



April 5, 2017

Improving Border Security and Public Safety

Committee on Homeland Security and Governmental Affairs, United
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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 country.

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 be 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.