

## Hearing Transcript

### House Appropriations Subcommittee on Homeland Security Hearing on President Obama's Fiscal 2017 Budget Request for the Department of Homeland Security

February 24, 2016

CARTER:

Good morning. We may have others coming in a few minutes later, but we're going to begin this hearing right now, and we may be joined by others of our colleagues in a few minutes.

As this -- as this hearing is called to order, I'd like to welcome everyone to this first hearing of the Department of Homeland Security's Fiscal Year 2017 president's budget request.

Mr. Secretary, it's good to have you here. We're going to have an -- we're going to have an interesting conversation.

By the way, I understand we have several members of the Tunisian parliament who are observing the proceeding today as guests of Mr. Price and the State Department. Welcome to each of you. We're glad you're here. I have visited your country, and I enjoyed it very much, was given good hospitality, and I hope we give good hospitality to you while you're here.

Mr. Secretary, because we enjoy a relationship that is candid and (inaudible) mutual respect, I'm going to get right to the point and tell you that I'm pretty disappointed in the budget submission. As you know, the budget of \$40.6 billion, a decrease of \$381.3 million from last year. It's not the amount of the request that worries me, it's the intellectually dishonest and politically insensitive gimmicks included in the request.

Right off the bat, the request creates a \$908.8 million hole by assuming offsets from new, unauthorized TSA fees. I mean, this is not the first time we've talked about these fees. They -- they -- like a bad day, they keep turning up, turning up, turning up.

It shortchanges the statutory minimum of 44,000 detention beds by more than 3,087, a gap of roughly 10 -- 1. -- of \$101.2 (ph) million. It slashes FEMA, State (ph), Homeland Security and UASI grant program by \$537 million, a reckless cut, given ISIS's pledge launch (ph) and inspire more attacks on the U.S.

In addition (ph) to the Border Patrol staffing by 300 agents on the grounds that attrition rates exceed new agent hires. This is a fact DHS has yet to present any analysis that supports the assertion that a staff cut will not increase risk to CBP -- to CBP mission to secure the border.

At Secret Service, the budget fails to include \$10 million in change of station costs, which assures the agents get a rest from the grind of VIP protection, something we all agree is necessary to improve morale.

I have other questions about your budget priorities, for example, the request to buy (ph) back (ph) hundreds of millions of dollars of cuts made last year for staff positions that are not filled today. It includes \$150 million for a lengthy design process for a new Coast Guard heavy icebreaker, of which only \$25 million can be obligated in FY 17. While I believe in -- that we need a new heavy icebreaker, this funding request precedes a sound procurement funding strategy. More than \$225 million is requested for a new FEMA headquarters (inaudible) (inaudible) Does this building really (inaudible) need to secure the border and provide Homeland Security and intelligence (ph) programs?

I'm somewhat comfortable with the \$250 million increase proposed for (inaudible) security enhancements, but not if the majority of the funds are for increases to personnel.

So Mr. Secretary, I hope I've been clear that this request is a major disappointment after last year. To be fair, I do appreciate your continued emphasis on management reform, better requirements (ph) analysis and (inaudible) budget justification and a commitment to institutionalizing joint operations across DHS components.

I look forward to hearing what you learned from the new common (ph) appropriations structure we adopted last -- this year, and I appreciate the level of effort made to undertake the changes.

With that, I'd like to recognize Ms. Roybal-Allard, our distinguished ranking member, for any remarks she may make.

**ROYBAL-ALLARD:**

Thank you, Mr. Chairman, and good morning, Mr. Secretary and welcome. I also would like to extend my welcome to the delegation from Tunisia.

Let me begin by noting your leadership in helping the department chore (ph) as an institution. It is clear to me that today, under your stewardship, the department is more integrated and better focused than ever on the critical areas of planning, budgeting, joint (ph) requirements and acquisition best practices.

As you know, for the Fiscal Year 2017 appropriations process and beyond, we'll be working within very tight fiscal constraints. So that kind of institutional rigor from the department is definitely needed.

The Fiscal Year 2017 net discretionary budget request for the Department of Homeland Security is \$40.57 billion. This does not include an additional \$6.7 billion in disaster relief funding, which is an adjustment to the discretionary cap.

The total is nearly \$400 million below the current year funding level. This is obtained in large part by proposing significant cuts to preparedness grants, and I am deeply concerned about those proposed cuts and the signal it sends to state and local jurisdictions, which need the federal government to be consistent in its level of support in order to plan and budget for the future.

Mr. Secretary, some areas on which we have disagreed deal with the appropriate enforcement of immigration law. I will discuss some of those issues this morning, but I have certainly appreciated your willingness to listen to my concern and that of other members and take steps to address some of them.

For nearly every other mission area of the department, Mr. Secretary, I think you are providing excellent leadership. There's still a lot of work to do, but it seems clear to me that good progress is being made. I look forward to your testimony and our discussion today, and I look forward to continuing to work with you this year in support of the department's important missions.

CARTER:

Thank you, Ms. Roybal-Allard.

I guess now, Mr. Secretary, we'll hear what you've got to say.

JOHNSON:

Chairman, Judge Carter, ranking member Roybal-Allard, distinguished members of this committee and our distinguished visitors from the Tunisian legislature. I, too, want to give you a special welcome. I visited Tunisia in 2012 with the secretary of defense. It was very hot that day.

(LAUGHTER)

The president's Fiscal Year 2017 budget request for the Department of Homeland Security reflects hard choices to fit within the caps established by the bipartisan budget agreement of 2015. But at the end of the day, it funds all of our vital Homeland Security missions in these challenging times.

The president's budget request calls for, as the chairman noted, \$40.6 billion in appropriated funds, compared to \$41 billion currently in Fiscal Year 2016, but an increase in total spending authority to \$66.8 billion, compared to \$64.8 billion last year. And to be clear, that increase depends in part on the funding from the increases, as the chairman has noted. We have submitted language to our authorizers to bring that about.

Total workforce requested is 229,626 compared to 226,157 in the current fiscal year, accompanied by an overall workforce pay increase of 1.6 percent.

Like this year, the president's budget requests \$6.7 billion to finance the cost of major disasters in FEMA's disaster relief fund and the ability to collect fees of \$19.5 billion compared to \$17.1 billion this year.

The budget request funds all of our vital Homeland Security missions. It includes \$5.1 billion for transportation screening operations, \$1.6 billion, an increase of over \$200 million, to fund our vital cybersecurity mission, including increased investments in the continuous diagnostic mitigation program, \$1.9 billion for the Secret Service, \$319 million to cover the costs associated with

unaccompanied children and families who cross the border illegally, \$1.1 billion for a recapitalization of the U.S. Coast Guard assets, including a sizable investment in the nation's future Arctic capability, \$226 million for continued investment in the construction of a future DHS headquarters at St. Elizabeth's.

Like last year, reforming the way in which the Department of Homeland Security functions and conducts its business to more effectively and efficiently deliver our services to the American people is my top, overarching objective for 2016. We've done a lot in the last two years, as the ranking member noted, but there is still much more to do, which I intend to do this year.

There are still too many stovepipes and inefficiencies in the Department of Homeland Security. The centerpiece of management reform efforts have been the Unity of Effort initiative I launched in April 2014, which focuses on getting away from stovepipes in favor of a more centralized programming process when it comes to budgets and acquisition.

My overarching goal as secretary is to continue to protect the homeland and leave the Department of Homeland Security a better place than I found it.

I look forward to your questions.

CARTER:

Thank you, Mr. Secretary.

Before we start, we are really cramped on time. Up here on this dais, we have -- almost every one of us have three -- two or three hearings that are going on almost simultaneously with this hearing. So what I'm asking is that let's try to limit ourselves to the five- minute rule so maybe we can get more rounds, and some of us can go other places where we need to be. So we're all challenged, including -- including me, the chairman.

Secretary -- Secretary Johnson, your FY 17 budget request -- excuse me -- reflects a reduction of \$381 from the enacted level of FY 16. The (inaudible) adjustments for an increased salary and benefits, some dramatic reductions to priority programs and then (inaudible) of over \$900 million. The reduction is really (ph) over \$3 billion.

Given the limits of non-defense discretionary spending imposed by the budget agreement, the proposed increases will have to be scrutinized and most probably cut.

Based on your top-line number provided by the budget resolution, the Appropriations Committee will have to find almost \$2 billion within your budget to address the gaps your request has created. Of the requests included in the budget, what are your priorities, buying back operational staff cuts, St. Elizabeth's the icebreaker? Give us some indication.

JOHNSON:

Chairman, you -- you note correctly that we -- we have to live within the agreed-upon budget caps for non-discretionary non-defense spending. And we have proposed a fee increase, which requires authorization from Congress, and we've submitted that language, so that we get to the overall spending authorization of \$66.8, which I -- all of which I believe is necessary.

Chairman, my -- my immediate priorities are aviation security, border security, cybersecurity, taking care of the Secret Service and making sure that they're adequately staffed, they're adequately funded and that they are implementing the reforms recommended for the Secret Service in December 2014.

I also believe that it's critical that we continue our efforts to recapitalize the Coast Guard. It is the oldest fleet of vessels that I know of of any navy in the world. With the good support of Congress, we're well on the way to do that.

My overall everyday immediate priority is the protection of the homeland. We want to build a headquarters. We need to build a headquarters. That is a long-term investment. And so in any budget discussion like this, inevitably, the discussion turns to what -- shouldn't we trade off your longer-term investment strategy for your immediate investment strategy?

I don't think that's the way to look at it. I think that with the money that was appropriated for St. Elizabeth's this year and the money we've asked for for next year, we're actually going to get there faster and it's going to cost the taxpayer less to build us a new headquarters. And we need a new headquarters.

I will tell you that the place we are in, in 13 years now, was always intended to be temporary, and there are real shortfalls and curbs on our ability at the headquarters to do our jobs to manage at 225,000-person workforce in the place where we are housed right now.

I say that after having spent four years working in the Pentagon, and you know, just finding slip (ph) space, for example, or dealing with our communications and the like. It is very, very hard to work up on Nebraska Avenue for me. I say that on my own behalf and the future secretary.

So I am hopeful, and I urge Congress to make that long-term investment in St. Elizabeth's. But I very clearly do have my immediate homeland security needs that we have asked for. So that's how I see it, sir.

CARTER:

Mr. Secretary, on this fee situation, you know as well as I do -- you've been around here long enough to know that -- and I understand budget gimmicks. We see them every day. But the reality is, the chances of getting an authorization through Congress and signed by the president for these fees this year are between slim and none.

And it doesn't take anybody who's been around here very long to know that our authorizers on the Homeland side have real challenges in what they get can -- can get -- get done. And I, too, praise them for the good work that they do within the major jurisdictional bounds that they've got issues

with. And so (inaudible) this year, and even moreso in a presidential year, there's not going to be any chance that those fees are going to be authorized.

So we've got a hole, and we've either got to plug that hole or we're just going to -- and we're going to do what we're going (ph) to do, and you know that because we've worked with you before.

(inaudible) let me finish (inaudible) question. Have I overused my time? Yes. OK, well, I'll -- I'll come back. I'll stick to the five-minute rule (inaudible)

(LAUGHTER)

UNKNOWN:

Mr. Secretary, the Department of Homeland Security has been on GAO's high-risk list since 2003, which is shortly after the department was established. And this an acknowledgement of just how difficult it is to establish a new department.

Particularly in the last few years under your leadership, the DHS has made progress in addressing he weaknesses identified by GAO, some of which you noted in your opening statement.

Would you care to elaborate on where you have addressed these weaknesses and what more you are doing, and do you expect to be off the high-risk list by the next 2017 high risk report?

JOHNSON:

Congresswoman, as you've noted, we've made good progress to get off the high-risk list. Just in the last 26 months that I've been secretary, this has been a top priority of mine. One of the charges of our new under -- he's not so new anymore. It's been almost a year. But one of our charges to the undersecretary for management is to get us off the high-risk list.

Every year, we make progress. In fact, GAO has noted that DHS is a model for how to get off the high-risk list. There are a lot of departments and agencies on the high-risk list. We got on it simply by virtue of our creation in 2003. And my goal is to have all of those deficiencies resolved by the time I leave office, which I expect is in 332 days. I'm not counting.

But every day, I ask about this. For example, one of the issues we have had -- are having is resolving all the different financial systems we have within DHS, getting them synchronized, getting them to function better so that my CFO over here knows how to count the dollars. We've made a lot of progress in that regard.

I'm also very proud of the fact that for the second year in a row, our outside auditors have given us a clean, unqualified audit opinion, something that other very, very large departments of our government have not achieved yet in their multi-decade history. Not naming any names. But I'm very proud of that fact. And so we continue on this road, and I think we're going to end up in a very, very good place by the time I leave office.

UNKNOWN:

The GAO recently issued a report on the national cybersecurity protection system, also known as Einstein. And the report was somewhat critical. And I know that you took issue with some of its conclusion. What do you think that the GAO report got right and what it got wrong?

JOHNSON:

I hope the members of this committee saw the statement that I issued after the GAO report came out. I agree with much of what GAO says, but GAO, in my view, did not adequately note all the progress we've made to cover the entire federal civilian system over the last 12 months or so.

Last May, only about 20 percent of the federal civilian .gov system was covered by Einstein 3A, which has the ability to block intrusions. I gave a charge to my staff that I want at least one aspect of Einstein 3A available to every department and agency across the civilian federal government by the end of last year, and we met that deadline.

And it's my goal, before I leave office this year, that all federal departments and agencies across the civilian .gov system will have the Einstein 3A system on line by the time I leave office. We're on target to do that. That is a mandate in the new cybersecurity law, as well.

The other thing I'll note is that Einstein 3A has the ability to block known unwanted intrusions -- known intrusions, known bad actors, known bad signatures. It provides a platform for a future technology to block suspicious or suspected bad signatures.

So that is a virtue of E3A. Currently, it can block known signatures that are bad, but in the future, we want technology to block suspected, as well. That was something the GAO noted, and it has the potential to do that.

UNKNOWN:

And I have a few more seconds. I just want to ask one follow-up question. It has to do with the department's cybersecurity mission, your MPPD (ph). It's focused not only on federal departments and agencies, but also on state and local governments and the private sector. And the recently enacted cybersecurity act included liability protections for private sector companies, when they share information with the federal government about cybersecurity threats.

How has this new liability protection been received by the private sector? And are you seeing a greater willingness to partner with DHS on information sharing?

JOHNSON:

We're in the implementation phase right now. Congress gave us firm deadlines for implementing this, which we are meeting. I would say that given that the law was passed in late December, it's a little too early to tell, but I do know that liability protection was something we heard over and over

again the private wanted, and we have -- we have met that need. So a little too early to tell, at this point, ma'am.

CARTER:

Mr. Frelinghuysen.

FRELINGHUYSEN:

Mr. Chairman, it's a pleasure to welcome a fellow New Jersey resident to -- the secretary here this morning. And thank you for the leadership you've provided that department and tens of thousands and hundreds of thousands of employees who do some pretty remarkable things.

You and I come from a region, although you have a responsibility for the entire nation, which experienced September 11, 2002. And may I say to our Tunisian guests, we know that you suffered a similar tragedy. When your -- when your country is attacked, there has to be a response.

Part of our American response for our region what we call UASI, the Urban Area Security Initiative. Many of us feel, and I'm sure you've felt the heat from both the House and Senate, that some of those reductions would have some consequences. Could you briefly describe how you reached those decisions and whether there's a possibility of -- of some reconsideration.

Thank you, Mr. Chairman.

JOHNSON:

Congressman, the UASI grants and the state-level grants are, in my judgment, very important to our vital homeland security mission. I've seen first-hand at active shooter training exercises, like the one I visited in New York City in November and the one I visited a couple weeks ago in Miami, the importance of our funding. It goes for communications equipment, police overtime, surveillance equipment, active shooter training.

The current budget request, again, reflects hard choices to live within the budget caps agreed to between the executive branch and the legislative branch. I support this -- I support this request. Ultimately, it's up to the appropriators to, in your wisdom, make a determination about what you think are the appropriate levels. But we had to make some hard choices, and those are reflected in the current request.

FRELINGHUYSEN:

Indeed, I'm sure, with the chairman's leadership, we'll make some of those choices.

Thank you, Mr. Chairman.

CARTER:

Mr. Price. Mr. Price, thank you for including our friends from Tunisia in this hearing today.

PRICE:

Thank you, Mr. Chairman. I do want to welcome our friends from the Tunisian parliament and will look forward to meeting with them later today under the auspices of the House Democracy Partnership. But we've very, very glad to have you here.

Mr. Secretary, welcome to you. It's good to see you again, and I commend you again for the leadership you've shown at the department.

I want to give you a chance, in fact, to talk about one of the most difficult and contentious areas that we know you're dealing with, and that is immigration enforcement. You have made a hallmark of your leadership focusing enforcement, focusing deportation on -- on criminal elements and the people who most pose a threat to this country.

That is something that I stressed as chairman's ranking member of this -- this committee, and we all have a stake in seeing that -- that focus effectively implemented.

You -- that was the idea, of course, originally of Secure Communities, but as -- as you well know, the implementation of Secure Communities was not as -- as focused as it might have been and gave way, I think appropriately, to the Priority Enforcement Program, which you have led in implementing.

PRICE:

I -- I know in your full statement here, you have -- you have a discussion of this, and I want to give you a chance to articulate that here in an open session. You say that now you are to the point where the percentage of those in the pension is about 85 percent of people who are the top priority -- before we move on, I want to know exactly what means.

I do think there's an ambiguity here. I want to get you to talk about it because the recent arrivals from Central America -- many of them children, women, people who are fleeing terrible conditions and there has been some question as you know, about the accessibility for these people in hearing about them and letting them make the case for the refugee status. And there's also been questions including a filed case in my own district of recent individuals being targeted for deportation.

These anecdotes are not representative by portraying the overall picture, and at the same time they are real scenarios, and they often -- don't think too many of these cases have a real contagion effect I think in the immigrant community. This particular case was -- a young man, a recent arrival who was eligible was active detention and eventual deportation. He was picked up on his way to school. There are just questions about seizing him up in that criminal element as he wasn't anywhere near it.

Yet, it does raise questions about who is in this category of these peoples for deportation and how are these cases handled. So I'd appreciate you addressing that sort of situation. But more than that,

I want you to talk about your assessment of how successful you've been in getting this focus implemented on people who really should be deported and those who don't.

JOHNSON:

Congressman, thank you for that question.

I tell audiences, Democrats and Republicans that immigration enforcement policies have to be two sides of the same coin. On the one hand, those who have been in this country for years, who have no committed no serious crimes, who have children who are U.S. citizens or are lawfully present here are not priorities for removal. We don't have the resources to remove them.

On the other hand, there are those as you noted, who are threats to public safety, convicted criminals. And our new policy that we announced in November, 2014, makes a sharper more concerted effort to focus on that population of undocumented removable individuals. At the same time, we're also focused on border security. That same policy that I wrote in November, 2014, says, "those apprehended at the border are in Priority 1 for removal and Priority 2 are those while not apprehended at the border can leave this country illegally after January 1, 2014. "

So there's the public safety aspect of our new policy but there's also the border security aspect. We have to keep our borders under control in my view. That will need interior enforcement against those who have been ordered -- removed by an immigration court and their appeal time has run, and they have no pending asylum claim. Those people are priorities for removal and we have to enforce the law consistent with our removal priorities.

In terms of the convicted criminals in native secured communities, we saw an increasing level of resistance amongst state and local law enforcement to cooperating with our immigration enforcement personnel. With respect to secured communities -- it was something like 15,000 detainees -- were not acted upon by sheriffs and local law enforcement around the country, in I think fiscal 2014. That was creating a real public safety problem for us.

They were releasing dangerous removable streets so that our immigration will forces will have to go round them up all over again. And so, we put in place as you knew, the Priority Enforcement Program to replace secured communities, which I believe resolves the legal and political controversy. We have seen so far pretty good acceptance of the program.

Of the 25 largest jurisdictions that were not working with us on secured communities, 16 have now come online to work with us with the new program. That is good for public safety.

In terms for the anecdotes you referred to sir, I hear them too. They often are enforcement personnel, they run them down, and they find that the facts were not quite as the rumors suggested. One of the reasons I issued this statement in early February was to note, first of all, that the numbers of those apprehended on the Southern border has gone down significantly since the beginning of the year but to also make clear again, who are not priorities for removal. We want to make that clear for the public.

Our folks in ICE and at headquarters are reiterating also our sensitive location guidance for the public to reiterate the places where our people will not go to apprehend the undocumented. That's in the works right now sir.

PRICE:

I know my time's expired. I want to return to this but thank you Mr. Chairman.

CARTER:

Thank you Mr. Price.

Mr. Frelinghuysen?

FRELINGHUYSEN:

Thank you Mr. Chairman. Mr. Secretary, good morning sir.

Mr. Secretary, as you know, I represent the third district of Tennessee. My hometown is Chattanooga. Before I ask some questions, I wanted to personally thank you and the department. Our community went through a terrible terrorist attack. A terrible homegrown terrorist attack last year.

We lost five young service members, four marines, one sailor. The sense of personal loss horrible. The community suffered a great sadness but your call that day and the departments response to my request in the days and weeks afterwards were much appreciated.

I want to report to you that Chattanooga is a strong and resilient city. We are Chattanooga strong. But again, thank you for your concern and outreach to us sir.

It is in that response that I want to ask some questions. It's been made abundantly clear by that attack that we live in a very dangerous world. There are real threats out there and that we're all in this together. I think it's very important that we work together to thwart any of these threats. I hope we never have to see anything like that again.

In Fiscal 16' Mr. Secretary, Congress provided 50 million dollars above the request for DHS to help states and local communities prepare for, prevent and respond to emerging threats from violent extremism, and from complex coordinated attacks. The fiscal 17' request includes 49 million dollars to create a grant program for CVE. I have a three part question and in the interest of time, I will go in order.

What is the department's overall strategy for countering violent extremism like that which led to the attack in Chattanooga? My second question is, how does DHS plan to use the 50 million dollars provided in Fiscal 16' and the new grant program proposed in Fiscal 17' to support these initiatives? And my third questions is, Mr. Secretary, what goals and metrics will DHS use to determine the effectiveness of these programs, sir?

JOHNSON:

Congressman, those are all good questions.

What happened in July in Chattanooga is a reflection of the new type of terrorist threat we face. Lone actors or actors in pairs could strike at any moment at almost any community around the country. I believe therefore that our engaging communities across the country and in particular, Muslim communities across the country in cities like Chattanooga, or San Bernardino, or Minneapolis, or Boston, or Houston, or wherever is critical -- and I want to take it to a new level.

We've been visiting a lot of these communities as much as we can. I have personally gone to about a dozen cities for our CVE purposes to engage communities, build bridges, hear what they have to say, encourage them to cooperate with state and local law enforcement but we want to take it to a new level. This is the overall strategy, we want to take it to a new level where we encourage the tech sector to help Muslim leaders in particular with the counter message -- a message to counter the message of recruitment of the Islamic state.

We want to also help a lot of these communities with resources, support their local activities. This all can't occur at the federal level. That was the reason that I requested the 50 million dollars in 16' and we're requesting the 49 million dollars in 17'. It's for use at the local level with resources, programs to engage youth, to help them steer their energies in a different direction. I think this is a vital homeland security mission given the current global terrorist threat that we face.

In terms of the goals for success -- the metrics for success, that's a little difficult to measure because we're not always in the position to know who is deterred from going on the wrong path. My metrics for success are, how many different potential affected communities can we touch across the country? My personal goal is to visit every major metropolitan area in this country that has a significant Muslim population which I think I'm on the way to doing.

Building bridges in these communities and seeing that counter- message amplified locally and nationally, and internationally are my basic metrics for success. I do appreciate that we are seeing on a bipartisan basis, Republicans and Democrats in Congress supportive of our CVE efforts through appropriations and through authorizations. I do appreciate that.

FRELINGHUYSEN:

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

CARTER:

Mr. Cuellar?

CUELLAR:

Chairman thank you and Ranking Member also.

Mr. Secretary, thank you for the job that you do. I know it's a difficult job. On one side, my colleagues who probably say that, "you are not deporting enough people," and my side the Democrats are saying, "you are deporting too many people." Not enough, maybe too much. So I'm saying your job is very difficult and I appreciate the good job that you are doing.

I also appreciate that your were in Laredo this weekend. Mr. Chairman, he was there at the Washington birthday celebration on the streets of Laredo. He walked the whole parade. We just didn't have the music behind us but he walked the streets of Laredo. And thank you. You were there to open the first pre-clearings of Mexican customs beings in the U.S. territory to pre-clear cardinals.

So we actually have customs -- Mexican customs in our territory. First, we started this four and half years ago with the President Calderon and I'm glad that you were able to finish this program and we want to thank you so much for doing that.

The other part that I want say is, I do support the work that you did on deportation. It's hard and I support full immigration reform. But again, if we don't enforce a immigration order after all of these appeals have gone through and they have had their day in court, then why do we need more patrol? What do we need immigration judges?

Members as you know, we added money -- 55 new immigration judges just last year. Why do we have detention centers? As you know, I added some language to have transparency to make sure that whoever is there is treated with respect, and dignity, and provided the care once they're in our hands. I just want to say that, I know that's a difficult issue. Some people attack you one side and the other side, they'll attack but again, I appreciate your measured approach to this very difficult time.

I do have two questions. One, it has to do with the Cubans coming in but I'll save those for the next -- assuming you're having another questioning round. I'll save that because you know in the two years, over 67,000 Cubans have come in, 47,000 have come through the port of Laredo but I'll save that for the next one. I want to talk to you about the letter that Governor Abbott and myself sent. I thank you for your response. I do want to follow up on this. I know that on your statement, you put there that the unaccompanied kids and the families have gone down 65 percent from December of 2015 to January of 2016, that's a one month difference. And again, I -- you know, that's always good news.

The numbers I was actually looking at, Mr. Secretary were four months from 2015, October 1st - 2015 to the end of January and then compare it to that same four months of F.Y. 16', actually the numbers are an increase of 107 percent for family units and for unaccompanied kids, it's 102 percent, pure numbers. In F.Y. 15, we have 9,000 families and F.Y. 16, it went up to 24,000, this is only those four months. And so, unaccompanied kids for those four months went from 10,015 to 20,000 plus on that.

So again, I appreciate the numbers you're using for a one month difference but I'd like to look more at trend. And again, the trend that you pointed out is important. The question I have is the letter

that Governor Abbott and I sent. And again, we'll follow up at a different time but we thought it was a 50 percent cut in National Guard aerial support, you're saying it's a five percent? I think we -- but I want to sit down and work this out with you and get this cleared up.

I do want to thank you but if you have any thoughts on operations Phalanx? And again, I appreciate your good work.

JOHNSON:

Yes sir, a couple of things, first, as Congressman Cuellar noted, I was at the 119 year old International Bridge Ceremony in Laredo, Texas last Saturday. It's a quite remarkable ceremony where two kids from the U.S. side and two children from the Mexican side walk across the bridge, meet midway at the bridge and hug each other, followed by us grown ups. And afterwards, there's a huge parade in Laredo, Texas and the congressman and I participated in it.

I said, "Henry, why don't we walk?" And he said, "I haven't done that since I was 12 years old" And we walked, we must've encountered probably 10,000 people that day. He said something to me that I still remember which is, "these people want immigration reform but they also want the border kept under control." I said, "well, I'm with them." So it was a great day.

I can attest that Congressman Cuellar is extremely popular in Laredo, Texas. I was basking in his goal during that parade.

The numbers of migrants apprehended on our Southern border, I look at every single day. First thing along with my daily intelligence report, I get this report right here. And you are correct Congressman, that compared to the Fall of 2014, the Fall of 2015 was much higher. That is absolutely correct.

I drew the contrast between December, 2015 and January, 2016 because the numbers in the Fall of 2015 were rising and they fell off sharply at the beginning of the year as reflected in this chart right here at the blue line. That trend has continued in February, 2016 on a daily basis. I look at this every single day and I look at it 12 different ways.

The numbers for January and February, 2016 are almost exactly like they were in January and February, 2015. That's a good thing but there's always the seasonal uptick. We can count on the seasonal increase in the Spring which we have to watch and we have to be prepared for.

I'm just glad that the numbers fell off sharply at the beginning of the year. No one wants to see for humanitarian reasons and for resource reasons another crisis like we had in Summer 2014. In terms of the flight hours, I do believe it's important to look at the big picture.

Over the last five to ten years, CVP itself has added much to it's own capability in terms of flight hours, in terms of other resources at the border such that we were able to give back to DOD about half of what they have been giving to us over the last six years in flight hours. But the overall decrease in flight hours was about five or four percent but that is alongside of a lot of other additions we've made to border security since Operation Phalanx started.

So I hope I've answered your questions. I'm happy to have a further discussion with you on that. I have more detailed numbers right here, sir.

CUELLAR:

Thank you.

CARTER:

Harris?

HARRIS:

Thank you Mr. Secretary. You know your plate is obviously full. Your department has a tremendously important mission.

I'm just going to focus on one of those little areas that's forgotten about. It's a follow up actually I think to what we talked about last year, that's the H2VB as a process. In my district as I'm sure in areas of New Jersey where you have a lot of seasonal employees, how are business depend on these workers? I mean, they depend on the government working smoothly with them to enforce the law and to provide those workers so critical there.

As we know each H2VB that's issued, actually improves our economy. Now on page number one of your budget submission, it says that, "the goal of the department has wide ranging operations that keep our nation safe and prosperous." I'm sure you agree with that.

JOHNSON:

Yes sir.

HARRIS:

But part of the prosperity is to try to get our GDP growth above 2 percent. If our federal bureaucracy is impeding that growth, making employers as they are in my district suffer. Look, part of the problem is not yours. It's that you're one of three silos that affect H2VBs -- you've got the Department of Labor, you've got your department, you've got State Department.

You know, I criticize your department last year when the Department Labor decided on that court case that eventually was stay -- when they decided to stop taking applications. I criticized your department for stopping taking applications too because I understand that silo isn't doing it's job but I criticized it. Now, this year -- and you know what happened last year; inadequate numbers of first half year visas were issued.

Those were the kinds of people who were going to work in my district, whether it's processing seafood, whether it's seasonal employment in the tourism industry, or whatever -- they were upset. They were justifiably upset.

So let's fast forward. The Omnibus bill gets passed, clear language in the Omnibus Bill. I mean, it can't get clearer. I mean, I'm quoting from it, "workers who have worked in the last three years shall not again towards such limitations during Fiscal Year 2016." I doesn't say, "following enactment to this bill, it says during Fiscal Year 2016." And yet the department has issued the guidance that this only counts for applications pending after December 18th. That is such the signature of the bill.

You can't get a clearer language of intent of Congress that this was going back to the policy back in the early 2000's. This was a clear parallel and the department decided that they were going to - - pardon my expression, Screw the employers who applied before December 18th or those people in the Fritz half of the year by disregarding any reoccurring applicants during that time for counting toward -- removing them from counting toward the cap. So I've got to ask you, does the department intend on not counting those applicants who are returning workers with pending applications for December 18th toward the cap?

What's the deal? I mean, the intent of congress seems clear.

JOHNSON:

Congressman, you have asked me a very precise specific question that sitting here right now, I can't give you an informed answer to take.

HARRIS:

I appreciate your honesty. Again, we're look -- we're talking about all the immigration things and homeland security -- I don't expect in all honesty Mr. Secretary to know that but could you get back to me about that?

JOHNSON:

Yes, you are asking a very legitimate informed intelligent question. And so, I do want to give you or try to give a legitimate informed response.

HARRIS:

Thanks, I appreciate you getting back to me sir because on page 71 in the U.S. CIS Section of your budget it says that, "the service of the public of this is to provide accurate and useful information to it's customers." Now, I'm going to ask you, in your perception, who's the customer of the H2 program?

JOHNSON:

The users of the Visas but I suspect also probably their employers.

HARRIS:

The employers. So I would ask you because if you go to your website right now, it seems to indicate that the cap has been reached by numbers for this first half of the year. And yet, you don't have the date about returning workers yet. That's not useful and accurate information to your customers.

I understand how it's hard because you've got to depend upon State to get back to you and all the rest. But Mr. Secretary, I just beg you please, respect the intent of Congress here, reverse the devastation to these industry that occurred last year because of this. And Congress is clear, we think that the returning worker should not count toward these.

I will just ask you to get back to me one whether or not this December 18th guideline is true that you are not going to count returning if their appellations were pending then. And then, whether or not when their employers submit their certificates about returning workers on March 4th -- whether you're just going to allow all those returning worker certifications for the whole fiscal year to do that. And then finally, has the management of the cap estimation -- and again, we're working with three silos -- you depend upon something downstream to give you feedback.

You've got to improve that process somehow. Maybe tell us how -- if there's anything we can do improve it so that we just follow the letter of the law. I mean, it's just that simple.

I mean, my employers, they're willing to do whatever it takes to follow the letter of the law but they are incredibly frustrated by a moving target. And what we're providing as you can understand when you estimate for instance, your estimate of caps appears for this first half, not to have taken account any returning. The estimates on returning, it could be up to 70 to 80 percent of these applications are from the people who are returning.

This is a significant problem if you stop accepting applications or discourage applications because you haven't discounted the returning workers. So please work with us. Look -- we again, I understand safety is big but prosperity should be big too.

I yield back.

JOHNSON:

Thank you for that. I'm going to look into this sir.

CARTER:

Ms. Kaptur?

KAPTUR:

Thank you very much Mr. Secretary. Welcome. Thank you for the very constructive efforts you're putting forward at one of the largest departments in our federal government. Congressman Benny Thompson of Mississippi were just singing your praises yesterday. So thank you for all your effort.

In your budget request, you are asking for an additional 381, 250,000 dollars this year. That's a lot of money. That's more money than some smaller agencies operate on.

Meanwhile, in the region that I represent which is exactly the other end of the country from Congressman (inaudible), my neighbor here at the Canadian border, Lake Erie, from Cleveland to Toledo with the eighth largest amount of road miles -- paved road ways in the country, we have a massive heroin and opioid epidemic. It is crippling.

I just left earlier in the week a meeting with the Cleveland region, the Cuyahoga County Northeastern Ohio Heroin and Opioid Task Force. We have a similar one on the western side of the state. The failures to deal with the Sinaloa Cartel have crept far far north from the border. Ten percent of the deaths in the region are now responsible are due to opioid and heroine addiction.

In the budget, you state that beginning in the Fall of this year, the Coast Guard will convert eight of great of Great Lakes boat stations to seasonal summertime units and these stations will suspend operations prior to winter and resume in the Spring when boaters return. What I would really like to request of you if possible, would be to send some brilliant person from your department to our northern border.

On page three of the submission we've gotten for your testimony, you have a section called, "Secure and Manage our Borders," but it focuses on the southern border. And in that region, you have set up, you say for the first time, joint task forces involving the border patrol, ICE, citizenship and immigration service, coast guard -- I would like to add to that, all of our local sheriffs in our region, our U.S. attorney, our U.S. Marshalls -- we really need to meet with you.

I have made a request one year ago during your budget -- during your submission to this subcommittee to have someone visit. No one ever has and the situation has gotten worse. To have cuts in our region in any part of your department is troubling to me. I would like to help you focus those activities to where they would do some greater good for the people of our region.

So it appears as though the Coast Guard in your request will spend two billion dollars on counter-drug interdictions operations. I would hope if some of that could be targeted to our area but not just through the Coast Guard. I think we need a more streamlined task force for our region. Can you help with that?

JOHNSON:

Yes ma'am. And I know that in addition interdictions at sea, a large part of Homeland Security investigations is part of our inter-agency task force to deal with the heroine epidemic but there's always more we can do with adequate funding from congress. We're very aware of the heroin epidemics that are stretching across multiple regions of this country and so, HSI, the Coast Guard

have been working with DEA, the Department of Justice in a very focused way to try to address this problem.

I have been very pleased by the Coast Guard's interdiction efforts at sea over the last year but there's always more we can do.

KAPTUR:

I guess, I would say you know, I have the largest Coast Line in the Southern Great Lakes and it's important to deal with the waters. But to cut Coast Guard in this region right now, without having a broader discussion about stopping the contraband trade, which by the way blends into labor trafficking and human trafficking. In a region like ours where we have turnpikes and major interstates, it is a big problem.

I would really beg you to send some top level person from your department. I have waited over a year now and I know it's a big country and there are 435 Congressional Districts. But if you look at the maps of the heroin and opioid trade, our region lights up bright red. And so, I think there's a priority here and I'm just asking if you could help me.

JOHNSON:

Well, I'm actually planning to visit Cleveland this year.

KAPTUR:

That is really good news. We will work with you on every level but I would ask you to involve all of the counties in the North. I see -- quite frankly, I see Border Patrol sitting out there on our roadways looking for those who are here -- the undocumented but we need an emphasis on this drug trade.

So I think I've made my point and I really would appreciate either you or if you could send Deputy before your arrival so we could meet with all of our Sheriffs and so forth. The connection between the Sheriffs and the federal departments is not so perfect and we need to work at that. So if there's an individual -with your budget -- you have a gigantic budget, so surely, there's someone in your department you can send to our region. I hope someone in your staff will get back to me after this hearing on that.

The other question I wanted to ask very briefly is -- we have gotten -- Mr. Chairman, this will be very short. We've gotten academic studies showing local news reports from El Salvador, Guatemala, and Honduras that 83 people were killed in 2014 after being deported by our government to those three countries. A human rights request has been made to provide temporary protected status for people who are arriving from El Salvador, Guatemala, and Honduras.

Can you provide any insight on the acceptance of this request and what our government is doing to provide safe haven perhaps with other countries so that these people are not killed when they return back home?

JOHNSON:

Well, there is currently TPS for Honduras and El Salvador based upon events years ago. There is a pending request for TPS from Guatemala.

I don't know -- I saw the same report you referred to about the 83 individuals. I don't know the accuracy of it. I don't know when those individuals were deported but as you know, Congress last year for this year, appropriated 750 million dollars for aid to Central America, which we have been urging and advocating. So that is very much going to I think contribute to the improvement of the region -- the overall improvement of the region.

The president of Guatemala is going to visit here in a couple of days. We'll continue the conversation that we began with him on his inauguration day about working together to address the poverty and violence in Guatemala, Honduras, and El Salvador. That is a push factor that results in the illegal migration that we see on our Southern border.

It is a powerful push factor that motivates young children that want to come here all by themselves. So as long as those conditions and push factors exist in Central America, we're going to continue to deal with this problem irrespective of the number of border patrol agents we authorize and appropriate every year.

KAPTUR:

Thank you very much. Thank you Mr. Chairman.

CARTER:

Once again, we are trying to stick to the five minute rule so we can get everybody a chance. I will now recognize Mr. Young for the last of this round and then we'll have another round.

YOUNG:

Thank you Mr. Chairman and I want to thank my colleagues. Here we go again, Ranking Member Royball-Allard, good to see you.

Secretary Johnson, welcome. Thanks for what you do. Thanks you for your service. You got a big job and I respect you deeply for what you do. I know you hear a lot of request from Congress.

I and my colleagues, we sent a letter on December 4th. I haven't received a response yet. I'm hoping that's in the works. If you need a copy of that letter, we'll get that to you. If the reply is sensitive information, I would request a brief on that. So just a point of note there.

JOHNSON:

I don't recall the nature of the letter.

YOUNG:

We'll share it you before we leave here today to make sure you have it. It regards refugees.

Iowa Homeland Security Emergency Management recently expressed concerns and maybe you've heard from some other state, the Emergency Management Agency as well -- just about information sharing and should there be a cyber-attack and where there are cyber-attacks. What information is shared with state officials regarding national cyber threats and in the event of the national cyber attack, what role would the states play in countering and recovering from such attack? When states are cyber attacked, what kind of information and role do they play in sharing that information with you?

JOHNSON:

Congressman, thank you for that question.

First of all, the cyber-threat directed at state governments is very real. It's not just a threat, it's an ongoing problem. I just had this exact conversation with a number of governors -- about ten governors with regards to greater information sharing between the Department Homeland Security and state governments. We have a sub- committee of our Homeland Security Advisory Committee tasked to develop a comprehensive plan right now.

There is already a dialogue that exists. There is a dialogue that exists through a not-for-profit agency. The name of which I have forgotten at the moment. There is technology available, something called the Albert System available to pass information from the federal government to the state government. 39 of 50 states as I recall are online and I'm encouraging all 50 states to be online in that.

I do believe that state governments have a role and have a need for cyber-threat and cyber-security information particularly as it regards critical infrastructure in your state. So this is a conversation I had just I think Monday with governors. And I think it's an important topic and we're continuing to make efforts to improve the information sharing.

YOUNG:

Thank you very much Secretary.

A final point, in November -- there's an article in the Washington Post and it regarded the Bio-Watch Gen-2. It detailed a GAO report which stated the government lacks reliable information about whether the current generation Gen-2 of the Biowatch program is capable of detecting a biological attack. Following the GAO report on the Bio-Watch program, what steps is the DHS taking to implement the GAO's recommendations? And is there any need -- does Congress need to do something as well on this to put something into law? What can we do to help?

JOHNSON:

I know that we've taken very seriously that GAO report. I know our science and technology directorate is focused on addressing the concerns by GAO with regard to potential help from Congress. I'd like to consult my staff and get back to you in an informed way.

YOUNG:

Great, thank you.

And then, one final thought; science fiction can become a reality sometimes. We hear about electromagnetic pulses but is this a serious threat and what are we doing about it if it is? The electromagnetic pulses taking out grids, it's somewhat of a cyber-attack in a way. I just wanted your thoughts on it.

JOHNSON:

Well, I have to say, I haven't -- I'm not sure I'm prepared to give you an informed answer at the moment. We are concerned about cyber-security threats to critical infrastructure and the grid. Let me think about that when I get back to you.

YOUNG:

It's okay. Is my time up sir, Mr. Chairman?

CARTER:

It looks like you have about 30 seconds.

YOUNG:

OK, what keeps you up at night?

JOHNSON:

A lot of things -- preparing for a Congressional testimony, how's about that? (LAUGHTER)

YOUNG:

I yield back, Mr. Chairman.

JOHNSON:

A lot of things sir.

YOUNG:

Good answer.

CARTER:

All right, we're going to start a second round and then after I ask my question, I'm going to have to be excused because I've got the Attorney General at CGIS that I need to go ask a few questions for.

JOHNSON:

I've heard that you prefer the Attorney General over me.

CARTER:

You know that's not right. OK, you know that's not right but I haven't been able to ask her a question yet and I've had a chance to ask you a few.

OK, a question that I -- we've talked about before. Why is DHS proposing to reduce the detention capacity so dramatically when the current trend for adult detention remains above 33,000, and will likely increase significantly with potential court decisions, and it creates an ISIS future operations and criminal alien programs? Please explain the assumptions used to develop this number and are they still valid today.

In addition, are you concerned that all the related border- crossings, Priority 1 for detention are being detained are there only? Are the cuts in that support of detaining this operation?

Finally, the targeted enforcement operation that you just done contributed I think to the downward trend in the numbers that you gave us as you discussed what's happened in the last month. I'm looking at a grid that you showed to me by my staff, it is a significant drop and I believe you returned about 121 people as a part of your program. I commend you for it, it's a start. Will you do more to keep these numbers down?

Those are all together on detention and...

JOHNSON:

Well, let me start with the last question. Our interior enforcement efforts have been ongoing. Our focused interior enforcement efforts have been ongoing since the beginning of the year.

I made a point of publicly referring to the enforcement actions we took on January 2nd and 3rd but the enforcement actions have been ongoing against those who have been ordered and removed by an immigration court, have no pending asylum claim and their appeal time has run. I may have more to say about that at the beginning of next month with the February numbers. That's number one.

Number two, with regard to detention beds, we ask you for what we think we need. I would note that the family detention beds and the adult single beds, they can be transferred back and forth depending on what we see on the border. At the time we submitted the request, we took note of the fact that on average, in Fiscal Year 15', we were at about 28,000 and change. Right now, I'd have to say, we're around 31,000 as we speak due to the increase in the fall.

So we're asking for what we think we need. That includes family detention and you're correct, the case for involving family detention is in the 9th Circuit right now, they agree to an expedited appeal. I think that they'll hear the case shortly. I think we need added flexibility to deal with a crisis situation in which we don't have right now.

Ultimately, the appropriators in Congress, we'll do what you think is appropriate. I do think that immigration detention is important. I do think that the ability to detain those who bring their kids with them is important. We're making improvements as you know, judge, the conditions in those centers.

JOHNSON:

We've had some issues with the one in Pennsylvania but I think that, that's an important component of our border security. And our interior actions will continue and they are continuing.

CARTER:

When you really get down to it though 121 is a start, but it reality the numbers are astronomical if you compare that to just the recent border crossing is the last -- what, four months as were raised by Mr. Cuellar.

This -- there's -- my wife is from Holland and she says this is not really a Dutch story, but the little boy that stuck his finger in the dyke is a story that we tell our kids over here. But -- you know, rescued the country by -- my wife says it didn't -- that that's not a story in Holland -- but basically that's what we've done. We stuck our finger in the dyke but the dams about to break. And continues to about to break.

And I commend you for doing it. I know you caught some heat above you for doing it. And I think heat is what sometimes people who take positions of importance have to carry, and I know you caught some. And you handled it well.

There's a different philosophy between groups up here about this whole issue. But the reality is you have to make consequences, acts deserves certain consequences. Without consequences there's no clear path way for people to understand what there acts really are. So I'm going to turn now over to Mr. Fleischmann and let him take over this hearing.

Secretary, I want to tell you that since I've been on this committee, which is over 10 years, I've worked with multiple Secretaries. I want to tank you for the relationship you and I have developed. You wouldn't miss -- always be there, I've called you at home in the middle -- almost in the middle

of the night, and you've always been there to respond. And I thank you very much for our relationship and we'll be seeing you before you just -- as you leave office, but I want to commend you and I know you do the same with all of our members of our committee and we're very grateful.

JOHNSON:

Thank you, Sir.

CARTER:

So, Mr. Fleischmann would you take the chair.

FLEISCHMANN:

Thank you Mr. Chairman. At this time I'd like to recognize the ranking member, Ms. Roybal-Allard.

ROYBAL-ALLARD:

Mr. Secretary I'd like to go back to two of the issues that were raised by Congressman Price. As you notice you've had some success in the convincing community -- in convincing communities to participate in the PEP program.

And one of the selling points of PEP is that in most cases ICE will issue notification request in lieu of detainers. Has some of this born out in practice and can you characterize a percentage of time that ICE request notification in lieu of issuing a detainer?

JOHNSON:

I don't -- I don't have a -- I'm not sure I can quantify the answer to the question. It is my anticipation and expectation that in the overwhelming majority of cases in which there is a transfer, it will be by request for notification.

The new policy leaves open the possibility of detainers when there is probable cause. I think that -- I have not seen any quantification of the distinction between the two. But under the prior program, detainers were leading to litigation in which sheriffs and local governments were losing because they were detaining people beyond the point at which they had the authority to detain them.

So we replaced that, as you know, with request for notification and I think in the jurisdictions where they've accepted the new program it seems to be working well. I'd like to see our people respond a little more promptly -- to request for notification, that's a work in progress. But I'm pleased that we've had additional counties who were not working with us before, are working with us now on this.

ROYBAL-ALLARD:

The November 2014 Secure Communities memo established enforcement priorities for PEP. And these include -- but -- some but not all of ICE's general enforcement priorities. For some jurisdictions this to has been a selling point for the program. Given that ICE still has discretion to go beyond the more limited PEP enforcement priorities, is the agency tracking? How frequency that happens -- and documenting the rationale for it?

JOHNSON:

I believe the answer's yes.

ROYBAL-ALLARD:

It is? OK.

JOHNSON:

I believe the answer's yes. And if we don't now, it's something that we are developing so we can track it.

ROYBAL-ALLARD:

OK that'd be great. Mr. Price also mentioned allegations of miss conduct by ICE agents. What are the limits on ICE? For example, can agents enter someone's home without permission? And can they lie about their intent in order to gain entrance?

JOHNSON:

Well I can't -- I can't comment and know about every encounter across the country. With interior enforcement our folks knock at the door. Very often they can tell if somebody's home, but if nobody answers they don't enter the home.

The only time a law enforcement agent would enter a home is with an arrest warrant or a search warrant. Our civil immigration enforcement people don't have that. So they knock at the door. I've heard suggestions, allegations that in making an arrest our people will mislead or -- you know, create a ruse situation. I simply don't know about that. And I really -- really can't comment on it. But they don't forcibly enter a home. I want to make that clear.

ROYBAL-ALLARD:

Well what about lying about their intent? Is that acceptable or is that also something that is not acceptable that may or may not be happening that you may not know about?

JOHNSON:

I think it depends. Frankly, I think it depends on the circumstances. When I was -- when I was a federal prosecutor -- I know that to enforce the law sometimes law enforcement agents would in some way create a ruse for reasons of public safety. I simply -- I can't make a broad categorical statement in this regard.

ROYBAL-ALLARD:

So it is possible then that agents are allowed to enter without permission and they are -- it's acceptable to like about their intent. I know there's nothing that says, no you can't do this.

JOHNSON:

Well, as I said, ICE agents don't have arrest warrants so they cannot enter someone's home against their will, without consent. And in fact there are a lot of instances where we knock on the door and we can hear somebody home, they don't answer so they go away. I can tell you that.

I can not categorically tell you yes or no with regard to all these different situations out there under which somebody is apprehended.

ROYBAL-ALLARD:

No I understand. I wasn't asking about whether or not those allegations were true or not. I was just trying to get clarification as to what was acceptable in ICE behavior and what was not acceptable. So that there would be a clear understanding in the public as to what ICE...

JOHNSON:

Well, they're not supposed to -- and they don't, enter a home without consent. And there are sensitive locations where we don't go to make apprehensions except in emergency exigent circumstances. In terms of what we tell people in order to gain access or to apprehend somebody, I'd have to give you a more defined statement of what the policy is. Sitting here right now I can't give you a categorical red line, green line.

ROYBAL-ALLARD:

OK. Well I understand -- times up? OK.

FLEISCHMANN:

I want to thank the American members for her question. Mr. Secretary, last September, sir, the President announced plans to accelerate the acquisition of a heavy icebreaker by two years to ensure that the United States can operate year round in the Arctic Ocean.

The budget request includes \$150 million to initiate the lengthy detailed design process that would lead to production in 2020.

My first question is can all \$150 million be obligated in 2017? And my follow up is why is a two year acceleration necessary, sir?

JOHNSON:

I'll give you the note that my CFO handed me after I heard Chairman Carter say that in his opening remarks. It's an aggressive acquisition schedule. We disagree and believe we can spend it in FY17. It will be tough but we believe we can do it. And I think the reason for that is the urgent need for another heavy icebreaker in the Arctic.

We have one heavy icebreaker right now that is operational. And giving the national security and increasing commercial needs in the Arctic, we think it's important that we get a second one and get a second one very soon. And we think we can -- we've asked for \$150 million for design, for the preliminary phase of this thing and we believe we can utilize those funds in FY17.

FLEISCHMANN:

Thank you sir. The cost of a new heavy icebreaker is projected to be an excess of \$1 billion. An heavy icebreaker is truly a national asset since it is and will be a multi mission vessel supporting the missions of several agencies including the Department of Defense and the National Science Foundation.

Given the Coast Guard's top line, can they afford the burden of acquiring this ship? If not, what is the plan? And then my follow up would be, does the administration intend to announce a funding strategy for the vessel and do you expect it will be -- will incorporate other governmental budgets? If not, why not limit the budget request to an amount that can be obligated this year? Rather than banking future funds for the future?

JOHNSON:

I'm sure there will be a funding strategy for the heavy icebreaker and my answer to your first question is yes, with the support of Congress and the support of the appropriators. We do believe that heavy icebreaker is affordable and it's also necessary.

We're also -- as you know, recapitalizing the Coast Guard with regard to the offshore patrol cutter, the Fast Response Cutters -- all these moving parts can be funded provided we have the funds from Congress to do so. But we also believe it's critical to have second heavy icebreaker that's operational.

FLEISCHMANN:

At this time I'd like to enter -- Mr. Price.

PRICE:

Thank you, Mr. Chairman. Mr. Secretary I hope to get to a question about your research operations and the thrust of those operations as anticipated in the budget and particular the treatment given to University work. So I hope we can get to that. I may have to ask you to respond for the record because I do think it's important to revisit a couple of points on this immigration enforcement issue.

It strikes me in listening to your answer to a number of questions that -- at issue here may be the criteria and you define in your executive action, of course quite a while ago, people who have been in this country for years. That's an important component of who we're attempting to remove from under the treat of deportation. And I know that that definition is important to the executive action and to the legal actions surrounding the executive action.

It does -- it does raise the issue though, with respect of these more recent migrants. And I -- you know, the priorities for removal are people convicted of serious crimes, or who've recently been apprehended to the boarder.

And those categories are of course, (desperate) categories in terms of the threat they pose to the country. I wonder if for the record you could provide, actually, a breakdown of that 85 percent figure you sighted. 85 percent of those in immigration detention are in top priority for removal, what percent of those are in those -- criminal category? What percent are simply recent arrivals?

But I realize that poses an issue. It's deferred action category can't be -- can't be too porous. On the other hand, as I think you've implied, its very, very important that people who have arrived under the circumstances they have from -- mostly from Central America. That these people have access to a full hearing, full adjudication of their claims for asylum. And the rules be followed about where they might be apprehended -- sensitive locations and so forth.

So the treatment of this category of migrant is a vexing issue. It seems to me it's raising the possibility that the kind of reprioritization you undertook with respect to secure communities, it's almost leading to a situation where that kind of reprioritization might be again -- there may be calls for that. But whatever it takes to get this effective focus on people who do pose a danger to the country and making sure that that is a singular focus of our immigration enforcement efforts.

It strikes me that that's a continuing challenge. By the way the case that I mentioned is an adjacent community -- not literally in my congressional district but that and other cases of course do raise questions about what the overall policy is.

JOHNSON:

With regard to your question about who's in detention right now, that data does exist and a I can get you that. The breakdown of those who are convicted criminals in detention versus those apprehended at the boarder and so forth. That data does exist. The one thing I'll say about it is that I believe it is a trending number.

When you have a boarder surge, the percentage of those who are priority ones in detention goes up. Ultimately, I'd like to see an increased percentage of those in immigration detention who are in priority ones be those who are the criminals.

PRICE:

That's, of course, what I'm getting at.

JOHNSON:

That's where I want to see us make more progress on PEP. And with that, I believe we will have an increasing percentage of those in immigration detention and we've seen that increase in percentage over the last year or two. We've all ready seen that in place.

If you look at the numbers today though, a lot of people in immigration detention are those apprehended at the boarder because of the numbers in the Fall. That's the reality. It will trend one way or another depending upon the surges at the boarder.

PRICE:

Well I'd appreciate those numbers together with any interpretation you want to offer of this. But you -- you see my points as someone long focused on making sure we're deporting the highest priority individuals. Not wanting to get back into a situation where we have to recalibrate once again, in terms of where the focus of enforcement lies.

If I have another minute, I would like to just comment on the S&T Budget and give whatever response you can hear and maybe you want to offer this for the record -- but there is a substantial decrease from the fiscal 2015 enacted level of over 1.1 billion.

The request this year is a couple hundred million less than that and then within the S&T budget the University Research and Development of funds would lose nearly a quarter of last year's enacted level. So it raises a couple of questions.

First of all what's the philosophy, the thrust of the S&T program? As defined in this budget particularly given these substantial changes. And then what about -- what's going on with the University Research and Development in particular that would lead to this kind of proposed decrease?

JOHNSON:

The overall thrust of it is, I thin reflective of the overall budget request. Hard choices, given the budget caps we have to live with. I will tell you that within S&T I have directed -- we take a more integrated centralized approach.

So we've put together a team run by Dr. Brothers of operational component leadership to develop for us, what we think our S&T, R&D priorities should be in the near future. In a consolidated strategic way, not stove piped component by component and not something that exist at headquarters at S&T.

So we have a component level working group that is focused on where we think the priorities should be. I do agree with you that funding for universities -- colleges and universities in this area is particularly important. You know we've had -- we have programs right now in North Carolina that I know are working very well in this regard. So I regard this as an important area that we need to continue to support. We've also got to live within our funding caps.

PRICE:

Thank you. I assume the subcommittee will look at this particular aspect of the request very carefully. Thank you Mr. Chairman.

FLEISCHMANN:

Thank you Mr. Price. Mr. Secretary -- Secretary Johnson, Congress has appropriated almost \$5 billion to acquire nine National Security Cutters, one more than the program of record. While the capabilities and performance of the NSC has exceeded expectations, there is a significant cost beyond production to man, equip, and operate each NSC.

My first question sir, is does the Coast Guard need any additional NSCs to accomplish any of their 11 statutory missions?

JOHNSON:

No.

FLEISCHMANN:

Thank you. What trade offs have been made in the Coast Guard cutter modernization program due to the unnecessary inclusion of a ninth NSC? And what will happen to the program should Congress add a 10th Cutter, sir?

JOHNSON:

No tradeoffs, that I know of, at this point. We appreciate that Congress has also in '16 provided funding for the Offshore Patrol Cutter, which is our medium range cutter and continues to fund that Fast Response Cutter.

We've also asked for remodeled, rebuilt aircraft for the Coast Guard in '17 and a continuation of the OPC and FRC program. So we haven't seen trade offs. There will be a cost in the out years to maintaining and all the things you would normally have to pay for when you build a new cutter. Not just the cost of building the cutter.

And we're hoping that if we have a ninth Security Cutter -- as it looks we will -- Congress will continue to support all the things you need to do after the thing is constructed. But we haven't seen -- so as far as I know, any tradeoffs we have needed to make so far because we -- you know, we have the good support of Congress in this regard.

FLEISCHMANN:

Thank you for your response Mr. Secretary. What would happen though if there was a 10th Cutter added, sir -- in your opinion?

JOHNSON:

Well, it all depends on how much you give me to pay for it. So you're right -- the program of record called for eight. We were not expecting a ninth. We will support and build a ninth because that's what Congress has appropriated for us and asked us to do. But there are costs associated with maintaining a ninth. Where do you dock it? And so forth. That will need -- will need that continued support from Congress to help us so that we don't have to make any tradeoffs.

And recapitalizing the whole fleet is particular important. Along with building that new icebreaker, so we need that continued support from Congress right now. I've seen first hand how old some of our cutters are getting. The medium endurance cutter, with the OPC is supposed to have replaced -- is 50 years old.

FLEISCHMANN:

Thank you Mr. Secretary. At this time I'd like to recognize a gentleman from Texas, Mr. Cuellar.

CUELLAR:

Thank you Mr. Chairman. Mr. Secretary. with you in Laredo -- as you know Laredo percentage wise -- according to the U.S. Census is the most Hispanic city in the country -- 96 percent Hispanic.

As you and I've talked -- you know, we -- including myself -- we support immigration reform. But we do want to have order, not have chaos at the boarder and that's why your measured approach is well appreciated, there at the border.

My question is, and one of the questions folks keep asking me is -- how many people have been deported -- let's say -- you know, from the unaccompanied kids, or the -- or the families, or other folks -- and I know ICE has some numbers per -- you know, how many have been deported in the last year and Mexico is always number one -- but do you have any -- you know, in the last couple of years -- you know, the folks we've been talking about, how many have been deported?

JOHNSON:

There are actual numbers that are available. It depends on from what point you count. And it depends on exactly what class of people you are referring to. The numbers are available, we can get you that. But as you know, we have made a renewed push with regard to those who are -- who have been ordered deported and they've reached the end of the appeal process and their asylum claim...

CUELLAR:

And the media made it sound like it was a mass deportation. I think that was the words that they used. How many people were we actually talking about? These were the ones that finished their...

JOHNSON:

The particular weekend, January 23, the number was 121.

CUELLAR:

Right.

JOHNSON:

Taken into custody. Those actually removed were a subset of that because once they were taken into custody, they got stays from removals and so presumably those people are still here. But again I want to emphasize we didn't just do the one weekend and stop. Enforcement actions are continuing.

CUELLAR:

And you're enforcing the Federal Immigration Judge after they've had their day in court and their appeal is over -- that what you're focusing on?

JOHNSON:

Yes, sir.

CUELLAR:

Yes, sir. Let me ask you about Cubans.

JOHNSON:

There you go.

CUELLAR:

I need a copy of that.

JOHNSON:

Yes.

CUELLAR:

Thank you Mr. Secretary. By the way you had a great story last night of the TV station when you went up to them -- nobody has ever done that before and right in the middle of parades or -- great story last night.

Let me ask you about Cuban. As you know in my southern part of my district I have unaccompanied kids from Central America coming in. My northern part of my district in Laredo, I'm talking about just the border area -- we have Cubans -- 67,000 the last year -- couple years, I say two years -- 47 -- 45,000 of them have come through the port of Laredo. And as you know, because of the 1966 Cuban Adjustment Act and that was during the Cold War era -- very different, Cubans as you know they -- the moment they touch they're in.

It used to be, or it's still called the wet foot, dry foot policy -- but now they've decided to go -- instead of going through the waters and have Coast Guard try to push them back -- they're coming through Ecuador, they're coming in Panama, Columbia -- I mean they go all the way up here. Until Nicaragua said, hold on.

Now what they're doing is -- at least the ones in Costa Rica -- are flying in directly from Liberia, Costa Rica, straight to Noveleta, which is a city right across -- right there they take a bus, 45 minutes I've been told, 45 minutes, 1 hour they cross in. The moment they cross -- they cross the street -- the bridge. They cross the bridge, they go into a money exchange house -- Casa de Cambio.

They start filling out their paperwork for the immediate benefits. And as you know, they get immediate benefits they moment they come in, in about one year they become a legal resident, and then they're fast tracked to a naturalized citizen.

My understanding is the moment they come across, if they commit a felony they can not be deported. Am I correct on that? And I don't know if you know that. My understanding is they can not be deported the moment they're coming in.

Do you all -- do you or the administration -- it's been very quiet on this and I've been talking about this issue because I know this has to be a law that we need to change and I'm talking to one of my colleagues in this committee in the appropriations about this issue to come in with some solution. But there's two parts of the law -- the 1966 Cuban Adjustment Act which allows them to touch and they're in. And then the other one is a 1980 law that deals with Cuban -- I mean with the refugee assistance. So I say that, because I'm going to ask the committee to consider making some adjustments -- but does the administration -- I guess until we change the law, do you all have any thoughts on that?

JOHNSON:

Well, first of all you are correct that the overwhelming majority of Cuban migrants who come to this country arrive at land ports of entry. Most Americans probably think that they come by sea, on boats. The overwhelming majority have been coming to ports of entry and simply presenting themselves., because of the Cuban Adjustment Act and because of our policies -- our wet foot, dry foot policy.

The policy is reflected in -- I think a 1999 Memorandum. And it basically says that those who arrive here, we will -- there's not -- there's no absolute rule in support of parole but it says something like, we'll be favorably inclined toward parole or something like -- we'll be favorably inclined toward parole or something like that. So not everyone is automatically paroled and there are circumstances under which someone might not be paroled. And being convicted of a serious crime at the time -- I would imagine would be one of those circumstances.

I don't have the policy in front of me, but those are the words along those lines. We were in the process of normalizing relations with Cuba -- as you know, sir. And at some point the topic of migration will have to be addressed.

CUELLAR:

Yes, sir. I'm sorry -- can I just ask, is that 1999 Memorandum a Homeland...

JOHNSON:

Yes it was issued out of -- I believe it was issued out of INS.

CUELLAR:

INS, OK. All right. Thank you so much and again I appreciate your good work

FLEISCHMANN:

Thank you Mr. Cuellar. Mr. Secretary, we are rapidly approaching the busy spring break and summer travel season. And as anyone who travels frequently by air knows, increased volumes of passengers correspond with increases in wait times at airport.

It is my understanding that over the December holiday travel season it was a noticeable, quantifiable, and significant staffing breakdown which led to unnecessary delays from many travelers.

I have a two part question -- since the busiest travel periods are easily predicted and it is known when the largest volumes of flights are banked at large hub airports, why do we continue to see staffing levels at checkpoints based more on averages, sir, instead of volume spikes?

And then my follow up would be -- does DHS or TSA have a plan to address this issue, sir?

JOHNSON:

Both on the front end of TSA and on the arrival end with CBP -- we do try to anticipate travel surges. We do try to anticipate whether those are daily -- you know there are certain times of the day at airports when international flights will come and go and we do try to anticipate holiday travel, spring break travel, and the like.

You are correct that there has been an increase in wait times in a lot of airports. That is due in part to increase travel volume -- but it's also do frankly, to the renewed focus on screening at airports by Administrator Effinger and myself. Since he took office in July, his charge from me was to take a hard look at aviation security in light of the IGs test results which were leaked to the press.

Less managed inclusion -- as we call it, where you take somebody out of the longer line and put them in the shorter TSA line, more secondary screening, more thorough screening, a hard look at the technology, back to basics training for our TSO's, a rewrite of the Standard Operating Procedure. The increased wait times, frankly, were anticipated. But I think that the American public understands that because it's for their own safety.

And we've heard issues and concerns about increased wait times -- I think it's necessary. Can it be administered in a more efficient way around holiday seasons? Probably. And so -- you know, our efforts to do that are -- you know, a work in progress and we continue at that. But increased wait times are just something that are the result of increased volume and our efforts at increased security.

FLEISCHMANN:

At this time I'd like to recognize the Ranking member Ms. Roybal-Allard for questions.

ROYBAL-ALLARD:

I have two more issues that I'd like to cover. I'd like to go back to the detention of families by ICE and I have three questions with regard to that.

Under a district court ruling the department is now required to minimize the amount of time families spend in detention. And I understand that the current average detention time for families is around 17 days.

For FY17 the department is requesting funding for 960 family detention beds which is well below the capacity funded for the current year. Does the slower funding request mean that ICE is planning to consolidate it's family detention operations into one or two facilities, instead of the current three? Do you know what percentage of families would spend at least sometime in detention given the shorter length stays?

And also, it is my understanding of the district court ruling is that any prolonged detention of families can only occur in state licensed facilities with a non-secure setting. The state of Texas recently granted operational licenses to the two family detention centers located in that state, but both are secure facilities. So does the department have any plans to acquire the use of facilities in the future that would meet the district court standard for family detention?

JOHNSON:

The answer to the last question is no. We are seeking a license for both Dilley and Karnes to be licensed as non-secure licensed facilities , as they exist. So the licensing authorities are looking at those facilities and will license them as such.

You're correct that the average wait time is around 17 days. Flores -- the ruling gives us some flexibility in times of an influx. And we're in an influx right now. The judge referred to 20 days, we've tried to reduce it and we have reduced it. and the average wait time now is about 17 days. But you're also correct that -- they way that court order reads, and it's on appeal, we can keep people longer in a license in non-secure facility. And we are seeking a license for both those places to be license non-secure facilities.

ROYBAL-ALLARD:

But they're just changing the name. I mean what's going to change in those facilities to make it truly -- you know, meet with the intent of the court is? Just changing the name from secure to non-secure...

JOHNSON:

Well, it's up to the state of Texas to determine that the facilities are as they are licensed to be. That is a matter for the state of Texas and that's what they are doing right now.

In terms of the bed request, we are requesting what we believe we need and we can transfer beds back and forth depending on the circumstances. So total request is 31,000 and the specific request for families is 960, but we need the flexibility to add more or less depending on circumstances and the surges that we see.

ROYBAL-ALLARD:

Basically we're just asking for a change in classification. But nothings really going to change in the facilities...

JOHNSON:

We're always seeking to improve the conditions, to improve access to council. We're continually doing that. There is now a FACA, a committee appointed to review, take a hard look at the conditions at these facilities and they are doing that. We're always seeking to improve them ma'am.

ROYBAL-ALLARD:

I'd like to follow up with you on that. And my final question actually has to do with your joint task forces. I think that by most measures the department is making progress in securing the southern border and I feel certain that the "Unity of Effort" initiative that you have led played a really important role. In particular the establishment of the joint task forces and the southern border and approaches campaign. Can you discuss how you think the three task forces have contributed and how they have changed the departments approach to the border's security mission?

JOHNSON:

We are seeking through the joint task forces to bring a more strategic, combined, consolidated approach to border security that brings to bear, Border -- the Border Patrol, Customs Agents, Immigration and Customs Enforcement, and CIS, and the Coast Guard, and where necessary -- FIMA.

It would be like trying to run a war by talking to only the army at once and only the Navy and only the Air force. You need a strategic consolidated approach. And so with -- same is true at border security. I've all ready seen that in a crisis for example, I need to be able to have a strategic approach from a task force when it comes to all of our immigration components.

And I think this is the wave of the future. I want to do more of this. At some point we'll get to the northern border and we'll get to the same thing when it comes to other missions. We're making strides in this regard with our counterterrorism mission and our SARBA security mission. So I think that, as part of "Unity of Effort", this kind of approach is very much necessary.

ROYBAL-ALLARD:

I've heard some positive feedback about it, that's why I wanted you to comment on it. Thank you.

JOHNSON:

Thank you, thank you.

FLEISCHMANN:

Thank you, that's my understanding that that concludes the questions that anyone would have. Mr. Secretary, on behalf of the subcommittee, I want to thank you again today for appearing before our subcommittee. We all have an arduous task, you do- it's a very difficult mission and I wish us all the best in our endeavors. And again I thank you for answering the questions and being before us today, sir. I wish you well.