are down there doing the scut work every day, but some of the more senior agents, they know the border and their sector better than anyone, and they can tell us. And, we will do that study.

Senator HOEVEN. I am a member of the Appropriations Committee for Homeland Security, and we are putting together your appropriation for fiscal year 2017, and then, of course, we will work on 2018. So, it is very important that we have the resources. When we talk about building a wall, as you have defined, that wall is not only a wall itself and fencing, but it is also technology and people. It is very important that we have that funding in your appropriation bill for fiscal year 2017, is it not, to secure the country? That would be an incredibly important priority for you, would it not?

Secretary KELLY. It is, yes, sir.

Senator HOEVEN. OK. Thank you. The second thing is metrics. What metrics are most important? You provide us with some metrics here. We appreciate that. It is encouraging. It shows that you are having success. Tell us, what are the most important metrics that we need to be cognizant of? And then, how do we use them to make sure that the American people understand what is going on on the border and, that we are getting to a more secure border?

Secretary KELLY. I think certainly the metrics are people that do not cross into the United States illegally. Another metric would be the amount of—and it mostly comes through the ports of entry, which is another discussion that we can certainly have here, but the amount of drugs that come through. But, as I said so many times when I was in the United States Southern Command, once the drugs get to Mexico, Central America/Mexico, they are essentially in unless we do something about the border.

Now, I think the Senator knows virtually all of the heroin consumed in the United States is produced in Mexico, from poppy to laboratory to packaging to in the United States. All of the cocaine

that we consume comes up the same way. Much of the methamphetamine comes up the same way. An awful lot of opiate pills that are counterfeit—the counterfeit pills come up through that, fentanyl largely through Mexico but now increasingly directly from China to the United States by the U.S. Mail. It is an unending struggle, but it really does go back to—and I was just at a meeting last week or early this week—last week now, with the President and a number of people to get after this drug consumption in the United States. One of the first conversations I had with then Candidate Trump was when he brought up to me the issue of securing the Southern border. I said, "Boss, Mr. Trump, there is no way we are going to do that unless we get after drug consumption in the United States." And, I do not mean arresting more African American guys and throwing them in jail for dealing. I mean, no kidding, a comprehensive drug demand reduction.

Mr. Trump has taken that on and has put together a task force, so from rehab to law enforcement to try to stop the production in Mexico, all of that adds up to we will have a much more secure border if we can stop the drug demand in the United States. And, we have never had—some States have, some communities have, several organizations have tried, but we have never had a comprehensive campaign against it.

Senator HOEVEN. As we increasingly secure the Southern border, would that not put more pressure on the Northern border and other ports of entry?

Secretary KELLY. On other ports of entry for sure. The beauty of the Northern border is Canada. I mean, they are committed, to say the least. They have very low rates of corruption. They have tremendous law enforcement, and our partnership with them just could not be stronger. So, that is the advantage, and I hope over time Mexico—and, again, the strains on the Mexican society, the violence, again corruption, we can hope that that gets better. They are trying. My relationship with senior—in fact, right after this I will meet again, for about the fourth or fifth time, with a good friend who is the foreign minister of Mexico. I just had the military leadership, which play a different role in their society than our senior military people do. My HSI people, my CBP people, my ICE people are in Mexico in large numbers, as is the FBI. The collaboration is very good, law enforcement. It is just not——

Senator HOEVEN. But, you would agree we need to do more on the Northern border as well, and what are those security measures? Unmanned Aircraft Systems (UAS), for example? Sensors? What are the priorities on the Northern border for you?

Secretary KELLY. Well, right now there is not nearly the same level of cross-border crime and what-not. We obviously need to watch it. One of the things the Canadians recently did was to allow visa travel—non-visa—Mexicans to travel to Canada without visas, and we are seeing a little bit of an increase in Mexicans coming illegally into the United States from the north. We are working with them. I am on the phone with my counterparts in places like Canada all the time.

But, we obviously have to watch the threat. I mean, if we were successful in drying up the production of heroin in, say, Mexico, probably impossible——

Senator HOEVEN. I am not talking just drugs. I am talking terrorism, I am talking any—as you continue to secure the Southern border, it is going to create pressure in other places, and that is why we want to make sure that we are taking the necessary steps on the Northern border as well. And, I would invite you to—at the Pembina border station, which is essentially Grand Forks, North Dakota, your border station there, they have responsibility for 900 miles of border, all the way from the Great Lakes through most of Montana. And, we are using everything from Predators, the Grand Forks Air Force Base there has Global Hawk. In fact, we have a UAS test site, and the CBP station, they fly out of Grand Forks Air Force Base. And, I would invite you to come up and see the technology. You talk about cooperation with the Canadians and also use it as an opportunity to build on some of that cooperation with the Canadians, because you are talking 900 miles of border without a fence. We are going to have to continue to build those relations and that technology to do the job. And, I hope you would come see what we are doing there.

Secretary KELLY. Absolutely. I will do that, Senator.

Senator HOEVEN. Thank you. Appreciate it.

Secretary KELLY. Yes, sir.

Senator PORTMAN. [Presiding.] Thank you, Senator Hoeven. Senator Heitkamp.

OPENING STATEMENT OF SENATOR HEITKAMP

Senator HEITKAMP. Thank you. I did not want to disappoint anyone, so I am going to raise the Northern border in the very beginning.

Obviously, the law that was passed requires that you meet a June deadline for telling us what the threats are and how you are going to secure the Northern border. Can you tell me whether you are on target to meet that June deadline?

Secretary KELLY. We are always on target. I was just up in Seattle and met with the local law enforcement folks. I have been on the phone a number of times on REAL ID with the Governor up there, so we have a little bit of a relationship. But, more importantly, I talked to my people that are responsible for that stretch from the Pacific inland for about 650 miles, something like that. They have, again, great relations with their counterparts on the other side of the border. The real strength is the databases.

Senator HEITKAMP. So, we can expect a report in June which then we can react to in the next budgetary time period, correct?

Secretary KELLY. Yes, Senator. Yes.

Senator HEITKAMP. OK. I just want to remind you that 8 of the 15 Senators actually represent the Northern border.

Secretary KELLY. That has my attention, believe me. I love the Northern border.

Senator HEITKAMP. I did not think it escaped your attention. And, obviously, we would love to host you. I am deeply concerned about personnel issues on the Northern border and hope that whatever you are looking at in that study includes securing enough personnel to do the job and to meet the challenges.

I want to talk a little bit about Central America. It is a topic that I know you are well familiar with, and it was one of, I think, the

great opportunities that we had given your position in Southern Command and given the fact that you have so many great relationships. We continue to be challenged by the Northern Triangle countries. The rate of murder and mayhem is unparalleled throughout the world, which is really saying something. We are looking at the Alliance for Progress as a way to kind of build that soft power, not just look at border security but how can we, in fact, refugee in place.

It is my understanding that you are convening a conference in Miami. One of the concerns that I have is who is going to all be at the table, because I think it is critically important that everyone be represented, whether it is NGO's, whether it is immigration groups, whether it is advocacy groups, that we all understand that we have a role in securing—providing some security for those Central American countries.

Can you tell me what the plan is and what you hope to accomplish in the Miami conference?

Secretary KELLY. Yes, Senator. First, I would tell you that I am close to the Central Americans. In the short period of time I have been in the job, I have been down to Guatemala. The President of Honduras was just up in my office. He is someone that I have worked closely with before. I am going to Honduras soon. I have been to Mexico since I have been in this job and met Mr. Tillerson there, Secretary Tillerson there. So, I have met all three from the northern tier countries—Guatemala, El Salvador, and Honduras. All three of their attorneys general came, and we had great discussions—again, friends. Mr. Videgaray is in and out of Washington quite frequently. I plan another trip to Mexico. So, that is where we are in terms of what we have been doing there.

Now, when I briefed, when I had discussions with Mr. Trump, when he was still Mr. Trump, I talked to him about the issue, again, of drug use in the United States, drug trafficking, what that does to these countries. But, some of the things—and I will take a little credit—not much but a little credit for this. Some of the things, when I was still on active duty in Southern Command, some of the things we helped the northern tier countries implement have driven down. Now, the death rates are still horrific.

Senator HEITKAMP. So, what do you hope to accomplish in Miami and who——

Secretary KELLY. It will be a 2-day conference. One day will be economic. We have certainly one of the real powers behind this is the Inter-American Development Bank. EU will be there, is my understanding, some European countries. Obviously, we will have—I am hoping to have the Secretary of Commerce, the Secretary of Treasury. I will be there; the Vice President, our Vice President, is coming down. There will be businessmen and—women. I believe all three of the Central American Presidents and their teams will be there for this. I have the Canadian—the Mexicans will co-host this.

Senator HEITKAMP. Will you be reviewing the Alliance for Progress and whether that has been valuable and what changes we need to make as it relates to that commitment?

Secretary KELLY. The Alliance for Prosperity——

Senator HEITKAMP. Prosperity, I mean. Excuse me.

Secretary KELLY. Prosperity, right. And, I could go into it if you want, but I would just say that I had a lot to do with organizing that with the three countries. They have put their own money against it. We, you, the Congress has put money against it. The real thrust of this event in Miami in mid-June, I think, will be outside investment as opposed to U.S. investment.

Senator HEITKAMP. Right.

Secretary KELLY. Although outside private investment. So, that is what we are trying to accomplish—that is what we will accomplish.

Senator HEITKAMP. I think there are tons of folks who want to help out, in the NGO community especially, and I think that it takes me to the kind of next topic, which is why people are leaving Central America. And, I would say there has been a lot of confusion back and forth on what is going to happen to women coming to the border with children from Central American countries.

Just a quick yes or no. There have been reports that you are considering separating children from their mothers at the border, and I want to know, yes or no, whether that is true.

Secretary KELLY. Can I give you more than a yes or no?

Senator HEITKAMP. You can just a little bit.

Secretary KELLY. OK. Only if the situation at that point in time requires it. If the mother is sick or addicted to drugs or whatever. In the same way we would do it here in the United States, not routinely.

Senator HEITKAMP. So if you thought that a child was endangered?

Secretary KELLY. Sure.

Senator HEITKAMP That is the only circumstance to which you would separate——

Secretary KELLY. I cannot imagine doing it otherwise.

Senator HEITKAMP. Yes, I just want to—I know a lot of people think that that might provide a deterrent, and we have a number of people within the Heartland Alliance program, and I would ask that this letter—and I know you get a lot of correspondence, obviously, sent to you—March 8th—but it is some comments from women who—I ask that this be put in the record.[1]

Chairman JOHNSON [Presiding.] Without objection.

Senator HEITKAMP. I just want to read a couple of them because I think it is really important to understand what is driving people north.

"My faith was in God when I made the decision to leave. I had never heard of asylum. All I knew was that the United States was a place where people could be protected and safe."

"I came to the United States. I did not think about the policies. I was just considering that the United States is the thing that could protect us from violence where we were living."

I think you know almost better than anyone else who serves in this Administration how horrific the conditions are. And, I appreciate your answer, and no one could disagree that if a child is in danger and you believe that, that there should be separation and

[1] The letter referenced by Senator Heitkamp appears in the Appendix on page 334.

that that would be a rare circumstance. Is that correct, General Kelly?

Secretary KELLY. That is, yes.

Senator HEITKAMP. Thank you, Secretary.

Secretary KELLY. That is a yes.

Senator HEITKAMP. Thank you, Mr. Chairman.

Chairman JOHNSON. Senator Peters.

OPENING STATEMENT OF SENATOR PETERS

Senator PETERS. Thank you, Mr. Chairman. And, it is good to see you, Secretary Kelly. It is good to have you here before the Committee. I appreciate your testimony and also wanted to thank you again publicly for coming to Detroit upon my invitation and spending some time with the Muslim American/Arab American community, Latino/Hispanic community, and, of course, we had a wonderful opportunity to see firsthand one of the busiest border crossings in North America there, from Detroit to Windsor into Canada, and I appreciate your interest and your involvement in that meeting.

But as you know, Secretary Kelly, there has been an appreciable uptick in hate crimes and crimes against religious institutions across the country. Last month, Senator Portman and I led a letter that was signed by every single Member of the Senate asking your Department, the DOJ, and FBI to take action against the rise in hate crimes against Jewish community centers, mosques, and other religiously associated locations. And, as you are aware, it is rare to have a letter signed by all 100 of us. This is how serious we take it.

It has been about 29 days since the letter has been written to you, the Attorney General, and the FBI, and I was just wondering when should we expect a response back to all my colleagues.

Secretary KELLY. It should have been a long time ago. I will apologize, and I am on it. But, I will tell you this, that I have added our approach to this issue to add mosques and any religious building, church, whatever, that might be affected by this.

We do have some capability within the Department to advise individuals that want to be advised about, say, security precautions. I think my staff told me yesterday virtually all of the Jewish centers, large groups, have taken that advice. We have teams that go out and travel. So, we are very—I do not know if any of the mosques have responded yet, but as I say, I add all religious communities to that, not just—I have told my people let us just not talk one religion, let us just not talk terrorism, for that matter. How about we talk about white supremacists and things like that?

But, I apologize for not getting back, and I will get on that today.

Senator PETERS. Well, I appreciate that, Secretary. And, I think it is obvious from your comments you do believe there is a legitimate fear of hate crimes. In our communities that they need to be concerned about.

Secretary KELLY. I do.

Senator PETERS And, given that, will you commit to continued support for programs that support vulnerable locations such as the nonprofit security grant program that your Department runs?

Secretary KELLY. I will.

Senator PETERS. Thank you. I appreciate that, Secretary.

As you know, Michigan has an extension of the REAL ID enforcement allowing Federal Agencies to accept driver's licenses and identification cards from Michigan. It runs through October 10, of this year, in 2017. What is the current status of REAL ID implementation across the Nation?

Secretary KELLY. As I know the Senator knows, the REAL ID law was passed by Congress in 2005, and the real first big deadline is this January coming, I think it is the 22nd, to where you will have to have an appropriate REAL ID, approved REAL ID, or if you do not have that, something like a passport, in order to fly domestically and internationally.

The map—and I addressed most of the Governors of all of the States, I think 48 of the States, about 3 weeks ago, and for those that are not compliant—and there are right now I think five that for sure are not even really trying, and that is their call. I mean, I am not criticizing them, but they are not really trying for issues inside the State, and then there are another 18 or 19 States that are going in the direction but, again, are unsure if they could be compliant. So, when I talked to the Governors—and I would say the same thing here—I think the Governors have to kind of have a real serious conversation with their citizens, with their staffs first, and decide whether they can hit the mark in January; and if they cannot, to have a conversation with their citizens about you really need to consider getting a passport, as an example. A passport is for 10 years, $110 I think to get a passport, very easy to get. Because in January, if they do not have some compliant ID, they are not going to be able to get on an airplane, domestically or otherwise.

This scared me to death, actually, because I thought that the people I was talking to in Washington, which is really a red State right now, probably not going to get there. And, by the way, the Governors, several Governors have asked me to send out some people from my staff to take a look at where they are, to do an appraisal of if they are going to make it, so then they can talk to their people. And, I have made that available to all the States.

But, the point is when I was talking to these businessmen and—women in Seattle who were, very well informed people, they were all under the impression that their State-enhanced driver's license was REAL ID compatible, which it is not. So, if people like that were unaware of the ID situation, I would say the vast majority of the good citizens of Washington State. So, the point is where it is right now, if you are not fully compliant, on the 22nd of January coming then you will have to have a form of ID like a military ID or a passport, passport card, in order to get on an airplane. That is where it is right now.

Senator PETERS. Under Section 102 of the REAL ID Act, the DHS can waive laws to facilitate the construction of a border wall. This provision has been used previously to waive dozens of laws, including some environmental laws. What laws does DHS intend to waive to build this new wall along the Southern border?

Secretary KELLY. First, obviously, do the nuts-and-bolts survey of where we are going to put wall, and at those points, as I understand it—and I would have to consult my lawyers, obviously, but places like the Indian reservation would be complicated. We are

working with the Indian reservation in Arizona, 75 miles of the border. They already have some technology there. That would be a place that would be unwilling, unlikely to take on. There are some eminent domain issues. We will try to do as much as we can without those kind of issues coming to a head. Certainly, I am very aware of any critical habitat, particularly say in the Big Bend part of Texas.

So, again, Senator, not going to build a wall where it does not make sense, but we will do something across the Southwest border.

Senator PETERS. Well, I understand you are going to need some time to review some of these issues, and perhaps we can work closely with your office as that goes forward. But, I would just ask if you would be willing to commit to one item, and that would be not to waive Freedom of Information Act (FOIA) under the wall project so that we can have full transparency.

Secretary KELLY. Can I get back to you?[1] But, it sounds like a yes to me.

Senator PETERS. Great. Appreciate that. Thank you.

Chairman JOHNSON. Senator Hassan.

OPENING STATEMENT OF SENATOR HASSAN

Senator HASSAN. Thank you, Mr. Chairman and Ranking Member. And, good morning, Secretary Kelly. It is nice to see you again.

There is a specific program within ICE's Homeland Security Investigations Division that focuses on bringing law enforcement scrutiny to the adjudications of visa applications. The program is called the "Visa Security Program (VSP)." Right now, in 30 United States diplomatic posts around the world, specially trained law enforcement teams are dispatched to provide recommendations to the State Department's consular offices in order to help these diplomats make informed decisions about whether to grant a visa to a foreign national.

Bringing law enforcement skills to the visa adjudication process makes a lot of sense, at least to me—I hope it does to you, too—and it should probably be, I think, implemented across the board for all diplomatic posts that issue visas.

We are working on possible legislation on this topic, so I wanted to ask two questions. Would you support the expansion of visa security teams to more diplomatic posts? And, is the visa security team fully funded in the fiscal year 2018 budget request?

Secretary KELLY. I will have to check on the funding issue, but I think anything we can do overseas to make better decisions about who might come to the United States for whatever reason is a good idea and should be reinforced, and we should be constantly looking at even better ways to do that. But, I will get back to you on the funding, if that is all right.

Senator HASSAN. OK. That is fine. Thank you.

I want now to move to a different topic. As you know as well as anyone, we have seen multiple incidents of violence at the public or non-sterile areas of our airports. In 2013, a TSA officer at Los Angeles International Airport was murdered at the TSA checkpoint by a disturbed individual, while earlier this year an active shooter

[1] The correction to Mr. Kelly remarks appear in the Appendix on page 346.

killed five people near the baggage claim at the Fort Lauderdale airport.

Last spring, suicide explosions that occurred in the public areas at Brussels airport and Istanbul Ataturk airport killed 61 people. Yet, in the President's initial budget release, the Federal support for securing the public portions of airports has been gutted. The budget cuts the Visible Intermodal Prevention and Response (VIPR) teams, the behavioral detection officer program is eliminated, and TSA grants to reimburse State and local law enforcement for their patrols at airports are also being slashed.

So, amid this increasing threat to our airports, why is the Administration cutting these key counterterrorism measures?

Secretary KELLY. The VIPR teams for sure are something that I am working very hard to save.

Senator HASSAN. OK.

Secretary KELLY. As far as the grants go—and this does not fall under this sanctuary city thing or anything like that. I think the expectation is that parking lots in areas outside the immediate, TSA security zones really belong to the State and local—the airports are great generators of revenues necessary for various States, and I think the thinking there is that the State and local folks need to—I am familiar with the Boston airport. I mean, there is more State police that kind of cycle around that airport, not to mention Boston police.

So, I think the thinking is that for outside the security perimeter that is established by TSA, that would belong more to the local community.

Senator HASSAN. Well, as a former Governor, I might suggest that we discuss that a little bit more, because I know how much additional work securing even the non-sterile areas are. And, it is a partnership to be sure, but I am very concerned. Money is not growing on trees in our State budgets, and so I think it is something we really need to look at, because the overall security climate at airports I think will really be compromised with those grants. So, I would look forward to discussing that with you more.

I will submit for the record a question on foreign airport staff screening.[1]

But, I did want to talk a little bit about DHS and cyber defenses. In an effort to strengthen its cyber defense, the Department of Defense recently launched two programs to capitalize on the vast network of U.S. computer security researchers who may not want to work for the Federal Government, but still want to help secure our Nation from cyber threats. The first was a pilot program called "Hack the Pentagon," and it provided hackers across the country with legal authorization to spot vulnerabilities in DOD networks in return for cash payments.

The second program was the establishment of a vulnerability disclosure policy which provides a legal avenue for these hackers to hunt for and report vulnerabilities in DOD networks without fear of prosecution.

[1] The question from Senator Hassan appears in the Appendix on page 425.

I think these are really forward-thinking cyber programs that leverage an untapped resource in the United States. So, the question is: Has DHS considered implementing similar programs?

Secretary KELLY. One of the things—I do not know if the Senator was here. One of the things now that I have a Deputy—this is a critically important issue. It goes without saying.

Senator HASSAN. Right.

Secretary KELLY. Now that I have a Deputy, this is another one of those things, the whole cyber enterprise within DHS. But, another thing we are already doing, and that is, just one of the reasons I was in Seattle recently, is reaching out—as is, I think, all of government—reaching out to the commercial sector, because the answers are just not—they are definitely not just in the Federal Government.

Senator HASSAN. Right.

Secretary KELLY. They are everywhere. So Elaine Duke, now that she is confirmed—and thank you for that—will take this on among a number of other things that she will focus on. I am with you on this. And, I was not aware of these programs, but I am now, and I could get back to you, come over and talk to you about it.

Senator HASSAN. I think that would be great just because, again, we have a lot of people with talent, skill, and interest in serving their country who may not want to come work for the government, but we really need their skill and their insight.

The last area I wanted to touch on, I know you referenced this morning the President's commission on the opioid epidemic, and I was glad to see you were there at the listening session on opioids and substance misuse last week. And, you and I have spoken about the issue before, both in our one-on-one meeting and at your confirmation hearing, and we have agreed on the need to crack down on illegal opioids, while also dealing with the demand side of the problem through prevention, treatment, and recovery efforts.

So, I am looking to find out more about the goals of the President's new commission on combating drug addiction and the opioid crisis which he established by Executive Order last week. And, I want to ensure that the rhetoric here is met by real action that reflects the seriousness of this crisis.

The news reporting on the commission has been a little scattered, so the first question for you is: Are you a member of the Commission?

Secretary KELLY. I am.

Senator HASSAN. OK. That is great to know. And, my understanding from the Executive Order is that the commission has 90 days to make a report on interim recommendations. Do you know what the process will be to get to those recommendations?

Secretary KELLY. I do not. It is in the staff realm, but let me just say this, to say the least, is a passion for me. And, my entire time in Southern Command, I talked about this, to the point of getting a fair amount of—getting cross-wise with a fair amount of people in the White House and other parts of our government.

The beauty, I think, of this President was—I do not know if you were in the room when I made this comment before, but one of the first conversations I had with President-elect Trump was this issue

of drugs, drug demand, what it does to not only our own country but to certainly the hemisphere.

Senator HASSAN. Sure.

Secretary KELLY. And, the money it makes available for corruption and terrorism and things like that. He has taken this bit, and he is going to make this work, I believe. So, it is a comprehensive—everything from drug demand reduction to rehab to law enforcement to helping out the Central American republics, to working with Mexico on the heroin production. We have great partners down there. So, it is this very long 2,000-mile, if you will, process of trying to get at the drug demand.

Senator HASSAN. Well, I appreciate that very much. I appreciate your presence on the commission. I look forward to working with you on it, and I would put a plug in for essential benefits in our health care so that people can get the treatment that they need. Thanks.

Chairman JOHNSON. Thank you, Senator Hassan.

By the way, I have seen cherry blossoms growing on trees here in Washington, D.C. Unfortunately, I have not seen money grow on trees here in Washington either. Senator Daines.

OPENING STATEMENT OF SENATOR DAINES

Senator DAINES. Thank you, Mr. Chairman.

Secretary Kelly, thank you for being here today. I kind of figured that when he put a four-star Marine in charge of homeland security, good things would start to happen.

Secretary KELLY. Not everyone agrees with that.

Senator DAINES. Yes, well, I do.

I was struck yesterday—we were in the same room. In fact, at the same table there was a former Commissioner of the U.S. Customs and Border Protection, David Aguilar, here testifying. And, I asked him a question about reductions that we are seeing in apprehension rates of illegal Southwest border crossings. That February data point came out and saw a 40-percent reduction in February. When we typically see, because of seasonality, anywhere from a 10- to 20-percent increase, we saw a 40-percent decrease in February.

David then followed up and said, "I believe we are going to revise those numbers as we have a little more time here," because that release came out on March 8th, and now we are into April. He said, "It looks like it is actually a 67-percent reduction in the month of March." This is not a statistical anomaly. Something is going on. We talked about what that is in terms of the message that is coming from the Administration about enforcing the rule of law. So, I just want to congratulate you and the Administration on some early success.

My question is: These are encouraging results. What substantive actions will you be taking in order to make sure that we can sustain these reductions that we are seeing early on in this Administration?

Secretary KELLY. The first would be to gain control of our Southwest border. Much of what we are seeing here—and the second would be to work—I do not know if you were here when we were talking about this, the Central American issue of helping them, security and economically. Again, I have traveled there many times.

I call many of them friends. The people from Central America that are coming here are overwhelmingly nice people, simple for the most part, rural, not highly educated. That is just the nature of their societies. But, they come here for two reasons: one, lack of economic opportunity; and, two, levels of violence, particularly in the cities, that are astronomical, although to use Honduras as an example, in the 4 years that the current President is there, he has taken it from, I think, 91 per 100,000, which is what it was when I was in Miami on active duty, highest in the world; it is down I think to 59. That is still astronomical. Violence across our country is about 5 per 100,000 murders. So, it is still high, but the point is they are bringing it down.

I was speaking separately with the President of Honduras in my office just last week. What he has done economically, he expects to grow his economy by 600,000 jobs in the next 5 years. This is phenomenal information or progress.

Jimmy Morales from Guatemala, similar kind of efforts and similar kind of successes both in reducing the violence rates as well as economics. That is why I think this economic forum, if you will, in Miami in June will add to it.

So, why are they not coming? They are not coming for the most part because they do not know what is going on. They have heard of the actions of the ICE agents internal to the United States, much of it terribly misreported by our press, but that said, it has added to the deterrent effect.

What we are doing on the border, what we intend to do on the border, has added to that deterrent effect. These people are not wealthy people. Oftentimes, their entire life savings are given to the coyotes, the traffickers, to get one, two, or three of them into the United States. We know because of the focus we are putting on the traffickers now, when we catch them, actually prosecuting them, the traffickers now have raised their fares, their prices, two and three times. So, what used to be, say, $4,000 per individual to get into the United States from, say, Honduras is now $8,000, $10,000, and $12,000. Well, the people down in those parts of the world cannot afford that kind of money. They are already paying more than they could afford.

So, all of that has added to the deterrent effect. My appeals personally through the press and to the Presidents and the attorneys general from those three countries, the Roman Catholic leadership, the Evangelical leadership—I met with the Los Angeles Roman Catholic Archbishop, spoke with the Archbishop in Houston, again, asked them to contact their counterparts, if you will, in those countries to ask, beg the people not to take that horribly dangerous trip to the United States because you will be sent back and you will not have the money, and you will probably, if you are a woman, have been assaulted—once, if you are lucky—or if you are a young man, you could be siphoned off into the cartel gang Mexican thing. So, that is why they are not coming.

Senator DAINES. Yes, well, I think you are also demonstrating, in my opinion, the experience you are bringing from your Southern Command leadership; I think it is having already a significant impact on our country and protecting our Southern border.

Secretary KELLY. Thank you for that.

Senator DAINES. Thank you, truly. Also, I appreciate your compassion as you are looking at the effect it is having on very poor people who are being taken advantage of as they are seeking to come into our country.

I am from Montana. We think about our Northern border, but the Southern border and the methamphetamines that are now coming into Montana, and they are coming in from our Southern border, are having a huge impact on our State. Mitigating the flow of drugs long before they reach our border, as you are well aware from your time in command of SOUTHCOM, is very important. We discussed the concept at the confirmation hearing. What steps have you taken on the job to stymie the flow of drugs as well as violence into our country?

Secretary KELLY. Great question. One of the things we know about the flow of hard drugs—marijuana comes in vast amounts, but it is also produced in the United States in vast amounts. But, methamphetamine, heroin, and cocaine are the big killers, and along with that are opiates that are counterfeited, if you will, and, of course, not a lot of quality control. But, you do not know—the average person abusing opiates in the United States does not know that a lot of it is not produced by credible—they are produced in labs in Mexico or in other places. So, the point is most of that comes into the United States in 10-, 15-, 20-kilo loads via the ports of entry, in trucks and things like that.

So, what have I done? We are now looking very hard at the ports of entry, which are not really part of the wall, if you will, effort. But, look at the ports of entry. If there is better technology out there, and I think there is, to look into vehicles without unloading the vehicle, particularly tractor-trailers, to get after it that way. But, I would tell you, methamphetamine, helping—working with the Mexicans, they are good partners in law enforcement. My folks, I am proud to say, Homeland Security Investigations, working with the Mexicans, led them—I will just put it that way—to two huge methamphetamine labs that were destroyed by the Mexican marines, I think in that case. Working with them and identifying the poppy fields in the south, the Pacific southwest of their country, and offering them perhaps help in how to eradicate those, much as we have done for so many years in Colombia with coca. That is what we are doing.

But, the big issue really right now in drugs coming into the United States is the ports of entry, and a part of that as well is what goes south. We do not look at much going south out of our country. The Mexicans do not look at that very well either. I would like to extend the effort to look in vastly more vehicles going south because bulk money in unbelievable amounts travels south out of the United States into the rest of the hemisphere to get laundered, I mean billions and billions of dollars, and guns. If we point a finger at the Mexicans or people who produce—countries that produce drugs, if we point our finger at them about the production of drugs, they will point their finger right back and say, "What about guns?" So, we need to do better in the southward flow to go after the money and to go after the flow of guns. And, that will take some time, some money, some effort.

But, I think there is a next step, and a next step after that in technology. The stuff we have now is pretty good. I was up with Senator Peters looking at the busiest traffic point between Detroit and Canada. Technology that looks into trucks, tractor-trailers, is pretty good. But, I know there is better stuff out there, and we will just get after it. But, mostly the drugs come in, we believe, we know, comes in in relatively small amounts, 10 or 15 kilos at a time, in automobiles and those kind of conveyances.

Senator DAINES. Thank you, Secretary Kelly. Thank you.

Chairman JOHNSON. Thank you, Senator Daines.

I just want to remind everybody kind of watch the clock. We have great attendance. I appreciate it. I want to make sure everybody gets a chance to ask questions. Senator Carper.

OPENING STATEMENT OF SENATOR CARPER

Senator CARPER. Thank you so much.

General Kelly, great to see you. How are you holding up? You have a lot on you? You have had a lot of tough jobs before?

Secretary KELLY. I have been in this job for 15 years, but it is—no, 3 months seems like 15 years. [Laughter.]

Senator CARPER. I am sure it does.

Secretary KELLY. This is the most enjoyable thing I will do this week.

Senator CARPER. Well, for us, too. [Laughter.]

We say this often, we say it from our hearts: Thank you for taking this on. Thank you for being a voice of reason. Thank you for being just a great patriot.

We have been talking a bit about—I will just follow up on a number of the questions that deal with the border, border strategy, and that sort of thing. I think the message I hear from both sides, on this side and hearing from you as well, is we need an all-of-the-above strategy on the border. It is not just a wall, it is not just fencing. Those are important in appropriate certain places. But, it is comprehensive immigration reform that includes a guest worker program that sort of takes away the need for people to come up here and get stuck up here on this side of the border, but they can go back and forth and do good work for our country and go back to their own.

You referenced the Alliance for Prosperity. I am delighted to hear the economic summit that you are planning for being held in May. Do you have the dates yet on that?

Secretary KELLY. It is going to be now in June, and that was based on our Vice President's desire to attend—either the 12th—I think it will be the 12th. It might be a little later. It will be in Miami just because that is a great place to bring Latin Americans because of the language and all of this kind of thing. They are very familiar with the city, so that is the place to do it.

Senator CARPER. OK. Well, I am glad you are doing it. I think that is a smart move.

One of the things that we need to do is we need to, in order to incent the private sector and other countries and other organizations to help out in the work that needs to be done in Central America so that it actually has some economic hope and opportunity and do a better job combating crime and violence. We set the

example. Our funding for Alliance for Prosperity is, I think, very important for that. My hope is that you can continue to support it, and I think you know it makes sense.

Secretary KELLY. Absolutely.

Senator CARPER. I like to say for the folks down in Central America, you can do it, we can help. They have to do the heavy lifting, but we can help, and I think we are doing that.

Border security, the force multipliers, there are just a ton of them. Innovation, we talked about the innovation of technology, but it is not just drones and fixed-wing aircraft. It is not just helos. But, it is those aircraft but with the right kind of surveillance technology, the Vehicle and Dismount Exploitation Radar (VADER) system, that kind of thing that is actually so much more helpful.

I mentioned yesterday in my comments, 23 years in the Navy, naval flight officer (NFO), P–3 aircraft, mission commander, we did a lot of anti-submarine warfare, a lot of stuff off the coast of Vietnam and Cambodia. We also did search and rescue. And, we did search and rescue with binoculars out of a P–3 aircraft at 500, 1,000, 2000 feet. Good luck. It is hard to find anything. And so, the VADER systems makes all the sense in the world.

But, part of the force multipliers is observation towers. They can be fixed, as you know. They can be mobile. They have to have the right surveillance systems. Part of it can be horses. Some of us have been down—the Chairman and I have been down, I think with Claire, maybe with Heidi, to see the horses do their work and help be a force multiplier.

There are motion detectors. There is intelligence, better intelligence. How are we doing on the intelligence in terms of the intelligence we are sharing with the folks in Mexico and further south?

Secretary KELLY. Yes, sir, the law enforcement intelligence, information sharing is very good.

Senator CARPER. OK. Part of the force multipliers are boats and ramps so we can get the boats in the water, all kinds of stuff. In some places it makes sense, other places it does not, but it is an all-of-the-above approach.

I want to ask you to talk a little bit about leadership and the management, the ability to manage this organization. Senator Johnson and I and, before that, Tom Coburn and I and Members of this Committee worked very closely with Jeh Johnson and with Ali Mayorkas to try to make sure that the Department had terrific leadership teams, a confirmed senior leadership team, and I think many of them are gone now, as you know. We had an election. But, we want to be helpful. Elaine Duke was confirmed yesterday. We want to be helpful in bringing the rest of your leadership team in. You will have to tell us who you want, give us a chance to vet them, so we look forward to hearing about that.

The other thing on leadership I have found—and we have talked about this before—it would be nice to have—instead of all of the Department spread over a half acre throughout the greater Washington metropolitan area and Virginia and so forth, it would be nice to have people consolidated in a more close-knit area. That could be St. Elizabeths. I think it should be. I was not always a fan of the St. Elizabeths project, but I have come to believe that

it is the smart thing to do, fiscally smart thing to do. Your thoughts, please?

Secretary KELLY. If I could comment on the leadership.

Senator CARPER. Please.

Secretary KELLY. I would tell you, you are right, Elaine and myself are really the only two political types, and it almost—I do not know what that—I cannot quite get my arms around the fact that I am a political appointee because of my life before this.

Senator CARPER. When you look up a dictionary for political appointee, your picture is not there.

Secretary KELLY. Thank you. But, we have tremendous career professionals, so the function of the Department has not from when Jeh left and all the rest of the political appointees left, stopped at all. We have tremendous long-serving public servants that are running the Department now, and as time goes on, of course, political appointees will theoretically be confirmed by the Senate and will take their places. And then, they will learn their jobs underneath those tremendous public servants.

Senator CARPER. That is a good point.

Secretary KELLY. On the consolidation, I do not think—two things. DHS I do not think will ever be a functioning, cohesive organization to the degree that it should be and could be unless it does consolidate somewhere in more or less the same building or on the same campus. The first issue.

And, the second issue is—and as long as the Department answers to as many——

Senator CARPER. Committees and Subcommittees?

Secretary KELLY. Yes, I mean, Jim Mattis has four committees that he has to concern himself with, and a number of subcommittees. And, that was my life before. This is a very different beast, but I do not think it will ever be, as I say, as cohesive as it could be so long as we have—I think it is 119-plus committees and subcommittees that still have jurisdiction from the olden days from when the Department was formed. It is not impossible to function, but it will not be the same so long as there are so many disparate committees to answer to and that generates, frankly——

Senator CARPER. Does St. Elizabeths make sense?

Secretary KELLY. It does make sense, yes.

Senator CARPER. All right. Good. Thank you. My time has expired. Thank you so much.

Secretary KELLY. Thank you.

Chairman JOHNSON. Senator Harris.

OPENING STATEMENT OF SENATOR HARRIS

Senator HARRIS. Secretary Kelly, I was heartened to hear your response to Senator Heitkamp's question about the separation of children from their parents. I understood you to say that only if the life of the child is in danger would there be a separation. Is that correct?

Secretary KELLY. Depending on what is going on on the ground, but that generally would be my approach.

Senator HARRIS. And, are you willing then to issue a statement to your staff that that is your approach and that that is your policy?

Secretary KELLY. My staff knows already that they will not separate anyone unless I am informed and get my permission.

Senator HARRIS. Have you issued a directive to that——

Secretary KELLY. They know that.

Senator HARRIS. That is not my question, sir. Have you issued a directive?

Secretary KELLY. My response is they know that, so, yes, I have through the leadership told them that if that is going to happen, it will only be me——

Senator HARRIS. With all due respect, sir, are you willing to issue a directive to your staff that that is your policy?

Secretary KELLY. I have already done that.

Senator HARRIS. You have issued a directive?

Secretary KELLY. Through my leadership.

Senator HARRIS. I would like a copy of that then. Is that in writing?

Secretary KELLY. It is verbal.

Senator HARRIS. OK. Are you willing to issue a written directive to your staff that that is the policy of the Department?

Secretary KELLY. I do not need to——

Senator HARRIS. You run an organization of 230,000 people. Is that correct?

Secretary KELLY. Right at 230.

Senator HARRIS. And, why are you reluctant then to issue a directive to your staff if that is, in fact, your policy?

Secretary KELLY. I am not reluctant. I have already given the verbal—it only really applies to——

Senator HARRIS. So are you unwilling, sir, to issue a written directive that it is the policy of the Department to not separate children from their mothers unless the life of the child is in danger?

Secretary KELLY. I do not need to do that. I have done it verbally.

Senator HARRIS. So is your answer no?

Secretary KELLY. My answer is I do not need to do that.

Senator HARRIS. You do not need to do it.

Sir, are you aware that Sean Spicer said that with the new Administration that now, finally, the President wanted to take the shackles off individuals in this agency? Are you familiar with that?

Secretary KELLY. No.

Senator HARRIS. Are you familiar with Brandon Judd, who testified before our Committee in response to a question from Senator Daines, said that now we can "take the handcuffs off of us and put the handcuffs on the criminals"? Are you aware of that?

Secretary KELLY. No. Was that a recent hearing?

Senator HARRIS. Yes, it was. Are you aware that David Lapan, your spokesperson, said yesterday to the Washington Post that immigration agents may arrest crime victims and witnesses at courthouses?

Secretary KELLY. Yes.

Senator HARRIS. And, are you willing to exempt victims and witnesses who do not have serious criminal backgrounds from that policy?

Secretary KELLY. Every case is different, and as the agents do their work, of course, the people that are taken into custody are

put into a legal justice system. So, that is where the decision would be made to deport, export, whatever.

Senator HARRIS. Are you willing to initiate a policy that says that if that person was a victim or a witness to a crime who is at a courthouse in any county in the United States, appearing as a victim or a witness to a crime, that if they do not have a serious criminal background, that they would be exempt from a policy of picking them up at that courthouse?

Secretary KELLY. No.

Senator HARRIS. And, are you aware that local law enforcement has a concern because this has created a chilling effect among victims and witnesses to crime and has resulted in their reluctance to show up to actually testify about crimes committed in their community?

Secretary KELLY. I have heard some number of law enforcement people say that. But, I also hear the opposite view.

Senator HARRIS. During your confirmation hearing before this Committee on January 10th, you committed to doing a top-to-bottom assessment of DHS. Is that correct?

Secretary KELLY. I did.

Senator HARRIS. And, have you finished this assessment?

Secretary KELLY. No.

Senator HARRIS. When do you plan to finish it?

Secretary KELLY. I do not know.

Senator HARRIS. You do not have a goal for finishing it?

Secretary KELLY. I have a general goal.

Senator HARRIS. What is that date?

Secretary KELLY. Well, one of the things I will task my new Deputy that was confirmed yesterday, that she will take that on.

Senator HARRIS. Have you given her a date for when that assessment will be complete?

Secretary KELLY. No, because when she was not confirmed, I did not deal with her as a Deputy. I did not want to presume confirmation by the Senate.

Senator HARRIS. So, you do not have a goal for your Department on when that assessment will be completed?

Secretary KELLY. She and I will discuss the goal.

Senator HARRIS. And, have you read the—as part of the assessment that needs to be done, have you read the report issued by the Inspector General (IG), John Roth, that was issued just 4 months ago, November 7, 2016, entitled "Major Management Performance Challenges Facing the Department of Homeland Security"?

Secretary KELLY. I am aware of the report, yes.

Senator HARRIS. Have you read it?

Secretary KELLY. I am aware of it, and——

Senator HARRIS. So you have not read it?

Secretary KELLY. Executive summary.

Senator HARRIS. OK. In the report, the IG says, "This year we are presenting a broader picture of management challenges by highlighting those we have repeatedly identified over several years. We remain concerned about the systemic nature of these challenges, some of which span multiple administrations and department leadership."

Do you agree that many of these challenges are systemic and deeply rooted in the Department?

Secretary KELLY. Well, of course, that was pre-Kelly, and it was Jeh Johnson——

Senator HARRIS. It was 4 months ago that report was issued. Do you agree with the statement found by the IG based on his analysis of your Department?

Secretary KELLY. That was pre-Kelly. I am committed——

Senator HARRIS. I am sorry. Pre-Kelly, meaning yourself?

Secretary KELLY. I was not in the job yet.

Senator HARRIS. OK.

Secretary KELLY. As I committed to Committee before and to Congress in general, we are going to take a top-to-bottom look at how we are organized and how we can do business better, and that includes how we do the leadership functions.

Senator HARRIS. Are you aware, sir, that on March 22nd, union officials and leaders from both ICE and Border Patrol appeared before this Committee? During that hearing, Chris Crane, who is the National ICE Council President, said, and I will quote, there is a "toxic and failed management culture." He went on to say a "good ol' boy network" exists within your Department. He went on to say officers are "tripping over managers in the field," and then, said also that the agency has outdated and "practically no policies" in place. Are you aware that that is a sentiment among leadership in your Department?

Secretary KELLY. Certainly, that is the sentiment throughout really DHS in terms of how DHS was run for the last 8 years. Going forward, it will not be run like that anymore.

Once I determine how we are going to change the leadership approach.

Senator HARRIS. So, you are going to come up with a plan for fixing this for the 230,000 people in your Department?

Secretary KELLY. Yes.

Senator HARRIS. And, is this a priority for you?

Secretary KELLY. It is.

Senator HARRIS. And, at the same hearing, both Mr. Crane and the National Border Patrol President Brandon Judd spoke of an extensive morale issue at DHS, which is also reflected in the Federal Employee Viewpoint Survey (FEVS), which is published by OPM. Are you aware that DHS ranks as the last among large agencies in terms of its morale?

Secretary KELLY. That was certainly the case under the Obama Administration, but we are changing that already.

Senator HARRIS. And, you are going to change that within what time period for your Department of 23,000——

Secretary KELLY. It is already changing.

Senator HARRIS [continuing]. Oh, it has changed?

Secretary KELLY. It is already changing.

Senator HARRIS. It is changing, OK. And, in regards to your top-to-bottom assessment, has your assessment included looking into the morale issues at the agency and putting in place programs and initiatives to actually improve the morale?

Secretary KELLY. It is what I do, yes.

Senator HARRIS. And, can you provide us with a list of the policies that you have instituted to improve morale at the Department?

Secretary KELLY. My leadership is a start point, and we will continue to look at ways to improve the morale. One of the issues most focused on by the workforce since—over the last 8 years that affected their morale was an inability to do their jobs. Now that we have opened the aperture in terms of the amount of work that they are allowed to do, I am deflecting a lot of outside influences into the workforce so they can do their jobs.

Senator HARRIS. But, my question to you, with all due respect, my question to you is: What have you put in place to turn the morale around in this Department, and the morale which is at the lowest of many large Federal agencies, and the condition has existed throughout, it appears, the life of the agency and certainly has passed through many Administrations?

Secretary KELLY. Under the Obama Administration, the morale has suffered terribly.

Senator HARRIS. So, what plans have you put in place, sir?

Secretary KELLY. My leadership.

Senator HARRIS. So, you are saying by virtue of you being there, morale will now change.

Secretary KELLY. By virtue of the fact—the greatest impact in raising the morale in the last 90 days or so has been that the workforce now is allowed do their job.

Senator HARRIS. And, that would be they are now unshackled. Is that correct?

Secretary KELLY. They are allowed to do their job as the professionals they are.

Senator HARRIS. And the Administration has proposed tripling the current number of ICE agents and increasing the number of Border Patrol agents by 25 percent in addition to requesting $4 billion to begin the construction of a wall, which has been discussed. Are you in support of actually bringing on these new agents before you have repaired the damage that has existed in your agency?

Secretary KELLY. It is simultaneous, sure.

Chairman JOHNSON. Senator Harris, we are going to give you an opportunity——

Senator HARRIS. So, I will go for Round 2. Thank you, Chairman.

Chairman JOHNSON. I am not sure we are going to have Round 2, but we will have opportunities to submit questions for the record.

Senator HARRIS. I do have more questions, so if we can do a second round, I would appreciate that.

Chairman JOHNSON. I want to be thoughtful of people's time. Senator Portman.

OPENING STATEMENT OF SENATOR PORTMAN

Senator PORTMAN. Thank you, Mr. Chairman. And, General Kelly, it is good to have you before the Committee again.

First of all, I am glad we finally got Elaine, a great Ohioan, over there in your Department. You talked earlier about her being a political appointee. I view her as a career person, having had 27 years in the Federal Government, and including, obviously, big roles over at DHS as a career expert on management and procure-

ment and some of the big challenges that you face trying to bring together all these departments and agencies into one. So, I am glad she is here, and I know she will be a tremendous asset to you.

At your nomination, we talked a lot about this drug issue, and as you know, I was very complimentary of comments that you had made to this Committee about a year and a half ago now regarding the importance of focusing on the demand side. And, that is where I have focused most in the last 25 years, and I agree with you that the single most important thing is to reduce the demand. And, you talked about prevention and education, treatment and recovery, helping law enforcement and so on.

I was a little concerned about the comments earlier about the commission. I do hope the commission heeds your comments and your thoughts on that. But, you should also know, just by way of information, Congress just spent 3 years going through this process that the commission is going to do in 90 days, apparently, which is helping identify the problem. We had five conferences here, not just numerous hearings but conferences, bringing in experts from all around the country, looking at best practices, and came up with this Comprehensive Addiction and Recovery Act (CARA), a bipartisan bill that was finally passed last year. And, one of my concerns is that only three of the eight programs provided there, including things like helping out on drug courts and some of the things you have talked about in terms of diversion—it is not about locking people up, it is about better prevention and getting people the treatment they need. But, only three of those eight programs have been implemented, and, I pushed the Obama Administration on this, and I am now pushing the Trump administration on it.

So, one, I hope you will get up to speed on what CARA is about, what it does. It is comprehensive, not just in name but in reality, and it is based on a lot of work that has been done not just over the last few years with these conferences but around the country over time, because I do not think we need to re-create the wheel. I think we need to go to action. This is a crisis, and it is an epidemic certainly in my State and many other States around the country. It is one that is particularly difficult because of the opioid issue. In other words, crystal meth is increasing in some communities. I understand that cocaine is back in some communities. This opioid issue, the grip of that addiction has been a huge challenge, as you know, for treatment and recovery. We are beginning to learn more about it and how to do it better, but we have to get this legislation implemented and get the Cures Act money appropriated again. I hope the budget will reflect that, which is another $500 million. We need an extra budget just for helping the States to be able to deal with this.

On fentanyl, it is the new issue, as you know, in so many of our States. We are probably hit harder in Ohio than any other State, we are told, per capita. But, there is this toxic substance, as you know, that is a synthetic heroin, carfentanil, U4, it goes by various names, but it is created by evil scientists in a laboratory somewhere. And, you mentioned it coming in from Mexico. Some comes in from Mexico, but primarily that is coming from China to here, as I understand it from your people, and then going to Mexico and back to here, the vast majority of it. And, there is a new commis-

sion report out, the U.S.-China Commission, recently that it is coming from China. And, it is coming from laboratories in China, and it is coming by the U.S. Mail system.

You and I talked about this, again, during your confirmation process and the very difficult job that CBP and the Drug Enforcement Administration (DEA) and others have of identifying these packages because the U.S. Mail system does not require advance information as to what is in the package, where it is from, where it is going.

By the way, Federal Express (FedEx) and United Parcel Service (UPS) and DHL and other private carriers do require that. And, what we heard from your folks, including Todd Owen, Executive Assistant Commissioner in the Office of Field Operations at CBP, when he testified before this Committee on this, is that having this advance data from the post office would be key to helping you to be able to target these packages to find the ones that are suspect.

We have legislation, as you know, called the STOP Act that is bipartisan—Senator Klobuchar, myself, Senator Hassan, who was here earlier, Senator Rubio, and others—that we are attempting to get passed simply to say let us require that these packages have this information. This is what we have heard about from your people as the solution to being able to target some of this fentanyl, to be able to stop some of this poison coming into our communities and killing our citizens.

By the way, that opinion was reinforced at a roundtable discussion I had just 10 days ago in Ohio with your CBP folks. We had two of your port chiefs there. We also had folks there who were from your HSI group, your group of individuals who work with law enforcement every day to try to find this material. We also had folks from DEA who have testified on this.

So, my question to you is: What can we do to get this done? President Trump in the campaign talked favorably about the STOP Act. You have talked favorably about the need to have this information. I guess what I would ask is two questions. One, do you agree with me that having this advance data on shipments coming into the United States from both the post office and private carriers would help your officers be able to target illegal shipments?

Secretary KELLY. I do, Senator.

Senator PORTMAN. Second, would this informed targeting by CBP potentially reduce the ability of the post office to be used for illicit shipping of all kinds of contraband?

Secretary KELLY. I think it will.

Senator PORTMAN. And, third, have you had a chance now, since your nomination, to review the STOP Act? And, what are your thoughts and comments on the STOP Act and its potential to be able to help?

Secretary KELLY. Just in preparation for this hearing, we had a long conversation with CBP people on the issue of the post office. Apparently—and, of course, they do not work for us, but the post office leadership is starting to move in the right direction. Just the other day, again, a DOJ effort, DEA agreement, such as they are with China, but an agreement at least that they will get after the fentanyl production and shipment out of their country. I will see how that turns out.

One of the problems, as I think you know, Senator, that my folks have pointed out to me is a lot of the countries where these parcels come from just do not cooperate. But, that is an effort that we should focus on to have them cooperate in terms of identifying the package, what is in the package, this kind of thing.

So, again, I was probably not as aware of this issue 3 days ago as I am now, and Kevin McAleenan, who we hope someday will be the Commissioner—he is the Acting now—has this very much on his front burner, as it is now on mine.

Senator PORTMAN. I appreciate that, and, by the way, we are asking President Trump to raise this with President Xi because, you are right, China is not doing enough to close down these laboratories and keep these materials from being spread. And, by the way, it is a problem in China as well.

Secretary KELLY. Yes.

Senator PORTMAN. I am told that fentanyl is now leaking out into the community.

Secretary KELLY. I think that is the only reason now they are interested because it is a problem in China.

Senator PORTMAN. It is a problem. Three flakes of this stuff can kill you. It is being put in relatively small packages and sent, and there are millions of packages. So, do you agree that the STOP Act would be helpful to be able to identify these packages?

Secretary KELLY. Yes, sir.

Senator PORTMAN. Thank you for that. And, I guess the final thing that I want to say with regard to the border, because we talked a lot about this earlier—and I really appreciated your comment, which was we are not going to build a wall where it does not make sense. We do need a wall in certain areas, including some urban and even some suburban areas, and we do need, again, the technology that was talked about earlier in other areas.

You mentioned specifically the Big Bend of Texas. I was there at the end of the year. I have been there several times. And, you are not going to build a wall on those canyon walls, and so we need to reassure people that this is about an effectiveness way to secure the border, and I appreciate your comments on it. I think that will help clarify the situation.

Thank you.

Secretary KELLY. Thank you, sir.

Senator PORTMAN. I appreciate your service.

Chairman JOHNSON. Senator Tester.

OPENING STATEMENT OF SENATOR TESTER

Senator TESTER. Thank you, Mr. Chairman.

I want to thank you, Secretary Kelly, for your service, and I mean that. I go back to what the Ranking Member on this Committee said in her opening remarks, and that is that we have faith in you. We have faith in you being the adult in the room because of your past record and your past performance. We believe that that will carry on as Secretary of the Department of Homeland Security.

I have a number of questions. One deals with there was $20 million worth of reprogramming money that you requested, and that Senator Boozman and I signed a letter basically stating utilize the

money but utilize it in the best way to protect the border, not necessarily a concrete wall.

Secretary KELLY. Right.

Senator TESTER. It could be a fence. It could be drones. It could be technology. It could be a number of things. Have you determined how that $20 million is going to be spent?

Secretary KELLY. Again, Senator, on a barrier wall, technology, whatever, we will do it where it makes sense and what makes sense. But, we will not waste any money. But, we have not determined right now what this thing will look like, how long it will be.

Senator TESTER. And, I appreciate that response, but really the question is: As we reprogram $20 million, I do not know that that is the best use of that money, because I think it was going to be used in technology. But, that is a different debate. We did it. And, the question becomes: If you use all that $20 million to put up a prototype concrete wall for a prototype to be used, that pretty much tells me what we are going to be doing. If you use that $20 million, part of it, to put up a concrete wall, part of it to use maybe Blue Rose technology, part of it to maybe use drones, part of it to maybe use radar, part of it maybe for manpower discussions, that puts my heart at more of an ease. So, the question is that if you have how this reprogramming money is going to be used, I would like to know it. And, if you have not, could you tell me when you might have it?

Secretary KELLY. Let me get back to you specifically on that, Senator, but you can rest assured we will not waste the money, and we are not going to build one prototype. We are going to take a look at what makes sense along that whole border.

Senator TESTER. OK. The Secret Service was brought up earlier, and I also agree that, due to circumstances with this Administration, your Secret Service is probably stretched more than it ever has been before. Have you made any requests of Congress—first of all, am I reading that right? I may be reading it wrong, and if I am, that is fine. But, have you made any requests on Secret Service and the demands that have been put on the Secret Service and if we need to deal with that through the budget?

Secretary KELLY. Not as of yet. Again, the first thing I would like to say—and I think you would agree—individually, the best men and women imaginable.

Senator TESTER. Yes.

Secretary KELLY. They are just phenomenal people, and they work so hard, and they max out their overtime. I mean, they are just meeting themselves coming and going.

Senator, they need—and we will come forward to Congress and make the case, but they need a lot more agents, not just because of the Trump era, if you will, although that is additional because he has a lot of children and grandchildren. We need more agents, and we need more uniform personnel, regardless of whether it is a Mr. Trump, a Mr. Obama, or a Mr. Anybody, because what they do is much larger than simply the mission there at the White House and with Presidential travel. Things like any foreign dignitary that comes to the United States——

Senator TESTER. I got you.

Secretary KELLY. It is much bigger than just that, so we need a larger Secret Service because we need to get some of these people a little bit of time at home with their families.

Senator TESTER. OK, got you. The Coast Guard, you talked about it in your opening remarks. The President's budget came out and whacked the Coast Guard, along with TSA and a lot of other agencies that are under your purview.

Question No. 1 is: How much input did you have in that budget? Question No. 2 is: What are we going to do about fixing it?

Secretary KELLY. Question No. 1, very little. I have talked to the Office of Management and Budget (OMB) people about the way forward, and we are going to make the money—we will make the money good for the Coast Guard. They are too vital in securing the Southwest border.

Senator TESTER. Yes.

Secretary KELLY. And, a lot of other things.

Senator TESTER. And, Mar-a-Lago and a lot of other things. OK. Thank you.

Northern ports, we talked about ports of entry where the drugs are coming through. And, we are focused like a laser on the Southern border, and I think that is cool. But, the Northern border has its challenges, too.

Can you tell me how concerned you are on the Northern border and if your concern is with—and I do not think this would be classified information. Is it with drugs? Is it with undocumented people coming across the line? Is it with terrorist activities? Where is your concern with the Northern border? And then, we will have a follow up on that.

Secretary KELLY. Not as, obviously, as concerned with what comes with the Northern border as the Southern border, but it is our border, so I am concerned with all the borders. The absolutely great news story on the Northern border is that we have Canada there that is——

Senator TESTER. That is right, great ally.

Secretary KELLY [continuing]. To say the least, a friend, an ally. They interact with us at every level. They are very careful about who comes into their country—maybe not as careful as I want us to be going forward about who comes into our country, but the good-news story, again, up there is the Canadians, their law enforcement, their commitment.

I would say actually this might surprise you. I think not a concern really. What I would like to see the Northern border be is even thinner, if you will, so that the movement safely and securely of commerce and people can be even streamlined more.

Senator TESTER. That is a big deal. The last thing, and excuse me if this has been asked before. I do not know that it has been or that it has not been. Eminent domain, on the Southern border, if we are going to build a wall, if we are going to do anything, it is require permission of the landowners.

Secretary KELLY. Yes, sir.

Senator TESTER. On the Northern border, those landowners are critically important for security, by the way. They are an extra set of eyes we do not have to pay for. How are you going to deal with eminent domain on the Southern border?

Secretary KELLY. We will do it judiciously. There may be places we have to do it. Again, that would be part of the evaluation about where we build the wall, how we build the wall.

Senator TESTER. Well, I would just say that—and this point has been brought up in these hearings before—if you want to get people's attention in rural America, just talk about eminent domain. The hair will be on fire.

Secretary KELLY. Senator, I am told that back in, I think, the 2008 effort to put fencing on the border, we are still in court with people about eminent domain, 9 years ago.

Senator TESTER. Look, I get it. I have a farm that has to be in the family 100 years. Those ones down there, they are probably 140 or 150. If somebody tried to eminent domain my place, they would take me off in a box because I would not let them do it. So, that is where we are at. Thank you.

Secretary KELLY. Thank you.

Chairman JOHNSON. This hearing is setting a lot of hair on fire. Senator Paul.

Senator MCCASKILL. And his is so special to be on fire.

OPENING STATEMENT OF SENATOR PAUL

Senator PAUL. General Kelly, thank you for coming. If I travel abroad and I am coming back home, do you think it is appropriate to deny me entry to the country unless I let you search my cell phone?

Secretary KELLY. Under very critical circumstances, I would say that an American citizen ought to be able to come back in and not have their electronics searched.

Senator PAUL. We have gone from 5,000 people having their cell phones searched to 25,000. We are denying people entry who are citizens or green card holders who are coming back home, and your Department is saying to them, "You cannot return to your home without giving us your fingerprint and giving us all of the data on your phone, access to all of the data on your phone." I think this is an extraordinarily unreasonable standard.

I also think that you probably can differentiate between citizens, U.S. persons, and those who are coming to visit. So, I am not saying you cannot have some standards and that, based on suspicion, you can deny someone entry to the country—but not a citizen, not a green card holder. They are denying access to our own country. I could travel abroad and be told I cannot enter America unless I let you look at my phone. That is obscene.

Do you have a response? We are up to 25,000 of these now.

Secretary KELLY. Well, it certainly has not increased significantly in the 90 days I have been in the job and the 90 days Mr. Trump has been the President. I do not believe we ever turned back legal citizens or—I mean citizens or legal residents.

Senator PAUL. That is what is in the paper. That is in the last month. There was a guy that had a green card and his wife was a citizen, but he lived here for many years. He was told he could not enter if he did not give his fingerprint to the government.

Secretary KELLY. Let me take that on, Senator. The one thing I have learned in this job that everything I read about this Department or what goes on at our borders, there is always more to the

story. But, in general, just like an American citizen coming in and having his bag searched at the port of entry, generally speaking it is done for a reason.

Senator PAUL. Right. But, I think there are different—and I am not blaming you. It may sound like I am blaming you. You have only been on the job for a month or two. But, in your nomination hearing, you said you were going to respect the Fourth Amendment and you were going to respect people's privacy. So, my hope is that you will go back and ask people, "Are we really doing this?"

Secretary KELLY. You know I will.

Senator PAUL. Because it happened. There have been many reports of this.

I would also argue, though, that there is a difference between searching my bag and my cell phone. OK? If I am coming in, it is known that one of the things that happens at the border are drugs. We have dogs. We do have random searches of bags. We are doing that even domestically. So, I think we can accept that. But, I think that people are going to be horrified the more they hear that their cell phone, all their contacts—we do not even know what is happening to our cell phone while it is gone and in the possession of the government. Are they downloading—and the story was this, that they are downloading everybody's contacts and information. There is an extraordinary amount of information on your phone.

Secretary KELLY. It is not happening.

Senator PAUL. All right. But, that is what the stories are saying.

Secretary KELLY. To citizens. And, in some cases, it is certainly happening to foreigners coming in, but not routinely.

Senator PAUL. But, it has gone from 5,000 a year to 25,000. If you would not mind, if you would look into it and have your people get back to my office on this.

Secretary KELLY. Will do.

Senator PAUL. But, we put forward legislation, bipartisan legislation, because we are so upset about this, that really if you are a green card holder or a citizen, even if you had suspicion, the way it would probably work if you were, I think, obeying the spirit of the Constitution, is you might be able to seize my phone, but we would then go to a court, and a court would determine whether you had probable cause to actually get the access to my phone for a citizen. And, for a non-citizen, I think if you do not give it, you can probably deny entry. I mean, there are rules on travel to our country. But, I think for a citizen or a non-citizen to say, "I cannot come back to my country without giving you the contents of my phone," is, I think, really——

Secretary KELLY. I just do not believe we are doing it.

Senator PAUL. All right. But, please look at the news reports because it was not just one. There was a whole series of them in the last couple days and a few interviews of people who were green card holders not being allowed entry. Thanks.

Chairman JOHNSON. We will do a second round, but I am going to limit it to 5 minutes because I want to be respectful of the Secretary's time. So, Senator McCaskill.

Senator MCCASKILL. Following up a little bit on Senator Paul, I had to smile when Senator McCain said I was being hysterical. I was being focused and passionate, and I learned it from him, by

the way. So, I want to be very clear. I completely understand that we have to take steps to keep terrorists out of our country that are coming here to kill us. I completely understand that this is a global threat that we have to pay attention to. And, I understand and completely accept that there are people being trained in Raqqa to come here and hurt us.

My point is I want to make sure what we are doing is effective. It is now out there that we are taking people's phones. I mean, no terrorist that has the ability to come into this country and hurt us is going to come in with anything other than a clean phone. And, the people who are going to get caught up in this are going to be a lot of people who are not probably terrorists because if they were, they would be smart enough to clean their phone. The same thing, like I talked about, with some of the questions. They are going to lie, and we are not going to—maybe we are going to do—for some, maybe we should do polygraphs if we have good information that they are terrorists.

So, I am not in any way saying I do not want you to go after terrorists and I do not want you to figure out ways to find the people. And, we are taking lots of steps around the globe to do that, and I certainly identify with Senator Hassan's remarks about the law enforcement teams helping embassies in terms of screening visa applicants. All great.

So electronic devices. I agree with Senator McCain. I think we have to be doing some extraordinary steps about electronic devices, and I was supportive—I appreciated you giving me a call of you doing the unprecedented step of not allowing laptops in cabins from certain countries. And, if you wanted to take a moment—I only have one other brief question, so if you wanted to take a moment to maybe explain that so we all understand what steps you have taken and why it is important.

Secretary KELLY. Senator, as we discussed on the phone—and I made 15 phone calls that day to make sure the leadership on both sides of the aisle and both sides of the Hill understood what we were doing, and then we provided classified briefs to the Hill again. It is a real threat. I mean, we know on any given day there are dozens of cells that are talking about aviation, attacking aviation, and you just watch them over time and see if they develop, if they go from talking to actually doing something. So, there is a real threat all the time. You saw the Russian airplane that was blown up coming out of Egypt as an example, the Somali airplane that thankfully did not catastrophically come apart, but a hole was blown in the side of the airplane, and only because the airplane was not at altitude was the pilot able to bring that aircraft home.

It is real. Based on the threat—and this was my decision, certainly briefed it to the President but this was my decision, once I took in all the information from all the sources. There is a real threat against aviation always, but a specific threat. And, the airports that I decided to prohibit—or to do the additional—or the new baggage protocol, that is to say, the large electronic devices into the cargo hold, are predominantly Muslim countries. I did not do it because of the Muslim religion or the color of their skin or, as some have accused, I was trying to help out the American aircraft industry in places like the Emirates. It is real. I think it is

getting "real-er," so to speak. We may take measures in the not too distant future to expand the number of airports. It is real.

Senator MCCASKILL. We appreciate your focus on it, and I certainly support the steps you have taken in that regard.

Missouri is one of the States that has not done REAL ID, and I just want to make sure that you clarify what is going to happen next year. And, the reason I say this is the Missouri Legislature is struggling with this. This happened before I came to the Senate. Both Republican Senators voted for this in 2005. In fact, all 100 Senators voted for it in 2005. And, I understand why it is controversial, and, frankly, I kind of identify with that in many ways because of the State I am from and our distrust of government in our Deoxyribonucleic acid (DNA).

But, the Governor said recently that he had gotten some signals from the Trump Administration that would indicate that it was not going to be enforced, and so as a result, the Missouri Legislature I think is now struggling with whether they need to do anything.

I do not know what you are going to do, but whatever you are going to do, the more quickly you clarify whether or not this is going to be enforced next year is really important, because I think there are some mixed signals going on, and as a result, I worry about Missourians and their ability to participate in aviation in this country come this time next year.

Secretary KELLY. Senator, your comment just now is the only time I have heard anyone say that we are not going to enforce the law in January. I mean, as I say, I have been saying it to the press; we have been saying it to the Governors.

Senator MCCASKILL. Well, you need to call the Governor of Missouri because the headline was, "Trump Administration indicates they may make a change," and then it goes on to say the people who are against doing it in Missouri say, well, we need to give Trump time to change this.

Secretary KELLY. I will call the Governor right away.

Senator MCCASKILL. Yes, that would be terrific. I think that would be very helpful, because I know he wants Missourians to be able to fly, too. This is not partisan. We want Missourians to be able to fly next year.

Secretary KELLY. I mean, my advice, again, to all of the States that are not right now compatible is to just tell their citizens the best thing to do is get a passport. And, again——

Senator MCCASKILL. Yes, or a passport card.

Secretary KELLY. Or a passport card. And, again, this issue up in Seattle this last week where I was with this business group, all of whom thought that their State license enhanced will fill the bill, and it will not. And, if they did not know that, then I would say the average Joe and Jane Doe, they are probably under that misconception. But, there are about, I would say, 10 to 12 States, anyways, that are questionable that they could pull this off. So, I will call the Governor.[1]

Senator MCCASKILL. I really appreciate it.

Secretary KELLY. Yes, ma'am.

Chairman JOHNSON. Senator Harris for 5 minutes.

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[1] The correction to Mr. Kelly remarks appear in the Appendix on page 346.

Senator HARRIS. I appreciate that.

Secretary Kelly I represent a State of almost 39 million people, which is also a State with the largest number of immigrants, documented and undocumented, of any State in this country. And, they have a right to have an understanding, a clear understanding of the policy priorities of your Department.

At the March 8th confirmation hearing for Elaine Duke, I asked how the seven enforcement categories from your February 20th memo would be prioritized, and she answered that the priorities are listed in descending order. Do you agree with that?

Secretary KELLY. No.

Senator HARRIS. And so, what is the—can you please rank then the seven factors and the priority among them?

Secretary KELLY. Those seven factors allow the ICE folks to make their decision as to who they will develop a target package on and then go try and apprehend. But, they are not in descending order. Just those are the categories.

Senator HARRIS. So, what has been your direction to the folks on the ground about what the priorities should be, understanding that they, like all law enforcement agencies, have limited resources and a very important charge? Are you not giving them any direction around priorities within the seven criteria?

Secretary KELLY. The direction they have is the start point is illegal status and then something from the priorities. But, they are not going to go after, as an example, all the murderers and then we get—all the very serious criminals, and then once we get all of them, go after the next and the next and the next. They can go after an individual, according to the law, if they are on the list because they are illegal and then something.

Senator HARRIS. So, among the seven categories——

Secretary KELLY. Generally speaking.

Senator HARRIS [continuing]. You have as number one, convicted of any criminal offense, and obviously there is no doubt that especially if someone has been convicted of a serious and violent felony, they should be apprehended and they should be dealt with.

Second is anyone charged with a criminal offense, so then there has not been a finding of guilt.

The third is they have committed an act which would constitute a chargeable criminal offense, so they have not even been charged with the offense.

The list goes on to number seven, or in the judgment of immigration officers otherwise pose a risk to public safety or national security.

How are you training the folks on the ground to exercise their judgment as it relates to Factor 3 or Factor 7 as an example?

Secretary KELLY. They are already trained, and they, through that direction down through the leadership of ICE down to the local agents in charge and what-not, they train them to execute that policy.

Senator HARRIS. So, as a former manager of a very large law enforcement organization, the California Department of Justice, I am well aware that you cannot lead a department just from the top down. And, it is critical that you communicate the policies of leadership to everyone at every stage, including those at the lowest

level who, in your agency, as in most law enforcement agencies, have wide discretion to exert and use their authority.

I would like to know what specifically you are doing to train those people, and I would like a copy of what you are doing that is beyond the conversations that you have had with managers, but actually what policies you have put in place to train those folks on how they should exercise the discretion that you have given them as it relates to this expanded list of folks that can be contacted by the folks in your agency.

I would like to have a list submitted, sir, and if you would agree to give us a written copy of the training that you are instituting in your Department to train folks about how they should exercise their discretion.

Secretary KELLY. We will certainly provide you the policy statements, and from that the training takes place.

Again, they are already highly trained individuals.

Senator HARRIS. Well, we have already discussed how they have the lowest morale of any Federal agency and that——

Secretary KELLY. Under the Obama Administration.

Senator HARRIS. OK. So, sir, given the extent and depth of the problems that exist at DHS and that we have so far received no assessment or any program that you have or plan that you have to address these issues, how can you justify such massive increases in hiring and resources? And, should the American public really be expected to give you billions of dollars and provide billions of dollars to your agency on blind faith, in spite of the fact that there has been no clear change of direction or course beyond the fact that you were appointed to lead the agency?

Should the American public believe to have blind faith in the fact that you are now the leader and, therefore, everything has changed?

Secretary KELLY. They should have faith in the fact that I am the leader. They should also have faith that the rank-and-file have now been allowed to do their job, and we have already seen a change in the morale, yes.

Senator HARRIS. Thank you. I have no further questions.

Chairman JOHNSON. Thank you, Senator Harris.

Just to add a little perspective and clarity to the device searches, in fiscal year 2015 there were 77.5 million people that came into this country internationally in flights. That included Canada and Mexico. There were 38.4 million that came in overseas. The 23,877 devices that were searched in fiscal year 2016 was under a different Administration representing 0.03 percent of total international arrivals, 0.06 percent of overseas arrivals, just to put it in perspective.

My concern about all of a sudden this new Administration, now all of a sudden this is a big problem, we are publicizing this, we may be taking a tool out of the toolbox, kind of like when Osama bin Laden found out that we could actually track his location based on his cell phone.

So, again, I appreciate your comments on how it is being administered in kind of extraordinary circumstances in many cases, again, 0.03 percent of the time, 0.06 percent on overseas flights. And, I do not know, it is just unfortunate.

Secretary KELLY. Chairman, if I could, I think—and this has a lot to do with the press reporting, not against the press, just they pick up and intend to write off whatever the base story is. I think an awful lot of people are confusing what we are doing at the ports of entry today and the kind of thinking I have in terms of the additional vetting that we will be implementing, whether it is for overseas—in overseas locations—whether it is for visa requests to come to the United States or, for that matter, asylum requests. We are going to do a lot more of this electronic stuff in addition to other things, whether it is in refugee camps in Kenya or in some other country. And, we will do it—but we will not probably do the same type of additional vetting in, say, Britain or Japan. It just depends on the country, depends on the threat.

But, I think an awful lot of people have jumped to the conclusion a little bit, certainly the press has picked up, for whatever reasons—and I will assume they were doing it, honestly—that we are not going to do everyone's phone and computer at the border.

Chairman JOHNSON. And, of course, that is the impression the press leaves, so we blow it out of proportion. We take what could be an effective tool out of our toolbox, and we make this Nation less safe.

Again, I just think it is unfortunate. I kind of want to lay out—and, again, I think you explained it pretty careful, pretty well. You look at a phone, you look at the photos. There is no password required for that. It is just, "Oh, I see a potential pedophile in there," and that helps prevent something. And, it is just unfortunate that we do publicize some of these things that, from my standpoint, ought to remain more at a classified level or just not really discussed in the public domain.

Senator MCCASKILL. Mr. Chairman, I just want to say I think having these hearings is how we get to the bottom of it and find out the facts. That is why we do this. And, the questions are important to be asked so we can get the clarification.

Chairman JOHNSON. I understand.

Senator MCCASKILL. And so, I think the Secretary now is in a position to understand the concerns, and I think he will respond to them, and we will all be in a better place.

Secretary KELLY. I am fortunately way ahead, and I think if Jim Comey and people like that certainly sitting here at the table with me, law enforcement in general, these new applications that will make it impossible to look into someone's phone or electronic device, right, we will lose a huge—this country—the good guys and gals in the world, in the West and other places—well, in the world that are trying to protect their people will lose a tremendous asset when these applications become more widespread than they are, tremendous advantage lost.

Chairman JOHNSON. And, let us face it, the last time Director Comey was before this Committee, he was basically predicting, when we finally end the caliphate a diaspora of terrorists unlike this world has ever seen, and we are going to be dealing with that. And, you are going to have to be dealing with that. So, I want to make sure you have the tools in your toolkit to keep this Nation safe.

Again, General Kelly, thank you for your service. Thank you for coming here. Thank you for your testimony and your answers to our questions.

With that, the hearing record will remain open for 15 days until April 20th at 5 p.m. for the submission of statements and questions for the record.

This hearing is adjourned.

[Whereupon, at 11:51 a.m., the Committee was adjourned.]

APPENDIX

Opening Statement of Chairman Ron Johnson
Wednesday, April 5, 2017
"Improving Border Security and Public Safety"

Good morning and welcome. Since becoming Chairman of this Committee, we have convened 22 hearing on improving border security and public safety. These hearings examined the southwest, northern, and maritime borders. We assessed incentives for unlawful migration to the United States and how America's insatiable demand for drugs fuels supply from further south.

We also looked at ways to enhance border security and public safety. We heard from ranchers, sheriffs, and border patrol agents about the state of America's borders, as well as fencing, technology, and manpower needs. We also heard a widow from Missouri and a local law enforcement officer in Washington State explain how an insecure border and lax immigration policies took the lives of innocent Americans.

So, what did we learn? We learned that:

1. Our borders are not secure.
2. America's insatiable demand for drugs is one root cause, perhaps THE root cause preventing the achievement of a secure border.
3. To truly secure our border, we must identify and eliminate—or at least drastically reduce—the incentives for illegal immigration.
4. Some key incentives driving unlawful migration are the opportunity to work and the security in knowing that, upon illegal entry, you will probably be able to remain in the United States.
5. We need a layered approach to border security, one that includes fencing, technology, manpower, a commitment to the rule of law, and the elimination of incentives that encourage illegal immigration.
6. In order to secure our borders, agents need full situational awareness, which includes the ability to see on the other side of the border. This can be achieved with appropriate fencing or technology.
7. Fencing works, and we need more of it.
8. Hiring is a challenge, and personnel issues must be addressed.
9. The Ports of Entry (POE) must not be forgotten, as the majority of drugs enter the country through our POEs.
10. Tragedies have occurred as a result of our insecure borders. Tragedies that could have been prevented.

Today, we welcome Secretary Kelly to discuss the Department's efforts to improve border security and public safety. To assist the Secretary, it is important that we confirm qualified nominees for the Department's senior leadership team. I am pleased that the Senate voted overwhelmingly to support Deputy Secretary Elaine Duke's nomination yesterday. Secretary Kelly now has his second-in-command. I am committed to working with the Secretary and the members of this Committee on addressing the issues identified above. Together, we can secure our border, a goal all of us share.

I want to thank Secretary Kelly for attending today's hearing and I look forward to your testimony.

U.S. Senate Homeland Security and Governmental Affairs Committee

"Improving Border Security and Public Safety"

April 5, 2017

Ranking Member Claire McCaskill

Opening Statement

Thank you Mr. Chairman. Secretary Kelly, thank you so much for being here today.

We are cognoscente of the demands on your time and part of our goal is to be careful about what we ask for and how much we ask. But we have to ask questions, because our job is oversight. We're aware you're being pulled different ways. That's why we look forward to you getting a full team in play so we can begin to have some of the people in charge in your operation come and answer some of these difficult policy and oversight questions. You and I have worked together on the armed services committee. I am a fan of how you've served as a marine and a general and no one can question the sacrifices you've made for our nation. Ever since your confirmation, I have considered you to be a voice of reason within this administration. You have displayed, throughout your career, a willingness to speak truth to power, to say "no" rather than nodding, and have

made your decisions based on the facts—not political expediency. Those characteristics are needed now more than ever.

I am counting on you to speak truth to this administration and to the President, but I'm also asking you to speak to us and to the American people. Even though it may not seem like it—we are now three months into the new Administration. I know that you want time to settle in, and that you need help to do your job. We're pleased that we confirmed Elaine Duke yesterday. I think she will be a terrific addition to your department. And, by the way, I secured her vote tally, the original. I'll make sure I get that to her so she can have it to frame for her office.

We have had two executive orders that banned travel from Muslim-majority nations. The first was implemented without notice and caused chaos at our nation's airports. Both have come under immediate constitutional scrutiny by the courts. The Department has overhauled its interior enforcement, in the words of the White House, to "take the shackles off" Immigrations and Customs Enforcement and the Border Patrol. You have ordered the Department to "immediately begin planning, design, construction and maintenance of a wall along the border." Even though Missouri isn't on the border, my state is directly affected by it. The drugs that get through the Mexican border have a huge impact on the opioid crisis that is gripping

my state and the entire nation. It is causing death and destruction to families all over the United States.

I know that you share my concern about the drugs coming over the border. But I am deeply concerned that all of the rhetoric and all of the budget requests have focused on the border and not the ports of entry and that there is no plan to increase resources at the ports of entry, which we know, along with the mail, is the primary place that drugs are coming into our country. I certainly hope that we have the chance to address that today.

Away from the border, I am concerned about the secret service; the unprecedented challenge of protecting the President and his family at numerous locations: The White House, Trump Tower and Mar-a-Lago, as well as international travel by the President's sons. In the meantime, the Secret Service is reviewing incidents that threatened the physical security of the White House, including a case in March where a fence-jumper was able to elude security and roamed the grounds for 15 minutes. I am deeply concerned that the Secret Service is being stretched to its breaking point.

And just yesterday, I read news reports that the "extreme vetting" procedures that the President has ordered could force visa applicants from places like Australia and Japan and the United Kingdom to disclose not only all the

information on their mobile phones, but also their social media passwords, financial records, and questions about their beliefs. I've got to tell you, if my family was travelling to the United Kingdom and they told me that we would have to answer questions about my beliefs to get into the country, we would not go! And I have a hard time imagining that those countries will see us as their friends. I think this has a profound impact on our standing in the world, a profound impact on the nature of our alliances around the world and a profound impact on our national security. And I will ask questions about that today as I indicated to you in our conversation yesterday. Because, I think we are doing things that don't trip up the bad guys, but changes our image in the eyes of the world forever, causing permanent and irreparable harm.

Secretary Kelly, we have been trying to ask questions about policies and problems like these to your Department, and there have been times it's been very difficult to get answers. I'm willing to do a reset and check that off as you not having all hands on deck. Going forward I hope that, together, the Chairman and I can work to make sure we have witnesses from the Department of Homeland Security answer some of the questions that need to be answered. And frankly, I think that works for the benefit of your department. Because, if you're not here explaining, then assumptions can be made that can be unfair. So going forward, I

hope that we can have a new beginning as it relates to not only getting questions answered but also with having witnesses at hearings.

I'm glad you're here today. There are a lot of important issues before us, and I have a lot of questions. I hope we can count on you and your Department being willing to answer them going forward. Thank you very much.

TESTIMONY

OF

THE HONORABLE JOHN F. KELLY

SECRETARY

U.S. DEPARTMENT OF HOMELAND SECURITY

REGARDING A HEARING ON

"AMERICA'S BORDERS AND THE PATH TO SECURITY"

BEFORE THE

UNITED STATES SENATE

COMMITTEE ON HOMELAND SECURITY

Wednesday, April 5, 2017 at

Washington, DC

INTRODUCTION

Mr. Chairman, Ranking Member McCaskill, and distinguished Members of the Committee:

It is a great honor and privilege to appear before you today to discuss the Department of Homeland Security's (DHS) crucial missions of protecting the homeland and securing our nation's borders. During the past 45 years, I have been privileged to serve this nation as both an enlisted Marine and an officer. I am humbled to once again answer the call to serve, this time with the men and women of DHS.

We face diverse challenges and adversaries that do not respect our rule of law or our borders. As Secretary, you have my commitment to tirelessly protect our country from threats, secure our borders, and enforce our laws—all while facilitating lawful trade and travel, and balancing the security of our nation with the protection of privacy, civil rights, and civil liberties.

I come before you today to discuss this Administration's focus on border security, its dedication to the safety and security of the American people, and the hard work of the men and women of DHS to secure our borders.

The Department's Border Security Mission

Along nearly 7,000 miles of land border, approximately 95,000 miles of shoreline, and at 328 ports of entry and numerous locations abroad, U.S. Customs and Border Protection (CBP) has a critical role in preventing the illegal entry of people and goods into the United States. Across the wide expanses of our nation's land, air, and maritime environments, CBP has worked to address the changing demographics of attempted border crossers and to maintain border

security through significant investments in enforcement resources, technology, infrastructure, and enhanced operational tactics and strategy.

Through advances in detection capabilities, such as fixed, mobile, and agent-portable surveillance systems; tethered and tactical aerostats; unmanned aircraft systems; and ground sensors; all working in conjunction with tactical border infrastructure and agent deployment, CBP is enhancing its ability to quickly detect, identify, and respond to illegal border crossings.

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

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

In the maritime environment, CBP and the United States Coast Guard (USCG) utilize a multi-faceted, layered approach to interdict threats far from the borders of our nation to combat the efforts of transnational criminal organizations. Successful CBP and USCG interdictions in the maritime transit zones feed a cycle of success—subsequent prosecutions lead to actionable intelligence on future events, which produce follow-on seizures and additional intelligence. Suspects from these cases divulge information during prosecution and sentencing that is critical to indicting, extraditing, and convicting drug cartel leadership and dismantling their sophisticated networks.

Thousands of aliens attempt to enter this country illegally every year using maritime routes, many via smuggling operations. Interdicting these aliens at sea reduces the safety risks involved in such transits. CBP and USCG help secure our maritime domain by conducting patrols and coordinating with other federal agencies and foreign countries to interdict them at sea. USCG can quickly return them to their countries of origin, avoiding the lengthy and costlier processes required if they successfully enter the United States.

Finally, we augment our border security initiatives with vigorous interior enforcement and the administration of our immigration laws in a manner that serves the national interest. This effort includes greater cooperation and coordination among DHS's operational components, such as U.S. Immigration and Customs Enforcement and U.S. Citizenship and Immigration Services, which are responsible for administering immigration benefits and enforcing our nation's existing immigration laws.

The President's Immigration Executive Orders

After decades of unfulfilled promises by the federal government to secure our borders and enforce our immigration laws, President Trump—in the days immediately after his inauguration—issued several executive orders to secure our borders, enforce our immigration laws, and protect the nation from foreign terrorist entry into the United States. In so doing, the President and DHS immediately began working on behalf of American families and workers.

As President Trump has stated, "Homeland Security is in the business of saving lives, and that mandate will guide our actions." These Executive Orders further that goal by enhancing border security, promoting public safety, and minimizing the threat of terrorist attacks by foreign nationals in the United States.

Executive Order 13767, "Border Security and Immigration Enforcement Improvements," directs executive departments and agencies to deploy all lawful means to secure the nation's southern border, prevent further illegal immigration into the United States, and repatriate aliens with final orders of removal swiftly, consistently, and humanely.

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

Executive Order 13768, "Enhancing Public Safety in the Interior of the United States," provides DHS with the tools it needs to enforce federal immigration laws within the United States. It removes obstacles that had been making it more difficult for the dedicated men and women of U.S. Immigration and Customs Enforcement (ICE) to carry out their mission, which includes arresting, detaining, and removing illegal aliens from the United States.

Executive Order 13773, "Enforcing Federal Law with Respect to Transnational Criminal Organizations and Preventing International Trafficking," ensures that Federal agencies prioritize and devote sufficient resources to efforts to identify, interdict, disrupt, and dismantle transnational criminal organizations (TCOs) and their subsidiaries, which drive crime, corruption, violence, and misery. By maximizing information sharing, coordination, and cooperation with our partners at home and abroad, DHS will lead the way in the battle against TCOs and international traffickers.

Executive Order 13780, "Protecting the Nation from Foreign Terrorist Entry into the United States," explicitly revokes and replaces Executive Order 13769—an executive order that shared the same name. Section 2(c) of EO 13780 temporarily suspends the entry into the United States of certain nationals of Iran, Somalia, Sudan, Syria, Libya, and Yemen for 90 days, subject to the limitations, waivers, and exceptions set forth in Sections 3 and 12. Section 6(a) of EO 13780 suspends travel of refugees into the United States under the United States Refugee Admission Program (USRAP), as well as decisions on application for refugee status, for 120 days, subject to waivers pursuant to Section 6(c).

As you know, this Executive Order—including its sections 2 and 6—was scheduled to take effect on March 16, 2017. However, the U.S. District Court of the District of Hawaii issued a preliminary injunction, indefinitely prohibiting the Federal Government from enforcing or

implementing all of sections 2 and 6 of the Executive Order. Separately, the U.S. District Court for the District of Maryland enjoined enforcement of Section 2(c) of the Executive Order. The Federal government is complying with these injunctions while it continues to litigate and vigorously oppose them.

Notably, the remainder of Executive Order 13780 is not affected by the injunctions, nor is the Presidential Memorandum issued the same day, and we will continue to enhance the security of this nation accordingly.

The United States has worked hard in the years since the 9/11 attacks to develop rigorous vetting and screening policies, and to build the intelligence-based, automated tools required to more effectively screen an ever-expanding population of travelers. We must continue to update and refine these policies and procedures, and coordinate more efficiently across departments and agencies to develop a comprehensive, uniform immigrant and traveler vetting program to prevent terrorists, criminals and others posing a threat to national security from entering the county.

We know that our country has admitted some foreign nationals without an adequate understanding of their allegiances and intentions, and we continue to apprehend special interest aliens who make their way into our country illegally each year. DHS continues to partner with the Intelligence Community and the State Department to develop a strategy and program that will allow for the sharing of intelligence and law enforcement data to ensure a robust screening process to keep America safe. We confront sophisticated and adaptable adversaries, and we are dedicated to maintaining our vigilance as we work to counter these threats to our national security.

Early Indications of Success from the Implementation of the President's Executive Orders

Thanks to the continued and successful efforts of our men and women at the border, as well as the support of our leadership in the White House, Customs and Border Protection has seen a sharp decline in apprehensions along the Southwest Border since the beginning of the year; this March will the lowest with less than 17,000. March marks the fifth straight month of decline and is estimated to be approximately 71% lower than the December 2016 total—58,478. Of the nearly 17,000 apprehensions, approximately 73% were apprehended between ports of entry by the U.S. Border Patrol and 27% apprehended by the Office of Field Operations (OFO) at ports of entry.

In particular, U.S. Border Patrol apprehensions for the last two months have decreased dramatically; typically this is the time of year that the agency observes marked increases. This March, the Border Patrol apprehended just over 1,100 individuals in a family unit (FMUA) and approximately 1,000 unaccompanied alien children (UAC). Compare this to over 16,000 FMUA and over 7,000 UAC in December.

This decrease in apprehensions is no accident. But while this recent decline in illegal migration is good news, we must ensure that the security of our southern border remains a priority to protect the nation from terrorists and other criminals.

The President's Budget Demonstrates a Continued Commitment to Border Security

The President demonstrated his commitment to this effort through submission of a $3 billion border security and immigration enforcement Budget Amendment in Fiscal Year 2017. As Congress considers this request, it is important to acknowledge the long-standing operational needs of the U.S. Border Patrol.

This includes 28 miles of new levee wall in the Rio Grande Valley sector—the Border Patrol's busiest and highest-risk area of operations—as well as 20 miles of a new wall system, the design of which will be informed by the prototype process currently underway. Understanding that effective risk mitigation requires a layered approach, the Budget Amendment also requests funds for upgrading existing sub-par fencing, constructing and maintaining border access roads, and deploying border security technology and equipment.

The Administration will request the next increment of border wall funding in the FY 2018 Budget. The FY 2018 Budget Blueprint, released on February 16th, highlighted $2.6 billion for high priority border security technology and tactical infrastructure, including funding to plan, design, and construct the border wall. Specific details will accompany the release of the complete Budget in mid-May. I plan to use these funds to make sizable investments in:

- New border barriers;
- Replacing sub-standard existing fence;
- Constructing or improving hundreds of miles of border roads; and,
- Border security technology and equipment in the highest risk areas of operation.

Executive Order 13767 required, and United States Border Patrol has already commenced, a study of the border. The needs identified through this process will inform investments going forward. And I would add that, while physical barriers and technology are essential, they must be bolstered by persistent patrol, and the vigilance of the dedicated men and women of DHS.

Through the recently released FY 2017 Budget Amendment and the FY 2018 President's Budget currently under development, DHS is seeking to take immediate steps to implement a full complement of solutions to meet border security requirements. These investments extend beyond

physical barriers we think of as wall or fence to include advanced detection capabilities such as surveillance systems, tethered and tactical aerostats, unmanned aircraft systems and ground sensors, all which work in conjunction with improvements to tactical border infrastructure and increased manpower. By using these tools together as an integrated border security system, CBP is enhancing its ability to quickly detect, identify, and respond to illegal border crossings.

Specifically, within the FY 2017 Amendment, approximately two-thirds of the requested funding, or $1 billion, supports the full range of activities related to initial wall investment, to include design, real estate planning, environmental planning, acquisition, construction, and oversight. Nearly one-third, or $550 million, supports critical investments in technology, infrastructure and roads, as well as improving CBP's hiring and retention capabilities. The FY 2018 Budget Request, which the Budget Blueprint signaled would include $2.6 billion in investments, will employ a similar balanced approach to ensure that CBP can leverage a diverse toolkit to secure the border.

These initial investments will be in sectors with known operational needs: in the Rio Grande Valley where apprehensions are the highest along the Southwest Border; in El Paso or Tucson where a border barrier system will deny access to drug trafficking organizations; and in San Diego where the legacy barrier is outdated and frequently breached. In preparation for the next phase of investment, CBP is currently working closely with frontline agents to identify the highest priorities and threats, develop requirements, and tailor an acquisition strategy specific to the terrain, risks, and threats in different areas along the border. Until this requirements analysis is completed, appropriate solutions are identified, and other variables like land acquisition are addressed, the Department cannot prepare an all-inclusive cost estimate related to longer term border security initiatives.

Interagency and International Cooperation

As Secretary, I will advocate for expanding cooperation within the U.S. government and with partner nations, particularly Canada and Mexico. Interagency relationships and bilateral cooperation are critical to identifying, monitoring, and countering threats to U.S. national security and regional stability. While DHS possesses unique authorities and capabilities, we must also enhance our coordination with State, local, tribal, and regional partners.

DHS's Joint Task Forces, which link the authorities and capabilities of multiple DHS components, multiply our efforts to secure our nation and institutionalize a unified approach to addressing emerging and priority threats to the nation. The magnitude, scope, and complexity of the challenges we face— including illegal immigration, transnational crime, human smuggling and trafficking, and terrorism—demand an integrated counter-network approach.

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

Presently, we have a great opportunity in Central America to capitalize on the region's growing political will to combat criminal networks and control hemispheric migration. Leaders

in many of our partner nations recognize the magnitude of the tasks ahead and are prepared to address them, but they need our support. As we learned in Colombia, sustained engagement by the United States can make a real and lasting difference.

CONCLUSION

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

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

I am pleased to answer any questions.

Aliens Removed and Returned by the U.S. Government FY1999 - FY2016

FY	Total Apprehensions	Total Removals	Total Returns	Total Deportations	%
1999	1,714,035	183,114	1,574,863	1,757,977	102
2000	1,814,729	188,467	1,675,876	1,864,343	102
-	-	-	-	-	-
2001	1,387,486	189,026	1,349,371	1,538,397	110
2002	1,062,270	165,168	1,012,116	1,177,284	111
2003	1,046,422	211,098	945,294	1,156,392	111
2004	1,264,232	240,665	1,166,576	1,407,241	111
2005	1,291,065	246,431	1,096,920	1,343,351	104
2006	1,206,408	280,974	1,043,381	1,324,355	110
2007	960,673	319,382	891,390	1,210,772	126
2008	1,043,759	359,795	811,263	1,171,058	112
Total	9,262,315	2,012,539	8,316,311	10,328,850	-
Average	1,157,789	251,567	1,039,539	1,291,106	-
2009	889,212	391,438	582,609	974,047	110
2010	796,587	381,962	474,212	856,174	108
2011	678,606	386,423	322,106	708,529	104
2012	671,327	417,268	230,373	647,641	97
2013	662,483	435,498	178,706	614,204	93
2014	679,996	414,481	162,814	577,295	85
2015	462,388	333,341	129,122	462,463	100
2016	530,250	344,354	106,600	450,954	85
Total	5,370,849	3,104,765	2,186,542	5,291,307	-
Average	671,356	388,096	273,318	661,413	-

A Removal is the removal of an individual apprehended in interior of the US According to ICE, removals are the compulsory and confirmed movement of an inadmissible or deportable alien out of the United States based on an order of removal. An alien who is removed has administrative or criminal consequences placed on subsequent reentry owing to the fact of the removal.

A Return is the removal of an individual apprehended along the Southwest, Northern, or Coastal Border while attempting to unlawfully enter the U.S. According to ICE, returns are the confirmed movement of an inadmissible or deportable alien out of the United States not based on an order of removal.

Trump Administration Considers Far-Reaching Steps for 'Extreme Vetting'; Foreigners entering U.S. could be forced to hand over phones, answer questions on ideology; changes could apply to allies like France and Germany

Meckler, Laura.
Wall Street Journal (Online); New York, N.Y. [New York, N.Y] 04 Apr 2017: n/a.

Visitors to the U.S. could be forced to provide cellphone contacts and social-media passwords and answer questions about their ideology, according to Trump administration officials, measures that could intrude into the lives of millions of foreigners.

The changes being considered could apply to visitors from America's closest allies as well as other nations and include subjecting more visa applicants to intense security reviews. Together, they would amount to the "extreme vetting" President Donald Trump promised as a candidate to guard against possible terror attacks.

A review under way of vetting procedures, described by administration officials, aims to replace what the Trump administration sees as a presumption toward letting people into the country with a more skeptical outlook.

"If there is any doubt about a person's intentions coming to the United States, they should have to overcome--really and truly prove to our satisfaction--that they are coming for legitimate reasons," said Gene Hamilton, senior counselor to the Department of Homeland Security.

Their full scope has yet to be publicly discussed and would be sure to generate significant controversy, both at home, from civil libertarians and others who see the questions as infringing on privacy rights, and abroad, as other nations could impose retaliatory requirements on Americans seeking visas.

The subject will likely be aired on Capitol Hill on Wednesday when Homeland Security Secretary John Kelly appears before a Senate committee. A spokesman for Sen. Claire McCaskill of Missouri, the top Democrat on the panel, said she planned to raise the issue.

"Sen. McCaskill is deeply concerned about the vetting procedures and how they might be applied," he said.

The review was called for in an executive order Mr. Trump signed last month banning travel from six majority-Muslim countries , which he said was needed to guard against terrorism. The order also directed security officials to implement a vetting program that allows for a "rigorous evaluation" of whether applicants support terrorism or present a risk of causing harm.

While much of the order was put on hold by a federal judge in Hawaii , the work to enhance vetting procedures was allowed to proceed.

It was unclear when the review would be completed or translated into policy. Former Obama administration officials say the changes could be implemented using executive authority, though

it is unclear whether formal rule-making would be needed or even desired. Either way, they could be challenged in court or by lawmakers in Congress.

A coalition of about 50 civil liberties and other groups issued a statement after Mr. Kelly testified at a congressional hearing in February about requiring passwords, saying it amounts to "a direct assault on fundamental rights," including freedom of expression.

They also complained that the policy could be mirrored by foreign governments demanding passwords from Americans.

Homeland Security officials say the agency is planning to significantly increase demands for information from all visa applicants, including visitors and others seeking to immigrate. That might also include asking for financial information, as well as telephone contacts, one senior DHS official said.

The changes might even apply to visitors from the 38 countries that participate in the Visa Waiver Program, which requires adherence to strict U.S. standards in data sharing, passport control and other factors, one senior official said. That includes some longstanding U.S. allies, such as the U.K., Japan and Australia.

The biggest change to U.S. policy would be asking applicants to hand over their cellphones so that officials could examine their stored contacts and perhaps other information. Visitors have had their phones examined at ports of entry, but a phone review isn't routinely requested during the application stage.

The goal is to "figure out who you are communicating with," the senior DHS official said. "What you can get on the average person's phone can be invaluable."

A second change would ask applicants for their social-media handles and passwords so that officials could see information posted privately in addition to public posts. Homeland Security has already experimented with asking for people's handles so they can read public posts, but not those restricted to friends.

"We want to say for instance, 'What sites do you visit? And give us your passwords,' so that we can see what they do on the internet," Mr. Kelly said at the February hearing. "If they don't want to give us that information then they don't come."

Former department officials who worked on security vetting during former President Barack Obama's administration said that the information gleaned from telephones and social media could be helpful in assessing threats posed by applicants, but they said there are downsides, too. The effort would be time-consuming, they said, and it could drive people with bad intentions to change their practices.

"The real bad guys will get rid of their phones," said Leon Rodriguez, who until January headed the U.S. Citizenship and Immigration Services, a DHS agency, and was deeply involved in refugee screening. "They'll show up with a clean phone."

Still, one former Obama administration official said, telephone contacts could be particularly helpful in identifying terrorist ties, as their phone numbers could be run against various U.S. databases.

Already, the State Department has taken small steps toward tighter vetting , according to cables sent from Secretary of State Rex Tillerson to embassies and consulates.

In them, he orders officials to identify "applicant populations" that warrant additional scrutiny, according to documents posted by Reuters in March. The department hasn't disputed their contents. He also directs offices to limit the number of interviews scheduled each day to ensure each application is properly scrutinized.

Mr. Tillerson instructed officials to ask visa applicants additional questions, such as listing all email addresses and social-media handles used in the past five years, as well as the applicant's travel history, employers and addresses over the past 15 years. But after the federal court put the travel ban on hold, Mr. Tillerson said in another message that to be cautious, those instructions should be put on hold as well.

The administration is also working to implement an idea first raised by Mr. Trump as a presidential candidate last August for an "ideological test" for people coming to the U.S., the senior DHS official working on the review said. Such tests have been used before--for instance, to screen out anarchists, or members of the Communist Party.

"Those who do not believe in our Constitution, or who support bigotry and hatred, will not be admitted for immigration into the country," Mr. Trump said in an August speech.

The DHS official said the types of questions under consideration now include how visa applicants view the treatment of women in society, whether they value the "sanctity of human life" and who they view as a legitimate target in a military operation.

The goal, he said, isn't to filter out people with contrary thoughts but people who might act on them. That notion draws criticism from civil libertarians.

"Our views and beliefs and opinions are protected," said Hugh Handeyside, a staff attorney with the American Civil Liberties's national security project. "Those same principles should drive our decisions about whether people would be permitted to visit the United States."

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Fentanyl: China's Deadly Export to the United States

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Executive Summary

Chemical flows from China have helped fuel a fentanyl crisis in the United States, with significant increases in U.S. opioid overdoses, deaths, and addiction rates occurring over the last several years. Unlike previous opioid epidemics, including a temporary spike in U.S. fentanyl use in 2006 that was traced to a single clandestine lab in Mexico, fentanyl sold in the United States is now being produced by individual distributors across the country. The diffused nature of fentanyl distribution and the drug's high potency have complicated U.S. counternarcotic efforts and necessitated new policies aimed at reducing flows of fentanyl and other synthetic opiates to the United States. The U.S. Drug Enforcement Administration (DEA) is the federal government's primary counternarcotic authority, working with state and local law enforcement to regulate and enforce controls on illicit drugs and chemicals.

According to U.S. law enforcement and drug investigators, China is the primary source of fentanyl in the United States. Along with shipments sent directly to the United States, fentanyl is shipped from China to Mexico and, to a lesser degree, Canada, before being trafficked across the U.S. border. In response, the U.S. and Chinese governments have taken steps to increase counternarcotic cooperation and strengthen regulations governing chemical flows. However, these efforts have not adequately adapted to drug exporters' increasingly sophisticated production and distribution methods.

China is a global source of fentanyl and other illicit substances because the country's vast chemical and pharmaceutical industries are weakly regulated and poorly monitored. Chinese law enforcement officials have struggled to adequately regulate the thousands of chemical and pharmaceutical facilities operating legally and illegally in the country, leading to increased production and export of illicit chemicals and drugs. Chinese chemical exporters utilize various methods to covertly ship drugs to the Western hemisphere, including sending illicit materials through a chain of forwarding systems, mislabeling narcotic shipments, and modifying chemicals so they are not controlled in the United States. To reduce flows of fentanyl and fentanyl-like substances to the United States, U.S. regulators should reexamine policies and procedures for banning and controlling dangerous chemicals and work with their Chinese counterparts to improve regulations governing chemical exports.

A Dangerous and Increasingly Abundant Drug

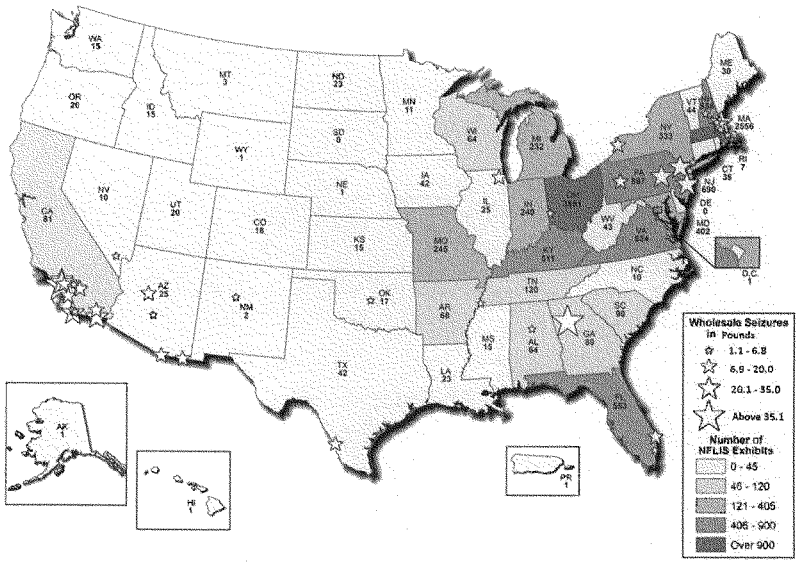
A cheap, synthetically produced opioid known as fentanyl has spawned a deadly drug crisis in the United States.[1] Fentanyl, a powerful synthetic painkiller about 50 times more potent than heroin and 100 times stronger than morphine, is a Schedule II drug—meaning it is legally available only through a nonrefillable prescription.[2] After being introduced more than 50 years ago as an intravenous anesthetic, fentanyl was approved for treating severe pain (typically for advanced cancer patients) in the early 1990s and has since become a more commonly prescribed painkiller, with U.S. doctors writing 6.65 million fentanyl prescriptions in 2014.[3] The drug is commonly prescribed in the form of transdermal patches or lozenges, but it can be diverted from its medical applications and misused by removing the gel contents from patches and injecting or ingesting the drug, or compressing it into pill form.[4]

Recreational use of illicitly obtained fentanyl and other new psychoactive substances (NPS) has spread across the United States, with the DEA issuing nationwide health and public safety alerts in March 2015 and June 2016 about the dangers of fentanyl.[5] In part, fentanyl is an attractive alternative to other opioids like heroin and oxycodone because it is more potent, with users typically requiring less than a milligram of the drug for a single use.[6] In fact, fentanyl is so potent that touching or inhaling just two milligrams (or about two grains of salt) can be lethal, presenting a threat not just to drug users, but also to law enforcement personnel investigating the scene of a fentanyl overdose or production locations.[7] Fentanyl is also appealing to drug users because it is inexpensive; producing 25 grams of finished fentanyl costs about $810.[8] The combination of the drug's potency and affordability has made fentanyl an increasingly common drug in the United States, often mixed with heroin or cocaine—either intentionally or without the user's knowledge—to increase its euphoric effects.[9]

U.S. health and law enforcement officials have seen a recent spike in fentanyl-related abuse and overdoses.[10] A January 2016 report from the Centers for Disease Control and Prevention indicated 5,544 deaths from overdoses of illicitly manufactured synthetic opioids occurred in the United States in 2014, a 79 percent increase year-on-year.[11] The death rate from synthetic opioids, including fentanyl, increased by another 72.2 percent year-on-year in 2015.[12]

A substantial portion of the increase is attributable to the increased availability of illicit fentanyl, which the U.S. Customs and Border Protection reports is the most frequently seized synthetic opioid.[13] In 2015, U.S. law enforcement seized a record amount (approximately 368 pounds) of illicit fentanyl.[14] As seen in Figure 1, there was widespread fentanyl use nationwide in 2015, with laboratories in every state finding fentanyl in forensic tests, according to the National Forensic Laboratory Information System (NFLIS).[15] Increased fentanyl use is most common in areas where white powder heroin is prevalent—particularly across the eastern United States—because fentanyl is often mixed with or disguised as white powder heroin.[16] Although more recent data on fentanyl use are not yet available, it is clear the fentanyl crisis has continued to worsen. Between January and March 2016, counterfeit pills containing fentanyl led to nine deaths in Pinellas County, Florida, and in March and April 2016 authorities recorded 52 overdoses and ten deaths due to fentanyl in Sacramento, California.[17] In November 2016, Virginia Governor Terry McAuliffe announced that the state's opioid addiction crisis had become a public health emergency, with the number of fatal opioid overdoses expected to rise 77 percent by the end of 2016 compared to 2011.[18] Fentanyl also garnered national media attention in June 2016 when the Midwest Medical Examiner's Office concluded U.S. singer-songwriter Prince died from an accidental fentanyl overdose.[19]

Figure 1: Fentanyl Exhibits Tested, 2015, and Wholesale Seizures, 2013–2015



Source: United States Drug Enforcement Administration, *2016 National Drug Threat Assessment Summary*, November 2016, 66. *https://www.dea.gov/resource-center/2016%20NDTA%20Summary.pdf.*

U.S. Drug Policy: Regulations and Enforcement

Several U.S. federal agencies share responsibility for regulating dangerous narcotics, and work with state and local law enforcement agencies to detect and prevent drug-related crimes.[20] The Controlled Substances Act (CSA), enacted as part of the Comprehensive Drug Abuse Prevention and Control Act of 1970, established federal drug policies aimed at preventing U.S. drug abuse.[21] The DEA, which operates under the Department of Justice, leads these counternarcotic efforts and acts as the federal government's primary authority for regulating and enforcing

narcotic controls.[22] To this end, the DEA works with the U.S. Department of Health and Human Services—specifically the Food and Drug Administration (FDA)—to regulate and control illicit drugs and chemicals.[23] Pursuant to the CSA, the DEA and FDA are jointly charged with updating and revising the list of controlled and banned chemicals by classifying them into five schedules of controlled substances.[24] Most fentanyl products are either Schedule I chemicals—meaning they have no accepted medical use and a high potential for abuse—or Schedule II chemicals, which have a strong potential for abuse but some legitimate medical uses.[25] Because the process for scheduling chemicals is time intensive, the DEA has increasingly utilized temporary scheduling procedures to introduce interim restrictions on substances while they are considered for permanent scheduling.[26]

Along with regulating chemicals, the DEA also coordinates with several other federal agencies to support enforcement efforts.[27] Among the agencies that work with the DEA to investigate and enforce drug laws are the Federal Bureau of Investigation; the U.S. Marshals Service; the Bureau of Alcohol, Tobacco, Firearms, and Explosives; the U.S. Department of Homeland Security; and the U.S. Postal Inspection Service.[28] In addition, the DEA coordinates with the White House Office of National Drug Control Policy, which engages with foreign governments and domestic programs to ensure a coordinated and comprehensive counternarcotic approach.[29] The DEA also works with the White House's High Intensity Drug Trafficking Areas Program, which has funded 752 federal and local initiatives to prevent and treat drug use, share intelligence among law enforcement agencies, and assess narcotic threats at the federal, state, and local levels.[30]

As drug trafficking has increased nationwide, federal drug agencies—and the DEA in particular—have ramped up cooperation with their state and local counterparts, providing financial and personnel support for state-led counternarcotic enforcement operations.[31] In 2016, for instance, the DEA State and Local Task Force Program managed 271 state and local task forces and provided over 2,200 DEA special agents to work in conjunction with more than 2,500 state and local officers to enhance enforcement and detection capabilities.[32] Although U.S. states and territories have their own regulatory framework to enforce drug laws, the DEA and FDA can place chemicals on the U.S. list of controlled substances, thereby banning or controlling them nationwide.[33] Thus, states have less authority than the federal government to shape counternarcotic regulations, with scheduling decisions made by the DEA and FDA superseding those made at the state level.[34]

The White House and Congress have sought to enhance the DEA and other agencies' abilities to combat chemical flows and production. In 2012, for example, the Synthetic Drug Abuse Prevention Act was signed into law to enhance counternarcotic enforcement and streamline the DEA's role in detection and enforcement.[35] The Synthetic Drug Abuse Prevention Act banned more than 20 chemical compounds used in synthetic drugs, doubled the review period for temporarily scheduled substances from 18 to 36 months, and expanded the DEA's temporary scheduling authority to allow the DEA to more quickly ban new chemicals.[36] In 2016, bills were introduced in the U.S. House of Representatives (H.R. 3537) and U.S. Senate (S. 3224) that would have added 22 substances to the CSA, including three derivatives of fentanyl (butyryl fentanyl, beta-hydroxythiofentanyl, and acetyl fentanyl).[37] In January 2017, a resolution was introduced in the Senate (S. 10) to name the use of illicit fentanyl a public health crisis in the United States, encourage further measures to increase fentanyl treatment and prevention, and support additional efforts in partnership with the Mexican and Chinese governments to reduce trafficking.[38]

Fentanyl Flows from China

According to U.S. law enforcement and drug investigators, China is the main supplier of fentanyl to the United States, Mexico, and Canada.[39] Because illicit fentanyl is not widely used in China, authorities place little emphasis on controlling its production and export.[40] Chinese chemical manufacturers export a range of fentanyl products to the United States, including raw fentanyl, fentanyl precursors, fentanyl analogues,* fentanyl-laced counterfeit prescription drugs like oxycodone, and pill presses and other machinery necessary for fentanyl production.[41] These products are sent to small-scale drug distributors and criminal organizations across the United States who package and sell the product.[42] According to the DEA, hundreds of thousands of counterfeit pills—some containing deadly amounts of fentanyl—as well as an unknown quantity of other fentanyl products have been brought into the United

* Fentanyl analogues have chemical structures differing only slightly from the pharmaceutical-grade version of the drug. Karen Howlett et al., "How Canada Got Addicted to Fentanyl," *Globe and Mail*, August 24, 2016. *http://www.theglobeandmail.com/news/investigations/a-killer-high-how-canada-got-addicted-tofentanyl/article29570025/.*

States from China over the last several years.[43] Unlike previous opioid epidemics, including a temporary spike in U.S. fentanyl use in 2006 that was traced to a single clandestine lab in Mexico, fentanyl sold in the United States is now being processed by many individual distributors across the country.[44] The diffused nature of the problem has made it difficult for law enforcement to contain.[45] Illegally obtained pill presses, for example, allow small-scale milling operations in the United States to package between 3,000 and 5,000 pills per hour of illicit fentanyl and other NPS.[46] U.S. law enforcement have already busted several domestic milling operations, including a raid of a clandestine milling operation in a New York residential building in January 2016 that resulted in the seizure of 6,000 fentanyl pills.[47] A similar fentanyl scheme involving three pill presses was discovered and dismantled in Los Angeles two months later.[48] The equipment and materials needed for illicit fentanyl production are easily obtainable from China, reducing the barriers to entry for illicit producers and increasing the availability of fentanyl and other NPS.[49]

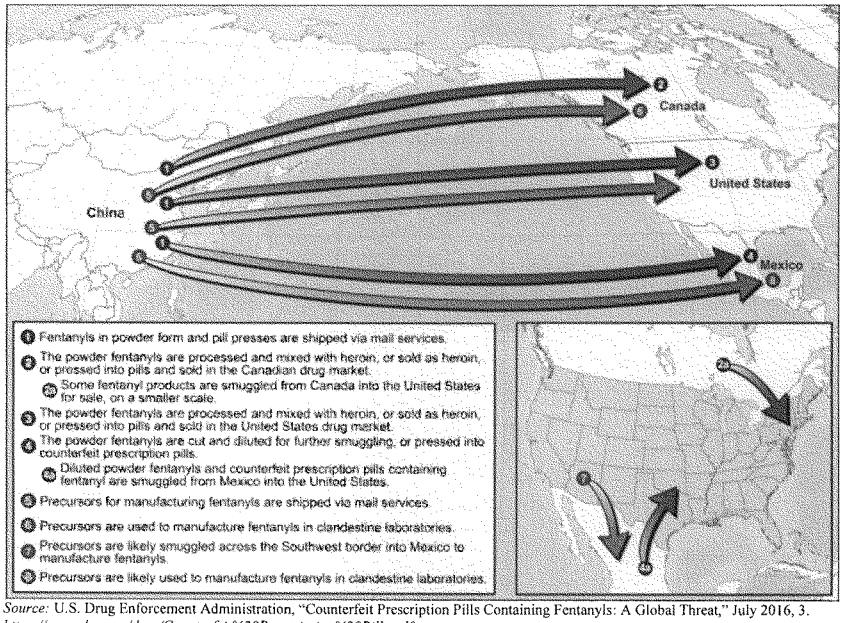
According to the DEA, Chinese fentanyl exports are also shipped to individuals and organizations in Canada and Mexico (see Figure 2).[50] Mexico is rarely the final destination for illicit drug shipments, however; most fentanyl products sent to Mexico are repackaged and smuggled into the United States.[51] Mexican cartels act as the country's primary conduit for Chinese fentanyl destined for the United States, purchasing bulk shipments and trafficking it—either alone or mixed with other drugs like heroin—across the U.S. border.[52] The illicit nature of these smuggling operations makes it difficult to quantify the volume of fentanyl flows from Mexico to the United States, but public reporting suggests synthetic opioids are increasingly being trafficked across the southwest border of the United States or delivered through mail couriers.[53] In 2015, U.S. border agents seized around 200 pounds of fentanyl and other synthetic opioids from Mexico, up from just eight pounds in 2014.[54] According DEA officials, fentanyl trafficking from Canada to the United States is limited when contrasted with flows from Mexico and China.[55]

In response to the growing fentanyl crisis, the U.S. and Chinese governments have taken steps to address illicit chemical flows. In October 2015, China added 116 synthetic chemicals—including six fentanyl products—to its list of controlled chemical substances.* In all, China now controls for 19 types of fentanyl-related substances, although many fentanyl precursors, including N-Phenethyl-4-piperidinone (NPP), are still not controlled (for a full list of known fentanyl precursors, see Appendix I, "Fentanyl Precursors").[56] According to a factsheet released by the U.S. National Security Council following the G20 Summit in September 2016, China has also "committed to targeting U.S.-bound exports of substances controlled in the United States, but not in China,"† along with a vague agreement between the two countries to improve coordination and information sharing on controlled substances and chemicals of concern.[57] Additionally, in October 2016 U.S. Secretary of State John Kerry wrote a letter to the UN secretary-general requesting that NPP and anilino-N-phenethylpiperidine (ANPP), two of the most common precursor chemicals used to manufacture fentanyl, be added to the list of controlled chemicals under the 1988 U.N. Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.[58] In the letter, Secretary Kerry asked that the UN Commission on Narcotic Drugs be ready to make a decision on controlling fentanyl precursors during its next meeting in March 2017.[59] China is an original signatory to the 1988 UN Convention, and thus would be bound to abide by the Commission's ruling.[60]

* The fentanyl products banned in China in October 2015 include acetyl-fentanyl, butyryl-fentanyl, beta-hydroxythio-fentanyl, para-fluoro-fentanyl, iso-butyr-fentanyl, and ocfentanyl. China Food and Drug Administration, *Notification of the Issuance of Managing Non-Medicinal Narcotics and Psychoactive Drugs*, September 29, 2015. Staff translation. *http://www.sfda.gov.cn/WS01/CL0056/130753.html.*

† A factsheet released by China's Ministry of Foreign Affairs following the G20 Summit indicated that the United States and China will exchange lists of synthetic drugs and drug analogues. However, the Chinese statement did not include a commitment to target U.S.-bound exports of substances controlled in the United States that are not controlled in China. China's Ministry of Foreign Affairs, *List of Achievements from Sino-US Head of State Meeting in Hangzhou*, September 4, 2016. Staff translation. *http://www.fmprc.gov.cn/web/zyxw/t1394413.shtml.*

Figure 2: Illicit Fentanyl and Fentanyl Precursor Flows from China



Source: U.S. Drug Enforcement Administration, "Counterfeit Prescription Pills Containing Fentanyls: A Global Threat," July 2016, 3. *https://www.dea.gov/docs/Counterfeit%20Prescription%20Pills.pdf.*

China's Chemical and Pharmaceutical Production

China is a global source of illicit fentanyl and other NPS because the country's vast chemical and pharmaceutical industries are weakly regulated and poorly monitored.* China's pharmaceutical market is the second largest in the world by revenue, consisting of more than 5,000 companies with a revenue of $105 billion in 2014 (the United States' $380 billion pharmaceutical industry is the largest in the world).[61] Unlike the United States, which produces costly, high-value compounds, China's pharmaceutical industry relies on mass production of inexpensive generic drugs and pharmaceutical ingredients for revenue.[62] The Chinese government has prioritized pharmaceutical production as a "high-value-added industry," providing export tax rebates to encourage pharmaceutical companies to export their products.[63] As a result, China is currently the world's largest manufacturer and top exporter of pharmaceutical ingredients.[64]

In addition, China's numerous nonpharmaceutical chemical companies legally produce massive quantities of chemicals every day.[65] The U.S. Department of State estimates that nationwide, China has more than 160,000 chemical companies operating legally and illegally, with some facilities manufacturing tons of chemicals every week and others producing over one million pills daily.[66] China's total profits from chemical production increased to $60 billion in the first 11 months of 2015, up 6.8 percent compared to the same period in 2014.[67] Although

* For more on China's pharmaceutical and chemical industries and exports of illicit chemicals to the United States, see Sean O'Connor, "Meth Precursor Chemicals from China: Implications for the United States," *U.S.-China Economic and Security Review Commission*, July 18, 2016. *http://origin.www.uscc.gov/sites/default/files/Research/Staff%20Report_PrecursorChemicalReport%20071816_0.pdf.*

specific data on China's production and export of fentanyl and its analogues are not available, documents attached to Secretary Kerry's letter to the UN secretary-general indicated that of the more than 178 global suppliers of NPP and 79 global suppliers of ANPP, more than half are located in China.[68]

Chinese law enforcement and drug investigators are unable to effectively regulate the high volume of drugs and chemicals the country produces.[69] In many cases, the chemicals used to produce fentanyl and fentanyl-like products are illegally diverted from legitimate pharmaceutical uses, with criminals taking advantage of inadequate enforcement protocols to produce unregulated chemicals and NPS.[70] Until 2014, a regulatory loophole allowed Chinese chemical companies to operate in a gray area of oversight, freeing them from inspection requirements and other certification systems.[71] That loophole was closed in 2014 when China's State Administration of Work Safety implemented new regulations on chemical production to improve management of nonpharmaceutical businesses, including enforcing stricter licensing requirements.[72]

Even under the new regulations, Chinese pharmaceutical and chemical companies continue to divert chemicals from legitimate pharmaceutical uses and adulterate legitimate pharmaceuticals during production.[73] This makes drug enforcement within China difficult, as many manufacturers of fentanyl and other NPS are legitimate companies legally producing chemicals.[74] Although some of these chemical manufacturers knowingly ship their products to the United States for illicit purposes, Chinese chemical and pharmaceutical exporters continue to operate with little oversight.[75] An October 2016 investigation by the Associated Press, for instance, identified 12 Chinese businesses that would export lethal synthetic opioids to the United States without any hesitation.[76] In an interview with National Public Radio, David Armstrong, a reporter for the online health news site *STAT News*, explained that many Chinese law enforcement officials appear to make little effort to uncover the source of the buyer or determine whether the products will be used for a legitimate purpose.[77] The United States' ability to conduct drug inspections in China has also been obstructed by Chinese regulators, with several recorded instances of Chinese law enforcement and drug regulators delaying visa approvals for FDA officials and deleting laboratory test records.[78] The Chinese government, however, maintains that U.S. claims of China-sourced opioid shipments are exaggerated.[79]

China's regulatory shortcomings are exacerbated by the fragmented and disorganized administrative system overseeing chemical production and exports.[80] Chinese government agencies involved in drafting, overseeing, and enforcing chemical regulations and export requirements include the China Food and Drug Administration, State Council Leading Group on Product Quality and Food Safety, National Narcotics Control Commission, Anti-Smuggling Bureau within the General Administration of Customs, Ministry of Chemical Industry, Ministry of Agriculture, Ministry of Commerce, and General Administration of Quality Supervision, Inspection, and Quarantine.[81] With so many agencies involved in regulating chemical production and exports, bureaucratic infighting can prevent the government from carrying out precise and effective counternarcotic operations.[82]

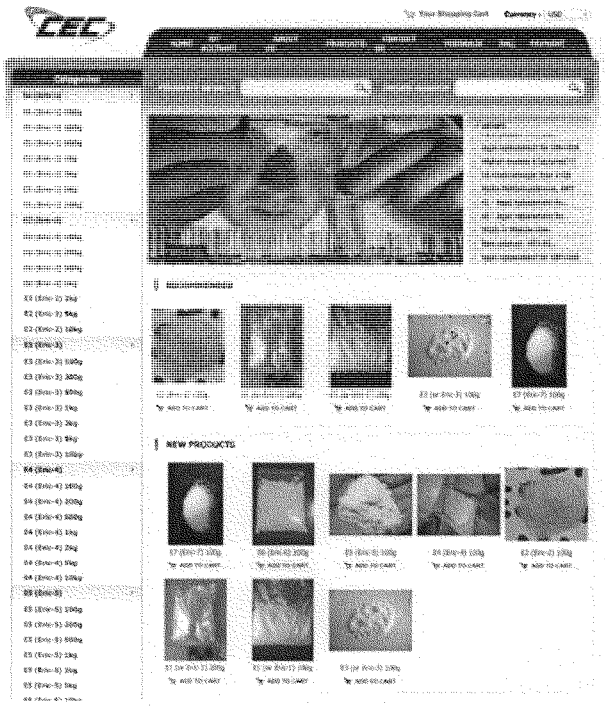
Deficient local drug inspection and enforcement capabilities, coupled with corrupt practices among local officials, also limit the effectiveness of China's chemical regulations.[83] With thousands of pharmaceutical companies and hundreds of thousands of chemical companies around the country churning out massive quantities of products daily, regulators are unable to adequately inspect all production and distribution facilities.[84] Instead, Chinese law enforcement personnel are mainly concentrated in urban centers, leading to increased drug activity in rural areas and poorer communities.[85] According to Jeremy Haft, a professor at Georgetown University, the insufficient presence of law enforcement has made it easy for small, unregistered drug labs to evade authorities.[86] Professor Haft explains, "If there's a threat of law enforcement, [the chemical company can] shut down quickly and disappear, only to open up again in another form somewhere else."[87] Compounding the problem is China's rampant corruption, particularly among local leaders who may actively work to undermine chemical production regulations.[88] Although Beijing has begun cracking down on local government corruption in recent years—expelling 41 officials from Yunnan Province for drug use in 2014—many officials are still susceptible to bribery from drug producers, particularly in localities where regulators are underpaid and overworked.[89]

Chinese Exporters Circumvent U.S. Chemical Regulations

The increasing sophistication of Chinese chemical exporters poses new challenges to U.S. counternarcotic efforts.[90] The Internet in particular has contributed to fentanyl's increased availability in North America.[91] Not only can all forms of chemicals and fentanyl-making products be bought online at relatively low prices from Chinese

distributors, but chemical manufacturers in China are also able to mask their identities using online ordering systems.[92] One popular online marketplace for synthetic drugs is the English-language website of China Enriching Chemistry, a Shanghai company, where distributors and consumers of illicit chemicals buy and sell illicit substances anonymously (see Figure 3).[93] Such online marketplaces eliminate many of the market barriers and significantly reduce the risks associated with purchasing fentanyl.[94] In addition, fentanyl products are often mailed through a chain of forwarding systems, further limiting authorities' ability to track and identify the source of the shipment.[95] In fact, avoiding detection has become so simple that many Chinese narcotic distributors will guarantee customers a second shipment if the first is seized by law enforcement.[96]

Figure 3: Example of a Chinese Online Marketplace for Synthetic Drugs



Source: Dan Levin, "In China, Illegal Drugs Are Sold Online in an Unbridled Market," *New York Times*, June 21, 2015. *http://www.nytimes.com/2015/06/22/world/asia/in-china-illegal-drugs-are-sold-online-in-an-unbridled-market.html?_r=0.*

Chemical exporters in China also avoid detection by mislabeling shipments.[97] Fentanyl suppliers use various methods to mislabel shipments, with some concealing the powder in silica packages placed alongside everyday items.[98] Others giftwrap shipments or label them as household products like detergent to avoid detection.[99] Shipments of pill presses from China are also mislabeled to evade U.S. regulations, with many Chinese exporters

shipping pill presses part by part to avoid additional scrutiny from customs officials.* [100] While it is difficult to estimate the total volume of fentanyl products being imported in mislabeled shipments, reports indicate these operations are occurring on a massive scale. In July 2013, for example, one Chinese supplier transported nearly 2,000 pounds of controlled chemicals to Florida by sending separate shipments, each containing four to seven pounds of the illicit chemicals.[101]

In addition, U.S. law enforcement officials are often unable to identify and seize potentially harmful drugs or precursor chemicals because Chinese manufacturers modify the chemicals to create new, unregulated substances.[102] After banning fentanyl exports as part of the 116 banned chemicals announced in October 2015, for example, Chinese manufacturers began producing and openly selling a new form of the drug called furanyl fentanyl.[103] Because of its modified chemical structure, furanyl fentanyl was not controlled in the United States or China, and thus could not be seized by U.S. authorities until September 2016, when it was classified as a Schedule I drug.† [104] This cycle is emblematic of what DEA spokesman Russell Baer describes as "a challenging process" for scheduling chemicals.[105] In an interview with *STAT News* in April 2016, Mr. Baer explained that the DEA "will seek to put furanyl fentanyl on the list [of controlled substances], and then [the Chinese] will tweak one molecule, and in two months we will be discussing that one."[106] After furanyl fentanyl was scheduled and controlled, a new drug called carfentanil entered into circulation.[107] Carfentanil is an animal tranquilizer that is 100 times more potent than fentanyl, and has been linked to overdoses across the country, including in Kentucky, Florida, and Ohio.[108] Although carfentanil is controlled in the United States, it is not controlled in China, where it is legally produced and sold.[109] Even if China bans carfentanil, however, counternarcotic experts warn it will only lead to the export of new synthetic substances, much like how bans on fentanyl and furanyl fentanyl led to increased exports of carfentanil.[110]

Drugs trafficked into the United States from Mexico present an additional avenue for Chinese exporters to evade U.S. regulations.[111] As another major destination of Chinese fentanyl exports, Mexico faces the same regulatory challenges as the United States, with online ordering systems, mislabeled shipments, and modified chemicals limiting officials' ability to implement effective counternarcotic enforcement and tracking mechanisms.[112] Compounding these problems are reports that Mexican officials remain wary of enforcing more stringent fentanyl policies.[113] According to a June 2016 article in the *Wall Street Journal*, an unnamed Mexican official indicated the Mexican government is hesitant to press China too aggressively on fentanyl trade for fear of economic retribution.[114] Although no other public evidence exists to date that supports these claims, the Mexican government's unwavering cooperation with international counternarcotic efforts is essential to combatting flows of fentanyl and other NPS from China.

* Although the United States requires all pill press imports to be reported and approved by the DEA, there are no laws in China regulating the production or sale of pill presses. Records and Reports of Listed Chemicals and Certain Machines, codified at 21 C.F.R. § 1310.05(c) (2015); U.S. Drug Enforcement Administration, *Counterfeit Prescription Pills Containing Fentanyls: A Global Threat*, July 2016, 7. *https://www.dea.gov/docs/Counterfeit%20Prescription%20Pills.pdf.*

† Schedule I drugs have no accepted medical use and a high potential for abuse. Schedules of Controlled Substances: Temporary Placement of Furanyl Fentanyl into Schedule I, codified at 21 C.F.R. § 1308 (September 2016).

Conclusions

Because the majority of fentanyl products found in the United States originate in China, it is essential for U.S. counternarcotic personnel to enhance cooperation with their Chinese counterparts.[115] The Chinese government has strengthened regulations governing chemical and pharmaceutical production—including a crackdown on local government corruption and scheduling a range of new NPS—yet Chinese law enforcement and drug investigators remain unable to effectively regulate the high volume of drugs and chemicals the country produces. In many cases, the chemicals used to produce fentanyl and fentanyl-like products are diverted from legitimate pharmaceutical uses in China, with criminals taking advantage of inadequate enforcement protocols to produce unregulated chemicals and NPS.

Although the primary obstacles to controlling fentanyl and NPS flows lie in China, scheduling and chemical control procedures in the United States are also marred by inefficiencies that create a backlog of scheduling requests. Even with legislative efforts streamlining and enhancing counternarcotic enforcement, officials at the U.S. Department of Justice indicate the process for scheduling new chemicals remains time intensive, requiring coordination among several government entities that can stall authorization procedures.[116] Moreover, Chinese exporters continue to replace and modify chemicals in circulation as quickly as they are banned, necessitating further adjustments in scheduling procedures to account for new or altered substances.

Drug analysts and law enforcement personnel have identified the following gaps in counternarcotic enforcement, which have contributed to the ongoing synthetic opioid epidemic in the United States:

- China's regulations governing chemical production and exports remain fragmented and disorganized, with several government agencies and departments tasked with controlling and enforcing chemical laws. Because of the many agencies involved, bureaucratic infighting can prevent the Chinese government from carrying out precise and effective counternarcotic operations.
- Under current laws, U.S. drug enforcement agencies like the DEA and FDA must jointly approve new chemical controls. As a result, the process for scheduling new chemicals can be stalled by authorization procedures, extending the process for permanently controlling new substances that may present an imminent health and safety threat.
- Under current laws, analogues and derivatives of known illicit products must be identified and controlled before they can be seized by drug enforcement personnel. However, U.S. drug enforcement agencies schedule chemicals one by one, rather than entire classes at a time, delaying seizures of new and potentially dangerous substances. As a result, modified versions of banned chemicals cannot be seized until they are permanently or temporarily controlled.

Appendix

Known Fentanyl Precursors

N-phenethyl-4-piperdone	1-benzyl-4-piperidone
4-anilino-4-phenethyl-4-piperidine	Aniline
N-[1-(2-phenylethyl)-4-piperidyl]-N-phenylacetamide	Bromoethylbenzene
4-anilino-n-phenethyl-4-piperidine	Chloroethylbenzene
Acetamide N-phenethyl-N-[1-(2-phenethyl)-4-piperidinyl]	Phenethylamine
N-phenethyl-piperidone	4-piperidone
Propionyl chloride	Ethacrylate
Propionic anhydride	Methacrylate

Source: Official, U.S. Drug Enforcement Administration, interview with Commission staff, September 13, 2016.

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NATIONAL
IMMIGRANT
JUSTICE CENTER
A HEARTLAND ALLIANCE PROGRAM

Secretary John Kelly
Department of Homeland Security
Washington, D.C.

March 8, 2017

Dear Secretary Kelly:

As attorneys who represent hundreds of asylum seekers each year, we condemn the threat to separate children from their mothers upon apprehension by U.S. officials. These measures, which you have publicly stated are an attempt to deter refugees from seeking safe haven in the United States, run afoul of our legal obligations and, perhaps more importantly, are inhumane and contrary to our values. There is no justification for this sort of callousness.

Separating children from their mothers at a time when these family units are already in crisis is cruel. The women and children who will be impacted by this policy have often experienced severe trauma in their counties of origin. Taking children from the care of their mothers exacerbates and deepens the experience of trauma for both mother and child.

We talked to some of our clients about the the prospect of a policy that would separate mothers from their children at the border. All of the women we talked with are mothers who arrived at the southern border in recent years with their children. Here is what they said:

- "If we were separated, it would be horrible. I presented myself at the border. I was very afraid because I did not know what was going to happen. Everything felt so uncertain. My daughter had not eaten anything all day. This knowledge broke me. My daughter, she was very anxious. She was very nervous and only wanted to be with me. She did not want to separate herself from me."

- "It was so important to me for us to be together during the case, because we found strength in each other. Knowing that my children were safe while my case was pending gave me strength to go forward. If my children had been taken away, they would have taken everything away from me. It would be something so painful; it would be more painful for the children."

- "It isn't normal to separate children from their parents. I would have felt very depressed and isolated."

- "It was so painful to leave our country, our home. I cannot imagine how it would have been if we had been separated. It would have been traumatizing and painful for them.

Heartland Alliance for Human Needs & Human Rights | National Immigrant Justice Center
208 S. LaSalle Street, Suite 1300, Chicago, Illinois 60604 | ph: 312-660-1370 | fax: 312-660-1505 | www.immigrantjustice.org

More so because they came to an unknown country where they don't know anything; the language, the people. It would have been something extremely difficult and hard."

- "I think that if we had been separated, it would have affected my son terribly. I think it would have affected him in all forms, being with people he does not know, feeling unsafe, I think being separated from me would have been traumatizing from him. I am his mother. It would have been an injustice."

- "I cannot imagine my daughter losing the love of her mother. It would be so painful. It was painful even when she was just in the infirmary. She is so young. She cannot be without her mother."

- "If we had been separated, I think [my daughter] may have had panic over everything. She would not have wanted to eat or see anyone. I know her, I know how she is, and I know she would have stopped eating. I think that would have traumatized her. At this age, they need their mother. They don't understand what is happening or the process. She was only 1 year old and 9 months."

Aside from being inhumane, a policy of separating children from their mothers is senseless policy making – such actions would not prevent refugees from fleeing to the United States because these women are coming to save the lives of their children. Many of these families go on to be granted asylum by immigration judges. They leave their countries because they are compelled to do so. As excruciating as separation in detention would be, these women would endure that harm to save the lives of their children.

When asked specifically whether separation from their children in detention would have deterred them from coming to the United States, our clients had the following to say:

- "Because of the circumstances, even if I knew [we might be separated], I would make the journey to the United States and I would have begged and pleaded not to be separated. Both options are terrible.

- "When I decided to flee to the United States, I didn't know anything about what would happen to us when we got there. I didn't know if we would be together or apart. I only knew we had to come. When you receive threats from the gang like we did, you have to get out or your family will be dead. We didn't have any other options"

- "The only thing that I thought about was my children. I did not want to leave my country, but we had to because of the security for me and my children. My son was two and a half and my daughter was about fourteen. I knew she was afraid and I just tried to tell her we would be safe"

- "My faith was in God when I made the decision to leave. I had never heard of asylum. All I knew was that the United States was a place where people could be protected and safe. I think I would have come to the United States anyway, even if I knew they would separate me. This is because I knew that even if we were separated, my faith would have been that my children would be safe. And I would be safe."

- "When I came to the United States, I did not think about the policies of the United States. I was just considering the United States as the thing that could protect us from all the violence we were living."

- "If I had known we might be separated, I would have come anyway, to ask for asylum. I knew in Honduras I could not stay. My child was in danger. Before my trip, I knew if I stayed in Honduras I would have died and my child would have been harmed by my abusive partner. Even though I would have been separated, my hope would be that it would not be forever and that if I won they would give me my son."

- "I came because of the fear I had in Honduras. I thought about the United States policies but it was too large my fear of staying and I knew I had no other option but to come to the United States."

- "Even if it would keep us together I could not stay in my home country. It was another life. Our lives were always at risk. There was no other place we could exit, no other place for us, no other support. The authorities there don't help."

We urge you to consider the human experiences described above and abandon any efforts to adopt a cruel and senseless policy that tears mothers from their children.

Please don't hesitate to be in touch with any further questions.

Sincerely,

Mary Meg McCarthy
Executive Director
mmccarthy@heartlandalliance.org
312-660-1351

United States Senate

WASHINGTON, DC 20510

March 7, 2017

The Honorable John F. Kelly
Secretary
U.S. Department of Homeland Security
3801 Nebraska Avenue, NW
Washington, DC 20016

The Honorable Jeff Sessions
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

The Honorable James B. Comey
Director
Federal Bureau of Investigation
935 Pennsylvania Avenue, NW
Washington, DC 20535

Dear Secretary Kelly, Attorney General Sessions, and Director Comey:

We write to underscore the need for swift action with regard to the deeply troubling series of anonymous bomb threats made against Jewish Community Centers (JCCs), Jewish Day Schools, Synagogues and other buildings affiliated with Jewish organizations or institutions across the country. We thank you for your recent efforts and ask that you inform us of the actions that your Departments plan to take to address threats against these and other religious institutions. We stand ready to work with you to ensure that these centers can continue to serve their communities free from violence and intimidation.

It has become clear that threats of violence against individual JCCs are not isolated incidents. According to the Jewish Federations of North America, in the first two months of 2017 alone, at least 98 incidents against JCCs and Jewish Day Schools at 81 locations in 33 states have been reported. These cowardly acts aim to create an atmosphere of fear and disrupt the important programs and services offered by JCCs to everyone in the communities they serve, including in our states. In addition to reports of incidents at JCCs and Jewish Day Schools, there have been incidents at cemeteries in both St. Louis and Philadelphia involving the desecration of Jewish headstones. This is completely unacceptable and un-American.

We are concerned that the number of incidents is accelerating and failure to address and deter these threats will place innocent people at risk and threaten the financial viability of JCCs, many of which are institutions in their communities. Your Departments can provide crucial assistance by helping JCCs, Jewish Day Schools and Synagogues improve their physical security, deterring threats from being made, and investigating and prosecuting those making these threats or who may

seek to act on these threats in the future. We encourage you to communicate with individual JCCs, the JCC Association of North America, Jewish Day Schools, Synagogues and other Jewish community institutions regarding victim assistance, grant opportunities or other federal assistance that may be available to enhance security measures and improve preparedness. We also recognize the anti-Semitic sentiment behind this spate of threats and encourage your Departments to continue to inform state and local law enforcement organizations of their obligations under the Hate Crime Statistics Act and other federal laws.

We are ready to work with you to address this pressing issue, and we look forward to your responses about the actions you intend to take to address, deter, and prevent this threat.

Sincerely,

Gary C. Peters
United States Senator

Rob Portman
United States Senator

Bill Nelson
United States Senator

Marco Rubio
United States Senator

Charles E. Schumer
United States Senator

Mitch McConnell
United States Senator

Richard J. Durbin
United States Senator

John Cornyn
United States Senator

Tom Udall
United States Senator

Deb Fischer
United States Senator

Thomas R. Carper
United States Senator

Shelley Moore Capito
United States Senator

Chris Van Hollen
United States Senator

Cory Gardner
United States Senator

Edward J. Markey
United States Senator

Thom Tillis
United States Senator

Joe Manchin III
United States Senator

Joni K. Ernst
United States Senator

Cory A. Booker
United States Senator

Dan Sullivan
United States Senator

Maria Cantwell
United States Senator

M. Michael Rounds
United States Senator

Jack Reed
United States Senator

Todd Young
United States Senator

Tammy Duckworth
United States Senator

Bob Corker
United States Senator

Catherine Cortez Masto
United States Senator

Susan Collins
United States Senator

Patrick Leahy
United States Senator

Jerry Moran
United States Senator

Angus S. King, Jr.
United States Senator

Roy Blunt
United States Senator

Sheldon Whitehouse
United States Senator

Lisa Murkowski
United States Senator

Robert P. Casey, Jr.
United States Senator

Dean Heller
United States Senator

Debbie Stabenow
United States Senator

Ron Johnson
United States Senator

Robert Menendez
United States Senator

James Lankford
United States Senator

Margaret Wood Hassan
United States Senator

Johnny Isakson
United States Senator

Kirsten Gillibrand
United States Senator

Steve Daines
United States Senator

Mazie K. Hirono
United States Senator

Orrin Hatch
United States Senator

Sherrod Brown
United States Senator

John Boozman
United States Senator

Joe Donnelly
United States Senator

John McCain
United States Senator

Brian Schatz
United States Senator

Bill Cassidy, M.D.
United States Senator

Richard Blumenthal
United States Senator

James M. Inhofe
United States Senator

Jeanne Shaheen
United States Senator

Tom Cotton
United States Senator

Elizabeth Warren
United States Senator

Pat Toomey
United States Senator

Tim Kaine
United States Senator

Lindsey O. Graham
United States Senator

Michael F. Bennet
United States Senator

Jeff Flake
United States Senator

Amy Klobuchar
United States Senator

Lamar Alexander
United States Senator

Bernard Sanders
United States Senator

John Kennedy
United States Senator

Martin Heinrich
United States Senator

Roger Wicker
United States Senator

Jeffrey A. Merkley
United States Senator

John Thune
United States Senator

Tammy Baldwin
United States Senator

Tim Scott
United States Senator

Ron Wyden
United States Senator

Pat Roberts
United States Senator

Kamala D. Harris
United States Senator

James E. Risch
United States Senator

Claire McCaskill
United States Senator

Richard Burr
United States Senator

Christopher A. Coons
United States Senator

John Hoeven
United States Senator

Patty Murray
United States Senator

David Perdue
United States Senator

Al Franken
United States Senator

Luther Strange
United States Senator

Benjamin L. Cardin
United States Senator

Thad Cochran
United States Senator

Jon Tester
United States Senator

Richard Shelby
United States Senator

Mark R. Warner
United States Senator

Charles E. Grassley
United States Senator

Dianne Feinstein
United States Senator

Ted Cruz
United States Senator

Heidi Heitkamp
United States Senator

Rand Paul
United States Senator

Christopher S. Murphy
United States Senator

John Barrasso, M.D.
United States Senator

Ben Sasse
United States Senator

Mike Crapo
United States Senator

Michael S. Lee
United States Senator

Michael B. Enzi
United States Senator

Assistant Secretary for Legislative Affairs
U.S. Department of Homeland Security
Washington, DC 20528

Homeland Security

April 19, 2017

The Honorable Ron Johnson
Chairman
Committee on Homeland Security
and Governmental Affairs
United States Senate
Washington, DC 20510

Dear Chairman Johnson:

Thank you for providing Secretary Kelly the opportunity to testify before the Homeland Security and Governmental Affairs Committee on Improving Border Security and Public Safety on April 5, 2017. On the Secretary's behalf, I request the Committee accept the enclosed corrections for the record regarding the Secretary's comments about the U.S. Government's enforcement of the REAL ID Act of 2005.

The Department of Homeland Security appreciates your consideration of this request to correct the record. Secretary Kelly looks forward to working with you on this and other homeland security matters. Ranking Member McCaskill will receive a separate, identical response.

Should you have any concerns or questions, please do not hesitate to contact me at (202) 447-5890.

Respectfully,

Benjamin Cassidy
Assistant Secretary for Legislative Affairs

Enclosure

Assistant Secretary for Legislative Affairs
U.S. Department of Homeland Security
Washington, DC 20528

Homeland Security

April 19, 2017

The Honorable Claire McCaskill
Ranking Member
Committee on Homeland Security
and Governmental Affairs
United States Senate
Washington, DC 20510

Dear Ranking Member McCaskill:

Thank you for providing Secretary Kelly the opportunity to testify before the Homeland Security and Governmental Affairs Committee on Improving Border Security and Public Safety on April 5, 2017. On the Secretary's behalf, I request the Committee accept the enclosed corrections for the record regarding the Secretary's comments about the U.S. Government's enforcement of the REAL ID Act of 2005.

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Should you have any concerns or questions, please do not hesitate to contact me at (202) 447-5890.

Respectfully,

Benjamin Cassidy
Assistant Secretary for Legislative Affairs

Enclosure

this letter -- and I know you get a lot of correspondence obviously sent to you March 8. But it's some comments from women who asked that this be...

JOHNSON: ...Without objection.

HEITKAMP: And I just want to read a couple of them because I think it's really important to understand what's driving people north. My faith was in God when I made the decision to leave. I had never heard of asylum, all I knew was that the United States was a place where people could be protected and safe.

I didn't -- I came to the United States, I didn't think about the policies, I was just considering that United States is a thing that could protect us from violence where we were living. I think you know almost better than anyone else who serves in this administration how horrific the conditions are and I appreciate your answer. No one could disagree that if a child is endangering you believe that, that there should be separation and that that would be a rare circumstance. Is that correct, general?

KELLY: That is correct.

HEITKAMP: Thank you, Secretary.

KELLY: That's a yes.

HEITKAMP: Thank you, Mr. Chairman.

JOHNSON: Senator Peters?

PETERS: Thank you, Mr. Chairman. And it's good to see you, Secretary Kelly, it's good to have you here before the committee, appreciate your testimony and I also wanted to thank you again publicly for all coming to Detroit on my invitation and putting some time with the Muslim American/ Arab American community, Latino Hispanic community. And of course we had a wonderful opportunity to see firsthand one of the busiest border crossings in North America there from Detroit to Windsor into Canada, and appreciate your -- your interest and your involvement in that meeting.

But as -- as you know Secretary Kelly, there has been up appreciable uptick in hate crimes and crimes against our religious institutions across the country. Last month of Senator Portman and I let a letter that was signed by every single member of the Senate asking your department, the DOJ and FBI to take action against the rise in hate crimes against Jewish community centers, mosques and other religiously associated locations. And as you're aware it's so rare to have a letter signed by all 100 of us, this is how serious we take it. It's been about 29 days since the letter's been written to you, the attorney general and the FBI and was just wondering, when should we expect a response back to all my colleagues?

KELLY: It should have been a long time ago, I'll apologize and I'm on it. But I will tell you this, that I've added -- I've added our approach to this issue to add mosques and, you know, any

religious building, church, whatever that might be affected by this. We do have some capability within the department to advise individuals that want to be advised about say the security precautions.

I think they told me -- my staff told me yesterday virtually all of the Jewish centers, large groups have taken that advice. We have teams that go out and travel and so we're very -- I don't know if any of the mosques have responded yet but as I say, add all religious communities to that, not just -- you know, I've told my people, let's just not talk one religion, let's just not talk terrorism for that matter.

How about we talk about white supremacists and things like that, so -- but I apologize for not getting back and I will get on that today.

PETERS: I appreciate that, Secretary, and I think it's obvious from your comments you do believe there is a legitimate fear of hate crimes...

KELLY: ...I do...

PETERS: ...In our communities they need to be concerned about. And given that, will you commit to continued support for programs that support vulnerable locations such as the nonprofit security grant program that your department runs?

KELLY: I will.

PETERS: Thank you. I appreciate it, secretary. As you know, Michigan has an extension of the Real ID enforcement allowing federal agencies to accept driver's licenses and identification cards from Michigan. It runs through October 10 of this year in 2017. What is the current status of Real ID implementation across the nation?

KELLY: ~~As I know the senator knows, the Real ID law was passed by the Congress in 2005 and it's -- the real first big deadline is January -- this January coming, I think it's 22nd to where you'll have to have a appropriate Real ID -- approved Real ID or if you don't have that, something like a passport in order to fly domestically, internationally. The map -- and I addressed most of the -- of the governors of all of the states, 48 I think, of the states about three weeks ago.~~

~~And for those that are not compliant and is right now I think five that for sure aren't even really trying and that's their call, I mean I'm not criticizing them. But they're not really trying for issues inside the state and then there's another 18 or 19 states that are going in the direction but again are unsure they could be compliant. So when I talked to the governors -- and I would say the same thing here -- I think the governors have to kind of have a real serious conversation with their citizens, with the staffs first and decide whether they can -- they can hit the market in January.~~

~~And if they can't they'll have a conversation with their citizens about, you really need to consider getting a passport as an example. Passports for 10 years, $110 I think to get a passport, very easy~~

~~to get, because in January, if they don't have some compliant I.D., they're not going to be able to get on an airplane domestically or otherwise.~~

~~I had -- this was -- scared me to death actually, because I thought -- when I -- well I just thought that the people I was talking to in Washington, which is a really a red state right now, probably not get there. And by the way, the governor -- several governors have asked me to send some people from my staff to take a look at where they are to do an appraisal of if they're going to make it so that they could talk to their people. I've made that available to all the states.~~

~~But the point is when I was talking to these businessmen and women in Seattle who were in the -- in the -- you know, very well- informed people. They were all under the impression that their state enhanced drivers' license was real I.D. compatible, which it's not. So if -- if people like that were unaware of -- of the -- of the ID situation, I'd say the vast majority of the -- good citizens of Washington State.~~

~~So the point is, where it is right now, if you're not fully compliant on -- on 22 of January coming, then you will have to have a form of I.D., like a military I.D., or a passport -- passport card in order to get on an airplane. That's where it is right now.~~

DHS Correction: Currently, 26 states are compliant. Of the remaining 30 noncompliant states and territories covered by the REAL ID Act, 18 are committed to compliance and have extensions through October 10, 2017; eight are actively addressing barriers to compliance and have extensions through June 6, 2017; and four do not have extensions and are subject to enforcement, which currently includes accessing Federal facilities (including military bases) and nuclear power plants.

TSA enforcement of REAL ID begins January 22, 2018. Starting on that date, passengers with a driver's license or identification card issued by a noncompliant state without an extension may not use those cards as identification at TSA security checkpoints. Instead, they will need to show an alternative form of acceptable identification for domestic air travel to board their flight. Passengers with driver's licenses issued by a state that is compliant with REAL ID – or from a noncompliant state with an extension – will still be able to use their state-issued driver's licenses or identification cards for flying domestically. TSA will also continue to accept other forms of secure identification (such as a military ID, an U.S. passport, or an Enhanced Driver's Licenses (EDL) and Enhanced Identification Cards (EID) issued by Michigan, Minnesota, New York, Vermont, and Washington.

In accordance with the REAL ID regulations, starting October 1, 2020, Federal agencies, including TSA, may only accept for official uses state-issued licenses or identification cards if the document itself was issued in accordance with the REAL ID standards by a REAL ID compliant state. As a result, every air traveler will need a REAL ID-compliant license, or another acceptable form of identification (such as a military ID, EDL, or U.S. passport), for domestic air travel.

I have publicly stated that I will enforce the law. I am not inclined to grant additional extensions to any states that are not fully committed to becoming compliant and demonstrating sufficient

progress towards implementing any unmet REAL ID requirements. I have personally carried this message to the governors during the February 2017 National Governors Association Winter meeting in Washington, DC, as well as met one-on-one and held calls with certain governors to further reiterate my position. At every level, DHS is intensifying its outreach to the remaining 12 states with no extension or with an extension that expires on June 6, 2017 to offer guidance and technical assistance on complying with REAL ID and informing the public of the upcoming TSA enforcement deadline.

When I talked to the governors, I asked them to have a real serious conversation with their staffs to decide whether their state can become compliant or they can commit to full compliance and make substantial progress by January 22, 2018. If the answer is no, they need to have a conversation with their residents to ensure that people are prepared and in possession of another form of acceptable ID listed on the TSA website if they want to travel domestically by air. Because if travelers do not have an acceptable ID, they are not going to be able to board an airplane domestically. Several governors have asked me to send some people from my staff to take a look at where they are to do an appraisal of if they are going to make it so that they could talk to their people. I have made, and will continue to make, such technical visits available to any state that wants it.

So the point is that, if your state is not fully compliant and does not have an extension by January 22, 2018, then your residents will need to have a form of acceptable ID, like a military ID, passport, or passport card in order to get on an airplane.

PETERS: Under section 102, of the Real I.D. Act, the DHS can wave laws to facilitate the construction of a border wall. This provision has been used up previously to waive dozens of laws, including some environmental load laws. What laws does DHS intend to waive to build this new wall along the southern border?

KELLY: First, obviously, do the -- do the -- do the nuts and bolts survey of where we're going to put wall -- and at that those points, as I understand it, I would have to consult my -- my lawyers, obviously but places like the Indian reservation would be complicated, and -- and we're -- we're working with the Indian reservation in Arizona, 75 miles of the border. They already have some technology there. That would be a place that would be unwilling, unlikely to take on. There are some eminent domain issues.

We'll try to do as much as we can without those kinds of -- without those kinds of issues coming -- coming to ahead. Certainly, I'm very, very aware of any critical habitat, particularly say the Big Bend part of Texas. So again senator, not going to build a wall where it doesn't make sense, but we'll do something across the Southwest border.

PETERS: I understand you're -- you're going to need some time to review some of these issues and perhaps we can work closely with your office as that goes forward. But I would just ask if you'd be willing to commit to -- to one item, and that would be not to waive of FOIA under the wall project, so that we can have full transparency.

KELLY: Can I get back to you? But it sounds like a yes to me.

We're doing that even domestically. So I think we can accept that but I think that people are going to be horrified the more they hear that their cell phone, all their contacts, we don't even know what's happening to our cell phone while it's gone and in possession of the government. Are they downloading? And this is the story was this, that they're downloading everybody's contacts and information, there's an extraordinary amount of information on your phone.

KELLY: Not happening.

PAUL: All right but that's what the stories...

KELLY: These are citizens (ph). And in some cases, it is certainly happening to foreigners coming in but not routinely.

PAUL: But it's gone from 5,000 a year to 25,000. If you wouldn't mind, if you'd look into it and have your people get back to my office on this...

KELLY: Will do.

PAUL: But you know, we put forward legislation, bipartisan legislation because we're so upset about this that really if you're a green card holder or a citizen, even if you had suspicion, the way it would probably work if you were, I think, obeying the spirit of the constitution is you might be able to seize my phone but we would then go to a court and a court would determine whether you had probable cause to actual get the access to my phone for a citizen.

And for a noncitizen, I think if you don't give it, you can probably deny entry. I mean, there are rules on travel to our country. But I think for a citizen or a noncitizen to say I can't come back to my country without giving you the contents of my phone is, I think, really a...

KELLY: Just don't believe we're doing it (ph).

PAUL: All right. But we'll -- please look at the news reports because it wasn't just one, there was a whole series of them in the last couple days and a few interviews of people who are green card holders not being allowed entry. Thanks.

JOHNSON: We will do a second round but I'm going to limit to five minutes because I want to be respectful of the secretary's time.

So Senator McCaskill.

MCCASKILL: Yeah, following a little bit on Senator Paul, I -- I was -- I had to smile when Senator McCain said I was being hysterical. I was being focused and passionate and I learned it from him, by the way. So I was -- and I want to be very clear, I completely understand that we have to take steps to keep terrorists out of our country that are coming here to kill us. I completely understand that this is a global threat that we have to pay attention to and I understand and completely accept that there are people being trained in Raqqah to come here and hurt us.

My point is, I want to make sure what we're doing is effective. It's now out there that we're taking people's phones. I mean, no terrorist that has the ability to come into this country and hurt us is going to come in with anything other than a clean phone. And the people who are going to get caught up in this are going to be a lot of people who aren't probably terrorists because if they were, they'd be smart enough to clean their phone.

The same thing with some of the -- like I talked about, the questions, they're going to lie and we aren't going to -- you know, maybe we're going to -- for some, maybe we should do polygraphs if we have good information that they're terrorists. So I'm not -- I'm not in any way saying I don't want you to go after terrorists and I don't want you to figure out ways to find the people, and we're taking lots of steps around the globe to do that and I certainly identify with Senator Hassan's remarks about the law enforcement teams helping embassies in terms of screening visa applicants.

All great. So electronic devices, I agree with Senator McCain. I think we've got to be doing some extraordinary steps about electronic devices and I was supportive, I appreciated you giving me a call of you doing the unprecedented step of not allowing laptops in cabins from certain countries. And if you wanted to take a moment, I only have one other brief question so if you wanted to take a moment to maybe explain that so we all understand what steps you've taken and why it's important.

KELLY: Senator, as we discussed on the phone and I made 15 phone calls that day to make sure the leadership, both sides of the aisle, both sides of the Hill understood what we were doing. And then we provided classified briefs to, you know to the Hill again and it's a real threat. I mean, we know on any given day there are dozens of cells that are talking about aviation -- attacking aviation.

And you just watch them over time and see if they develop, if they go from talking to actually doing something. So there's a real threat all of the time. You saw the Russian airplane that was blown up coming out of Egypt as an example, the Somali airplane that thankfully didn't catastrophically come apart but a hole was blown in the side of the airplane and only because the airplane was not at altitude did -- was the pilot able to bring that aircraft home.

It's real. Based on the threat is -- and this was my decision. Certainly briefed it to the president but this was my decision, once I took in all the information from all the sources, that there is a real threat against aviation always but a specific threat and the airports that I decided to prohibit or to do the additional -- the new baggage protocol, that is to say the large electronic devices into the cargo hold are predominantly Muslim countries.

I didn't do it because of the Muslim religion or the color of their skin or -- as some have accused. I was trying to help out the American aircraft industry in places like the Emirates. It's real. I think it's getting realer so to speak. We may take measures in the not too distant future to expand the number of airports. It's real.

MCCASKILL: We appreciate your focus on it and I certainly support the steps you've taken in that regard. Missouri is one of the states has not done Real ID and I just -- I just want to make

sure that you clarify what is going to happen next year. And the reason I say this is the Missouri legislature is struggling with this. You know, this -- this happened before I came to the Senate.

Both Republican senators voted for this in 2005. In fact, all 100 senators voted for it in 2005 and I understand why it's controversial and frankly I kind of identify with that in many ways because of the state I'm from and our distrust of government in our DNA. But I -- I -- the governor said recently that he had gotten some signals from the Trump administration that would indicate that it wasn't going to be enforced.

And so as a result, the Missouri legislature I think is now struggling with whether they need to do anything. I don't know what you're going to do but whatever you're going to do, the more quickly you clarify whether or not this is going to be enforced next year is really important. Because I think there's some mixed signals going on and as a result I worry about Missourians and their ability to participate in aviation in this country come this time next year.

KELLY: Senator, your comment just now is the only time I've heard anyone say that we're not going to enforce the law in January. I mean, as I say, I've been saying it to the press, we've been saying it to the governors, I...

MCCASKILL: Well you need to call the governor from Missouri because the headline was, Trump administration indicates they may make a change, and then it goes on to say the people who are against doing say, well we need to give Trump time to change this...

KELLY: I'll call some governors (ph) right away.

MCCASKILL: Yeah, that would be terrific. I think that would be very helpful because I know he wants Missourians to be able to fly too. This isn't partisan. We want Missourians to be able to fly next year.

KELLY: My -- my advice again to all of the -- to all of the states that are not right now compatible is to just tell -- tell their -- their citizens to -- you know, the best thing to do is get a passport. And again...

MCCASKILL: Or a passport card.

KELLY: ~~Or a passport card. And again this -- this issue up in Seattle this last week was with this business group, all of whom thought that their state license enhanced will fill the bill and it won't. And if they didn't know that, then I'd say the average Joe and Jane Doe -- they're probably under that misconception. But there's about, I'd say 10 to 12 states anyways that are questionable that they could pull this off.~~

~~And so I will call the governor, yes.~~

DHS Correction: Or a passport card. But there are about, I'd say, four to twelve states in question about whether they will take the actions needed to commit to compliance and receive an extension.

And so I will call the governors, yes.

MCCASKILL: I really appreciate it.

KELLY: Yes, Ma'am.

JOHNSON: Senator Harris for five minutes.

HARRIS: I appreciate that.

Secretary Kelly, I represent a state of almost 39 million people which is also a state with the largest number of immigrants documented and undocumented of any state in this country. And they have a right to have an understanding, a clear understanding of the policy priorities of your department. On March 8 confirmation hearing for Elaine Duke, I asked her how the seven enforcement categories from your February 20 memo would be prioritized and she answered that the priorities are listed in descending order.

Do you agree with that?

KELLY: No.

HARRIS: And so what is the -- can you please rank then the seven factors and the priority among them?

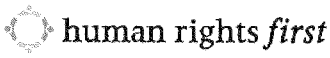
KELLY: Those seven factors allow the ICE folks to make their decision as to who they will develop a target package on and then go try and apprehend. But they're not in descending order, they're just those are the categories.

HARRIS: So what has been your direction to the folks on the ground about what the priorities should be understanding that they, like all law enforcement agencies, have limited resources and a very important charge? Are you not giving them any direction around priorities within the seven criteria?

KELLY: The direction they have is, the start point is illegal -- illegal status and then something from the priorities. But they're not going to go after, as an example, all the murderers and then we get -- all the very, very serious criminals and then once we get all of them, go after the next and the next and the next. They can go after an individual if they -- according to the law, if they are on the list because they're illegal and then something.

HARRIS: So sir, among the seven categories, you have as number one convicted of any criminal offense and obviously there's no doubt that especially if someone has been convicted of a serious and violent felony they should be apprehended and they should be dealt with. Second is that anyone charged with a criminal offense but then there has not been a finding of guilt.

The third is they've committed an act which would constitute a chargeable criminal offense so they've not even been charged with the offense. The list goes on to number seven or in the



Statement of Human Rights First

U.S. Senate, Committee on Homeland Security and Governmental Affairs

Hearing on Improving Border Security and Public Safety

April 5, 2017

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

Protecting Refugees While Safeguarding Our Borders

The United States has laws and policies designed to protect refugees from return to persecution. In the wake of World War II, the United States helped lead efforts to draft the Convention Relating to the Status of Refugees and this country has a long history of protecting individuals and families who have fled persecution. Consistent with its ideals, the United States has pledged to comply with the Convention Relating to the Status of Refugees and its Protocol. U.S. laws, passed with bipartisan support over the years, have created standards and procedures for requesting asylum and have endeavored to create mechanisms to safeguard refugees from return to persecution.

The U.S. Department of Homeland Security has been entrusted with administering many of this country's processes relating to asylum. For instance, U.S. Customs and Border Protection is charged with referring individuals who express an intention to apply for asylum or a fear of persecution for screening interviews with USCIS asylum officers. USCIS is charged with conducting asylum interviews, as well as credible fear and reasonable fear interviews. ICE, with its role operating immigration detention, implements DHS authority to parole an asylum seeker from immigration detention.

The United States can both safeguard its borders while also complying with its legal and treaty obligations with respect to refugees and asylum seekers. In the wake of President Trump's January 25, 2017 executive order on Border Security and Immigration Enforcement Improvements, Human Rights First is concerned about a number of DHS policies and practices that thwart access to asylum, undermine U.S. global leadership, and contravene U.S. legal and treaty commitments. These policies include:

Improperly turning away asylum seekers. At a number of official ports of entry along the southern border, some CBP officers have improperly turned away asylum seekers without referring them, as required under section 23S(b) of the Immigration and Nationality Act, for protection screening

interviews. CBP has confirmed that its policy regarding receiving and processing asylum seekers remains the same. Human Rights First researchers recently visited areas along the border in Texas and California, as well as in Mexico. The last leg of this research was completed last week, and the organization will issue a report summarizing its findings shortly. Through its research and interviews, Human Rights First identified cases of asylum seekers who were turned away from the U.S. southern border. These included: two transgender asylum seekers from Central America targeted for their gender identity; a journalist who fled Mexico; women from Mexico and Central America who fled severe domestic violence; a former Guatemalan police officer; a Colombian artist fleeing death threats; and a member of the Turkish opposition party, among others.

In some cases, CBP officers reportedly told asylum seekers that the United States is not granting asylum any more. In other cases, asylum seekers who were turned away said that they were told by CBP agents that they would not be granted or were not eligible for asylum. Some asylum seekers indicated that they had been physically blocked from approaching the border by private security contractors, as part of an ad hoc gauntlet arranged by U.S. and Mexican officials. At one port of entry, asylum seekers are told they must come back another day and first go to Mexican officials who will give them an "appointment" ticket, but Mexican officials regularly refuse to provide "appointment" tickets to various categories of asylum seekers.

Asylum seekers turned away at the border are left in difficult and dangerous circumstances. In several Mexican border towns migrants are commonly kidnapped and held for ransom. Many disappear in cartel controlled territory. Drownings in the Rio Grande are reportedly on the rise. Women face near certain sexual assault and rape. Asylum seekers stuck in Mexico largely cannot rely on Mexican authorities for protection, as they may be the very persecutors from which they flee. Others risk being deported back to the persecutors they have fled, in part due to Mexico's highly inadequate asylum system.

Not only do these practices contravene U.S. law and U.S. treaty commitments, but they are also counterproductive as they leave asylum seekers with the impression that they must attempt to cross the border without authorization rather than to approach a formal port of entry to request asylum.

Unduly high screening standards. A new lesson plan relating to credible fear of persecution or torture, issued by USCIS in February 2017 in the wake of the January 25 executive order, includes revisions that are inconsistent with U.S. law and put people at risk of return to persecution or torture. For example, the revisions appear to shift the credible fear standard set by Congress to a higher-level standard applicable in full asylum hearings with respect to establishing credibility and identity. This approach would turn the credible fear screening process into a full asylum determination, with hardly any of the procedural protections that apply in full asylum adjudications. Credible fear interviews are typically conducted within days of arrival while asylum seekers are held in detention facilities, and without the time necessary to gather evidence and documentation required to meet full asylum standards. Moreover, asylum seekers overwhelmingly do not have legal representation in immigration detention.

Escalating Detention and Failure to Parole eligible asylum seekers. The President's January 25 executive order calls for an escalation of immigration detention, which is already at an all-time high. While a February 20, 2017 memorandum issued by Secretary of Homeland Security John Kelly confirms that ICE's parole directive relating to arriving asylum seekers is still in full force and effect, Human Rights First continues to receive reports that ICE is denying parole to asylum seekers who meet the criteria for release – those who do not present a risk of flight or danger, and who can establish their identities

sufficiently – and that some ICE offices appear to have established a moratorium or near moratorium on parole. Human Rights First has detailed these rights-violating practices, as well as the failure to provide access to reasonable bonds that indigent individuals can afford to pay, in a series of reports issued over the last year.

Over the last month, and in the wake of the January 25 executive order and the February 20 DHS memorandum implementing that order, Human Rights First has received reports from non-profit attorneys in locations around the country that eligible asylum seekers continue to be denied parole even when they meet the parole criteria. For example, a Mexican journalist, whose parole application was supported by his U.S. citizen cousin who resides in California and the organization Reporters without Borders, which has documented his persecution in Mexico, was denied in March by the El Paso field office which inexplicably checked a box claiming the journalist was a "flight risk." A grandmother from Honduras was denied release from detention by ICE in southern California in February, with the "flight risk" box checked on her parole denial, even though her parole application was supported by two U.S. citizen family members. This asylum seeker's non-profit attorney reported to Human Rights First that ICE had indicated they were not releasing anyone on parole now.

Human Rights First has also received reports that ICE is continuing to detain individuals who have been determined by immigration judges to qualify as refugees and meet the asylum eligibility criteria while ICE pursues appeals. The continued detention of such individuals, who have already been held in detention for many months, is generally not warranted, and is contrary to the policy clarified by DHS in 2004 under the Bush Administration, which generally favors release of individuals once they have been granted asylum, even if ICE appeals the judge's decision.

Arriving asylum seekers moreover continue to be denied access to immigration court custody hearings, leaving ICE as judge and jailor with respect to decisions relating to their continued and often prolonged detention. These immigration detention policies and practices violate Article 9 of the International Covenant on Civil and Political Rights and Article 31 of the Refugee Convention and Protocol. This nation can both protect its borders while also protecting the persecuted and complying with its legal obligations under U.S. laws and treaties.

Recommendations. The Department of Homeland Security must ensure that all policies and practices comply with U.S. law and U.S human rights and refugee protection treaty commitments. To ensure compliance:

1. CBP officers must stop improperly turning away some asylum seekers at the southern border, and DHS must assure that CBP border officers are better trained to identify and refer asylum seekers for screening interviews.

2. DHS must not pursue any formal arrangement aimed at turning away asylum seekers at the border, including any plan to have them wait in Mexico where they would face grave dangers.

3. USCIS lesson plan guidance with respect to credible fear assessments should be brought into compliance with the Congressional standard, and should call for a screening – not a full blown asylum eligibility assessment – including with respect to identity and credibility.

4. ICE should effectively implement and retain its 2009 directive on the Parole of Arriving Aliens Found to Have a Credible Fear of Persecution of Torture, and should not issue any guidance that calls for

the continued detention of asylum seekers who do not present flight or danger risks and can establish their identities. ICE should generally release asylum seekers from detention after they are ruled eligible for asylum by an immigration judge, as has long been the policy.

5. DHS and the Department of Justice should provide prompt initial access to immigration court custody (bond) hearings for arriving asylum seekers, as well as access to such hearings at six-months of detention and subsequently. While arriving asylum seekers have access to immigration court merits hearings, they are not afforded access to these bond hearings under current regulatory language.

Post-Hearing Questions for the Record
Submitted to the Honorable John F. Kelly
From Senator Rand Paul

"Improving Border Security and Public Safety"

April 5, 2017

Question#:	1
Topic:	Digital Searches I
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Rand Paul
Committee:	HOMELAND SECURITY (SENATE)

Question: At the hearing, I asked you about reported instances of American citizens being detained at points of entry when traveling back into the United States-in particular, the reported instances of Americans being asked by DHS officials to turn over their phones or other digital devices for search. Just last month, a CBP official briefed reporters on point of entry phone searches and argued that, as it applies to phones, "[w]e see it as an article that is brought into the U.S., no different than a booklet of materials, no different than a suitcase with items in it." Yet a person's entire lifetime of contacts, relationships, communications, emails, pictures, financial statements, and purchase histories aren't typically found in a suitcase. To hear such a lack of distinction between these two very different scenarios-particularly in regards to U.S. citizens-from an agency official is concerning, to say the least.

You made a few contentions about the policy in response to my questions:

This practice is not widespread or a product of routine policy;

The practice is basically confined to foreigners entering the country;

Data from Americans' phones is not being taken by DHS (Your reply to me was "Not happening.");

American citizens are not being threatened with detention at the border upon re-entry if they don't turn over their phones ("[I] just don't believe we're doing it" was your response in the hearing).

I would like to take this opportunity to clarify the record and bring some of those examples I spoke of to your attention.

Question#:	1
Topic:	Digital Searches I
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Rand Paul
Committee:	HOMELAND SECURITY (SENATE)

This year, a NASA engineer and U.S. citizen was reportedly pulled into inspection when returning from a vacation in Chile. The individual subjected to inspection recounted how CBP demanded the PIN to his phone and handed him a form that explained how CBP had the right to copy the contents of his phone. He recalled that the form indicated that participation in the search was "mandatory" and it threatened "detention and/or seizure" of the device if he did not comply. He was reportedly released after providing the PIN to his phone-a work phone that was itself property of NASA.

Two U.S. citizens were stopped on a return from Canada and held for two hours after their phones were taken by CBP officers. They alleged that they were stopped again on another return trip from Canada three days later in which they were again told to turn over their phones. They also alleged that CBP officers physically took one of the phones in order to search it.

An NBC News investigation reported that they examined 25 different cases of U.S. citizens being told to turn over their phones, unlock them, or provide passwords to CBP officers.

A U.S. citizen was reportedly stopped from boarding a flight in Los Angeles, handcuffed, and released after "a Homeland Security agent looked through his phone for about 15 minutes."

In 2015, a U.S. citizen journalist alleged that, while traveling back to Texas from Brazil, he was detained while officials "went through all his contacts, emails and WhatsApp messages on his phone."

With these cases in mind, please answer the following questions:

Do you still maintain that this digital search practice is confined to foreigners entering the country?

Response: All individuals who cross the border are obligated to present themselves and their effects to CBP for inspection. CBP conducts border searches of electronic devices pursuant to its legal authorities, including for example, 8 U.S.C. 1225, 1357 and other pertinent provisions of the immigration laws and regulations as well as 19 U.S.C. 482, 507, 1461, 1496, 1581, 1582, and other provisions of the customs laws and regulations. CBP is responsible for preventing the entry of prohibited persons and goods – including terrorists and instruments of terror – into the United States, while facilitating legitimate trade and travel. CBP is also responsible for enforcing hundreds of laws at the border on behalf of numerous federal agencies. CBP conducts border searches of electronic devices

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Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Rand Paul
Committee:	HOMELAND SECURITY (SENATE)

in furtherance of these mission responsibilities. CBP exercises its authority to search, review, retain, and share information contained in electronic devices at the border judiciously and in strict adherence to CBP Directive No. 3340-049, Border Search of Electronic Devices Containing Information (August 20, 2009). CBP published a tear sheet based on the internal policy directive that is publically available on CBP.gov in April 2015 entitled Inspection of Electronic Devices. This tear sheet is provided to anyone whose electronic device is detained for further examination. The public can also access a document "U.S. Customs and Border Protection Policy Regarding Border Search of Information," dated July 16, 2008.

Of the more than 383 million arriving international travelers that CBP processed in FY15, 0.002 percent of such travelers (8,503) had their electronic devices searched. In FY16, the number of arriving travelers processed by CBP increased to approximately 390 million, and the number of travelers whose electronic devices were searched increased to 19,033 (0.005 percent of the population CBP encountered.)

Question: Do you dispute that U.S. citizens have been swept up into these digital searches at points of entry?

Response: All international travelers attempting to enter the United States are subject to inspection, questioning, and search. CBP is responsible for ensuring the safety and admissibility of the goods and people entering the United States.

Question: If there is no routine policy at DHS to search phones or other digital devices, then why do these searches keep happening to U.S. citizens?

Response: CBP published a tear sheet in April 2015, entitled Inspection of Electronic Devices which identifies CBP's authorities and procedures related to electronic devices. CBP exercises its border search authority judiciously and responsibly. CBP inspects nearly one million travelers a day. Only .01 percent of those individuals were referred for a secondary exam and 0.008 percent (based on the first 6 months of FY17) had their electronic media searched.

Question#:	2
Topic:	Data off Phones
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Rand Paul
Committee:	HOMELAND SECURITY (SENATE)

Question: At the hearing, I asked you about reported instances of American citizens being detained at points of entry when traveling back into the United States-in particular, the reported instances of Americans being asked by DHS officials to turn over their phones or other digital devices for search. Just last month, a CBP official briefed reporters on point of entry phone searches and argued that, as it applies to phones, "[w]e see it as an article that is brought into the U.S., no different than a booklet of materials, no different than a suitcase with items in it." Yet a person's entire lifetime of contacts, relationships, communications, emails, pictures, financial statements, and purchase histories aren't typically found in a suitcase. To hear such a lack of distinction between these two very different scenarios-particularly in regards to U.S. citizens-from an agency official is concerning, to say the least.

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Hearing:	Improving Border Security and Public Safety
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Committee:	HOMELAND SECURITY (SENATE)

another return trip from Canada three days later in which they were again told to turn over their phones. They also alleged that CBP officers physically took one of the phones in order to search it.

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In 2015, a U.S. citizen journalist alleged that, while traveling back to Texas from Brazil, he was detained while officials "went through all his contacts, emails and WhatsApp messages on his phone."

With these cases in mind, please answer the following questions:

In the hearing, you reiterated to me that DHS agents are not taking data off of phones during these searches, yet reports still indicate that some agents have disappeared with the phones for varying amounts of time. Can you clarity with certainty, then, that no data is downloaded or stored from the phones of U.S. citizens during these phone searches at points of entry?

Response: An officer may detain electronic devices, or copies of information contained therein, for a brief, reasonable period of time to perform a thorough border search. The search may take place on-site, or at an off-site location, and is to be completed as expeditiously as possible. Officers may seize and retain electronic device, or copies of information from the device, when, based on a review of the electronic device encountered or on other facts and circumstances, they determine there is probable cause to believe that the device, or copy of the contents thereof, contains evidence of or is the fruit of a crime, that CBP is authorized to enforce. Officers may also retain information relating to immigration, customs, and other enforcement matters if such retention is consistent with the privacy and data protection standards of the system of records in which such information is retained. Supervisory approval is required for detaining electronic devices, or information contained therein, for continuation of a border search after an individual's departure from the port or other location of detention. Port Director, Patrol Agent in Charge or other equivalent level manager approval is required to extend any such detention beyond 5 days. Extensions of detentions exceeding 15 days must be approved by the Director of Field Operations or other equivalent level manager, and may

Question#:	2
Topic:	Data off Phones
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Rand Paul
Committee:	HOMELAND SECURITY (SENATE)

be approved and re-approved in increments of no more than 7 days. Approvals for detention and any extension thereof are noted in appropriate CBP systems of record. This information as well as additional information can also be found in the publicly available documents entitled Inspection of Electronic Devices and U.S. Customs and Border Protection Policy Regarding Border Search of Information.

Question#:	3
Topic:	DHS Policy at Points of Entry
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Rand Paul
Committee:	HOMELAND SECURITY (SENATE)

Question: At the hearing, I asked you about reported instances of American citizens being detained at points of entry when traveling back into the United States-in particular, the reported instances of Americans being asked by DHS officials to turn over their phones or other digital devices for search. Just last month, a CBP official briefed reporters on point of entry phone searches and argued that, as it applies to phones, "[w]e see it as an article that is brought into the U.S., no different than a booklet of materials, no different than a suitcase with items in it." Yet a person's entire lifetime of contacts, relationships, communications, emails, pictures, financial statements, and purchase histories aren't typically found in a suitcase. To hear such a lack of distinction between these two very different scenarios-particularly in regards to U.S. citizens-from an agency official is concerning, to say the least.

You made a few contentions about the policy in response to my questions:

This practice is not widespread or a product of routine policy;

The practice is basically confined to foreigners entering the country;

Data from Americans' phones is not being taken by DHS (Your reply to me was "Not happening.");

American citizens are not being threatened with detention at the border upon re-entry if they don't turn over their phones ("[I] just don't believe we're doing it" was your response in the hearing).

I would like to take this opportunity to clarify the record and bring some of those examples I spoke of to your attention.

This year, a NASA engineer and U.S. citizen was reportedly pulled into inspection when returning from a vacation in Chile. The individual subjected to inspection recounted how CBP demanded the PIN to his phone and handed him a form that explained how CBP had the right to copy the contents of his phone. He recalled that the form indicated that participation in the search was "mandatory" and it threatened "detention and/or seizure" of the device if he did not comply. He was reportedly released after providing the PIN to his phone-a work phone that was itself property of NASA.

Two U.S. citizens were stopped on a return from Canada and held for two hours after their phones were taken by CBP officers. They alleged that they were stopped again on

Question#:	3
Topic:	DHS Policy at Points of Entry
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Rand Paul
Committee:	HOMELAND SECURITY (SENATE)

another return trip from Canada three days later in which they were again told to turn over their phones. They also alleged that CBP officers physically took one of the phones in order to search it.

An NBC News investigation reported that they examined 25 different cases of U.S. citizens being told to turn over their phones, unlock them, or provide passwords to CBP officers.

A U.S. citizen was reportedly stopped from boarding a flight in Los Angeles, handcuffed, and released after "a Homeland Security agent looked through his phone for about 15 minutes."

In 2015, a U.S. citizen journalist alleged that, while traveling back to Texas from Brazil, he was detained while officials "went through all his contacts, emails and WhatsApp messages on his phone."

With these cases in mind, please answer the following questions:

No U.S. citizen should be led to believe that they will be detained by the government if they do not turn over their phone or digital device to DHS officials. Will you clarify DHS policy and/or improve communication procedures at points of entry so that no U.S. citizen is led to believe they will be detained unless they turn over their phone/digital device for a search?

Response: As a general matter, individuals who have established their citizenship to the satisfaction of a CBP Officer will be permitted to enter the United States. CBP may request the traveler's assistance in presenting his or her effects – including electronic devices – in a condition that allows inspection of the item and its contents. If CBP is unable to determine whether an item is admissible in its condition as presented for inspection, CBP may detain the item pending a determination of its admissibility in accordance with the law.

Question#:	4
Topic:	Digital Searches II
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Rand Paul
Committee:	HOMELAND SECURITY (SENATE)

Question: At the hearing, I asked you about reported instances of American citizens being detained at points of entry when traveling back into the United States-in particular, the reported instances of Americans being asked by DHS officials to turn over their phones or other digital devices for search. Just last month, a CBP official briefed reporters on point of entry phone searches and argued that, as it applies to phones, "[w]e see it as an article that is brought into the U.S., no different than a booklet of materials, no different than a suitcase with items in it." Yet a person's entire lifetime of contacts, relationships, communications, emails, pictures, financial statements, and purchase histories aren't typically found in a suitcase. To hear such a lack of distinction between these two very different scenarios—particularly in regards to U.S. citizens—from an agency official is concerning, to say the least.

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Question#:	4
Topic:	Digital Searches II
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Rand Paul
Committee:	HOMELAND SECURITY (SENATE)

another return trip from Canada three days later in which they were again told to turn over their phones. They also alleged that CBP officers physically took one of the phones in order to search it.

An NBC News investigation reported that they examined 25 different cases of U.S. citizens being told to turn over their phones, unlock them, or provide passwords to CBP officers.

A U.S. citizen was reportedly stopped from boarding a flight in Los Angeles, handcuffed, and released after "a Homeland Security agent looked through his phone for about 15 minutes."

In 2015, a U.S. citizen journalist alleged that, while traveling back to Texas from Brazil, he was detained while officials "went through all his contacts, emails and WhatsApp messages on his phone."

With these cases in mind, please answer the following questions:

After our hearing concluded, CBP reported its own data which showed the number of digital searches almost doubled in the first six months of FY17 when compared to the preceding six months. Does this data trend in any way change your view that this practice is not widespread and not routine?

Response: No. Although the digital searches are slightly higher in FY17 compared to the first six (6) months of FY 16, the use of electronic device searches is driven by CBP's mission to protect the American people and enforce the nation's laws in this digital age. CBP has adapted and adjusted its actions to align with current threat information. CBP border searches of electronic devices have resulted in evidence helpful in combating terrorist activity, child pornography, violations of export controls, intellectual property rights violations, and visa fraud.

Post-Hearing Questions for the Record
Submitted to the Honorable John F. Kelly
From Senator Jon Tester

"Improving Border Security and Public Safety"

April 5, 2017

Question#:	5
Topic:	$20 Million Reprogramming
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Jon Tester
Committee:	HOMELAND SECURITY (SENATE)

Question: The Department of Homeland Security has requested the reprogramming of $20 million in Department funds to begin the planning and design of new physical barriers along the Southwest Border.

Moreover, Senator Boozman and I sent a letter to you in March requesting that the Department give equal consideration to currently deployed and proven border security capabilities.

Have you determined how that $20 million is going to be spent?

Response: U.S. Customs and Border Protection (CBP) will spend the $20 million as follows:

Project	**$ in millions**
Acquisition and Project Planning	11.5
Engineering, Real Estate, and Environmental Support	1.5
Environmental Surveys and Support	1.0
Prototype Costs	6.0
Total	**20.0**

Acquisition and Project Planning: $11.5 million to conduct programmatic, acquisition, project planning, and project execution activities in support of constructing the border wall. This activity will be conducted by the U.S. Army Corps of Engineers through an interagency agreement.

Question#:	5
Topic:	$20 Million Reprogramming
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Jon Tester
Committee:	HOMELAND SECURITY (SENATE)

Engineering, Real Estate, and Environmental Support: $1.5 million for subject matter expertise in the fields of engineering, real estate management, and environmental planning.

Environmental Surveys and Support: $1.0 million for various environmental planning efforts and project-related travel. This activity will include: biological surveys, site monitoring, endangered species support, historical/architectural/cultural surveys, technical reviews, wetland surveys, developing and evaluating best management practices, and public outreach assistance.

Prototype Costs: $6.0 million for prototype and future border wall construction costs.

Question#:	6
Topic:	Southern Border Security Requirements
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Jon Tester
Committee:	HOMELAND SECURITY (SENATE)

Question: Does the Border Patrol have an approved set of requirements for securing the southern border? If so, what are they?

Response: Yes, the U.S. Border Patrol (USBP) has identified critical vulnerabilities and has documented requirements that if funded and successfully implemented, will enable the Border Patrol to successfully execute the mission. The USBP considers "Requirements" as a part of a continual and ongoing process and framework to insert order onto the dynamics of the mission space. These dynamics are comprised of top-down strategic guidance to analyze and synthesize bottom-up requirements distilled from understanding gaps and problems from the field perspective. Also, threats are constantly changing, adapting, and evolving to friendly forces all in the context of a diverse, expansive, and highly complex environment, to include politics and culture. In totality, requirements are constantly in a state of refinement while some elements of border security are in a constant state of flux. Thus, considering requirements as a process rather than a static output provides the USBP the flexibility to plan course of action both dynamically (crisis planning) and deliberately (strategic planning) at any given point in time.

Currently the USBP has the following critical requirements for the Southwest Border:

1. The need to have domain awareness, specifically on the ground, from the air and subterranean;
2. The need to impede and deny illegal border crossings between the ports of entry;
3. The need to communicate, both by voice and data;
4. The need to access specific areas along the Southwest Border and maintain highly mobile, responsive response units;
5. The need to Staff critical positions.

The USBP Requirements Management Process (RMP) has identified the capability gaps, mission needs and operational requirements needed to accomplish the goal. USBP Headquarters has developed, manages and guides a requirements process that allows Border Patrol Agents to identify and analyze their mission needs. In this manner, operational requirements are derived from a process that is deliberate, analytical and driven by field level operators. The requirements development process is ongoing to ensure that the requirements identified remain relevant to changing operational environments, threat characteristics and commander's intent. Every Border Patrol Station and Sector is involved in this process and formulates, as a result of the process, resource

Question#:	6
Topic:	Southern Border Security Requirements
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Jon Tester
Committee:	HOMELAND SECURITY (SENATE)

and budgeting requests. As the budgeting and prioritization cycle moves forward, some requirements are approved by USBP leadership, while others remain pending and contingent upon funding. USBP is currently better documenting the need or additional need for surveillance and impedance and denial capabilities along the Southwest Border. Simply stated, the requirements process identifies the needed capabilities that are required to secure America's borders and contribute to DHS' overall border-security mission.

Question#:	7
Topic:	Effectiveness of Existing Fencing
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Jon Tester
Committee:	HOMELAND SECURITY (SENATE)

Question: The Government Accountability Office has recommended that DHS measure the effectiveness of existing fencing before considering additional investments in a physical barrier.

When will that work be completed?

Response: CBP is scheduled to develop a metrics rubric in the first quarter of Fiscal Year 2018.

Question: Is DHS validating the effectiveness of existing fencing before it begins to invest in additional construction?

Response: CBP is scheduled to develop a metrics rubric in the first quarter of Fiscal Year 2018.

Question#:	8
Topic:	Screening Equipment Abroad
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Jon Tester
Committee:	HOMELAND SECURITY (SENATE)

Question: Last month, DHS – specifically TSA – announced the ban of personal electronic devices larger than a cell phone on flights to the U.S. from ten overseas airports.

How effective is the screening equipment at the ten airports in the Middle East and Africa where devices larger than a cell phone have been banned from the cabin?

Response: The Transportation Security Administration (TSA) is confident that security measures, which including screening equipment, employed at last-point-of-departure (LPD) airports are up to required standards. TSA regularly assesses the effectiveness of security at all foreign airports served by United States aircraft operators and foreign air carriers that provide service to the United States. This ensures that those international airports maintain a level of security consistent with international standards. TSA also works closely with our partner nations, including those affected by this ban, that have LPD airports, by completing assessment visits and providing assistance with maintaining, and when necessary, improving security measures to meet international standards.

Additional details on the intelligence and screening effectiveness are classified, but TSA would be happy to provide the Committee with a briefing in a closed setting.

Question#:	9
Topic:	Domestic Flights
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Jon Tester
Committee:	HOMELAND SECURITY (SENATE)

Question: Is there concern that a radicalized individual in the U.S. could attempt to put similar explosives in a laptop-sized electronic device on a domestic flight?

Response: The Transportation Security Administration (TSA) remains concerned about attempts by terrorist groups to circumvent aviation security and endanger passengers and aircraft. We believe terrorists are pursuing an array of options for targeting the aviation sector, which is why the Department of Homeland Security (DHS) is actively engaged in trying to mitigate those potential threats. DHS and TSA, in close cooperation with our intelligence community partners, continuously assess and evaluate the threat environment and will continue to adjust security measure accordingly. All air travelers are subject to a robust security system that employs multi-layered defenses, both seen and unseen. In combination, these layers provide enhanced security creating a much stronger and protected transportation system for the traveling public.

Additional details on the intelligence and screening effectiveness are classified, but TSA would be happy to provide the Committee with a briefing in a closed setting.

Question#:	10
Topic:	Securing Cybersecurity Infrastructure
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Jon Tester
Committee:	HOMELAND SECURITY (SENATE)

Question: During your confirmation process, you endorsed a review of cyber vulnerabilities across the U.S., including critical infrastructure, and the need to rapidly hire cyber professionals. Now, we are seeing an unprecedented level of cyberattacks, not only against government systems and officials, but also against private businesses and citizens.

What initiatives or priorities have you placed on securing our nation's cybersecurity infrastructure at the Office of Cybersecurity and Communications?

Response: The Office of Cybersecurity and Communications (CS&C), within the National Protection and Programs Directorate, is responsible for enhancing the security, resilience, and reliability of the nation's cyber and communications infrastructure. CS&C works to prevent or minimize disruptions to critical information infrastructure in order to protect the public, the economy, and government services. CS&C leads efforts to protect federal civilian government networks, collaborates with the private sector to enhance the security and resilience of critical infrastructure networks, and works closely with state, local, tribal, and territorial governments to promote cybersecurity best practices. In addition, the National Cybersecurity and Communications Integration Center serves as a 24/7/365 cyber monitoring, incident response, and management center and as a national hub of cyber and communications integration.

The President's Fiscal Year 2018 Budget request provides critical funding for the continued development of strong cybersecurity defenses. Specifically, it prioritizes safeguarding cyberspace by funding activities that protect federal networks and critical infrastructure from an attack. Through a suite of advanced cybersecurity tools and more assertive defense of government networks, the Department will share more cybersecurity incident information with other federal agencies and the private sector, leading to faster responses to cybersecurity incidents impacting federal networks and critical infrastructure.

As a part of implementing Executive Order 13800, Strengthening the Cybersecurity of Federal Networks and Critical Infrastructure, on behalf of the Department, CS&C, alongside our Office of Policy and other components of the Department, are working with departments and agencies named in the Executive Order, to review our collective capabilities and authorities to support risk management efforts of critical infrastructure entities at greatest risk. This effort represents the Administration's prioritization of managing systemic risk and enhancing the security and resilience of U.S. critical infrastructure.

Question#:	11
Topic:	Hiring of Cyber Professionals
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Jon Tester
Committee:	HOMELAND SECURITY (SENATE)

Question: Have you been able to speed up the hiring of cyber professionals? If not what has been the biggest hindrance from doing so?

Response: The National Protection and Programs Directorate, which includes the Office of Cybersecurity and Communications, has been able to leverage recruiting and retention tools available to the Department to further bolster the cybersecurity workforce. One is the Direct Hire Authority for Information Technology and Cyber positions. This hiring authority is government-wide and allows the Department of Homeland Security (DHS) to hire, after public notice is given, any qualified applicant without regard to 5 U.S.C. 3309-3318, 5 CFR part 2121, or 5 CFR part 337, subpart A. Direct Hiring Authority expedites hiring by eliminating competitive rating and ranking, veterans' preference, and "rule of three" procedures. Additionally, DHS Schedule A Authority for cybersecurity is an excepted service authority to hire up to 1,000 cybersecurity positions in certain occupational series. DHS is authorized to make permanent time-limited or temporary excepted service appointments under this authority. Finally, DHS takes into consideration the special requirements needed for cyber workforce positions and utilizes the superior qualifications appointment authority provided by 5 U.S.C. 5333 and 5 CFR 531.203(b) alone or in combination with a recruitment bonus in order to attract top-tier talent to join its workforce. We have also leveraged several programs to bring cyber professionals into our organization at lower grade levels through the Scholarship for Service and the Pathways Programs to serve as a source to grow talent within the organization. The use of these programs coupled with our efforts to adequately staff and streamline our security process have resulted in a decrease of 24.72 days for our hiring timeline in fiscal year 2016 compared to fiscal year 2015, as we continue to strive for even greater efficiencies and flexibilities.

Question#:	12
Topic:	Joint Task Forces
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Jon Tester
Committee:	HOMELAND SECURITY (SENATE)

Question: In October 2014, Secretary Johnson introduced the Southern Border and Approaches Campaign, stating: "These efforts – Department-wide campaign planning and Joint Task Forces – will enable more effective, more efficient, and more unified homeland security and border security efforts across our southern border and approaches."

How effective and efficient has this campaign and the creation of the Joint Task Forces been?

Response: The DHS JTFs have had initial success in achieving approved operational priorities that increase the security of the southern border and approaches to the US. This success indicates the potential for increasing operational impact while planning, execution, and coordination processes continue to mature.

For example, JTF-West's Operation ALL IN resulted in over 200 consequential actions against human smuggling targets, the "Paisano a Paisano" and other public affairs deterrent messaging efforts, and migration focused intelligence collection efforts. In addition, JTF-West institutionalized integrated counter-network operations across the Southwest Border. JTF-West led the integration and alignment of intelligence capabilities and developed a DHS-wide prioritization process to identify and target the top Transnational Criminal Organizations (TCOs) with a nexus to the Southwest Border. As a result, four priority TCOs were successfully dismantled in the JTF-West joint operating area during fiscal year 2016.

In addition, JTF-East produced the first cross-agency intelligence and operational assessments of its joint operating area to identify and disrupt potential violent extremists, increasing domain awareness, fusing operations and investigations of eight DHS Components targeting Special Interest Aliens (SIAs) in the Eastern Caribbean and coordinating a surge of resources to the same region. This resulted in 18 interdictions of 119 SIAs and the disruption of one criminal network through the arrest of four key members in fiscal year 2016. JTF East also coordinated a surge of resources to Puerto Rico in support of the Caribbean Border Interagency Group's Operation Caribbean Guard. This operation resulted in 13 arrests, 70 migrants intercepted ashore and 18 migrants interdicted at sea, and seizing over 500 kilograms of cocaine and 28 kilograms of marijuana, over $77,000 in bulk cash, and two vessels.

Finally, JTF-Investigation's HOMECORT investigation RED EYE, in 2016 MX SEMAR (supported by HSI and DEA Mexico City) resulted in the arrest of the leader of the El

Question#:	12
Topic:	Joint Task Forces
Hearing:	Improving Border Security and Public Safety
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Seg-39 criminal network and two top associates. Without the unique comprehensive criminal network analysis and national case coordination that JTF-Investigations developed, this network and its leader would have remained unknown and untargeted by the law enforcement and intelligence communities. In addition, JTF-Investigations' HOMECORT investigation BOLT OVERSEIZE linked together 29 smaller investigations conducted by 10 domestic and international offices and cued the seizure of over 13,000 kilograms of cocaine, over $700,000, and over 50 arrests of a maritime cocaine trafficking, money laundering and corruption criminal network.

Question#:	13
Topic:	Entry into the United States
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Jon Tester
Committee:	HOMELAND SECURITY (SENATE)

Question: If the Southern Border is more difficult to penetrate with increased fencing, technology, and DHS personnel and the demand to enter the United States and for drugs is still present, where do you think these folks will go in an attempt to enter the United States? Where are the traffickers looking to enter the United States?

The response to this question has been classified as FOR OFFICIAL USE ONLY//LAW ENFORCEMENT SENSITIVE and is on file in the committee offices.

Question#:	14
Topic:	Northern Border Staffing I
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Jon Tester
Committee:	HOMELAND SECURITY (SENATE)

Question: What DHS efforts are focused on the Northern Border to increase technology and coordination and not only fully staff the vacant positions, but increase the number of DHS personnel on the Northern Border?

Response: As part of the DHS responsibility to secure the homeland, the Department regularly reviews how it conducts operations to meet the threats and challenges that the Nation faces. One of these challenges is facilitating lawful trade and travel while effectively securing our Nation's northern border. We are currently reviewing our Northern Border Strategy and have a number of ongoing or planned initiatives aimed at substantially increasing the operational coordination both within DHS and with its interagency and international partners along the Northern Border. One of these activities is the Cross-Border Law Enforcement Advisory Committee (the Committee). The Committee is designed by its members (CBP, Canada Border Service Agency, U.S. Immigration and Customs Enforcement, Royal Canadian Mounted Police, and U.S. Coast Guard) to provide executive-level guidance to cross-border law enforcement initiatives involving partnerships between U.S. and Canadian law enforcement agencies. The Department is committed to continuing to find ways, like creation of the Committee, to increase its collaboration with mission partners and its operational effectiveness along our Nation's air, land, and sea borders.

A current Northern Border effort is the Canada and United States Law Enforcement Communications Interoperability (CANUS LECI) project, implementing a functional system that will allow ad hoc, disparate communications systems the ability to pass secure and non-secure mission-critical voice between CBP and our Canadian partners by using each agency's existing and planned communications systems.

Technology is a critical tool in CBP's multi-layered strategy to secure our borders while facilitating legitimate travel and trade. CBP requires additional surveillance capabilities at the northern border ports of entry for port hardening in preventing port runners and monitoring ports that are not staffed 24 hours/day. CBP's land border technology, such as license plate readers and radio-frequency identification technology, were deployed in support of the Western Hemisphere Travel Initiative (WHTI) in 2008 and are nearing the end of useful life. CBP would like to upgrade all northern border locations in addition to adding mobile, online capabilities.

As of May 13, 2017, 95 percent of the authorized CBP officer positions on the Northern Border were filled. However, there are key ports and stations, especially in Maine, Minnesota, Montana, North Dakota, and Vermont, that could benefit from greater

Question#:	14
Topic:	Northern Border Staffing I
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Jon Tester
Committee:	HOMELAND SECURITY (SENATE)

flexibility in CBP's ability to use recruitment and retention incentives for current employees.

As the Nation's largest federal law enforcement organization, CBP faces a number of challenges in recruiting and retaining well-qualified employees. This is not a phenomenon unique to CBP as other federal, state, and local law enforcement organizations must address similar challenges.
Factors that make recruitment and retention a challenge for CBP include:

- *Staffing Requirements* – Achieving and maintaining the staffing floors set by Congress for CBP's law enforcement occupations requires annually attracting and evaluating tens of thousands of applicants to replace losses resulting from retirement and other attrition.
- *Pay/Compensation Flexibilities* – CBP competes with other law enforcement and federal agencies, as well as with the private sector, for the same pool of applicants. Often, these organizations have greater compensation flexibilities to attract and retain employees.
- *Security Requirements* – CBP's rigorous hiring standards limit the pool of suitable candidates. All of CBP's positions require a background investigation (6 U.S.C § 221(b) allows for waiver of the polygraph requirement in limited circumstances). Applicants for law enforcement occupations also must complete a statutorily mandated polygraph examination.
- *High Frontline Hiring Process Discontinuation Rate* – Applicants for CBP law enforcement positions must complete a series of assessments. A high percentage of applicants do not successfully complete the hiring process, including many who voluntarily withdraw from the process.
- *Limited Supply of Candidates* – Strict suitability standards, position requirements, and public scrutiny of law enforcement officers are factors that contribute to a smaller pool of qualified and suitable candidates for CBP's law enforcement occupations.
- *Staffing hard-to-fill and/or remote locations* – Due to the nature of CBP's work along the border, many of the duty locations are located in geographically remote areas. Staffing these and other hard-to-fill locations is critical to meeting operational requirements.
- *From an IT perspective* – unable to match private sector competitive pay, particularly with respect to cybersecurity positions.

Many of the ports along the Northern Border are hard to fill because they are in remote areas with few amenities and resources, such as housing, schools, medical facilities, entertainment options, and opportunities for spousal employment. CBP continues to

Question#:	14
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Primary:	The Honorable Jon Tester
Committee:	HOMELAND SECURITY (SENATE)

streamline the hiring process to attract well-qualified candidates to fulfill mission-critical roles and is pursuing a comprehensive, multi-pronged approach to address particular staffing challenges.

Among other things, since August 2015 CBP has included in its officer entry-level vacancy announcement a recruitment incentive offer in certain Northern Border locations to attract applicants for CBP officer positions in locations that are experiencing difficulties attracting applicants and achieving their authorized staffing levels. Recruitment incentives for entry-level CBP officers include the following Norther Border locations: Raymond, MT; Pembina and Portal, ND; Jackman/Coburn Gore, ME; Massena, NY; and Oroville, WA. We are pursuing recruitment incentives for Sweetgrass, MT; Houlton, ME; and Norton and Beecher Falls, VT. Relocation incentives are available for positions that agencies determine to be likely difficult to fill, but have primarily been used by OFO for Northern Border hard-to-fill locations.

Although recruitment incentives can be used to recruit new employees into the Federal Government and retention incentives can be used to encourage current federal employees to remain in the Federal Government, the current framework does not permit CBP to offer current employees incentives to stay in hard-to-fill locations. The added ability to offer a retention incentive so that an employee does not leave the Northern Border position would allow CBP to better recruit and retain current employees on the Northern Border.

Post-Hearing Questions for the Record
Submitted to the Honorable John F. Kelly
From Senator Heidi Heitkamp

"Improving Border Security and Public Safety"

April 5, 2017

Question#:	15
Topic:	Cybersecurity Strategy
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Heidi Heitkamp
Committee:	HOMELAND SECURITY (SENATE)

Question: Cybersecurity is one of the most challenging emerging threats our country faces. As our communities are increasingly interwoven online, we have to be increasingly careful about cybersecurity threats to businesses and families. Last year, Congress approved the National Defense Authorization Act, which included a provision that instructed to develop a cybersecurity strategy by March 23. As you know, the deadline has passed.

When does DHS expect to release its cybersecurity strategy?

Can you briefly discuss some of the strategic and operational goals and priorities you anticipate will be in the final version of the strategy?

President Trump's blueprint budget calls for $1.5 billion for DHS activities to protect Federal networks and critical infrastructure from a cyberattack. If that money were appropriated, how would you align that investment with DHS's cybersecurity strategy?

Response: As I have recently reiterated, cybersecurity is a priority for our Department because our country depends on a secure cyberspace and we are under constant attack by a wide range of adversaries through cyberspace. DHS has broad responsibilities to protect Americans against these threats. The men and women of the United States Secret Service (USSS) and U.S. Immigration and Customs Enforcement's Homeland Security Investigations (HSI) look to counter those criminals who use the Internet for malicious purposes. Last year the USSS prevented half a billion dollars in potential fraud losses to cyber crime. With more than 250 agents in 47 countries, ICE HSI, has investigative authorities over cross border crimes and maintains partnerships with foreign law enforcement counterparts that enable them to better prepare the U.S. Government to address significant cyber crime-focused incidents. Our National Protection and Programs Directorate (NPPD) is leading the charge to provide innovative capabilities to ensure the

Question#:	15
Topic:	Cybersecurity Strategy
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Heidi Heitkamp
Committee:	HOMELAND SECURITY (SENATE)

protection of Federal civilian networks, partner with industry to secure vital systems, and build resilience across government and critical infrastructure. NPPD is also working to continually improve its information sharing capabilities and ability to respond in the event of incident. Additionally, as a Department we engage internationally and invest in cutting edge research to ensure that we are building as secure and resilient a cyber environment as possible.

We continue to develop and refine our DHS cybersecurity strategy with all of these responsibilities in mind. We are also working to ensure that our DHS strategy aligns with broader Administration cybersecurity priorities and national goals and that it can drive our future actions and budget priorities. Finalizing the DHS cybersecurity strategy is one of our top policy priorities and we envision doing so within the next several months. My intent is for this strategy to set priorities across all DHS cybersecurity mission areas and employ a whole-of-DHS approach to cybersecurity. It will focus on coordinating departmental cybersecurity activities to ensure a unity of effort. As directed by the National Defense Authorization Act (NDAA), the strategy will focus on network protection activities of NPPD through the National Cybersecurity and Communications Integration Center, law enforcement efforts by cyber investigators at USSS and ICE HSI, international engagement, and research and development.

The NDAA also calls for an implementation plan to follow the cybersecurity strategy to include the alignment of strategic objectives to projected costs, as well as budget and planning guidance. DHS would align funds appropriated for any DHS cybersecurity activities in accordance with the implementation plan required by the NDAA and through normal budget processes.

Question#:	16
Topic:	LEO Agreement Program
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Heidi Heitkamp
Committee:	HOMELAND SECURITY (SENATE)

Question: Several of my constituents in North Dakota have expressed concern about the Trump administration's proposed elimination to the Transportation Security Administration's (TSA) law enforcement officer reimbursement (LEO) agreement program. The LEO program has played an important role helping airports in North Dakota and across the country meet federally mandated requirements and provide airport security.

Are you concerned that weakening federal assistance to programs that help fund airport security could have negative implications to U.S. national security? Please elaborate.

Response: The Law Enforcement Officer Reimbursement Program (LEORP) has provided assistance to our state and local law enforcement partners in protecting our Nation's airports. Along with the Transportation Security Administration (TSA), state and local law enforcement agencies play a critical role in security at airports throughout our country.

However, the Department of Homeland Security (DHS) is obligated to holistically review programs and activities and make risk-based decisions about optimizing our security architecture. DHS considers many variables when reviewing programs and their role within our overall security strategy to ensure they take into account the President's vision and national budgetary priorities.

As the proposed budget moves forward, TSA will continue to engage closely with state and local law enforcement to ensure the traveling public continues to receive the highest level of protection at our nation's airports.

Question#:	17
Topic:	Disaster Mitigation Grants
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Heidi Heitkamp
Committee:	HOMELAND SECURITY (SENATE)

Question: As you know, the Federal Emergency Management Agency (FEMA) administers grant programs to help states prepare for and mitigate potential disasters. By investing in mitigation efforts, communities are more resilient and better prepared, which can mean significant cost savings to the federal government in future disasters. Unfortunately, the President's blueprint budget calls for the elimination or reduction of a number of FEMA grants designed to help states prepare for future disasters.

Are you concerned that the elimination or reduction of disaster mitigation grants could limit or otherwise deter states from making investments in mitigation efforts?

If federal investments in mitigation efforts are reduced, what steps can FEMA take to encourage states to continue investments in mitigation efforts?

Response: FEMA offers three Hazard Mitigation Assistance (HMA) grant programs to assist states, local, tribal, and U.S. territorial communities (SLTT) in implementing cost-effective, long-term hazard mitigation measures. These programs, the Hazard Mitigation Grant Program (HMGP), the Pre-Disaster Mitigation (PDM) program, and the Flood Mitigation Assistance (FMA) program, have different periods of funding availability and eligibility considerations. The HMGP provides funds to SLTT after a disaster declaration to protect public or private property through various mitigation measures. When a Federal Disaster Declaration is made, new opportunities for mitigation funding may be available. The PDM program provides funds to SLTT, so they may continue to achieve a higher level of risk management capability through the implementation of hazard mitigation planning and mitigation projects prior to a disaster event. This grant program addresses many different types of natural hazards. FMA provides funds on an annual basis to SLTT for projects that reduce or eliminate the long-term risk of flood damage to buildings, homes, and other structures that are insured under the National Flood Insurance Program (NFIP). The FMA program focuses solely on flood mitigation. The PDM and FMA are competitive programs that are funded on an annual basis by Congressional appropriation.

HMA programs reduce community vulnerability to disasters and their effects, promote individual and community safety and resilience, and promote community vitality after an incident. Furthermore, HMA programs reduce response and recovery resource requirements in the wake of a disaster or incident, which results in a safer community that is less reliant on external financial assistance. Hazard mitigation is the only phase of emergency management specifically dedicated to breaking the cycle of damage, reconstruction, and repeated damage. Accordingly, SLTT are encouraged to take

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advantage of funding that HMA programs provide in both the pre- and post-disaster timelines.

Minimizing the effects of disasters is a shared responsibility, and FEMA continues to look for opportunities to partner with other public and private organizations to demonstrate that implementing hazard mitigation projects is an effective way to reduce risk and increase community resilience. FEMA will continue to provide training and workshops for stakeholders to discuss mitigation best practices and lessons learned. Through the mitigation planning process, SLTT identify strategies for reducing risk, whether through local action or via FEMA funded mitigation projects. We look forward to continuing our relationships with our partners to make our mitigation funding as effective as possible, looking for private/ non-profit entities to help fund projects.

Question#:	18
Topic:	Mexico Partnership
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Heidi Heitkamp
Committee:	HOMELAND SECURITY (SENATE)

Question: You have stated that Mexico is a critical partner in securing our border and helping to shut down the flow of illicit drugs and trafficking victims into the United States. It would also appear that Mexico must be a critical partner to any effort – given our shared border and that the migration spikes that we are seeing are coming from Central America – as we are now experiencing outmigration to Mexico.

What role do you see Mexico playing in border enforcement – both at their border with the United States and their southern border with Guatemala and Belize?

Response: Mexico and the United States have a shared interest in creating a 21st century border that promotes the security and prosperity of both countries and of the North/Central American region. The primary focus necessitates securing and facilitating the flows of people and cargo, strengthening public security, and engaging the border communities in the creation of a new border vision. Illegal migration is a challenge across the hemisphere and we all need to work together to ensure migration is safe, legal, and orderly. We are grateful for Mexico's cooperation on this important issue. Mexico's efforts include improving border controls, stopping human smuggling and trafficking networks, helping migrants in need of protection, and improving the capacity of countries to receive and reintegrate their citizens who have been returned from other countries. We will work with Mexico and Central America to address the underlying economic and security conditions that drive migration.

In 2014 Mexico launched a southern border security initiative to tighten enforcement at its southern border as well as respond to a request from the United States for help to address the surge of unaccompanied alien children at the U.S. - Mexico border. The program focuses on curtailing illegal migration from Central American countries and includes interdicting and dramatically expanded repatriation of Central American migrants. Mexico has also increased enforcement along its southern border and efforts to share best practices on migration management with Central American governments. Working together they reduced the numbers of illegal aliens apprehended at the U.S.-Mexico border. The United States trains Mexican counterparts to increase their capacity to effectively and humanely stop illegal aliens transiting through Mexico to the United States. Mexican cooperation on migration is critical to U.S. border security efforts. Mexican officials are highly responsive to U.S. law enforcement agencies' concerns regarding border enforcement and information sharing is robust.

Continued bilateral engagements to prioritize and shepherd critical projects that promote the economic well-being, global competitiveness, and the safety of our countries is

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essential to shutting down the flow of illicit drugs and trafficking victims in the North and Central American regions.

Question: What additional assistance do we need from Mexico that they are not providing in addressing both borders – and how can we forge a productive partnership given some of the rhetoric that has been directed at their government?

Response: The sharing of information such as intelligence can be strengthened through additional joint operations not only in the land environment (mirrored patrols), but also in the air and marine environment (short-lander operations) and through additional information sharing training and initiatives. The participation of all levels of government is essential to collaborative and effective border management. It is critical to promote co-responsibility and law enforcement cooperation including the collection, analysis, and sharing of information in accordance with applicable laws, regulations, and policies. This information would come from interdictions, investigations, and prosecutions in order to disrupt "criminal flows" and enhance public safety.

DHS and DoS can provide assistance to the Government of Mexico in constructing border roads similar to those on the U.S. side to provide law enforcement and emergency access to remote areas of the border where illegal activity is high.

Also, it is critical to continue the engagement of border communities, as well as state, local, and tribal governments as outlined in bi-national strategy development, law enforcement, and communications. U.S. and Mexican agencies should continue expanding bilateral cooperation with border state governors, border state legislators, state attorneys general, universities and community colleges, business groups, and civil society groups. In addition, we should reaffirm our commitment to the various existing public and private bilateral initiatives and arrangements with Mexico.

Question: What more does the Mexican government need from the United States to address border security and the movement of people and commerce at both of their borders?

Response: Continued training and technical assistance will promote a shared vision of security between the U.S. and Mexican Governments. This collaboration is beneficial to the United States because it complements U.S. domestic efforts to reduce drug demand, stop the flow of arms and weapons, and confront gangs and criminal organizations by supporting the Mexican agencies which are responsible for combating them in Mexico. The training also complements broader efforts to engage on every front in the battle against organized crime.

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In order to close information gaps, CBP should continue the partnership with Mexican customs and immigration agencies to improve data collection, enhance existing systems, and implement automated technology. This cooperation will support the identification and targeting of persons of interest seeking to depart our countries, as well as enhance the capability to identify immigration violators. CBP and the Government of Mexico would also benefit from the continued development and implementation of innovative programs and initiatives that facilitate the secure flow of cross-border trade and travel, which would reinforce our commitment to a joint border management approach. Programs such as the Unified Cargo Processing (UCP), capture the spirit of innovation and collaboration. UCP is a low cost, high impact program that leverages government of Mexico Customs officials and Merida Initiative resources to secure cargo from Transnational Criminal Organizations contamination while facilitating its legitimate flow. The program encompasses CBP personnel working side by side with Mexican counterparts to conduct simultaneous inspections.

Furthermore, CBP and Mexico's National Migration Institute are developing a pilot program to share border crossing information such that a traveler's entry into one country will be recorded as an exit from the other. This program will include the future deployment of a shared, radio-frequency identification (RFID)-enabled biographic entry/exit system along the common land border with the goal of improvement to both countries' immigration records and shared security. CBP will also support Mexico's efforts to collect entry data on travelers into Mexico via an RFID-enabled system. CBP is also supporting the U.S. Department of Homeland Security's/U.S. Department of State's (DHS/DOS) biometrics efforts. DOS is contributing $75 million to Mexico to develop an automated interagency biometric system to enhance the ability of the Mexican agencies to collect, store, and share information on criminals and aliens.

Question#:	19
Topic:	SCAAP Funding
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Heidi Heitkamp
Committee:	HOMELAND SECURITY (SENATE)

Question: Local border communities are unfairly burdened with the cost of investigating, apprehending, holding, trying and even medically treating individuals who have entered the country illegally. After years of trying to secure additional funding under previous administrations for increased funds, the new administration has proposed a budget cutting those funds completely.

Is that something that you support?

If so, how do expect to garner buy in and support from these communities and agencies when they are bearing a significant cost to handle what is a federal issue?

What is the proposed role you expect local law enforcement to play on border enforcement?

How do you propose local law enforcement offset their costs if they lose SCAAP funding?

Response: Yes, the U.S. Department of Homeland Security (DHS) supports the President's budget request. DHS works closely with state and local law enforcement agencies to ensure public safety, and this includes removing dangerous criminal aliens from the United States so they do not have an opportunity to re-offend within the community. DHS works closely with state and local law enforcement agencies to identify criminal aliens in their custody in order to remove them as expeditiously as possible from the United States following release by state or local law enforcement. Such cooperation, through the Institutional Removal Program and Secure Communities, among other DHS programs, ensures the burdens imposed on state and local law enforcement by criminal aliens are quickly alleviated. DHS's border enforcement components then work to ensure these criminal aliens cannot illegally re-enter the United States to commit additional crimes. Effective immigration enforcement and border security, in coordination with state and local law enforcement agencies, help ensure these criminal aliens remain outside the United States and outside the confines of state and local jails and prisons, resulting in lower costs for these law enforcement agencies.

Question#:	20
Topic:	Unmanned Aircraft
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Heidi Heitkamp
Committee:	HOMELAND SECURITY (SENATE)

Question: Unmanned aircraft are a vital component of domain awareness along the northern border where minimal staffing and resources operate in support of border security.

What is the Department's strategy moving forward regarding the use of unmanned aircraft along the northern border?

Response: Progress in border security, domain awareness, and threat assessment requires interagency coordination among CBP's law enforcement partners. AMO regularly works with our partners to assess our strategic and tactical needs to achieve a layered approach to securing the northern border. AMO's long-term strategic plan, *Air and Marine Operations Vision 2025*, provides AMO guidance to counter the nation's threats, outlines our core competencies, and establishes goals and objectives.

As CBP's understanding of threats evolves, AMO reviews and adjusts our resources to focus on priorities. Through this assessment, in 2012, AMO identified that the cross-border interdiction mission on the northern border did not materialize to the extent anticipated when OAM originally established the northern border branches. This led to the development and implementation of AMO's Northern Border Strategic Realignment, which included reassignment of personnel and assets well suited to the interdiction mission into high-tempo areas within the southwest border. However, these changes have not resulted in a reduction of flight hours or effectiveness across the northern border, as the remaining force has become increasing engaged in investigations, one of AMO's core competencies established in *Air and Marine Operations Vision 2025*.

Air and Marine Operations Vision 2025 was developed in alignment with a range of existing strategic plans with a nexus to the northern border, including the CBP and DHS strategic plans, as well as the Department's June 2012 *Northern Border Strategy* and the 2014 *National Northern Border Counternarcotics Strategy*, which includes a specific chapter on air and marine.

Question: In light of the recent attention being directed towards the southwest border, will there be a reduction in unmanned aircraft operations along the northern border and in particular at Grand Forks, N.D.?

Response: AMO does not plan to reduce the number of permanent FTE positions or unmanned aircraft systems at NASOC–GF. The center continues to operate its UAS as

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maintenance allows, there are no planned changes in operations that will affect situational awareness or intelligence-gathering capabilities along the northern border.

Question#:	21
Topic:	Northern Border Threat Assessment
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Heidi Heitkamp
Committee:	HOMELAND SECURITY (SENATE)

Question: DHS is in the process of performing a Northern Border Threat assessment and capability gap analysis as outlined in my Northern Border bill which was signed into law last December.

Are you confident that DHS will meet the June deadline for this assessment?

Response: I can assure you that DHS is working to meet the June 12, 2017 deadline for the report required by the Northern Border Security Review Act. The Department of Homeland Security Office of Policy has taken the lead for the review, and is working closely with our Components in order to deliver the report per the terms of the law.

Question: Now that you have had the opportunity to visit the Northern Border and Canada as Secretary, do you think we are deploying the correct strategy and is DHS prepared to adjust this strategy based up the pending results of the threat assessment?

Response: DHS continuously assesses the threats along the northern border and the Department's capability to respond in close cooperation with our Canadian security partners. Because the study mandated in the Northern Border Security Review Act is not yet complete, we cannot comment on its potential findings. However, DHS will remain vigilant to monitor and assess all border security threats now, and will continue to do so after the report's completion. In addition, the Cross Border Law Enforcement Liaison Group, which is composed of representatives from USBP, USCG, ICE, RCMP, and CBSA, plan to conduct a binational threat assessment. This process is anticipated to begin in 2018.

Question#:	22
Topic:	Money Flowing Back to Mexico
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Heidi Heitkamp
Committee:	HOMELAND SECURITY (SENATE)

Question: A critical component of shutting down transnational criminal organizations activities is interrupting the money flow back to Mexico and other home countries. It seems clear this effort, to be successful, means redefining incentives and rewards around the goals of not just seizing physical loads but shutting down value chains and operational networks. Clearly this goal involves more orchestrated, multi-agency, networked efforts.

Will this be a priority?

What structure and command structure is best to make this happen - and what additional resources and authorities would this require?

What measures are already being taken to address this issue?

Response: The imperative of shutting down value chains and operational networks is, and has been for some time, a priority for this Department and for the interagency.

At the outset, it is important to note that although the Department does devote significant effort to seizing illicit products (such as drugs, counterfeit goods, etc.), the goal of these interdiction actions is not to fill warehouses with seized goods, but rather to arrest perpetrators and seize evidence, thereby creating intelligence, sparking investigations, creating prosecutions, and ultimately disrupting and dismantling transnational criminal organizations and other threat networks. We refer to this as the "cycle of success."

Beyond our interdiction-related activities however, the Department focuses considerable time and resources directly on value chains and operational networks. For example, ICE HSI's National Bulk Cash Smuggling Center identifies, investigates, and disrupts bulk cash smuggling activities around the world. This center, which operates 24 hours a day, assists federal, state, tribal, local and foreign law enforcement authorities in their efforts to restrict the flow of funding that supports criminal enterprises. It provides real-time tactical intelligence, investigative support, and expertise in the transportation and smuggling of bulk cash. By contacting the National Bulk Cash Smuggling Center, law enforcement officers gain access to financial investigative expertise that will help them better follow the money trail, seize, and forfeit criminal proceeds.

Between fiscal years 2003 and 2016, ICE HSI bulk cash smuggling investigations led to the arrest of more than 4,000 individuals and seizures of more than $769.2 million. In

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fiscal year 2016 alone, ICE HSI special agents arrested 575 individuals and seized more than $66.3 million.

The Department's Joint Task Forces (JTFs), which were initially established in 2015 as pilots and formally recognized based on statutory authorities in December 2016, are also playing an important and growing role in countering illicit money flows and targeting threat networks. Joint Task Force - East (JTF-E) and Joint Task Force – West (JTF-W) conduct regional operational coordination and oversight of multi-Component activities, to include counter-bulk cash smuggling efforts. Joint Task Force - Investigations (JTF-I), prioritizes the Department's top threat networks and oversees a National Case Coordination effort that maximizes efficiency of cross-Component and cross-regional investigations that often target illicit finance.

ICE, CBP, the Coast Guard, the DHS Office of Policy, and the Department's Intelligence and Analysis Directorate (I&A) are all members of the interagency Threat Mitigation Working Group (TMWG), which was chartered in accordance with the 2011 National Strategy to Combat Transnational Organized Crime. The TMWG's purpose is to identify the greatest criminal threats, and to coordinate the whole of the Federal Government in taking action against those threats. President Trump's Executive Order of February 9, 2017 has strengthened the TMWG and put it at the center of a renewed effort. The TMWG is currently coordinating the Interagency's efforts against three specific transnational criminal networks. Each of these efforts is targeting financial transactions, among other things.

CBP leads the newly-established Counter Network Division (CND) within the National Targeting Center. CND's mission is to support CBP, DHS, and the interagency law enforcement and intelligence communities in developing an interoperable counter network process that provides a comprehensive understanding of emerging threats. This analysis enhances our understanding of illicit networks (terrorism, human smuggling, narcotics, and illicit trade/finance) and illuminates opportunities for CBP or partners to disrupt their operating environments and ultimately dismantle them.

It should also be noted that the DHS Component organizations participate in interagency task forces that focus on networks and on financial transactions. Examples of this include our participation in the Drug Enforcement Administration's Special Operations Division (SOD), and the Department of Defense-led Narcotics and Transnational Crime Support Center.

Each of the organizations described above has a unique command structure tailored to that organization's specific tasks. Over time, we have found this to be the best approach.

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The unifying theme of these organizations is that their command structures are designed to foster intra-departmental and interagency collaboration and coordination.

Question#:	23
Topic:	Secure Private Land
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Heidi Heitkamp
Committee:	HOMELAND SECURITY (SENATE)

Question: In order to construct further permanent structures – of any kind – along the U.S. southwest border with Mexico - the Department of Homeland Security will need to secure private land.

How much private land will need to be secured by eminent domain to build a wall along the entire border?

Response: For border barrier projects outlined in the FY17 enacted budget and FY18 Presidential budget, CBP included a rough order of magnitude for real estate costs based on lessons learned from the PF225 project. However, at this time, CBP cannot provide any definitive real estate costs or requirements until CBP begins conducting the necessary planning and research.

Question: How many American citizen landowners will be affected and have to give up land to satisfy the right of way requirements?

Response: It is too early to tell how many American citizen landowners may be affected by border barrier construction. Once final real estate needs are determined, meetings will be arranged with the appropriate stakeholders.

Question: Does the Department of Homeland Security plan to actively consult with tribes while preparing the 180-day report to the President? If so, what is the plan – and what dates and locations have you arranged for the consultation to occur?

Response: DHS and CBP will consult with Native American tribes near sites at which border barriers will be constructed as necessary. It is too early to know where the border barriers will be constructed and which tribes may be affected. Once locations are determined, meetings will be arranged with the appropriate stakeholders.

Question#:	24
Topic:	Consultation with Tribes
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Heidi Heitkamp
Committee:	HOMELAND SECURITY (SENATE)

Question: Under section 102(b)(1)(C) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended, and pursuant to the Department of Homeland Security (DHS) consultation policy DHS has a responsibility to conduct meaningful consultation with tribes.

Does the Department of Homeland Security have a plan to consult with tribes affected by the construction of the wall or any additional border structures?

If so, what is the plan – and what dates and locations have you arranged for the consultation to occur?

Response: DHS recognizes the importance of consultation with tribal nations impacted by deployment of border security infrastructure and ongoing border security operations. U.S. Customs and Border Protection (CBP) and the U.S. Border Patrol (USBP) regularly engage leaders from tribes in proximity to the border region or with tribal members impacted by border security operations. Accordingly, to the extent that additional border barriers will be constructed near tribal lands, DHS and CBP will consult with the appropriate tribal authorities. It is too early to know where the border barriers will be constructed and which tribes may be affected. Once real estate needs are assessed, meetings will be arranged with the appropriate stakeholders.

Question: Does the Department of Homeland Security plan to actively consult with tribes while preparing the 180-day report to the President?

If so, what is the plan – and what dates and locations have you arranged for the consultation to occur?

Response: As noted, DHS and CBP headquarters and field staff frequently engage tribal leaders and members with equities in border security infrastructure and operations. Insights gathered from those regular engagements are routinely shared within CBP and DHS, and may inform broader discussions of the state of security along the U.S. southern border.

DHS and CBP will consult with Native American tribes near sites at which border barriers will be constructed as necessary. It is too early to know where the border barriers will be constructed and which tribes may be affected. Once locations are determined, meetings will be arranged with the appropriate stakeholders.

Question#:	25
Topic:	Tohono O'odam Nation
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Heidi Heitkamp
Committee:	HOMELAND SECURITY (SENATE)

Question: The Tohono O'odham Nation has 34,000 members and some 62 miles of the U.S.-Mexican border cuts through its traditional homelands, so it has members living on both sides of its border. The Nation has been actively engaged in border protection for many years now, and has been working with DHS to coordinate these efforts. The Nation has been seeking to consult with the Administration regarding the impacts the construction of the proposed wall will have on the Nation and its reservation. In light of the United States' trust responsibility to tribes, and in light of Congress' requirement that DHS actively consult with tribes pursuant to the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

Please describe what has DHS done to consult the Tohono O'odham Nation thus far?

Response: CBP frequently consults with leaders from the Tohono O'odham Nation ("the Nation") at field and headquarters levels. U.S. Border Patrol (USBP) Tucson Sector leadership hold regular meetings with the Nation to discuss all aspects of USBP operations within Nation lands, including manpower and infrastructure resourcing. Pursuant to the Department of Homeland Security's Tribal Consultation Policy, "To the greatest extent practicable, subject to Exigent Situations and to the extent permitted by law, DHS will engage in Consultation with affected Tribal Governments prior to adopting policies or taking actions that are identified by DHS as having Tribal Implications." CBP Acting Deputy Commissioner Randolph Alles emphasized the agency's commitment to this consultation in his April 13, 2017 meeting with Nation Chairman Manuel and other leaders from the Nation. Consistent with DHS policy and with respect for the shared interests with the Nation, USBP Sector leadership and CBP will continue to engage the Nation's leaders on issues surrounding implementation of the President's Executive Order.

Question: Is DHS also studying technological solutions which may be both more effective on the remote parts of the Nation's reservation and more cost efficient?

Response: DHS understands how critical the state of the border is to the national security of the United States and recognizes the imperative need to deploy and sustain the necessary infrastructure, technology, and personnel along the southern border. DHS and CBP work closely with leaders from the Tohono O'odham Nation ("the Nation") at field and headquarters levels to identify solutions to enhance border security within Nation lands. U.S. Border Patrol (USBP) Tucson Sector leadership hold regular meetings with the Nation to discuss all aspects of USBP operations within the Nation's lands, including manpower and infrastructure resourcing. In response to the EO, DHS and CBP are

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leveraging years of institutional knowledge and subject matter expertise in border security operations and infrastructure construction to formulate an executable plan of action, to include potentially more effective and cost efficient technological solutions. These efforts augment ongoing efforts by CBP and the Nation to potentially deploy integrated fixed towers on the Nation's lands, and CBP will continue to work with the Nation to move this important project forward.

Question: Is DHS aware that construction of the wall in certain parts of the Nation's reservation could cause significant flooding?

Response: CBP coordinates with Federal and State agencies, as well as the public, to ensure potential environmental impacts are identified and thoroughly evaluated for each project. The U.S. Border Patrol regularly evaluates key issues surrounding border security operations, including terrain, floodplain, waterways, cultural sites, cost, migration patterns, and other important geographical and environmental concerns. CBP and the U.S. Border Patrol will continue to leverage partnerships and dialogue with state and local stakeholders to ensure that the unique operational needs of each region are effectively met.

Question: Is DHS requesting additional funding for the Tohono O'odham Nation's tribal border security activities, and if not, why not?

Response: DHS has not requested additional funding specifically dedicated to the Tohono O'odham Nation's ("the Nation") border security activities. Current DHS and CBP funding already support ongoing CBP operations within Nation lands. U.S. Border Patrol Tucson Sector leadership regularly engage with the Nation's tribal and law enforcement leaders to coordinate enforcement and improve border security operations.

Question: Does DHS support draft legislative language, originally introduced by Senator John McCain in the last congress as part of the Tribal Law and Order Act, which would allow DHS to use some of its budget to repair reservation roads on the Tohono O'odham reservation which have been severely damaged by CBP vehicular traffic?

Response: While DHS and CBP do not typically comment on proposed legislation, CBP is open to working with members of Congress and leaders from the Tohono O'odham Nation ("the Nation") to explore improvements to roads and other infrastructure critical to CBP and the Nation's border security operations on tribal lands.

Question#:	26
Topic:	Hiring New Border Agents
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Heidi Heitkamp
Committee:	HOMELAND SECURITY (SENATE)

Question: The President has directed the Department of Homeland Security to hire 5,000 new border agents – yet there are approximately 2,000 currently funded positions that are still open.

Given the current openings, rates of attrition, and potential siphoning off of CBP agents to other state, local, or federal agencies – how do you plan to increase ranks quickly while maintaining appropriate vetting?

Response: CBP has worked aggressively over the past two years to implement its multifaceted recruitment strategy and execute large-scale improvements to its frontline hiring process and capability. While these efforts have led to considerable progress in many areas, CBP will continue working to strengthen all aspects of its recruitment strategy in order to meet the Executive Order hiring mandate. This includes initiatives designed to attract more applicants who are suited to the unique demands of CBP's mission, expedite the pre-employment timeline, refine the hiring process to address all potential bottlenecks, and reduce the attrition rate of our existing workforce.

CBP is working to improve brand awareness and convey the importance and scope of our mission within the public sphere. We will continue to focus on increasing our digital and social media presence to reach the millennial generation; expanding our outreach at high schools, colleges, and universities; and collaborating with the Department of Defense to help transitioning service members find a rewarding and suitable career on our frontline.

CBP has held or participated in close to 400 recruitment events across the 13 states that comprise or have a direct nexus to the northern border in Fiscal Year 2017. In the last three months alone, CBP recruiters have visited 12 schools in Montana to take part in career fairs for prospective graduates, including major colleges like the University of Montana and Montana State University, as well as smaller tribal colleges, such as Stone Child College and Fort Peck Community College. We have also collaborated with several community organizations, including the Montana Sportsmen Alliance and Montana Joining Community Forces, whose job fairs are geared toward military veterans, a crucial demographic in CBP's staffing strategy.

In April 2017, CBP is using a new expedited hiring process for all frontline applicants. The expedited hiring process incorporates lessons learned from CBP's hiring hub program launched in 2015, which compressed many months' worth of processing steps into just a few days. The hiring hub model has shown the ability to hire applicants in as little as 160 days.

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Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Heidi Heitkamp
Committee:	HOMELAND SECURITY (SENATE)

Question: How will you manage the culture and quality of so many new hires given CBP has struggled with this during past hiring surges?

Response: CBP is examining every aspect of its pre-employment process to identify areas in which improvements can be made and redundancies can be omitted, and CBP remains committed to maintaining its current high standards and recruiting only the best America has to offer. Many of the modifications being considered were proposed prior to the release of the Executive Order. A key element of our hiring strategy is to recruit individuals the Federal government has already vetted to work in sensitive positions, such as military and Federal law enforcement officers, and we continue to strengthen our relationships with the Department of Defense and other Federal agencies to improve our efforts in this area.

Question: Both you and now Deputy Secretary Elaine Duke have committed to not lowering standards in order to meet any current or future hiring needs – when you say you will not lower standards, what exactly does that mean?

Response: The changes to CBP's pre-employment process are designed to expedite the process not by lowering standards but by eliminating elements of the process that we have identified as redundant or no longer necessary. Reducing the time-to-hire prevents otherwise qualified candidates from dropping out of the process due to fatigue or taking more immediate job offers elsewhere. While the changes being implemented will result in more applicants passing the pre-employment process, all successful applicants must still undergo basic training at the CBP Academies, whose core function is to uphold our frontline standards and ensure mission-readiness.

Question: Does that mean that you will maintain all current standards and look for other means to recruit and retain CBP agents in order to meet the funded staffing levels?

Response: Yes, in addition to refining all phases of our pre-employment process, CBP is committed to finding better, more effective ways to recruit more applicants and retain existing frontline personnel. As CBP works to reinforce the momentum of our many outreach and process efficiency efforts, we are currently exploring innovative practices regarding incentives and mobility options that would not only enhance our recruitment prospects but improve our workforce attrition rates as well. We anticipate full compliance with the Executive Order provision and will ensure that CBP can effectively adapt to the changing needs of the country.

Question#:	27
Topic:	Northern Border Staffing II
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Heidi Heitkamp
Committee:	HOMELAND SECURITY (SENATE)

Question: As you may know, I have been very focused on improving staffing on the Northern Border, and recognize how difficult it is to recruit folks to remote locations like Portal and Pembina North Dakota. I introduced my Flexible HIRE Act last summer to address some of these challenges, and I look forward to advancing those ideas in a bipartisan way this Congress.

In your opinion, what can DHS do better to address vacancies on the Northern Border?

What additional tools does CBP need at their disposal to address these recruitment and retention challenges?

Response: CBP has aggressively pursued Recruitment, Retention, and Relocation (the 3Rs) incentives in hard to fill locations. There is evidence the Special Salary Rate (SSR) that had been in place for Portal, North Dakota was effective; CBP is currently seeking a 25 percent SSR for Portal. CBP will continue to evaluate and pursue the 3Rs in other areas as necessary. These incentives do require a financial commitment and are essential for CBP to reach its hiring and staffing goals.

CBP conducts recruiting events in every state in the Nation, including northern border states. In order to improve our recruiting effectiveness, CBP must ensure its recruitment capabilities are commensurate with the expanding complexity and demands of its mission in order to become the employer-of-choice for law enforcement professionals. Given the new hiring mandate, existing staffing shortages, and the increasingly unfavorable view of careers in law enforcement amongst the target generation, CBP must not only continue the aggressive implementation of recruitment initiatives (some of which are listed above) but also reinforce its entire recruitment infrastructure. This includes brand awareness, digital media, recruiter training, and hiring. If CBP is to be successful in meeting its staffing goals, each of these areas must be reinforced with funding and resources.

Question#:	28
Topic:	Supervisor Training
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Heidi Heitkamp
Committee:	HOMELAND SECURITY (SENATE)

Question: At a recent federal workforce Subcommittee hearing, I could not help but notice the shared belief that managers should be using the tools they already have at their disposal more effectively. This commonality makes it even more important that we are doing a better job of making sure managers are properly trained. I introduced my Supervisor Training bill last Congress, and intend to introduce it again in the 115th.

How would ensuring that supervisor training is carried out across the government help alleviate some of the challenges that federal employees face on a daily basis?

Response: At DHS, we have implemented a strategic framework for developing leaders at all levels, from team member to executive. This framework calls for all supervisors, new and seasoned, to complete training at the outset and throughout their careers – especially at significant transitions in leader levels. By ensuring that supervisors are completing required training throughout their supervisory careers, we have the chance to repeatedly set the expectation of how supervisors perform their duties, and we give them the tools and practice to be able to deploy those capabilities in leading the workforce.

Question#:	29
Topic:	Immigration Detention
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Heidi Heitkamp
Committee:	HOMELAND SECURITY (SENATE)

Question: The White House's proposed 2017 supplemental and 2018 budget contemplate a massive expansion in immigration detention. As you know, the detention system is already at historic highs with more than 40,000 men, women and children detained on a daily basis. You sat on the Homeland Security Advisory Council when it reported this past December on significant deficiencies in transparency and monitoring of this system. The Advisory Council raised significant health and safety concerns – and these concerns and those of civil society organizations are enough to bring into question ICE's capacity to provide for the basic health and safety of those it detains. For example, DHS's own investigations have uncovered a high rate of deaths in custody attributable to medical negligence. Additionally, there is no right to counsel in removal proceedings. Because of the remote nature of most immigration facilities, it is increasingly difficult for indigent immigrants in detention to secure representation in removal proceedings. In fact, nearly 90% of immigrants in detention do not have legal counsel.

What measures are you putting in place to improve health and safety protections as well as effective inspections and monitoring for the detention system?

Response: To clarify, the Immigration and Nationality Act, specifically 8 U.S.C. § 1362 states that, "[i]n any removal proceedings before an immigration judge and in any appeal proceedings before the Attorney General from any such removal proceedings, the person concerned shall have the privilege of being represented (at no expense to the Government) by such counsel, authorized to practice in such proceedings, as he shall choose." U.S. Immigration and Customs Enforcement (ICE) takes very seriously the health, safety, and welfare of individuals in its custody and is in the midst of examining several detention models to determine which will best meet ICE's projected detention needs.

Currently, ICE utilizes a multi-pronged approach to oversee detention conditions at its facilities, including the medical and mental health care provided to detainees. This enables ICE to ensure appropriate quality of care, regardless of any change that might be made within its detention management protocols.

ICE Enforcement and Removal Operations (ERO) inspects ICE detention facilities on an annual or biennial basis in accordance with the contract under which they operate. Any discrepancies related to medical or mental health care are resolved collaboratively by ERO field offices and ICE Health Service Corps (IHSC) representatives, working with facility staff and the detention services provider. If a facility has an ICE Detention Services Manager (DSM) on site, the DSM will help facilitate a resolution and monitor

Question#:	29
Topic:	Immigration Detention
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Heidi Heitkamp
Committee:	HOMELAND SECURITY (SENATE)

for continued compliance. Currently, DSMs are assigned to over 50 key detention facilities that house approximately 79 percent of ICE's detained population.

The ICE Office of Professional Responsibility's Office of Detention Oversight (ODO) also conducts inspections of ICE facilities. ODO focuses its inspections on assessing facility compliance with ICE national detention standards tied directly to detainee life, health, safety, and/or civil rights and civil liberties. These targeted inspections focus on local policies and practices that may have long-lasting and meaningful impact on ICE detainees. As with the ERO inspections, when ODO issues findings, ERO field offices and IHSC work with facility staff to address any deficiencies. OPR's External Reviews and Analysis Unit (ERAU) also conduct detainee death reviews (DDR) which are focused, fact-finding, objective reviews of the facts and circumstances surrounding the deaths of ICE detainees. ODO and ERAU provide their findings directly to ICE executive management.

ICE detention facilities are also subject to compliance visits and investigations by the Department of Homeland Security (DHS) Office for Civil Rights and Civil Liberties (CRCL). ICE ERO, IHSC, and other stakeholders immediately review and consider for implementation any recommendations made by CRCL. The DHS Office of Inspector General investigates claims of fraud, waste, abuse, and mismanagement, and the ICE Office of Diversity and Civil Rights also works to improve conditions at detention facilities.

Additional oversight mechanisms used by ICE include:

- field office compliance teams;
- special assessments and ad-hoc reviews by ERO Headquarters;
- technical assistance reviews by ICE inspections contractor;
- contract performance reviews and contract deficiency reports;
- weekly staff-detainee visits by ERO field office personnel;
- senior field office leadership visits and oversight;
- relevant accreditations or licensures, and compliance with federal, state, and local regulations; and
- special reviews, to include reviews of segregation placements, allegations of sexual assault or abuse, and use of force incidents, as well as comprehensive audits for compliance with the DHS Prison Rape Elimination Act regulations once every 3 years.

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Furthermore, to provide an additional layer of review and supervision, ICE began incorporating a Quality of Medical Care (QMC) toolkit into the facility inspection process in November 2016. The QMC focuses on performance measures of health practices with the greatest potential to improve detainee safety and reduce the risk of harm. The QMC is designed to assess health services in a correctional setting to determine whether detainees have been properly screened, evaluated, and treated. Registered nurses collect and assess the data required by the toolkit. The QMC reviews a number of areas across the spectrum of detainee health care.

Finally, to support implementation of Executive Order 13767, *Border Security and Immigration Enforcement Improvements*, and Executive Order 13768, *Enhancing Public Safety in the Interior of the United States,* ICE has proposed revisions to its inspection regime to ensure ICE and its DHS partners have access to a greater number of existing facilities with available detention capacity. An intra-agency working group is currently underway. As new options are explored, ICE's commitment to maintaining excellent facilities and providing quality medical care to detainees remains unchanged.

Question: What other changes does ICE anticipate in detention practices as a result of this directive?

Response: As indicated above, ICE is currently in the process of reviewing options and determining the best way to meet the requirements of the Administration's Executive Orders, while ensuring the safety, security, and welfare of individuals in its custody.

Question#:	30
Topic:	New Detention Facilities
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Heidi Heitkamp
Committee:	HOMELAND SECURITY (SENATE)

Question: Section 5(a) of the Executive Order "Border Security and Immigration Enforcement Improvements" directs DHS to allocate resources to immediately construct, operate, control, or establish contracts with facilities to detain individuals at or near the southern border.

Has ICE entered into any contracts for new detention facilities along the southern border?

What other changes does ICE anticipate in detention practices as a result of this directive?

Response: Since the Executive Order titled *Border Security and Immigration Enforcement Improvements* was issued on January 25, 2017, U.S. Immigration and Customs Enforcement (ICE) has not entered into any new contracts for detention facilities along the southern border.

ICE is currently in the process of reviewing options to determine the best way to meet the requirements of the Executive Orders, while ensuring the safety, security, and welfare of individuals in its custody.

Question#:	31
Topic:	Community-based Alternatives
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Heidi Heitkamp
Committee:	HOMELAND SECURITY (SENATE)

Question: The GAO found that it costs the government on average $158 a day to detain just one person, while alternatives to detention programs used by the government have averaged only $10 a day. Community-based alternatives to detention have been found to be more effective and humane than detention by multiple studies in the U.S. and abroad. Nonetheless, the White House is asking Congress to fund a total of 47,500 detention beds in its supplemental request, totaling 5,500 more beds than the current average of 42,000 across the country. In contrast, placing 5,500 people in detention alternative programs would net the government savings of nearly $650,000 a day.

What measures are you implementing to ensure that all individuals apprehended by ICE or CBP will be carefully considered for release into community-based alternative to detention programs rather than detention, in order to minimize the burden on the American taxpayer?

How do you justify any expansion of the detention system when alternatives to detention have proven to be less costly and more effective?

Response: Detention is often more cost-effective than alternatives to detention when taking into account the actual cost of continuously monitoring an alien during the length of time s/he is on the non-detained docket, as processing times are significantly shorter for aliens in detention versus those who are not detained. Detained cases often lead to more physical removals when compared to the results of non-detained cases. While assigning aliens to the Alternatives to Detention—Intensive Supervision Appearance Program III (ATD – ISAP III) is less costly *per day* than traditional detention, because of longer processing times on the non-detained docket, the overall cost of ATD – ISAP III, if used continuously, may break-even or even exceed traditional detention costs over time.

Also, of note, ATD – ISAP III is only a flight-mitigation tool. It does not protect against threats to the community. As a result, DHS is committed to ensuring it has the appropriate level of detention capacity to ensure that aliens who may be a threat to public safety and national security are detained.

Question#:	32
Topic:	Asylum Officers
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Heidi Heitkamp
Committee:	HOMELAND SECURITY (SENATE)

Question: Section 5(b) and 5(c) of the Executive Order "Border Security and Immigration Enforcement Improvements" directs DHS to immediately assign asylum officers and DOJ to assign immigration judges to immigration detention facilities for the purpose of accepting asylum referrals and conducting credible fear interviews.

What is the status of the implementation of this directive?

Response: USCIS began assigning additional officers to immigration detention facilities at the beginning of March and their implementation of the directive is ongoing.

DHS refers the committee to the Department of Justice (DOJ) to respond to any questions regarding their implementation of the Executive Order to assign Immigration Judges (IJs) to detention facilities as IJs fall under the jurisdiction of DOJ.

Question: How many AOs have been assigned to detention facilities and at which facilities are they assigned?

Response: As of the week of May 22nd, USCIS had 29 officers assigned to ten detention facilities – South Texas Family Residential Center in Dilley, TX; Karnes County Residential Center in Karnes City, TX; South Texas Detention Complex in Pearsall, TX; IAH Secure Adult Detention Facility (Polk) in Livingston, TX; Eloy Detention Center in Eloy, AZ; Florence SPC, Florence, AZ; Imperial Regional Detention Facility, Calexico, CA; Otay Mesa Detention Center, San Diego, CA; Adelanto Detention Facility, Adelanto, CA; and Cibola County Correctional Center, Milan, New Mexico.

Question: How many IJs have been assigned to detention facilities and what is the expected length of their assignment? How will this affect the immigration court backlog?

Response: As noted above, DHS refers the committee to DOJ to respond on any questions regarding IJs as they fall under the jurisdiction of DOJ.

Question#:	33
Topic:	Asylum Safeguards at CBP
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Heidi Heitkamp
Committee:	HOMELAND SECURITY (SENATE)

Question: US law provides processes for individuals fleeing persecution to request asylum in the United States, including at US ports of entry. The US has also committed under the Refugee Convention and Protocol to protecting refugees from return to persecution. Yet the US Commission on International Religious Freedom has identified deficiencies in CBP's implementation of protection safeguards in the expedited removal process, including in a report issued last year, and hostility towards asylum seekers by some officers. Human Rights groups are currently reporting that some US border agents are turning away asylum seekers at the border without first referring them to the appropriate protection screening or other proceedings where their potential eligibility for asylum or other protection can be assessed.

What steps will DHS take to improve training and oversight of asylum and protection safeguards at CBP and to ensure that all US officers act in accordance with US law and treaty commitments?

Response: Both Border Patrol Agents (BPAs) and Customs and Border Protection Officers (CBPOs) receive asylum training as part of their basic training programs. The material covers Credible Fear and Asylum. Within each training program there is a built-in evaluation process that analyzes module content to ensure alignment with applicable laws and field performance.

BPAs receive training in the William Wilberforce Trafficking Victims Protection Reauthorization Act (TVPRA) of 2008. BPAs that come in contact with UACs complete a course titled *Human Trafficking Awareness Training and Unaccompanied Children: Flores v. Reno/TVPRA.*

The Field Operations Academy provides training titled *Processing Refugees and Asylees.* A CBPO also receives training regarding processing claims during the Adverse Action portion of Post Academy training. Like Border Patrol Agents who come into contact with UACs, CBP Officers also receive *Human Trafficking Awareness Training and Unaccompanied Children: Flores v. Reno/TVPRA.* In addition, CBPOs receive training on credible fear in their post-academy training environment (field training).

Question#:	34
Topic:	ICE Asylum Parole Directive
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Heidi Heitkamp
Committee:	HOMELAND SECURITY (SENATE)

Question: DHS's memorandum on the implementation of President Trump's January 25 executive order on the border indicates that the ICE asylum parole directive – which authorizes the release from detention of asylum seekers who do not present a flight or security risk and can establish their identities sufficiently – is still in full force and effect. Yet human rights groups and non-profit legal agencies have reported that asylum seekers who meet the parole eligibility criteria continue to be denied release on parole. Recently there are also reports that individuals who have been ruled eligible for asylum by immigration judges are still being held in detention for many additional months while ICE pursues an appeal.

What steps are you taking to ensure that ICE officers in all locations do not detain asylum seekers and refugees unnecessarily and that asylum seekers are assessed against the parole criteria and released from detention if they meet those criteria?

Response: The February 20, 2017 memorandum from Secretary John Kelly, *Implementing the President's Border Security and Immigration Enforcement Improvement Policies*, clarifies that U.S. Immigration and Customs Enforcement (ICE) Policy *Parole of Arriving Aliens Found to Have a Credible Fear of Persecution or Torture* remains in effect. This memorandum further clarifies that the ICE policy directive shall be implemented in a manner consistent with its plain language. In every case, the burden to establish that his or her release would neither pose a danger to the community, nor a risk of flight remains on the individual alien, and ICE retains the ultimate discretion whether it grants parole in a particular case. Such decisions to release aliens on parole require a supervisory review to ensure this policy is implemented as directed. Parole decision-making within a particular area-of-responsibility is also subject to the oversight of the relevant Field Office Director.

Post-Hearing Questions for the Record
Submitted to the Honorable John F. Kelly
From Senator Gary Peters

"Improving Border Security and Public Safety"

April 5, 2017

Question#:	1
Topic:	Cost of Land Acquisition
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Gary Peters
Committee:	HOMELAND SECURITY (SENATE)

Question: One of the major issues facing the construction of the border wall is the cost of land acquisition. As you know, about two-thirds of the land adjacent to the southern border is owned by states, tribes, or private property owners. In addition, much of the land will have to be acquired through hundreds of individual private land deals or through eminent domain, for which landowners are entitled just compensation. The acquisition process will be expensive, time consuming, and undoubtedly involve the federal government in costly litigation. Has the Department factored in the cost of land acquisition and the possible use of eminent domain in its FY17 supplemental appropriations request, in possible reprogramming of existing funds, or in the FY18 budget request?

Response: Yes, DHS has factored in the cost of land acquisition and the possible use of eminent domain in its FY17 supplemental and FY18 budget requests. However, land acquisition costs were not included in the $20M reprogramming of existing funds.

Question: If so, how much does the Department anticipate spending on land acquisition along the southern border?

Response: For border barrier projects outlined in the FY17 enacted budget and FY18 Presidential budget, CBP included a rough order of magnitude for real estate costs based on lessons learned from the PF225 project. However, at this time, CBP cannot provide any definitive real estate costs or requirements until CBP begins conducting the necessary planning and research.

Question: What is the Department's estimated timeline for acquiring the land necessary to fulfill the requirements of Executive Order 13767?

Question#:	1
Topic:	Cost of Land Acquisition
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Gary Peters
Committee:	HOMELAND SECURITY (SENATE)

Response: At this early stage, DHS does not know and cannot reasonably forecast the timeline for acquiring the land necessary to fulfill the requirements of Executive Order 13767.

Question: How does the Department plan to pursue title research and determine "fair market value" for these properties, many of which have been in private hands for generations?

Response: On behalf of DHS and CBP, the U.S. Army Corp of Engineers (USACE) will execute real estate activities such as title research, surveys, and appraise any property to be acquired in order to determine the fair market value. CBP's preferred approach is to negotiate a voluntary sale with the appropriate landowners.

Question#:	2
Topic:	Proposed Cuts to FEMA Programs
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Gary Peters
Committee:	HOMELAND SECURITY (SENATE)

Question: I am deeply concerned about the President's budget blue print that proposes a $667 million cut to several Federal Emergency Management Agency (FEMA) programs. I was also disturbed to learn that until April 4, 2017, FEMA had stopped awarding Assistance to Firefighter Grants (AFG) and other preparedness grants until it received further guidance from the Administration regarding its proposed cuts. As you know, these grants are critical in ensuring that first responders in Michigan and every other state and local jurisdiction through the country have the tools and resources they need to respond to national security threats, natural disasters, and other emergencies. Can you explain the guidance that was given to FEMA on April 4, 2017, about the AFG, SAFER and Countering Violent Extremism grants?

Response: On April 3, 2017, Secretary Kelly signed a decision memorandum approving the award of Federal Emergency Management Agency's (FEMA) Fiscal Year 2016 Assistance to Firefighters (AFG), Fire Prevention and Safety (FP&S), and Staffing for Adequate Fire and Emergency Response (SAFER) grants. The approval to release funding and continue implementing these programs was not related to the FY2017 budget or proposed reductions in funding levels in FY 2018 to these programs. For the Countering Violent Extremism (CVE) Grant Program, please note that the Department conducted a review of grant proposals to ensure that the program moves forward based on current national and departmental priorities. On June 23, DHS announced the FY 2016 CVE Grant Program awards.

Question: Do you expect further proposed cuts to FEMA preparedness grant programs and the Pre-disaster Mitigation program in the President's final budget request?

Response: DHS/FEMA proposed preparedness grant program funding levels were published in the President's FY 2018 budget request, which was forwarded to Congress on May 23, 2017. The Pre-Disaster Mitigation program requested $39 million for FY 2018.

Question: Do you think it is prudent to reduce funding for our front line first responders at a time when we are seeing an increasing number of lone wolf attacks, disasters, and other emergencies?

Response: The President's Fiscal Year 2018 budget proposal reflects difficult decisions among competing priorities across the DHS portfolio, but the budget request for FEMA's preparedness grants represents a continued commitment to preparing front-line personnel for future incidents. FEMA's dedication to national preparedness is noteworthy – the

Question#:	2
Topic:	Proposed Cuts to FEMA Programs
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Gary Peters
Committee:	HOMELAND SECURITY (SENATE)

FY18 preparedness grant programs will build on top of billions of dollars in funding appropriated to preparedness grants since the 2001 terrorist attacks. At the same time, activities funded through FEMA's preparedness grant programs are primarily State and local functions. Grant recipients need to share responsibility for building national preparedness by sharing with the Federal Government the costs of building their own homeland security and emergency management capabilities.

Question#:	3
Topic:	Minimizing the Impact
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Gary Peters
Committee:	HOMELAND SECURITY (SENATE)

Question: In previous efforts to construct a barrier on the southern border, that barrier has at times left American land, homes, and businesses between the barrier and the Mexican border. This creates great hardship by impeding free access to property and by separating properties from infrastructure and emergency services. How does the government plan to minimize the impact on commerce and quality of life for residents and businesses whose property might be divided by a permanent physical wall, as we have seen in previous cases?

Response: Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended, requires that "... the Secretary of Homeland Security shall consult with the Secretary of the Interior, the Secretary of Agriculture, States, local governments, Indian tribes, and property owners in the United States to minimize the impact on the environment, culture, commerce, and quality of life for the communities and residents located near the sites at which such fencing is to be constructed." CBP continues to place a high priority on interaction with, and feedback from, local officials, landowners, and community members about border project plans, and has consistently strived for a transparent and consultative process while going to great lengths to obtain public input. In the past, CBP's consultations with resource agencies and local stakeholders have resulted in numerous changes to the fence alignment and design, location of gates/gaps in the border fence, agreements with landowners to keep gates open during business hours, locations of access roads, placement of staging areas to minimize potential environmental, and other local impacts.

Question#:	4
Topic:	Vetting Reports
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Gary Peters
Committee:	HOMELAND SECURITY (SENATE)

Question: The first travel ban Executive Order required the Secretary of Homeland Security to submit a report in 30 days that provides "a list of countries that do not provide adequate information" for vetting "within 30 days of the date of this order." The district court in Seattle did not stay this aspect of the order. The second Executive Order required the exact same report within 20 days of its effective date. As you noted in your prepared testimony, aside from sections 2 and 6 - the remainder of the revised Executive Order is not affected by the subsequent injunctions. As of April 5, 2017, the report required by the first executive order is overdue by 36 days and the report required by the second executive order is overdue by 6 days. Did you begin the report reviewing screening procedures that the initial executive order required?

Response: EO 13780 specifically revoked EO 13769, and sections 2 and 6 of EO 13780 were enjoined as of the date of the hearing. As such, no report generation under either section was underway at that time.

Section 5 of EO 13780, Implementing Uniform Screening and Vetting Standards for all Immigration Programs, which is not enjoined, includes three reporting time periods: 60, 100, and 200 days from the order's effective date. DHS is working with the interagency and leading the effort to satisfy these reporting requirements.

Question: Have you begun the report reviewing screening procedures that the second executive order required?

Response: Yes, DHS is working on the reports required by Section 5 of EO 13780. More important than the progress report, however, is the substantive work that DHS has undertaken to improve screening and vetting as required by the EO.

Question: When do you expect these reports to be complete?

Response: The initial 60-day Progress report was delivered on May 22, 2017 and a draft 100-day Progress report has been drafted and is under review by DHS. The final, 200-day, report is due to the White House on October 2, 2017.

Question#:	5
Topic:	Cyber Capabilities
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Gary Peters
Committee:	HOMELAND SECURITY (SENATE)

Question: Protecting the border and securing our homeland is a crucial mission and I have deep respect for the men at women at DHS who carry out that charge. An element that is often overlooked is our virtual border, especially as it relates to human trafficking and child exploitation. Around the country, including my home state of Michigan, women and children are forced into prostitution, domestic servitude, and other forms of coerced labor. Our children are especially at risk - an estimated 40% of human trafficking cases involve the sexual exploitation of a child. The Internet, along with other cyber-based technologies, plays a role in both enabling and combating these heinous crimes. DHS' Cyber Crimes Center, which includes the Child Exploitation Investigations Unit, is a powerful tool in this fight against the sexual exploitation of children. Can you elaborate on the significance of DHS' cyber capabilities to support domestic and international investigations of human trafficking and child exploitation?

Response: U.S. Immigration and Customs Enforcement (ICE) brings a unique set of capabilities and experience in the area of child exploitation. The International Megan's Law to Prevent Child Exploitation and Other Sexual Crimes Through Advanced Notification of Traveling Sex Offenders (Pub. L. No. 114-119) formally established the Angel Watch Center to cross-checks passenger manifest data with the National Sex Offender Registry to determine when a registered sex offender of a child sex offense is traveling overseas. Over the past 3 years, the Angel Watch Center has provided over 6,000 notifications resulting in over 2,600 law enforcement responses by our foreign partners. This program has saved vulnerable children of developing nations from being sexually abused.

The Victim Identification Program and Laboratory conducts sophisticated image, video, and audio forensics, analysis, processing, enhancements and clarifications of child sexual abuse imagery and video files with the mission of identifying and rescuing child victims, identifying and apprehending child sex offenders and identifying and locating the crime scene. Through the Victim Identification Program, ICE has led the charge in utilizing a victim-centric workflow and methodology resulting in the identification and rescue of over 4,400 victims since June 2012. In addition, the current Acting Section Chief of the Victim Identification Program is the Chair of the Interpol Experts Group on Victim Identification.

Working closely with several domestic and international partners ICE has engaged in numerous large-scale global operations utilizing our cyber capabilities to investigate, disrupt, and dismantle global criminal enterprises that hide behind anonymization using the Darknet to trade, disseminate, and produce child pornography.

Question#:	6
Topic:	Poe Lock Security
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Gary Peters
Committee:	HOMELAND SECURITY (SENATE)

Question: The Soo Locks in Sault Ste. Marie, Michigan are a critical piece of our national maritime transportation infrastructure. A 2015 Department of Homeland Security report identifies this critical piece of infrastructure as an Achilles' heel of the entire North American industrial economy. The report determined a 6 month closure of the larger 50 year old Poe lock would cause a shutdown of Great Lakes steel production and result in an economic recession so severe that 11 million jobs would be lost along with a $1.1 trillion decrease in national GDP. How will you ensure that such critical infrastructure like the Poe Lock will be secured in order to protect our national economy and the American people from such potentially devastating economic consequences?

Response: The Department of Homeland Security (DHS) continues to work closely with the U.S. Army Corps of Engineers (USACE), the Great Lakes states, and the private sector regarding this vital maritime transportation infrastructure. USACE, which owns and operates the Soo Locks, is currently completing its Economic Reevaluation Report (ERR) for the Soo Locks to determine whether it will fund a second Poe-sized lock. DHS has provided USACE with information and analysis throughout the process and we understand that the ERR should be completed by year's end. While DHS does not own, operate, or regulate the Soo Locks, we are committed to working with the federal, state, and private sector partners to enhance the security and resilience of the locks.

Post-Hearing Questions for the Record
Submitted to the Honorable John F. Kelly
From Senator Maggie Hassan

"Improving Border Security and Public Safety"

April 5, 2017

Question#:	7
Topic:	ICE/HSI's Visa Security Teams
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Margaret Wood Hassan
Committee:	HOMELAND SECURITY (SENATE)

Question: I asked you during the hearing whether you supported expanding ICE/HSI's Visa Security teams to cover more than 30 diplomatic posts. I also asked you whether the President budget request for Fiscal Year 2018 would support the expansion of the number of Visa Security teams.

On question one, you stated that "... anything we can do overseas to make better decisions about who might come to the United States for whatever reason is a good idea and should be reinforced and we should be constantly looking at even better ways to do that." Can you elaborate whether you specifically support the expansion of Visa Security teams to more than 30 U.S. diplomatic posts?

On the second question, you said that you would have to get back to the Committee on the funding level for Visa Security teams. Can you please share for the record whether the President's budget supports the expansion of the number of Visa Security teams?

Response: The Administration supports the expansion of Visa Security Program (VSP) to more than 30 diplomatic posts.

The VSP is a viable resource in response to the Presidential Administration's interests in advancing a strong screening and vetting apparatus throughout the world. As such, the Department of Homeland Security is committed to the aggressive expansion of VSP operations and maximizing resources domestically and internationally to enhance the screening, vetting, and investigative efforts. The Fiscal Year 2018 President's Budget sustains current levels for VSP which consists of 30 posts in 25 countries.

U.S. Immigration and Customs Enforcement (ICE) would be available to provide a briefing on the VSP as well.

Question#:	8
Topic:	Foreign Airport Worker Screening
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Margaret Wood Hassan
Committee:	HOMELAND SECURITY (SENATE)

Question: The FAA Extension bill from last Congress helped to increase vetting of U.S. airport workers in order to prevent against insider threats to U.S. airports and our air travelers. However, we obviously do not have complete authority over foreign airports. In two recent attacks, one at Mogadishu International Airport in Somalia in 2016 and one at Sharm El Sheik Airport in Egypt in 2015, foreign airport workers were believed to be complicit in aiding the attack. How can we ensure that foreign airports, especially those that are points-of-last-departure in to the United States, are effectively screening their workers in order to root out potential terrorist threats?

Response: The Transportation Security Administration (TSA) is required by law to assess security at all foreign airports served by U.S. aircraft operators, as well as last point of departure (LPD) locations. TSA uses the International Civil Aviation Organization (ICAO) standards to assess foreign airports, which require Member States to vet aviation workers

Additionally, through its regulatory security programs, TSA requires U.S. and foreign air carriers to submit to Secure Flight the names and identifying information for all crew operating into, out of, within, and overflying the United States for vetting against the applicable watchlists.

Following the terrorist attacks in Paris (November 2015) and Brussels (March 2016), the crashes of Metrojet 9268 in the Sinai Peninsula (October 2015) and Daallo flight 159 in Somalia (February 2016), and the attack on the Istanbul Airport (June 2016), TSA and the U.S. Department of Homeland Security have been coordinating closely with international partners to ensure the security of the global aviation system.

TSA regularly provides insider risk training to foreign government partners as part of our training and capacity development program. TSA collaborates closely with foreign partners, including foreign governments, foreign air carriers, foreign all-cargo air carriers, international organizations, and foreign airport authorities. In particular, TSA has focused on sharing information on insider risk issues and best practices.

Question#:	9
Topic:	Vulnerability Disclosure Program
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Margaret Wood Hassan
Committee:	HOMELAND SECURITY (SENATE)

Question: During the hearing, I asked you for an assessment of whether DHS had considered establishing either a "bug bounty" program or a "vulnerability disclosure program" similar to those recently enacted by the Department of Defense. You opted to hold your response so that you could seek more information and to confer with the Deputy DHS Secretary on this matter. Given the extra time and the opportunity to consult with the Deputy Secretary, what now is your assessment about the value and feasibility of DHS establishing a bug bounty and/or vulnerability disclosure program?

Response: Strengthening the security and resilience of cyberspace is a top priority within the Department of Homeland Security (DHS). Our cybersecurity efforts extend not only to federal government; state, local, tribal, and territorial government; and private sector critical infrastructure stakeholders, but also include our own networks and systems within DHS. Our Chief Information Officer leads efforts to empower DHS to operate secure information technology systems and networks, keeping ahead of evolving cyber threats. As part of these efforts, we are constantly assessing the best range of techniques and capabilities necessary to reduce cybersecurity risks posed by vulnerabilities that exist on our own systems and networks.

As you noted during the hearing, the Department of Defense (DOD) recently established a cyber bug bounty program modeled after similar efforts in the private sector. By enlisting vetted hackers, DOD crowdsourced the identification and analysis of vulnerabilities on DOD's public-facing systems. DOD also published a vulnerability disclosure policy, in consultation with the Department of Justice, which provided a lawful process for security researchers to find and disclose vulnerabilities. These efforts by DOD are helping other federal agencies to better understand if similar efforts would be feasible on their own systems and networks. For instance, on May 9, General Services Administration's Technology Transformation Service, which includes 18F, launched the first bug bounty program run by a civilian agency to identify bugs and security holes in software they operate. While DHS has not implemented such capabilities at this time, we continue to assess their value and feasibility.

In addition to a range of other capabilities implemented on DHS's systems and networks, DHS also benefits from cybersecurity services made available to all federal agencies by DHS's National Cybersecurity and Communications Integration Center (NCCIC). For instance, the NCCIC offers two services to assess a network's susceptibility to vulnerabilities that can be leveraged by malicious actors to compromise networks. The Cyber Hygiene service scans a stakeholder's internet-accessible systems to identify known vulnerabilities and configuration errors. In fiscal year 2016, Cyber Hygiene

Question#:	9
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Primary:	The Honorable Margaret Wood Hassan
Committee:	HOMELAND SECURITY (SENATE)

scanning was providing broad situational awareness of the over 30 million Internet Protocol (IP) addresses of the NCCIC's customers across the nation, including DHS's own networks. Mitigations for identified vulnerabilities are provided to stakeholders when they receive the results of the Cyber Hygiene scans. The second service, Risk and Vulnerability Assessments (RVAs), include a wide range of penetration testing services, and web application and database testing. RVAs are in-depth assessments conducted by teams of expert NCCIC personnel to determine whether malicious actors can defeat security controls employed on a given network or system.

Question#:	10
Topic:	Northern Border Thinning
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Margaret Wood Hassan
Committee:	HOMELAND SECURITY (SENATE)

Question: In a response to a question from Senator Tester about your approach to the northern border, you stated, "...what I'd like to see the northern border be is even thinner if you will, so that the movement safely and securely of all commerce and people can be ...even streamlined more." Can you please clarify these comments and how your prefence to make the northern border even thinner may affect staffing and resourcing of CBP units along the northern border?

Response: CBP has no plans to reduce the number of personnel assigned to the northern border. In fact, given the hiring mandate included in Executive Order 13767 *Border Security and Immigration Enforcement Improvments*, the U.S. Border Patrol is developing a comprehensive staffing plan that would provide flexibility to increase staffing along the northern and coastal border as new hires enter on duty. In the past, the USBP deployed new BPAs to the northern border under the Northern Border Initiative, designed to fill positions along the Northern Border with trainee agents. During this initiative, newly graduated agents were detailed to southwest border sectors in order to complete Post-Academy training and the nationally standardized Field Training Program. Once the 10-month detail for the training program was complete, the agents returned to their stations of record. The initiative achieved the goal of staffing the northern border to the requisite 2,212 agents at great fiscal expense.

Under the President's Executive Order for staffing, USBP will take a different approach to increase staffing in the northern and coastal border areas. It is imperative agents fully develop skills and experience along the southern border before transferring to the northern or coastal border area. Agents must be able to operate safely in extreme and remote environments with little or no supervision. Because of these unique requirements, all new agents will be assigned to the southern border to gain the prerequisite experience needed; however, as new agents enter on duty, experienced agents will be available for reassignment to the northern or coastal sector areas based on operational requirements.

Due to the fact that USBP is in the planning phase and any decisions to offer relocation opportunities to bargaining unit employees will require robust negotiations with the National Border Patrol Council, at this time USBP does not have information regarding locations or numbers of agents that may be reassigned. However, as part of the planning process, we are considering relocating only seasoned and experienced agents, who have the ability to meet the unique challenges of conducting operations along the northern and coastal borders.

Question#:	11
Topic:	Kissell Amendment
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Margaret Wood Hassan
Committee:	HOMELAND SECURITY (SENATE)

Question: In 2009, Congress approved the 'Kissell Amendment' to the American Recovery and Reinvestment Act extending Berry Amendment domestic sourcing requirements to certain operational agencies within the Department of Homeland Security - namely the Transportation Security Administration and the U.S. Coast Guard. It has come to Committee's attention that, although several inquiries have been made since the Kissell Amendment's approval, the Department continues to purchase non-domestically manufactured protective equipment and clothing. In addition, the uniforms for national security components of the DHS, including Customs and Border Protection are presently manufactured in Mexico and Central America in unsecured facilities, posing a security threat to the United States. As the new Secretary of Homeland Security, what efforts have you or will you be taking to ensure that the Department fully complies with the Kissell Amendment? In your opinion, are there opportunities to expand the scope of the Kissell Amendment within the Department to ensure that those agencies responsible for the national security of the United States are properly outfitted and provided innovative, American-made protective equipment? What can Congress do to assist the Department with Kissell Amendment compliance and expansion to other operational agencies responsible for the national security of the United States and the protection of our citizens?

Response: DHS's contracting process has been oriented to achieve compliance with the Kissell Amendment (Section 604 of the American Recovery and Reinvestment Act). Of note, the Kissell Amendment requires DHS to apply the law "in a manner consistent with United States obligations under international agreements." Accordingly, DHS has consistently acted in compliance with the law's provisions, as well as those of the World Trade Organization Agreement on Government Procurement (WTO GPA), the North American Free Trade Agreement (NAFTA), and other applicable trade agreements. As a result, in the case of the Transportation Security Administration (TSA), which is a covered central government entity under NAFTA and the United States-Chile Free Trade Agreement, products from Canada, Mexico, and Chile receive equal consideration with domestic offers. For the purpose of uniform or textile product procurements, the rest of DHS is covered under the WTO GPA, and thus, designated country end products are provided equal consideration with domestic offers. The same national security considerations applicable to the Department of Defense apply equally to the U.S. Coast Guard (USCG) under the WTO GPA.

The majority of fabric-related items purchased by DHS fall into one of two categories: uniforms and body armor. All body armor purchased through the DHS strategic sourcing department-wide contract vehicle is domestically sourced and completely manufactured

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Primary:	The Honorable Margaret Wood Hassan
Committee:	HOMELAND SECURITY (SENATE)

in the United States. Uniforms are not considered sensitive items and, as such, do not require additional security at their places of manufacture.

Market research conducted before the DHS uniform contract was awarded in February 2013 revealed that uniform and apparel industry vendors were clearly cognizant of the law's requirements regarding uniforms and textiles for DHS Components, including TSA. In September 2014, U.S. Customs and Border Protection (CBP) awarded the new DHS strategic uniform contract, which contained the clause at Homeland Security Acquisition Regulation 3052.225-70 "Requirement for Use of Certain Domestic Commodities" (August 2009). This clause identifies and defines the law's requirements regarding the domestic origin and content for textiles used in uniforms. Further, the provision at Federal Acquisition Regulation 52.225-6 "Trade Agreements Certificate" (January 2005), was included in the solicitation for uniforms, requiring offerors to certify that each product offered is a U.S.-made end product, or to otherwise identify the country of origin. The contracting officer verified that the information provided by each offeror in response to this provision complies with the requirements. TSA intends to use the CBP-awarded contract for the contract period of performance: September 16, 2014 – September 15, 2019. The USCG relies on the Defense Logistics Agency (DLA) for the vast majority of its uniforms purchases. The remainder of the apparel items the USCG procures on its own is manufactured in the United States and Puerto Rico.

DHS continually explores opportunities in our acquisition processes across the Department to ensure compliance with the Kissell Amendment provision, which supports American enterprises and the domestic economy, while also remaining consistent with U.S. World Trade Organization and other free trade agreement obligations.

Question#:	12
Topic:	Technology Improvements
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Margaret Wood Hassan
Committee:	HOMELAND SECURITY (SENATE)

Question: In addition to the physical security barriers DHS is currently using and evaluating, describe your requirements and needs for surveillance and detection technologies to tie the border security mosaic together. What is your plan to evaluate the technologies DHS and CBP are currently using against modernized, but presently-available technological tools?

Response: To ensure delivery of enhanced capabilities to CBP operators in the most effective and efficient manner, technology developers, users and independent test and evaluation agents work together to help programs manage risks, identify and resolve deficiencies early, and understand operational limitations. Test and Evaluation (T&E) are essential to achieve positive acquisition outcomes. T&E activities are defined for each program in a Test and Evaluation Master Plan (TEMP) and is the program manager's primary T&E planning document. The TEMP defines how the technology is evaluated in support of key acquisition decision and the sequence of integrated test activities necessary to deliver the required capabilities.

Question: How are you budgeting for such technology improvements beyond the $200 million in the proposed supplemental?

Response: Additional funding requirements beyond the $200 million in the proposed supplemental are included in the DHS Fiscal Year 2018 Budget Submission.

Question: Do you think a real-time common operating picture, as has often been discussed, is needed for the entire Southwest Border? If so, what types of tools, sensors, and other technology capabilities do you need to make it actually happen?

Response: A real-time Common Operating Picture (COP) is the primary tool of domain awareness that is critical in establishing a secure border. A standardized COP is needed for the entire Southwest Border. There are several functions of a COP that are critical to border security that include correlating all detection sensors as well as enabling classification, identification and tracking of all items of interest to a successful law enforcement resolution. CBP is currently integrating all existing detection sensors into a standard COP. These sensors inelude unattended ground sensors, remote video surveillance, integrated fixed towers, fiber optics detections sensors, and tactical aerostats. As new sensor are deployed in the border environment, they too will be integrated into the COP.

Post-Hearing Questions for the Record
Submitted to the Honorable John F. Kelly
From Senator Steve Daines

"Improving Border Security and Public Safety"

April 5, 2017

Question#:	13
Topic:	Illegal Southwest Border Crossing Reductions
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Steve Daines
Committee:	HOMELAND SECURITY (SENATE)

Question: Thank you for testifying. It was good to see you again. You are just over 10 weeks into the job and your leadership is affecting positive change. President Trump's policies and your execution have resulted in positive momentum in upholding the rule of law. I understand that apprehension rates for illegal Southwest border crossings have dropped 67% as of last week - a dramatic decrease and an early sign of success.

Though these early indications are very encouraging, the key is to maintain this progress. What actions will you be taking in order to make sure these reductions are sustained?

Response: USBP continues to conduct mission and threat analysis to ensure it understands illegal trends along the Border. With this information, the USBP can plan and execute operations in a manner that ensures mission success. Also with this information, USBP can make the best possible investment recommendations to CBP and DHS in order to invest in the mission.

Question: How do we ensure the President and the American people maintain the will to follow through?

Response: Through collaborative communications and planning with the friendly force network throughout the National Security environment. Communicating and planning are both top down and bottom up and require stakeholder interaction. The sharing of ideas and information to our government and non-government stakeholders is essential. It ensures that all agencies are on the same sheet of music and that all agencies are communicating and executing the mission in a way that is self-supporting.

Question#:	14
Topic:	Securing the Border Within Existing Easements
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Steve Daines
Committee:	HOMELAND SECURITY (SENATE)

Question: Property rights are at the very foundation of our society. Pristine land is what draws people to Montana. We do not take eminent domain lightly in Montana. Without involuntarily taking private property, how can DHS leverage existing or develop new technologies to secure the border within existing easements?

Response: DHS agrees that property rights are important. DHS only acquires the minimum real property interest that is necessary to meet approved DHS missions. The preferred method of obtaining interest in real property is through negotiations based upon fair market value, as established by an approved appraiser. DHS avoids, with few exceptions, any acquisition of real property through eminent domain. Even when use of eminent domain is required, where a narrow easement along the border will meet the DHS requirement, we just seek to acquire that easement. New technologies being deployed to secure the border first look to utilize existing easements.

Question#:	15
Topic:	Personal Electronics
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Steve Daines
Committee:	HOMELAND SECURITY (SENATE)

Question: Regarding the recent aviation security measures DHS and TSA have put in place for select "last point of departure" airports with commercial flights to the United States, there have been 10 identified airports that require passengers on flights departing for the United States to store any personal electronics larger than a smart phone in their checked baggage. Are you confident that limiting these restrictions to just 10 airports, all located in the Middle East or North Africa, is sufficient, or do you believe these restrictions will need to be expanded elsewhere?

The potential exists for a passenger flying out of one of these designated airports to bypass these security measures by flying to another location, and then flying into the United States. Are you concerned with this possible threat?

Do you have safety or security concerns with the increased number of large electronics stored in cargo?

Response: The Department of Homeland Security (DHS) and the Transportation Security Administration (TSA), in close cooperation with our intelligence community partners, selected these airports based on the current threat picture. The selections were a risk-based decision, and TSA will continue to assess security risks and balance necessary security requirements. DHS and TSA also collaborate with our intelligence partners to continuously assess and evaluate the threat environment and may expand these measures to additional locations, if warranted. As the threat changes, so too will TSA's security requirements, for both flights that are affected by the new security enhancements, and those that are currently unaffected.

All air travelers are subject to a robust security system that employs multiple layers of security, both seen and unseen, and is designed to prevent passengers from bypassing security measures. These layers provide enhanced security, creating a much stronger and protected transportation system for the traveling public, particularly at those airports serving as last-points-of-departure to the United States. DHS and TSA will continue to work closely with international stakeholders to ensure that the security measures at unaffected airports maintain compliance with International Civil Aviation Organization (ICAO) standards and U.S. requirements.

DHS and TSA coordinated closely with the Federal Aviation Administration (FAA) and provided an information bulletin to the air carriers regarding the appropriate handling of electronics, including lithium batteries, to mitigate any safety concerns as a result of the increased number of large electronics stored in cargo.

Question#:	16
Topic:	Strengthening the Northern Border
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Steve Daines
Committee:	HOMELAND SECURITY (SENATE)

Question: In Montana, we have nearly 550 miles of international border. We have to contend with vast open spaces and agent staffing shortages leftover from the past Administration. In terms of prioritizing your resources, how does strengthening the Northern Border fit into the overall strategy of securing our homeland?

Response: Strengthening security along our northern border is a significant piece of DHS's mission and our nation's security. The U.S.-Canada border is the longest common border in the world, and it joins two nations that enjoy one of the world's strongest relationships. The border presents unique security challenges based on geography, weather, and the immense volume of trade and travel. At more than 5,500 miles, the border spans diverse terrains and climates, metropolitan areas and vast unpopulated space. Roughly 300,000 people and $1.5 billion in trade cross the northern border every day, representing the largest bilateral trade relationship in the world. With communities and businesses that reach both sides of the border, the economies and security of the United States and Canada are inextricably linked.

DHS's vision for northern border security includes several tenets. Between the ports, we need to have situational awareness and interdiction capability commensurate with the threat. At the ports, our officers need to have all the tools possible to identify and separate low-threat from high-threat cargo and travelers as well as manage other aspects of our large and complex trade relationship with Canada. Intelligence and information should be pushed to those who need it even before they ask. Robust partnerships will increase our effectiveness and that of fellow law enforcement agencies. Finally, as always, the most important key to success is a well-trained, staffed, and motivated workforce of the highest integrity.

Post-Hearing Questions for the Record
Submitted to the Honorable John F. Kelly
From Senator Kamala Harris

"Improving Border Security and Public Safety"

April 5, 2017

Question#:	17
Topic:	Top-to-Bottom Review of DHS
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Kamala D. Harris
Committee:	HOMELAND SECURITY (SENATE)

Question: During your testimony on April 5, you stated that you would discuss with new DHS Deputy Secretary Elaine Duke a date to complete your top-to-bottom review of DHS.

Have you selected a date to complete that review, and, if so, what is that date?

Response: The Department has not yet established a date to complete a top-to-bottom review, because completion of that effort will be a logical follow-on to our activities associated with the recent Executive Order on organizational effectiveness. We believe the initiatives we identify and implement in association with that executive order will increase both the effectiveness and efficiency of the Department's operations and will allow us to better enforce the Nation's laws while also providing better service to our customers. We anticipate that the working group assigned to implementation of that executive order will complete its initial efforts by the end of August, 2017, and its recommendations will form the basis for completion of a top-to-bottom review.

Question: Will you send the results of that review to the members of this committee when it is complete?

Response: Upon completion of our review, we will be more than happy to share the results with the members of your committee.

Question: Will this review include steps to address the long-standing management issues that the DHS Inspector General reported in the November 7, 2016 report entitled, "Major Management Performance Challenges Facing the Department of Homeland Security"?

Response: We are committed to improving the management of this Department, and we will build on the progress we have already made. Our review will incorporate the major management challenges highlighted by the IG in their November 7 report, including unity

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Topic:	Top-to-Bottom Review of DHS
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of effort, employee morale and engagement, acquisition and grants management, cybersecurity, and management fundamentals. We will strive diligently to create opportunities for our employees to achieve the strategies, goals, and objectives the DHS mission commands.

Question#:	18
Topic:	Staffing Models
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Kamala D. Harris
Committee:	HOMELAND SECURITY (SENATE)

Question: During your testimony on April 5, you stated that the American people should "have faith in that fact that I'm the leader. They should also have faith that the rank-and-file have now been allowed to do their job..." as justification for the billions of dollars of new funding that DHS is seeking in FY17, FY18, and, presumably beyond.

Can you provide me with the staffing model and/or DHS analysis that justifies the hiring of 10,000 new ICE agents?

Can you provide me with the staffing model and/or DHS analysis that justifies the hiring of 5,000 new Border Patrol agents?

While seeking authority to hire 15,000 ICE and Border Patrol agents, your department is not seeking to increase the number of CBP Officers. Can you provide me with the staffing model and/or DHS analysis that justifies the current number of CBP Officers?

Response: Our projected hiring of ICE and Border Patrol agents is consistent with the direction of the President as provided in Executive Order 13767, *Border Security and Immigration Enforcement Improvements,* and Executive Order 13768, *Enhancing Public Safety in the Interior of the United States*. Since then, the Department has been working hard to remove impediments to our hiring process, while ensuring we hire those with the highest integrity.

Further, we are refining our staffing models to ensure we are able to carry out implementation of the Executive Orders as well as our other priority mission areas. Our staffing models will take into account both front line and mission support occupations.

Question#:	19
Topic:	Enforcement of Immigration Laws Memo
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Kamala D. Harris
Committee:	HOMELAND SECURITY (SENATE)

Question: On February 20, you issued a memorandum entitled "Enforcement of the Immigration Laws to Serve the National Interest." In this memo you listed seven categories that Department personnel should prioritize in order to "maximize the benefit to public safety." During your testimony on April 5, you told the committee that the seven enforcement criteria were not prioritized in any order, which contradicts the March 8 testimony of DHS Deputy Secretary-designee Elaine Duke. Your testimony also indicated that no new training has been provided within the Department to carry out the new enforcement priorities, as ICE agents are "already highly training individuals."

Especially in light of the contradiction between you and the then-designee to DHS Deputy Secretary on how to implement the seven categories, do you not think it is necessary to develop further guidance and training for front-line staff on the seven new enforcement priorities, particularly related to the seventh factor which leaves a great deal of discretion with an officer?

Response: No.

Question#:	20
Topic:	Determination of Criminality
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Kamala D. Harris
Committee:	HOMELAND SECURITY (SENATE)

Question: During a recent interview on Meet the Press, you said "where on the spectrum of criminality we operate has changed" in terms of when ICE will target an undocumented person for deportation proceedings. The seventh factor in your February 20 implementation memo prioritizes for removal "aliens... in the judgment of an immigration officer otherwise pose a risk to public safety or national security." What training are you providing your immigration officers on making the determination of "criminality?"

Response: U.S. Immigration and Customs Enforcement (ICE) officers receive comprehensive training at the Federal Law Enforcement Training Center, which includes an extensive background on the use of various law enforcement indices that contain criminal history and biographic history, including sentencing information. This training equips ICE officers with the necessary tools to evaluate possible risks to public safety and threats to national security.

Question#:	21
Topic:	ICE Operations Report
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Kamala D. Harris
Committee:	HOMELAND SECURITY (SENATE)

Question: The Inspector General released a report this week on ICE Operations. In the report, the IG states "ICE has not clearly and widely communicated DHS deportation priorities to Deportation Officers; not issued up-to-date, comprehensive, and accessible procedures; and not provided sufficient training." The IG's findings contradict your testimony that agents are already well-trained to carry out the policy changes from the February 20th memo. How do you plan to address the IG's concerns?

Response: The Department of Homeland Security's (DHS) Office of the Inspector General's (OIG) Report (OIB-17-15), entitled, *ICE Deportation Operations*, reviewed the Obama Administration's immigration enforcement priorities, from June 2016 to October 2016. U.S. Immigration and Customs Enforcement (ICE) concurred with all five recommendations outlined in the OIG Report, and has initiated corrective actions accordingly. DHS immigration enforcement priorities were and continue to be communicated through numerous training efforts:

(1) The ICE Office of Training and Tactical Programs provides standardized training to all future Deportation Officers (DOs) through the Basic Immigration Enforcement Training Program (BIETP), which includes instruction on DHS immigration enforcement priorities.

(2) The ICE Enforcement and Removal Operations (ERO) Case Management Training (CMT) program is mandatory for all Immigration Enforcement Agents (IEAs) who have recently been upgraded to the DO position and for DOs who have attended a course substantially equivalent to the BIETP. CMT provides the training required for those transitioning from the IEA role to a DO position. CMT provides comprehensive instruction that includes docket-related duties, such as docket review, detained and non-detained case management, etc. CMT classes began in the latter part of 2016. ERO intends to have a 70 percent completion rate for the upgraded IEAs by December 2017, and 100 percent completion by March 2018.

(3) ICE law enforcement officers are also notified of policy changes, including the Executive Orders issued by President Trump and implementation memoranda issued by Secretary Kelly, via broadcast email messages from agency and department leadership. These broadcast messages include hyperlinks of the Executive Orders and implementation memoranda that are posted to either public websites or internal agency intranet sites.

Question#:	21
Topic:	ICE Operations Report
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Kamala D. Harris
Committee:	HOMELAND SECURITY (SENATE)

(4) ICE ERO is working with the ICE Office of Human Capital and the Office of the Principal Legal Advisor to negotiate an ICE ERO On-the-Job Training (OJT) program in collaboration with the American Federation of Government Employees National ICE Council. OJT will be a key training component for recent basic academy graduates reporting to their field duty assignment. OJT will also serve as a recurrent refresher for several ERO specific skillsets, including those related to docket review, detained casework, and non-detained casework. ICE is currently working with the Department's Office of Policy and other programs to examine current ICE policies and guidance to ensure their alignment with the President's recent Executive Orders and the Secretary of Homeland Security's vision and plans for implementing those orders.

Question#:	22
Topic:	Individuals with DACA Status I
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Kamala D. Harris
Committee:	HOMELAND SECURITY (SENATE)

Question: During your confirmation hearing on January 10, I asked you whether the administration planned to use limited law enforcement resources to remove individuals under DACA from the country to which you answered "law abiding individuals would in my mind with limited assets to execute the law would probably not be at the top of the list." Yet, there have been reports across the country of individuals under DACA who have been arrested, detained and even deported, causing great fear and anxiety among this young and particularly vulnerable population.

Since your confirmation, has DHS or is DHS currently using its limited law enforcement resources to carry out enforcement actions against individuals with DACA status?

Will you publicly release information regarding the number of current or former DACA recipients who have: (a) been arrested, detained, placed into removal proceedings; or removed and (b) been prohibited re-entry back into the country after arriving at a port of entry with advance parole?

Response: The Department of Homeland Security (DHS) has carried out targeted enforcement actions against aliens, which have included recipients of Deferred Action for Childhood Arrivals (DACA) who, for example, have been convicted of crime(s) or are affiliated with violent street gangs. As a reminder, DACA is an exercise of prosecutorial discretion for a temporary period and may be terminated at any time by DHS, with or without a Notice of Intent to Terminate. The June 15, 2012 DACA memorandum specifically advises, "This memorandum confers no substantive right, immigration status or pathway to citizenship. Only Congress, acting through its legislative authority, can confer these rights."

Since the implementation of the DACA policy in 2012, DHS has terminated deferred action for 1,774 DACA recipients as of May 31, 2017 due to a criminal conviction, gang affiliation, or a combination thereof. DHS continues to exercise its enforcement discretion on a case-by-case basis.

Question#:	23
Topic:	Individuals with DACA Status II
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Kamala D. Harris
Committee:	HOMELAND SECURITY (SENATE)

Question: What guidance and training exist to ensure that CBP and ICE officers provide DACA recipients sufficient opportunity during the course of a routine stop or enforcement action to obtain and share documents demonstrating their DACA status?

Is there any new policy or guidance, formal or informal, at any border sectors regarding the treatment of individuals with DACA status? If so, please furnish any related documents or information to this committee.

Response: During any interview process, any and all documentation providing insight into the interviewee's immigration status (including any deferred action the interviewee may have obtained) may be provided to U.S. Immigration and Customs Enforcement (ICE) officers. ICE officers are trained in the investigatory process of determining immigration status through training at the Federal Law Enforcement Training Center.

There are no new ICE policies or guidance regarding the treatment of individuals with DACA.

Question#:	24
Topic:	New Policy
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Kamala D. Harris
Committee:	HOMELAND SECURITY (SENATE)

Question: Is there new policy or guidance, formal or informal, at any border sector that directs CBP officers to identify individuals with administratively closed cases, arrest and detain them, and place them in removal proceedings?

Response: The U.S. Border Patrol does not have policies or guidance, formal or informal, which directs USBP Agents to identify individuals with administratively closed cases, arrest and detain them, and place them in removal proceedings.

Question#:	25
Topic:	Flagging for Review
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Kamala D. Harris
Committee:	HOMELAND SECURITY (SENATE)

Question: What processes are in place for (a) DACA recipients and (b) field ICE and CBP officers to flag for review the arrest and detention of DACA recipients for supervisors within ICE, CBP, and leadership at DHS-HQ?

Response: All U.S. Immigration and Customs Enforcement (ICE) arrest and detention decisions, including those regarding Deferred Action for Childhood Arrivals (DACA) recipients, are reviewed by an ICE supervisor to ensure the arrest and detention aligns with Department of Homeland Security's policies, priorities, and procedures. Moreover, a full review of an alien's immigration history is included for ICE supervisory review.

All CBP and ICE arrest and detention decisions, including those regarding DACA recipients, are reviewed by an appropriate supervisor to ensure the arrest and detention aligns with DHS policies, priorities, and procedures.

Question#:	26
Topic:	Apprehension Data Reports
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Kamala D. Harris
Committee:	HOMELAND SECURITY (SENATE)

Question: The February 20 implementation memorandum entitled "Enforcement of the Immigration Laws to Serve the National Interest" also mandates monthly reports on apprehension data from ICE.

Will this report include data on all ICE apprehensions?

What other data fields will this report include?

When will this report be released and does the Department still plan to release this report on a monthly basis and if not, at what regular re-occurring interval?

Response: In response to the February 20, 2017 implementation memorandum entitled, *Enforcement of the Immigration Laws to Serve the National Interest*, U.S. Immigration and Customs Enforcement (ICE) is in the process of authoring a report which encompasses data on ICE apprehensions.

The draft ICE Monthly Apprehension Report includes: Enforcement and Removal Operations and Homeland Security Investigations administrative arrests identified as prior immigration violators or gang members, the country of citizenship, ICE arrests by the most serious criminal conviction, aliens booked into ICE custody, aliens released from ICE custody, and ICE removals.

The report is currently being drafted with a tentative release of June 2017. The report will be issued on a monthly basis thereafter.

Question#:	27
Topic:	Fear of Deportation
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Kamala D. Harris
Committee:	HOMELAND SECURITY (SENATE)

Question: In Los Angeles, Police Chief Charlie Beck issued a report showing a 25% drop in reports of sexual assault from Latinos as of March 18, compared to the same time in 2016. In Denver, the city attorney reported that she had to close four open sexual assault cases where immigrant witnesses refused to testify for fear of being deported.

Do you agree that our communities are less safe when individuals do not come forward to report criminal activity?

At your confirmation hearing, you committed to me that you would become aware of the impact that indiscriminate immigration sweeps have on immigrant communities and their willingness to report crimes. Have you been briefed on this topic yet? If yes, what resources did you draw upon for this briefing?

Response: Yes, I agree that communities are less safe when community members do not come forward to report criminal activity.

Through my role as Secretary of Homeland Security, I have become aware of the spread of misinformation and outright falsehoods regarding immigration enforcement activities performed by U.S. Immigration and Customs Enforcement (ICE). ICE does not conduct indiscriminate raids or sweeps. Rather, ICE conducts targeted, at-large enforcement operations to locate and arrest aliens identified by ICE prior to the start of such operations.

ICE continues to work with state and local law enforcement agencies and community organizations to dispel myths regarding its operations and to reiterate that ICE does not target aliens because they have reported crimes to law enforcement.

Question#:	28
Topic:	ICE Agents
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Kamala D. Harris
Committee:	HOMELAND SECURITY (SENATE)

Question: Police chiefs from my state have reported serious concerns regarding ICE enforcement activities in their cities, including ICE agents identifying themselves as police officers and ICE officials giving them misinformation about whether certain enforcement actions would lead to arrests of non-criminal persons who are simply here without status.

Have you set up a process to both receive and address these law enforcement concerns from local and state law enforcement?

If not, will you commit to undertake a comprehensive review of these concerns and develop a set of policy and/or practice changes to ensure that public safety is not undermined as a result of the administration's immigration-enforcement activities?

Will you commit to issuing policy prohibiting ICE agents from identifying themselves as police officers?

Response: U.S. Immigration and Customs Enforcement (ICE) field offices routinely meet with state and local law enforcement agencies to communicate enforcement priorities and maintain appropriate situational awareness of operations. Such concerns that may be provided by the public to state and local law enforcement agencies are often relayed to ICE field offices through these interactions. ICE field offices also conduct outreach with the communities they serve, which often includes forums to effectively communicate ICE enforcement priorities and allow ICE to dispel many of the rumors regarding ICE operations.

ICE is one of the largest federal law enforcement agencies in the United States with officers and agents assigned to many major joint taskforces at federal, state, and local levels. It is extremely important that all law enforcement officers and agents are properly identified when conducting law enforcement actions. The word "police" is the most universally recognizable term for law enforcement agencies around the world. ICE officers and special agents are—in fact—law enforcement personnel who perform law enforcement duties, such as carry firearms, make arrests, serve warrants, and conduct searches. To perform their jobs safely and effectively, they are trained to identify themselves as police, and must be recognized as law enforcement officers.

Should an individual fail to recognize or acknowledge an ICE officer as a legitimate police entity due to a lack of proper identification, that individual may attempt to flee or take other action that could result in injury to the individual, harm to the officer, or

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danger to the public at-large. ICE would fall short of its duty to promote public safety by branding itself with any marking that could lead a person to believe he or she is observing or encountering anyone other than a sworn law enforcement officer.

Question#:	29
Topic:	CRCL Involvement
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Kamala D. Harris
Committee:	HOMELAND SECURITY (SENATE)

Question: The Office of Civil Rights and Civil Liberties was established by Congress through the Homeland Security Act of 2002. Included in its duties is to "assist the Secretary, directorates, and offices of the Department to develop, implement, and periodically review Department policies and procedures to ensure that the protection of civil rights and civil liberties is appropriately incorporated into Department programs and activities."

Please describe in detail the involvement by the specific personnel from the Office of Civil Rights and Civil Liberties in the formation of the following new DHS policies:

The February 20 memo entitled, "Enforcement of the Immigration Laws to Serve the National Interest."

The February 20 memo entitled, "Implementing the President's Border Security and Immigration Enforcement Improvement Policies."

DHS policy regarding the separation of mothers and children upon apprehension and detention at the border.

Response: No personnel from the Office for Civil Rights and Civil Liberties were involved in the formation of the new DHS policies identified in this question.

Question#:	30
Topic:	CBP Hiring Process
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Kamala D. Harris
Committee:	HOMELAND SECURITY (SENATE)

Question: On April 12, 2017, the Washington Post published a document that they purport to be a leaked internal DHS assessment about DHS's progress in implementing the Executive Order entitled, "Border Security and Immigration Enforcement Improvements." This assessment contemplated expanding the pool of applicants eligible for a pre-employment polygraph waiver and changing the pre-employment polygraph test from the Law Enforcement Pre-employment Test (LEPET) to the Espionage, Sabotage, and Corruption polygraph test. As you know Congress mandated a pre-employment polygraph test for CBP law enforcement officers after a hiring surge at CBP saw a corresponding increase in infiltration attempts by Mexican Drug Trafficking Organizations. The assessment considers other changes to current hiring standards, such as removing the Spanish language proficiency test, and lessening the current physical fitness test.

Have any decisions been made as to the recommendations around the CBP hiring process and, if not, what is the timeline for making such decisions?

Response: To meet the Executive Order hiring mandate, CBP is implementing modifications to the administration of the polygraph exam, entrance exam, and physical fitness test. While many modifications to our processes are being made, we will not implement any change without carefully weighing its risks and mitigation measures. To be clear, CBP is not lowering its standards for any of its frontline personnel. Specific modifications are discussed below.

Polygraph Examination:

- Polygraph Waiver Expansion: CBP is open to working with Congress on developing a risk-based approach to extend polygraph waiver eligibility to groups of applicants who have a demonstrated track record of integrity and service.
- Test for Espionage, Sabotage, and Corruption (TES-C): In May 2017, CBP launched a six-month pilot of this test as a possible alternative to the LEPET. The new test format utilizes a National Center for Credibility Assessment–approved counterintelligence test format with an additional focus on corruption-related issues. The test also places more focus on serious crimes, to include felony crimes and serious misdemeanors. It is hoped that this test will reduce the time it takes to conduct a polygraph while identifying any trustworthiness or credibility issues and ensuring that the critical portions of the LEPET remain.

Entrance Examination:

Question#:	30
Topic:	CBP Hiring Process
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Kamala D. Harris
Committee:	HOMELAND SECURITY (SENATE)

- Modification of U.S. Border Patrol (USBP) Entrance Exam: CBP is modifying the USBP entrance exam to reduce testing time and to make the test more accessible to applicants. Spanish language proficiency will still be required of Border Patrol Agents, but CBP is refocusing the training and assessment of this requirement on the Academy. Since few applicants fail the entrance exam solely because of the Spanish Language Proficiency Test or Artificial Language Test, little risk is associated with this decision. The tentative timeframe for implementation is June 2017.
- Remote Testing: CBP is exploring its ability to administer remote testing for applicants to increase exam completion rate. As of March 2017, CBP allows the Candidate Experience Record portion of the exam to be completed remotely and is continuing the development of a remote version of the Logical Reasoning Test. The remote test will use computer adaptive testing technology that makes the exam more accessible to applicants without compromising the exam's standards or integrity.

Physical Fitness Tests (PFT):

- Removal of PFT-2 (OFO)/Conversion of PFT-2 to Non-adjudicative Phase (USBP): PFT-2 was first implemented in 2012, when the time-to-hire was mueh greater than it is now. The second test was added to ensure that applicants maintained their fitness throughout a lengthy hiring process, an initiative that improved the attrition rate at the Academies. Given the implementation of our expedited hiring process, which has significantly reduced the amount of time between PFT-1 and PFT-2, the need for a second physical fitness test is less critical. By removing/not adjudicating PFT-2, CBP is ensuring that the few applicants who do fail—but already passed every other step of the pre-employment process—have the opportunity to attend the Academy and receive additional training to meet CBP's fitness standards. These changes will be implemented immediately.

Question: After what we have learned following the previous hiring surge, what safeguards have been put in place to make sure that any modifications or loosening of the screening process will not be a threat to officer safety and public safety?

Response: CBP's hiring process reflects the high standards of integrity to which all CBP frontline personnel are held. These standards remain uncompromising, and CBP's systematic approach toward Executive Order compliance will not sacrifice quality for quantity. While the modifications under consideration may result in more applicants passing the pre-employment process, successful applicants must still meet the qualifications for the position, and if selected, undergo basic training at our Academies.

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Individuals who do not meet the standards of the CBP Academy will receive additional training as needed.

Question: How would you ensure that changes to the screening process would not adversely affect force integrity?

Response: Ensuring the integrity and safety of the CBP workforce is essential to the agency's mission. Any changes made to the pre-employment process have been made with consideration for possible risk to CBP's high standards that emphasize the integrity of that workforce. The decision to request expansion of polygraph waiver authority and to deploy the administration of a newly developed National Center for Credibility Assessment -accredited polygraph examination were made after a review of the impact of each and the risk mitigation strategies that could be utilized in conjunction, something done for all decisions that impact the hiring process. The changes made to the polygraph examination and waiver authority, when coupled with the requirement for all law enforcement applicants to undergo a stringent Tier 5 Background Investigation, and things such as random drug testing and continuous evaluation, help ensure that risk is kept to a minimum.

Question#:	31
Topic:	Draft Changes
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Kamala D. Harris
Committee:	HOMELAND SECURITY (SENATE)

Question: The same assessment mentioned above identifies a set of actions the Department is taking concerning asylum cases and the use of parole to carry out Section 11 of Executive Order 13767. Specifically, the assessment notes that the Department has "drafted paper proposing additional changes to the credible fear and reasonable fear screening process" and "drafted revised instructions on the proper application of TVPRA [The Trafficking Victims Protection Reauthorization Act].

Will you please provide each of these drafts to the Committee?

Please describe the changes being considered to the credible fear and reasonable fear screening process?

Please describe the revised instructions on the proper application of the TVPRA?

Response: No. The document you are referencing was an unofficial working draft. It was not reviewed or approved by senior leadership within the Department, nor did it go through the formal review and clearance process. It was incomplete.

Question#:	32
Topic:	Verbal Directive
Hearing:	Improving Border Security and Public Safety
Primary:	The Honorable Kamala D. Harris
Committee:	HOMELAND SECURITY (SENATE)

Question: During your testimony on April 5, you testified that you have given a verbal directive to your staff that mothers and children apprehended at the border are only to be separated if the life of child is in danger, but indicated that no other further guidance, written or otherwise, was provided.

On what date was this directive given?

Through what communications vehicle did you provide this directive?

How many employees did your communications reach directly?

Please describe the specifics of the directive that was given?

If no further written guidance or training was issued, how did you ensure that the appropriate staff who did not directly receive your directive were informed of it?

Response: I have communicated that message on numerous occasions with my staff.

BORDER INSECURITY: THE RISE OF MS–13 AND OTHER TRANSNATIONAL CRIMINAL ORGANIZATIONS

WEDNESDAY, MAY 24, 2017

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

The Committee met, pursuant to notice, at 10:05 a.m., in room SD–342, Dirksen Senate Office Building, Hon. Ron Johnson, Chairman of the Committee, presiding.

Present: Senators Johnson, Lankford, Hoeven, Daines, McCaskill, Carper, Tester, Heitkamp, Peters, Hassan, and Harris.

OPENING STATEMENT OF CHAIRMAN JOHNSON[1]

Chairman JOHNSON. This hearing will come to order.

I want to thank the witnesses for taking time and for your thoughtful testimony. I think it will be a pretty interesting description of a problem that I think plagues so many inner cities. And, from my standpoint, really one of the contributing factors to this—one of the top priorities of this Committee—is securing our borders. This is, I think, our 25th hearing on some aspect of border security.

Now, the title of the hearing is "Border Insecurity: The Rise of Mara Salvatrucha (MS–13) and Other Transnational Criminal Organizations (TCOs)." Reading through the testimonies, it looks like we are going to be focusing an awful lot on MS–13, which is, obviously, in the news today. And, I will let the witnesses tell the stories, but it is kind of interesting—the history of MS–13. Originally formed out of immigrants coming from El Salvador—the war there—in the Southern California area, and then, based on problems—those members being deported to Central America—the organizations grew and thrived in Central America. Now, we are seeing them come back, sometimes in the form of unaccompanied alien children (UACs).

I did send a letter yesterday as a result of information we received from a whistleblower. I sent it to Mr. Scott Lloyd, Director of the Office of Refugee Resettlement (ORR). And, yesterday—late breaking news—because of this hearing, we were informed by a whistleblower of a Customs and Border Protection (CBP) document from July 2014, describing an incident. This was right at the height of the surge of UACs arriving at our border, and the documents appear to indicate that CBP apprehended self-identified

[1] The prepared statement of Senator Johnson appears in the Appendix on page 491.

MS–13 gang members at the border. The CBP Significant Incident Report (SIR), dated July 5, 2014, basically stated that officers assigned to the Nogales Placement Center (NPC) identified multiple admitted MS–13 gang members.

Another document goes on to quote, "All identified gang members at Nogales Placement Center have been placed in the appropriate placement center and are no longer being held at the NPC. Sixteen identified juvenile gang members were transferred to placement centers around the country, including Shenandoah Valley Juvenile Center in Virginia, Selma Carson Staff Secure in Washington, Northern Virginia (NOVA) Staff Secure in Virginia, the Southwest Key (SWK) Mesa Staff Secure in Texas, Children's Village New York, and Fort Sill Army Training Support Center (ATSC) in Oklahoma."

Now, the Office of Refugee Resettlement, within the Department of Health and Human Services (HHS), was responsible, at that point, for the care and custody of UACs apprehended by CBP.

Now, why do I point that out? We have a broken system. It was in 2002, in the authorization of the Department of Homeland Security, that we split out the responsibility, where now CBP apprehends, processes, and then turns UACs over to HHS. And, we have gotten very good at apprehending, processing, and dispersing, which, from my standpoint, has just fueled this rise in UACs coming to the border—certainly during the last Administration.

Just so we understand what we are talking about when we say "unaccompanied alien children," because I know immediately people think of little children—7, 8, 9, or 10 years old. Here are the facts. Out of 188,000 UACs apprehended from 2012 through 2016—and that includes from Central America as well as Mexico, because it is only broken out with that—so it is not just Central America—68 percent of those UACs were 15, 16, or 17 years old—in other words, prime gang age. By the way, 68 percent are also men. Less than 18 percent were under the age of 12.

So, the fact of the matter is, so many UACs are, literally, young men of prime gang age. And, now we have documentation from a whistleblower that CBP apprehended them, knew they were MS–13 gang members, and processed and dispersed them into our communities.

So, again, I think the purpose of this Committee is to highlight these problems within our government Agencies—within our government laws and procedures—to make the public aware, so we can actually keep this homeland safe.

So, again, I appreciate the witnesses coming here to testify. We will describe the danger—the problems with MS–13—the barbarity. And, that is what this Committee is all about: holding these hearings to raise that public awareness—lay out a reality so we can actually enact public policy to combat it and keep this homeland safe.

With that, I will turn it over Senator McCaskill.

OPENING STATEMENT OF SENATOR MCCASKILL[1]

Senator MCCASKILL. Thank you. And, I want to thank the Chairman for holding this hearing. There is nothing more important than getting these criminals behind bars. Nothing. And, if we have, in fact, in any way, allowed criminals to come into our country, then there is complete agreement, I believe, of every Member of this Committee that we need to do everything we can to apprehend them and catch them.

I want to begin by recognizing the three witnesses here, today. And, I have such respect for what you do every day. I know, firsthand, from my time as a prosecutor, that people that wear the uniform in law enforcement in this country go to work each day not thinking about themselves, but thinking about what they can do to protect—what they can do to make sure that families are safe in their communities. And, they take a great deal of risk in doing so. So, I know your job is sometimes thankless, and it is easy for folks to criticize you. But, I just want you to know, from the depth of my person, how much I respect what you do every day.

Gang violence is certainly a huge problem in this country—and it is tearing apart families and taking the lives of way too many. They prey on the weak and they prey on the vulnerable. They provide a sense of family that, many times, young people have never had. And, they do irreparable damage, not just to the lives of their victims, but also to the communities where they live.

Today, we are here to discuss one gang in particular—MS–13—a gang that was started in Los Angeles in the 1980s and has since expanded to Central America. I recall the feeling of hopelessness I used to have when I was the prosecutor in Kansas City—and we had a huge gang problem—when we would be confronted with horrific violence that was gang-inflicted. And, we could not get anybody to talk. I remember sitting and crying with victims and explaining that, if no one talks, no one goes to prison. And, that is why these gangs are so insidious. Not only do they do violence, but also, by the way they commit violence, they discourage anyone from ever speaking up in ways that can hold them accountable.

And, that is why I am troubled that we have seen a recent trend, in some places, of even fewer people willing to come forward in communities that are full of people who have come to this country looking for hope from another country. And, I certainly want to protect our borders. I certainly want to secure our borders. But, we also have to be cognizant that what we say and do has an impact on people's willingness to come forward.

And then, you exacerbate that with the fact that they are going to be coming forward against gangs—then we give you an absolutely impossible job to try to hold these gang members to the standards that we demand—and that is, putting them in prison for as long as we can possibly put them there—and in some instances, seeking the death penalty.

So, because of my sensitivity about how hard it is to get these guys, I just want us to be very careful about documents that are released, because sometimes information about individuals is very sensitive—even documents that the Committee got a hold of last

[1] The prepared statement of Senator McCaskill appears in the Appendix on page 492.

night. These documents did not come from CBP. They came from a whistleblower, which—we want to encourage whistleblowers. But, we also have to be very cautious, if there is sensitive information in any of these documents, that they have been fully vetted and that law enforcement in those communities, who may be working investigations, as we speak, about some of these individuals—that there is nothing that is released that could ever harm any of those investigations in any way. Putting these people in prison is way more important than this hearing. And so, I have concerns that these documents were released so quickly and that we did not have a chance to even view the documents, on our side of the aisle, until they had already been released as now part of the public discourse on this issue.

So, I understand the concern and I share the concern, but I think we have to be careful and cautious, because, at the end of the day, we have to make sure we are supporting you—and that is the most important thing that we have to do.

So, I look forward to your testimonies, and I look forward to asking questions about the challenges you face in getting these gang members that are wreaking havoc in so many communities across the country.

Chairman JOHNSON. Thank you, Senator McCaskill.

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

Mr. SINI. I do.

Mr. CONLEY. I do.

Chief MANGER. I do.

Chairman JOHNSON. Please be seated.

Our first witness is Mr. Timothy Sini. Police Commissioner Sini serves as the Police Commissioner for Suffolk County in the State of New York. Prior to his appointment as Commissioner, he served as the Assistant Deputy County Executive for Public Safety in the same jurisdiction. Commissioner Sini.

TESTIMONY OF TIMOTHY D. SINI,[1] POLICE COMMISSIONER, SUFFOLK COUNTY POLICE DEPARTMENT, SUFFOLK COUNTY, NEW YORK

Mr. SINI. Thank you very much. And, I want to thank the Chairman and all of the Members of the Committee for the opportunity to provide testimony today, regarding MS–13 in Suffolk County, New York—and ways in which we can work together to effectively eradicate this gang from our communities.

Just briefly, Suffolk County is New York's fourth largest county, situated some 20 miles east of New York City (NYC), covering 911 square miles and 1,000 miles of coastline on the eastern end of Long Island. Suffolk is comprised mostly of suburban communities with a diverse population of approximately 1.5 million people. The Suffolk County Police Department is one of the 15 largest police departments in the country, with approximately 2,500 sworn officers and approximately 1,000 civilian employees.

[1] The prepared statement of Mr. Sini appears in the Appendix on page 496.

Contrary to recent sentiments in the national media, thanks to the hardworking men and women of the Suffolk County Police Department, Suffolk remains one of the safest counties of its size in the United States. Presently, crime is the lowest it has been since we began collecting reliable crime statistics in 1975.

Despite these historic reductions in crime, we have recently experienced an increase in gang violence connected to MS–13. Specifically, since January 1, 2016, of the 45 homicides that occurred in Suffolk County, 17 of those are believed to be linked to MS–13, which is approximately 38 percent of all homicides during that time period. And, since 2013, 27 murders in Suffolk have been attributed to MS–13.

Suffolk County has approximately 400 identified MS–13 gang members organized in cells called "cliques." Many of these "cliques" have connections to other jurisdictions, including our neighboring county, Nassau County, and New York City.

Active MS–13 gang members are predominantly male and range, predominantly, from the age of 16 to 29—and the median age of MS–13 recent arrestees is 18 years old.

In Suffolk County, MS–13 engages in a variety of criminal activity, such as assault, murder, drug dealing, extortion, robbery, and burglary. Intelligence indicates that many MS–13 gang members hold wage-paying jobs and are not focused primarily on income-generating crimes, such as drug dealing, differentiating them from the typical street gang. Rather, MS–13 often engages in violence for the sake of violence—to increase the notoriety of the gang and to cause communities to fear the gang and its members.

In fact, in 2016, the most frequently reported crime committed by MS–13 was assault. The signature weapon used by MS–13 is the machete. As noted, however, MS–13 members also commit murder, often targeting victims who they perceive as disrespecting the gang.

For example, in September 2016, MS–13 gang members brutally beat two young girls to death in a suburban cul-de-sac—Nisa Mickens and Kayla Cuevas. Nisa and Kayla were 15 and 16 years of age. They were high school students. Shortly before her murder, Kayla had a schoolyard argument with an MS–13 gang member. In collaboration with the Federal Bureau of Investigation's (FBI's) Long Island Safe Streets Task Force, the Suffolk County Police Department arrested their murderers, and they are currently being prosecuted by the United States Attorney's Office for the Eastern District of New York.

In response to heinous acts by MS–13, the Suffolk County Police Department launched a gang eradication strategy targeting MS–13, which, to date, has resulted in over 200 MS–13 arrests of more than 150 individual MS–13 gang members. Our strategy is as follows: We collect a tremendous amount of intelligence on the gang, with the specific objective of identifying MS–13 gang members and hangouts. And, we assign police officers to specific gang members to aggressively and relentlessly target the members and the locations where they frequent. This targeted enforcement suppresses crime, results in the collection of intelligence, and generates valuable evidence for Federal prosecutions down the road.

As we engage in this targeted enforcement, we are working hand in hand with our Federal law enforcement partners to strategically select MS–13 gang members for Federal prosecution under the Racketeer Influenced and Corrupt Organizations (RICO) statute, which is a very effective tool to dismantle gangs, such as MS–13.

We recognize, however, that targeted enforcement as well as enhanced patrols will not, alone, lead to the eradication of MS–13 from our communities. As law enforcement weeds out gang members from our neighborhoods, we need to invest in school-based and community-based programs to reduce gang recruitment and gang enlistment. MS–13 preys on our most vulnerable young people. If we do not provide the structure for these young people, MS–13 will.

To this end, we use an arsenal of community-based intervention strategies, such as custom notifications, call-ins, and youth conflict insertions. And, we also work closely with our schools to identify at-risk children early on, to intervene in effective ways to prevent them from joining gangs or to assist them in getting out of a gang.

One specific segment of our population that is particularly vulnerable to gang recruitment are our UACs. From 2014 through March of 2017, 4,624 UACs have been placed in Suffolk County, alone—making it one of the largest recipients of UACs in the country. While the vast majority of these children are good kids seeking a better life in the United States, they are vulnerable, because they are young, unaccompanied, adjusting to a new country, culture, and language, and seeking a sense of belonging. And, some of them do not have the structure or support system in place to help their transition. Due to these circumstances, we have seen a small percentage of UACs fall victim to gang recruitment and gang victimization.

In sum, while the vast majority of UACs live law-abiding lives, the vulnerability of some of these children creates a source of recruitment for MS–13. And, we must provide necessary support to these kids—or MS–13 will.

To highlight ways in which the Federal Government can further assist local governments on this critical public safety issue, I respectfully suggest the following:

More Federal prosecutors to prosecute RICO cases against MS–13 gang members. For example, we work with the Long Island Criminal Division of the United States Attorney's Office for the Eastern District of New York. They have only 11 line assistants and 4 supervisors—despite the fact that districts with comparable or smaller populations have significantly more Assistant United States Attorneys (AUSAs). Indeed, if provided with sufficient AUSAs, the Suffolk County Police Department could launch a pilot program in collaboration with the FBI and the U.S. Attorney's Office, whereby every MS–13 arrest could be screened for possible Federal prosecution. This would increase the number of Federal prosecutions of MS–13 gang members, taking dangerous individuals off of our streets—and likely generate significant intelligence due to the incentives in the Federal system for defendants to cooperate with law enforcement.

Second, improved intelligence sharing among law enforcement agencies throughout the country—perhaps by creating a singular database with information relating to identified MS–13 gang mem-

bers. This system could include automatic notifications to local agencies when information is added regarding an individual who is of interest to that agency. Such a database would encourage multi-jurisdictional operations and allow local police departments to be more proactive in targeting MS–13 gang members in our communities.

Third, additional Federal funding to offset patrolling costs associated with "hot spot policing" in areas affected by MS–13 activity.

Fourth, additional Federal funding to fund gang prevention and intervention programs tied directly to the number of UACs placed in our communities, as they are some of the most vulnerable to MS–13 recruitment.

And, lastly, improvements to the UAC program, including—but not limited to—increased screening and compliance monitoring of sponsors, notification of placement to school districts and local governments, and increased funding for post-placement services.

In closing, I want to thank the Committee for its time and its commitment to this very important issue, as well as for the opportunity to appear before it today. I look forward to working with the Committee and all of its Members and its staff. Thank you.

Chairman JOHNSON. Thank you, Mr. Commissioner.

Our next witness is Detective Scott Conley. Detective Conley is the lead investigator for the Chelsea Police Gang Unit in Chelsea, Massachusetts. Detective Conley has been serving the public for over 22 years, including serving as the Task Force Officer in the Boston Field Office. Detective Conley.

TESTIMONY OF SCOTT M. CONLEY,[1] DETECTIVE, CRIMINAL INVESTIGATIVE DIVISION, CHELSEA POLICE DEPARTMENT, CHELSEA, MASSACHUSETTS

Mr. CONLEY. Chairman Johnson, Ranking Member McCaskill, and distinguished Members of the Committee, it is my honor to address you today on behalf of the citizens of Chelsea, Massachusetts.

My name is Scott Conley, and I have been a member of the Chelsea Police Department (CPD) for over 22 years. To provide context for my testimony today, I have included a brief biography. I would highlight that I currently serve as a detective with the Chelsea Police Department's Gang Unit as well as being a Task Force Officer for the Federal Bureau of Investigation's North Shore Gang Task Force, which is funded by the Federal Safe Streets Initiative.

Chelsea is a city in Suffolk County, Massachusetts. It is directly across the Mystic River. As of 2017, Chelsea had an estimated population of 42,828. It is also the second most densely populated city in Massachusetts, with a total area covering just 2.5 square miles.

Chelsea is a diverse, working-class city. It is one of only three Massachusetts cities in which the majority of the population identifies as Hispanic or Latino. Chelsea's residents enjoy a large and thriving Central American population.

In 2014, our community, as well as surrounding cities and towns, experienced a significant increase in the number of teenage students entering the schools from Central America. For the most part—a large majority of these students were hardworking in their

[1] The prepared statement of Mr. Conley appears in the Appendix on page 515.

pursuit of the American dream. But, there was a second type of student entering our schools as well: the MS–13 gang member, straight from El Salvador, Honduras, or Guatemala, with nothing but malice on his mind, looking to further the influence of his gang and to recruit as many of the above-mentioned children into the MS–13 gang as possible. These children were entering our country across the Southern Border as UACs. They were coming to communities that have a strong Central American population in an attempt to be reunited with family members. Upon arrival to the metropolitan Boston area, they found themselves in a very vulnerable position.

Some of these individuals—some of them were being reunited with family members that they had not seen for 14, 15, and even 16 years. Some were being reunited with mothers and fathers that had moved on and started their own families and did not welcome the child to be a part of it. And, at worst some of these UACs went into a sponsorship program with a so-called "concerned adult" that had no interest in the child's well-being. As gang investigators, we know that this combination of breakdown in family structure, individuals wanting to belong, and the child's thought that they were in need of protection makes that child a perfect candidate for gang recruitment—and, in this case, recruitment by MS–13.

I have been investigating the MS–13 gang in Massachusetts for 15 years. Over the course of those years, I have seen the gang's membership numbers increase and decline. The most recent increase—and the most significant increase—began in 2014. The city of Chelsea, as well as surrounding cities and towns, saw an uptick in street-level violence associated with MS–13 and its rival, 18th Street Gang.

At first, this violence was isolated to mostly armed and unarmed assaults, but it soon developed and evolved into coordinated attacks on rival gang members and students within our schools.

Some of these attacks resulted in homicide. Homicide investigators have detailed the most brutal, premeditated and horrific crimes committed at the hands of MS–13. They are an organization that has no respect for human life. They kill on demand and without mercy. They often use cutting instruments, like machetes, knives, and even box cutters to inflict the most damage on the victims as possible. This is how they spread their influence, this is how they intimidate, and this is how, if left unchecked, they can take over a community or—in the case of El Salvador—influence an entire country.

In 2016, as a result of a 3-year investigation conducted by the North Shore Gang Task Force and Homeland Security Investigations (HSI), the U.S. Attorney's Office charged 61 leaders, members, and associates of MS–13 in a RICO conspiracy involving 6 murders and 22 attempted murders. We do not view this investigation as a case but, rather, as a part of our MS–13 program. The multi-agency approach is critical to any successful MS–13 program. That program depends on closely coordinated investigative measures by a law enforcement team consisting of the FBI, specifically, in Massachusetts, the North Shore Gang Task Force, HSI, the FBI Transnational Anti-Gang (TAG) offices in El Salvador, Guatemala, and Honduras, the Massachusetts State Police (MSP), and various

local police departments within communities containing a strong MS–13 presence. This program also requires close coordination with the U.S. Attorney's Office and local district attorney's (DA's) offices.

The multi-agency approach is critical to any successful MS–13 program. Also critical is an appropriate balance between criminal prosecution and deportation. To really get to the heart of the problem in the metro Boston area, we needed to investigate and prosecute a high volume of MS–13 members, including the entire leadership. Along the way, we used deportation, tactically, to remove dangerous individuals whom we were unable to prosecute either because of age or inability to gather sufficient evidence. We worked closely with our HSI partner to ensure that we were targeting the right individuals for deportation and providing HSI with the evidence it needed to ensure that the deportation would occur.

Now that we have taken out a large portion of the leadership and membership, we continue a three-part strategy consisting of: developing human sources for continued, large-scale criminal enterprise investigations and prosecutions; using the intelligence—the sources we have developed for our prosecutions to assist local district attorney's offices and investigators in our case with three or four pending investigations and prosecutions of MS–13 murderers involving juvenile defendants; and using deportation to disrupt MS–13 criminal operations.

It takes a task force approach with the most sophisticated investigative techniques to combat a transnational threat. Each local, State, and Federal partner offers a unique skill set to the team. It is my opinion that it is critical to mission success that these efforts are supported with efficient funding and appropriate recognition by the U.S. Government.

Thank you.

Chairman JOHNSON. Thank you, Detective.

Our final witness is Chief of Police Thomas Manger. Chief Manger has been the Chief of Police in Montgomery County since 2004. Chief Manger began his law enforcement career in 1997 with the Fairfax County Police Department (FCPD). Chief Manger.

TESTIMONY OF J. THOMAS MANGER,[1] CHIEF OF POLICE, MONTGOMERY COUNTY POLICE DEPARTMENT, MONTGOMERY COUNTY, MARYLAND

Chief MANGER. Thank you. Chairman Johnson, Ranking Member McCaskill, and distinguished Members of the Committee, my name is Tom Manger. I am the Chief of Police in Montgomery County, Maryland. It is a community of one million people, one-third of whom were not born in this country. I am also here representing as President of the Major Cities Chiefs Association (MCCA). That is an association with the largest 69 police departments in the United States. I want to thank you for this opportunity to address the Committee.

Chairman Johnson pointed out in his remarks that MS–13 has been around, in the United States, for over 40 years. They started on the West Coast. Ten years later, they started showing up on the

[1] The prepared statement of Mr. Manger appears in the Appendix on page 522.

East Coast. And, since the time that they have gotten here, MS–13 has evolved into one of the most violent and murderous gangs in the world.

It has progressed from a group whose members, certainly in my jurisdiction, started off committing petty crimes and were initially considered to be more of a juvenile delinquency issue, as opposed to anything else. And, now they have escalated into acts of extortion, aggravated assaults, and murders. As a result, my department and others in the Washington, D.C., region formed a dedicated investigative unit that is solely focused on gangs and continues to target MS–13 and other gangs.

Over the last 20 years, my department, in partnership with our regional and Federal law enforcement partners—along with the U.S. Attorney's Office—have prosecuted numerous cases against MS–13 and its primary rival, the 18th Street Gang. With each major prosecution, the county experienced a period of relative inactivity from the gangs—only to have them reemerge after reconstituting their ranks and reestablishing their criminal enterprises.

Beginning about 2 years ago, in June 2015, Montgomery County began to experience a spike in gang-related homicides. This marked increase correlated with the breakdown of a truce between the gangs and the El Salvadorean government—and a significant increase in that country's homicide rate.

This year, Montgomery County has not seen a spike in those homicides by MS–13, but this is because we have just completed a major Racketeer Influenced and Corrupt Organizations case that the task force officers from Montgomery County and Prince George's County, in the D.C. region, and agents from the Drug Enforcement Administration (DEA) and Homeland Security Investigations conducted, which netted several indictments of top Maryland-based MS–13 leaders.

Coincidentally, we had two MS–13 gang members that were murdered in an altercation when an unidentified suspect at a local shopping mall got into a confrontation with them and stabbed both of the individuals to death.

There was another highly publicized incident earlier this year, where a 15-year-old runaway from my county was killed in a neighboring jurisdiction by MS–13 gang members and associates. This certainly reminds us that, while we have seen a bit of a decline in the homicides this year, it reminds us that our work against gangs must continue.

It is important to note that, during this same timeframe, my jurisdiction experienced seven more homicides that were attributed to two other local gangs or "crews." These murders, by the neighborhood crews, appear to be motivated by illegal drug transactions, whereas, the MS–13 gang murders appear to be based on the victim's perceived or actual affiliations with rival gangs. Furthermore, committing a homicide is a means for gang members to elevate their status within the gangs. What also distinguishes the MS–13 murders is the premeditation, brutality, and callousness in which they were committed—with many of the victims suffering from multiple blunt force traumas and stab wounds as well as left in shallow graves in isolated wooded areas.

In addition to the homicides that I have mentioned, we have also heard from community members that MS–13, which, historically, extorted money from solely illicit businesses, such as bordellos and unlicensed cantinas, are now collecting "rent" from legitimate Latino business owners and residents in certain apartment complexes. In some instances, if the victims of these extortions refuse to pay the fee demanded by the gang, the gang members return with detailed information on the intended victims' family members still living in Central America. The victims here in the United States know that that threat of violence to their extended family in their native country is a true possibility and that the perpetrators are out of the reach of U.S. law enforcement.

This same coercive tactic is used to get young adults to join gangs or do tasks on their behalf. The UACs that come into our country are particularly vulnerable to gang recruitment. The gangs surf the Internet, building dossiers on potential recruits and gathering information on their social networks, both here and back in their countries of origin. The data from social media is then used to entice or coerce new prospects. In at least two of the recent MS–13-related murders committed in my jurisdiction, the victims were identified, targeted, and, ultimately, lured to their deaths after they developed fabricated social media relationships and accepted false invitations to meet with female MS–13 associates, posing on the Internet with promises of having sex with the unsuspecting victims.

Technology also plays a role in hampering law enforcement's investigations against gangs and other transnational criminal organizations (TCOs). In our recent case with the DEA and HSI, investigators learned that gang members were using commercially available encrypted applications to plot their criminal activities. These applications and other technologies are part of the growing, larger issue of criminal organizations "going dark" and exceeding the current abilities of both local and Federal law enforcement to legally monitor their communications—even with a court order.

I want to also mention that my colleagues in corrections have mentioned that there has been a marked and dramatic increase in the number of MS–13 gangs in our jails and prisons. This dramatic uptick in that population has impacted the ability for our corrections professionals to keep these individuals segregated. It has impacted staffing and the safety of corrections officers (COs).

Let me just finish by offering two recommendations to the Committee to address this growing problem.

First, I believe that Congress can and should fund Federal, State, and local task forces to focus on gangs. They could be modeled after the Joint Terrorism Task Forces (JTTF) and should have a single national and coordinated infrastructure, led, primarily, by a Federal Agency, with significant input from local departments. These regional gang task forces will need the full spectrum of support, from centralized intelligence sharing and analysis to prosecution in the U.S. Attorney's Offices, where Federal grand juries and firm sentencing have had the greatest impact on disrupting these gangs. The Senate has previously enacted legislation to accomplish this purpose, but it was never approved by the House of Representatives.

Senator McCaskill, you mentioned that sometimes we have an impossible job. For my last recommendation, I urge Congress to act to balance citizens' right to privacy with law enforcement's need to lawfully monitor and intercept electronic communications, regarding criminal activity and potentially deadly plots. The expanding issue of "going dark" must be addressed at the Federal level to afford local law enforcement and our Federal partners the legislation and the tools they need to legally access the encrypted communications that are used to coordinate criminal activities.

Thank you for holding this hearing. And, thank you for the assistance that you provide law enforcement throughout our Nation.

Chairman JOHNSON. Thank you, Chief. Senator Lankford has to leave, so I will yield my position to Senator Lankford.

OPENING STATEMENT OF SENATOR LANKFORD

Senator LANKFORD. Mr. Chairman, thank you very much.

Gentlemen, thank you—not only for being here, but also for the preparation, for this time, for the incredibly compelling testimonies, and for the issues that you bring and the complexity of what you deal with every day. We appreciate your work very much.

All three of you mentioned the interaction between MS–13 and what is happening in Central America. Several of you mentioned, specifically, the coordination efforts between Central America and law enforcement here—both Federal and their law enforcement in that spot.

What can we do to help facilitate greater cooperation—whether that be fingerprint sharing, identity—background information between individuals that are being deported from here to back there—as they are trying to receive gang members back there—but also individuals that are moving this direction as well? So, what coordination is missing? Because, MS–13, obviously, is a strong Central American—especially Salvadorean—presence there. What can we do?

Chief MANGER. I would just say that you touched on a couple of things that we need to do. The first, is our ability to remove identified MS–13 gang members that have been arrested or convicted of crimes. Oftentimes, we have—not only in Central America, but in other nations in our world—countries that will not accept their residents back. And, we need to remove them from our country. And so, if we can work on that issue, it would be very helpful.

And, as I mentioned in my testimony, the truce that was in place between gangs in El Salvador and their government really did impact things in our country. And, when that truce broke down, it created a spike in violence in our country.

Senator LANKFORD. What you are saying is, the gang truce broke down in El Salvador——

Chief MANGER. That is correct.

Senator LANKFORD [continuing]. And it affected the violence directly, here in the United States?

Chief MANGER. Yes, sir.

Senator LANKFORD. OK. What other resources—what other cooperation do we need from Central American countries?

Mr. CONLEY. I had the privilege to just return from El Salvador. And, with my position with the FBI's task force, I have been able

to go down there approximately half a dozen times. I just returned as recently as Saturday. The FBI has in place, in El Salvador, the TAG group. Their success prompted them to have another TAG placed in Honduras and Guatemala. What I believe we are seeing up in the metropolitan Boston area is the inability to refer to a database that does not just cover local MS–13 members, but MS–13 members nationally, as well as internationally. And, I feel like a database, where the input was from both El Salvador and the United States, would assist in the vetting process of these UACs that are crossing the border.

A lot of times, in El Salvador, they have information that the individual may have gang ties—possibly not a member—and, in return, in the United States, we have information that the individual has gang ties—whether or not he or she is a member. And, it would be a great asset if that information found its way to a clearinghouse, where they would have access to that internationally, nationally, and even at the local level.

Senator LANKFORD. All three of you mentioned something along those lines. Is the FBI the correct depository for that? Because, trying to set up something new, obviously, is an additional cost, an additional level of bureaucracy, and everything else. Is there enough of a relationship with the gang task forces—locally, with the FBI and their gang task forces—to say the FBI should be tasked with having this database—all local folks be able to have access to it—international and national?

Mr. CONLEY. In the metropolitan Boston area, which I can speak on with confidence, we speak to the FBI TAG in Central America, specifically Guatemala and El Salvador, on a weekly basis. The Massachusetts State Police speak to the FBI TAG in El Salvador and Guatemala maybe even more often than that. So, it would be my opinion that the FBI already has in place those resources—and to expand those resources would probably be the best course.

Senator LANKFORD. OK. Mr. Sini?

Mr. SINI. I agree wholeheartedly. As I mentioned in my testimony, this database is critical—mission-critical to facilitating effective collaboration and eradicating these gangs from our communities here.

What we are seeing for the first time on Long Island, is direct connections with the young gang members to El Salvador. So, in the past, we have seen connections from gang members in Suffolk County and on Long Island to the west coast. Now, it is directly to El Salvador, Guatemala, and Honduras. So, your question is directly on point.

In addition to the database, I would just add, you know, we work very closely with the FBI in Suffolk County, through the FBI Safe Streets Task Force. However, a broad special operation division may also be worth taking a look at. My understanding is that that is essentially a multi-Agency organization. And, that could be a division that could assist in this type of database.

What is very helpful is, when we have a number pop in Suffolk County—a phone number—and we share that with our Federal partners abroad, who have assets in Central America—and the type of analysis and intelligence that they can gain from a single

number is scary—when you see all of the connections—but also extremely helpful.

Senator LANKFORD. OK. So, what is missing in this database that does not already exist? Because, it sounds like the cooperation is there and the relationships are already there. What is missing in this database? Is it just that it has not been launched? Because, the information is there.

Mr. CONLEY. It is my opinion that we have a series of individual databases that do not always connect nationally and internationally. And, I think it would be an asset to be able to connect them internationally—again, because that would not only assist us with knowing who is coming into our community, but also would assist the governments within Central America in knowing, at times, who is coming back. And, from conversations with government officials in El Salvador, that was one of the things that they were struggling with—is that, as their resources—to include the FBI's TAG—addressed the MS–13 problem locally, in El Salvador—and they may arrest 20 or 25 individuals—they said that it is just a short time later that a plane arrives and 50 more gang members are brought back to their country. And, they have to continue the process again.

So, it is important to address the problem in El Salvador if we are going to take a really hard look at the problem that we are experiencing here, in the United States.

Senator LANKFORD. Thank you.

Mr. Chairman, I just have a quick comment on this. This is something that the Senate Appropriations Committee has already started on. In fact, yesterday, we had a hearing on State and Foreign Operations, appropriations regarding Central America, specifically, and some of the investments and the way they have been targeting how we spend money in our foreign aid and how we need to be able to target this—specifically, dealing with violence in those areas, because it has an exact connection to what is happening here. I would encourage cooperation between those two Committees and whatever we can do with the FBI to be able to help them finish this database.

Chairman JOHNSON. It sounds to be pretty much a common solution here. So, we will work together with you on that. Senator McCaskill.

Senator MCCASKILL. When you all identify a gang member who is in this country illegally, are you getting an immediate response from ICE for deportation?

Chief MANGER. When we arrest them, we typically do. We can identify them. It is not until they are arrested and fingerprinted—the fingerprints get to the Department of Homeland Security (DHS)—that they identify them as someone they would be interested in, yes.

Senator MCCASKILL. And, let me ask about the countries who will not take them back. And, the problem that you just laid out very well to us, just that, when El Salvador arrests 25 leaders, we send them back 50 more to take their place from this country. Have we had any problem with either Guatemala or El Salvador refusing to take any of the people that we have arrested for gang

activity here—to send back there—that are not in this country legally?

Mr. CONLEY. I would not be the subject matter expert to answer that question.

Senator MCCASKILL. Have you all ever encountered the situation of not being able to get rid of a gang member that you are holding because a country will not receive them back?

Mr. CONLEY. In Massachusetts, and specifically in the task force that I work in, we have not had a problem—we do not know of a problem where the country did not take them back. There have been road blocks at times, when an individual committed a crime and was placed in custody—was up for deportation—and the Federal judge refused the order of deportation. But, that would be completely different than the country not taking them back.

Senator MCCASKILL. Right. That is a whole other issue.

I know you all have talked about money for regional task forces. I think this is one of those areas where we have to be really careful with the budget the President presented, because, while they are putting more money into border security, we cannot forget that a lot of the High Intensity Drug Trafficking Area (HIDTA) money—a lot of the money that—Byrne JAG grant money, I mean—you all know what these programs are because your departments depend on them—especially for interagency task forces. Having firsthand experience at this—this money is not wasted. This is not soft stuff. This is what is giving you the tools. So, I just want to make that comment, because the President's budget was not kind. The skinny budget—and the new budget that has been presented—was not always kind to programs like that.

Let me ask you about prosecutors. You talked, Commissioner Sini, about more line U.S. Attorneys—and I get that RICO has tools that local prosecutors do not have within the RICO umbrella. But, are you getting cooperation from local prosecutors on these assaults—on these felonies? Is there not enough cooperation from your local DAs on this? Because, all of these crimes, obviously, are State crimes—not Federal crimes. Assault is not even a Federal crime. Really, murder is not either. So, I am just curious as to what the local cooperation has been.

Mr. SINI. So, as I mentioned before, part of our strategy is to target these gang members and make street arrests. And, I mentioned we have made over 200 MS–13 arrests. The vast majority of those arrests are prosecuted by our local district attorney's office. So, in that regard, we get excellent cooperation from the district attorney's office.

Where I would improve the collaboration among the police department, the U.S. Attorney's Office, and the district attorney's office is—oftentimes you are able to develop probable cause and have the ability to arrest an individual on local or State murder charges much sooner than you are able to make a Federal murder RICO charge.

Senator MCCASKILL. Right.

Mr. SINI. So, what I would like to see—if the machine was running perfectly—is that once we have probable cause (PC)—once we have probable cause to make that State murder charge, that person is arrested and prosecuted in the State system. If it turns out that

we are able to make that into a Federal RICO charge, we can bring that case over to the U.S. Attorney's Office. And, it becomes a collaborative effort. Perhaps, you have a special assistant district attorney (ADA) in the U.S. Attorney's Office and a special assistant district attorney——

Senator MCCASKILL. Right, so it is coordinated.

Mr. SINI. Exactly.

Senator MCCASKILL. Yes. Improved screening and post-placement services were also some of your recommendations. I, certainly, am aware of the post-placement services issue. We had a whole hearing—Senator Portman and I did on the Permanent Subcommittee on Investigations (PSI)—about the incredible problem of HHS not really—I mean, there has been some—put the gang issue aside. There has been some horrendous treatment of these children, in terms of being forced into child labor and other issues. And, clearly, I think that is something that we need to continue to focus on.

Let me finally just ask you this. It is my understanding, Commissioner and Chief, that neither one of your departments will be participating in the 287(g) program. Is that correct?

Mr. SINI. That is correct.

Senator MCCASKILL. And, would you explain briefly why you will not be participating in 287(g)?

Mr. SINI. Although we believe that it is mission-critical to collaborate with the Department of Homeland Security to remove dangerous gang members from our streets, we also simultaneously have to create an environment in which undocumented individuals feel comfortable coming to law enforcement with information about crimes. So, therefore, we do not, for example, inquire into the immigration status of those individuals who are coming to the police as a witness, as a victim, or as someone merely seeking police assistance. In the same vein, we believe that, if we entered into a 287(g) agreement, it could compromise our mission in creating that environment and could hurt our ability to make cases where we need to encourage witnesses and victims to come forward.

With that said, whenever we arrest an individual for a crime—misdemeanor or felony—and that person is not here legally, we automatically notify the Department of Homeland Security.

Senator MCCASKILL. And, Chief Manger, your department was listed on ICE's list of jurisdictions that supposedly did not cooperate with them. Obviously, what the Commissioner just described is the ultimate cooperation. It is paying attention to your public safety mission, which has to be foremost. You are the only one that answers 911 calls. I am not aware of anybody else in the entire criminal justice system that answers 911 calls, besides your departments. And so, what was the downfall that resulted in you being listed as a department that failed to cooperate with ICE? And, what was the impact on your ability to, in fact, put criminals in prison?

Chief MANGER. The biggest challenge that I have had is to try and make sure that what a number of our elected officials have said is not misinterpreted by our Federal colleagues. The fact is, we are not now—nor have we ever been—a sanctuary jurisdiction. We have found, we believe—because, as I mentioned, Montgomery County is one-third immigrant when you look at our population.

And, I think, the Commissioner described it perfectly. We have to find that balance for what is right for public safety in our jurisdiction. If people are afraid to come forward and report crime—afraid to come forward as witnesses to crime—our jurisdiction is less safe.

So, we have found that balance. We do not inquire about people's immigration status. However, if we arrest someone, we cooperate fully with ICE. We respond to every one of their inquiries. The issue where I think many jurisdictions run into a challenge—and we have been talking to the Department of Homeland Security about this forever—is the issue of the detainers. And, I think many people look at the issue of whether we honor a detainer or not—that is, hold someone beyond when they would normally be released—as a political decision. It is not. It is a legal decision. We have been instructed by the Federal Circuit—the Fourth Circuit—we have been given instructions by our attorneys that we can hold these folks until the time when they would be released. At that point, we will notify ICE they are being released. If ICE can come down and get them, they are welcome to them. We will notify ICE when they are going to be—we will give them notice ahead of time when they are going to be released, if we have that information.

We had a case recently where ICE took the opportunity to put a press release out, saying that Montgomery County released a dangerous person back into the community. It was a mistake. We had a detainer. We should have honored it. It was unexpected that a judge was going to release this person and we did not notify ICE. I say "we." It was our Corrections Department. And, it was a mistake. It was fixed the next day. The person was taken into custody the next day.

Senator MCCASKILL. But, that does not overcome the press release.

Chief MANGER. It does not overcome it, but the fact of the matter is, we are doing the same thing that Suffolk County is doing—the same thing that about 90-plus percent of the 18,000 police departments in this country are doing. We have found that balance, where we do not want to be the immigration police, but we absolutely cooperate and help our Federal partners.

Senator MCCASKILL. Make no mistake, you guys are handling 95 percent of the violent crime that occurs in this country—not the Federal authorities.

Thank you, Mr. Chairman.

Chairman JOHNSON. I will take Senator Lankford's questioning. Then, it will be Senator Hassan.

On that same line of questioning, is there any Federal law that you would want to see changed or modified to help you do your job, as it relates to this gang activity and your dealing with ICE, in terms of detainers and immigration law?

Chief MANGER. We are bound by case law. And, when we are informed by our attorneys that we would be liable for false imprisonment if we do not release someone when they are entitled to be released, that is a problem. And so, if there can be a change in the law that gives those detainers the strength of a warrant—because, if we have a warrant, we will hold someone. And, that is, I believe, the easiest solution: to get a warrant to hold somebody. That gives us the legal authority to do so.

Chairman JOHNSON. So, again, you are concerned about your liability. And, I have heard the same thing, in terms of county sheriff's departments in Wisconsin. There are some civil cases out there that hold them liable if they detain people. So, it is really giving you that liability protection to be able to actually detain people in this country legally.

Chief MANGER. That is correct. And, believe me, there is not a police department in this country that does not want to hold someone who is a danger to their community. And, if we can use that person, who has already committed a crime that has gotten them locked up in the first place—if we can use deportation as a tool for that individual, I am perfectly happy to remove that person from my community. But, I cannot run afoul of the law in doing that.

Chairman JOHNSON. I am going to come back to the strategy of using deportation as opposed to arrest and imprisonment. But, I first want to get to something pretty basic.

It was interesting being briefed for this. I have not been a prosecutor. I have not been involved in the whole issue of gangs. My assumption going in was that MS–13 would have been primarily there as drug traffickers and human traffickers. Kind of splitting this out, the reason people join gangs—we have talked about how they do not have people here and they do not have family here. This is a type of family. But, they are also extorted to join the gang as well.

Can you just tell me, what is the purpose of MS–13? From the gang's perspective, why are they recruiting and why are they extorting? What is their main activity? I will start with you, Commissioner.

Mr. SINI. Sure. They recruit to sustain themselves. And, they are a criminal organization. Their main objective is to exist and to be feared. And, there is no question that they engage in criminal economic activity. Many of them sell drugs. Many of them commit extortion, robberies, and burglaries. But, they do not engage in those criminal activities as their primary purpose of existence.

Chairman JOHNSON. Do you understand why that is just surprising to hear that? Their main purpose is just to exist, to be an entity, and to have people loyal to them—and the loyalty extends to killing people with a machete. Does everybody else agree with that? Is that the main purpose?

Mr. CONLEY. Just to add to what the Commissioner said, we have to look at MS–13 in the United States as it evolves—just like we have to look at MS–13 in El Salvador as it evolved. On the east coast of the United States, MS–13 is just getting a foothold. On the west coast of the United States, like Senator McCaskill and Senator Johnson have said, they have been there for decades. And, we actually imported MS–13 back to El Salvador. But, now they have begun to evolve. And, on the west coast, they do control drug-trafficking markets. They do have connections with other criminal organizations, such as the Mexican Mafia, La Eme.

In El Salvador, almost everybody pays. Almost everybody pays some sort of extortion payment to MS–13. In some cases, it might be as little as one dollar. But, when a household in El Salvador might only bring in $250, that one dollar is pretty significant.

So, we need to learn from the patterns of MS–13 on the West Coast and the patterns of the criminal activity of MS–13 in El Salvador in order to be prepared for what MS–13 is ultimately going to try to put into place on the East Coast. So, to piggyback on what the Commissioner said, as of right now, they are just maintaining. And, they really do just go out and commit the most heinous of violent acts—some of which, as a 22-year investigator, I have never investigated before—to include cutting off of limbs and the attempt to cut off a victim's head with a machete.

So, at this moment, on the East Coast and in Boston, like the Commissioner said, some of them are employed. Some of them go to work at 6 o'clock in the morning. If you go into certain restaurants in Boston to arrest an MS–13 member, sometimes the business owner says, "He was one of my best workers."

So, right now, they are maintaining. They are getting their numbers up—and we can see that, from the metropolitan Boston area all the way down to Charlotte, North Carolina. But, they are going to evolve, and they are going to attempt to take over the trafficking markets of narcotics—just like they have on the West Coast and just like they have in Central America.

Chairman JOHNSON. So, again, they have different specialties. In El Salvador, it is extortion. On the West Coast, it is drug trafficking. And, we are not quite sure how it evolves, but you would suspect that it would be drug trafficking or human trafficking.

Mr. CONLEY. I believe that, on the East Coast, they are still trying to get leadership into the right places, including Boston, Long Island, Virginia, the Carolinas. And, I think once they establish that leadership base, you will start to see a more sophisticated gang that does not just solely commit violent acts, but also controls some sort of narcotics market and possibly even illegal trafficking.

Chairman JOHNSON. So, let me ask how they differ and how they are similar to other major gangs. Maybe Chief Manger can answer that.

Chief MANGER. Our neighborhood crews, which are not ethnic-based—that is, they are more diverse, in terms of their membership—they are the ones that typically have—when we have homicides relating to those, it is usually drug-related. The homicides related to MS–13, it is just because they can, because they will, and because they want to instill that fear. It is because they think, "If you are not in my gang, then you are my enemy and I am going to kill you."

The economic support that MS–13 was engaged in was very unsophisticated for a long time. They were thinking, "We are going to rent an apartment in some old apartment building, and we are going to put a couple of young women in there and get $20 for every guy that wants to come in." And, this would operate for about a week. When it would finally come to our attention, we would be able to shut that down. It would just pop up somewhere else. Not very sophisticated. And, it was usually that they were extorting money and making money from unlawful operations. Now, they are going to Latino-owned businesses and charging them "rent." And, they are using coercion, fear, and threats, as the victims know that these people have the ability and the willingness

to carry out—to now extort money from legitimate business. This is a trend that we are seeing more recently.

Chairman JOHNSON. Really quickly, because I did just want to ask you—you talked about the instances of a couple of individuals lured through the Internet to their deaths. Was that an initiation rite? Why would they lure individuals just to kill them?

Chief MANGER. In one case, it was because they believed that that individual was part of a rival gang.

Chairman JOHNSON. OK.

Chief MANGER. In another case, it was that this individual had been approached and had been resistant to joining MS–13. So, it was basically to teach them a lesson. No more reason than that.

Chairman JOHNSON. Senator Hassan.

OPENING STATEMENT OF SENATOR HASSAN

Senator HASSAN. Thank you, Mr. Chairman and Ranking Member McCaskill, for this hearing.

First of all, to the three of you, thank you for your service as law enforcement officers—and please thank your families for all of us, too. I am the former Governor of New Hampshire, and I had the great privilege of being the chief executive over the New Hampshire State Police, so I am very appreciative of the time, effort, and commitment that you all provide to your fellow citizens.

And, I am very grateful for your testimonies today. I am very grateful, not only for the information, but also for the suggestions and recommendations. I think they will help all of us as we work together to combat this gang and other public safety threats.

I did want to delve a little bit more into some of the discussion of what we think the root causes of gang violence are. We know we have to ensure that our Federal, State, and local law enforcement officers have the resources necessary to keep our communities safe—and I thank you for your recommendations in that regard.

But, to touch on something that Commissioner Sini talked about a little bit, having a strong law enforcement presence in our communities is only really one part of the solution. We have to ensure, too, that there are social and educational programs in place—and that those are adequately resourced—to try to divert young people away from joining gangs in the first place.

So, in my State, one of the important social programs that has helped us to address youth violence was a mentorship program between police and students. It is known as Manchester Police Athletic League (MPAL). It paired cops with kids in a mentorship capacity, in order to help kids grow, make the right choices, and become productive members of the community. Among other things, they teach kids boxing, how to exercise, and how to work out. And, it has been an important tool used to combat gang recruitment and crime, but also to combat drug abuse as well, which, as you know, is a particularly devastating issue in my State.

So, I want to ask you all about the social and educational programs in your communities, and how they seek to address some of the root causes of gang violence. And, I also just wanted your thoughts on what we saw yesterday from the President's budget, which has eliminated Federal support for key educational pro-

grams, such as dropout prevention and after-school support activities.

I assume that you think Federal dollars for this kind of work are important, but I would love to hear your thoughts. And, maybe, Commissioner, we could start with you.

Mr. SINI. Sure. So, that is a critical piece to addressing this significant public safety issue. In Suffolk County, our police officers—they do such fantastic work in terms of mentoring our students—our children in the communities—and doing outreach to all of our children, but particularly our at-risk youth. And so, we do that in a variety of different forms. We do it directly with police officers. We also have launched a new program called "Change," which is with the Department of Probation and a not-for-profit organization that specializes in gang prevention. And, the idea is early intervention, trying to identify at-risk children early on to connect them to services that they may need—whether it is social work services, psychological counseling, or medical services—and providing that support, so that they can do well in our communities—and also involving the family, because that is key. The family is going to have the biggest impact on this child's life, so there needs to be an approach to involve the family in that process. And, involving law enforcement in these social programs is critical for several reasons.

One, police officers tend to be very warm, very intelligent, and very charismatic individuals, so they tend to be good at this.

Senator HASSAN. Yes.

Mr. SINI. But, also, it creates that trust between law enforcement and the community. So, to the extent that people are not comfortable with law enforcement, mentoring programs, like the one you launched in your home State, help break those barriers. So, it also achieves that objective.

And, I would just add that, in terms of early intervention, what better place to start than with the UACs, because we know they are coming over and they are at risk—they are vulnerable by nature of coming to this country illegally, by not being with their parents, by being so young, and by being new to this country. And, to identify them early on would be key, which is why notification to local governments, I think, would be very helpful. And, yes, I vehemently support Federal dollars for community policing.

Senator HASSAN. Thank you very much. Detective.

Mr. CONLEY. I will be brief. I feel that the two gentlemen to the left and right of me are in a position to speak on policy better than I am. But, I will tell you, in Chelsea, Massachusetts, my chief, Brian Kyes, has always said that if we are reacting to a crisis, then we have already lost. We need to be proactive and prevent the crisis. And, in Chelsea, we have many programs, especially addressing the UACs—whether it be after-school programs that involve policing or whether it is the Massachusetts General Hospital (MGH) in Chelsea that provides social resources to these children.

Like the Commissioner said, you have to involve the family. You cannot take a 15-year-old and think that 30 minutes after school playing basketball is going to have a lasting effect. It may open up some doors for a relationship, but, once that door is open, you need to find out where that individual is going home to—because we can spend all day playing basketball, but where is that 15-year-old

going home to? And, as law enforcement agents, it is our job to know where that 12-year old, 13-year old or 14-year-old individual is going home to.

And so, we spend a lot of time—I probably spend just as much time fighting gangs as I do trying to spend time with individuals in Chelsea, preventing them from joining the gangs in the first place.

So, you have to get the families involved. And, when it comes to these UACs, it is important to help us identify what the crisis is. A lot of these individuals are coming here across the border, and they already have Post-Traumatic Stress Disorder (PTSD) setting in. Just the crossing, in and of itself, we have heard horror stories about.

One of the important things that I think would greatly help the State of Massachusetts, and specifically my community, Chelsea, is if we knew—if there was some sort of notification that came to the police department or came to the city, notifying us that a UAC was about to join our community. That way, we can search them out to offer resources, instead of them having to seek us out.

And, lastly, when it comes to MS–13—inherently they are not very trusting of the government. And, a lot of the social programs that we have in Chelsea—to include what is called Reaching Out to Chelsea Adolescents (ROCA)—the MS–13 members see that as a government agency. They do not know that it is a social agency. So, it does hinder their ability to do reach-out work.

But, just in closing, the proactive approach—the reach-out work, preventing these individuals from joining the gang at the recruitment stage is critical.

Senator HASSAN. OK. Thank you. Chief.

Chief MANGER. Every single one of us, when we were 12 years old or 13 years old started to sort of mature out of always being under Mom and Dad's umbrella. And, you want to have—every one of us wanted a sense of belonging to something—a sense of being able to be somewhere where we had people that cared about us—friends. For some of us, it was sports. For some of us, it was other school activities. For some, it was church.

The UACs that come here are just a perfect recruitment opportunity for gangs, because they come with none of that, but they all want that.

Senator HASSAN. Right.

Chief MANGER. So, the key, I think, is to be able to—as soon as possible—when we identify those folks—is to give them the wrap-around services. And, I am telling you, Scott is right on. And, I wrote down, "walking home," because we can do that—we can, for these kids, but then, they have to walk home. And, that is where they are vulnerable.

Senator HASSAN. Yes.

Chief MANGER. So, the early intervention programs—the intervention programs—we have something called a "street outreach network," where we have counselors who are specially trained—many of them are former gang members, who, actually, intervene with these kids. They help them get out of the gangs and, if possible, keep them from joining gangs in the first place. The challenge, I think, is to identify these kids, and the one place where

these kids will all end up where you might be able to connect with them is schools. And, the problem is, the schools are hesitant—and I understand this—why they are hesitant. They are hesitant to get involved in the gang issue. But, that is where you can actually find these kids. But, the schools have been reluctant—understandably—to start getting involved in those gang intervention kind of programs. But, if we can somehow coordinate a little bit better—without running afoul of all of the protections that are in place for these young kids—the early intervention is the way to go, absolutely.

Senator HASSAN. Thank you. And, Mr. Chairman, thank you for your indulgence. Gentlemen, thank you all very much—and be safe.

Chairman JOHNSON. Sure. By the way, I just have to chime in. You were talking about how, if you are dealing with a crisis, you are already too late. The primary goal, I believe, of Federal policy should be to stop the flow or drastically reduce it. If we focus on that, then you are not having to worry about dealing with all of these UACs—because it has been a crisis level. It is creating all kinds of havoc. So, our focus ought to be on how we stop or dramatically reduce that flow. Senator Harris.

OPENING STATEMENT OF SENATOR HARRIS

Senator HARRIS. Thank you. Chairman, as Attorney General (AG) of California, I convened a group of law enforcement leaders in our State—and other experts—over quite some period of time to produce this report, "Gangs Beyond Borders." And, it is an examination of transnational criminal organizations and what we need to do to stop them. I would like to submit that for the record.[1]

Chairman JOHNSON. Without objection. I appreciate it.

Senator HARRIS. Thank you.

I want to thank each of you. As a career prosecutor, I started out as a baby DA, and I have prosecuted, personally, everything from low-level offenses to homicides. I was the elected DA of San Francisco and the Attorney General of California. And, I cannot thank you each enough for the work you do, in particular as local law enforcement. Perhaps, it is a bit of my bias, but I do know that local law enforcement disproportionately shoulders the burden and responsibility for dealing with these issues, including transnational criminal organizations. And, it is too bad that others—when we talk about transnational criminal organizations, they automatically go to international law enforcement or Federal, when, in fact, local law enforcement really does carry an extreme burden for dealing with it at the local level. So, I want to thank each of you and the men and women of your departments for the work they do.

So, as local law enforcement, we know that, first, transnational criminal organizations—and it is in the report also—certainly they are involved in the trafficking of guns, drugs, and human beings. They also, like everyone else in society, have adopted technology in the way they do their work. Among their many reasons for being—the Chairman asked that question—one of the highest reasons for being is to make money. But, they profit off of illegal activities that

[1] The Report submitted by Senator Harris appears in the Appendix on page 532.

rise to the level of also being lethal. And so, they are also involved in money laundering. They are involved in government fraud. They are involved in piracy. They are involved in identity fraud. All of those are pursuits of illegal and organized criminal associations.

But, as local law enforcement, one of the things that we know is that one of the best tools that we have is the trust that we have between ourselves and the communities we serve. And, when there is a break in that trust, it breaks our ability to do the work that we need to do—and the men and women of your departments need to do, which is to concern themselves with public safety. So, I would like to talk for a moment about the importance of the relationship of trust between local law enforcement and the communities you police.

You are aware that this Administration has been looking at a policy of withholding Byrne JAG and Community Oriented Policing Services (COPS) funding—Federal funding to local law enforcement if you do not cooperate with immigration enforcement. We have talked about that previously.

First, tell me, how much do your departments rely on Byrne JAG and COPS funding to do your everyday work? Can you tell me? Each of you, if we can just go down the line.

Mr. SINI. We are a recipient of Byrne JAG grant money in excess of $1 million, and it helps us fulfill many of our mission-critical objectives.

Senator HARRIS. And, if that funding were withheld, what would that mean, in terms of your ability to perform your everyday duties and responsibilities?

Mr. SINI. We would have to secure funding from another location, which, in these days, in my county, that would be extremely challenging.

Senator HARRIS. OK. Thank you.

Mr. CONLEY. I would mirror what the Commissioner said. My department relies greatly on that funding. And, if that funding was taken away, it would seriously inhibit our ability to do what we do every day.

Senator HARRIS. Thank you.

Chief MANGER. Ditto. We typically have around $1 million at any given time of that kind of grant money. The programs that we operate with that money are absolutely critical to our mission and are doing phenomenal things for the residents of our county.

My hope is that with—there is beginning to become—we are getting more clarity as to what a sanctuary jurisdiction is and what would make a jurisdiction ineligible for these kinds of grants. As we get that clarity, I think that my concern is lessening a little bit—because nowhere did I see that a place like Suffolk County or Montgomery County would have to change what we are doing. We do, in fact, cooperate with Federal authorities. But, again, we have—but the fact that we have elected not to become 287(g) jurisdictions and do immigration enforcement ourselves would not make us ineligible for those kinds of grants.

So, I am hopeful that, as we get more clarity, it will not impact the majority of jurisdictions.

Senator HARRIS. Thank you, Chief. And, on your point about your department's statement to your community that you will not

be a 287(g) city and department, let us talk a little bit about, again, the relationship of trust, as it relates to what we ultimately want to do, which is to not just arrest the bad guy, but to prosecute him, get a conviction, and lock him up. What we want to do is make sure that there is going to be serious, swift, and severe accountability and consequence, in particular for those who commit violent crimes in our communities.

As we both know, the only way that we get to that goal is to prove a case in a court of law. And, the only way we are going to prove a case in a court of law is if we present evidence to a jury or a judge. Correct?

Chief MANGER. Yes.

Senator HARRIS. And, most of the time, that evidence is not going to be coming from the bad guy himself. It is going to be because we have produced witnesses to the crime who will come and testify before a jury in an open courtroom. Is that correct?

Chief MANGER. That is correct.

Senator HARRIS. And, would you not agree, then, that what has happened over the course of many months, since these statements have been made about a policy that would have local law enforcement cooperate with ICE, is that there has been a chilling effect, in particular around witnesses who are immigrants—be they documented or undocumented?

Chief MANGER. Certainly, when the Executive Orders (EOs) were first issued—right after the new Administration came into office—there was absolutely great fear in our community about just how those Executive Orders were going to be implemented.

Senator HARRIS. And, you mentioned you are the head of the Police Chiefs——

Chief MANGER. The Major Cities Chiefs Association, yes.

Senator HARRIS. Yes, and thank you for that. So, you probably know Chief Charlie Beck in Los Angeles (LA).

Chief MANGER. Very well, yes.

Senator HARRIS. So, Chief Beck has reported that, in March, he witnessed a 25-percent drop in reports of sexual assault and a 10-percent drop in reports of domestic violence among Latinos in Los Angeles from the same time in 2016. Similar reports have come from Houston, Texas, and Salt Lake City.

Would you agree, that when the people of our communities think that they are going to be deported, many victims—in fact, especially victims—will endure crimes like domestic violence or sexual assault, rather than be deported and removed from their children or the community that they know?

Chief MANGER. I do believe that. And, when we became—we were very quickly aware of the fear in our community, and we redoubled our efforts to ensure—to let the folks in our community know that our policy has not changed and that they had no reason to fear coming forward to report crimes or being witnesses.

Now, I will just tell you a very quick story. We had a domestic homicide where a man driving down a busy street had abducted his estranged wife, and she tried to jump out of the car. He grabbed her by the hair, pulled her back in, shot her in the head, and then pushed her out onto the street. There were two men who were within the distance that you and I are away from where this hap-

pened. They heard her scream. They heard the shot. They saw what occurred. Both of these men were day laborers. They were standing in a parking lot at a convenience store waiting to be picked up for work. Neither man spoke English. I do not know their immigration status, but people can certainly speculate.

As we arrived, these men came forward and spoke to one of my officers about what they saw. And, had we not had the relationship with the community that we have and the policies that we have, my guess is that both of these men would not have been there when officers arrived to start investigating that case.

Senator HARRIS. Thank you. Thank you all for your service. I really appreciate it.

Thank you, Mr. Chairman.

Chairman JOHNSON. Senator Heitkamp.

OPENING STATEMENT OF SENATOR HEITKAMP

Senator HEITKAMP. Thank you, Mr. Chairman. And, again, we are all announcing our street credibility on this. I, too, was the Attorney General of my State, like Attorney General Harris—and I had the wonderful opportunity of leading teams in drug enforcement, which inevitably led to gang enforcement. And, it was very difficult sometimes for people in a State like North Dakota to understand that gangs have infiltrated their community. I think sometimes one of the challenges we have in States—unlike California—is getting people to admit they actually have a problem.

I do not think there is any doubt that MS–13 has become a cancer in our society and that it is metastasizing in every community, including communities in my State, especially Native American communities, where it is easier to infiltrate.

I will tell you, like any cancer, we need a whole range of treatments. If you get breast cancer, you cannot just rely on surgery. You are going to have chemotherapy; you are going to have radiation; you are going to have after-treatment. And so, I want to focus, as my colleague Senator Hassan focused, on prevention—and Senator Harris focused on what we need to do to actually have prosecutions. I want to talk about deportations.

I, through an interesting set of circumstances, actually spent about an hour and a half—2 hours in an El Salvadorean prison with leaders of MS–13. They rely on those gang leaders to maintain some kind of order within the prison system, because, otherwise, with the overcrowding, there is no way they could maintain that population. And so, you see MS–13 basically embedded throughout the culture and throughout the society—the civil society of these communities.

In San Salvador, I also went to a religious-based anti-gang program where a lot of it was job training and a lot of it was trying to find opportunities, so that future gang members or people who were just on the cusp of recruitment could find an opportunity other than joining the gang for economic stability in their lives.

Now, with that said, I will tell you that the biggest problem I see is extortion. And, when you deport a gang leader—an MS–13 gang leader—back to the community—they are going to find a family member—and they are going to extort. And, all of the great wishes and outreach that you are talking about today may not be all that

valuable if they think that if they do not join in this country, that Grandmother will not be alive the next day.

And so, the extortion piece of this is incredibly difficult to get at. And, I think we cannot solve this problem without thinking about stabilizing the Triangle countries—especially the country of El Salvador. They are still suffering from the residuals of a civil war. That created the vacuum, in terms of security and safety that gangs moved into. And, there has never been, in my opinion, a very effective reestablishment of the rule of law. And, they act in that way.

Chairman Johnson and I also witnessed some of the collaborations between our institutions. And, we actually saw the Colombian folks come up and try and help to establish a rule of law and order in these communities.

My question to all of you is—and then I will just let you take it from here: When you are arresting or when you are dealing with the community, how much of this do you hear? And, have you thought about how, if only we could have a program in El Salvador and if only we could work more collaboratively with our counterparts in the Triangle countries—particularly, El Salvador—we could get a better handle on what is happening here? How much thinking have you done about international collaboration? I guess that would be my question.

Mr. CONLEY. To answer that, I just want to touch base on what Senator Harris was asking. In my community, where the majority of the community identifies as Hispanic or Latino, promoting trust of law enforcement is priority number one. A lot of our community is made up of undocumented residents. And so, furthering trust with that sub-community is priority number one. And, we have gone to great lengths to assure them that, yes, since January, ICE has had more of a presence in our neighborhoods. But, the Chelsea Police Department does not assist ICE operations when they are solely for immigration issues.

Senator HEITKAMP. I can appreciate that one of the challenges that you have is just within the community, writ large, where you are. But, it is going to be really hard to convince that kid not to join a gang and not to act the way they are going to act if they think that their parents or if they think that their grandparents are at risk back home in El Salvador.

Mr. CONLEY. Right, and that is a true——

Senator HEITKAMP. How do we solve that?

Mr. CONLEY. And, that is a true statement. We do have evidence of individuals being pressured into joining gangs because of some sort of tie directly with El Salvador. Senator, I think you said it at the beginning of your question. We need to secure—we need to stabilize those countries. They are fleeing for a reason. And, when they do, they are coming to this country under the worst possible conditions.

So, like yourself, I have been to many of the jails and prisons in El Salvador. And, they have resources that are minimal at best. And so, there is no reason for that individual to actually attempt to reform while they are in prison. They are just looking to get out and just go right back to where they were before they went in.

So, to answer you directly, yes, we need to make an effort to assist those Central American countries—specifically, El Salvador, where I have been—in stabilizing.

Senator HEITKAMP. From the standpoint of the chiefs of police, how do you see an opportunity to collaborate with your counterparts in the Triangle countries, particularly El Salvador?

Chief MANGER. It is a challenge. I mean, we certainly have partnered with our international partners—and 10 of our members are from police departments from Canada. We have had associate members from the United Kingdom (U.K.). The relationship between law enforcement agencies—especially our Federal partners—and the law enforcement agencies of some of these countries is—we have to build the trust there. You have to be able to trust that that information that you are sharing is not going to be misused.

There is no question that the premise of your remarks—that what is happening there has an impact on what goes on here. Unfortunately, as a local police chief—even as president of Major Cities Chiefs—I am not sure that local law enforcement has much control or much influence over the issue that you are asking about.

Senator HEITKAMP. And, I think my point would be, then we are just treating symptoms, because we are not going to get ahead of this unless we work collaboratively. And, I completely understand the hesitation to share intelligence or any kind of information back and forth. You do not know who you are talking to. And, I think these are all efforts that we are working on to try and improve the professionalism, the honesty, and the integrity of police departments. We have seen some steps in the right direction. They definitely are not there.

But still, like Senator Harris and Senator Hassan, I understand the critical role that local law enforcement plays. And, when we make mistakes here, in terms of national policy and national cooperation as well as the utilization of the resources we have in this country—when we do not do our job internationally, you guys are going to continue to be stressed and have this same issue.

And so, I just wanted to bring that up, because I think a lot of people think, "Well, deport them home." Deporting people home may, in fact, mean sending one of the worst perpetrators, who now has the ability to extort any number of additional people, home to achieve a criminal result right here in the United States.

So, thank you so much for everything that you do. We want to be great partners with you. And, thank you so much for your testimonies.

Chief MANGER. Thank you.

Chairman JOHNSON. Senator Daines, good timing.

OPENING STATEMENT OF SENATOR DAINES

Senator DAINES. Thank you. Precision, like the Blue Angels, here. Thank you, Mr. Chairman. And, thank you all for testifying today—and for your service in the law enforcement community.

You all mentioned brutal crimes in your testimonies. These are hard to stomach. We just had a very brutal crime in Montana last week, where we had a deputy sheriff that was murdered by a man, who was eventually killed by law enforcement. We had the funeral

yesterday. We need to do everything in our power to put an end to the violence and to cut off the flow of resources that fuel it.

In Montana, while we do not have a sizable transnational criminal organization presence, we do feel the impacts of their illicit activities. MS–13 has established relationships with drug-trafficking networks that distribute in Montana. Virtually all methamphetamine in Montana is trafficked from south of the border.

We have seen the price drop in half with the influx. And, now, more than 90 percent of all drug offenses in Montana are methamphetamine-related. Additionally, we have seen a nearly fivefold increase in positive heroin drug tests. This impacts our communities, from increases in violent crime to a disturbing rise in child endangerment and foster care caseloads.

Detective Conley, at previous hearings with Homeland Security Secretary Kelly, we discussed domestic demand for drugs as a key contributor to the violence in Central America. I understand that you recently returned from El Salvador, training their police. From your perspective, how can we reinforce their law enforcement efforts?

Mr. CONLEY. While I was down there, I had the opportunity to speak to high-ranking officials within their law enforcement community. And, what they said over and over again was that what they were experiencing in El Salvador was the sophistication of gang members that were coming back from the United States. Just recently, in El Salvador, they started doing Title III of the Omnibus Crime Control and Safe Streets Act of 1968 (Wiretap Act) wiretaps. Up until 2015, they did not even have the ability to do that.

In El Salvador, what they need most, in regards to combating MS–13 and their rival, the 18th Street Gang, is not just the technology, but also the personnel that knows how to utilize that technology. And, most importantly—and I know the Department of Justice (DOJ) has gone to great lengths to provide this—they need training for their prosecutors. A lot of their prosecutors did not have the adequate training needed to prosecute a sophisticated gang, like MS–13 or the 18th Street Gang.

When I was down there—not just this most recent time, but a couple of years ago—we found that their homicide detectives did not do homicide investigations. For the most part, they just responded, wrote a report, and then moved on to the next homicide.

So, to answer your question directly, training is what they need. They want to combat the gang. El Salvadoreans that live in El Salvador—they despise the MS–13 gang just as much as El Salvadoreans that live in Massachusetts. They despise the gang, and they applaud all efforts to rid their area of the gang. But, to answer your question, it is training.

Senator DAINES. So, to follow up, what else do you think these countries could be doing to stop the production of methamphetamine—to stop the production of these other drugs, before they are even shipped to the United States?

Mr. CONLEY. I think it would be outside of my scope of expertise if I were to answer that. I am sure that the same techniques that we would use here in the United States—I mean, it would require a joint approach—a joint effort to totally stop the traffic of narcotics.

Senator DAINES. Commissioner Sini, in your testimony, you discussed the surge to over 400 MS–13 gang members in your county, in just a few years. How in the world did that happen?

Mr. SINI. These are identified gang members in Suffolk County, in a handful of hamlets. These individuals are certainly comprised of mostly males. They are mostly Latino, coming from countries such as El Salvador, Guatemala, and Honduras. Many of them came to the country illegally. A small percentage of them are UACs and a small percentage are also lawful residents—and even American citizens.

Certainly, we are concerned that MS–13 is recruiting younger people. As we target them, they recruit even younger. And, as we mentioned earlier, the UACs are certainly vulnerable to MS–13 gang recruitment. And, that is why it is so important to address that population.

Senator DAINES. So, speaking of gangs—and I hail from a State that has a number of Indian reservations. I am told, by State law enforcement, that gangs often find Indian reservations to be a safe haven. Do you have any thoughts—and I will open this up to the panel. Do you have any thoughts on how we can boost collaboration between the tribal communities and law enforcement?

Mr. SINI. Suffolk County has reservations in its jurisdiction. And, we have had issues involving crime—particularly, gangs—on our reservations. In one instance, what we have done is we have entered into a memorandum of understanding (MOU) with the tribe to essentially provide police services to that reservation. There are obviously very complex issues involving jurisdiction and sovereign territory. And, that memorandum of understanding set forth clear terms, upon consent with the reservation and the tribe, to accept police services. That document has gone a long way in improving relations between the Native Americans living on that reservation and the Suffolk County Police Department. And, we have been able to collaborate with the tribal council to target those criminals, because the——

Senator DAINES. How long ago did you put that MOU in place?

Mr. SINI. The MOU has been in place for several years.

Senator DAINES. And, have you seen actual results?

Mr. SINI. Yes, absolutely. We were able then to work hand in hand with the tribal council to target problem individuals and problem locations, because there is no arguing and there is no debating whose role it is, who is allowed to be there, and when we are allowed to be there. So, it facilitates that collaboration, and we have an excellent relationship with the tribal council on the reservation with which we have that MOU. And, just like we would work with a town or a municipality, where we partner with their code enforcement and their public safety to target, say, a problem home—we have zombie homes in Suffolk County—these abandoned homes—or a problem location, like a drug spot. We do that with the reservation, and it is very effective.

Senator DAINES. Thank you.

Chairman JOHNSON. Thank you, Senator Daines.

Just to give you a little further insight on your opening line of questioning, in terms of the law enforcement in Central America, when we were down there—one of the biggest problems they

have—first of all, they are combating impunity and corruption. When I first heard that, I kind of—impunity—that is a different term. But, then you find out that local law enforcement has been provided a not-so-subtle threat when they have been given a video showing their families going to church or their children going to school. So, that is a pretty brutal reminder of why it is pretty tough being local law enforcement down in Central America.

Senator Hoeven—further evidence that we are committed to securing our Northern Border—well represented on our Committee. You are next.

OPENING STATEMENT OF SENATOR HOEVEN

Senator HOEVEN. Thank you, Mr. Chairman. I appreciate you calling a hearing on this important issue. And, I guess I would start out by asking each of you the following: What are we doing—what is Customs and Border Protection doing at the border, particularly in regard to unaccompanied alien children, to make sure that we are trying to prevent the growth of MS–13—in other words, looking at people who may be trying to come across to join MS–13 in this country? And, what is the average age for MS–13 gang members?

Mr. SINI. So, in Suffolk County, the median age of recent MS–13—I should say active MS–13 members, based on our arrests, is 18. And, it certainly ranges from—the largest age range for active MS–13 gang members is 14 years old to 29 years old. And, certainly, there are younger MS–13 gang members—and older—but that is our biggest bulk.

In terms of what the Department of Homeland Security is doing, my understanding is, they are transferring responsibility over to the Department of Health and Human Services at an early stage. And, I think I will speak for Suffolk County—what we would like to see is more collaboration between local governments and the Department of Health and Human Services and the Office of Refugee Resettlement (ORR), in terms of the placement of these children in our communities—including notification to school districts and local governments, so that we can be proactive in dealing with this very vulnerable population.

Senator HOEVEN. Well—and also the immigration courts, because if unaccompanied alien children, particularly, say, young males in that 14 year old or 15 year old to 18 year old age bracket—if they are being released into the community, then does that not create a real concern that some of them may get recruited and end up as MS–13 gang members?

Mr. SINI. Yes, and we have seen that some of them have. Now, it is still a very small percentage of the UAC population, but, nonetheless, it is of concern to us, which is why we think local notification and funding to provide services to these children is so important.

Senator HOEVEN. Where is MS–13 drawing their ranks from? I mean, you talked about significant growth. Where are they drawing that growth from? Where is it coming from?

Mr. SINI. They are recruiting young people in our communities and they are recruiting recent immigrants, because, oftentimes, they prey on people's fears. So, recent immigrants may not feel

comfortable coming to law enforcement. They are adjusting to a new culture and society, so they are vulnerable at that point. And, they are recruiting also very young people. There is one instance where, in Suffolk County, we have intelligence of MS–13 gang members recruiting a 10-year-old.

Senator HOEVEN. And, what is the draw?

Mr. SINI. I think it is a combination of factors. There is the draw that "You can belong to something and we can put some money in your pocket. You can get high with us. You will have a family. We will protect you." There is a sense of cultural unity as well. And then, there is the other part: "By the way, if you do not join, you are going to have problems." So, there is the fear factor as well—the coercion, if you will.

Senator HOEVEN. I guess the same questions, Mr. Conley.

Mr. CONLEY. I just wanted to add to what the Commissioner said. I could tell you, in my community, if you are a 17-year-old El Salvadorean that just arrived in the Massachusetts area as a UAC, all you have ever known is MS–13 and the 18th Street Gang back home. From childhood, that is all you have ever known. They control complete city blocks—multiple city blocks. They control multiple cities. So, a lot of times, when that child comes here and they are confronted—like we spoke about a few times—under the worst possible conditions and they have one individual come up to them and even speak about MS–13 or the 18th Street Gang, that child goes back to what he or she knows, which is what MS–13 is in El Salvador. And, they know that, once that contact has been made, they only have really one choice—and that is to join.

Now, we have had success with individuals resisting at the beginning of that recruitment process, locally. I am talking about success locally. We have had success with having that individual resist that gang recruitment, and then actually the gang, at some point, kind of leaves them alone, because a lot of times MS–13 is only looking for individuals that want to be MS–13.

But, under the UAC program, a lot of these individuals were coming to homes that did not want them—a parent that did not want them—and sometimes we have even had interviews done with individuals that did not want to be here—that their grandparents said, "We have raised you long enough. It is time for you to go live with your Mom."

And then, in the worst-case scenario, the sponsorship program, where there was not any vetting taking place—and we have horrific stories of individuals living in the worst of conditions. And, like everyone on this panel has said in our opening briefs, that is the classic vulnerable 15-year-old individual that seeks out the identity of the gang and replaces it for a broken family structure.

I have just one more point. I cannot comment on what goes on at the border, but I can tell you, from a local law enforcement perspective, like the Commissioner said, if we had some sort of notification that came to the community—and I am not sure how that notification would be made—so that when the individual comes here, they have resources provided to them—whether it be through the schools or whether it be through mental health services. But, the worst-case scenario is the scenario that we are living with right now, where we get notified from the school that 38 new students

just arrived from Central America. Some are thriving and some are not. And, those are only the ones that we can identify, because they are seeking out education through the schools or social services through medical facilities.

So, it would greatly assist local law enforcement if some sort of notification was done—especially when we are talking about 13-year old, 14-year old, and 15-year-old kids.

Senator HOEVEN. Well, that actually goes right to my next question. Are our laws sufficient to try to deal with the MS–13 problem? It sounds like that right there is something that would be helpful—and that is some type of notification requirement for people coming across the border, so as to address where they are going—and that law enforcement would be one of the entities at least notified, so that you are aware. I mean, we would have to give some thought as how to do it. But, that would be my question. Are our laws sufficient so that you can try to deal with this problem?

Chief MANGER. I think that our criminal laws are sufficient, in terms of dealing with criminal behavior by gangs. Where I think we need help—and I do not know whether it is new laws or different laws, but if our Department of Health and Human Services folks—and they are notified in my jurisdiction. Somehow, they are notified when we get these UACs sent to our jurisdiction. But, as Detective Conley mentioned, oftentimes, these kids—they say, "I am going to my uncle's house. This is where my uncle lives." They verify that. What they do not do is get enough information about whether the uncle is even capable of taking this person in. And then, what happens when the uncle does say, "OK, I will take him," and 2 weeks later says, "This is not working. We cannot do this."

Where are the wrap-around services to help that family and to help that child—that individual? And, we need, perhaps, better standards in place to make sure that whatever situation we are sending that person to is viable—and viable for some longer period of time.

Senator HOEVEN. Thank you. Thank you for your work.

Chairman JOHNSON. Thank you, Senator Hoeven.

Again, I just want to thank the witnesses for taking the time, for your testimonies and for your thoughtful answers to our questions. But, primarily, thank you for your service. We all know the risks you are taking. We all have, I am sure, in our States, people—police officers and other public safety officials—that have given their lives in the line of duty. So, we understand that and truly appreciate your service.

With that, the hearing record will remain open for 15 days until June 8 at 5 p.m. for the submission of statements and questions for the record.

This hearing is adjourned.

[Whereupon, at 11:56 a.m., the Committee was adjourned.]

APPENDIX

Opening Statement of Chairman Ron Johnson
"Border Insecurity: The Rise of MS-13 and Other Transnational Criminal Organizations"
Wednesday, May 24, 2017

As submitted for the record:

Good morning and welcome.

During the Committee's examination of America's unsecure borders we have learned how transnational criminal organizations and drug cartels exploit American policies and our lack of border security to advance their criminal agenda. Today we continue that important work by discussing how the street gang Mara Salvatrucha, commonly known as MS-13, and other Central American gangs affect communities throughout the United States.

MS-13 was born on the streets of Los Angeles in the 1980s. Over the years, it has expanded domestically and into Central America. In the United States, the FBI has identified five hot spots with a concentrated MS-13 presence and violence: Los Angeles; Houston; the Washington D.C. region; Long Island, New York; and Boston. With an estimated 10,000 members in the United States and another 30,000 in Central America, MS-13 has expanded its criminal enterprise across borders by committing acts of violence, extortion, racketeering, human trafficking, and other crimes throughout the Western Hemisphere. Like other international organized criminal enterprises, MS-13 members in the U.S. sometimes communicate with leadership in El Salvador and receive instruction to carry out a variety of crimes including homicide.

In 2012, the U.S. Treasury Department designated MS-13 a transnational criminal organization and began targeted economic sanctions against the gang. This designation allows the government to use its many tools to go after the gang's financial and logistical operations. To this day, MS-13 remains the only street gang the U.S. government has designated as a transnational criminal organization.

The five FBI-designated MS-13 hot spots have received a sizeable proportion of the tens of thousands of unaccompanied children (UACs) who have entered the United States since the humanitarian crisis at the southwest border that began in 2012 and peaked in 2014. Many UACs, especially those from the Northern Triangle, undertake a dangerous, often violent journey from their home countries to the United States. Indeed, many are fleeing the very gang violence in their home countries that is now gripping American communities.

The law enforcement officials testifying today have identified the UAC population as highly vulnerable to MS-13 recruitment and exploitation. MS-13 has used American schools to recruit members and carry out acts of violence. The typical MS-13 member today is younger and even more violent than in years past.

Tragically, the victims of MS-13 violence are also getting younger. Suffolk County, New York, for example, has seen at least six teenagers murdered by the gang since October 2016. I thank Suffolk County Police Commissioner Sini and the other witnesses for appearing today to discuss the challenges this gang and other criminal syndicates pose in their communities.

U.S. Senate Homeland Security and Governmental Affairs Committee

"Border Insecurity: The Rise of MS-13 and other Transnational Criminal Organizations"

May 24, 2017

Ranking Member Claire McCaskill

Opening Statement

Thank you, Chairman Johnson. I want to begin by recognizing our three witnesses today and the critical jobs they do. I know firsthand from my time as a prosecutor that law enforcement officers go to work each day thinking not of themselves, but of the communities that they protect. This country owes these men and women in blue a debt of gratitude for the risks they take every day to keep us safe. Chief Manger, Chief Sini, and Detective Conley, the jobs you do are sometimes thankless, they are often underappreciated, but they are always essential.

Gang violence is a problem across this country, affecting communities big and small, tearing apart families, and taking the lives of too many. Gang members prey on the weak, recruit the young before they have a chance, and line their pockets by exploiting people in desperate situations. Every day, gangs fuel the growing drug and opioid epidemic that is gripping towns and cities across this nation. They bring drugs into our communities and violence onto our streets.

Today we are here to discuss one gang in particular, MS-13 - a gang thatwas started in Los Angles in the 1980s and has since expanded to Central America and to cities across the country. There is no question that we should prosecute the members of MS-13 to the fullest extent of the law, and that criminal aliens in MS-13 need to be off our streets, out of our communities, and out of our country.

We can't successfully combat gangs like MS-13 without the help of witnesses and victims coming forward to report crime and cooperating with law enforcement. As a former prosecutor, I fully appreciate the tremendous role that these courageous individuals play in delivering justice.

Because of this, I am troubled to hear of a recent trend from communities across the nation that witnesses and victims are reluctant to come forward. Over the past few months it has been reported that victims and witnesses from immigrant communities in particular have been increasingly reluctant to come forward because of the fear created by this Administration's immigration policies. Just last month, the Los Angeles Police Department noticed a 25% decrease in the reporting of sexual assault cases since last year among Latina women.

It's not just fear of immigration enforcement that is preventing witnesses and victims from reporting. Victims of gang violence face additional hurdles to reporting. MS-13 makes retaliation against those who report them to law

enforcement a key tactic of their operation, and routinely victimizes members of the community where they live and operate.

As great a job as the law enforcement officers in front of us are doing, if community members fear reporting crime, we're making their jobs a lot tougher. Today as we discuss the problem of gang violence, I want to hear from each of you how we can better reach out to victims and witnesses in all communities and encourage them to work with law enforcement. Without them, these criminals will remain on our streets and the violence will only grow.

Combatting gang violence does not happen in a vacuum. Just as we need witnesses to come forward and law enforcement to pursue these criminals, we need prosecutors to bring cases and permanent United States Attorneys to provide leadership. We need to fund the grants that go to local law enforcement for community policing and to victims of crime for assistance after they testify. We also need to make sure we're supporting our educators and after school programs that provide children with alternatives to gangs. Finally, we need to come together and agree that these gang members, these criminals, are our priority for removal from this country.

Today we have asked the witnesses here to tell us what we can be doing better to combat gang violence in America. You are the experts - the frontline

officers who deal with these gangs every day. We want to know what we can do to help you keep our communities safe. I look forward to your testimony and to the opportunity to work together on this very serious problem.

To: United States Senate Committee on Homeland Security and Governmental Affairs

From: Timothy D. Sini, Police Commissioner, Suffolk County, NY

Date: May 22, 2017

Re: Testimony Regarding MS-13

I. Executive Summary

My name is Timothy D. Sini, Commissioner of the Suffolk County Police Department. I appreciate the opportunity to provide testimony regarding MS-13 in Suffolk County, New York, and ways in which we can work together to effectively eradicate this gang from our communities. Although Suffolk County remains one of the safest counties in the nation, we have recently experienced an increase in MS-13 gang violence. Specifically, since January 1, 2016, there have been 17 homicides in Suffolk believed to be linked to MS-13. In order to eradicate MS-13 from our communities, we must employ a multi-pronged strategy that includes collaborative efforts to collect and share intelligence regarding the gang, relentless targeting of known MS-13 gang members for arrest, prosecution and removal, federal prosecutions of MS-13 gang members and its leadership under the RICO statute, enhanced and targeted police presence and patrols in affected areas, and significant investments in gang prevention and intervention strategies, with a particular focus on the Unaccompanied Alien Children ("UAC") population.

II. Introduction

Suffolk is New York's fourth largest county situated some 20 miles east of New York City, covering 911 square miles and 1,000 miles of coastline on the eastern end of Long Island.

Suffolk has a diverse population of approximately 1.5 million residents. According to the latest Census data, the population is 84.9% white and 8.4% African American, with 18.6% of the population identifying as Latino or Hispanic ethnicity. The median income is $88,663, and 7.8% of the County's residents live in poverty.

The Suffolk County Police Department is one of the fifteen largest police departments in the country, with approximately 2,500 sworn officers and 1,000 civilian employees. We are responsible for all police services in the five western towns of Suffolk County, and a wide variety of investigative and law enforcement support functions throughout the County.

Contrary to recent sentiments in the national media, Suffolk remains one of the safest counties in the United States. We are currently experiencing the lowest crime rate since we began collecting reliable crime statistics in 1975. Specifically, in 2016, Suffolk County had 34 murders/manslaughters, 84 sex crimes, 540 robberies, 893

aggravated assaults, 1,734 burglaries, 15,522 larcenies, and 1,070 motor vehicle thefts. In 2017, we are continuing to drive crime down to historic levels, with a year to date 15.4% reduction in violent crime, 11.5% reduction in property crime and 11.8% reduction in all index crimes.

Despite these historic reductions in crime, we have recently experienced an increase in gang violence connected to Mara Salvatrucha or the MS-13 gang - designated in 2012 by the U.S. Department of the Treasury as a "transnational criminal organization." In 2016 and year to date in 2017, Suffolk experienced an increase in homicides compared to 2015, which is the only category of index crimes to rise. This increase is directly attributable to a rapid resurgence in MS-13 violence in identified areas of the County and is an inverse trend to all other crime categories.

Specifically, since January 1, 2016, of the 45 homicides that occurred in Suffolk, 17 of those are believed to be linked to MS-13. We currently have approximately 400 MS-13 gang members identified in the County, organized in approximately nine cells called "cliques." Many of these cliques have connections to other jurisdictions, including, but not limited to, Nassau County (Long Island) and New York City.

III. MS-13 Gang Members in Suffolk County

Identified MS-13 gang members are concentrated in several hamlets in Suffolk County with the largest number in a community named Brentwood, which is a community of more than 60,000 residents. According to the latest Census data, Brentwood's population is 48.4% white and 16.4% African American, with 68.5% of the population identifying as Latino or Hispanic ethnicity. There are more than 20,000 students in the Brentwood school district. The second largest concentration of MS-13 gang members is in Central Islip, which is a community of approximately 35,000 residents. According to the latest Census data, Central Islip's population is 43.6% white and 25% African American, with 52.1% of the population identifying as Latino or Hispanic ethnicity.

In Suffolk County, active MS-13 gang members are predominantly males ranging in age from sixteen to twenty-nine. The median age of recent MS-13 arrestees is eighteen, however we have become aware of associates as young as ten years of age.

Most MS-13 gang members have connections to El Salvador, Guatemala or Honduras. Of a sampling of 143 active gang members plus 11 MS-13 victims, 89 entered the United States illegally and currently do not have legal status (58.8%) (39 of whom are Unaccompanied Alien Children ("UACs")), 48 are of unknown

immigration status, and 17 have legal status (temporary or otherwise).

IV. Crimes Committed by MS-13

In Suffolk County, MS-13 engages in a variety of criminal activity, including, but not limited to, assaults, murder, drug dealing, extortion, robberies and burglaries. Intelligence indicates that many MS-13 gang members hold wage-paying jobs, and are not focused primarily on income generating crimes such as drug dealing, differentiating them from other street gangs in Suffolk County. Rather, MS-13 engages in violence for the sake of violence, to increase the notoriety of the gang and to cause the community to fear the gang and its members.

In 2016, the most frequent reported crime connected to MS-13 was assault. The signature weapon used by MS-13 is the machete. For example, on July 17, 2016, members of MS-13 brutally attacked an individual in Brentwood with a machete, causing severe wounds to the individual's face making him unrecognizable. MS-13 gang members perpetrated this brutal assault because they believed that the victim was associating with a rival gang.

MS-13 members also commit murder, often targeting victims who they perceive as disrespecting the gang. Since 2013, 27

murders in Suffolk County have been attributed to MS-13, occurring in seven different communities. This represents approximately 21% of all murders occurring since that time. Moreover, approximately 38% of murders occurring in Suffolk County in 2016 and 2017 combined are believed to be connected to MS-13. In many of the cases, multiple assailants are involved in the crime.

On September 13, 2016, members of MS-13 brutally beat two girls to death in Brentwood - Nisa Mickens and Kayla Cuevas. Both were Brentwood High School students, and were 15 and 16 years of age, respectively. Shortly before her murder, Kayla had argued with an MS-13 gang member in school. In collaboration with the FBI, the Suffolk County Police Department arrested the perpetrators of that crime, and they are currently being prosecuted by the United States Attorney's Office for the Eastern District of New York.

Those murders sparked a gang eradication strategy launched by the Suffolk County Police Department and our law enforcement partners, which to date has resulted in approximately 201 arrests of 147 individual MS-13 gang members. The initiative also led to the discovery of the skeletal remains of three males in the Brentwood area, all of whom are believed to have been murdered by members of MS-13. One of those murders - the murder

of a 19 year old male named Jose Pena-Hernandez - was also charged by the United States Attorney's Office for the Eastern District of New York. MS-13 gang members murdered Pena-Hernandez because they believed he violated the gang's internal rules.

Most recently, in April of this year, MS-13 gang members committed a quadruple homicide in Central Islip, Suffolk County. This was one of the largest and most brutal mass murders committed in Suffolk County's history. The victims were all males - two were eighteen years old, and the other two were sixteen and twenty years old. Central Islip is a hamlet located adjacent to Brentwood, and, as noted, has the highest concentration of MS-13 gang members in the County outside Brentwood. The victims were found in the Clayton Avenue Park in Central Islip with significant trauma about their bodies. Their injuries were consistent with assault by machete. The investigation of the quadruple homicide remains active.

V. Recruitment

MS-13 sustains itself by constantly recruiting new members. MS-13 gang members recruit in our schools and communities. They prey on the vulnerable, frequently targeting young people who recently immigrated to this country. They often target individuals who lack the support of close relatives and healthy

social networks, using threats and acts of violence to coerce those reluctant to join. Several factors lead individuals to become members of MS-13, including, but not limited to, social alienation, the need to be part of a group, a sense of cultural unity, the promise of protection, and economic gain.

MS-13 members also recruit children placed in communities in Suffolk County through the UAC program. From the beginning of 2014 through March 2017, 4,624 UACs have been placed in Suffolk County alone, making it one of the largest recipients of UACs in the country. The vast majority of these children come from El Salvador, Honduras and Guatemala, where MS-13 has a significant presence. Many of these children are vulnerable to gang recruitment because they are young, unaccompanied, adjusting to a new country, culture and language, and seeking a sense of belonging. This is compounded by the fact that the sponsors of these children in some cases prove not to be suitable guardians.

In sum, while the overwhelming majority of these children live law-abiding lives, UACs are undoubtedly a source of recruitment for MS-13. Of a sampling of 156 active gang members in Suffolk County, 39 are Unaccompanied Alien Children, and seven of the thirteen defendants recently charged in a RICO indictment in the Eastern District of New York are UACs. It is

not entirely clear, however, the percentage of UACs who came into the United States as MS-13 gang members, were recruited while in federal custody or were preyed upon once they reached Suffolk. In consultation with our federal partners, we have recently launched a new intelligence gathering protocol to assist in collecting that information.

VI. Gang Eradication Strategy of the SCPD

As a result of this recent violence, the Suffolk County Police Department launched a multipronged gang eradication strategy. It involves law enforcement efforts, as well as school-based and community-based initiatives to reduce gang recruitment and enlistment.

The law enforcement strategy is centered on gathering as much intelligence as possible regarding MS-13 and its members, with the specific objective of identifying MS-13 gang members and locations where they congregate. We use a variety of tactics to collect intelligence, including, but not limited to, debriefing all of our arrestees. The Department prioritizes the targeting of known MS-13 gang members by creating strategic subject lists of known MS-13 gang members, and then assigns police officers with expertise in gang enforcement to particular gang members to perform targeted enforcement. That targeted enforcement includes, but is not limited to, effectuating street

arrests of known MS-13 gang members. Since we launched this initiative in September of 2016, we have made 201 MS-13 gang arrests of 147 individual MS-13 gang members. This targeted enforcement suppresses crime, results in the collection of intelligence, and generates valuable evidence for federal prosecutions down the road.

As we engage in this targeted enforcement, we are working hand in hand with our law enforcement partners through the Long Island FBI Safes Street Task Force, which is run by the FBI and consists of law enforcement officials from numerous agencies. Working with the FBI Task Force, and the United States Attorney's Office for the Eastern District of New York, we strategically select MS-13 gang members for federal prosecution under the RICO statute, which is a highly effective tool to dismantle gangs such as MS-13. The RICO statute carries stiff penalties, allows us to effectively convert street crimes into RICO offenses, and serves as a tool to cast a large net over the gang and negatively impact its leadership.

We also work with the Department of Homeland Security in a variety of ways. For example, we share intelligence with Homeland Security regarding known gang members in order to facilitate the commencement of removal proceedings against MS-13 gang members. Although it is often our objective to arrest and

prosecute MS-13 gang members for federal criminal offenses in order to prevent them from merely reentering after deportation, circumstances do arise when we are not able to effectuate a criminal arrest, and the Department of Homeland Security is able to utilize its immigration enforcement tools to remove these dangerous people from our streets. In addition, we automatically notify the Department of Homeland Security when we arrest an individual for a misdemeanor or felony who was not born in this country so that immigration authorities can take appropriate action, if any.

Although cooperation with the Department of Homeland Security is mission critical to removing dangerous gang members from our streets, the Suffolk County Police Department must also ensure that undocumented individuals feel comfortable providing information to law enforcement. To this end, our officers do not inquiry into the immigration status of those individuals who come to the police as a witness, victim or someone merely seeking police assistance. The mission of the Police Department is to provide and maintain a safe environment for every person in Suffolk County regardless of that person's residency or immigration status. If individuals believe that they cannot freely cooperate with law enforcement because of their

immigration status, the mission of the Police Department and the safety of all residents are compromised.

In addition to targeting known gang members, and working with our federal law enforcement partners to remove MS-13 gang members from our streets, we have also enhanced our police presence, both uniformed and plainclothes, in affected areas. We recently partnered with the New York State Police to assist us in this effort.

We recognize, however, that targeted enforcement and patrols will not alone lead to the eradication of MS-13 from our communities. As law enforcement weeds gang members from our communities, we need to invest in school-based and community-based programs to reduce gang recruitment and involvement. As noted, MS-13 preys on our vulnerable young people, and if we do not provide the structure that these young people need to prosper, MS-13 will.

To this end, we utilize an arsenal of community-based intervention strategies to prevent and deter gang violence, such as custom notifications, call-ins and youth conflict insertions. We work closely with our schools to identify at risk children to intervene in effective ways to prevent them from joining a gang or to assist them in getting out of a gang. Suffolk County is also investing in an early intervention gang prevention program

in Brentwood and other communities in Suffolk County. Utilizing a not-for-profit organization that specializes in gang prevention, the program - called the CHANGE program - will target vulnerable children who are at risk of gang involvement and provide them with much needed services, including, but not limited to, social work services, psychological counseling, educational and vocational assistance, and much more. The program also aims to involve the family of the child so that those who have the most influence over the child are empowered to assist him or her in avoiding gang involvement.

As discussed in more detail below, these efforts must also address the needs of the UAC population, as they are some of the most vulnerable to MS-13 recruitment. As it currently stands, it is extremely difficult for local government to address their needs because of the lack of notification by the federal government to local officials, the sheer number of children being placed in Suffolk County and in other communities throughout the country, and the inadequate funding of any such efforts.

VII. How the Federal Government Can Further Assist

a. Additional Resources

i. Additional AUSAs and Proposed Pilot Program

In order to effectively address this complex issue, we must continue to arrest and prosecute MS-13 gang members under the RICO statute to remove dangerous individuals from our streets and dismantle the gang's leadership. In order to do so, however, local law enforcement agencies need the support of the federal government to prosecute these cases. A practical impediment to this task is the number of Assistant United States Attorneys on staff on Long Island.

The Long Island Criminal Division, which operates out of the United States Attorney's Office, Eastern District of New York branch office in Central Islip, is responsible for prosecuting all federal crimes occurring in Nassau and Suffolk counties, including violent crimes, public corruption, terrorism, securities and corporate fraud, major narcotics trafficking, and child pornography crimes. Nassau and Suffolk counties are densely populated and the Long Island Criminal Division serves a population of approximately 2.85 million people, which is 35% of the Eastern District of New York, and is larger than many entire districts around the country. Many of the cases prosecuted by the Long Island Criminal Division,

including the MS-13 prosecutions, are international and interstate in reach.

Currently, the Long Island Criminal Division only has eleven line AUSAs and four supervisors, all of whom carry full caseloads in addition to their supervisory responsibilities, which is significantly below the normal staffing level. At the beginning of 2013, the Long Island Criminal Division had 18 AUSAs, including supervisors, but due to attrition, sequestration and budget reductions, staffing dropped to 11 AUSAs at one point. Several additional AUSAs were hired, but they have been insufficient to return the Long Island Criminal Division to the 2013 staffing level.

Indeed, Long Island (Nassau and Suffolk counties combined) has a population of about 2.85 million and 14 AUSAs. By comparison, Kansas has a population of 2.9 million and 24 Criminal AUSAs plus 6 Special Assistant United States Attorneys; Eastern District of Tennessee has a population of 2.6 million and over 30 AUSAs; and though Nassau and Suffolk counties comprise 35% of the Eastern District's population, there are approximately 105 Criminal AUSAs in Brooklyn and only 14 on Long Island.

The limited number of prosecutors assigned to the Central Islip office forces these dedicated prosecutors to make

decisions about how to most effectively allocate resources by deciding which cases should be, or should not be prosecuted federally. In the event that more AUSAs are assigned to the Long Island Criminal Division, the Suffolk County Police Department, the FBI and the United States Attorney's Office could enter into a pilot program whereby all MS-13 arrests in the County are reviewed by an MS-13 intake AUSA to determine whether any federal charges could be brought against the arrestee. This would increase the number of federal prosecutions of MS-13 gang members, taking dangerous individuals off our streets, and likely generate significant intelligence due to the incentives in the federal system for defendants to cooperate with law enforcement. Such a program called the Triggerlock Program was successfully launched in the Southern District of New York relating to firearm offenses.

In short, the additional AUSAs will enhance the United States Attorney's Office's ability to prosecute violent crimes committed by members of MS-13, with the objective of continuing and increasing our efforts to dismantle and incapacitate MS-13 within the Eastern District of New York and beyond.

ii. Grant Opportunities to Combat Gang Activity

As noted, a critical part of our strategy to deter and prevent gang activity is to enhance police presence and patrols

in affected areas, also known as "hot spot policing." The Suffolk County Police Department has recently applied through the Department of Justice for the Project Save Neighborhoods grant, which awards $500,000 to a jurisdiction to offset the cost of such policing efforts. Awarding this grant to Suffolk County is consistent with the federal government's commitment to eradicating MS-13 from our communities. I respectfully request that the Department of Justice award this grant to Suffolk County, and urge the federal government to create additional grant opportunities to assist local police in this important mission.

iii. Gang Prevention Programs

It is imperative that we dedicate resources to school-based and community-based gang prevention programs in order to reduce successful gang recruitment. These efforts should focus on vulnerable populations, including UACs. Indeed, such funding should be directly tied to the UACs placed in our communities, as they are some of the most vulnerable to MS-13 recruitment.

b. Intelligence Sharing

Information sharing among law enforcement agencies is a critical part of any effective strategy in order to ensure coordination of our efforts to remove dangerous gang members

from our streets. To this end, it would be of significant assistance to our joint efforts to create a singular database with information relating to identified MS-13 gang members. The database could include the gang member's pedigree information, the clique he belongs to, his immigration status as confirmed by the Department of Homeland Security, whether he is a UAC, whether he is actively under investigation, which jurisdictions are involved in any such investigation, and any other intelligence that is sharable and relevant. The system could include automatic notifications to local agencies when information is added regarding an individual who is of interest to that agency. Such a database would encourage multi-jurisdictional efforts and allow local police departments to be more proactive in targeting known MS-13 gang members in our communities.

c. The UAC Program

It is imperative to our mission that the federal government place UACs in our communities after proper screening of sponsors followed by measures ensuring sponsor compliance. Otherwise, we are creating an ideal recruiting opportunity for MS-13. Such reforms might include increased screening and compliance monitoring of sponsors, local notification of placement to

school districts and local governments, and increased funding for post-placement services.

VIII. Conclusion

I want to thank the United States Senate Committee on Homeland Security and Governmental Affairs for their commitment to this very important issue, and the opportunity to appear before it today. I look forward to working with the Committee and all its Members and staff.

Brian A. Kyes
Chief of Police

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Testimony of

Scott Michael Conley
Detective

Chelsea Police Department
Chelsea, Massachusetts

Task Force Officer (TFO)
F.B.I. Boston

Before the U.S. Senate Committee
On Homeland Security and Government Affairs

"Border Insecurity,
The Rise of MS-13 and Other Transnational Gangs"

May 24, 2017

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Introduction

Chairman Johnson, Ranking Member McCaskill, and distinguished members of the Committee. It is my honor to address you today on behalf of the Citizens of Chelsea, Massachusetts and the State of Massachusetts.

My name is Scott Conley and I am a Detective with the Chelsea Police Department, Chelsea, Massachusetts. Chelsea is a city in Suffolk County, Massachusetts, United States, directly across the Mystic River from the city of Boston. As of 2017, Chelsea had an estimated population of 42,828. It is also the second most densely populated city in Massachusetts behind Somerville. With a total area of just 2.5 square miles, Chelsea is the smallest city in Massachusetts in terms of total area. Chelsea is a diverse, working-class community that contains a high level of industrial activity. It is one of only three Massachusetts cities in which the majority of the population identifies as Hispanic or Latino, alongside Lawrence and Holyoke. I have served my community as a law enforcement officer for over 22 years

To provide context for my testimony today, I have included a brief biography. I would highlight that I currently serve as a Task Force Officer with the Federal Bureau of Investigations, North Shore Gang Task Force and am a member of the Chelsea Police Department Gang Unit.

General Background Information on Mara Salvatrucha

In 2012, Mara Salvatrucha (MS) became the first, and remains the only, street gang to be designated by the United States government as a "transnational criminal organization." This transnational criminal organization originated in the streets of Los Angeles, CA, in the 1980s with refugees fleeing a twelve-year civil war in El Salvador. The 1990s transformed the gang from a street gang to a structured transnational criminal organization. Mara Salvatrucha was incorporated into the Sureno gang structure, in which Surenao gang members conduct crimes and pay dues to the powerful La eMa prison gang, also known as the Mexican Mafia, in exchange for protection in prison. As a sign of its allegiance to La eMa, Mara Salvatrucha adopted the Sureno color of blue, added the number 13 – symbolic of M, or eme in Spanish, being the thirteenth letter of the alphabet

MS embraced the principal that gang membership is for life. The criminal organization replaced the family and any transgressions against the organization, real or perceived, became punishable by death. This discipline is an essential method by which the organization controls its members and achieves its objective – to gain as much influence and generate as much money as possible. Since its inception on the streets of Los Angeles, MS has evolved into one of the world's most organized, structured, and violent criminal organizations, engaging in myriad localized and transnational grimes, including drug trafficking, human smuggling, robbery, extortion, assault, and murder. MS's primary functioning principles center on violence, including murder, and a strict military structure of communication and command, headquartered in El Salvador and spread throughout various "programs" and "cliques" in the United States.

Two MS rules are held above all else. First, MS members are required to investigate and kill all informants, and at times their families. MS members are therefore constantly watching each other for

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signs of disloyalty. Second, MS members are required to attack and if possible kill all rival gang members, particularly members of 18th Street. Members gain status within the organization by accomplishing either of these goals. The clique, by extension, gains prominence with MS when one of its members kills a rival gang member or informant.

MS in Massachusetts, as in other states, is run by the incarcerated leadership of MS in El Salvador, known as "La Ranfla." La Ranfla establishes the policies and procedures that govern the criminal organization. They send orders to members of MS in the United States, including "green light" orders to kill suspected informants or those disloyal to MS.

Within the United States, MS is organized in the form of "cliques" — that is, smaller groups acting under the larger mantle of MS and operating in a specific region, city, or part of a city. The leaders of MS cliques are called the "palabras" — i.e., the "words" or "voices" — or the "runners." The leader of the clique is often referred to as the "first word," "first voice," or "runner," and the second in command is called the "second word" or "second voice."

To coordinate hundreds of cliques throughout the United States and Central America, La Ranfla separates the criminal organization into "programs." MS generally organizes its programs either by name — for example, major cliques, such as the Hollywood clique — or by geography, such as the L.A. Program and the East Coast Program. MS's use of this organizational technique originated in El Salvador in approximately 2007 and was later implemented in the United States in approximately 2011.

Grouping the various cliques into these programs creates a hierarchy that expedites the process of getting orders from leadership in El Salvador to the street and remitting money from the street back to leadership. The creation and composition of the programs, however, is fluid. Cliques frequently switch programs or choose to remain autonomous, typically as clique leader's change and gang leaders in El Salvador vie for power and control over U.S. cliques and their money. MS cliques work both independently and cooperatively to engage in criminal activity and assist one another in avoiding detection by law enforcement. The cliques operate under the umbrella rules of MS leadership in El Salvador.

Most of the cliques in Massachusetts fall under the East Coast Program, which also has cliques in Florida, Maryland, New York, New Jersey, North Carolina, and Virginia, and which also has a presence in California, Texas, and Ohio. If a clique does not fall under a particular program, that clique nevertheless falls under the umbrella of MS and holds meeting in which dues are collected and transferred to MS members in El Salvador. Refusal to join a program, however, is a sign of disloyalty and can have severe consequences.

MS maintains a strict and largely uniform initiation process. The process starts with a prospective member being recruited to "hang around" with members of the gang and be observed by the gang, sometimes for a period of months. These prospective members are referred to as "paros" and this period is sometimes referred to as "observacion." Paros are frequently recruited at local high schools in cities with large immigrant populations from Central America. This period starts with the paro hanging around drinking, smoking, and socializing with members of MS, and elevates over time to participation in

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increasingly violent criminal activity. Usually a paro is sponsored by a homeboy who serves as that individual's mentor/sponsor throughout the initiation process.

The clique meets and votes on whether a part warrants promotion to "chequeo." To become a chequeo, a paro must demonstrate his loyalty to the gang by doing whatever a homeboy or chequeo tells him to do and engaging in acts of violence, up to and including murder, on behalf of the gang. Chequeos are allowed closer access to members of MS and must continue to prove loyalty to the gang.

To become a homeboy, a chequeo in Massachusetts generally has to participate in the murder of a rival gang member, usually a member of the 18th Street gang. He must demonstrate loyalty to the gang above all else. The clique then holds a meeting in which the members vote to approve elevation to homeboy status and then "jump in" or "beat in" the chequeo – that is, members of the MS clique gather in a circle around the prospective member, knock him to the ground, and beat him with their hands and feet while one of the leaders of the clique counts aloud, slowly to thirteen.

MS members refer to one another by their gang names and often do not know fellow gang members except by these gang names. When a "chequeo" becomes a "homeboy", the gang often gives him a new gang name to replace any prior nickname.

MS maintains a close knit and reliable criminal network with cliques in at least forty-six states and the District of Columbia, as well as Canada and Central America. Accordingly, as law enforcement repeatedly observed over the years, MS members are extremely mobile and transient. After committing violent crimes, they frequently leave the jurisdiction and take up residence with an MS clique in another state or country.

Known as green lighting. If MS members identify a certain individual as a threat to the gang, MS leadership could green light that person, meaning other MS members have authorization – if not the obligation – to kill the individual. According to MS rules, only high-ranking gang members are authorized to issue a green light for another member of MS. Once an individual has green lighted, all members of MS are obligated to enforce the order, and kill the targeted individual if the opportunity arises. An individual can be green lighted by MS for a variety of infractions. If MS believes a member is cooperating with law enforcement, it will most assuredly result in a green light.

MS is a violent, transnational criminal organization whose mission is defined by violence – specifically, murdering and attempting to murder rival gang members and suspected informants. MS also has a significant operating objective making money through drug trafficking and other illegal activities to enable its members to buy guns and other weapons, cell phones to communicate with each other, and to support incarcerated members.

Though many (law enforcement, media, etc.,) refer to Mara Salvatrucha as MS-13, La Ranfla no longer considers their gang to be incorporated into the Sureno gang structure or show allegiance to La eMa. As such, Mara Salvatrucha is now simply referred by gang members as MS. The reason for this change is due to the second rule where MS members are required to attack and if possible kill all rival gang members, particularly members of 18th Street. La Ema refuses Hispanic gang on gang violence in the

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California prison system. MS members violate this rule while serving prison sentences within the California prison systems. For these reasons, La Ranfla no longer considers MS to be aligned with La eMa. At this point, intelligence and law enforcement investigation reveals La Ranfla ordering MS members, recently deported from California, to kill an 18th Street gang member to remain in good standing within the gang. If the MS member fails to follow orders, La Ranfla issues a "green light" calling for the MS member's death.

Unaccompanied Minors

The homicide rate in El Salvador is staggering. This violence stems from the gang war between MS and 18th Street. By April, 2015, El Salvador, a country the size of Massachusetts, experienced an average of 22 homicides a day. By September of 2015, El Salvador averaged over 50 homicides a day. As a result of this violence and attacks on the civilian populace, the government of El Salvador named both MS and 18th Street terrorist organizations. As a result of this violence, the United States experienced an influx of unaccompanied minors entering the country. Specifically, in 2013, 21,887 unaccompanied minors entered the country. In 2014, 53,515 entered the U.S. and in 2015, 27,840 entered the country. By October, 2015, 3000 unaccompanied minors were sent to the Greater Boston Area.

The number of unaccompanied minors released to US sponsors from FY14 to Jan FY 17, based on statistics from the Department of Health and Human Services, Office of Refugee Resettlement, illustrates the continued flow of unaccompanied minors from the Northern Triangle into the United States, primarily residing in areas with an established Central American population.

Based on interviews, law enforcement investigation, and coordination meetings with the Transnational Anti-Gang Unit (TAG) in El Salvador, the North Shore Gang Task Force determined the following three types of unaccompanied minors:

1) Minors not associated with MS or 18th Street fleeing the violence and sent to the U.S. by either their mother or father to live with a relative.
2) Minors who are "paros" and "chequeos" sent by their mother or father, who wrongfully believe that by sending their children to U.S. will get their child out of the gang.
3) La Ranfla wants their homeboys/assassins in the U.S. to commit acts of violence.

In El Salvador, MS recruit children as young as eleven or twelve years old. Unlike MS cliques in the United States, to become a "homeboy" in El Salvador, a "paro" and "chequeo" must participate and kill five rival gang members. Thus, many times, by the time a child is fifteen years old, they are already serial killers.

The majority of unaccompanied minors fall into the first category listed above. The parent is truly concerned for their children's welfare and quality of life. A small portion of the unaccompanied minors are the "paros" and "chequeos." Their parents wrongfully believe that by sending their children to the United States, their children will leave the gang. However, this is the farthest from the truth. The smallest group of unaccompanied minors are "homeboys" being sent by the gang to bolster the ranks of MS cliques operating in the United States.

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On the trip to the United States, all three groups of unaccompanied minors travel together. The recruitment process begins on this trip. The "homeboys" ensure the "paros" and "chequeos" are continuing to follow the procedures for entrance into the gang. The "homeboys" utilize the "paros" and "chequeos" to gather intelligence on the non-gang member minors by determining where they lived in El Salvador and the identity of their relatives. They gather this intelligence to help them recruit new members into the gang.

Once the unaccompanied minors arrive at their destination, whether it's Boston or somewhere else in the United States, the MS gang members (paros, chequeos, and homeboys) report and join cliques in their new cities. Those unaccompanied minors not in the gang are approached and recruited. Those that refuse are threatened to join the gang. These threats range from simple assaults or threats to kill their relatives in El Salvador. Either way, the unaccompanied minors fleeing the violence are sucked into the gangs upon their arrival in the United States.

As such, MS clique membership continues to grow, not only in Boston, but throughout the United States. As the cliques grow, the "paros" and "chequeos" need to earn their elevation to "homeboy" status by committing crimes, including murder. As such, law enforcement has seen a rise in homicide rates throughout the country. These homicides are horrific as the MS members utilize the same brutal tactics they use in El Salvador. They use knives and machetes to hack apart their rival gang members and attempt to behead them and cut off their hands. In addition, many of the victims are minors who were unaccompanied minors fleeing the violence in El Salvador.

As law enforcement officers target MS members and incarcerate them or deport them, La Ranfla sends orders to the United States to recruit new members into those cliques. La Ranfla does not want to lose the communities under MS control, either in El Salvador or the United States.

Due to the nature of the "Programs" and the transient way of life, law enforcement notices a close connection between the MS cliques throughout the country. The MS members communicate via smart phone applications, such as 'What's Up.' The Program Leaders host meetings where clique leaders travel from around the country to attend.

The criminal activities committed by this gang are not a local or state problem. The criminal activities span across North America. Law enforcement estimates several hundred MS members and associates in Massachusetts.

Law enforcement has to utilize a "combined resource" approach toward combating MS-13. It is not enough to make local arrests in local jurisdictions nor is it enough to just target the higher echelon members by federal indictments. This reactive approach may slow the organizations criminal activity for a short time in a localized region but will not address the gangs overall organizational structure which will immediately begin to replenish its numbers in areas that have an established MS-13 presence. Investigations over the past fifteen years have shown that without aggressive criminal prosecution targeting the entire structure both within the United States and Central America that the gang will continue to grow using illegal immigration as a tool to swell its ranks. A task force approach to the

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MS-13 problem is the only method that has proven to be affective. Using the assets of Federal, State and local law enforcement as well as the United States Attorney's Office working alongside local and state prosecutors is an approach that has been proven to be affective in combating MS-13 in Massachusetts.

Respectfully Submitted,

Scott Conley
Detective Chelsea Police Department
Task Force Office F.B.I., Boston

Statement of J. Thomas Manger,

Chief of Police, Montgomery County, Maryland

and President, Major Cities Chiefs Association

before the

Committee on Homeland Security and Governmental Affairs

of the

United States Senate

May 24, 2017

HEARING:

Border Insecurity: The Rise of MS-13 and Other Transnational Criminal Organizations

Chairman Johnson, Ranking Member McCaskill, distinguished Members of the Committee, I am J. Thomas Manger, the Chief of the Montgomery County (Maryland) Police Department. I also am the President of the Major Cities Chiefs Association, an organization that is comprised of Chiefs and Sheriffs of the sixty-nine largest law enforcement agencies in the United States and the ten largest in Canada. I would like to thank you for the opportunity to address the committee to provide a local law enforcement perspective on the complexities and impact Mara Salvatrucha, or MS-13, and similar transnational criminal organizations are having on communities across the nation.

National Trends:

Immigrants who left their native Central American countries because of on-going civil wars in the nineteen-eighties, arrived in Los Angeles only to find that it was dominated by local street gangs. The reacted by forming a gang of their own. Since that time, MS-13 has evolved into one of the most violent and murderous gangs in the world. The Justice Department estimates there are now more than ten thousand MS-13 gang members living in the United States. Globally, there are an estimated thirty-thousand MS-13 gang members, and that membership continues to rise.

Local History:

MS-13 first emerged in Montgomery County in the late nineteen-nineties and had a relatively small, yet prominent presence. Gang members marked their territories with graffiti, wore specific types of clothes and openly displayed tattoos that easily identified their affiliation with MS-13. Over the next few years, instances of petty vandalism and misdemeanor assaults escalated to cases of extortion and aggravated assault, although they remained relatively infrequent. Investigators had to rapidly educate themselves as to what was originally believed to be solely a West Coast law enforcement issue. Since that time, the Montgomery County Police Department has formalized its gang enforcement efforts and has conducted ongoing operations against the gang, including several major investigations with our regional and federal partners over the last decade.

Do in part to these investigations, MS-13 became less active and changed its tactics. Gang members instituted more stringent operational security measures and were not as obvious about their affiliations in public. In Montgomery County, the gang's graffiti has significantly lessened, gang members no longer flagrantly flaunt specific clothing items or tattoos and attempt to keep a lower profile to avoid the detection of law enforcement and rival gangs. Although more subtle, the gang members still make their presence known verbally and through the display of hand signs that represent their gang. However, the gang's criminal activity would recently become more evident.

Local Gang Trends:

Beginning in June 2015, Montgomery County experienced a spike in total gang related homicides. The jurisdiction had one gang related homicide in each of the three preceding years and none in 2011. In 2015, the county had four (4) homicides attributed to MS-13. The marked increase in Montgomery County correlated with the breakdown of a truce between the gangs and the El Salvadoran government. This was followed by a significant increase in that country's homicide rate. The following year (2016), Montgomery County had three (3) additional MS-13 related murders. In 2017, Montgomery County has not experienced any additional homicides committed by the gang. However, two MS-13 associates were murdered after an altercation with an unidentified suspect in a local shopping mall in what is still

an open case. In a highly publicized incident earlier this year, a 15 year-old female runaway from the county was killed in a neighboring jurisdiction by MS-13 gang members and associates.

It is important to note that during this same time frame, Montgomery County experienced seven (7) homicides that were attributed to two other local "crews" or gangs. These murders appear to be motivated by illegal drug transactions, whereas the MS-13 gang murders appear to be based on the perceived or actual rival gang affiliations of the victims. Furthermore, committing a homicide for the gang is a means for the suspects to elevate their status within MS-13. What also distinguishes the MS-13 homicides is the premeditation, brutality and callousness in which they were committed; with many of the victims suffering from multiple blunt force trauma and stab wounds and left in shallow graves in isolated wooded areas.

Other types of gang crime are difficult to track, as the victim is often unaware if their assailant is associated with a gang. Typically, the police department designates a crime as gang related because the perpetrator is identified and is a known validated gang member. Conversely, if a suspect makes a statement, or there is some other indicator present that demonstrates the motive of the crime as furthering the interests of the gang, that classifies the crime as gang motivated. What crimes we have been able to attribute to MS-13, other than homicides, have remained statistically flat. However, the county has recognized some disturbing trends in MS-13 criminal activity.

Most notably, the level and types of extortion have dramatically changed. In the past, MS-13 was known to extort a "tax" on illicit underground businesses such as "bordellos" or houses of prostitution and unregulated "cantinas" or back room bars that operated out of apartments and houses. However, the police department has received secondhand reports of extortion of legitimate Latino owned businesses and of Hispanic residents living in apartment complexes in certain neighborhoods being extorted "rent" from the gang. In some instances, if the victims of this extortion initially refuse to pay the fee demanded by the gang, the gang members return with detailed information on the intended victims' family members still living in Central America where the threat of violence is more tangible and the perpetrators are out of the reach of U.S. law enforcement.

In some cases, this tactic also is being applied to the recruitment of potential gang members. While there certainly are individuals that are enticed by the power and violence associated with MS-13, there also are a significant number of reluctant members that were coerced or physically intimidated into joining the gang. The tactic of threatening the loved ones still residing in their country of origin is used to pressure those living in the United States to join or act on behalf of the gang.

Violent Local Case Study:

One of the MS-13 related homicides that occurred in Montgomery County in December of 2015 illustrates the brutality of the gang's methods, the complexities of the gang's recruitment and the legitimate fear communities where the gang is active face on a daily basis. In this case, a high school student from a neighboring jurisdiction was trying to distance himself from the gang after associating with one of the local cliques. As he lessened his involvement with the gang and repeatedly failed to perform tasks on their behalf, he was confronted and was physically assaulted as a form of discipline by the gang. He then turned to his School Resource Officer (SRO) and reported the gang related assault. The SRO, along with other officers from the department, took swift action and made several arrests.

The other gang members then intended to kill the now reluctant gang member who had reported the assault to authorities. The gang then arranged a test of loyalty of another member who knew the assault victim. He was instructed to lure the victim to smoke marijuana in a wooded area near the Capital Beltway, so the gang could retaliate against him. The 15 year-old gang member complied with the understanding that the victim would be killed for notifying the police of the earlier assault. Once they arrived at the isolated area, other gang members beat the victim, then stabbed him multiple times, ensuring that all the members present participated. As the victim lay dying, the gang members could hear him continue to gasp for air, so they then literally stoned him to death and dumped his body into a nearby stream.

These vicious tactics utilized by the gang have a chilling effect on the immigrant community. Join the gang or be beaten, pay an extortion or your family will be targeted, go to the authorities and be killed. The forced silence of the community caused by these violent tactics adds to the gang's reputation and power. This is what local law enforcement across this country is faced with when confronting MS-13 and why it is so difficult to combat this group and obtain the trust of the most affected communities.

Immigration Enforcement:

Mr. Chairman, when President Trump spoke at the Washington conference of Major Cities Chiefs, on the same day you joined us, the President said, "I am asking you to help us get the really bad ones". Well, that is exactly what we are doing in partnership with ICE and that is why I appear before you today. But it is vital for the Committee to understand that we cannot get the "really bad ones" without the help and support of immigrants who have not committed crimes in our communities.

MS 13 preys upon the immigrant community with the worst forms of violence and intimidation. So, we rely on victims and witnesses to help us identify, track down and apprehend MS 13 gangsters. Without the cooperation of immigrants who have not committed crimes, we would never be able to find and arrest MS 13 criminals. This is a key example of why Chiefs in major cities across the Nation do not engage in routine, civil immigration enforcement. The moment those victims and witnesses begin to fear that their local police will deport them, cooperation with their police then ceases. We would receive no information or intelligence about MS 13 from immigrants, even innocent members of our community who are their victims. Were local police ever to engage in routine, civil immigration enforcement, we would no longer be able to do what President Trump asked of us. There is no better example of this reality than MS 13.

Organization of MS-13:

MS-13's structure also has morphed over time, and has become more difficult to define. Although the gang has a hierarchal structure, it cannot be viewed in a strictly tiered format. The gang has become more fluid in its members' loyalties and clique affiliations allowing for gang members to more easily traverse between subgroups. Additionally, the status and/or personal connections of an individual gang member or an entire clique can allow for the bypassing of the chain of command, allowing for selective adherence to orders. Because some members can go around local gang leaders, due to their stature or ties back in their native countries, they may instead take orders directly from the gang's leadership in El Salvador. The gang also has become more fluid geographically.

National Strategy Required:

For example, an MS-13 gang member charged in a homicide in Montgomery County fled to Texas, where he was subsequently arrested by U.S. Marshals. Similarly, the North Shore Gang Task Force, led by the Federal Bureau of Investigation (FBI) and Massachusetts State Police, reached out to investigators in Montgomery County for assistance in locating a suspect wanted for murder in their jurisdiction who was believed to be harbored in Maryland. County detectives, working with federal Homeland Security Investigations agents, found the gang member wanted in the Massachusetts case accompanied by several other gang members. One of these members was wanted for felony assault in Dallas, Texas. Yet another was believed to be connected to multiple homicides in Houston, Texas. However, at the time of the stop, Texas law enforcement officials did not have sufficient evidence to support charges. This last suspect was taken into custody and subsequently deported, only to return to the United States months later and murdered a 15 year-old girl in Houston in what was described as a satanical ritual. This demonstrates the limitations of deportation when dealing with gang members. This increased transience makes it more difficult for law enforcement to develop intelligence on the gang and identify and apprehend members who commit crimes and then move elsewhere.

Social Media and the Internet:

Another notable trend is MS-13's use of technology to further the gang's endeavors. Gang members in the United States can now instantaneously reach leaders in El Salvadoran prisons via easily concealed cellular phones. Digital technologies and social media are increasingly means for gang members to target rivals, recruit, securely communicate, and thwart law enforcement efforts to gather intelligence and build cases against them. Searching the internet, gang members look for potential recruits based on their posted social connections and geographic affiliations from neighborhoods both here in the United States and from their countries of origin. Similar to terrorist organizations, they reach out to those "wannabes" who are actively seeking information or membership into the gang. The internet was also used, in at least two of the recent MS-13 related murders committed in Montgomery County. The victims were identified, targeted, and ultimately lured to their deaths after they accepted fabricated invitations to meet with female MS-13 associates posing on the internet with promises of having sex with the unsuspecting victims.

Encrypted Applications:

It was learned from a recent Racketeering Influenced and Corrupt Organization (RICO) case authorized by the U.S. Attorney's Office and investigated in conjunction with our federal law enforcement partners in the DEA and HSI, and the Prince George's County Police Department, that MS-13 gang members are exploiting commercially available encrypted "apps" to communicate. These apps prevent communications from being intercepted by law enforcement, even with a lawful court order. This greater issue of "going dark" is not limited to MS-13, or gangs for that matter, but is being used by criminal enterprises and other groups intent on causing harm to the homeland.

Conclusion and Recommendations

MS-13 and other transnational criminal organizations continue to adapt and evolve. Technology allows elements of the gang here in the United States to easily connect with the leadership in their countries of origin. Geopolitical events, such as the collapse of the truce between the gangs and the El Salvadoran government, now have a direct impact at the local level domestically. Gang affiliates in this country have been tasked with increasing their presence in order to generate more revenue as governments

overseas heightened their enforcement operations against the gang. Technology, along with the ease in which people can travel, has allowed for the gangs to hinder law enforcements investigations.

Congress and the federal government can continue to help local law enforcement by acting upon the following recommendations.

Federal Task Forces:

Funding should be made available to establish more task forces, similar to the model used in terrorism investigations. This must include the full spectrum of intelligence gathering and sharing and the resources to conduct in-depth analysis of the information developed. Like the Joint Terrorism Task Forces, it is important that a single, national, infrastructure linking the various geographically based gang task forces be the responsibility of one agency to ensure mission continuity and agency coordination. However, the local law enforcement agencies represented on these task forces need to have an equal role in prioritizing cases and determining where to concentrate resources because they are the ones held accountable by residents and elected officials in the most affected communities.

These federally funded task forces also will need the support of their local U.S. Attorney's Offices. Deputy Attorney General Rod Rosenstein and his previous staff in the U.S. Attorney's Office for the District of Maryland have been consistently supportive. They have recently indicted 15 MS-13 gang members, including the Maryland Program Leader in a RICO case that continues to be prosecuted by that office. In Montgomery County's experience, these complex, long term, federal cases have had the greatest impact on gangs. After each successful case that resulted in multiple indictments of gang members, there has been a period of relative calm. However, the key is to continually maintain the task forces and regularly target the gangs and not allow the gang to rebuild its ranks and regain its momentum.

Encryption:

Congress needs to act to balance the citizens' rights to privacy with law enforcement's need to lawfully monitor and intercept electronic communications regarding criminal activity and potential deadly plots. More and more commercially available encrypted devices and applications are allowing gangs, other criminal enterprises, and even terrorists to digitally conspire illicit plots without the ability of U.S. law enforcement agencies to counter these technologies. This greater issue of "going dark" must be addressed at the federal level to afford law enforcement the legislation and the tools they need to legally access encrypted communications that are used to coordinate criminal activities. Although there may be other viable strategies to target MS-13 and other gangs, these recommendations would have a significant impact in reducing gang activity and its toll on at-risk communities. Encrypted applications prevent local and federal law enforcement from lawfully intercepting conspiratorial communications. The increased mobility of the gangs further hampers law enforcement's abilities to gather intelligence and allows gang members who are guilty of criminal acts to flee to other MS-13 enclaves to be harbored and avoid apprehension.

Gang Prevention Strategies:

Local law enforcement recognizes that MS-13 and other transnational criminal organizations have a strong foothold in certain neighborhoods. The police alone cannot root out the gangs from the communities where they are established. It takes coordination with our regional and federal law enforcement partners to effectively combat the gangs. Local governments must also implement whole of government gang prevention strategies, in addition to their suppression efforts, to be successful. As the gangs rapidly evolve in response to the world around them, so must local and federal law enforcement in order to vigilantly prevent the gangs from becoming stronger. Local communities must be empowered to trust and partner with their police and sheriffs' departments to defend against the violence and other negative influences of the gangs. Congress has an opportunity to fund and reinforce collaborative efforts between local and federal law enforcement and other agencies to holistically target the gang's structure both locally and abroad and to increase the resilience of communities here in our own country.

On behalf of the largest police agencies in our nation, I thank the Committee for confronting this issue with commitment, and we look to you forward to your leadership going forward.

ORAL REMARKS/TALKING POINTS

Chairman Johnson, Ranking Member McCaskill, distinguished Members of the Committee, I am J. Thomas Manger, the Chief of the Montgomery County (Maryland) Police Department. I also am the President of the Major Cities Chiefs Association, an organization that is comprised of Chiefs and Sheriffs of the sixty-nine largest law enforcement agencies in the United States and the ten largest in Canada. I would like to thank you for the opportunity to address the committee to provide a local law enforcement perspective on the complexities and impact Mara Salvatrucha, or MS-13, and similar transnational criminal organizations are having on communities across the nation.

National Trends:

Immigrants who left their native Central American countries because of on-going civil wars in the nineteen-eighties, arrived in Los Angeles only to find that it was dominated by local street gangs. The reacted by forming a gang of their own. Since that time, MS-13 has evolved into one of the most violent and murderous gangs in the world. The Justice Department estimates there are now more than ten thousand MS-13 gang members living in the United States. Globally, there are an estimated thirty-thousand MS-13 gang members, and that membership continues to rise.

Local Region:

MS-13 has evolved since it first emerged in Montgomery County in the late ninety-nineties. It has progressed from a group whose members committed petty crimes and were initially considered more of a juvenile delinquency issue to one whose crimes have escalated to acts of extortion, aggravated assaults, and murders. As a result, my department and others in the National Capital Region formed dedicated investigative units that are solely focused on gangs and continue to target MS-13 and other security threat groups that attempt to operate in the region.

Over the last two decades, my department, in partnership with our regional and federal law enforcement partners, along with the U.S. Attorney's Office, have prosecuted cases against MS-13 and its primary rival Barrios 18 or 18th Street. With each major prosecution, the county experienced a period of relative inactivity from the gangs only for them to reemerge after reconstituting their ranks and reestablishing their criminal enterprises.

Beginning in June 2015, Montgomery County experienced a spike in total gang related homicides. In that year, the county had four (4) homicides attributed to MS-13; while there was only one gang related homicide in each of the preceding three years. The marked increase in Montgomery County correlated with the breakdown of a truce between the gangs and the El Salvadoran government and a significant increase in that country's homicide rate. The following year (2016), Montgomery County had three (3) additional MS-13 related murders. In 2017, Montgomery County has not experienced any additional homicides committed by the gang. This reduction coincides with a major Racketeer Influenced Corrupt Organization (RICO) case that task force officers from Montgomery and Prince George's County and agents from the Drug Enforcement Administration (DEA) and Homeland Security Investigations (HSI) conducted that netted several indictments of top Maryland based MS-13 leaders. However, two MS-13 associates were murdered after an altercation with an unidentified suspect in a local shopping mall in what is still an open case. In a highly-publicized incident earlier this year, a 15

year-old female runaway from the county was killed in a neighboring jurisdiction by MS-13 gang members and associates. Reminding us that our work against the gangs is ongoing and must continue.

It is important to note that during this same time frame, Montgomery County experienced seven (7) homicides that were attributed to two other local "crews" or gangs. These murders appear to be motivated by illegal drug transactions, whereas the MS-13 gang murders appear to be based on the victim's perceived or actual affiliations with rival gangs. Furthermore, committing a homicide is a means for gang members to elevate their status within the gangs. What also distinguishes the MS-13 murders, is the premeditation, brutality and callousness in which they were committed; with many of the victims suffering from multiple blunt force trauma and stab wounds and left in shallow graves in isolated wooded areas.

Although difficult to track, other gang related crime in the county appears to be statistically flat. However, the police department has noted disturbing changes in the gang's overall strategy. In addition to the homicides I have already mentioned, we have heard from community members that the gangs, which historically extorted money solely from illicit businesses such as "bordellos" and unlicensed "cantinas", are now collecting "rent" from legitimate Latino business owners and residents in certain apartment complexes. In some instances, if the victims of this extortion refuse to pay the fee demanded by the gang, the gang members return with detailed information on the intended victims' family members still living in Central America. The victims here in the United States know that the threat of violence to their extended family in their native countries is a true possibility and the perpetrators are out of the reach of U.S. law enforcement.

Coercion Tactics:

This same tactic also is used to coerce young adults to join the gang or do tasks on their behalf. The gangs surf the internet, building dossiers on potential recruits, gathering information on their social networks both here and back in their countries of origin. The data from social media is then used to entice or coerce new prospects. In at least two of the recent MS-13 related murders committed in Montgomery County, the victims were identified, targeted, and ultimately lured to their deaths after they developed fabricated social media relationships and accepted false invitations to meet with female MS-13 associates posing on the internet with promises of having sex with the unsuspecting victims.

Technology:

Technology also plays a role in hampering law enforcement's investigations against the gangs and other transnational criminal organizations. In our recent case with the DEA and HSI, investigators learned that gang members were using commercially available encrypted "apps" to plot their criminal activities. These applications and other technologies are part of the growing, larger issue of criminal organizations "going dark" and exceeding the current abilities of both local and federal law enforcement to legally monitor conspiratorial communications, even with a court order.

Transnational/Interstate Organization:

The structure of the gangs also has changed from its inception, further challenging law enforcement's efforts to combat them. MS-13 is no longer strictly a hierarchical organization. Due to their stature or connections, certain members can bypass local leaders in the U.S. and communicate directly with

jailed leaders in El Salvador who use smuggled cell phones from within prison. Additionally, gang members move more easily between "cliques" or sub-groups, even in geographically distant areas of the United States. My investigators have apprehended wanted MS-13 fugitives from as far away as Massachusetts and Texas. Likewise, an MS-13 member wanted a for homicide in my county was located by U.S. Marshals also in Texas. This demonstrates a vast network on behalf of the gangs that will take a coordinated effort between local and federal law enforcement agencies across the country.

In conclusion, I would like to offer the committee a few recommendations to further assist in targeting MS-13 and other transnational criminal organizations.

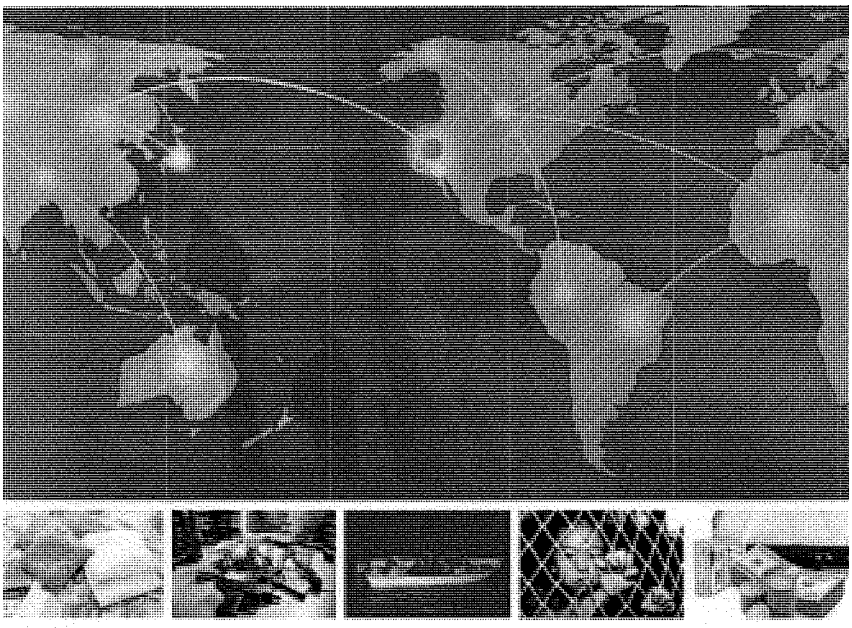
Task Forces: First, Congress should fund federal, state, territorial and local task forces to focus on gangs. They should be modeled similarly to the Joint Terrorism Task Forces and should have a single, national, coordinated infrastructure led primarily by a federal agency with significant input from local departments. These regional gang task forces will need the full spectrum of support, from centralized intelligence sharing and analysis to prosecution in the U.S. Attorney's Offices, where federal grand juries and firm sentencing have had the greatest impact on disrupting the gangs. The Senate has previously enacted legislation to accomplish this purpose but it was never approved by the House.

Going Dark: I also urge Congress to act to balance citizens' rights to privacy with law enforcement's need to lawfully monitor and intercept electronic communications regarding criminal activity and potential deadly plots. This expanding issue of "going dark" must be addressed at the federal level to afford law enforcement the legislation and the tools they need to legally access encrypted communications that are used to coordinate criminal activities.

Prevention and Intervention: I would like to thank the members of the committee for their time and consideration of these important matters that are having a significant impact at the local level. I am confident that even greater and consistent cooperation and coordination between local and federal law enforcement agencies, along with comprehensive gang prevention and intervention strategies in at-risk neighborhoods, will reduce the gang's ability to operate and instill fear in our communities.

On behalf of the largest police agencies in our nation, I thank the Committee for confronting this issue with commitment, and we look to you forward to your leadership going forward.

I look forward to answering any questions the committee may have and further discussing any of these issues.



Gangs Beyond Borders

California and the Fight Against Transnational Organized Crime

March 2014

Kamala D. Harris
California Attorney General

Gangs Beyond Borders

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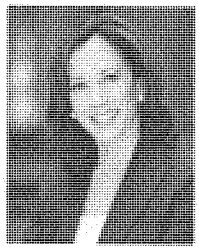
Kamala D. Harris
California Attorney General

Message from the Attorney General



California is a leader for international commerce. In close proximity to Latin America and Canada, we are a state laced with large ports and a vast interstate system. California is also leading the way in economic development and job creation. And the Golden State is home to the digital and innovation economies reshaping how the world does business.

But these same features that benefit California also make the state a coveted place of operation for transnational criminal organizations. As an international hub, more narcotics, weapons and humans are trafficked in and out of California than any other state. The size and strength of California's economy make our businesses, financial institutions and communities lucrative targets for transnational criminal activity. Finally, transnational criminal organizations are relying increasingly on cybercrime as a source of funds – which means they are frequently targeting, and illicitly using, the digital tools and content developed in our state.

The term "transnational organized crime" refers to a range of criminal activity perpetroted by groups whose origins often lie outside of the United States but whose operations cross international borders. Whether it is a drug cartel originating from Mexico or a cybercrime group out of Eastern Europe, the operations of transnational criminal organizations threaten the safety, health and economic wellbeing of all Americans, and particularly Colifornians.

This is not a new threat – one of the first official trips I made as Attorney General in 2011 was to tour the United States-Mexico border and discuss strategies to combat transnational crime with state and local law enforcement. The following year, in 2012, we convened a working group to research and issue a report on human trafficking, an increasing activity of transnational criminal organizations. That report, *The State of Human Trafficking in California*, proposes innovative strategies to investigate and prosecute the perpetrators and victims of trafficking. But human trafficking is only one part of transnational crime operations.

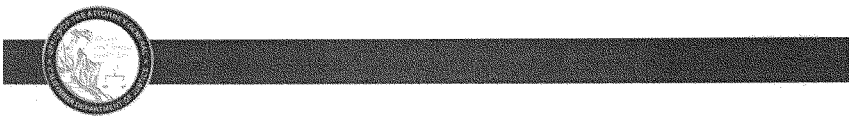
This new report, *Gangs Beyond Borders: California and the Fight Against Transnational Organized Crime*, addresses all three emerging pillars of transnational criminal activity: the trafficking of drugs, weapons and human beings; money laundering; and high-tech crimes, such as digital piracy, hacking and fraud. It is the result of extensive research and consultation with federal, state, and local law enforcement, non-governmental organizations, and academia.

The report finds that while transnational organized crime is a significant problem, it is not insurmountable. In California, law enforcement at all levels of government have made major strides against these criminal groups, even in the face of declining resources. Law enforcement in foreign countries have made steady in-roads, as well, as demonstrated by the recent arrest in February 2014 of Joaquín "El Chapo" Guzmán Loera, the reputed head of Mexico's notorious Sinaloa Federation cartel. The report describes the strategies that are working and sets forth recommendations to combat transnational organized crime. A call for sustained law enforcement funding and collaboration between federal, state, and local governments are at the center of these recommendations.

As transnational criminal organizations evolve in the search for profits, California will continue to be an attractive target. *Gangs Beyond Borders* sheds light on this threat in our state and highlights effective approaches in the fight against transnational organized crime. I hope it will be a useful tool for law enforcement and the public.

Sincerely,

Attorney General Kamala D. Harris



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The assistance of a team from the California State Threat Assessment Center, which included **Ryan Stonebraker**, **Matthew Hawkins**, and **David Herbst**, was instrumental in organizing and analyzing intelligence information and trends.

The dedication of the men and women in California law enforcement to combatting transnational criminal organizations has been the key to our success in disrupting and dismantling these groups. In particular, the Attorney General would like to acknowledge the advice and help provided by the following individuals and their offices: **Alameda County Sheriff Gregory Ahern**, **Los Angeles High Intensity Drug Trafficking Area ("HIDTA") Director Roger Bass**, **Los Angeles Police Chief Charlie Beck**, **Citrus Heights Police Chief Chris Boyd**, **Santa Barbara County Sheriff Bill Brown**, **San Diego County District Attorney Bonnie Dumanis**, **Sacramento County Sheriff Scott Jones**, **Campbell Police Sergeant Dan Livingston**, **San Diego and Imperial Counties HIDTA Director Kean McAdam**, **Long Beach Police Chief Jim McDonnell**, **El Segundo Police Lieutenant Carlos Mendoza**, **San Bernardino County District Attorney Michael Ramos**, **Central Valley HIDTA Director William Ruzzamenti**, **Los Angeles County Sheriff John Scott**, **Northern California Regional Intelligence Center Director Mike Sena**, the **California Board of Equalization's Investigation and Special Operations Division Chief Randy Silva**, and **Central Coast Gang Investigator Association Executive Director Michael Walker**. Special commendation and thanks for research assistance and consultation are also due to the **Los Angeles County District Attorney's Office**, the **Orange County District Attorney's Office**, the **Chula Vista Police Department**, the **California Department of Business Oversight's Money Transmitters Division**, the **California Department of Corrections and Rehabilitation**, the **Los Angeles Regional Criminal Information Clearinghouse**, and the **CalGang Network System**.

The Attorney General is grateful for the insight and support from California's law enforcement associations, which represent the men and women who lead the fight against transnational organized crime in our communities. Our thanks in particular go to the **California State Sheriffs' Association**, the **California Police Chiefs' Association**, the **California District Attorneys' Association**, the **California Narcotics Officers' Association**, and the **California Peace Officers' Association**.

Our efforts combatting transnational organized crime are shared with federal law enforcement in California, and the Office of the Attorney General expresses appreciation for case and research information provided by the **United States Attorneys' Offices for the Central and Southern Districts of California** and the **U.S. Department of Justice's Criminal Division**. Additional federal support for the preparation and production of this Report was generously provided by the **U.S. Department of Homeland Security (Homeland Security Investigations)**, the **White House's Office of National Drug Control Policy** and **National Security Council**, and the **U.S. Treasury Department's Financial Crimes Enforcement Network**.

Transnational organized crime reaches into California from abroad, and collaboration with law enforcement partners and government entities outside of our state is vital. This Report benefited immensely from the insight and assistance from the staff and members of the **Southwest Border Anti-Money Laundering Alliance**, a coalition made up of the Attorneys General offices from Arizona, California, New Mexico, and Texas. We also would like to acknowledge the cooperation from the **Legal Attaché of the Mexican Attorney General's Office**.

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Executive Summary

Over the last century, few issues have grabbed the nation's attention like organized criminal activity. In particular, transnational organized crime – crime that reaches beyond borders – has been a topic frequently explored, and occasionally even glamorized, by the media and through film. But for the people of California, transnational organized crime is not simply a subject for the silver screen. It is an everyday reality associated with drug trafficking, sexual slavery, and shocking violence that affects nearly every community in the Golden State.

Transnatianal criminal organizations are self-perpetuating associotions operating across national borders that use violence, corruption, and fraud to protect and disguise their illicit, profit-driven activities. This Report examines how these groups – with roots in places around the globe – have flocked to California to engage in an increasingly diverse range of criminal activities.

Chapter One looks into the varying nature of transnational criminal organizations, ranging in size and sophistication from corporation-like drug cartels and extremely violent transnational gangs to Internet-based hacking and financial fraud rings. These organizations are incredibly fluid and adaptive, and their profit-motivated operations run the gamut from traditional crimes – such as narcotics, weapons, or human trafficking – to complex money laundering schemes and specialized cybercrimes.

Like parasites, transnational criminal organizations whose operations extend into California thrive by exploiting their host's strengths. California's economy – a global leader owing to its shared border with Mexico and its status as a gateway for trade between the U.S. and East Asia – attracts hard-working immigrants from around the world and maintains highways and high-speed data networks that speed the flow of goods, people, and information throughout the state. **Chapter Two** explains how transnational criminal organizations have taken advantage of these factors in an attempt to transform California into a center of transnational organized crime. California is the nation's largest portal not only for drugs and human trafficking victims flowing *into* the U.S., but also for weapons and the laundered proceeds of illicit activity smuggled *out* of the U.S. – often through the very same trafficking routes.

The harm done by transnational criminal organizations to communities all across California is hard to overstate. Not only do these organizations threaten public health by driving the supply and distribution of harmful narcotics, but their alliances with violent prison and street gangs (a trend addressed at length in **Chapter Three**) have sparked a rash of violence in a period of otherwise declining criminal activity. Moreover, the substantial amount of illicit money moving through California's economy threatens the security of the state's financial institutions, local businesses, and communities, with an estimated $30 to $40 billion in illicit funds laundered through California commerce every year.

Transnational criminal organizations are increasingly taking advantage of new communications technology and the interconnectedness of the globalized world to further their trafficking activities in California. This creates new challenges for law enforcement, a topic explored in **Chapter Four**. But transnational organized crime in California extends beyond drugs, weapons, and human trafficking. In the 21st century, the problem posed by transnational criminal organizations threatens the security of computer and data networks, the integrity of online bank accounts, and the rights of intellectual property holders. By virtue of its population and knowledge-powered economy, California is the top target in the nation for this new generation of transnational criminal organizations – originating in significant numbers from Eastern Europe, but also Africa and China – whose purpose is to commit highly profitable hacking, fraud, and digital piracy crimes. This emerging cybersecurity threat is discussed in **Chapter Five**.

Recognizing the significant threat posed to California's economy and people by transnational criminal organizations, Attorney General Kamala D. Harris assembled a team of researchers, policy analysts, and law enforcement officials to identify the challenges these organizations create and to formulate recommendations to combat them in California most effectively (**Chapter Six**). This report is based on dozens of interviews with law enforcement officials, prosecutors, and policy experts, an in-depth review of state task force data, and research and investigation by the California Department of Justice.

Highlights of the 2014 Report

- Mexico-based transnational criminal organizations are suspected of trafficking 70 percent of the U.S. supply of methamphetamine through the San Diego port of entry alone, making California the primary source for methamphetamine nationwide. In 2013, border authorities seized over 6,200 kilograms of methamphetamine entering California, a three-fold increase since 2009.

- The Sinaloa Federation cartel has emerged from the fragmented Mexican drug market as the dominant Mexico-based drug trafficking organization operating in

California. Sinaloa is now responsible for trafficking the vast majority of Mexico-produced marijuana, methamphetamine, heroin, and cocaine through the Tijuana corridor into California.

- The public safety threat posed by Mexico-based drug trafficking organizations has been amplified as cartels have formed alliances with California prison and streetgangs to control trafficking routes, distribute drugs, and kidnap, extort, and kill as necessary to protect their criminal activities. The Mexican Mafia, for example, provides protection for members of numerous cartels both inside and outside prison, and various Hispanic Sureño and Norteño gangs in Southern and Northern California have teamed up with Sinaloa, La Familia Michoacana, The Knights Templar, and other Mexico-based drug trafficking organizations.

- With gang membership up 40 percent nationally between 2009 and 2011, California has seen higher levels of violent crime (particularly assault, extortion, home invasion robberies, homicide, intimidation, and shootings), as well as an increase in arrests for human trafficking offenses and significant seizures of drugs, weapons, and cash.

- Transnational criminal organizations are taking advantage of new communications technologies and social media to facilitate criminal activity, recruit new members, and intimidate or harass their rivals – even from inside prison walls. In 2011, for example, over 15,000 cell phones were seized from inmates in California prisons.

- Recent increases in the use of *panga* boats to smuggle drugs and people into California exemplify the constant tactical adaptation by transnational criminal organizations. Boats capable of carrying 12 tons of marijuana have landed as far north as Santa Cruz County, with a steady increase in *panga* sightings and landings throughout the Central Coast.

- Between 2009 and 2012, the number of intentional breaches of computer networks and databases in the U.S. jumped by 280 percent, with California's share leading the nation. Many of these breaches have been tied to transnational criminal organizations operating from Russia, Ukraine, Romania, Israel, Egypt, China, and Nigeria, among other places.

- In the 2012-2013 fiscal year, California state drug task forces disrupted or dismantled 140 drug, money-laundering and gang organizations, arrested nearly 3,000 individuals, rescued 41 drug-endangered children, confiscated 1,000 weopons, and seized nearly $28.5 million in U.S. currency in anti-narcotic law enforcement actions statewide. Federally-sponsored High Intensity Drug Trafficking Areas ("HIDTA") program task forces also identified 305 drug-related transnational

criminal organizations operating in California, and 18 street and prison gangs with ties to these organizations.

- At the same time, state-led task forces charged with protecting California from transnational criminal organizations have suffered severe budget reductions over the last five years, with the number of operating task forces dropping from 55 in 2011 to just 17 in 2013.

Summary of Recommendations

Trafficking

- **The Legislature should amend California law to target the leaders of transnational criminal organizations operating in California:** California does not currently have any statutes that specifically target or punish supervisors, managers, or financers operating on behalf of transnational criminal organizations. California should fill this statutory void by enacting legislation similar to the federal Continuing Criminal Enterprise Act to directly attack the leadership of these organizations.

- **Federal, state, and local law enforcement should use California's State Threat Assessment System as a central hub for sharing information about transnational crime:** California presently lacks a unified system for collecting, analyzing, and sharing information regarding transnational organized crime. California's State Threat Assessment System (STAS) is uniquely positioned to act as that central hub for California's transnational crime information-sharing needs. In coordination with the Attorney General's Office, California's tribal, local, state, and federal law enforcement agencies should partner with STAS to share information about transnational criminal organizations across the state.

- **Federal, state, and local authorities should establish a unified maritime task force and associated radar network to counter maritime smuggling operations along California's coastline:** While several *regional* partnerships and a federal task force exist to address maritime smuggling operations along California's coast, California needs a multi-jurisdictional Maritime Task Force – that leverages expertise at the federal, state, and local levels – to combat the threat posed by *panga* vessel smuggling. California should also work with Coast Guard Officials to implement a network of high-intensity radar stations or sonar buoys strategically located along the coast to better detect maritime threats and coordinate law enforcement responses.

- **The Legislature and Governor should fund five additional Special Operations Units across California:** The increasingly sophisticated nature of transnational criminal organizations demands an equally sophisticated and coordinated

response from law enforcement. The California Department of Justice's Bureau of Narcotics Enforcement, and related task forces and special operations units, were remarkably successful in targeting and dismantling transnational organized crime cells in California before severe budget cutbacks in 2011 limited their operational capacity. Restoring funding to special operations units in Sacramento, San Francisco, Riverside, Los Angeles, and San Diego is a necessary step in the fight against transnational organized crime in California.

- **The federal government should continue providing critical funding to support state and local law enforcement agencies in investigating and dismantling trafficking organizations:** In particular, Congress should maintain and increase funding levels for methamphetamine law enforcement grants through the U.S. Department of Justice's Community Oriented Policing Services (COPS) office. Additionally, the California Board of State and Community Corrections, which administers federal law enforcement grants from the Byrne Justice Assistance Grant Program, should restore the allocation of these funds to joint state-local task forces.

- **Federal, state, and local law enforcement agencies should increase operational coordination in combatting transnational criminal organizations:** Given the international scope of these trafficking networks, federal, state, and local law enforcement agencies in California must work together – at the investigatory and prosecutorial levels – to combat major transnational criminal organizations and their alliances with prison and street gangs.

High-Tech Crimes

- **State and local authorities should develop public-private partnerships to leverage technology against transnational organized crime:** As the frequent target of transnational criminal schemes, the private sector is at the frontline defending against numerous high-tech threats. It is not surprising that it often has access to information and technologies that the government does not. By forming public-private partnerships, state and local authorities can leverage the private sector's comparative strengths to counter the ever-changing threats and tactics of transnational criminal organizations.

- **Businesses should adopt industry best practices designed to protect against cybercrime:** Lax cybersecurity practices, or the lack of any protections whatsoever, allow far too many breaches of computer networks and databases to happen in California. All entities, public and private, doing business in California should assume that they are a target and defend themselves accordingly by adopting the industry best practices identified in the Department of Justice's recently released report, *Cybersecurity in the Golden State (http://oag.ca.gov/cybersecurity)*.

Money Laundering

- **The Legislature should amend California law to enable prosecutors to temporarily freeze the assets of transnational criminal organizations and their gang associates before the filing of an indictment:** Under current law, transnational criminal organizations are often given the equivalent of advance warning that their criminal proceeds and assets are about to be seized by law enforcement. That is because of a legal void that prevents the seizure of any assets until the filing of a formal criminal indictment. As a result, in cases where illicit assets are discovered before an indictment can be filed, criminals have the chance to remove their assets before they can be taken. This loophole must be eliminated by empowering law enforcement to temporarily freeze an organization's illicit proceeds or property in advance of a formal prosecution.

- **The Legislature should strengthen California's prohibition against financial transaction "structuring":** When it comes to proving that a financial transaction was "structured" to evade financial reporting requirements, California law imposes a special burden on prosecutors that federal law does not. To prove "structuring" under California law, prosecutors must show not only that transactions were organized to avoid mandatory reporting requirements, but also that such structuring was *intended* to disguise proceeds from illicit activities. This special burden on state and local prosecutors hampers the ability to disrupt money laundering schemes and should be eliminated.

- **California prosecutors need advanced training to combat sophisticated transnational money laundering schemes:** At the same time that budget reductions have curtailed investigatory and prosecutorial capacities, transnational criminal organizations are becoming more and more sophisticated in how they launder their illicit profits. A key to disrupting this sophisticated criminal activity is through equally sophisticated and aggressive prosecutions. Advanced training and technical assistance to state and local prosecutors investigating and prosecuting complex money laundering schemes is vital to building the capacity to bring these prosecutions.

- **State authorities should partner with their Mexican counterparts to share intelligence and disrupt the illicit flow of money across the border:** The ease with which large sums of money can be whisked across borders has never been greater. For this reason, it is critical that investigators and regulatory officials on both sides of the border have the most up-to-date information about cross-border currency flows and the people behind them and cooperate in disrupting money laundering schemes.

Introduction

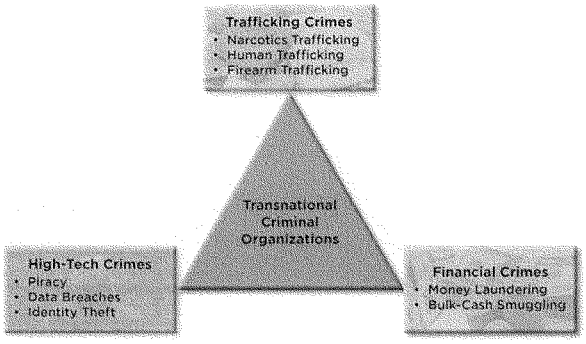
Transnational organized crime in California is as diverse as it is complex. It involves a range of profit-motivated criminal activities perpetrated by an ever-increasing array of transnational criminal organizations, located both within California and abroad. These organizations have taken advantage of the technological revolution of the last two decades, as well as advancements in trade, transport, and global money transfers, to substantially increase the scale and profitability of their criminal activities in California.[1]

Unlike the large, hierarchically-organized international crime groups of the late 1980s and early 1990s, such as the well-known Medellín or Cali drug cartels, modern transnational criminal organizations are incredibly fluid and adaptive, and have diversified their criminal enterprises. Transnational criminal organizations varying in size, scope, and influence have now established a presence in virtually every one of California's major urban areas, as well as many smaller cities. They present a real and significant statewide threat to the economic and social fabric of California.

Their profit-driven operations run the gamut from more traditional crimes – such as narcotics, weapons, and human trafficking (the use of force, fraud, or coercion to exploit a victim for profit) – to complex money laundering schemes and sophisticated computer attacks designed to steal personal information and money (Figure 1). These crimes, and the transnational criminal organizations orchestrating them, exploit millions of Americans and impose costs estimated to be in the hundreds of billions of dollars annually.[2] Transnational criminal organizations are also constantly altering their illicit capabilities, refining and adapting their tactics in response to enhanced local, state, and federal law enforcement interdiction efforts.

Throughout this Report, we make reference to these groups and their criminal conduct in various ways – as "transnational gangs," "transnational criminal organizations," or the shorthand "TCOs," as well as "transnational organized crime." There is no singular or exclusive domestic or international definition of a transnational criminal organization and, in fact, the success these groups have enjoyed is due in part to the ambiguity of their organizational structures. However, transnational criminal organizations possess many common traits and Chapter One of this Report discusses those commonalities.

Figure 1
Transnational Organized Crime in California



The Report is a broad review of transnational criminal activity in California. We analyze four types of transnational criminal organizations active in California (Mexico-based drug cartels, Asian and Eastern European transnational criminal groups, transnational gangs, and Internet-based hacking and fraud rings) and explore their operations in trafficking (drugs, human beings, and weapons), money laundering, and high-tech crime. At their core, the criminal operations conducted by these organizations all have international and domestic dimensions, directly impacting California and its residents.

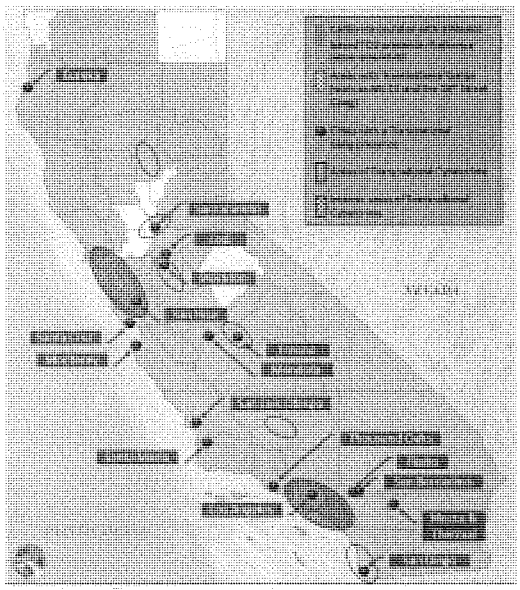
Chapter One

Transnational Criminal Organizations – Structure and Operations

As defined by the National Security Council, transnational criminal organizations are self-perpetuating associations operating across national borders that use violence and corruption, and exploit transnational commerce and communications, to protect and disguise their illicit, profit-driven activities.[3] These organizations utilize a number of different organizational structures, including hierarchies, clans, networks, and cells, with many transnational criminal organizations evolving and adapting over time due to changing circumstances.[4] They may be tied together by ethnicity, territory, or even personal relationships, or they may share a focus on particular segments of the illicit marketplace.[5]

Transnational criminal organizations have a presence in virtually every major urban area in California, as well as in many smaller cities around the state. From South to North, transnational criminal organizations of varying types have permeated and penetrated California, finding a foothold throughout the state (Figure 2).

Figure 2
TCO Hot Spots in California



Source: CA State Threat Assessment Center (2014)

Transnational Criminal Organizations in California: Four Key Organizational Structures

1. The Rise of Mexico-Based Drug Cartels

The dominant organizational structure of transnational criminal organizations operating in California is the corporation-like drug trafficking organization. These organizations are commonly referred to as "cartels," so we will use the terms interchangeably. Traditionally, these large cartels had rigid hierarchical structures, but analysts have identified a general trend in recent years toward decentralized cells controlled by a governing body as the "nerve center."[6]

The primary cartel-like transnational criminal organizations active in California are Mexico-based transnational criminal organizations (commonly referred to as "Mexican drug trafficking organizations"). Though Mexican drug trafficking organizations have been in operation for more than a century, the last 20 years have witnessed a profound change in the operation and control of the key trafficking routes to the United States. The associated emergence of these organizations has been described as "the greatest organizational drug threat to the nation."[7]

Following the dismantlement of the Medellín and Cali drug cartels by the Colombian government in the late 1980s and early 1990s, the highly-profitable cocaine trafficking routes to the United States were taken over by Mexican drug trafficking organizations, particularly the Tijuana cartel (controlled by the Arellano Félix family and also known as the Arellano Félix Organization) and the Juárez cartel (operated by the Carrillo Fuentes family).[8] However, in 2000, the administration of Mexican President Vincente Fox, in consultation with the U.S. government, began to target high-level operatives – first in the Tijuana cartel, and then in the Juárez cartel – that resulted in the capture or death of several Félix and Fuentes family members.[9] While successful in many respects, this crackdown also resulted in fragmentation of the Mexican drug trafficking market, leading to increased violence, not only between the larger drug trafficking organizations and the government, but also among smaller "cartelitos" vying for a share of the drug trafficking industry.

Out of this power vacuum, the Mexico-based drug trafficking organization known as the Sinaloa Federation has emerged as the dominant transnational criminal organization operating in California. Sinaloa – whose roots can be traced back to the breakup of the Guadalajara cartel in the 1980s – is now responsible for the vast majority of drug, weapons, and human trafficking across the California-Mexico border.[10]

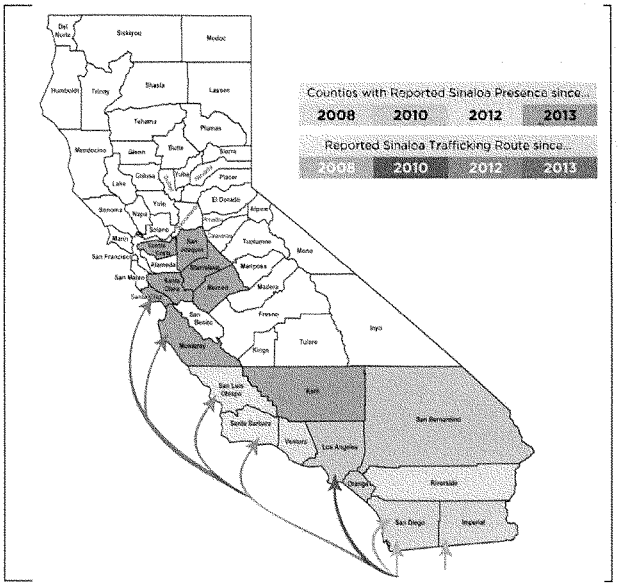
Sinaloa and other Mexican drug cartels are adapting their corporate structures to better leverage existing resources and alliances and expand the financial and geographic scope of their enterprise. For example, Sinaloa – which has allied with the Gulf cartel,

Los Caballeros Templarios, and the Arellano Félix Organization – has adopted a decentralized, less-hierarchical structure, whereby leadership directs peripheral lieutenants to carry out operations in a "hub and spoke" manner.[11]

This "federation" of Sinaloa-affiliated cells, developed by the cartel's recently-arrested leader, Joaquín "El Chapo" Guzmán Loera, allows Sinaloa to maintain a presence in at least 17 Mexican states and 50 other countries throughout North, Central, and South America, Australia, Europe, Southeast Asia, and West Africa, with each subgroup enjoying significant autonomy in its business operations and ability to retain profits.[12]

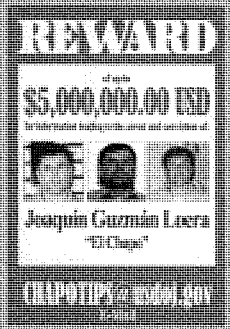
Sinaloa is particularly active in Southern California, where it coordinates with Hispanic Sureño street gangs to distribute narcotics. The expansion of Sureño gang territories has also allowed the cartel to expand its influence to Northern California (notably, the San Jose area) and into neighboring states like Oregon, Nevada, and Arizona (Figure 3).[13] This ever-increasing zone of influence has caused friction with existing regional gangs that had previously controlled trafficking routes, resulting in threats of violence, homicides, kidnappings, and extortion.[14]

Figure 3
Sinaloa Presence in California



The Sinaloa Cartel: An Uncertain Future

Although many in Mexico's security apparatus have been prepared, some people have suspected that Sinaloa President Joaquín "El Chapo" Guzmán escaped from the Mexico City maximum security prison where he was being held in February 2001. Although the Mexican government initially denied the escape, it later admitted that Guzmán had escaped in a laundry cart. The escape was a disadvantage for Mexico's law enforcement agencies, which had spent years and millions of dollars to capture Guzmán. Although the Sinaloa Cartel is Mexico's largest drug trafficking organization, it has been fragmented by the arrests and killings of its leaders over the past decade. While the U.S. government has offered a $5 million reward for information leading to the capture of Guzmán, the escape has been a setback for the Mexican government and security forces, and has raised questions about the future of the Sinaloa Cartel and its leadership.



Although Guzmán escaped, the Mexican government has arrested many of his associates, including several of his sons, Ovidio, Iván Archivaldo, and Alfredo Guzmán Zambada, who are reportedly being held in a Mexican prison. Although Guzmán's sons have been arrested, they have not been charged with any crime and have been detained under Mexico's organized crime laws. Mexico's organized crime laws allow the government to detain people for up to 80 days without charging them with a crime. Mexican authorities have also arrested several of Guzmán's associates, including his brother-in-law Ismael Zambada García, who is reportedly being held in a Mexican prison. Although Zambada García is reportedly being held in a Mexican prison, he has been charged with a crime and has been extradited to the United States. Zambada García is reportedly being held in a Mexican prison because he is being prosecuted in Mexico for the murder of a journalist and has been charged with a crime in the United States and accepted a plea deal.

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Mayo and El Azul cycle through as transitional heads. Smaller drug trafficking organizations currently under the Sinaloa umbrella might try to establish their independence and grow their territory." For these reasons, Starr hypothesizes that "this is the beginning of the end for Sinaloa – how long it takes and how it happens remains to be seen."

The speculation about Sinaloa's possible decline raises the additional possibility of increased violence. Vanda Felbab-Brown, a senior fellow at the Brookings Institution, is concerned about a fragmented Mexican drug market – as occurred after the Mexican government's crackdown on the Tijuana and Juarez cartels in the early 2000s – in which organizations vie for control of Sinaloa's previously untouchable drug routes. While large cartels like Los Zetas – which suffered a decline following years of fighting the Sinaloa cartel, other rivals, and the Mexican government – are believed to lack the operational capacity or acumen for a takeover, Felbab-Brown warns that drug-related violence will increase if smaller cartels see Guzmán's arrest as an opportunity to grow their enterprises.

Regardless of what might follow, both Starr and Felbab-Brown praise Guzmán's capture and what it symbolizes in the global effort to tackle transnational organized crime.

Sources: June S. Beittel, *Mexico's Drug Trafficking Organizations: Source and Scope of the Violence*, Congressional Research Service (April 15, 2013), pp. 9, 11-12; Vanda Felbab-Brown, *Calderon's Caldron* (Sept. 2011), Latin America Initiative at Brookings, p. 3; Alicia A. Caldwell & Katherine Corcoran, *Mexico's Sinaloa Drug Chief Arrested*, Associated Press (Feb. 22, 2014); interview with Vanda Felbab-Brown (Feb. 24, 2014); interview with Prof. Pamela Starr (Feb. 24, 2014); U.S. Department of Justice.

2. Asian and Eastern European Transnational Criminal Groups

Another type of transnational criminal organization is formed when criminals based abroad attempt to partner with their counterparts in U.S. immigrant communities in order to exploit access to U.S. markets and wealth. The result is a loose transnational confederation between a criminal ring abroad and an autonomous ring here in the U.S., tied together along ethnic lines. While much still remains unknown about these groups, many of them operate in California, which is home to large immigrant communities from around the world and a quarter of all immigrants who have come to the U.S.[15]

Eurasian transnational criminal groups arising from the 15 republics of the former Soviet Union and from central European countries maintain an active California presence in

areas including Burbank, Fresno, Glendale, Los Angeles, Sacramento, San Diego, and San Francisco. Known for their sophistication and violence, groups like Armenian Power are linked to cybercrime, financial fraud (such as identity theft and credit card crimes), auto theft, illegal gambling, and narcotics and human trafficking.[16]

Additionally, once confined to just a handful of urban areas with large Asian-American populations, Asian transnational criminal confederations, such as those involving the Tiny Rascal Gang and Asian Boyz, are expanding to communities in Fresno, Los Angeles, Orange, Sacramento, Santa Clara, and San Diego Counties where the growth in the number of new immigrants from Asia has been greatest. These criminal organizations engage in human and sex trafficking, drug and weapons smuggling, domestic marijuana cultivation, various forms of cybercrime, and even wildlife trafficking.[17]

Although tied together along ethnic lines, these confederations show little affection for those who share their ethnic identity when deciding whom to target. Indeed, immigrants who share ethnic ties with these criminal organizations are arguably the most vulnerable to victimization. For example, Armenian Power frequently targets members of the Armenian-American community for fraud and extortion, as it did in one Southern California fraud scheme described in Chapter Five. The special vulnerability of many immigrant communities underscores the urgent need for law enforcement to better understand Asian and Eastern European transnational criminal groups so that they can better protect some of California's most vulnerable citizens and residents.

3. Proliferation of Transnational Gangs

Transnationol gangs are criminal street gangs operating in the U.S. with ties to gangs of the same ethnicity or nationality, or within the same umbrella gang, operating in other countries. They are linked to the prolific use of violence or the threat of violence to further their illicit octivities in California. Like Mexico-based transnational criminal organizations, tronsnational gangs have exploited the benefits of an interconnected world to expand their increasingly sophisticated criminal activities to a global scale. While still principally engaged in narcotics trafficking (although on a smaller scale than Mexico-based drug trafficking organizations), these gangs deeply involve themselves in crimes ranging from money laundering and robbery to extortion and contract killings, as well as emerging crimes like intellectual property fraud and human trafficking. In addition to these profit-driven activities, transnational gangs perpetrate acts of violence to establish their reputation and status in California communities.

Transnational gangs vary in organizational sophistication, though they predominately follow a "hub and spoke" model, with a hierarchical, central point directing regional "clique" or *"clica"* leadership. They are increasingly working with other transnational criminal organizations, as well as California street and prison gangs (a dangerous union

examined in Chapter 3), and are coordinating their criminal activities across both state and international lines. The primary transnational gangs operating in California are:

- Mara Salvatrucha (or the shorthand "MS-13"): MS-13 is the largest and most violent transnational gang currently operating in California and has been recognized by the U.S. Department of Treasury as a transnational criminal organization. Originally founded in Los Angeles during the 1980s by Salvadoran immigrants, MS-13 began as an ethnic, protection-oriented street gang. A growing Salvadoran immigrant membership, coupled with mass deportations to Central America in the 1990s of MS-13 members convicted of certain crimes, helped transform this group into a transnational gang. According to recent U.N. estimates, MS-13 is now one of the world's fastest growing criminal organizations, with an international membership of at least 30,000, including 8,000 members in El Salvador, 7,000 in Honduras, and 5,000 in Guatemala.[18]

- 18th Street Gang: Another large criminal street gang, the 18th Street Gang was formed by Mexican immigrants in Los Angeles around 1959, with many members later deported in the 1990s to Mexico and Central American countries. Despite their similarities, the 18th Street Gang, sometimes referred to as M-18 or Barrio 18, is an historic rival of MS-13.

  The 18th Street Gang is a large organization with an international membership well over 30,000. According to U.N. estimates, 14,000 to 17,000 members are based in Guatemala, 8,000 to 10,000 live in El Salvador, and another 5,000 reside in Honduras.[19] Membership numbers in the U.S. are well into the thousands and cliques in different countries frequently collaborate or form alliances opportunistically. Similar to MS-13, the 18th Street Gang's domestic operations are based in California, with the majority of their operations in the greater Los Angeles or Southern California region (although operations have also been observed in northern California). Gang members also maintain close relationships with Mexico-based transnational criminal organizations.

4. The Online Criminals: Transnational Hacking, Fraud, and Pirating Rings

With the rise of a global society connected by the Internet, criminal rings organized to commit hacking, fraud, pirating and other high-tech crimes across borders have rapidly proliferated. These rings operate frequently from Eastern Europe, but also from places as diverse as West Africa and China, and specifically target the citizens, computer networks, and companies of prosperous countries like the U.S. They vary widely in size, sometimes partnering with "locals" in the target country. Just as often, however, they feel little need to form local partnerships, since the Internet allows them to oper-

ate remotely, and a lack of a physical presence in the country they are targeting helps them more easily evade detection and criminal prosecution.

Like other transnational criminal organizations, transnational hacking, fraud, and pirating rings are profit-driven. But unlike cartels and gangs, these rings do not commonly employ fear, violence, and terror as tools in their arsenal. Instead, their success hinges on operating anonymously and surreptitiously, relying on sophisticated tactics to steal information, harvest money, and move money across jurisdictions into their own bank accounts.

Conclusion

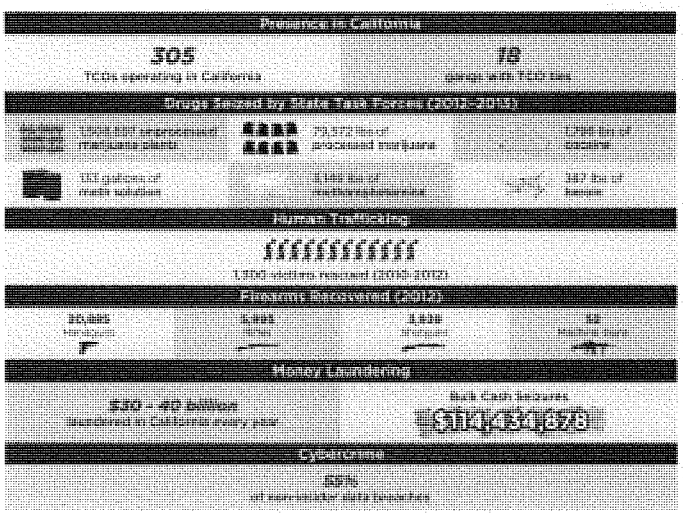
Transnational criminal organizations have used their adaptability and fluid organizational structures to expand their networks of criminal activity to every corner of California. Mexican drug cartels, particularly Sinaloa, have been most successful in embedding themselves into the fabric of our urban communities by forming alliances with prison and street gangs for protection and distribution of illicit goods. However, transnational gangs and other organized criminal rings also pose serious threats to the physical and financial well-being of Californians.

Chapter Two

California: A Hub for Transnational Criminal Activity

California is a global leader on a number of fronts and, unfortunately, transnational criminal activity is one of them (Figure 4). In 2012 alone, 305 drug-related transnational criminal organizations were found operating in the state, including Mexico-based drug cartels in at least 22 cities from Northern California to the southern border.[20] Based in part on its population and network of interstate highways connecting the western U.S., California is a major portal through which drugs flow to other U.S. states and cities, as well as Canada. California is also the top state in the U.S. for human trafficking, due in part to its proximity to the U.S. southwest border, robust economy, and large immigrant population.[21] Finally, with a gross domestic product of $2 trillion and substantial international trade activity, California's economic and financial infrastructure is often targeted for transnational criminal money laundering schemes.

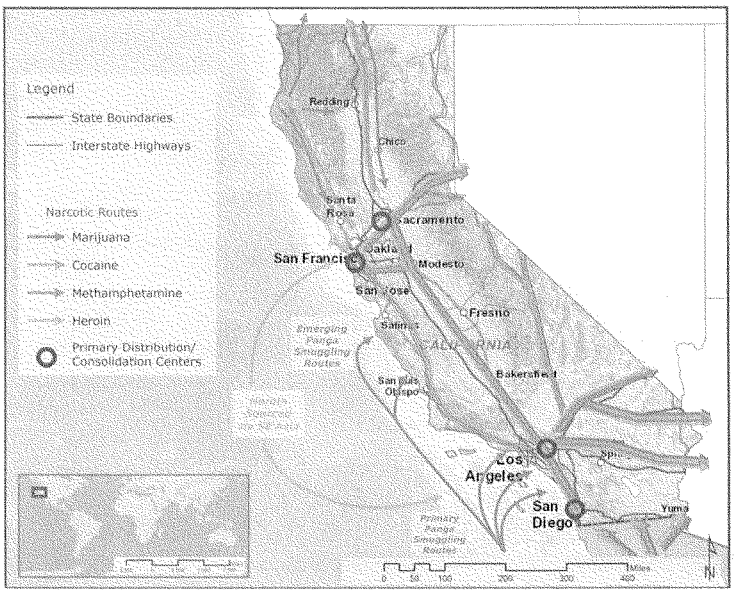
Figure 4
Impact of Transnational Criminal Organizations in California



Drug Trafficking Is the Most Profitable Transnational Criminal Activity in California

Mexico-based drug cartels generate billions of dollars annually by trafficking drugs into California, both for sale within the state and as a staging base for distribution around the country. As shown below in Figure 5, the distribution routes traditionally follow major interstate highways, which are the most efficient routes to California's major urban areas. Typically, narcotics flow from San Diego to Los Angeles, where they can either continue up the Interstate Highway 5 to the Bay Area and Sacramento or move eastward to various distribution points in the U.S. or Canada.

Figure 5
Primary Narcotics Trafficking Routes in California (2014)



Source: CA State Threat Assessment Center

Transnational Criminal Organizations Traffic Processed Marijuana

Marijuana continues to be the most commonly trafficked and used narcotic in California.[22] As the Drug Enforcement Administration recently observed in its 2013 National Drug

Threat Assessment, Mexican drug trafficking organizations such as the Sinaloa cartel continue to operate large outdoor marijuana growing fields in Mexico.

However, in response to interdiction efforts at the border, Mexican-based drug cartels are increasingly growing marijuana on public land in California. This is forcing California to contend with not only marijuana smuggled into the state, but also with marijuana grown in California for distribution to other parts of the U.S. where prices tend to be higher.[23]

In June 2013, following a month-long investigation by special agents of the California Department of Justice, officials arrested four suspected Sureño gang members in Sacramento County and seized more than 7,000 marijuana plants and 100 pounds of processed marijuana with an estimated street value of $2 million.[24]

Figure 6
Counties with Task Force Seizures of Processed Marijuana
in Excess of 1,000 Pounds
(FY 2012-2013)

In the 2012-2013 fiscal year (from the beginning of July to the end of June), the central and southern parts of California accounted for the vast majority of processed marijuana seizures. Los Angeles County alone accounted for 54 percent (or 43,090 pounds) of statewide seizures.

Outdoor Marijuana Fields and Sophisticated Indoor Production Operations

The outdoor production of marijuana takes place primarily on public land in the Sacramento and San Joaquin Valleys, including within California's national forests, and creates a host of problems within the state. Worker exploitation is common, as the growing areas are often operated by Mexican nationals who are smuggled into the country and then forced to work to pay off a smuggling debt.[25] In addition, outdoor marijuana fields produce significant environmental harms stemming from growers' use of pesticides, rodenticides, and fertilizers on the crops to expedite the growing process and protect the crops from insects or wild animals.[26] Fires are also a threat particularly associated with outdoor cultivation. In August 2009, suspected Mexican drug trafficking organization workers tending to a 30,000-plant marijuana field in the Los Padres National Forest near Santa Barbara sparked a 136-square mile fire.[27]

In 2012-2013, Northern and Central California represented the most significant hot spots for outdoor marijuana cultivation. Of almost 1.5 million plants seized by state and local law enforcement in 2012-2013, the top five counties accounted for over 45 percent of the total statewide seizures.

Figure 7
Task Force Seizures of Outdoor Marijuana

Counties With Most Seized Outdoor Marijuana (FY 2012-2013)	
1. Sacramento	181,541 plants
2. Madera	139,238 plants
3. Tulare	129,899 plants
4. Shasta	124,477 plants
5. Fresno	93,476 plants
Statewide Total	1,470,748 plants

Regional Impact: "The Inland Empire"

The Central Valley remained the principal source of marijuana cultivation and trafficking in California. [illegible] Mexico-based marijuana cultivation in the Western Region. [illegible] Counties in the Central Valley are consistently among the most prolific counties in the state. The Central Valley contributed approximately [illegible] percent of the total statewide seizures of indoor marijuana plants in fiscal year 2012-2013. Regional Impact: "Emerald Triangle" Mendocino, Humboldt, and Trinity Counties

"Emerald Triangle" — 38,513 plants seized
"Shasta Triangle" — 14,313 plants seized

In response to demand for high-grade marijuana (which can sell for up to 30 times the price of low-grade marijuana), Mexico-based drug trafficking organizations, as well as Asian organized crime groups, are growing increasing amounts of high-grade marijuana in indoor facilities in Alameda, Santa Clara, San Benito and Merced counties, and in Mexico. The state is also experiencing heavy indoor marijuana cultivation activity in the Bay Area, which law enforcement has attributed to the growing presence of Asian transnational criminal organizations like the Asian Warriors.[28] The top six counties account for approximately 80 percent of statewide totals, with Alameda, Santa Clara, and San Benito counties making up three of these jurisdictions.

Figure 8
Task Force Seizures of Indoor Marijuana

Counties With Most Seized Indoor Marijuana (FY 2012-2013)	
1. Shasta	11,138 plants
2. Mendocino	5,211 plants
3. Merced	4,155 plants
4. Alameda	3,541 plants
5. Santa Clara	3,153 plants
6. San Benito	2,937 plants
Statewide Total	37,949 plants

Transnational Criminal Organization Methamphetamine Trafficking Is on the Rise in California

California has also witnessed an increase in recent years in the availability of wholesale methamphetamine, particularly its most potent form, "ice," with the Sinaloa cartel driving supply.[29] California is now the primary source for methamphetamine nationwide with as much as 70 percent of the U.S. foreign supply of methamphetamine being trafficked through the San Diego point of entry alone.[30] Mexican drug trafficking organizations obtain multi-ton shipments of precursor chemicals, such as ephedrine and pseudo-ephedrine, from countries without strict chemical export regulations, like China or India. They then produce increasing amounts of methamphetamine in large "superlabs" inside Mexico,[31] a substantial percentage of which is destined for California.

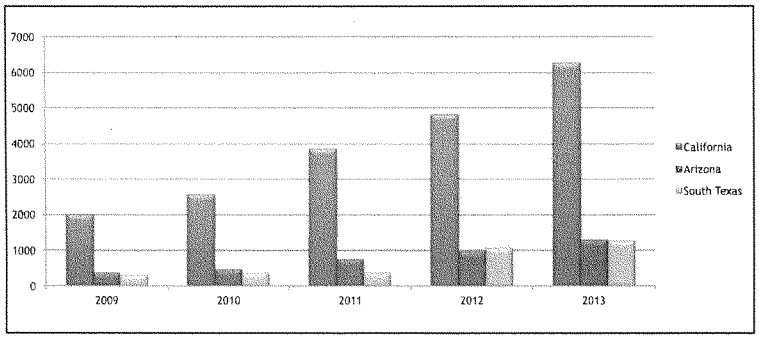
On October 8, 2013, agents from the Department of Justice-run Inland Crackdown Allied Task Force arrested four suspected members of La Familia Michoacána in San Bernardino County after seizing more than 100 pounds of methamphetamine, 9 pounds of cocaine, and half a pound of heroin. The street value of these narcotics totaled nearly $6 million.[32] Officials alleged that transnational criminal organization members imported the drugs from Mexico and then distributed them to street gang dealers in California and other states.

La Familia Michoacána (LFM)

[illegible]

According to the Office of National Drug Control Policy's National Methamphetamine and Pharmaceuticals Initiative, seizures of methamphetamine at points of entry along the U.S. southwest border have increased steadily over the past four years. As noted in Figure 9, methamphetamine seizures at California points of entry have more than tripled between 2009 and 2013 and now dwarf seizures in our sister border states.

Figure 9
Southwest Border Methamphetamine Seizures at Points of Entry (Kilograms)
(2009-2013)



Source: CA State Threat Assessment Center (data from Office of National Drug Control Policy, National Methamphetamine and Pharmaceuticals Initiative)

Once "ice" has been smuggled into the state, two counties are now the destinations of choice for distribution. In 2012-2013, Los Angeles County in the south and Merced County in the Central Valley accounted for more than 66 percent of the "ice" seized in California (Figure 10).

Figure 10
Task Force Seizures of Ice

Counties With Most Seized Ice (FY 2012-2013)	
1. Los Angeles	1,605 lbs.
2. Merced	475 lbs.
3. Fresno	206 lbs.
4. Riverside	196 lbs.
5. Orange	177 lbs.
6. San Mateo	177 lbs.
Statewide Total	3,146 lbs.

In other schemes, transnational criminal organization operatives refine methamphetamine in labs here in California, a majority of which can be found in the Central Valley. As with the cultivation of marijuana, these methamphetamine labs can cause severe environmental damage by contaminating manufacturing locations with hazardous chemicals. But meth labs pose an additional risk as well: they expose Californians to the potential for explosions due to the hazardous, often flammable, chemicals used to make methamphetamine. For example, in March 2012, officers in search of a stolen Apple iPad entered a San Jose apartment[33] only to discover it was being used as a "refining lab" by a suspected Mexico-based transnational criminal organization to convert unrefined methamphetamine into the highly dangerous crystal methamphetamine.[34] Subsequent testing revealed extensive contamination of both the apartment and adjacent residential units, which required substantial decontamination efforts.[35]

The rise in methamphetamine trafficking by drug cartels reinforces the need for robust funding for law enforcement. In this regard, federal funding is critical. In the Consolidated Appropriations Act of 2014 (Public Law No. 113-76), Congress approved Fiscal Year 2014 appropriations totaling $7.5 million toward the creation of a methamphetamine grant program. This timely and innovative program – which will be administered by the Community Oriented Policing Services Office in the U.S. Department of Justice – provides for competitive grants to state law enforcement agencies to combat methamphetamine production and trafficking in their states. The California Attorney General's Office and other state and national law enforcement leaders – including those from Alabama, Kentucky, Mississippi, Missouri, Tennessee and the National Narcotic Officers' Association Coalition – developed and advocated for the program's creation. And with the support and leadership of California's congressional delegation, states received a critical federal funding stream to further fight the drug cartels' lucrative methamphetamine trafficking trade. For California, this grant opportunity comes at an important time when an aggressive law enforcement response is vital to effectively combatting transnational criminal organizations.

Trafficking of Prescription Drugs Across the California-Mexico Border Has Increased, While Cocaine Trafficking Has Decreased

As prescriptian drug abuse becomes one of the fastest growing drug problems in California and across the country, law enforcement officials have observed an increase in the trafficking of pharmaceutical drugs (such as Hydrocodone, Oxycodone, Ritalin, Xanax, Morphine, Alprazolam, Diazepam, and Benzodiazepine) across the California-Mexico barder.[36] In some of these schemes, Mexican pharmacies fill prescriptions without a legitimate prescription and the drugs are smuggled into California. The drugs are then packoged and shipped via commercial mail services, frequently to customers who ordered the drugs over the Internet.[37] In recent years, border agents have seen an uptick in seizure incidents involving prescription drugs.

- On September 11, 2012, border agents seized 637 Hydrocodone tablets, 198 Oxycodone tablets, 120 Ritalin tablets, 56 Morphine tablets, and $1,406 in U.S. currency when they stopped two women at the San Ysidro border crossing.[38] The women admitted that they were working with a Mexico-based transnational criminal organization that took orders over the Internet for prescription drugs, smuggled them from Tijuana to San Diego, and then shipped them throughout the U.S.[39] Such seizures have become commonplace.[40]

In other schemes, stolen or illegally-acquired prescription drugs are smuggled out of California to Mexican pharmacies for distribution by drug trafficking organizations in Mexico or back to the U.S. market.[41]

- In August, 2011, officials broke up such a ring with the arrest of 15 individuals operating o large U.S.-Mexico drug trafficking organization.[42] The group would acquire wholesale quantities of controlled pharmaceutical drugs such as OxyContin and Hydrocodone, and smuggle them to Mexico for sale. The cash was then brought back into the United States to finance criminal operations.[43] Border stops throughout the two-year investigation resulted in the seizure of 1,288 OxyContin pills, 9,500 Hydrocodone pills, and more than $66,000 in U.S. currency.[44]

While these narco-trafficking trends reflect a growing diversification of transnational criminal organizations, California has experienced a decline in the trafficking of cocaine into the state. Although Mexico-based drug trafficking organizations remain the primary wholesale suppliers of cocaine in the U.S., they have reduced their trafficking efforts in recent years as nationwide usage and demand have declined.[45] For example, cocaine seizures decreased by 50 percent in California in the last year, though county-level seizure data shows that cocaine remains a substantial problem in California. Los Angeles County topped the list with over 58 percent of statewide seizure totals.

Figure 11
Task Force Seizures of Cocaine

Counties With Most Seized Cocaine (FY 2012-2013)	
1. Los Angeles	1048 lbs.
2. Imperial	457 lbs.
3. Riverside	135 lbs.
4. Fresno	68 lbs.
Statewide Total	1,796 lbs.

Trafficking Humans Is Almost as Profitable as Trafficking Drugs

Transnational criminal organizations and gangs are also finding human trafficking to be a lucrative and growing criminal enterprise. In fact, human trafficking is believed to be one of the most profitable criminal activities, with estimates of profit ranging from $13,000 annually per forced laborer to as much os $100,000 or more annually per sex trafficking victim. According to the latest estimates from the U.S. Department of State, 27 million people are trafficked each year worldwide, with 18,000 to 20,000 victims in the U.S. alone.[46] Based on these figures, revenue from human trafficking could be as high as $32 billion per year worldwide and at least $9.5 billion annually in the U.S.[47] Transnational criminal organizations are motivated not only by these high profits, but also by a frequently held notion among criminals that human trafficking carries with it a lower risk of detection, allows for the renewable exploitation of their human "commodities," and risks lighter criminal punishment than narcotics trafficking.

Types of Human Trafficking

Sex Trafficking

[illegible]

Labor Trafficking

[illegible]

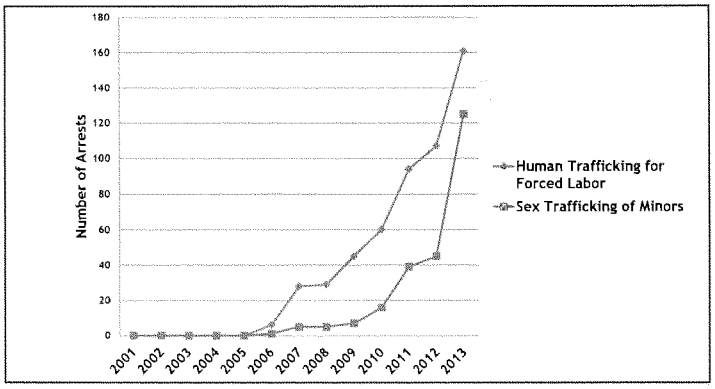
Domestic Servitude

[illegible]

Source: Polaris Project, "Types of Human Trafficking in California" (p. 4)

As highlighted in the California Department of Justice's *The State of Human Trafficking in California, 2012*, California is one of the states most affected by human trafficking, due in part to its proximity to the U.S. southwest border, its robust economy, and a large immigrant population.[48] Over the past two years, California's nine regional Human Trafficking Task Forces identified more than 1,300 human trafficking victims,

Figure 12
Human Trafficking Arrests Under California Law
(2001-2013)



Source: CA State Threat Assessment Center; CA DOJ, California Justice Information Services

though the actual number of victims statewide is almost certainly significantly larger.[49] A majority of these victims, approximately 56 percent, were trafficked for the purpose of sexual exploitation, while 21 percent were destined for forced labor.[50] Largely due to increased public and law enforcement awareness of the issue, arrests under two key human trafficking statutes – human trafficking for forced labor (CA Penal Code, §236.1(a)) and sex trafficking of minors (CA Penal Code, §236.1(c)) – have increased exponentially in the past six years, as shown in Figure 12.

Virtually all types of transnational criminal organizations in California participate in human trafficking in one form or another. Asian and Eurasian transnational criminal rings and gangs like the Asian Gangsters and Armenian Power are key facilitators of domestic and international human trafficking in California, particularly sex trafficking. They typically traffic victims of a similar ethnic background, using their cultural knowledge and ties to ethnic communities to their advantage.

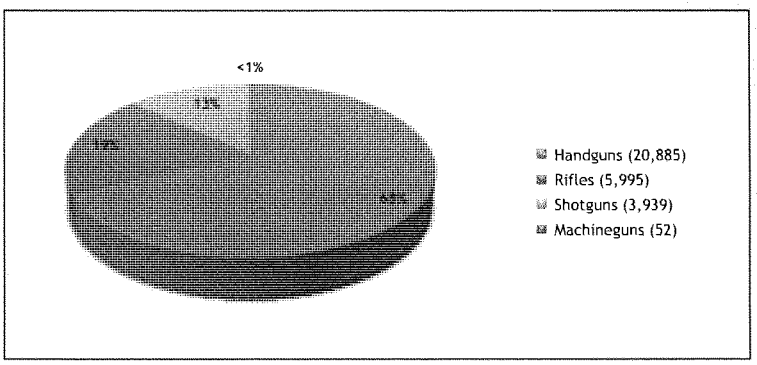
In January 2013, special agents from the California Department of Justice, building off an investigation by the FBI, arrested five suspects accused of running a human trafficking network that spanned several northern California counties. Young women, aged 21 to 30, were trafficked from Mexico and sold for sex to as many as 20 clients in a single day. The sex acts occurred in brothels identified in Chico, Stockton, Yuba City, Fairfield, and Sacramento. In May 2013, three of the men pleaded no contest to conspiracy to commit pimping and pandering charges and were sentenced to three years in prison.[51]

California Is a Gateway in the Criminal Firearms Trade

Increasingly, firearms are being trafficked through California to Mexico-based transnational criminal organizations. Growing narcotics-related violence in Mexico since 2006 and the needs of Mexican criminal organizations to control lucrative drug trafficking routes, combined with restrictive firearms laws in Mexico, have led these organizations to source firearms outside of Mexico.[52] These organizations, specifically the Sinaloa cartel, Los Zetas, and the Gulf cartel, are the leading weapons traffickers in the U.S. They utilize their existing U.S.-based narcotics trafficking and money laundering infrastructures to facilitate weapons trafficking back to Mexico, with firearms frequently trafficked by the same couriers through the same routes.[53]

A recent study estimates that 252,000 guns cross the U.S.-Mexico border each year, with fewer than 15 percent seized.[54] Although the firearms are not necessarily purchased in California due to California's own robust gun laws, this state is increasingly the goteway through which Mexico-based transnational criminal organizations move weapons obtained in other states via straw buyers to Mexico, making reverse use of existing drug trafficking routes.[55] For example, over 20,000 firearms – predominantly handguns – were recovered in California in 2012 alone (Figure 13). These numbers are consistent with seizures in past years. These statistics signal the existence of a vast pool of weapons that could be at risk to enter the global arms trade.

Figure 13
Total Number of Firearms Recovered in California (2012)

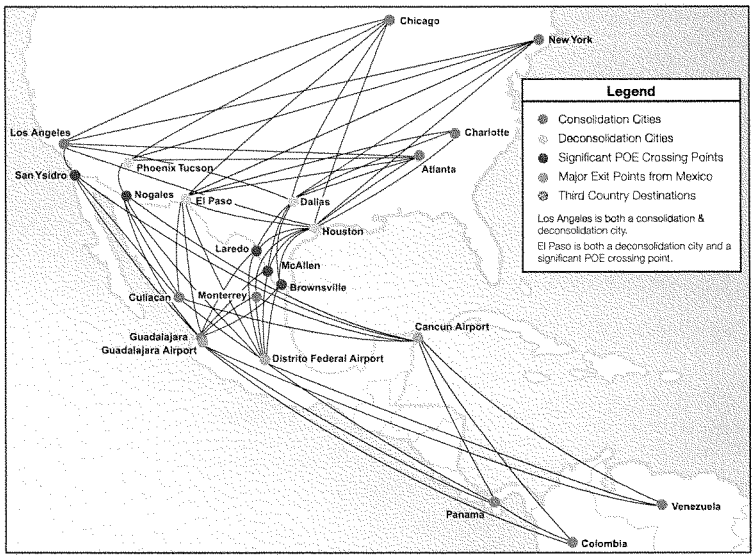


Source: CA State Threat Assessment Center (data from U.S. DOJ, Bureau of Alcohol, Tobacco, Firearms and Explosives)

Money Laundering Corrupts California's Economy

Just as California is a key portal for drugs to flow into the U.S. and Canada, it is also at the center of the reverse flow of billions of dollars of illicit bulk cash proceeds generated by transnational criminal organizations and their criminal associates. According to the El Paso Intelligence Center (EPIC), a federal central clearinghouse of data on currency and narcotics seizures, California is one of the top two states in which narco-dollars are seized and to which seized narco-dollars are destined.[56] As Figure 14 shows, cash is smuggled from California back to Mexico or points farther south – often through the same trafficking routes through which drugs, humans, or weapons were originally smuggled – or is laundered through any number of fraudulent schemes.[57] The flow of this illicit money not only fuels ongoing operations of transnational criminal organizations, but also supplies them with the means to expand and extend their influence across the globe.[58]

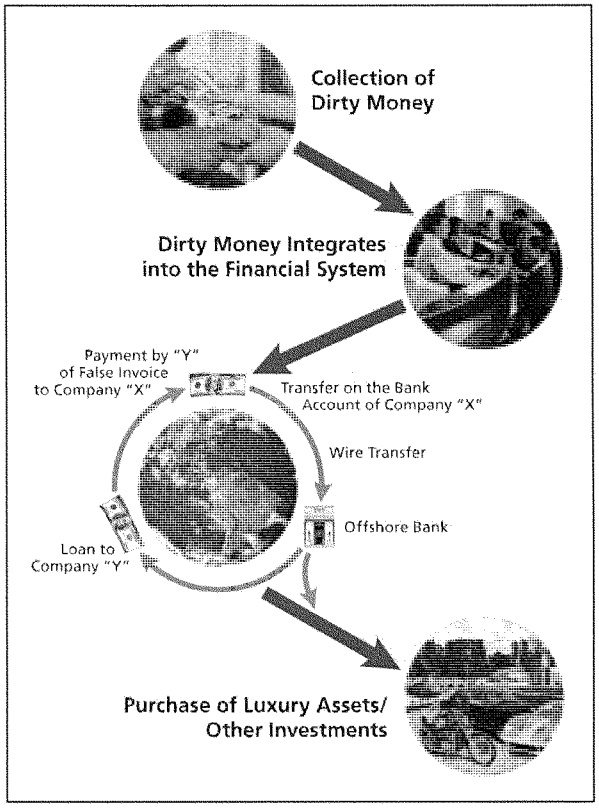
Figure 14
Bulk Cash Hubs and Routes



Source: U.S. Department of Homeland Security, *U.S.-Mexico Bi-National Crime Proceeds Study* (2010)

Money laundering is, by definition, a process designed to mislead law enforcement and mischaracterize the source and origin of the financial proceeds resulting from criminal activities, or "dirty money." The process typically begins by breaking up large amounts of money into smaller, less conspicuous sums, which are then deposited, or "placed," within the financial system. Through "layering," the money launderer then engages in transactions designed to distance the money from its original illicit source. For example, the funds might be wired through a series of shell corporation accounts

Figure 15
Typical Money Laundering Scheme



at various banks around the country, or disguised as payments for non-existent goods or services. Finally, to complete the laundering process, the funds are invested in assets such as real estate or business ventures, and thereby "integrated" into the legitimate economy.[59] To avoid detection by law enforcement, transnational criminal organizations frequently change tactics and engineer new schemes. They also outsource certain functions, such as the transportation and laundering of illicit proceeds, to other entities to minimize risk of loss or apprehension.[60]

The Race Horses of Los Zetas

In 2012, federal money laundering charges were brought against brothers Miguel Angel Treviño Morales and Oscar Omar Treviño Morales, reputed leaders of Los Zetas, and others. Together with a brother who resided in the U.S., the Treviños used more than 400 American Quarter Horses, along with ranch properties, to launder tens of millions of dollars in Zetas drug proceeds.

Since horse racing is legal, the drug money was cleaned in the guise of legal assets. Moreover, because the highly prized horses could be easily sold, the assets could be converted into cash whenever necessary. The Quarter Horses also generated legitimate-looking income in the form of horse race winnings during the intervening time period. Various shell companies and licensed persons were used to further disguise the cartel members' connection to the horses, with business affairs of the horse operation extending into California, New Mexico, Texas, and Oklahoma. So far, at least three people have been convicted and sentenced to prison, including the U.S.-based brother, Jose Treviño Morales. The defendants have also been ordered to forfeit property worth $60 million, which represents the amount of money traceable to their laundering activities.

Source: U.S. v. Miguel Angel Treviño Morales, (W.D. Tex. Dec. 6, 2012), Case No. A-12-CR-210SS; U.S. Attorney's Office, Western District of Texas, Federal Prison Terms Handed Down in Multi-Million Dollar Money Laundering Conspiracy Involving Los Zetas Drug Trafficking Proceeds, Extortion and Bribery (Sept. 5, 2013); U.S. DOJ, Federal Bureau of Investigation.

Both federal and California law target money laundering by criminal enterprises. Some provisions prohibit financial transactions involving funds associated with illegal activities.[61] Other provisions criminalize the mere possession or transportation of illicit drug proceeds.[62] Both federal and state law also impose reporting requirements on financial institutions with respect to large transactions. For example, federal law requires financial institutions to report to financial regulators all currency transactions over $10,000, as well as multiple currency transactions that aggregate to be more than $10,000 in a single day.[63] And both federal and state law make it a crime to break up or "structure" financial transactions into amounts smaller than $10,000 for the purpose of avoiding federal mandatory reporting requirements.[64]

Yet, in addressing "structuring," there is an important difference in the legal tools that federal and state prosecutors can bring to bear. Whereas federal law does not require that the structured transactions be intended to hide the fact that money came from criminal activities or facilitates criminal activities,[65] California law requires that state prosecutors prove a money launderer intentionally structured a financial transactian to disguise that the proceeds were derived from a criminal activity or, alternatively, were structured to promote or further criminal activity.[66] That additional requirement imposes a special burden on California prosecutors, often obstructing successful prosecution. As discussed in this Report's Recommendations (Chapter Six), California law should be amended to remove this special burden.

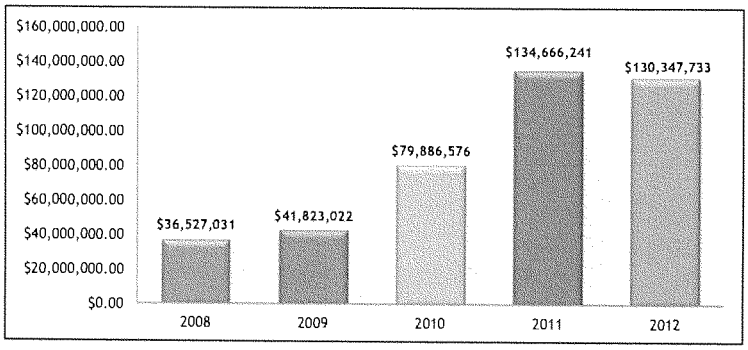
Scope of the Money Laundering Problem in California

The true scope of the money laundering problem in California is unknown. However, some experts estimate that approximately 1.5 to 2 percent of gross domestic product ("GDP")[67] is laundered annually.[68] Based on California's $2 trillion GDP in 2012,[69] approximately $30-40 billion could have been laundered in the state in 2012.

Uncertainty also plagues estimates of the amount of illicit cash proceeds smuggled from the U.S. to Mexico every year. Estimates range from $18 billion to as much as $39 billion.[70] For its part, California leads the nation in the number of seizures of currency, commonly referred to by law enforcement as "bulk cash."[71] The seizures of bulk cash increased by 40% in 2011 and remained relatively consistent in 2012 (Figure 16), possibly reflecting law enforcement's success in better detecting currency flowing over the border.

In 2010 and 2012, Mexico enacted a number of anti-money laundering provisions to combat the flow of illicit cash from the United States into Mexico by limiting foreign currency cash transactions. As a result of Mexico's enhanced efforts to combat money laundering, drug trafficking proceeds are now reportedly returning to the United States through ports of entry along the Mexican border, from San Ysidro to Calexico.[72]

Figure 16
Bulk Cash Seizures in California



Source: CA State Threat Assessment Center (data from EPIC)

Federal sources and California financial crime investigators along the border have noted a substantial increase in cash imports from Mexico at certain points of entry in Southern California.[73] Individuals, claiming to be employees of money service businesses in Mexico (commonly referred to as *casas de cambio*), with substantial amounts of bulk cash in duffle bags and backpacks have been witnessed crossing into California from Mexico. After declaring the amount of cash the individual is bringing into California to Customs and Treasury officials, the individual goes directly to nearby financial institutions, kiosks, or ATMs to deposit the imported bulk cash.[74] These trends underscore the need for better cooperation among financial regulators and law enforcement from the federal government, California, other states, and Mexico. This Report's Recommendations urge these officials to develop protocols to more effectively share information and intelligence that could be used to disrupt illicit cross-border financial flows. The Recommendations also emphasize the need to leverage existing partnerships for cooperation, such as the Southwest Border Anti-Money Laundering Alliance. The Attorneys General of California, Arizona, New Mexico, and Texas established the Alliance in 2010 to enhance and better coordinate investigations and intelligence sharing related to money laundering in the U.S.-Mexico border region.[75]

Asset Forfeiture: A Critical Weapon to Fight Money Laundering

The seizure of laundered money is essential to disrupting and dismantling transnational criminal operations. Currently, two provisions in California law enable state authorities to seize laundered money:

- **Criminal Asset Forfeiture Provision:** Money, monetary instruments, and property derived from criminal profiteering are subject to forfeiture under the California Control of Profits of Organized Crime Act. (Penal Code, §§ 186-186.8.)

- **Civil Narcotics-Related Asset Forfeiture Provision:** Money or other things of value (including real property) used to procure controlled substances or to facilitate specified narcotics offenses are subject to civil asset forfeiture. (Health & Safety Code, § 11470.)

Significantly, both of these provisions permit the seizure of criminal proceeds and assets only after the commencement of formal legal proceedings, such as the filing of a criminal complaint or indictment. This loophole allows transnational criminal organizations to safely remove assets that have been discovered by law enforcement, so long as formal legal proceedings have not yet begun. As discussed further in this Report's Recommendations (Chapter [illegible]), this loophole must be closed. New legislation should amend California law to permit law enforcement to temporarily freeze an organization's illicit proceeds or property even if no formal prosecution has commenced yet.

Conclusion

California has emerged as the epicenter of transnational criminal organization activity in the United States. This is due, in part, to a crackdown by the Mexican government on drug cartels and the resulting fragmentation of the trafficking market, with Sinaloa emerging as the dominant Mexico-based drug trafficking organization operating in California. Sinaloa has fueled methamphetamine and marijuana smuggling from Mexico, but domestic cultivation and production of both drugs in California has increased as well. Transnational criminal organizations are also facilitating weapons and human trafficking into and around California and are corrupting regional marketplaces and financial institutions through their multi-billion dollar money laundering practices.

Chapter Three

Transnational Criminal Organizations and California Gangs: A Growing Threat to Public Safety

The presence of transnational criminal organizations in California exacts a heavy price on the state. Transnational criminal organizations contribute significantly to violence and criminal activity here, much of it drug- or gang-related. The partnering between Mexico-based drug trafficking organizations and California's street and prison gangs has spread those problems throughout the state. Due in part to their coordination with Mexican trafficking organizations, street and prison gangs now account for an average of 48 percent of violent crime in many jurisdictions around the country and up to 90 percent in high trafficking regions along the U.S.-Mexico border, such as Arizona, California, and Texas.[76] With gang membership up 40 percent nationally between 2009 and 2011, California is at risk for violent crime, particularly assault, extortion, home invasion robberies, homicide, intimidation, shootings, and other violence associated with transnational criminal activity, as well as an increase in arrests for human trafficking offenses and significant seizures of drugs, weapons, and cash.[77] Even Mexico's efforts to crack down on drug trafficking below the border have further fragmented drug trafficking organizations and spurred an increase in narcotics-related violence, some of which has spilled over into California.

This drug trafficking and increased gang activity, as well as the violence such activity breeds, pose a serious public safety threat to Californians, particularly our youth. One Center for Disease Control and Prevention study found that 61 percent of 15- to 24-year-olds murdered in the City of Los Angeles between 2003 and 2008 were victims of gang violence.[78] In the City of Long Beach, the rate was almost 70 percent.[79] Moreover, a 2006 report from the California Department of Alcohol & Drug Programs found that the percentage of Californians using illicit drugs was 18 percent above the national average. More people died from drug abuse in California that year (4,290) than from any other preventable cause that year, including motor vehicle accidents (3,293) and firearms (3,094).[80] With about 40,000 drug-related emergency room visits every year, and an estimated $22.1 billion economic impact (when factoring in lost productivity, health care costs, prevention and treatment costs, criminal justice costs, and losses due to crime), illicit drug use poses a significant threat to California and its people.[81] The problem is of particular concern to California communities already facing significant challenges from poverty, homelessness, domestic gang activity, and high crime rates.[82]

California Faces a Unique Threat of Spillover Violence from Mexico

Some reports suggest that the crackdown on large drug cartels in Mexico has sparked a rash of violence between cartels and the government and between rival *cartelitos*. Some of the violence has spilled over into border states like California. Out of this has emerged "a new generation of criminals, younger and more willing to break with the discipline maintained by traditional structures."[83] According to data released by the administration of former Mexican President Felipe Calderón, there were more than 47,500 organized crime-related homicides between December 2006 and September 2011, with a particular spike in violent crime in Juárez and Tijuana.[84] Other estimates place the number of homicides during the Calderón

Spillover Violence in California: The Los Palillos Transnational Criminal Organization

Fragmentation and intra-organization violence spawned cross-border formation of a new transnational criminal organization and violence in the San Diego border region. In 2002, Victor Rojas was a lieutenant in the Arellano-Félix Organization and was in charge of an enforcement cell that extorted, robbed, murdered and kidnapped people in Tijuana as part of the drug cartel operations. Victor's younger brother, Jorge, became a valuable and trusted member of the enforcement cell.

After his brother was killed by members of his own organization, Jorge Rojas fled Mexico to San Diego, where he reestablished ties with associates with whom he had worked in the enforcement cell. Rojas became the leader of a new U.S.-based transnational criminal organization, Los Palillos, a rogue crew of drug traffickers, kidnappers, and murderers. Los Palillos were motivated by revenge and greed, and targeted victims who were believed to be linked to the Arellano-Félix Organization and to have large amounts of cash or drugs. Los Palillos' murders were particularly gruesome — multiple bodies shot, beaten and stuffed into SUVs and trunks of cars, and others dissolved in 55-gallon barrels filled with muriatic acid and caustic soda.

The San Diego District Attorney has charged defendant Jorge Rojas, leader of Los Palillos, with nine murders with special circumstances, making him eligible for the death sentence. Fourteen other alleged Los Palillos defendants are charged with at least one murder with special circumstances, also making them eligible for the death penalty. Three other defendants have pled guilty or were convicted at trial and sentenced to life without possibility of parole. On January 16, 2014, Rojas was convicted on four of the murder counts, while another member of Los Palillos, Juan Estrada-Gonzalez, was convicted on six counts of murder. The jury also found true special circumstance allegations in both cases, making Rojas and Estrada-Gonzalez eligible for the death penalty.

Source: People v. Rojas, et al., (San Diego County Superior Court), Case No. [illegible]. Information sourced from People's Trial Brief, [illegible]

administration at closer to 65,000, or roughly 10,000 per year.[85] This violence has also spilled over the border, with conflicts between Mexican drug trafficking organizations resulting in homicides and kidnappings in California, Texas, and Arizona. Some analysts fear that the recent arrest of Sinaloa front man, Joaquín "El Chopo" Guzmán Loera, will destabilize the power structure and lead to increased violence in the Tijuana Corridor and beyond.

In February 2011, dozens of agents from the California Department of Justice arrested three defendants in Palmdale, California, in connection with a murder-for-hire plot. The defendants, Jorge Ernesto Sillas Rocha, Victor Manuel Magana Gonzalez, and Daniel Cepallo, were hired to assassinate five family members in California in retaliation for a trafficking-related financial debt owed to the Arellano-Félix Organization ("AFO"). The hit men were hired by Juan Francisco Sillas Rocha, a high-ranking AFO lieutenant apprehended by Mexican federal authorities in Tijuana in late 2011. In late 2013, the San Diego District Attorney's Office, which prosecuted this case, obtained convictions and sentences of incarceration for all three defendants (Sillas – 21 years; Magana – 15 years; and Cepallo – 5 years).[86]

In July 2010, Mexican authorities arrested two members of the Barrio Azteca gang, an El Paso-based street gang. They were accused of killing a U.S. consulate employee and her husband across the border in Juarez, Mexico, on behalf of the Juarez Cartel. 52 other gang members were also arrested in connection with the murders.[87] On this side of the border, a U.S. border agent was shot and killed by traffickers in a Sinaloa-controlled drug corridor near Nogales, Arizona in December 2010.[88]

California Is Threatened by the Alliance of Transnational Criminal Organizations with Prison and Street Gangs

In recent years, law enforcement officials in California have witnessed a disturbing new trend: increasing partnerships between transnational criminal organizations (particularly Mexico-based drug trafficking organizations) and prison gangs, like the Mexicon Mafia, and Sureño street gangs. These alliances offer significant benefits to both parties. For the cartels, a partnership with a local gang in California allows them to:

- Coordinate the distribution of illicit goods in California without having to set foot on U.S. soil (and thus without placing themselves within the jurisdiction of U.S. law enforcement).
- Use gangs to collect drug proceeds, act as enforcers, launder money, smuggle weapons, commit kidnappings, and identify and scout possible undeveloped profit-generating criminal ventures.
- Use gang members who are U.S. citizens to cross the border with less law enforcement scrutiny.

- Take advantage of street gangs' detailed knowledge of their respective areas, connections to networks for the distribution and retail sale of illegal drugs, existing transportation routes (in the case of outlaw motorcycle gangs), familiarity with law enforcement tactics, and ability to respond quickly and effectively to changing local conditions.[89]
- Establish redundancies or alternative partnerships designed to minimize disruptions to operations resulting from law enforcement actions.

In exchange for their assistance, prison and street gangs are given a share of the drug proceeds and are allowed to bypass mid-level wholesale dealers and receive discounts of up to 50 percent on bulk drug purchases.

The Mexican Mafia: A Threat Inside and Outside of Prison

[illegible]

Los Angeles [illegible] Indian

- [illegible]
- [illegible]
- [illegible]

[illegible]

Although transnational criminal organizations typically prefer to partner with gangs of the same ethnicity, they have consistently demonstrated that profits come above all else. Thus, they will sometimes partner with the criminal organizations that best achieve their goals regardless of their initial racial or ethnic preferences. Examples of ethnically-similar and dissimilar unions include:

- **Sinaloa** works with the Mexican Mafia, Sureños gangs, and transnational gangs like MS-13.[90]

- **La Familia Michocána** has ties to numerous types of gangs with diverse ethnic backgrounds: criminal street gangs (Bloods, Crips, Avenues, Norteños, and Sureños), prison gangs (Aryan Brotherhood, the Mexican Mafia, and La Nuestra Familia), and traditionally-white motorcycle gangs like the Hells Angels and Outlaw Motorcycle Gangs.

- **Aryan Brotherhood** is affiliated with the Mexican Mafia and Arellano-Félix Organization in drug, weapons, and stolen vehicle trafficking.[91]

- **MS-13** and other transnational gangs have become central players in narcotics and human trafficking in California, partnering with Mexico-based transnational criminal organizations and Sureños gangs to facilitate cross-border smuggling of people and drugs, sell drugs on the retail market, perform contract killings, and launder the proceeds through seemingly legitimate local businesses.[92]

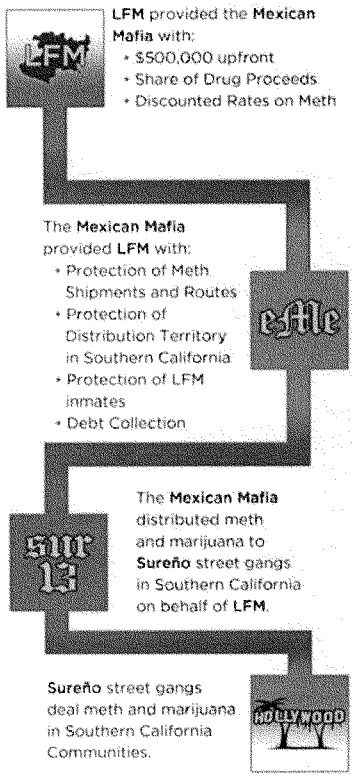
- **Tiny Rascal Gang,** which was originally a gang of Cambodian juveniles, has grown to include Filipinos, Latinos, and African Americans. Their allies include Asian groups, such as Wah Ching, which originated in San Francisco in the early 1960s and is now one of the largest and most ruthless Chinese transnational criminal organizations operating in the U.S.[93]

- **Asian transnational criminal organizations** from Southeast Asian counties like Vietnam and Malaysia have ties to Asian street gangs operating in Santa Clara County, like the Asian Boyz, Asian Warriors, and Asian Gangsters.

Case Study: La Familia Michoacána and the Mexican Mafia

One of the most significant unions in recent years between a Mexico-based transnational criminal organization and a prison/street gang was the 2011 alliance between La Familia Michoacana ("LFM") and the Mexican Mafia. As outlined in the July 2013 indictment in *U.S. v. Rodriguez-Landa* (C.D. Cal. 2013), representatives of the Mexican Mafia entered into an agreement in April 2011 with LFM – historically one of the most significant Mexico-based methamphetamine trafficking organizations – to help LFM become a dominant distributor and seller of methamphetamine and marijuana in Southern California. Under the agreement, dubbed "The Project," the Mexican Mafia would protect LFM's drug shipments and sales, prevent other criminal gangs from taxing LFM's drug shipments and sales, collect drug debts owed to LFM, and provide protection to incarcerated LFM members in prison and jail. In exchange, LFM provided approximately $500,000 to Mexican Mafia leaders upfront, with a share in drug proceeds going forward and discounted rates on methamphetamine for Mexican Mafia members and associates.

Figure 17
"The Project"



"The Cambodian Connection"

[illegible]

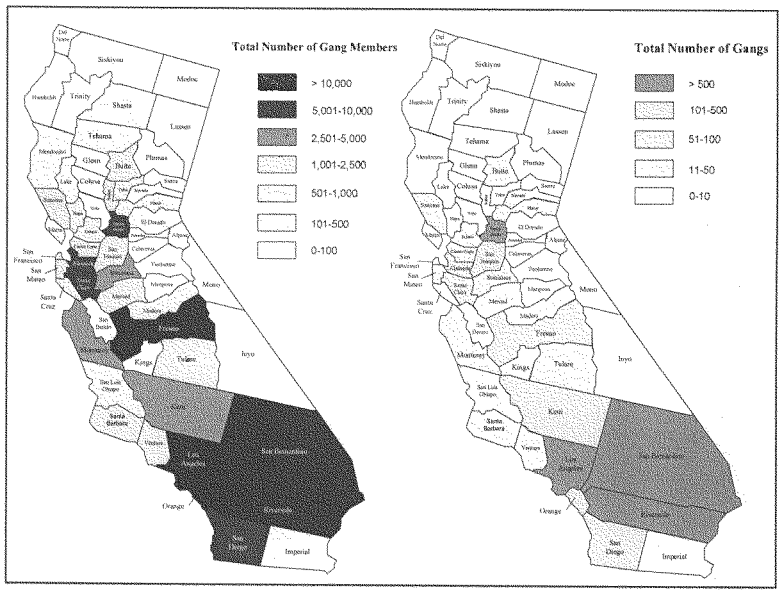
The Criminal Alliances Have Sparked a Rash of Violence

The deepening associations between Mexican drug trafficking organizations and gangs in California have, in turn, increased the potential for harm to California. Based on the best numbers currently available, there were approximately 4,897 gangs and 186,119 gang members in California in August 2013, making California one of the most gang-dense states in the country.[94] In particular, in 2011, two California counties, Los Angeles and San Bernardino, ranked first and third in the country in terms of the ratio of gang members to population (Figure 18).[95]

The rise of Mexico-based drug cartels at a time when gang involvement is at record highs jeopardizes an otherwise encouraging trend in the reduction of crime in recent years. While the state's homicide rate has reached its lowest level since 1966, nearly 30 percent of all killings committed in California from 2009 through 2012 – 1,911 homicides – were gang-related. For example, the City of San Jose reported a 300 percent increase in gang-related homicides between 2010 and 2011. Similarly, the City of Modesto reported a 213 percent increase in gang-related aggravated assaults between 2011 and August 2012, with corresponding increases in the number of both juvenile perpetrators and victims. Some California jurisdictions have reported that "gangs are responsible for at least 90 percent of [violent] crime."[96]

This is due in part to territorial battles as transnational criminal organizations and gangs expand their operations into new territories. For example, in order to expand their field of influence into Northern California, Mexican drug cartels sometimes rely on established connections with Sureño gangs based out of Southern California. However, the historic antipathy between Sureños and Norteños creates friction when Sureño gang members move into regions controlled by Norteños. This dynamic is seen in places like San Jose where, in January 2011, gang members working for a Mexican drug trafficking organization stormed

Figure 18
Gangs and Gang Members In California
Identified by Law Enforcement Agencies



Source: CalGang

a nightclub in an attempt to kidnap the owner over a drug debt.[97] A shootout ensued between rival gang affiliates, and three people were killed. Instances of such violence demonstrate the impact of transnational criminal organizations and gangs competing to expand the geographic scope of their drug distribution networks.

Conclusion

Transnational criminal organization activity poses a significant public safety threat in California. In particular, clashes between Mexican drug trafficking organizations over control of profitable trafficking routes have led to increasing violence in Mexico, in California, and along the southwestern U.S. border. Transnational criminal organization reliance on street and prison gangs for protection and distribution of illicit goods has reenergized existing and dormant gang rivalries, leading to increased gang casualties in an era of otherwise declining criminal activity.

Chapter Four

New Challenges Facing Law Enforcement in Combatting Drug Trafficking

The increased presence of transnational criminal organizations in California has created new challenges for law enforcement. As discussed above, the relatively new alliances between transnational criminal organizations and California prison and street gangs give transnational criminal organizations both greater organizational stability and access to more territory. New forms of digital communications technology, such as smartphones, the Internet, and social media, have made it easier for criminal networks to coordinate their activities without detection and even to track their targets. Moreover, the process of globalization has outpaced the growth of global governance, creating massive opportunities for criminal organizations to grow their business. Finally, new trafficking strategies, including maritime smuggling, and the use of cross-border tunnels and ultra-light aircraft, pose new threats to law enforcement.

Despite these and other challenges, including massive budget cuts, law enforcement has made some important inroads against transnational criminal activity in California.

Social Media

[illegible]

New Technologies Facilitate Gang Activities

Not surprisingly, transnational criminal organizations and gangs have embraced mobile communications technologies, such as the Internet and cell phones, not just to recruit new members and expand their social networks, but also to build and operate criminal networks without the geographic proximity once needed for communication.

Even in California's prisons, inmates are increasingly using cell phones to coordinate criminal activities and to intimidate or harass other gang members or innocent people outside prison walls. In 2007, 1,400 illegal communications devices were confiscated from prisoners. By 2011, the number

of seizures had eclipsed 15,000, a 10-fold increase.[98] In 2010, there were 200 incidents directly traced back by the California Department of Corrections and Rehabilitation ("CDCR") Investigative Services Unit to inmates using cell phones to conduct criminal activities from inside CDCR institutions. In 2011, CDCR's Office of Victim and Survivor Rights and Services recorded 119 contacts made by CDCR inmates using cell phones to continue victimizing people from inside CDCR institutions.

To address this problem, CDCR implemented an 11-day pilot program in 2011 at two state prisons in Solano and Vacaville aimed at curbing the unauthorized use of cell phones. Using "managed access" technology to block or "jam" signals to unauthorized devices, officials were able to detect 2,593 illicit wireless devices in the prisons and 24,190 unauthorized communication attempts. "In one day on one yard in one institution, the system prevented 400 unauthorized devices and blocked 4,000 unauthorized communication attempts from those devices," resulting in a 64 percent increase in the use of authorized payphones.[99]

Building off the success of this pilot program, CDCR contracted with Global Tel*Link – a prison telephone company – to develop and implement a three-stage plan to install managed access systems in 34 prisons across the state by June 1, 2015. Phase 0 of this plan was completed on October 31, 2012, with jamming technology installed at Avenal State Prison. In Phase I of the plan, 17 additional adult facilities were retrofitted, with Phase II calling for installations in 16 more adult facilities by June 1, 2015.

The use and adoption of communications technology to engage in transnational criminal activity has continued to expand beyond just the use of cell phones. Drug wholesalers can now sell illegal drugs and prescription pills over the Internet and track their shipments online, alerting the intended recipients of these illegal drugs to a possible interception.[100] Some particularly sophisticated networks even use specialized hackers to encrypt and protect their communications from law enforcement.[101] Traffickers also take advantage of e-commerce and Internet banking to move money and pay suppliers and operatives without the risks associated with physical transfers of money. And human smugglers similarly make extensive use of e-mail, disposable cell phones, and encryption systems, while sex traffickers make sickening use of the Internet to "display the wares in the cyberspace equivalent of slave auctions."[102]

Even as communications technology has developed, some transnational criminal organizations and gangs, particularly prison gangs, have continued to use more traditional means to convey messages to their operatives. In one example, a member of the Mexican Mafia imprisoned in Pelican Bay State Prison issued a "kite," a small piece of paper containing instructions to Florencia-13, a Sureño street gang in Los Angeles (Figure 19).[103] The letter outlined rules concerning: (1) governance structure; (2) drug and prostitution schemes; (3) dispute resolution systems; (4) rules for contract killings; and (5) methods for identifying and punishing informants.[104]

Figure 19
"Kite" Issued by Imprisoned Mexican Mafia Leader

Source: U.S. Attorney's Office, Central District of California (2013)

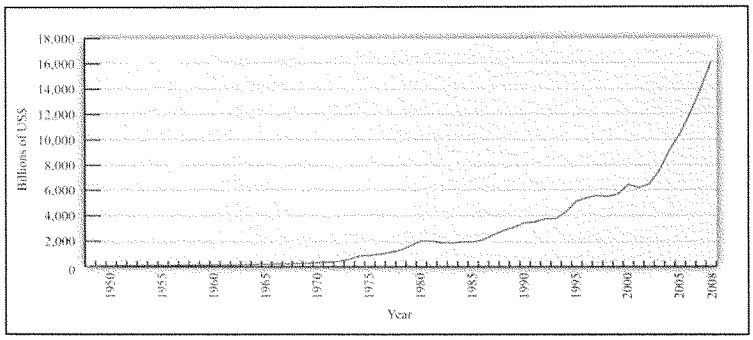
Increased Global Trade Has Made It Harder to Detect Illicit Trafficking

The past quarter century has witnessed unprecedented growth in global trade, finance, travel, and communication.[105] But the process of globalization has outpaced the growth of global governance, creating massive opportunities for criminal organizations to make their business prosper.[106] People and goods can move between countries more cheaply and efficiently than ever before, making it harder to distinguish between licit and illicit transfers.[107]

Taking advantage of these developments, transnational criminal organizations have "diversified, gone global and reached macro-economic proportions," with illicit goods frequently sourced from one cantinent, trafficked through another, and sold on a third.[108] In this way, the criminal underworld has become inextricably tied to the global economy, with transnational criminal organizations using trade, banking, and communications networks (whether shipping routes, financial centers, or the Internet) to traffic growing quantities of contraband.[111]

Transnational criminal organizations engaged in drug, human, and firearm trafficking have responded to globalization and increased international trade by adapting their strategies and methods to exploit the heavy cross-border flows of goods and

Figure 20
Growth in International Trade (1948-2008)



Source: Prof. Steve Suranovic, *International Trade: Theory and Policy* (2010)

people.[112] Moreover, faced with enhanced border security regimens resulting from the terrorist attacks of September 11, 2001, they have modified traditional forms of concealment and developed new methods to evade detection at the California-Mexico border.[113] This increasing level of operational awareness and sophistication presents a unique challenge for local, state, and federal law enforcement personnel in California.

Transnational Criminal Organizations Mask Trafficking at Traditional Ports of Entry

Historically, the vast majority of all narcotics, weapons, and human smuggling by transnational criminal organizations has been done over land, where transnational organizations can exploit the high vehicle and pedestrian traffic at border crossings. As a result, the most popular smuggling methods of Mexico-based criminal organizations to traffic smaller quantities of narcotics into California have been pedestrian couriers and privately-owned vehicles, particularly those with hidden compartments in the engine, car frame, gas tank, trunk, tires, and seats.

For larger shipments, Mexico-based drug trafficking organizations have frequently used commercial vehicles to move narcotics, weapons, and humans across the U.S. border. By hiding drugs, weapons, or persons within otherwise legitimate freight transported by commercial trucks, these traffickers have exploited opportunities arising from the growth of legitimate international trade.

- In *U.S. v. Molinero* (C.D. Cal. 2013), a Mexico-based drug trafficking organization smuggled over a period of two years over 36 kilograms of heroin, over 30 kilograms of cocaine, and more than 2,400 pounds of methamphetamine inside PVC pipes. These pipes were further concealed in tractor trailer axles on commercial trucks driven across the border in Arizona and routed to Los Angeles for distribution.
- Similarly, in *U.S. v. Mendoza-Haro* (D. Colo. 2012), prosecutors alleged that Mexico-based traffickers transported methamphetamine and bulk cash between Colorado and California, in some instances hiding drugs in loads of milk and, in at least one instance, strapping cash to the body of a minor as he was driven from Colorado to California.

Although these smuggling methods remain popular, they are highly vulnerable to interdiction. Consequently, Mexican drug trafficking organizations have more recently begun to utilize a number of strategies to reduce the risks of detection and seizure:

- Lookouts, commonly known as *halcones*, are frequently used to monitor border crossings, recognize vulnerabilities of ports of entry, and detect periods of decreased law enforcement presence.
- Illegal drugs are sometimes transported in convoys, with lead cars intended to be inspected by border agents, thereby decreasing the chances that subsequent loads will be seized.
- Recently, cartels have begun to smuggle methamphetamine, cocaine, and heroin into the U.S. in liquid form. The narcotics are dissolved into liquid in Mexico, smuggled across the border, and then converted back to powder or crystalline form for distribution. Trafficking via this method can retain up to 90 percent purity or better, depending upon the capabilities of the conversion lab.

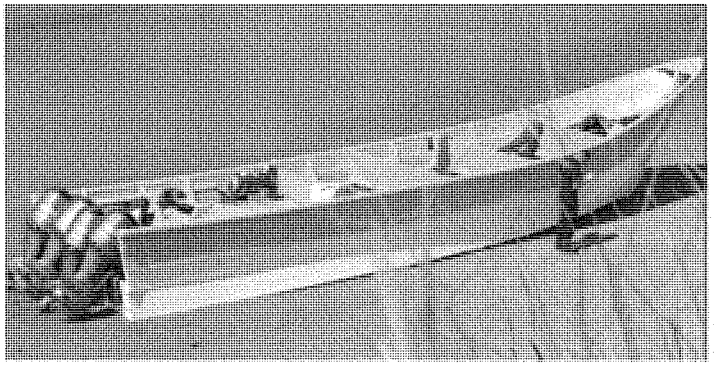
Transnational Criminal Organizations Are Finding Alternatives to Ports of Entry

While land-based trafficking through ports of entry remains the most common trafficking strategy, transnational criminal organizations are increasingly shifting resources to maritime and air trafficking.[112] These trafficking methods include the use of *panga* boats and ultra-light aircraft, as well as cross-border tunnels, all of which have proven challenging for law enforcement to monitor or intercept.

Pangas

Transnational criminal organizations are increasingly exploiting California's extensive coastline and beaches to smuggle narcotics and people into the state. *Pangas*, also

Figure 21
"Super Panga" Boat Found in Santa Barbara County



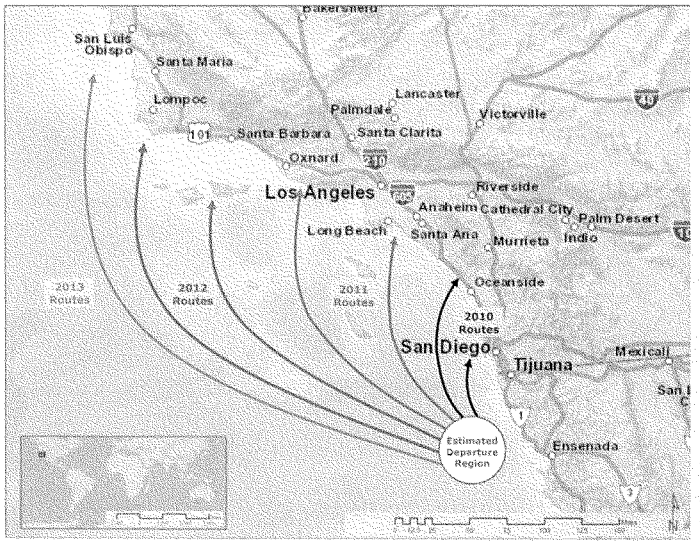
Source: Santa Barbara County Sheriff's Office (2013)

known as *lanchas*, are the primary maritime trafficking threat to California. These low profile fishing vessels – between 20 and 38 feet in length – are fast (over 40 knots), effective, and economical. Most importantly, due to their fiberglass construction and low profile, *pangas* are extremely difficult to detect by radar or night vision. This, coupled with the sheer size of California's coastline, means that most *panga* discoveries are made either through tips or by happenstance.

Typically, *pangas* are launched from coastal communities in Baja California, such as Rosarito Beach, with few crew members. The vessels then sail north, often to a staging area well within international waters, before moving at high speeds into California to offload their illicit cargo.[113] The Sinaloa cartel is the primary Mexican cartel conducting *panga* smuggling operations along California's coast. In recent months, U.S. Coast Guard crews and local officials have interdicted suspected Sinaloa-affiliated "super *panga*" vessels capable of carrying several thousand pounds of drugs. The super *panga* above was designed to carry as much as 10-12 tons of marijuana (Figure 21).

The increasing reliance on *panga*-based maritime smuggling by Mexico-based drug trafficking organizatians is evidenced by seizure activity over the past several years. *Panga* boat interceptions doubled between 2009-2010 and 2010-2011, while *panga* drug seizures have increased significantly in recent years, with seizures of marijuana from *pangas* ballooning from 3,800 pounds in 2008 to 120,000 pounds in 2012.[114]

Figure 22
Panga Boat Smuggling Routes (2010-2013)



Source: CA State Threat Assessment Center

These statistics correspond with a period of decreasing marijuana seizures at land border crossings, suggesting a shift in the strategy of Mexican drug rings toward exploiting the vastness of the sea in order to smuggle drugs into the state.[115]

The majority of *panga* incidents before 2010 were confined to the Southern California coastline between San Diego and Los Angeles. However, there are now indications of *panga* operations that head further north along the coast beyond Ventura, Santa Barbara, and San Luis Obispo Counties, with landings reported as far north as Santa Cruz and Monterrey Counties (Figure 22).[116]

- ***Santa Cruz County:*** On September 30, 2013, a 20-foot *panga* wrecked off the shore of Four Mile Beach north of Santa Cruz. Eighty pounds of marijuana washed ashore, though officials suspected the craft was originally carrying considerably more.[117] This followed a similar incident on July 27, 2013, when a *panga* was discovered near Bonny Doon Beach in Santo Cruz carrying 1,200 pounds of marijuana valued at $2.1 million.[118]

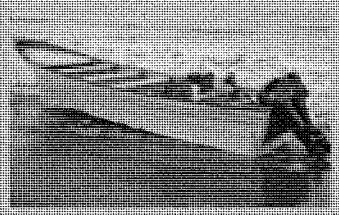
- *San Luis Obispo County:* On September 11, 2013, San Luis Obispo County Sheriff deputies and state park rangers discovered a beached 30-foot *panga* vessel near San Simeon State Park Campground. In addition, officers found a 30-pound package of marijuana with a reported street value of $18,000. Investigators believe traffickers offloaded several thousands of pounds of marijuana from the boat the night before.[119]

- *Santa Barbara County:* The first confirmed *panga* landing in Santa Barbara County occurred in March 2010, when over one ton of marijuana was recovered.[120] However, review of a GPS device found on the *panga* revealed frequent trips to San Luis Obispo County.[121] Since then, Santa Barbara has experienced a steady increase in *panga* recoveries, with 8 *panga* incidents in 2011 and 21 *panga* incidents in 2012.[122] Officials state that about one out of every five *panga* boats intercepted contains human cargo.[123] Moreover, some intercepted *pangas* have been operated by unaccompanied juveniles, including one off the coast of Santa Barbara that contained three females aged 11, 14, and 17 years old.[124]

Regional Threat: Panga Boats in Santa Barbara County

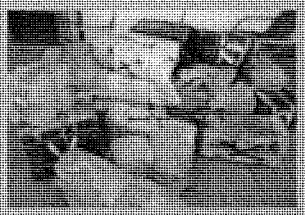
On September 13, 2013, local juvenile gang members [illegible] Conservation crews at the Montecito Wastewater Treatment Plant [illegible] a panga vessel [illegible] Officers recovered 14 [illegible] packs that [illegible] 2,000 pounds of [illegible] marijuana.

Figure 23
Panga Beached in San Luis Obispo County



Source: Santa Barbara County Sheriff's Office

Figure 24
[illegible]



Source: Santa Barbara County Sheriff's Office

- *San Diego County:* In recent incidents, U.S. Coast Guard crews patrolling the San Diego coastline interdicted a super *panga* carrying 122 bales of marijuana weighing 2,900 pounds, and a *panga* that carried $210,000 worth of the drug "bath salts."[125]

Pangas Pose New Dangers for Law Enforcement Officials

The use of *pangas* by Mexico-based drug trafficking organizations presents new threats to agents trying to prevent the flow of illicit goods into California. Interdiction efforts by the U.S. Coast Guard or local law enforcement officials have led to high-speed chases, with smugglers trying to dispose of their illegal cargo before being detained. In one tragic incident in December 2012, a Coast Guard Chief Petty Officer was killed off the coast of Santa Barbara when a Sinaloa-affiliated *panga* intentionally rammed an inflatable Coast Guard boat.[126] In another incident in October 2013, the Coast Guard apprehended a *panga* boat carrying 31 bales of marijuana (with a street value between $2 million and $3 million) after an extended high-speed chase off the shore of San Diego.[127]

Cross-Border Tunnels

In contrast to cheap, often one-use *pangas*, cross-border tunnels are a significant investment for Mexico-based drug trafficking organizations. These organizations are increasingly exploiting specific areas underneath the California-Mexico border at places such as San Ysidro, Otay Mesa, and Calexico, due in part to limited law enforcement resources to counteract the subterranean threat.[128] Cross-border tunnels primarily facilitate multi-ton shipments of narcotics from Mexico to the U.S., but are also used for smuggling people. According to the U.S. Department of Homeland Security, approximately 169,000 pounds of narcotics, valued in excess of $200 million, have been seized from cross-border tunnels since 1990.[129] The Sinaloa cartel is the main Mexico-based transnational criminal organization suspected of constructing cross-border tunnels. Indeed, the vast majority of cross-border tunnels are discovered in California and Arizona, sites for Sinaloa-controlled territories.[130]

Cross-border tunnels range in sophistication from the rudimentary to highly sophisticated.[131] Sophisticated tunnels are extremely well-constructed and can stretch for more than 2,000 feet, using a system of ventilation, lighting, and rail.[132]

Since the 1990s, more than 161 cross-border tunnels have been discovered, with more than 75 detected since 2006.[133] According to DHS, cross-border tunneling activity has increased 80 percent since 2008, with California leading the nation in the number of sophisticated tunnels discovered.[134]

Tijuana-San Diego Cross-Border Tunnel

On October 30, 2013, officers from the San Diego Sheriff's Department found a 2,000-foot-long, well-engineered tunnel with electrical lighting, ventilation, and a rail system beneath a warehouse in Otay Mesa, San Diego, California. The tunnel connected the warehouse to a similar structure in Tijuana, Mexico. The tunnel was approximately 4 feet 6 inches high and 3 feet wide. The floor was covered with plywood, and the walls were reinforced with wooden boards. Officers discovered 1,000 pounds of marijuana in the warehouse. The tunnel was the longest cross-border tunnel ever discovered. Officers also found 2 and 2 pounds of methamphetamine and 2 pounds of cocaine, and a combined total of $1,2 million in cash. Investigators believe that authorities had begun to suspect the connection with plumbing. Agents noticed a warehouse with a locked door, a fenced yard, a large, and a large truck. The tunnel was so well-built that it was fully functional.

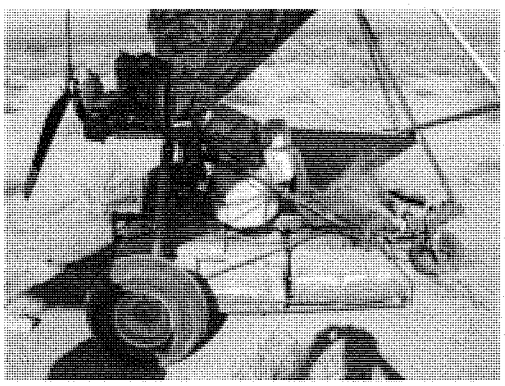
Image: U.S. Department of Homeland Security (DHS) Immigration and Customs Enforcement (ICE)

Ultra-Light Aircraft

Ultra-light aircraft are single-pilot, three-wheeled platforms that use hang-gliders and single-propeller engines to fly in excess of 70 miles per hour. They are inexpensive and can exploit the vast airspace along rural stretches of the California-Mexico border to drop hundreds of pounds of narcotics at designated drop locations in agricultural fields, rural roads, or the desert in San Diego and Imperial Counties (Figure 25).

Since 2008, when the first eight sightings were reported, there have been more than 200 incidents involving ultra-lights. For example, on August 29, 2013, U.S. Customs and Border Protection agents found an abandoned ultra-light aircraft in the Southern California desert community of Niland, near the Mexican border. Agents found nearly 190 pounds of marijuana and 13 pounds of methamphetamine valued in excess of a half-million dollars still strapped to the aircraft.[135] While the frequency of ultra-light incursions is likely to increase in the neor term, its significance as an emerging trafficking threat will not likely outpace *panga* maritime smuggling or cross-border tunnels given the cargo limitations of the aircrafts. However, as drone technology develops and becomes more widely available, law enforcement will have to be prepared to contend with these unmanned aerial trafficking threats.

Figure 25
Seized Ultra-Light Aircraft



Source: U.S. Department of Homeland Security, U.S. Customs and Border Protection

Sustained Funding Is Critical to Continued Law Enforcement Success

Law enforcement officers in Dallas-Fort Worth are the front line in preventing the very violent crimes associated with illegal drug trafficking and gang activity. For example, in 2010, Dallas-Fort Worth law enforcement officers seized approximately 1,200 firearms, 1,000 pounds of marijuana and gang paraphernalia, arrested nearly 3,000 individuals, recovering 175 stolen vehicles, recovered 41 stolen weapons, dismantled 1,000 marijuana and methamphetamine operations, and seized 5.75 million in U.S. currency in cases that are currently being adjudicated.

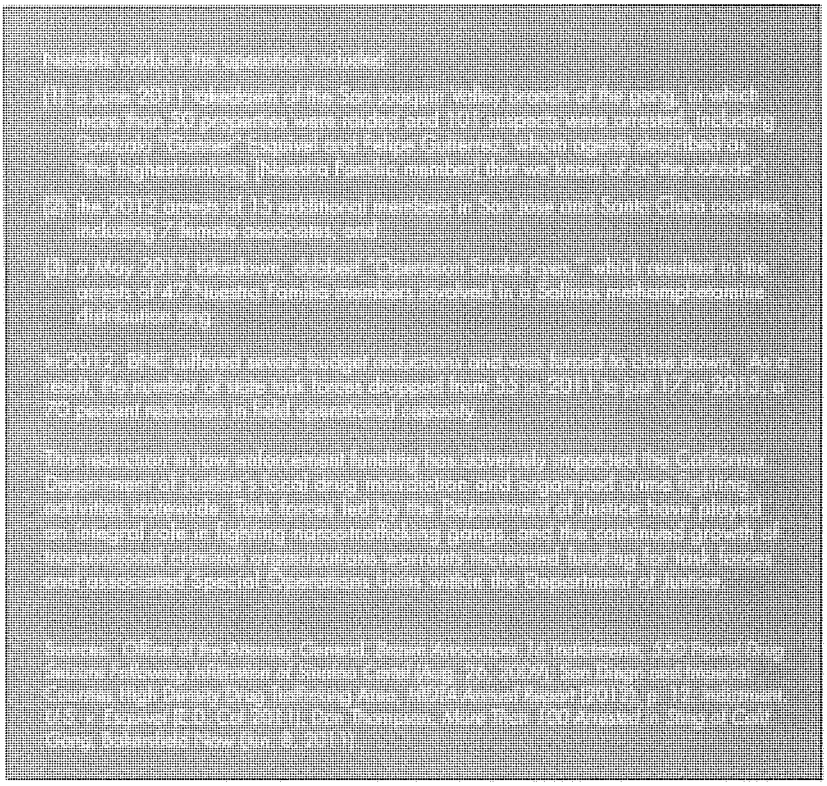
Law enforcement agencies across the region and throughout the nation are facing budget cuts, resulting in fewer officers, less overtime, less equipment, less training, less vehicles, and more deaths. The Dallas-Fort Worth Law Enforcement Alliance (DFWLEA) is a coalition of 30 agencies with 3,000 officers and crime analysts, who are working together to combat violent crime and gang activity. The alliance is a model for other regions and has been called upon to assist other regions in developing their own alliances.

- 434 provided training and 1,186 received overtime, with a combined dollar value of more than $1.5 million
- 141 officers in the summer alone
- 1,000 officers in the region received the overall effort

Another reason why the region's fight against violent crime is different. Over the past 15 years, the Dallas-Fort Worth law enforcement community has created a model for regional collaboration and cooperation to address violent crime, gang activity, and the illegal drug trade. Since 2000, the region has seized 31,000 pounds of marijuana, 2,000 pounds of cocaine, 1,200 pounds of methamphetamine, 175 pounds of heroin, 1,000 firearms, 35 stolen and more than $5.5 million in currency.

The Federal Communications Commission (FCC) recently approved a request by Sprint to transfer licenses, including the Spectrum, 800 MHz and 1.9 GHz licenses in Texas, currently held by Nextel, to Sprint. The transaction is valued at approximately $3.5 billion and includes the Nextel Nationwide Network, the Nextel Iden network, and the Nextel Iden Spectrum. Sprint Nextel will pay approximately $3.5 billion in cash.

Dallas-Fort Worth is a major hub for business, including the headquarters of 25 companies with $1 billion in revenue, 31 companies with $500 million in revenue, and 75 companies with $100 million in revenue. The area has a strong base of Fortune 500 companies and is home to the headquarters of 18 Fortune 500 companies.



Globalization Creates New Money Laundering Threats

As globalization increases and California's participation in international trade continues to intensify, transnational criminal organizations have exploited the associated increase in the volume of goods and services crossing international boundaries to disguise, launder, and smuggle the money they reap from the sale of drugs and trafficking of persons. One example of this phenomenon is trade-based money laundering.

California's International Commerce and Trade-Based Money Laundering Schemes

An integral part of the Pacific Rim economic community and, on its own, one of the world's largest economies, California is a major hub for international trade and commerce.[136] In 2012, international trade flowing through California's ports totaled $579.6 billion.[137] Los Angeles exported $121.3 billion worth of goods and imported $282.6 billion in foreign goods. Combined, Los Angeles' imports and exports represent more than 69 percent of California's total international port trade.[138]

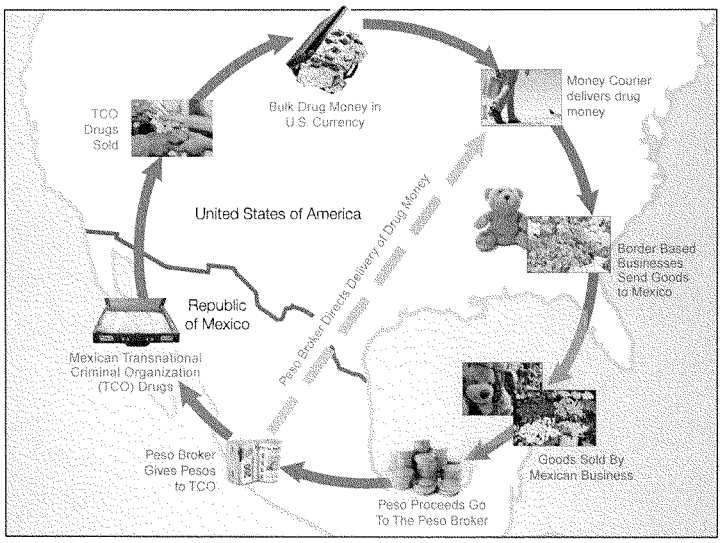
California's substantial international trade provides a platform for complex trade-based money laundering schemes to flourish.[139] In these schemes, cash derived from criminal activity is laundered through trade and commerce transactions that appear to be legitimate.[140] While trade-based money laundering in the U.S. has not been studied systemotically, some experts estimate it to be the most significant method used to launder money from the country. Not surprisingly, transnational criminal organizations are using it with increasing frequency.[141]

One mechanism used by these organizations to finance trade-based money laundering is the Black Market Peso Exchange (Figure 26). The scheme exemplifies a trend towards decentralizing and outsourcing money laundering functions to limit exposure to criminal liability.

In the Black Market Peso Exchange scheme, a transnational criminal organization's money laundering is outsourced to a Money Laundering Organization (Peso Broker), which helps finance an international trade transaction using cash derived from criminal activity, such as the sale of drugs. The Peso Broker arranges for the delivery of a trafficker's drug cash to a U.S. vendor to pay far goods ordered by a business customer based in Mexico. The trade goods are then shipped to Mexico and sold by the Mexican business customer. The Mexicon business customer reimburses the Peso Broker, in pesos, for the dollars used to purchase the U.S. trade goods. The Peso Broker, in turn, pays the transnational criminal organization, in pesos, the amount of illicit drug money used to finance the international trade transaction.

In this way, the transnational criminal organization has transferred the narco-dollars from the U.S. to Mexica and, for a relatively small fee, has effectively converted the proceeds to Mexican pesos. The Mexican business has also reduced its costs in conducting an international trade transaction, thus increasing its profit margin. The Peso Broker has made a commission from both the transnational criminal organization and the Mexican business customer without exposing itself to criminal liability associated with the smuggling and distribution of narcotics. And the U.S. vendor, a business engaged in international trade and commerce, has generated a profitable cash transaction, increasing its market share aver its competitors.

Figure 26
Trade-based Money Laundering Scheme



The laundering of cash drug proceeds through products and hard goods has come under scrutiny by law enforcement in California. In cases from 2010 to 2013, the federal government has prosecuted several Los Angeles-based international trade vendors and their owners who were engaged in laundering transnational criminal organization cash drug proceeds through the sale of silk flowers and toy bears. The three companies, Angel Toy Corporation, Woody Toys, Inc., and Peace and Rich, collectively laundered approximately $17.7 million in U.S. currency through trade-based money laundering schemes.[142]

All three vendors received significant amounts of bulk cash from third parties (drug money couriers) to pay for international orders by Mexican and Colombian businesses seeking delivery of toys and or silk flowers. Bulk cash deliveries in amounts exceeding $10,000 were then broken up into smaller amounts by the defendant businesses before being deposited to avoid triggering notice requirements by the banks to federal regulators. Angel Toy executed approximately 63 structured cash deposits, while Woody

Toys involved approximately 59, and Peace and Rich involved approximately 151. Anonymously structured cash bank deposits were funneled from various cities around the country, including New York City, Chicago, and Laredo, Texas, to the defendants' business bank accounts, with credit assigned to the international customers.

Due to the substantial amount of illicit drug proceeds flowing through the community and the willingness of some Los Angeles business owners to launder money on behalf of transnational criminal organizations, law enforcement officials consider Los Angeles and its many specialty business districts – the toy, jewelry, flower, garment and fashion districts – to be a "Mecca for narco-dollars" and a "target-rich environment" for money laundering.[143]

Conclusion

The adaptability and fluidity of modern-day transnational criminal organizations ensures constant new challenges for law enforcement officials. Transnational criminal organizations in California are taking advantage of new technologies to communicate, recruit, propagandize, and intimidate. Tronsnational criminal organizations have also used the increase in global trade to mask their trafficking activities, increasingly relying on *panga* boats to transport drugs, weapons, and human cargo from Mexico up the coast into California. These organizotions have further proven highly sophisticated in exploiting the complexities of international commerce to disguise, launder, and smuggle money made from the sale of drugs and trafficking of persons.

High-Tech Crime: A New Frontier for Transnational Criminal Organizations

The emergence of the Internet and of a global society linked together by high-speed information networks has transformed the ways in which businesses, governments, and individuals communicate and engage in commerce. Sellers on one side of the world can now advertise directly to buyers on another side of the world. Sales and financial transactions can take place instantaneously and anywhere there is an Internet connection. And goods and services themselves are increasingly being delivered digitally through the Internet. The benefits of these transformations for the global economy, and ultimately for consumers, have been dramatic. At the same time, these transformations have also given rise to a new set of dangers, as some of the same technologies that enable people across the globe to connect instantaneously with one another and exchange money or information also facilitate criminal exploitation:

- **Dangers posed to our information systems and networks.** Information systems and networks serve as the primary platform for our digital economy, while at the same time house the sensitive personal information of millions of consumers and citizens. Highly vulnerable to intrusion and manipulation, these systems and networks are regularly breached. As a result, millions have been subjected to identity theft and fraud, to say nothing of the severe damage this causes to the overall economy.

- **Dangers stemming from consumer vulnerability in the online marketplace.** As consumer trust in online commerce has grown, so also has criminal interest in exploiting that trust. The result is an explosion in Internet-reliant scams aimed at defrauding unsuspecting consumers. Every year, thousands of Americans report being victims of online marketing fraud schemes and suffering losses exceeding tens of millions of dollars as a result.[144] The losses of Californians are higher than those of residents of any other state.[145]

- **Dangers arising from Internet-enabled markets for illicit goods and content.** The Internet has helped foster new economic models fueling the sale and distribution of counterfeit goods, counterfeit pharmaceuticals, pirated entertainment content, illegal drugs, and child pornography. These markets not only enable criminals to profit

> from illicit goods and content, but also further fuel the growth of the underlying illicit activities. The Mexican Attorney General estimated in 2009 that the total revenues from La Familia's sophisticated network for distributing counterfeit movies, music, and software could be more than $2 million a day.[146]

Eager to exploit these vulnerabilities in their quest for profit and power, organized crime has developed increasingly sophisticated techniques and patterns of organization. The result is a new generation of transnational criminal organizations that are more flexible, decentralized, and global than ever before.

Transnational Criminal Organizations Are Targeting Information Systems and Networks for Attack and Exploitation

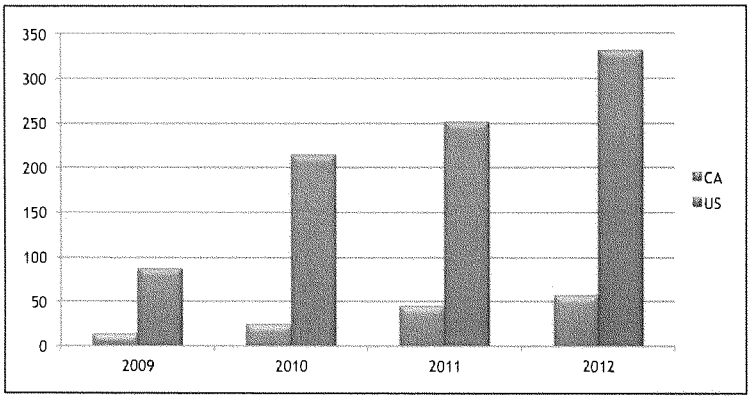
The digital infrastructure upon which consumers, businesses, and government all rely to store, process, and share information is highly vulnerable to attacks by sophisticated assailants operating remotely. Once breached, this infrastructure affords assailants the freedom to impersonate legitimate users, assume their privileges, and ultimately steal from them. According to the White House, cybercrime "costs consumers billions of dollars annually, threatens sensitive corporate and government computer networks, and undermines worldwide confidence in the international financial system."[147]

These dangers are particularly acute in California. By a large margin, California tops all states in the number of hacked systems, the number of computer systems infected by malware, the number of victims of Internet crimes, the losses suffered as a result of those crimes, and the number of victims of identity fraud. In addition, because of the outsized role new technologies and mass-media entertainment play in its information-based economy, California is particularly vulnerable when its networks become infected and its intellectual property is stolen.

In 2012, the Privacy Rights Clearinghouse recorded at least 331 breaches in the U.S. caused by criminals who were purposefully trying to compromise databases or networks.[148] Seventeen percent of these intentional breaches occurred in California – a far higher percentage than in any other state – which, in turn, contributed to putting at risk the sensitive personal information of at least 2.5 million Californians that year.[149] At the same time, 12.6 million U.S. adults – or 5.3 percent of the adult population – became victims of identity fraud in 2012. Costs associated with this pool of victims are estimated to be a staggering $21 billion.[150]

The data represented in Figure 27 shows that the problem is getting worse. Between 2009 and 2012, the number of intentional breaches in the U.S. jumped by 280 percent.[151] With new breaches now numbering in the hundreds per year, the rate of increase may be finally slowing, but it remains high. Between 2011 and 2012 alone,

Figure 27
Number of Intentional Data Breaches Designed to Compromise Systems
(2009-2012)



Source: Privacy Rights Clearinghouse

the number of breaches rose by 32 percent nationwide and by 27 percent in California, while the number of identity fraud victims in the U.S. increased by 8 percent.[152]

Information Systems and Networks Are Highly Vulnerable to Intrusion and Exploitation

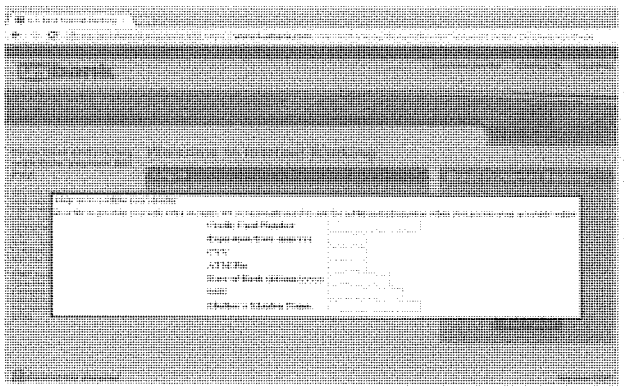
When cybercrime first emerged, it was mostly orchestrated by people with strong technical skills who primarily wanted to enhance their reputation and popularity within a relatively small hacker network.[153] Those days are over. As the potential profitability of cybercrime has become clearer, it has attracted a flood of individuals and groups with more pecuniary motives.[154]

There are several ways in which criminals can engineer breaches of databases, networks, and computer systems.

- In a **phishing** attack, a victim is tricked into giving an assailant system access by being directed to a website that purports to be that of the victim's financial institution. This website asks the unsuspecting victim to enter his account number, username, password, and other personal identification information. Although the website is in fact a fake, the victim frequently complies with the request because the website appears to be legitimate – complete with bank logos and legal disclaimers.

- An assailant may also trick a victim into installing **malware** – or malicious software – on a targeted computer system. This malware is usually installed surreptitiously after the victim is induced to click on an attachment or link embedded in an e-mail message. In one recent case, an e-mail appeared as if it were from the National Center for Missing and Exploited Children.[155] Once installed, malware can redirect information within a system to the assailant's computer. Some types of malware can log a user's keystrokes or record screen shots whenever a victim attempts to connect to a targeted financial website and enter account information.[156] Other types are even more sophisticated. "Web injects" associated with the Gozi virus and the Citadel botnet, for example, actually alter how the webpages of particular banks appear on infected computers in order to trick a victim into divulging sensitive information (Figure 28).[157]

Figure 28
Webpage Screen Shot of a "Web Inject"



Source: Microsoft Corporation

- **"Skimming"** is a type of attack that targets payment card networks in particular. It involves the installation of devices at credit/debit card terminals (usually located at gas stations or retail stores) that surreptitiously record card information as cards are swiped and PINs entered (Figure 29).

Figure 29
Skimmer Placed in a Gas Station Payment Terminal in Martinez, CA

Source: Northern California Computer Crimes Task Force

- Less technologically sophisticated, **breaches by insiders** occur when insiders abuse access privileges and supply sensitive information to criminals for a profit. Many breaches caused by insiders are never detected.

Once a victim's unique credentials are stolen, a criminal can use them to transact business instantaneously and from anywhere in the world. Criminals can withdraw cash, digitally transfer money to their own accounts, or purchase goods in exactly the same way as the legitimate account holder. All of this can happen before a victim even realizes his or her credentials have been stolen.

Because governments also rely heavily on unique identification numbers (e.g., Social Security numbers) to assign benefits or process taxes, a wide range of fraud becomes possible when government databases are breached or these numbers are otherwise stolen. Successful schemes have included billing the government for medical services never provided and pocketing another taxpayer's refund.[158] Through such high-tech fraud, large sums of taxpayer money may be siphoned off to criminals and away from its intended purposes.

Botnets Pose an Additional Risk to Information Systems and Networks

The threat posed by digital infrastructure vulnerability is not limited to identity theft and associated fraud. Computer networks and systems themselves may also be hijacked and used to launch attacks against *additional* computer systems. The principal way in which this occurs is through a "botnet," or a network of computers infected with

malicious software – usually without the knowledge of the end-user. Computers may become infected when a user "inadvertently interacts with a malicious website advertisement, clicks on a malicious e-mail attachment, or downloads malicious software."[159] Once infected, "the malicious software establishes a secret communications link to a remote 'botmaster' in preparation to receive new commands to attack a specific target."[160] The computers can then be controlled by the botmaster to "operate in concert to disrupt or block Internet traffic for targeted victims, harvest information, or [] distribute spam, viruses, or other malicious code."[161] Because of their versatility, botnets such as Citadel (Figure 33) have been described as the "Swiss Army knives of the underground economy."[162] Moreover, because Citadel and similarly dangerous botnets concentrate in areas with substantial technology presence, California is uniquely affected. The Los Angeles and Silicon Valley areas in particular have suffered significant infections by malware linked to Citadel (Figure 30).

Figure 30
Hot Spot Locations of Malware Infections Linked to the Citadel Botnet

Source: Microsoft Corporation (2013)

By dramatically increasing the numbers of victims that can be targeted by a single scheme, botnets are a game-changer for criminals. Botnets enable criminals to launch millions of attacks against protected networks or computer systems and exploit vulnerabilities within hours, if not minutes. This ability to exponentially expand the pool of victims, in turn, can make otherwise unprofitable criminal strategies successful.[163] Botnets significantly increase the profitability of any scheme that depends on taking small amounts of money from large numbers of victims so as to avoid detection.[164]

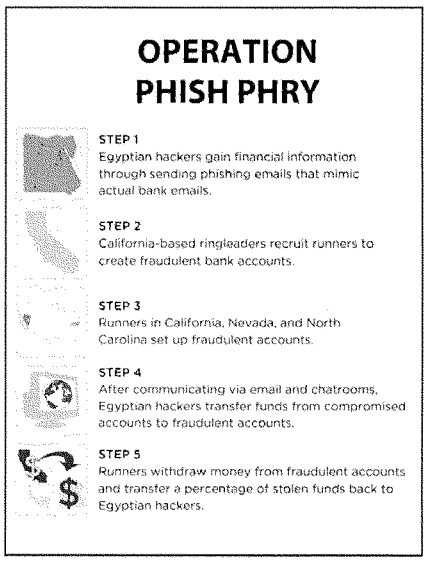
In the same way, botnets increase the threat posed by transnational criminal organizations exponentially by allowing perpetrators based outside the country to reach out to millions of Americans at once through spam e-mail.[165]

Transnational Criminal Organizations Are Fueling the Epidemic

Not surprisingly, transnational organized crime has tapped into this new criminal frontier. Cases strongly suggest that transnational criminal organizations are behind the biggest schemes to breach systems and exploit captured identification credentials.

A particularly devastating phishing operation involved an Egypt-based transnational criminal organization that expanded its operations into California. The Egypt-based hackers used phishing tactics to obtain bank account numbers and related identification of U.S. bank customers. They then teamed up with three California-based individuals who supplied them with California bank accounts to which they could transfer stolen funds.[166] The individuals who opened the California accounts then withdrew these fraudulently obtained funds, which were eventually transferred to the original hackers in Egypt.[167] The multinational investigation into this crime, dubbed Operation Phish Phry, resulted in charges against 53 defendants in the U.S. (Figure 31). Most were

Figure 31



arrested and prosecuted in Southern California. Authorities in Egypt also charged 47 defendants linked to the scheme.[168]

- In *U.S. v. Drinkman* (D.N.J. 2013), one of the largest hacking and data breach cases ever, a confederacy of Eastern European criminals harvested over 160 million credit card numbers by attacking numerous companies around the world, including national retailer Wet Seal, Inc., which is headquartered in California.[169] Unique malware placed within the targeted payment networks allowed the organization to capture payment card credentials and other information in real time as the information moved through the network.[170] The organization then sold the credentials on the black market (priced at $10 for American credit card numbers and $50 for European numbers) and the information was eventually used to make counterfeit payment cards.[171] Losses from the scheme totaled in the hundreds of millions of dollars.[172]

- In 2009, members of the Armenian Power transnational criminal organization caused more than $2 million in losses when they installed skimming devices at several 99¢ Only Stores in Southern California, and then used the skimmed information to create counterfeit credit and debit cards.[173]

- In the largest Medicare fraud scheme ever committed by a single enterprise and criminally prosecuted by the U.S. Department of Justice, an Armenian-American transnational criminal organization, the Mirzoyan-Terdjanian Organization, used fraudulent Medicare billings to steal more than $163 million.[174] After stealing the identities of real doctors, the organization set up phony clinics and applied to become Medicare providers. Once approved, the clinics used stolen information from beneficiaries from around the country to bill Medicare for services never provided. Although Medicare was able to identify and shut down many of the fake clinics, they were promptly replaced by new ones, often in another state.[175] In all, at least 118 bogus clinics were opened in 25 states.[176] Many of the 73 defendants eventually prosecuted operated out of the Los Angeles area.[177]

As these cases suggest, transnational criminal organizations are leading efforts in California to target information systems and networks to steal identification credentials that can be converted into money. One of the largest global surveys on data breaches has found that in 2012 organized criminal groups were responsible for at least 55 percent of all incidents of unauthorized access to confidential information of a business or government entity by an external actor.[178] Many of these criminal groups were transnational criminal organizations operating out of Eastern Europe that targeted businesses and governments in the U.S. and Western Europe.[179]

Transnational Criminal Organizations Are Uniquely Positioned To Exploit High-Tech Criminal Opportunities

Like drug trafficking, high-tech crimes tend to be highly profitable – in many cases even more so than trafficking. For example, DVDs containing pirated software can be produced for just $0.50, but sold for more than $50.[180] Credit card information linked to personal information about the owner can be obtained for as little as $10 and then exploited to reap hundreds or even thousands of dollars' worth of goods.

Yet, unlike drug trafficking, the risks to criminal organizations of much of this activity are comparatively low.[181] High-tech crimes are often extremely difficult to detect. And even if prosecuted, offenders are likely to receive penalties that are lower by comparison to violent crimes and drug trafficking.[182]

Transnational criminal organizations are uniquely able to exploit the opportunities presented by the high-tech criminal frontier. Their ability to structure criminal activity transnationally in many cases makes them virtually immune from arrest or prosecution due to formidable obstacles that law enforcement often encounters when trying to track perpetrators from one country into a foreign jurisdiction.

Transnational criminal organizations also have greater access to the expertise, specialization, and coordination required to successfully pull off most high-tech crimes.[183] And while in the past criminal cross-border cooperation was cumbersome, expensive, and vulnerable to law enforcement, the Internet and other advances in high-speed international communication have dramatically reduced these "transaction costs." Now, far-flung criminal network operatives can exploit new criminal opportunities from their desktops without even having to leave their homes – let alone their home countries.[184]

Outsourcing of Specialized Services Is Making the Technology of Cybercrime More Accessible

In the past, a criminal organization entering the cybercrime arena may have needed to possess a fairly high level of computer hacking skills. But increasingly the specialization needed to launch high-tech criminal attacks is being achieved by outsourcing – specifically, by purchasing highly specialized services online from the "dark market." Clandestine websites offer virtually any service needed to perpetrate high-tech crime. Pay-per-install services, for example, take malware and disseminate it by infecting computer and Internet systems for a price as low as $100 per 1,000 downloads. (See Figure 32.) Transnational criminal organizations are turning to this market with increasing frequency precisely because of the diversity of specialized and competitively-priced services offered. Buyers can even comparison shop to get the best price.[185]

Figure 32
Price List for Services Available on the "Dark Market"

Offering	Price
Malware installation (pay-per-install) (targeting U.S.-based computers)	$100–150 (per 1,000 downloads)
Distributed Denial-of-Service (DDoS) Attack	
(1-hour)	$10
(1-week)	$150
Cheap e-mail spamming service	$10 (per 1 million e-mails)
ZeuS Botnet builder kit	$100
Purchase of botnet capable of launching DDoS attack	$700
Hacking Email	
(gmail.com account)	$85–130
(corporate email account	$500

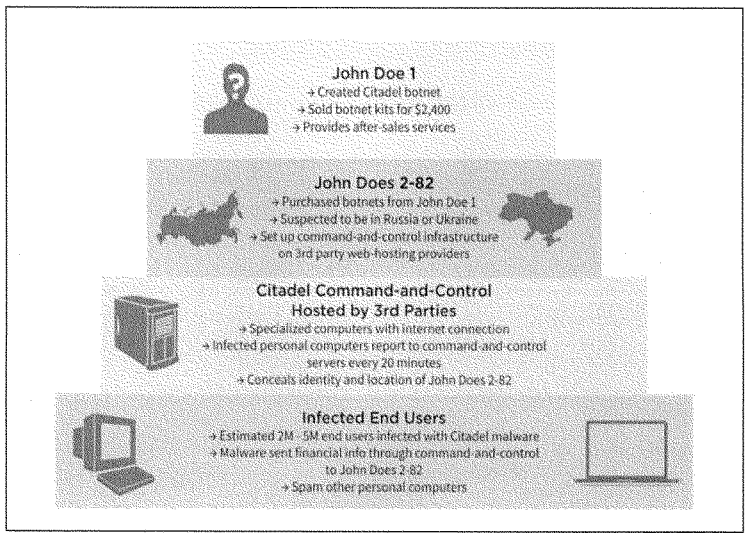
Source: Max Goncharov, *Russian Underground 101*, Trend Micro Incorporated (2012)

This dark market offers hacking services that are not only highly specialized but that can even be customized to the particular target of the criminal enterprise. This customization promotes accessibility – particularly for non-specialists – and is enabling "a much wider range of people to become [high-tech crime] offenders, not just those with a special gift for computing."[186] In response to demand for these services, providers are offering ever more sophisticated products. For example:

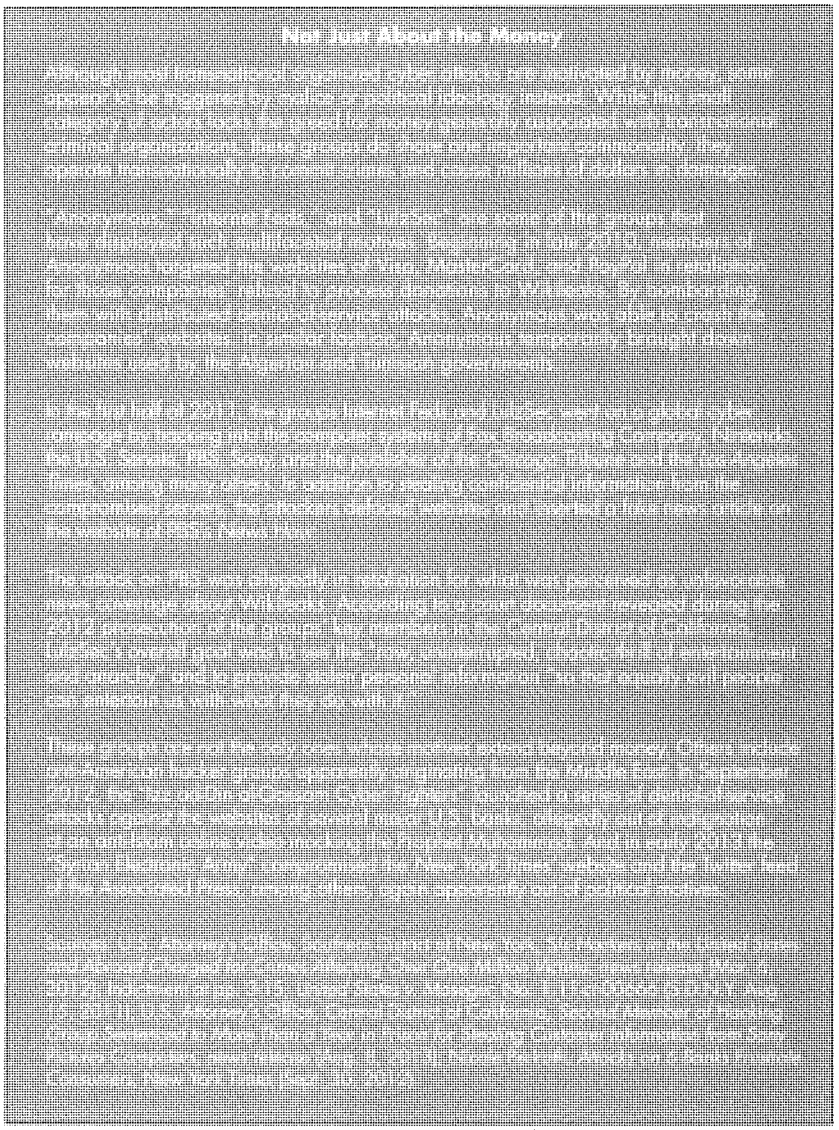
* Whether the service offered is a "distributed denial-of-service" attack, spamming, or pay-per-install, multiple options exist on the dark market for tailoring the service to the attacker's specific needs. For example, a distributed denial-of-service attack, in which a computer is used to attack a website by sending overwhelming data requests, is not only available for purchase, but can be tailored to persist as long as one month and as short as one hour.[187]

* Malware, botnets, and other products are increasingly being packaged with "a high degree of after-sales service."[188] The creator of the Citadel botnet, for example, uses a "customer relationship management" tool to communicate with "customers" who purchased a botnet "builder kit" about "updates to Citadel code, support with technical problems, and best practices in deploying, running, and defending their Citadel botnets."[189] According to Microsaft, the Citadel creator is "swift to add new features and fix bugs and has released multiple versions on a fast schedule to provide the Citadel botnet operators with the latest updates."[190] In addition, the Citadel creator collaborates with customers, inviting them to suggest new features and vote on which features should be implemented.[191]

Figure 33
Citadel Botnet Case



Source: Complaint, *Microsoft Corp. v. John Does 1–82*, No. 3:13-cv-319 (W.D.N.C. May 29, 2013)


Not Just About the Money

Emerging High-Tech Crime Trends

Fraud in the Online Marketplace

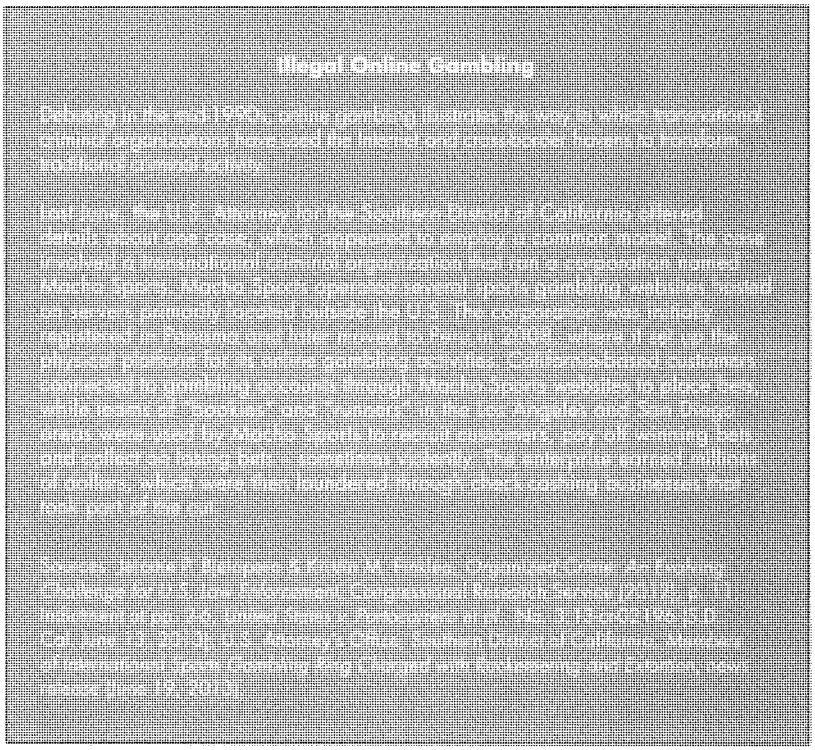
The shift toward selling and buying goods online is one of the most significant transformations ushered in by the Internet. It would not be possible if consumers did not trust that goods they purchased online would be reliably delivered days later. But the same trust that helps fuel online commerce is also ripe for exploitation. One industry estimate in 2009 suggested that various online scams swindled more than $2 billion from U.S. companies and citizens.[192]

Criminals may trick a buyer into thinking he is part of a legitimate transaction. Once the buyer has made a payment – often for a high-value item, such as a car – the goods are never delivered.[193] To enhance the con, the criminals may make it appear as if a "third-party" agent is receiving the payment. These agents sometimes even maintain websites with online delivery tracking systems.[194]

A related type of fraud dupes victims into thinking they can acquire a large sum of money by paying a small amount in advance. Many Americans know this type of fraud from having received an unsolicited e-mail from a well-connected person who attempts to enlist them in a plot to smuggle millions of dollars out of Nigeria.[195] The solicitor asks only that the victim pay a small amount – often for a bribe – to secure a percentage of the millions in loot. Other versions of this fraud trick people into believing they have won a lottery and promise delivery of the winnings once the victim has paid the requisite taxes, legal fees, or escrow fees.[196] While these "advance fee" schemes have existed for decades, the Internet and other technologies have helped expand their reach exponentially.[197]

Because it is estimated that only one percent of people or businesses need to be duped for the fraud to be profitable, botnets frequently determine whether such schemes succeed.[198] For example, because most people no longer open – let alone act on – the spam e-mail messages that underlie phishing attacks and mass-marketing fraud, the profitability of these strategies is heavily dependent on whether huge numbers of spam messages can be sent out in a short period of time.[199] By employing multitudes of computers to automatically send millions of such e-mails, botnets make these schemes viable.[200] In one mass-marketing fraud case, botnets were employed to distribute spam aimed at fraudulently driving up the prices of certain stocks. Once the stock prices rose, the chief organizer of the worldwide conspiracy sold the stocks at the artificially inflated prices, reaping approximately $2.8 million.[201]

Data from the Internet Crime Complaint Center confirms that mass-marketing fraud schemes continue to be both widespread and highly profitable. In 2012, for example, thousands of Americans reported being victims of online auto fraud, with direct losses



exceeding tens of millions of dollars.[202] Online scams involving housing rentals, timeshares, and various limited-time investment "opportunities" are also common, causing millions of dollars in reported losses nationwide in 2012.[203] According to the Internet Crime Report, the losses Californians suffer as a result of these crimes top by a large margin the losses reported in any other state.[204]

As with other types of cybercrime, fraudulent mass-marketing schemes are increasingly perpetuated by transnational criminal organizations.[205] Transnational criminal organizations based in Romania, for example, have orchestrated two of the biggest cases involving fraudulent online sales. In both cases, the Romanian organizations advertised high-value items for sale online, using Internet auction sites popular with

Americans, such as eBay or Cars.com.[206] The organizations instructed the buyers where to wire payments. "Arrows," U.S.-based accomplices recruited to retrieve those payments, then transmitted the funds to Romania.[207] Both schemes netted millions of dollars, with the gains in one topping $10 million.[208] Many "advance fee" fraud scams have also been linked to West African transnational criminal organizations,[209] whose loosely connected cells are located not only in Africa but around the world.[210] And an Israel-based transnational criminal organization employed a lottery scam over several years to defraud hundreds of U.S. victims, mostly elderly, out of approximately $25 million.[211]

Counterfeit Goods and Pharmaceuticals

Online commerce not only makes it easier for consumers to shop and purchase goods, but has also obviated the need for sellers targeting the U.S. market to be located in the U.S. This, in turn, has created a significant regulatory hole, as government regulators can no longer effectively regulate what consumers purchase simply by targeting the U.S.-based entities that directly sell to consumers. Because of this regulatory hole, myriad illicit markets have been able to emerge and thrive alongside online markets for legitimate goods and services. Growth in the market for counterfeit goods and pharmaceuticals has exploded as the Internet has helped link price-conscious consumers in the U.S. with manufacturers in Asia that can produce increasingly sophisticated goods at low cost. Other markets experiencing Internet-related growth involve illegal drugs and child pornography. By directly linking suppliers to vast numbers of consumers worldwide, online illicit markets help increase the profitability – and, therefore, the growth – of criminal activity.

The new marketplace for counterfeit goods is dominated by transnational criminal organizations. According to the United Nations Interregional Crime and Justice Research Institute (UNICRI), "[c]ounterfeiting and piracy have long presented a tempting target market for organized criminals." But especially in recent years, UNICRI notes, transnational criminal organizations have moved "deliberately and in great numbers" to grab control of supply chains and consolidate power over these rapidly growing black markets.[212] For example, Italian transnational criminal organizations like the Neapolitan Camorra have long played a major role in the production and distribution of counterfeit luxury goods. With the massive growth of Chinese manufacturing, Italian transnational criminal organizations are adapting by increasingly partnering with Chinese criminal enterprises.[213] Pursuant to these partnerships, the Chinese enterprises manufacture the products, while the Camorra sells and distributes them.[214]

Because the success of an Internet-based business model depends on attracting sufficient numbers of customers to the counterfeiters' websites, counterfeiters may outsource their advertising work to specialized transnational criminal organization that deploy botnets. These botnets help counterfeiters reach millions through spam e-mail

and the sophisticated manipulation of search engine results.[215] The success of these Internet-enabled counterfeiting networks has significant consequences. In the global pharmaceutical market, for example, sales for legitimate businesses that play by the rules decline, reducing incentives for expensive investments into potentially life-saving drugs. In addition, since counterfeiters may dilute or misrepresent the active ingredients in counterfeit pharmaceuticals, recipients may not get the treatment they need, imperiling their health.[216]

Digital Piracy

Today, the Internet provides virtually unfettered access to a range of intellectual property content. However, the creators of this content are also arguably more vulnerable than ever to having their works stolen and distributed without their consent. According to a recent study by the British brand-protection firm NetNames, the amount of Internet traffic used for copyright infringement in North America, Europe, and the Asia Pacific has grown nearly 160 percent from 2010 to 2012 and now accounts for 24 percent of total Internet traffic.[217] In 2011, it was estimated that more than 17 percent of Internet traffic in the U.S. was infringing.[218] While new digital services for the authorized dissemination of music, film, television, and software have proliferated,[219] services facilitating illicit distribution continue to evolve and thrive. Such services include cyber lockers, peer-to-peer networks, BitTorrent, streaming websites, and literally hundreds of mobile applications.[220] Another major source of pirated content are China-based enterprises that produce and ship pirated DVDs with packaging that is often "shockingly sophisticated and nearly indistinguishable fram legitimate product."[221] These developments, in turn, have fostered astonishing growth in the global market for pirated digital content. For example, in 2011, the global commercial value of pirated software is estimated to have reached $63.4 billion, more than double what it was in 2003.[222]

Contrary to the myth that illicit distribution services are only interested in helping to propagate content, these services are in fact primarily profit-driven. One business model offers paid subscriptions for the pirated content. Another model offers the content free, but profits by inducing cansumers to click online ads. In either case, as consumers use these piracy services to view content or download software, they siphon revenues away from content creators and into the pockets of criminals. Given the importance of the music, television, and film industries in California, the economic damage within the state of such Internet-enabled digital piracy is disproportionately severe. While estimates of exact losses vary greatly, there is little doubt that over the years digital piracy has robbed creative industries based in California of hundreds of millions of dollars in revenue and jobs.

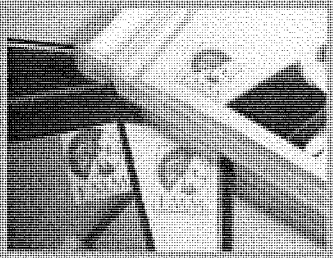
In addition to depriving intellectual property creators of their earnings, a further threat posed by the marketplace for digital piracy is the distribution of malware. More and

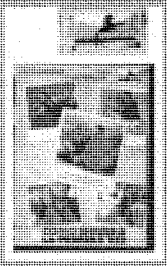
La Familia Michoacana Branches Into Counterfeit Software

Once the most dreaded narcotrafficking cartel in Mexico, the kingpins of La Familia Michoacana are now generating revenue in other ways, with the arrest of one of their top software pirates.

In March 2008, Mexican law enforcement seized 1,000 counterfeit software titles, including Microsoft products, from a San Miguel de Allende apartment. The raid was prompted by complaints received by software giants in Mexico City, and those goods were confiscated with Pablo Alonso, the owner, arrested on the spot. The office had been rented from a real estate agency, which had no idea what was going on in the apartment. Interviews with neighbors revealed that Alonso was seen leaving on weekdays between the hours of 9 and 6 and then in the evening and weekends. Investigators found that some neighbors had even helped him receive packages.

Interrogated, Alonso said he was a freelance software pirate who had been hired by the Michoacán Family to create a set of counterfeit licenses for Microsoft Windows and Office. He said he had been paid $3,000 a month for his services, which is generous by Mexican standards.





Due to the raid, the Zetas are really terrified to have some people who know how to pirate Microsoft software. [illegible] Microsoft [illegible] other software licenses, including Intuit QuickBooks and Adobe Photoshop.

[illegible]

more, pirated content – whether downloaded or on a physical disk – is "laced" with malware that, once installed on a computer, can steal information or otherwise compromise that system.[223] According to McAfee, 12 percent of sites known to distribute pirated content "are actively distributing malware to users who download [the] content." Moreover, some of these sites appear to "have associations with known cyber crime organizations."[224]

Virtual Currencies Offer New Tools for Money Laundering

New Internet-reliant technologies threaten to revolutionize the way in which transnational criminal organizations finance their activities and launder their proceeds. Until now, these organizations have had to sacrifice speed and profit margins in order to transfer money securely and secretly. For example, to avoid the registration and reporting requirements of banks and other international money transmitters, transnational criminal organizations avoid digital bank transfers in favor of physically transporting cash in bulk and participating in complicated trade-based money laundering schemes. These schemes are not only slow and subject to law enforcement interdiction, but also involve multiple "fees" to compensate launderers for their efforts and risk-taking. However, the emergence of new technologies over the last few years hints at a future in which speed and profit margins no longer need to be sacrificed in exchange for security and secrecy.

One example of these new technologies is the pre-paid, open-system stored-value cards such as "Green Dot" cards. Prepaid open-system cards allow their holder to connect to global debit and automated teller machine (ATM) networks. These prepaid cards often do not require the cardholder to open a bank account or verify his or her identity.[225] This lack of an accountholder relationship, coupled with the fact that the cards are not subject to any cross-border reporting requirements,[226] can enable a cardholder to transfer an unlimited amount of money across the global payment system anonymously.[227]

Perhaps the most notorious new technology in transnational criminal organization finance is virtual currency, a category that includes e-Gold, Liberty Reserve, and Bitcoin, as well as currencies used in online games that can be bought and exchanged for dollars.[228] These currencies are "virtual" because they operate like currency within their designated ecosystems, but lack the legal tender status of real currencies in any jurisdiction.[229] Virtual currencies can be used to quickly and confidently move illicit proceeds from one country to another. And as long as the government is unable to link virtual currency accounts or addresses to their owners, the identities of those sending and receiving the proceeds are effectively shielded. According to the U.S. Secret Service, "[t]hese attributes make [virtual] currencies a preferred tool of transnational criminal organizations for conducting their criminal activities, transmitting their illicit revenue internationally, and laundering their profits."[230] The following examples illustrate this trend.

e-Gold

Founded in 1996, e-Gold was a pseudonymous digital currency that was originally backed with gold coins stored in a safe deposit box in Florida. To open an e-Gold account, a person needed no more than a valid e-mail address. Once the account was established and funded, the account holder "could gain access through the Internet and conduct anonymous transactions with other e-Gold account holders anywhere in the world."[231] As a result, e-Gold "quickly became the preferred financial transaction method of transnational cyber criminals – particularly those involved in the trafficking of stolen financial information and [personally identifiable information] of U.S. citizens – and a tool for money laundering by cyber criminals."[232] At its peak, e-Gold moved more than $6 million each day for more than 2.5 million accounts.[233] In 2007, the federal government shut down e-Gold. Its owners pleaded guilty to charges of money laundering and operating an unlicensed money transmitting business.[234]

Liberty Reserve

Incorporated in Costa Rica in 2006, Liberty Reserve S.A. for years operated one of the world's most widely used virtual currencies. It provided what it described as "instant, real-time currency for international commerce," but it was allegedly designed to intentionally help criminals conduct illegal transactions and launder the proceeds of their crimes. In particular, it permitted users to conduct financial transactions under *multiple* layers of anonymity.[235]

According to federal prosecutors, Liberty Reserve was one of the principal means by which cyber criminals from around the world, including credit card thieves and computer hacking rings, laundered their illicit proceeds.[236] Liberty Reserve's website offered a "shopping cart interface" that "merchant" websites could use to accept Liberty Reserve currency as payment.[237] The "merchants" who accepted Liberty Reserve currency were overwhelmingly engaged in criminal activities. They included traffickers in stolen credit card data, computer hackers for hire, and underground drug-dealing websites.[238]

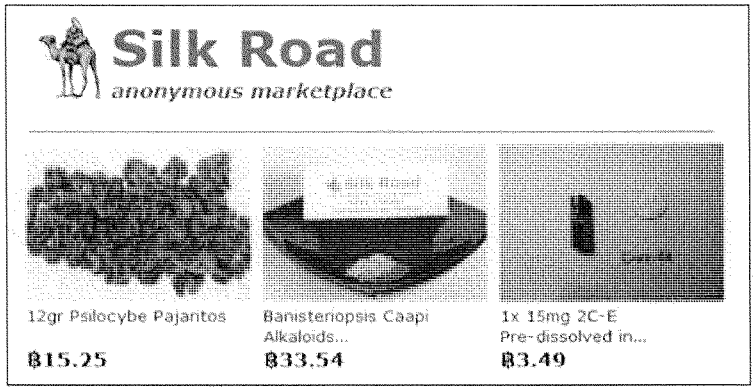
With an estimated one million users worldwide, and more than 200,000 in the United States, Liberty Reserve processed more than 12 million financial transactions annually, with a combined value of more than $1.4 billion.[239] From 2006 to May 2013, Liberty Reserve is believed to have laundered in excess of $6 billion in criminal proceeds.[240]

In May 2013, federal prosecutors in New York charged Liberty Reserve and its founders with operating an unlicensed money transmitting business, and conspiring to commit money laundering.[241] The principal founder, as well as two other defendants, are pending extradition.[242] Another defendant has entered a guilty plea and two others are at large. The site has been shuttered and effectively put out of business.

Bitcoin and Silk Road

Unlike most other virtual currencies, such as e-Gold and Liberty Reserve, Bitcoin is a *decentralized* digital-payments system. In other words, there is no centralized repository or administrator who serves to mediate transactions. Instead, all users install the open-source software on their computing devices, thereby creating a peer-to-peer network through which Bitcoin transactions are conducted and bitcoin "balances" are independently calculated. Significantly, Bitcoin transactions are possible from anywhere in the world there is an Internet connection. They are irreversible once conducted, and have few, if any, fees.

Figure 35
Screenshot of Illicit Drugs For Sale on Silk Road Website



Bitcoin was established in 2009 and its popularity has grown wildly in the past two years. While its use in legitimate commerce is growing, its use in criminal financial transactions was illustrated by its adoption as the exclusive payment mechanism for Silk Road. Often referred to as the "eBay for drugs," Silk Road was an anonymous online market that sold everything from marijuana to prescription drugs to weapons (Figure 35). According to the FBI, it was "the most sophisticated and extensive criminal marketplace on the Internet."[243] One FBI inventory found 13,000 listings for controlled substances, 159 offerings for "services" (including a tutorial on hacking ATMs), as well as hundreds of offerings of hacked accounts and counterfeit IDs.[244] Between February 2011 and July 2013, this "dark market" served more than 100,000 customers and facilitated approximately $1.2 billion worth of transactions.

Catching Up With Bitcoin

Ever since Bitcoin's emergence in 2009, lawmakers, government regulators, and [illegible] alike have all wondered how best to characterize it. Is it money? A security? Or perhaps it is better understood as a commodity? The answer to this question has significant real-world implications, basically determining what regulations – including disclosure requirements – apply to the entities that use and transmit it.

Under guidance issued by the U.S. Treasury Department's Financial Crimes Enforcement Network (FinCEN), the federal Bank Secrecy Act and its various registration, recordkeeping, and reporting requirements can apply to businesses that transmit not only real currency but also "other value that substitutes for currency," such as Bitcoin. FinCEN guidance from March and December 2013 further clarified the scope of these regulations, explaining that any entity that serves as a digital currency administrator or as an intermediary for digital currency transmission is a money transmitter. Consequently, such entities are subject to FinCEN regulations, including its anti-money laundering compliance protocols and safe harbors. Reflecting the significance of these regulations, U.S. [illegible] them have been [illegible]. For example, in May 2013, federal authorities seized a U.S. subsidiary of a leading Japan-based Bitcoin exchange service, Dwolla, on the ground that it was operating as an unlicensed money transmitter. Despite these actions, hearings held over the last few months by the U.S. Senate and New York's top financial regulator underscore that real concerns remain about the best way to address the money laundering threat posed by Bitcoin.

In California, special state laws that protect against money laundering also have a clear role to play in curbing misuse of Bitcoin. In fact, there is a strong argument that the California Money Transmission Act already applies to businesses that electronically exchange and transmit Bitcoin because Bitcoin is "a medium of exchange." What is certain is that, if transnational criminal organizations turn to Bitcoin to launder their illicit proceeds from the state, regulatory scrutiny will intensify.

Sources: 31 C.F.R. § 1010.100(ff); U.S. Department of the Treasury, Financial Crimes Enforcement Network, Guidance on the Application of FinCEN's Regulations to Persons Administering, Exchanging, or Using Virtual Currencies (Mar. 18, 2013) (FIN-2013-G001); Seizure Warrant, In Matter of Seizure of One Dwolla Account, Case No. 13-1162 (D. Md. 2013).

In October 2013, the federal government shut down Silk Road, arrested the principal operator – a U.S. citizen living in the Bay Area – and charged him with narcotics trafficking, computer hacking, and money laundering, among other crimes.[245] Top sellers and significant users in other locations around the world were also arrested. Most recently, in January 2014, federal authorities arrested a co-founder and chief executive of one of the Internet's most popular bitcoin-dollar exchangers for conspiring to sell and launder over $1 million in bitcoins in connection with Silk Road drug purchases.[246] Nonetheless, attempts to resurrect Silk Road continue.

Conclusion

As information systems and networks, consumer bank accounts, and digital content have all become vulnerable to high-tech exploitation, organized crime has evolved to seize new profit opportunities. In this new world, identification credentials and intellectual property have become the primary targets for illicit acquisition and distribution, criminals can purchase data and highly specialized skills from each other on the "dark market," and cutting-edge technologies enable transnational criminal organizations to evade detection and protect their illicit gains from law enforcement authorities in ways that are still not adequately understood.

Recommendations

Trafficking

Recommendation

The Legislature should amend California law to target the leaders of transnational criminal organizations operating in California.

California has no statutory authority that specifically targets or punishes supervisors, managers or financers who conduct operations locally on behalf of transnational criminal organizations. Currently, high-level prison or street gang members who supervise, manage, or finance their local gang associates in the distribution and retail sales of drugs are treated as "co-conspirators" or "aiders and abettors" of their underlings and foot soldiers. However, other states and the federal government have enacted laws that increase the punishment and seize the working capital of the prison or street gang leaders who work on behalf of drug trafficking organizations.

For example, Congress enacted the Continuing Criminal Enterprise Act (Criminal Enterprise Act)[247] in an effort to combat drug cartels by directly attacking their leadership.[248] Under the Criminal Enterprise Act (21 U.S.C. §848), a director of an illegal criminal organization may be sentenced to prison for not less than twenty years to life without the possibility of parole.[249] In addition to lengthy incarceration, the Criminal Enterprise Act authorizes the seizure of the director or manager's ill-gotten monetary gains,[250] thus depriving the criminal organization of its working capital. And in statehouses, Maryland and New Jersey passed laws similar to the Criminal Enterprise Act to increase the criminal liability of large-scale narcotics operators beyand that of their "employees."[251]

To more effectively combat transnational criminal organizations and their criminal gang associates, the California Legislature should broaden existing law to increase criminal penalties for organizers, supervisors, managers or financers of criminal enterprises. This could be accomplished by amending current law to include a Criminal Enterprise Act and to increase potential sentences and fines. By doing so, law enforcement can more effectively target the "shot-callers" of these criminal organizations and destabilize their operations.

Recommendation

Federal, state, and local law enforcement should use California's State Threat Assessment System as a central hub for sharing information about transnational crime.

California lacks a unified system for collecting, analyzing, and disseminating information about transnational organized crime. Police departments and task forces regularly maintain data related to the activities of known organized crime figures, but such data is rarely shared outside that immediate county or affected region. California's State Threat Assessment System (STAS) is uniquely positioned to act as the central hub for California's transnational crime information-sharing needs. The STAS already provides critical tactical and strategic intelligence about trends and emerging patterns relating to criminal activity statewide and ensures first responders and policymakers are provided with timely, accurate, and relevant situation awareness about transnational criminal tactics and techniques. In coordination with the Attorney General's Office, California's tribal, local, state, and federal law enforcement agencies should partner with the STAS to develop a platform to share information about transnational criminal organizations across the state.

Recommendation

Federal, state, and local authorities should establish a unified maritime task force and associated radar network to counter maritime smuggling operations along California's coastline.

Various local, state, and federal law enforcement agencies coordinate their activities to interdict maritime smuggling operations along California's coast. These partnerships are often regional in nature and are typically established on an as-needed basis. California needs a new multi-jurisdictional Maritime Task Force – that leverages expertise at the federal, state and local levels – to combat the threat along its coastline, especially from *panga* vessel smuggling, and to coordinate strategy between affected counties. In addition to the creation of the Maritime Task Force, California should work with federal agencies to implement a network of high-intensity radar stations, sonar buoys, or other appropriate and effective technologies strategically located along the coast, like the large radar receiver recently placed at Carlsbad's Ponto Beach by federal officials, to better detect maritime threats and coordinate law enforcement responses.

Recommendation

The Legislature and Governor should fund five additional Special Operations Units across California.

Transnational crime involves an increasingly decentralized array of international and domestic criminal actors conducting a range of trafficking, financial, and high-tech crimes. The sophisticated nature of these groups and their criminal activities requires an equally sophisticated and coordinated law enforcement response.

The multi-million dollar budget cuts in 2011 to the California Department of Justice's Bureau of Narcotics Enforcement resulted in cutbacks to numerous task forces and special operations units ("SOUs") across the state focused on drug-trafficking organizations and violent gangs. Despite these cuts, the one remaining SOU, operating out of Fresno, has been successful in combatting cartel and gang activity in the Central Valley. For example, in June 2011, the Fresno SOU completed a six-month investigation involving high ranking members of the Nuestro Familia prison gang and various Norteño street gangs that were selling cartel-supplied drugs in Merced and Madera counties.[252] The investigation led to the arrest of 101 suspects and the seizure of 27 weapons and $6.6 million in U.S. currency. Building off this crackdown, the Fresno unit opened 23 additional investigations and closed 14 of them in 2012 and 2013. During these investigations, agents debriefed informants and cooperators and learned that Nuestra Familia was working with Mexican drug cartels, including La Familia Michoacana and the New Milenio Cartel (an off-shoot of Sinaloa), to distribute drugs in the Central Valley, provide protection on the street and in prison, and even commit fire bombings and murders.[253]

Given the success of the Fresno SOU, California would benefit greatly from adding a SOU in each of the Division of Law Enforcement's regional offices in Sacramento, San Francisco, Riverside, Los Angeles, and San Diego. With a relatively modest total budget of $7.5 million, these five new teams would help local and federal authorities build cases against the most dangerous transnational criminal organizations operating in California.

Recommendation

The federal government should continue providing critical funding to support state and local law enforcement agencies in investigating and dismantling trafficking organizations.

In California, methamphetamine trafficking has reached staggering levels. The overwhelming majority of the foreign supply of methamphetamine flows through California's port-of-entry border in San Diego. Amongst the U.S. states that share a border with Mexico, methamphetamine seizures in California dwarf the seizures of our sister states by a factor of five.

Based on the advocacy of the California Attorney General's Office and other state and national law enforcement leaders, Congress appropriated $7.5 million in January 2014 for state law enforcement grants to be administered by the U.S. Department of Justice's Community Oriented Policing Services (COPS) Office to target methamphetamine production and trafficking. These funds will help state law enforcement agencies directly combat one of the most lucrative and dangerous activities perpetrated today by transnational criminal organizations. In California, which suffers disproportionately from foreign- and domestic-refined methamphetamine trafficking by drug cartels, grant funds will support close collaboration between the California Department of Justice's Division of Law Enforcement and local agencies in investigating and dismantling the organizations behind the methamphetamine epidemic in the hardest-hit and underserved communities. But, sustained funding is crucial to law enforcement's ability to make a lasting impact against methamphetamine trafficking. Congress is preparing to consider appropriations for Fiscal Year 2015, and it should continue to fund at or above current levels the resources for this critical federal methamphetamine grant program.

Of equal importance is the restoration of federal funds for other task forces focused on combatting transnational criminal organizations. For several years, federal funding through the Byrne Justice Assistance Grant Program ("Byrne JAG") has enabled the California Department of Justice to lead task forces across the state composed of federal, state, and local law enforcement. In California, the Board of State and Community Corrections administers the distribution of Byrne JAG funding. For California's 2013-2014 Fiscal Year, the Board awarded the Department of Justice $2.1 million, which helped support 17 joint state-local task forces. However, this represents a 46 percent reduction from the $3.9 million in funding awarded to the Department of Justice in Fiscal Year 2009-2010. Because of the critical role played by these highly trained joint state-local task forces in responding to drug trafficking activities, the Board should fully restore funding for these task forces at their 2009-2010 level.

Recommendation

Federal, state, and local law enforcement agencies should increase operational coordination in combatting transnational criminal organizations.

Given the international scope of trafficking networks, local, state and federal law enforcement agencies in California must coordinate to combat major transnational criminal organizations such as the Sinaloa cartel. This coordination should be focused on operations and capacity building.

Operational coordination allows law enforcement agencies to better utilize limited resources and leverage prosecutorial authority under state and federal law. Potential

projects could include: (1) improvements to intelligence exchange and information sharing involving state task forces and federally-sponsored HIDTA teams; (2) partnerships between state law enforcement officials and the National Park Service and U.S. Forest Service to combat marijuana cultivation on public land; and (3) coordination between state and federal public health and corrections officials to reduce demand for drugs trafficked by transnational criminal organizations.

In addition to operational coordination, capacity building is essential to ensure that expertise is developed to combat transnational criminal organizations. Thus, state officials should support existing federal government programs designed to enhance Mexico's capacity to combat transnational crime. The foundation for this cooperation was laid in August 2013 with the signing of a Memorandum of Understanding between the California Department of Justice and the U.S. Department of State's Bureau of International Narcotics and Law Enforcement Affairs. This agreement provides the framework for cooperation between California and the State Department on training and advising foreign legal personnel, and on assisting judicial reform and police training initiatives in other countries.

High-Tech Crime

Recommendation

State and local authorities should develop public-private partnerships to leverage technology against transnational crime.

Because it is so often targeted by transnational criminal schemes, the private sector is usually the best source of information about high-tech threats. Additionally, in the realm of technology, the private sector is often in a better position than government to develop tools and techniques to combat criminal activity, especially new and emerging schemes used by transnational criminal organizations. Law enforcement should find ways to take advantage of the resources available in the private sector to develop new and innovative ways of countering ever-changing criminal threats and tactics.

Recommendation

Business should adopt industry best practices designed to protect against cybercrime.

Lax cybersecurity practices, or the lack of any protections whatsoever, allow far too many breaches of computer networks and databases to happen in California, resulting in billions of dollars in economic losses. To help guide businesses and other entities throughout the state, the California Department of Justice earlier this year released *Cybersecurity in the Golden State* (http://oag.ca.gov/cybersecurity), a report exploring the serious cyber-threats facing business and offering them practical guidance on how to minimize cyber

vulnerabilities. All entities, public and private, doing business in California should assume they are a target and consider and adopt the industry best practices identified in that report.

Money Laundering

Recommendation

The Legislature should amend California law to enable prosecutors to temporarily freeze the assets of transnational criminal organizations and their gang associates before the filing of an indictment.

There is currently no provision in California law for the seizure of criminal proceeds and assets to prevent their dissipation prior to the filing of a criminal case or, in drug cases, prior to the filing of a civil asset forfeiture petition.[254] California law should be modified to allow for pre-indictment freezing of a transnational criminal organization's illicit proceeds or property to prevent their dissipation or disbursement. The ease with which money laundered in California is returned to Mexico via electronic or physical transportation often outpaces the ability of prosecutors to commence criminal proceedings to freeze transnational criminal organization assets.

Unlike California law, federal law authorizes a pre-indictment seizure of assets and property with or without prior notice.[255] The prosecution can request a temporary restraining order without notice if it can establish probable cause that, upon conviction, the property will be subject to forfeiture, and that notice will jeopardize the availability of the property for future forfeiture.[256] Alternatively, a federal prosecutor can request a noticed hearing where he or she must demonstrate that there is a substantial probability that the government will prevail on the issue of forfeiture, failure to allow seizure will result in the property being destroyed or removed from the jurisdiction, and the need to preserve the seized property outweighs the hardship on the opposing party.[257]

California prosecutors should be given equal authority to preserve assets and property prior to filing criminal cases. This could be accomplished by amending existing law by expanding the class of transnational "profiteering" activities subject to seizure. Preservation of such assets would, for example, assist in the recovery of the costs of disposing of toxic waste from, and cleaning up of sites damaged by, clandestine methamphetamine conversion labs. Lacking this authority, a transnational criminal organization's assets can quickly be removed from California prior to the commencement of formal legal proceedings.

Recommendation

The Legislature should strengthen California's prohibition against financial transaction "structuring."

Federal law requires financial institutions to report to financial regulators all currency transactions over $10,000, as well as multiple currency transactions that aggregate over $10,000 in a single day.[258] Federal law makes it a crime to break up or "structure" financial transactions into amounts smaller than $10,000 for the purpose of avoiding the mandatory reporting requirements.[259] Federal law does not require that the structured transactions be intended to hide the fact that money came from criminal activities or to facilitate criminal activities.[260] The mere structuring of financial deposits, coupled with notice of the reporting requirements, is sufficient to charge a money launderer with a federal financial crime.

By contrast, California's laws require state prosecutors to prove a money launderer *intentionally* structured a financial transaction to disguise that the proceeds were derived from a criminal activity or, alternatively, were structured to promote or further criminal activity.[261] Requiring a prosecutor to establish a defendant's subjective intent in a structuring case enables transnational criminal organizations to conduct unmonitored transactions and launder their money with a reduced risk of state criminal liability.

California's anti-structuring statute should be amended so that breaking up financial transactions into smaller amounts for the purpose of avoiding the reporting requirements is, in and of itself, a criminal act.

Recommendation

California prosecutors need advanced training to combat sophisticated transnational money laundering schemes.

Significant budget reductions have curtailed the investigatory and prosecutorial capacities of law enforcement agencies to combat transnational crime. Meanwhile, transnational criminal organizations have employed increasingly sophisticated schemes to launder their illicit profits. These emerging schemes require prosecutors to dissect complex international trade transactions and finance mechanisms in order to demonstrate criminal liability and successfully dismantle criminal organizations and syndicates.

The Department of Justice should leverage existing resources and partnerships to provide advanced training and technical assistance to prosecutors investigating complex money laundering schemes. Such training will expand the pool of trained and experi-

enced prosecutors in the fight against organized crime in California and enhance our ability to disrupt this criminal activity.

Recommendation

State authorities should partner with their Mexican counterparts to share intelligence and disrupt the illicit flow of money across the border.

Emerging money laundering strategies by Mexico-based transnational criminal organizations include the use of non-bank financial institutions such as money transmitters to deposit and transfer illicit funds into the financial system. Unregistered money transmitting businesses, which mask that they are in the business of transferring funds through the international financial system, present a challenge for tracking and prosecuting money laundering transactions.[262] For example, financial crime investigators have observed individuals who claim to be agents or employees of licensed money services businesses operating along the California-Mexico border entering Califarnia from Mexico with satchels full of bulk cash.[263] The investigators need to have available to them in real time an up-to-date database of registered agents and employees of California-licensed money service businesses and would benefit from having similar information available from money services businesses operating in Mexico.[264]

Bilateral anti-money laundering initiatives are underway in the U.S. and Mexico. For example, in October 2013, the Financial Crimes Enforcement Network (FinCEN) reached an agreement with Mexico's National Banking and Securities Commission to share information related to their respective responsibilities on fighting money laundering.[265] Reportedly, this marks the first time that FinCEN has entered a relationship with a regulator outside the U.S. to share information.[266]

Given California's pivotal role in cross-border transnational money laundering activities involving Mexico, California financial regulators and law enforcement officials should similarly partner with Mexico's Banking and Securities Commission to share intelligence in a timely manner about the methods, modus operandi, and trends and routes used by criminal organizations operating between California and Mexico and cross-border currency flows. California and Mexico should incorporate the latest technology to collect, analyze, and disseminate critical financial intelligence, including cross-border wire transactions.[267]

Endnotes

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[246] U.S. Attorney's Office, Southern District of New York, *Manhattan U.S. Attorney Announces Charges Against Bitcoin Exchangers, Including CEO of Bitcoin Exchange Company, for Scheme to Sell and Launder over $1 Million in Bitcoins Related to Silk Road Drug Trafficking,* news release (Jan. 27, 2014).

Chapter 6

[247] 21 U.S.C. § 848

[248] *Garrett v. United States* (1985) 471 U.S. 773, 781.

[249] Steven Burnholtz, et al., *International Extradition in Drug Cases,* 10 N.C. J. Int'l L. & Com. Reg. 353, 358 (1985); see also 21 U.S.C. § 848, subd. (a)(1)(c).

[250] 21 U.S.C. §§ 848, 853.

[251] Md. Criminal Law Ann. § 5-607, subd. (b)(1); N.J. Stat. § 2C:35-3 (2013).

[252] Interview with Commander of the Fresno Special Operations Unit (Sept. 2013).

[253] *Id.*

[254] *People v. Green* (2004) 125 Cal.App.4th 360, 374, fn. 9 ["[Penal Code s]ection 186.11 gives the People no way to prevent the dissipation of assets before a complaint or indictment has been filed."]).

[255] 18 U.S.C. § 1963, subd. (d).

[256] 18 U.S.C. § 1963, subd. (d)(2).

[257] 18 U.S.C. § 1963, subd. (d)(1)(B)(iii).

[258] 31 U.S.C. § 5313, and regulations thereunder.

[259] 31 U.S.C. § 5324.

[260] 31 U.S.C. § 5324, subd. (a)(3).

[261] CA Pen. Code, § 14166

[262] *Id.*

[263] Interview with CAMLA Task Force Commander, SAS, Ernesto Limon, CA DOJ (Sept. 2013).

[264] *Id.*

[265] FinCEN News Release (Oct. 24, 2013), *http://fincen.gov/news_room/nr/20131024.pdf.*

[266] Statement of Jennifer Shasky Calvery, Director, Financial Crimes Enforcement Network, Upon Signing a Memorandum of Understanding with Mexico's National Banking and Securities Commission, Oct. 24, 2013, *http://fincen.gov/pdf/Statement%20for%20MOU%20signing%20with%20CNBV.pdf.*

[267] Celina B. Realuyo, *It's All About the Money: Advancing Anti-Money Laundering Efforts in the U.S. and Mexico to Combat Transnational Organized Crime,* Woodrow Wilson International Center for Scholars Mexico Institute (May 2012), p. 27.

Post-Hearing Questions for the Record
Submitted to Timothy D. Sini
From Senator Claire McCaskill

"Border Insecurity: The Rise of MS-13 and Other Transnational Criminal Organizations"

May 24, 2017

Reporting Crime in the Immigrant Community

Since January 20, 2017, there have been reports of increased fear in immigrant communities and in some cases decreased reporting of crimes.[1]

1. Have you seen a decrease in reports of crime from immigrants in your community? If so, please describe the extent of the decrease and any impact that it has had on your ability to investigate and address crime in your community.

The answer to this question is difficult to ascertain. Collecting data that is relevant to this question is difficult for a variety of reasons, including, but not limited to, the Department's policy that prohibits police officers from inquiring into the immigration status of an individual who contacts the police as a witness, a victim or someone merely seeking police assistance. There is data that may be somewhat probative to this question, *e.g.*, current statistics relating to the reporting of certain types of crimes compared to previous years. It is of course imperative that law enforcement create an environment in which all residents are comfortable reporting crime to police.

2. How critical is reporting to the investigation and prosecution of crime in your community?

It is mission critical. Law enforcement engages in a variety of strategies and techniques to prevent and detect crime, and one of the most valuable tools is an open dialogue with the public and the residents.

3. Have you noticed an increase in fear among the immigrant communities you work with in recent months? If so, please describe the impact that this fear has had on the relationship between your department and the community.

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[1] *Too Scared to Report Sexual Abuse. The Fear: Deportation*, The New York Times (Apr. 30, 2017) (https://www.nytimes.com/2017/04/30/us/immigrants-deportation-sexual-abuse.html).

The Suffolk County Police Department engages with the communities that it is tasked to protect and serve in a variety of ways. For example, department officials and officers engage directly with the residents, and the Department also strategically develops relationships with community ambassadors to assist the Department in improving community relations or breaking certain barriers to dialogue. According to certain community ambassadors, undocumented residents, those who have temporary legal immigration status and their loved ones are experiencing increased fear of deportation. It is of course difficult to measure the accuracy or extent of this claim for a variety of reasons. But, fear is not helpful, whether it is fear of law enforcement or criminals. The Suffolk County Police Department strives to empower communities to make our County one of the safest counties in America.

RESPONSES TO QUESTIONS FOR THE RECORD
THE COMMITTEE ON HOMELAND SECURITY
UNITED STATES SENATE
"Border Insecurity: The Rise of MS-13 and other Transnational Criminal Organizations"

Post-Hearing questions for the Record
From Senator Claire McCaskill

Reporting Crime in the Immigrant Community

Question:

1. Have you seen a decrease in reports of crime from immigrants in your community? If so, please describe the extent of the decrease and any impact that it has had on your ability to investigate and address crime in your community.

Answer:

We have seen a decrease in "crime reporting" in our community as shown in my above attached worksheets entitled "Citywide Crime Summary Statistics." Over the past three-years. In addition, we have seen a general decrease in violent crime in our community over the same time period. This decrease in both reporting and actual crime has been consistent in years 2015, 2016 and as of June of 2017 this same downward trend seems to be continuing. It is important to note that these decreases in the reporting of crime as well as the decrease in actual crimes committed are small but significant, down 8.3% in 2015 and down again 5.2% in 2016. As an investigator it is my opinion that these decreases in "total crime" in our community are not a result of any action taken by the current administration, as you can see these steady and consistent decreases have been in effect since 2015. It is important to note that in the greater Boston area, as the "general crimes" have decreased over the past three years, "gang related" crimes have significantly increased.

Addressing the second part of question one, as an investigator, working within a community where the majority of its residents identify with the Hispanic and/or Latino culture (predominantly Central American) it is absolutely vital to have an established relationship with our community in order to identify, investigate and prosecute criminal offenses. It is vital that the victims of crimes can trust their local police department, that a victim can come into the Chelsea Police Station and report a crime without fear that his/or her immigration status will come into question. It is important that as an investigator I can bring a witness to the grand jury to offer testimony without that witness being in fear that his/or her immigration status will come into question and it is important that the family members of both victims and witnesses can support each other during this stressful process without their immigration status coming into question.

Due to our positive relationship our department has with our community and the trust that has been established between our department and the Central American community that lives within Chelsea and East Boston we have not experienced a negative impact that has affected our ability to serve our community and successfully investigate/prosecute criminal offenses over the past several months.

Question:

2. How critical is "reporting" to the investigation and prosecution of crime in your community?

Answer:

In short, it is the most critical stage of the investigation. Accurate and timely reporting of the crime sets the foundation for the successful investigation and prosecution of the crime. It is important to have victims and witnesses that are confident and want to be part of the judicial process. It is even more important that they trust the process and that trust begins at the time of reporting the crime. The first police officer on the scene, the first interview conducted with the victim and/or witness by detectives, the introduction of the victim and/or witness to the prosecutor. These are critical stages in the investigative process, but they are also the most stressful stages for the victim and/or witness. It is during these times that the victim and/or witness are the most frightened and feel the most vulnerable. This is where their trust in you and the process is critical.

Question:

3. Have you noticed an increase in fear among the immigrant communities you work with in recent months? If so, please describe the impact that this fear has had on the relationship between your department and the community.

Answer:

The North Shore of Boston, specifically East Boston and Chelsea, Massachusetts has a strong and large Central American population. Yes, following the November election and leading up to the January inauguration there was great concern and fear among the residents of our communities that policing was going to be conducted differently and that immigration authorities were going to be more active resulting in family members being deported. There was fear that our local police department would be part of or even "spearhead" the enforcement of these immigration laws. We did experience a short lived, but real affect to these fears. There was a short time where witnesses were apprehensive to come forward to report a crime or to make themselves known as a witness to a crime. In response to these fears, and recognizing that these fears can paralyze a Police Departments ability to affectively police the community our department did the following.

- In Chelsea, Massachusetts, our Police Department has been at the forefront of addressing issues that present themselves between our officers and our immigrant community. We feel that the greatest asset to addressing issues within our community is communication. In January there were lots or "rumors" to how things were going to "change within the immigrant community under a Trump administration." As a department we held meetings at town hall, schools, local crime watch meetings, church groups, health clinics. We additionally worked with outreach centers within our community and held meetings at their local facilities that work heavily with our Central American community to let them know that when it comes to reporting crime that the Chelsea Police Department has no need to know, or any wanting to know the victim/witnesses immigration status.
- We let our community know that "immigration laws are enforced by federal agents, not local law enforcement". It is for this reason that there is no reason to feel differently about your relationship with local law enforcement.
- The Chelsea Police Department established the "newcomer program" with the Massachusetts General Hospital to help educate new students at the high school and new families to our

community arriving as immigrants from foreign countries as to health, education, law enforcement and social resources that are available to them as they transition into their new life.

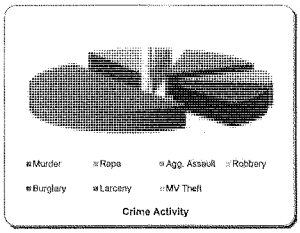
- We informed our immigrant community as to the extent that our department assists and supports federal agencies that enforce immigration laws.

Chelsea Police Department
19 Park Street
Chelsea, Massachusetts 02150

CITY WIDE Crime Comparison Statistics

2017 End of Month Summary Statistics **MAY**

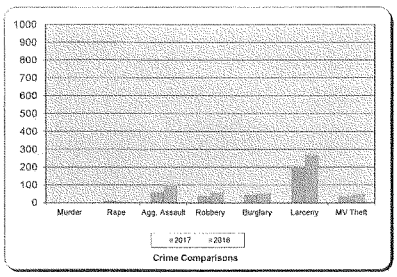
	Murder	Rape	Aggravated Assault	Robbery	Burglary	Larceny	MV Theft
Jan	1	0	14	7	9	41	4
Feb	1	3	9	11	8	41	8
Mar	0	3	14	8	15	52	8
Apr	0	2	12	7	5	40	10
May	0	3	10	5	9	30	6
Jun							
Jul							
Aug							
Sep							
Oct							
Nov							
Dec							
Totals:	2	11	59	38	46	204	36

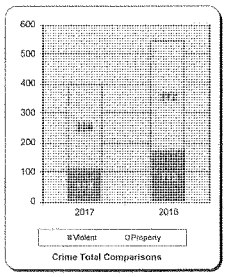


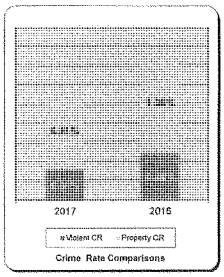
	Violent Crime	Property Crime	Total Crime	Crime Rate	Crime Rate % Change	Violent Crime Rate	Vio. Crime % Change	Property Crime Rate	Prop Crime % Change	2016 Violent Crime	2016 Property Crime	2016 Total Crime
Jan	22	54	76	0.22%		0.06%		0.15%		30	81	111
Feb	24	57	81	0.23%	0.01%	0.07%	0.01%	0.16%	0.01%	20	73	93
Mar	25	75	100	0.28%	0.05%	0.07%	0.00%	0.21%	0.05%	47	80	127
Apr	21	55	76	0.22%	-0.07%	0.06%	-0.01%	0.16%	-0.06%	34	63	97
May	18	45	63	0.18%	-0.04%	0.05%	-0.01%	0.13%	-0.03%	39	75	114
Jun												
Jul												
Aug												
Sep												
Oct												
Nov												
Dec												
Totals:	110	286	396							170	372	542

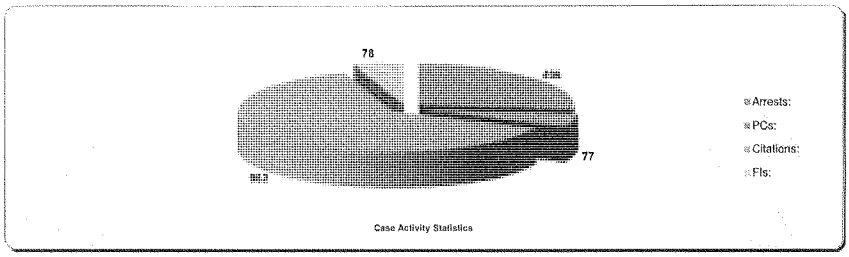
Prepared by the Chelsea Police Department's Crime Reporting and Analysis Unit.

Crime Comparison Statistics
Year-to-Date Comparison Statistics









Chelsea Police Department
19 Park Street
Chelsea, Massachusetts 02150

CITY WIDE Crime Comparison Statistics

2016 End of Year Summary Statistics

	Murder	Rape	Aggravated Assault	Robbery	Burglary	Larceny	MV Theft
Jan	0	0	20	10	12	59	10
Feb	0	1	12	7	15	46	12
Mar	1	2	25	19	10	63	7
Apr	0	1	19	14	10	46	7
May	0	4	25	10	5	57	12
Jun	0	2	18	13	20	83	8
Jul	0	2	16	15	7	64	9
Aug	0	1	8	11	13	59	12
Sep	0	1	15	14	16	67	16
Oct	0	0	21	12	8	61	9
Nov	0	1	16	9	7	37	7
Dec	0	1	10	3	12	41	7
Totals:	**1**	**16**	**205**	**137**	**135**	**683**	**116**

END OF YEAR COMPARISON STATISTICS

	2015	2016	% Change
Violent Crime	425	359	-15.5%
Property Crime	939	934	-0.5%
Total Crime	1,364	1,293	-5.2%

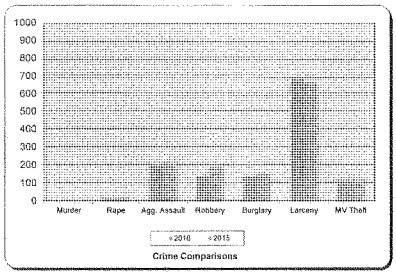
Total Crime: Down!

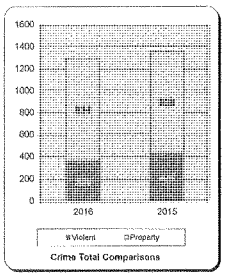
-5.2%

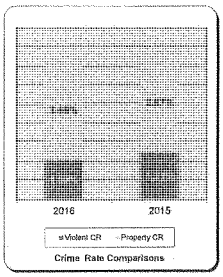
	Violent Crime	Property Crime	Total Crime	Crime Rate	Crime Rate % Change	Violent Crime Rate	Vio. Crime % Change	Property Crime Rate	Prop Crime % Change	2015 Violent Crime	2015 Property Crime	2015 Total Crime
Jan	30	81	111	0.32%		0.09%		0.23%		32	50	82
Feb	20	73	93	0.26%	-0.05%	0.06%	-0.03%	0.21%	-0.02%	19	56	75
Mar	47	80	127	0.36%	0.10%	0.13%	0.06%	0.23%	0.02%	32	64	96
Apr	34	63	97	0.28%	-0.09%	0.10%	-0.04%	0.18%	-0.05%	36	110	146
May	39	74	113	0.32%	0.05%	0.11%	0.01%	0.21%	0.03%	49	86	135
Jun	33	111	144	0.41%	0.09%	0.09%	-0.02%	0.32%	0.11%	35	85	120
Jul	33	80	113	0.32%	-0.09%	0.09%	0.00%	0.23%	-0.09%	50	97	147
Aug	20	84	104	0.30%	-0.03%	0.06%	-0.04%	0.24%	0.01%	37	80	117
Sep	30	99	129	0.37%	0.07%	0.09%	0.03%	0.28%	0.04%	39	88	127
Oct	33	78	111	0.32%	-0.05%	0.09%	0.01%	0.22%	-0.06%	24	72	96
Nov	26	51	77	0.22%	-0.10%	0.07%	-0.02%	0.14%	-0.08%	45	71	116
Dec	14	60	74	0.21%	-0.01%	0.04%	-0.03%	0.17%	0.03%	27	80	107
Totals:	**359**	**934**	**1,293**							**425**	**939**	**1,364**

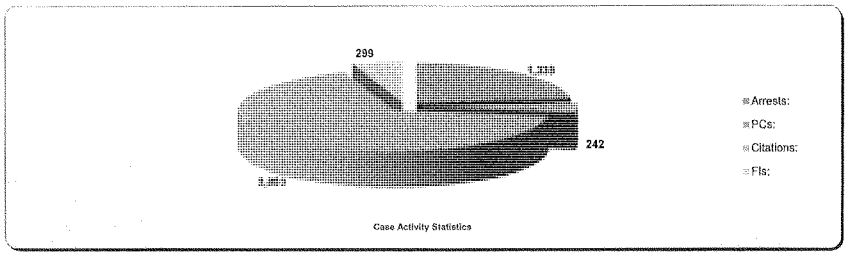
Prepared by the Chelsea Police Department's Crime Reporting and Analysis Unit.

Crime Comparison Statistics
Year-to-Date Comparison Statistics









Chelsea Police Department
19 Park Street
Chelsea, Massachusetts 02150

Crime Comparison Statistics
2015 End of Year Summary Statistics

	Murder	Rape	Aggravated Assault	Robbery	Burglary	Larceny	MV Theft
Jan	0	1	11	20	9	36	5
Feb	0	1	9	9	8	39	9
Mar	0	2	19	11	10	46	8
Apr	0	1	20	15	18	78	14
May	0	1	26	22	13	64	9
Jun	0	3	18	14	12	62	11
Jul	0	3	25	22	18	66	13
Aug	0	3	19	15	7	56	17
Sep	0	2	20	17	20	60	8
Oct	0	0	14	10	11	51	10
Nov	0	4	16	22	12	48	9
Dec	0	1	17	7	14	57	8
Totals:	**0**	**22**	**214**	**184**	**152**	**663**	**121**

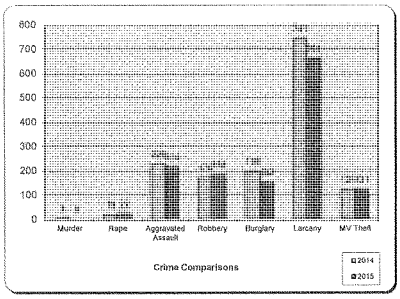
END OF YEAR COMPARISON STATISTICS

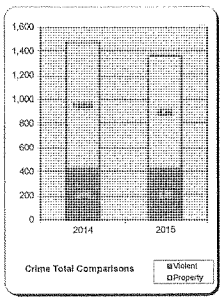
	2014	2015	% Change
Violent Crime	419	420	0.2%
Property Crime	1,060	936	-11.7%
Total Crime	1,479	1,356	-8.3%

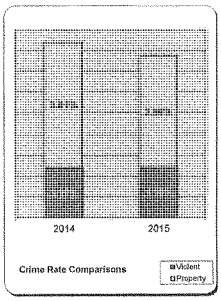
	Violent Crime	Property Crime	Total Crime	Crime Rate	Crime Rate % Change	Violent Crime Rate	Vio. Crime % Change	Property Crime Rate	Prop Crime % Change	2014 Violent Crime	2014 Property Crime	2014 Total Crime
Jan	32	50	82	0.23%		0.09%		0.14%		36	133	169
Feb	19	56	75	0.21%	-0.02%	0.05%	-0.04%	0.16%	0.02%	26	62	88
Mar	32	64	96	0.27%	0.06%	0.09%	0.04%	0.18%	0.02%	45	74	119
Apr	36	110	146	0.42%	0.14%	0.10%	0.01%	0.31%	0.13%	34	66	100
May	49	86	135	0.38%	-0.03%	0.14%	0.04%	0.24%	-0.07%	33	84	117
Jun	35	85	120	0.34%	-0.04%	0.10%	-0.04%	0.24%	0.00%	30	93	123
Jul	50	97	147	0.42%	0.08%	0.14%	0.04%	0.28%	0.03%	33	102	135
Aug	37	80	117	0.33%	-0.09%	0.11%	-0.04%	0.23%	-0.05%	54	102	156
Sep	39	88	127	0.36%	0.03%	0.11%	0.01%	0.25%	0.02%	28	93	121
Oct	24	72	96	0.27%	-0.09%	0.07%	-0.04%	0.20%	-0.05%	26	91	117
Nov	42	69	111	0.32%	0.04%	0.12%	0.05%	0.20%	-0.01%	38	85	123
Dec	25	79	104	0.30%	-0.02%	0.07%	-0.05%	0.22%	0.03%	36	75	111
Totals:	**420**	**936**	**1,356**							**419**	**1,060**	**1,479**

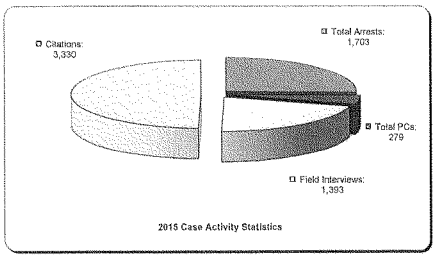
Prepared by the Chelsea Police Department's Crime Reporting and Analysis Unit.

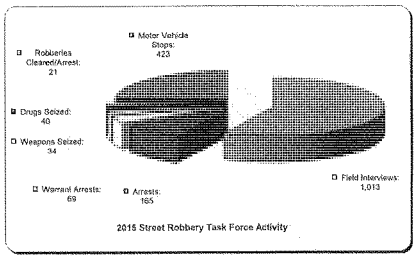
Crime Comparison Statistics
Year-to-Date Comparison Statistics











Prepared by the Chelsea Police Department's Crime Reporting and Analysis Unit.

THE COMMITTEE ON HOMELAND SECURITY
UNITED STATES SENATE
Observations and Recommendations for the Record
Detective Scott Conley, Chelsea, Massachusetts Police Department, Task Force Officer, Federal Bureau of Investigations (FBI)

While testifying in Washington D.C. the question was asked if there are any changes to laws or procedures that can be recommended to assist in combating the rise of MS-13 in the United States. Over the past ten years I have had the privilege to travel to El Salvador many times and work alongside groups that represent both the United States Government as well as the El Salvadorian Government while combating MS-13 operations both in Central America and the United States. There is a common theme among the group "MS-13 is bad for both of our countries, and they are getting more organized, more violent and becoming more of the threat to the security of the United States". In the past 45 days I have been to El Salvador twice with the State Department and again there was a common theme "what are we really going to do differently about it". Representatives from both governments and law enforcement are aware of the hearings taking place on MS-13, but seemed unsure if there was going to be any changes to the standard operating procedures.

While meeting with representatives from these different agencies I informed them that if they had recommendations and/or observations that I would share them with this committee as part of my Written Testimony for the Record. I am also offering, and look forward to speaking with any committee member and/or their staff on any of the below listed observations and recommendations in detail, and if possible assist with their implementation or to put committee members and their staff in contact with individuals that can further assist with addressing these issues that continue present themselves to agencies that are currently investigating MS-13 and other transnational criminal organizations and their operations.

INL (International Narcotics and Law Enforcement)

While in El Salvador I had the privilege to work alongside members of INL who are approaching the MS-13 issue in a dynamic way, not just through security measures, but also working with the El Salvadorian government to break the "cycle of violence and corruption" that has plagued the country for decades. It is our shared thought the a secure and safe El Salvador directly impacts the security of the United States.

- In El Salvador, we need to support community policing and violence prevention projects to build up stronger communities, creating spaces where police can serve as role models for youth in marginalized areas. INL does this through the GREAT program, which places PNC officers directly in schools to deliver an anti-gang curriculum, and the Police Athletic League, where a Salvadoran-NGO works with police officers to coach youth soccer and other sports.

- Strategic support to the police can provide the stability to magnify job creation efforts and build up communities, so that families have greater reason to stay in their home country and no longer feel escape to the United States is the only option.

- We need to support the Attorney General and other Salvadoran institutions to fight corruption. Strengthening the institutions are important, but so is direct cooperation and mentoring of the investigators and prosecutors working to confront corruption head on.

- Our border policy, especially the gap between DHS and HHS, exacerbates the challenge. Sen Cornyn (R-TX) identified the problem in testimony in the past few weeks … a 16-yr old, criminal gang member from a country other than Mexico can't be returned due to U.S. law. If the same criminal was from Mexico, he could be turned around at the border. Within 72-hours, CBP must turn over UACs to HHS, with no exchange of law enforcement history. HHS places the UAC in the custody of adults other than their biological parents. HHS does a welfare check at 30-days. 200,000 UAC estimated in U.S. It's critical that this information gap be addressed if HHS is to appropriately follow-up and monitor the highest-risk youth.

- We need to support the Border Intelligence and Coordination Center (GCIF), an effort started by the Salvadoran government that will give us a shared platform for criminal intelligence on gangs, human smugglers, and Special Interest Aliens (SIA).

- The platform is meant to centralize information about criminal histories, deportations, and other derogatory information for both police and border forces throughout the Northern Triangle and Mexico. Salvadoran police and migration officers started it as a way to pool information, and they have begun processing requests for information (RFIs) from local and federal law enforcement in the U.S. An ICE officer in McAllen, TX, or a police officer in Massachusetts with a Salvadoran national in custody can request information and have both Salvadoran agencies provide a definitive readout of suspected gang affiliations, immigration history, and criminal record in multiple countries.

- We currently have one Salvadoran police officer and one Salvadoran migration officer detailed to McAllen, allowing direct screening and verification of incoming migrants for gang affiliation.

- As more countries participate, officers assigned to the GCIF will bring access to their own databases, the way the Salvadoran police and migration authority already have. INL in El Salvador hopes to have access to Guatemalan and Honduran information by the end of the year, and is working with Mexico to do the same. As this platform develops, it can move beyond intelligence dissemination and help these different police forces coordinate operations in each participating country.

United States Department of State, Diplomatic Security Service, Overseas Criminal Investigations

Critical changes have been recommended when it comes to NCIC reporting. Representatives from the Office of the Consular in El Salvador seem to believe that the below recommended changes to NCIC "gang" reporting are not happening like they should and did post 911 when addressing "possible terrorists" threats. From speaking to members of the Overseas Criminal Investigations Office, El Salvador, these changes would greatly improve their offices ability to process and/or deny VISA's and share such information more effectively and in a timely manner. It is in my professional opinion that these changes are critical and are able to be accomplished with limited resources by following the same post 9/11 vetting protocols that were used for terrorist threats.

Vulnerabilities:

- New NCIC reporting of gang affiliations would not be retro-active or historical in implementation.

- New NCIC reporting is very ambitious as it would be applicable to all Local, State, and Federal law enforcement reporting; it would really be a shift in the law enforcement culture of reporting.
- NCIC reporting is first established by a criminal encounter. Any intel (to include corrections info) on associated gang members would not be captured without a criminal encounter first.
- The Federal mandate to maintain gang related information (3-5yrs, depending on the State).
- The variations in State legislation that deal with gang related issues (for example, the US DOJ-NGC data states that only 11 States have legislation that defines a "gang member").

Benefits:

- New NCIC gang reporting information would be available in the Consular Consolidated Database through IAFIS.
- All Consular Officers would have access to gang related information prior to making a visa adjudication.

Local efforts that are happening here:

- The GCIF. We are working to establish a DSS presence at the GCIF to ensure long-term access to NT gang related information.
- The Embassy LEWG (Law Enforcement Working Group) and PWG (Policy Working Group) is focusing efforts to better support enhanced gang vetting.

So, in short, enhanced gang vetting is a program priority for the ARSO-I and FPU programs here in San Salvador.

Let me also add, if the issue of enhanced gang vetting is a matter of national security, than it certainly has correlation to the issue of terrorist screening. The current process of enhanced gang vetting and the associated challenges of access to information can be compared to the processes of terrorist vetting prior to 9/11. As a result of 9/11 and the Commission Report, we now have a process for terrorist vetting; an SAO (Security Advisory Opinion). The SAO is a process that triggers vetting at the NTC and other agencies level. I believe this SAO process could be applied to the issue of enhanced gang vetting, as it would mitigate many of the vulnerabilities and challenges we face in keeping the bad guys out.

Department of Justice (DOJ)

While on numerous deployments to El Salvador I was able to speak with and work alongside members of Department of Justice and the Assistant United States Attorney's that were on TDY to El Salvador. While speaking with these AUSA's these were some of the common concerns and recommendations.

- **CRITICAL VULNERABILITY:** Prosecutors (or "fiscales") in El Salvador commonly fill the role of both investigator and prosecutor because of a lack of trust between prosecutors and the National Police (PNC). As a result, OCGS identified two streams of evidence in local criminal investigations conducted by the host nation: (1) evidence derived from investigations conducted by prosecutors, and (2) evidence derived from vetted PNC police officers. Because of cultural inequities between local police and prosecutors, the majority of evidence received by FBI TAG and HSI TCIU is derived from one stream, the vetted task force officers. This tenuous relationship between local police and prosecutors creates a hurdle for US law enforcement to maximize evidence sharing capability in order to support US based prosecutions. Another issue is duplication of effort. Unbeknownst to prosecutors and police, often times both are conducting

investigations on the same targets. US agencies are not maximizing collection capability on MS13 especially leads stemming from the prosecutor's stream of evidence.

- **RECOMMENDATION:** In order to enhance US based MS13 prosecutions, strategically locate a US federal prosecutor in El Salvador to exploit both streams of evidence collection. This will ensure that US federal agencies are maximizing evidence collection capabilities. Further, must have a role and access to INL's GCIF.

Post-Hearing Questions for the Record
Submitted to J. Thomas Manger
From Senator Claire McCaskill

"Border Insecurity: The Rise of MS-13 and Other Transnational Criminal Organizations"

May 24, 2017

Reporting Crime in the Immigrant Community

Since January 20, 2017, there have been reports of increased fear in immigrant communities and in some cases decreased reporting of crimes.[1]

1. Have you seen a decrease in reports of crime from immigrants in your community? If so, please describe the extent of the decrease and any impact that it has had on your ability to investigate and address crime in your community.

Answer: No. However, this is a difficult question to research because we do not ask victims about their immigration status. We have looked at those areas that have a high immigrant population and compared this year's calls for service vs. last year and have not seen any decrease in folks calling for our help. Also, no decrease in reported crime either. The levels are about the same as last year.

2. How critical is reporting to the investigation and prosecution of crime in your community?

Answer: Unreported crime makes our community less safe. Domestic violence, sexual assault, hate crimes are all examples of crimes that frequently go unreported. When this occurs, sexual predators, abusers, and those committing acts of hate go free and typically re-offend. If witnesses don't' come forward to assist the police, often times arrests may not occur or prosecutions may not be as strong without that eyewitness testimony.

3. Have you noticed an increase in fear among the immigrant communities you work with in recent months? If so, please describe the impact that this fear has had on the relationship between your department and the community.

Yes. We have seen anecdotal incidents like kids not attending school, etc. The MCPD used the publicity surrounding the President's executive orders on immigration as an opportunity to reinforce our policy of not asking victims or witnesses about their immigration status. This helped allay some of the fear and minimize any impact on the relationship between the police dept. and the immigrant community.

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[1] *Too Scared to Report Sexual Abuse. The Fear: Deportation*, The New York Times (Apr. 30, 2017) (https://www.nytimes.com/2017/04/30/us/immigrants-deportation-sexual-abuse.html).

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