

Hearing Transcript

Senate Homeland Security and Governmental Affairs Committee Hearing on Department of Homeland Security Staffing Resources and Requirements

March 22, 2017

JOHNSON:

Good morning. This hearing will come to order. I want to thank our witnesses for taking time to testify, for taking the time to write your testimony, which I think was very interesting, and providing a lot of good information that we're going to need as we try and develop policy to secure our border and properly enforce our immigration laws.

Now, three weeks ago, we held a hearing, the Effects of Border Insecurity and Lax Immigration Enforcement on American Communities. We had witnesses telling some pretty grim stories. Julie Nordman (ph), her husband, Randy (ph), was the fifth -- the last person killed in a four -- in a five-person murder spree. Jill Marie Sunberg (ph) brutally murdered up in Washington State. We all know the celebrated case if Kate Steinly (ph).

Unfortunately, in the intervening period, another horrific case has come to my -- I'll be first to acknowledged crimes are committed, horrific crimes, you know, by U.S. citizens. There's no doubt about that. But a small comfort to the families of Kate Steinly, to Julie Nordman and her family, and the family of the other victim in Washington that -- well, other American citizens commit crimes too. Their family members were murdered by the people in this country illegally because we haven't in many cases enforced our immigration laws.

The most recent horrific example -- and I'm going to read just segments -- I can only read segments of this new story about a 14- year-old girl at Rockville High School in Rockville, Maryland, Jose Montano, 17-year-old from El Salvador, Henry Sanchez Milian (ph) 18- year-old from Guatemala.

Here's the account. The victim, the 14-year-old girl who was walking in a school hallway when she was met -- when she met two male students, identified as Montano and Sanchez. They forced her into a boys bathroom and then into the stall. Court records described the merciless and brittle assault by both Montano and Sanchez who allegedly raped the young girl multiple times.

According to U.S. Department of Homeland Security databases, a the Border Patrol agents stopped Sanchez- Milian (ph) in August 2016 in the Rio -- In Rio Valley Grande, Texas and determined he'd entered the country illegally from Mexico. That was in August 2016. He was ordered to appear before an immigration judge, but the hearing had not yet been scheduled. That's just the fact. There's another victim -- a victim because we failed to enforce immigration laws.

The purpose of this hearing now is to hear from those of you who are on the frontlines. This is about laying out the reality that you're facing in terms of having proper staff and proper allocation of staff. And today, we have three witnesses.

And I'll introduce you prior to your testimony, but we obviously have somebody from Border Patrol. We have a witness with 20 years of experience by the way, boots on the ground. We also have a witness from Office of Field Operation, so Border Patrols between the ports, Office of Field Operation as the ports of entry. We also have -- and by the way, that's 25 years of experience with that individual. And we have another witness from Immigration and Customs Enforcement, 14 years of experience, enforcing the laws on the interior.

These are gentlemen that have been in these positions over multiple administrations that can tell us exactly what has happened over time, where we are today, and what we need to do to effectively enforce our immigration laws and trying to keep our homeland safe.

So, again, I thank the witnesses. I appreciate your testimony. I'm looking forward to it. And with that, I'll turn it over to our ranking member, Senator McCaskill.

MCCASKILL:

Thank you. I would ask for my formal opening statement to be made part of the record, Senator Johnson, if I could?

JOHNSON:

Without objection. Can I ask to have mine?

MCCASKILL:

Absolutely.

JOHNSON:

Thank you.

MCCASKILL:

You know, let me just riff for a moment. First of all, thank you all for the work you do. As a former prosecutor for a lot of my career, I was honored to work shoulder-to-shoulder with law enforcement. And I understand the duty you have, the risks you take, and the sacrifices that both you and your families make, and it is important to note that you are here representing many more just like you in your roles as officers in your unions.

I am proud to see union leaders at this table, especially public sector union leaders. It is -- there has been a war on public-sector unions in my state, and I don't get it. I think you all see the value of being able to represent the front line in an organized way where their voices can be heard, and I appreciate that very much.

All of us want to secure the border. The question is not whether or not we want to secure the border or whether or not we all agree that crimes committed by anyone, including people who are not in this country illegally, we got to do everything we can to prevent them. The question is, how do we do that? The question is, what is the right strategy to really get at this problem? And what I would like to hear today is whether or not what is being proposed is in fact the right strategy and whether we put enough time in the analysis of the right strategy going forward.

For example, I was down on the border. I was in McAllen and I spent time with dozens and dozens of Border Patrol agents and every single one of them I asked them -- frontline folks, not the -- I mean the management where all hovering -- that's another question. I think you guys are way to management heavy. I just don't think there is any question you got way too many managers and not enough front liners. But -- and I kept asking them, what do you need? What do you need? And time after time I heard the same things. I heard lateral roads, access, so that when our technology identifies we can get there. I heard technology.

I was blown away by the fact that the Border Patrol had figured out how to jury rig a night vision set of goggles on a pickup truck with an arm that extended it up. Now, they didn't buy this off the shelf. They kind of designed it. You guys kind of designed it yourself in order to get eyes up above when the floating eyes cannot fly for whatever reason or for the fact that the topography down there really needs eyes up above.

The idea that you all are having to jury rig this together rather than getting the latest technology that's available and then I heard that you don't even have a bandwidth at the processing center in McAllen to use the kiosks that we bought. So, I hear all these things and then I tried to figure out why a wall across the entire border. I didn't have one border agent tell me that we needed a wall across the entire border.

I think I was told 55 more miles in that sector would be helpful or 75 more miles would be helpful, but not across the entire border. I also, you know, want to know why 10,000, why 5,000. Who did this analysis? Why don't we restructure and get rid of some of the managers? We can't even hire the ones that are authorized now. We're not even at full capacity for the ones that are authorized.

So, it doesn't seem like to me that either the wall or the number of people that are being requested in the budget has undergone the kind of scrutiny that they would go through in the private sector, the kind of analysis to really determine what is the most efficient and effective way to deploy our resources to help you all, to give you the support you need, and that's what I want to try to dig into today. I am disappointed no one from the Department of Homeland Security is here today because we are being asked right at this moment.

I know the chairman says it's early and it's too early to get him here and he has not joined me in inviting the officials in the Department of Homeland Security to these hearings, but they're asking for billions of dollars right now in the supplemental. And I think these questions need to be posed of them, not just questions posed of you that are in the important job of representing your membership in terms of the voice of their -- of your union members to management within your specific operations.

And finally, I would close with this. The notion that the number one killer in our country, more than car crashes and more than homicide, is, in fact, opioids. The notion that we're going to hire 15,000 more agents for both ICE and Border Patrol and we're going to leave the ports uncovered, all that's going to do is squeeze all those drugs to the ports, and you guys know it, but they're not requesting any officers to go to the ports and they're cutting the Coast Guard to build the wall.

Now, if this is about getting the opioids, the deadly poison that is killing our country in addition to securing the border and securing the boarder doesn't just mean illegal people coming across, it also means drugs, it doesn't appear to me that this is the well-out -- thought-out plan. It appears to me that this is political and not solid policy, and I look forward to the chance to question you about that and get your responses to that.

I know what you guys want you want the resources you need. I want to help you get those. I just want to make sure we're not engaging in campaign promises instead of policy that will actually secure the border, take the money away from the cartels that are making as much money on the peso (ph) as they're making on drugs right now in terms of the per head tax that people pay to get the illegals, the smugglers, get to those various cartel territories. I want to get after that.

And DEA is also -- I assume going to be cut because the Department of Justice is being cut. So, it just doesn't make sense to me that the policies have been well thought out, and I look for to questioning you about that. Thank you, Mr. Chairman.

JOHNSON:

Thank you, Senator McCaskill. And of course, that's the purpose of this hearing, it's to scrutinize these proposals so that Congress is well informed and so we can actually work with the administration to actually secure the border and enforce immigration laws. So, I am completely flexible in terms of my approach. I want to see what works.

MCCASKILL:

Well, I would love it if we -- if it is about the policy, it will be great to question the people who are setting them the policy.

JOHNSON:

And I was just ...

(CROSSTALK)

MCCASKILL:

And the next hearing on the wall, once again I have asked DHS to come as a minority witness and you have not joined me in the invitation to have the Department of Homeland Security here to talk about the wall, and I don't understand how we can get at questioning the policies if we don't have people at the table that are responsible for the policies.

JOHNSON:

Having solved a lot of problems, you first lay out the reality we're doing here in these hearings. We've held -- I think this is 20, 21 -- our 21st hearing on border security laying out the reality. And of course, I think he would -- the secretary will then be here the day after our hearing on the all in the fencing. So, you'll have your chance and we'll also going to give the secretary a chance to also get prepared to testify before the committee.

So, again, we're going to -- we're laying this on a very organized fashion. We're going to lay out the truth. We're going to lay out the reality, and hopefully, then design policies that will actually work once and for all in terms of securing our border and enforcing immigration laws.

It is a tradition of this committee to swear our witness. So, if you'll all rise and raise your right hand, I'd appreciated it. Do you swear the testimony you will give before this committee will be the truth, the whole truth, and nothing but the truth, so help you God? Thank you. Please be seated.

Our first witness is Mr. Brandon Judd. Mr. Judd serves as the president of the National Border Patrol Council. Mr. Judd joined the Border Patrol 1997 and serving multiple positions of the northern and southwest borders. Mr. Judd?

JUDD:

Chairman Johnson, Ranking Member McCaskill, I really appreciate the opportunity to testify before you today. I'm going to go off script. You have my written testimony. But based upon the comments that you gave today, I'd like to -- I'd like to speak to that. Senator, had we have done our job, that 14-year-old girl would have never been raped, period. That's all there is to it. Had we have held those individuals in custody or that that one individual in custody pending a determination whether that person should be allowed to remain in this -- in this country, that rape wouldn't have happened.

We failed our -- we failed the citizens of this great nation by not securing the border. Not only did we have the catch and release program that completely and totally demoralized the rank-and-file agents in the in the Border Patrol, but we also had an arrest rate of one out of every five individual that cross the border illegally.

We only arrested one out of -- I'm sorry -- one out of every two. We only had a 50 percent effectiveness rate. That's the problem. So, not only were the individuals that we were actually arresting, not only were we releasing those individuals, but we were only apprehending one out of every two that was crossing the border illegally.

There's no private company in the United States that can operate and be successful if they have a 50 percent success rate. They would go out of business. Senator, you're in the private sector. Your business would have -- I have to assume that your business would have gone under if you only had a side effectiveness rate.

As far as the wall goes, Senator McCaskill, I agree with you 100 percent. We don't need a great wall of the United States. We do not need 2,000 miles of border wall. I will tell you, however, that a wall in strategic locations is absolutely necessary. The fencing that we currently have can be defeated. Anybody can come up to that fence with a welding torch and cut a hole in it. In fact, they have.

I personally was assigned to find holes in the -- in the fence. I personally -- my brother was assigned for three years to patch holes as a Border Patrol agent to patch holes in the fence, and that was a daily activity that he was doing. So, yes, we absolutely have to have a barrier that is -- that can't be defeated. And if we -- if we do a wall and we do it properly on the border, we can in fact effectuate a better arrest rate. We can, in fact, secure the border. I'm 100 percent positive that that can happen.

Before we do that, we have to address the current issues that we have. According to CBP's own figures, in order to bring Border Patrol up to the congressionally mandated floor add 5,000 new agents and account for his historical 6 percent rate of attrition, the Border Patrol will need to hire 2,700 agents every year for the next five years. The 6 percent attrition, we lose over 1,000 agents per year because they don't like to work for the Border Patrol.

We've seen a huge increase in morale since November 8. And that increase in morale has been based upon the promise that we will be allowed to enforce the laws the way the laws were written on the books, and that that morale is going to be contingent upon whether or not we do, in fact, enforce the laws properly, but it's also contingent upon whether or not we fix the problems that we've had in the past.

The first and foremost problem that we've had is we don't have pay parity with other law enforcement agencies. Even though I'm a GS- 12 and an ICE agency GS-12 and ICE agent gets paid more because they have FLSA overtime. We do not. And that overtime was cut due to management -- the illegal use of the administrative uncontrolled overtime by management in in 2014.

And so, we have to address the pay parity. And if you're looking at seriously securing the border, if we're looking at a border -- a comprehensive border security bill, we have to look at how we can bring back parity in pay with our sister agencies. Otherwise, you are gonna see a mass exodus -- when ICE starts hiring, you're going to see a mass exodus of Border Patrol agents over to ICE and that's the last thing that I want to see.

We also have to fix the morale problem. If we look at it and we say that morale is strictly contingent upon enforcing the laws, we're going to miss all of the indicators of the past 20 years. We've enforced the laws before. We've enforced the laws and under the George W. Bush, Bill Clinton era. Yet, we still had a 6 percent attrition rate. So we have to look at the underlying reasons for that and we have to address that.

I really look forward to answering your questions. I want to bring out what the front-line agents have seen everyday to address the opioid issue. Senator McCaskill, I was a K-9 handler. I've seen

firsthand exactly how the drug problem works, but we're talking about Border Patrol agents in the field.

And you brought up that we're talking only about between the ports of entry. We are currently deploying Border Patrol agents to the ports of entry. It makes no sense. It absolutely makes no sense. We should not be using Border Patrol resources at the ports of entry. We need to address that issue and look at that and say, "OK. We're -- if we're going to get 5,000 agents to the Border Patrol, we also have to address the port of entry issue as well," because, otherwise, we're only addressing one small part of the problem.

But Senator McCaskill, as a K-9 handler, I can tell you that the drugs are coming across our borders we don't even have a minute handle on what's happening across the borders as far as drugs go, and so, we have to address those issues as well.

I appreciate the time and I look forward answering questions. Thank you.

JOHNSON:

Thank you, Mr. Judd. Next, Mr. Reardon, shaking his head. So, we need to have more agents at the ports of entry, which I think we all agree on. Our next witness is Anthony -- Mr. Tony Reardon. He is the president of the National Treasury Employees Union who represents the Office of Field Operations. Those are agents at the ports of entry. During his time in the organization, Mr. Reardon has worked on initiatives to increase staffing levels at air, sea and land ports of entry. Mr. Reardon?

REARDON:

Chairman Johnson, Ranking Member McCaskill, thank you for the opportunity to testify on behalf of over 25,000 front-line CBP employees at 328 U.S. air, sea and land ports of entry and preclearance operations overseas. There is no greater roadblock to legitimate trade and travel efficiency and stopping illicit traffic in -- trafficking in people, drugs, illegal weapons and money than the lack of sufficient staffing at ports.

The current CBP officer shortage is indeed staggering. There is a vacancy rate of nearly 1,400 funded CBP officers at the ports. And according to CBP's own workload staffing model, an additional 2,100 CBP officers must be funded and hired in order to meet 2017 staffing needs. A total CBP officer staffing shortage of 3,500 exists today.

The economic cost of this shortage is staggering as well. For every 33 additional CBP officers hired, the U.S. can potentially gain over 1,000 private sector jobs. Understaffed ports lead to long delays in travel and cargo lanes and result in a significant hardship for front-line employees. Involuntary overtime and involuntary work assignments far from home destroy morale and disrupt the lives of CBP officers.

One factor hindering CBP hiring is the high failure rate of the polygraph. NTEU is working with CBP and Congress on improving the process. This poster -- and I believe you all have pictures as well -- shows a typical day at the San Ysidro port of entry. As you can see, there are 26 primary

vehicle lands with up to two booths at each lane, a total of 50 booths. Approximately, 60,000 vehicles and 25,000 pedestrians apply for entry each day.

In the photo insert, you can see the pedestrian crossers. Today, this port has over 350 CBP officer vacancies. By the summer of 2019, this port will expand to 32 lanes with 62 booths, but the proposed FY 2018 budget recommends no funding to hire any additional CBP officers for this or any of the other of the nation's 328 short-staffed ports of entry.

Imagine working up to 16 hours a day here for days on end with no relief in sight. An example of a negative impact staffing shortages had on CBP officers can be found at San Ysidro and the Dallas where CBP is instituted involuntary temporary duty assignments or TDYs. Forced TDYs caused by ongoing staffing shortages undermine employee morale and overall recruitment efforts because the very best recruiters should be CBP employees, CBP officers.

Just last week, I heard from a female officer at a Texas airport who has been involuntarily assigned to a 90-day TDY assignment in Arizona. Her husband works for ICE and at times has to go on TDYs himself. They have small children. And if he is called for a TDY while she is in Arizona, they're gonna be in a significant blind.

CBP has refused to give this CBP officer an excuse from this involuntary TDY, and based on experiences such as this, many officers would not encourage their family members or friends to seek employment with CBP. Neither the president's January Executive Order nor the president's 2018 budget request include any new funding to meet CBP staffing needs at the ports of entry.

Despite the fact that CBP officers at the ports of entry in 2016 encountered over 274,000 undocumented immigrants and seized over 600,000 pounds of illegal drugs and over \$62 million in illicit currency while processing over 390 million travelers and \$2.2 trillion in imports through the ports, both CBP and Congress need to step up.

It is critical that CBP fix its broken hiring process that has delayed the hiring of the 2,000 officers funded in 2014. And if Congress is truly serious about the job -- about job creation, it should fund the hiring of the remaining 2,107 CBP officers and the 631 agriculture specialist identified in CBP's 2016 workload staffing model in order to address the ongoing CBP staffing shortages.

Thank you very much and I look forward answering your questions.

JOHNSON:

Thank you, Mr. Reardon. I think we would ask ICE not to steal from Border Patrol, but I understand exactly what's -- I know. I understand that. Again, I think it's really good issue to point out here.

Our final witness is Mr. Christopher or Chris Crane. Mr. Crane currently serves as the president of the National Immigration and Customs Enforcement Council. He joined the U.S. Immigration and Customs Enforcement, ICE, in 2013 and has served as an immigration enforcement agent and a deportation officer. Mr. Crane?

CRANE:

Good morning, Senator Johnson, Ranking Member McCaskill. President Trump and DHS Secretary John Kelly have been unapologetic in their commitment to enforce the laws enacted by Congress. We believe that recent statistics released by CBP showing a sharp decline in illegal entries is a direct result of their leadership and that illegal entry will continue to decline if strong interior enforcement continues.

While many have tried to make the strategy for stopping illegal immigration a complicated matter, it is not. Border security must continue. But in addition to that, the United States must enforce its laws on the interior of the country and as a nation send a very clear message to the rest of the world that illegal entry into the United States and overstay will not be condoned or permitted. The United States must stop dangling a carrot and drawing people into this country and encouraging them to violate U.S. laws.

Interior enforcement is key to border security. During my career at ICE, I have never had the opportunity to commend a sitting U.S. president or DHS Secretary. Today, I'm here to do just that. Amidst all of the hammering from the media and protests for special interest groups, President Trump and DHS Secretary John Kelly haven't wavered but instead continued steadfast in their support of the rule of law and our officers in the field.

If they continue that course, we believe countless lives will be saved and victimization now seen so often as the result of illegal immigration will dramatically decline. We need more officers and staff at ICE Enforcement Removal Operations. Currently, ERO has around 5,000 officers to police approximately 11 million illegal aliens as well as millions of other lawfully admitted foreign nationals nationwide. You know, we're set up from failure for the work -- from work go.

We enthusiastically support the additional officers identified in President Trump's Executive Order on interior enforcement. However, we have little faith in the ability of ICE leadership to most effectively implement the additional staff. As staffing increases or considered and planned, ICE leadership should be thinking outside the box and innovating, looking at new ways to have our officers do less paperwork and data entry and more law enforcement.

However, from what we have seen thus far, that's not happening, no changes, no innovation, and no improvements, business as usual. While there is no question the morale within ICE is at its highest that it has been for many years, the president's emphasis on enforcing the nation's laws will not completely solve the overall morale crisis within the agency.

As with DHS in general, ICE is suffering from a toxic and failed management culture, an absolute absence of leadership. In 2014, ICE was dead last in morale among 314 federal agencies surveyed. In 2015, ICE was second from last, and last year, sixth from last. Screw up and move up is the general term used by many ICE employees to describe their supervision.

Most employees have no trust in DHS and ICE internal affairs offices to effectively carry out investigations against ICE supervisors. At ICE, it's a good old boy network, in which supervisors

cover for supervisors and only rank-and-file employees are held accountable. Supervisors are permitted to harass, discriminate and retaliate at will.

Established in 2003, ICE has practically no policies. The agency generally depends on INS policies from 20 years ago or more or they just have no policy at all. Law enforcement officers within ICE generally do not believe they have the full support of ICE leadership in carrying out the agency mission.

During the last eight years, ICE employees and officers have been publicly demoralized by their own government. These actions continue as ICE officers and arrest activities are incorrectly portrayed and described publicly in the media by political pundits as Gestapo tactics and other Nazi references.

It is pretty hard everyday to maintain morale when your own government and the media turn on you for enforcing the laws enacted by Congress. Perhaps more importantly, this rhetoric places the safety and lives of our officers at risk when our nation's lawmakers and government show no respect for the rule of law and the officers who enforce it. Criminals feel empowered to become resistant and aggressive, and likewise, lose respect for law enforcement officers.

At the Congressional level, our officers and employees -- and employees desperately need your support. We need your support in terms of additional officers, staff and equipment. We also need your support -- we need you to support the rule of law and the officers who enforce it. Everything you say and do has consequences. Talk of amnesty will create another run on the border. Disparaging comments about our officers will put their safety at risk. We can significantly stop the flow of illegal immigration into the United States, and with it, much of the needless death and victimization that accompanies it if we have the support of our government and supporting its laws.

Thank you and that concludes my testimony.

JOHNSON:

Thank you, Mr. Crane. First of all, I think I speak on behalf of everybody at the dais here. We do recognize that just like policemen and firefighters, the men and women that work in your agencies are putting their lives at risk and put them online trying to enforce the law. So, we certainly want thank you for that.

And you know, that brings up my first question. Mr. Judd, a recent report by Border Patrol said the tax from October 2016 through February 2017 are up involving weapons projectiles, close quarter fighting. Those violent attacks against Border Patrol agents are up from 179 percent. Can you just give me your feeling on why that is?

JUDD:

Yes. There is a -- when we empower individuals to believe that they can, in fact, break our laws and there are no consequences to that, what we do is we escalate the violence that exists on the

boarder. I believe the figure that you just mentioned came out yesterday from the Rio Grande Valley. Assaults on Border Patrol agents are up by 150 percent over the same time last year. And again, what we've done, unfortunately, is our own federal government has empowered criminals to feel that they are untouchable and they can come to our country and do what they want to do and act with impunity of what the laws actually are.

JOHNSON:

Mr. Crane, we have heard repeatedly and I'm quite honestly shocked coming from the private sector that the retaliations from management across the government in certain agencies are worse than others. There's obviously a real problem with management with within these agencies. What is your solution? I mean if you got to clean house, I mean how thoroughly do you have to clean house?

CRANE:

Well, sir, thank you for the question. First of all, I would like to add to what Mr. Judd said that I don't know that ICE collects the data, but we've been saying this for years and we testified on this under the Obama administration we've absolutely seen the aggression and the assaults against our officers, climbing as well, it's out of control. So, I just want to make sure that we had that in there.

I think what law enforcement in general in the country is now experiencing is what we've been feeling for a long time. When your government doesn't support you, the people sense that and they ceased to respect your authority.

In terms of what do we do about our management problem, I don't think it's rocket science and I'm not stealing something here from President Trump because we've been saying it for years to every director and every DHS secretary that comes in we need somebody to come in and say there's a new sheriff in town and it stops now. We ...

JOHNSON:

What stops?

CRANE:

The retaliation, just the activities of management in general. Actually, I talked to Secretary Kelly about this last week. We need some of that Marine Corps leadership tradition brought over to our agency, leadership by example. Leaders are held to higher standards, accountability, and really do it. I mean, right now it is -- it's like a good old boy network. Everybody knows it is going on. A lot of people stopped reporting it. But even when it is reported, nothing is done about it. And it has to start at the top.

And I know this may sound like a simplistic answer, but give me the keys to the house and I'll show you what it takes to fix the agency and that's what it is. We got to have a boss that comes in

and starts. We need policies. We have no policies to even follow. That's half the problem. But the other problem is that, again, it is this good old boy network and it's got to go away.

JOHNSON:

Again, a get a good old boy network is populated by good old boys, and how many good old boys are we're going to literally have to send packing? And I did the other part a question too is because I think we are recognized as we see the statistics, the number of agents on the ground, the ratio to that to management has grown significantly over -- I don't know what time period. I mean talk to of those?

CRANE:

We're tripping over managers on the field. And we've been saying this for a long time. And when we speak to ICE about it on one of the few things that they seem to talk to us about an actually track, they're in complete agreement that they've got way more managers, but it doesn't seem to stop them taking -- you know, they'll take two officer positions and make another management position out of it and they just keep doing it.

JOHNSON:

So, let's go -- so, what caused that? And kind of go over the root cause. This is true against -- across all three agencies, correct? We're management top heavy. So, when do this process began? What caused it? Because I think if we identify that what caused it and loving we identify that it's going to be easier to solve it.

CRANE:

Sir, I don't know if I can speak to what caused it because I don't think it is necessary. I think it's management that's a little but doesn't have enough oversight, just kind of running amok.

JOHNSON:

Mr. Reardon, can you comment on that?

REARDON:

Well, in terms of when it started, what I can tell you to kind of help add some information about that is around 2000, at least in OFO, my understanding is that, if I have these numbers correct, is that there were -- there was one supervisor to 12 front- line employees. And now, that number has changed to one supervisor for every approximately six employees. Now, what the actual catalyst was to changing that dynamic, I don't really know.

JOHNSON:

But one of the solutions simply be go back to 12 to 1 and have managers get back into the operating position. Is that even possible? Have they lost their skills? Are they too old? I mean, is that a possibility?

JUDD:

To speak to that, the catalyst was what we call kingdom building. If you -- if you look at it ...

JOHNSON:

Government bureaucracy.

JUDD:

It is. It's absolutely the -- but the only way a manager can increase their GS level from say 14 to a 15 is if their operations become more expansive. And so, in order to make your operations more expansive, you add additional people to your, quote/unquote, "team."

JOHNSON:

So, the pay structure within the government certainly drives at kingdom building.

JUDD:

It is. And that's absolutely what drives it. If you look at my current sector, the harbor (ph) sector, we have a chief patrol agent who is a GS-15. He only oversees 137 agents. That is it. Why we have to have a GS-15 as a chief patrol agent at the harbor (ph) sector? So, what he did was he -- was he expanded upon his kingdom and he put Intel agents in cities like Billings, Montana that are four hours away from the border. Those agents actually operate like FBI agents. They give us nothing as far as the Border Patrol goes but that's how he was able to get his GS-15.

JOHNSON:

So, we really do need a top to bottom staffing review of every last one of these agencies, providing a recommendation to the secretary.

JUDD:

We have to.

JOHNSON:

Maybe we should do that through an outside agency. I mean there are plenty of human resource companies that can provide that type of look and they do that pretty quickly and get numbers on it. I mean if you can take for management rank, put that into boots on the ground rank, that will certainly help a little bit of the personnel shortage.

JUDD:

Well, Senator, and I don't want to take up too much of your time, but due to days off, we -- again, the United States Border Patrol has about 19,700 agents right now. Everyday, we have about 60 percent of those 19,700 agents are on duty. We operate seven days a week and we operate three shifts. So, 60 percent are on duty. Of that 60 percent, it's estimated that only 25 percent are actually deployed to the field in an enforcement capacity. The other 35 percent are doing administrative jobs. That's ridiculous. That's got to change.

JOHNSON:

We'll lay this all out. We'll put it in, you know -- again, (inaudible), we're going to lay this out. So, it's very apparent in terms of what needs to happen. Senator McCaskill?

MCCASKILL:

I couldn't agree more and -- but I will tell you, Mr. Crane and Mr. Judd and Mr. Reardon, I'm not probably as excited about hiring a contractor to figure this out. You guys know how to do it. You all should present plans to us on how to re-work the management structure so that we get people to the frontline. It's not going to do us any good to hire 5,000 or 10,000 more if 50 percent of them are going to be doing administrative work and figuring out how to get a higher GS ranking for pay. That makes no sense, whatsoever.

And the fact that we are not doing that first -- I mean think of the efficiencies. We could get out of your agencies if we listen to the line workers through your representation. I mean that's what I think is really an important takeaway in this hearing that unions matter. And what you guys represent in terms of people on the ground matter. And so, I would just tell you I welcome your analysis on how we could rework management, how we could bring down the number of people doing admin versus the number people that are on the frontlines.

And also, Mr. Crane, I want you to know our whistleblower protection is, I hope, well-known in the federal government. I hope you will encourage your members to let us know when there is improper behavior by managers against your line officers that are out there doing the hard work every day. When you see waste and abuse, I hope you call us so we can follow up and we are very protective of whistleblowers. Nobody needs to worry that we are going to throw them under the bus. We won't. So, please let everyone know that we want to be helpful.

Mr. Crane, let me ask you about another part of the magnet, and this is been something I have been banging on since I got here. We know that there are employers in this country that are knowingly hiring illegal immigrants. We know -- in fact, I bet if I got a bunch of ICE agents in the room in any given state they even know who they are.

CRANE:

Yes, ma'am.

MCCASKILL:

You guys know who they are?

CRANE:

We know who a lot of them are.

MCCASKILL:

Why aren't we prosecuting them?

CRANE:

I have ...

MCCASKILL:

Why aren't we going after the employers who were knowingly cheating? They are creating an unfair competitive advantage. They are, in fact, a magnet that is, in fact, helping draw people over the boarder. I mean most of these people aren't coming for a vacation. They're coming to try to find work. And the issue is if we never go after the employers, have you all, in terms of your union, ever presented a plan to management about how we can effectively enforce all of our laws, not just for those people who's entered this country illegally, but for the people who were hiring them illegally?

CRANE:

Ma'am, I couldn't agree with you more strongly I believe, but I would want to be clear that, you know, I think that maybe in the previous administration obviously there was nothing really done on worksite enforcement ...

MCCASKILL:

Or the previous. When I got here, (inaudible) sat in your chair and said, "I have no idea how many employers." They couldn't even give me the numbers of employer -- they have -- they have lots of photo ops rounding up illegal immigrants in the workplace, but not one citation. And somebody that ran ICE at that point actually had the nerve to tell me, "Well, these are the hard cases to make." I said, "No, they're not. If one worker is working on -- if we have 10 workers working on the same Social Security Number, give it to jury and I'll get a conviction in 10 minutes." People hate that people cheat on this.

CRANE:

Well -- but we can't separate the two. I mean if we're going to do worksite enforcement then we have to do it with those people working there illegally. They have to be held accountable ...

MCCASKILL:

Of course.

CRANE:

... for what they have done. We absolutely need to very, very aggressively go after these businesses and their owners. I couldn't agree with you more. Worksite enforcement, although -- even though ERO participates in it, it's actually the mission of HSI to prosecute it. But my understanding of some of the problem on the prosecution side is the wiggle room within the law in terms of prosecuting the employers.

MCCASKILL:

I don't think so. It's knowingly. All you got to prove is they knew it. And you know, I mean if we can make circumstantial arson cases in this country and we can make the kind of cases we make a routine basis in criminal courts across this country and I know we got several prosecutors on the panel here. I was in a courtroom for years and years.

Believe me this is not a hard case to prove that something knowingly hire illegal immigrants. You guys know who they are. It is common sense and you can get the evidence. All you got to do is subpoenaed their work records and figure out pretty quickly that they are -- just find that they have no payroll records and they're paying everybody under the table.

There are apartment buildings in St. Louis full of illegal immigrants stack to the gills where people getting paid by cash every two weeks. Absolutely talk about taking American jobs away.

CRANE:

Absolutely, ma'am, but also in some of those areas were prohibited from going in there. You know, we have ...

MCCASKILL:

Well, I need to know who is prohibiting you from going in there and we need to get to the bottom of that ...

CRANE:

OK.

MCCASKILL:

... because I think this is a place where maybe we can get some bipartisan agreement ...

CRANE:

Absolutely. And I'm telling you you're so right on this. And if we're able to do this worksite thing and we actually do it, we are going to shutdown so much of this illegal immigration ...

MCCASKILL:

Absolutely.

(CROSSTALK)

MCCASKILL:

Talk about a deterrent.

CRANE:

Yes.

MCCASKILL:

It's very hard to deter a woman and her children who think the only way to live is to get the United States America. On the other hand, you start taking businesses to court and actually punishing them for doing this. It is going to clean this up faster than all the border agents in the world.

CRANE:

Yes, ma'am.

MCCASKILL:

You covered the management questions. Mr. Judd, let me circle back to the wall just briefly. I'm going to read a quote that I got of yours.

JUDD:

OK.

MCCASKILL:

And it just caught my eye because I agree with you and I want to emphasize it. This was from November 17th on NPR. "In fact, I was in discussion with the transition team yesterday. If you were to ask me, I would say that right now, again, we have about 10 to 15 percent of our border

has fencing or wall. If I were to quantify an actual number, I would say that we need about 30 percent." Do you still stand by that statement?

JUDD:

I do. And that's actually one thing that I appreciate about the Trump administration. They did, in fact, bring the boots on the ground and to talk about and discusses this. He took it from a business point of view, understanding that he had an idea but understanding that he didn't know everything.

MCCASKILL:

So, do you believe they're only going to want to build 30 percent?

JUDD:

I don't know. I don't know what the administration's plan is.

MCCASKILL:

Because we have not gotten that signal at all.

JUDD:

I don't ...

MCCASKILL:

The signal we've gotten is this is going to be billions of dollars and they're going to ...

JUDD:

What I've gotten is that they're willing to take the expertise of those that know best. And in fact, the chief patrol agent that the Trump administration just installed, Chief Vitello, just said that we don't need a wall of across the entire United States. We need walls in strategic locations. He -- all he did was parroted exactly what I've been saying for about a year.

MCCASKILL:

Perfect. Well, let's hope that you all will dictate this policy and that we can do something that makes sense in terms of the wall where we need it. I would point out that 154 mile section of fencing in South Texas required 400 land acquisitions and 330 of those were condemnation by eminent domain, a lot of which is still litigating because, you know, your agents are set in pickup trucks by those open gates because they're still in court years and years and years, and none of those costs have been figured in.

All they've figured in on these cost is just the actual building. They have figured in -- one piece of land they -- was initially offered 114,000 for 8 acres in August 2012. It was settled for 1 million. So, that's just one case in one parcel of land. So, we're talking about hundreds of millions of dollars in land acquisition that is not even -- and maybe even billions that isn't even being figured into this when you count the litigation involved. Thank you, Mr. Chairman.

JOHNSON:

So, the good news is we can influence these policies. That's the whole purpose of this hearing. So, we're getting a lot of good information. Before I turn over to Senator Lankford, I do want to follow up real quick on the thread and maybe you don't want to answer this, and I'll agree with Senator McCaskill. We have a very good process of whistleblower protection in this committee, but who is prohibiting you from enforcing the law with employers?

CRANE:

It's really kind of a -- it's a complicated kind of story, but very quickly so you -- under DHS, they combined customs and immigration to make ICE. There was kind of a turf war that took place after that. And the bottom line is that the customs folks kind of won. Their management won. And they really, for the most part, don't want to do immigration work. That's part of the problem.

The other part of the problem -- actually when I was talking to Senator McCaskill about being prohibited to do things, for example, in my area in Park City, Utah, we would be prohibited from going into certain -- we get complaints from citizens, residents about these giant apartment complexes full of all these people and stacked with all these people in these apartment buildings.

And you know, the Park City mayor basically said, "You know, I don't want you guys up here in Park City enforcing the law," and then that would come down, you know, kind of politically through the channels, and then the field office director would tell us, "Stay out of Park City." And the police chief up there would be singing the same tune. The cops on the ground aren't saying it. They would be begging for us to be up there, but that's kind of how the politics play out.

I'm going to tell you right now we have in the past had individuals in custody and had at least what we were told the senator such and such called or representative so and so called and you guys got to cut this guy today.

JOHNSON:

So, it's kind of ...

MCCASKILL:

We didn't know about that.

JOHNSON:

... kind of like under the table sanctuary city.

MCCASKILL:

That is a felony. And if that is going on, we need to know about it. I mean when you all hear that in the field you got to call us because that is an -- you know, follow those people who work and arrest the guy who is hiring them, you know, follow them to work. I mean I just think that's unbelievable.

CRANE:

Well, I do want to say on the tail end of both of those comments that Enforcement Removal Operations, that's who I work, we're all about doing this immigration mission. And anything that you can do to bring those -- because we got half the missions basically. HSI's got some of them. HSI doesn't want to do them and they continually keep kind of moving them over to us. Somebody needs to look at, one, I think making them do their immigration missions.

But long term, we need to look at bring in more those immigration missions over to ERO, the folks who will actually doing and expand our duties to where they actually include worksite enforcement and things like that because we'll get it done for you. We'll get it done for the country. I'm telling you. ERO, we do more with less than anybody, I think, in the federal government. Give us those immigration missions. Give us the people to do it. Expand our duties. And we will make it happen for you.

JOHNSON:

You will all be supplied in our websites for whistleblower protection so you can contact our committee. Senator ...

CRANE:

Sir, if I could just say on that real quick. The whistleblower part of that though is just a small piece of it. It's really kind of out in the field that's any time an officer or an employee says, "Hey, Boss. I don't think this is safe. I don't think this is legal. I don't think this is right." And it doesn't always fit into that. In fact, it seldom does fit into that whistleblower thing.

And you know, we've got an OSC case right now, Office of Special Counsel, where it's our understanding the Office of Special Counsel has found that, "Hey, this is one of the clearest whistleblower cases that we've seen," and absolutely nothing is being done. That manager is still out there managing, if you will, harassing every single day these employees and nothing happens with it. So, our folks -- and I think all federal employees have completely given up on this whistleblower protection thing.

JOHNSON:

Well, well beyond this hearing. We will very close with you and our staffs ...

MCCASKILL:

We should do ...

JOHNSON:

Yes. Bipartisan we've held, so we'll do more. We will work very closely with our staffs with your agencies and we're going to get to the bottom of this.

CRANE:

Thank you, sir.

JOHNSON:

Senator Lankford.

LANKFORD:

Gentlemen, thanks for being here. Thanks for the work on this. This is something Senator Heitkamp and I are working on as well is dealing with the federal workforce and the gaps that are in there as well as inspector general reports and where -- the inspector generals are doing the task and whether or not doing the task and then also the whistleblower comments and trying to get the information back up. So, I appreciate what you're doing and we will continue to be able to stay on that task as well as the chairman and ranking member here.

I need to ask you a couple of questions here just related to some of the testimony. There's been a lot of conversation about needing additional staff. Can you help me understand the places as you look at? Obviously, you're not assigning each place -- I mean I'm not talking about 12 here and 13 there, but if you look at the key areas where additional staff is needed. I'm guessing it is not in management. But as you're dealing with locations and places, is in the Ag enforcement area, is it specifically on-field and the border, is the ports? Where would you identify the key places that needed additional staffing?

REARDON:

Thank you for that question, Senator. I would tell -- I represent about 25,000 employees in the ports of entry. And right now, we are short 3,500 and CBP officers around the entire country. I'm not sure if you saw the photograph of San Ysidro ...

LANKFORD:

I can see it.

REARDON:

There are -- they are short 350 officers in San Ysidro. I would say that same kind of situation though not -- thought not at the same level, not the same numbers, is replicated really across a lot of the Southwest border. And actually, we have the problem in other ports of entry as well.

And the problem that I really want to point out is that, you know, when I travel around the country and talk to our people -- and I do quite a bit, the number one thing that gets brought to my attention every single time is staffing and the impact that the lack of staffing has on those individuals. And more so, even on their families, I mean we're talking about people -- I mean I have heard stories about people falling asleep on their drive home because they have work -- days on end 16 hour days. That's just wrong ...

LANKFORD:

It is.

REARDON:

... to do to human beings.

LANKFORD:

So, specifically ports of entry, clearly, that's an area. Where are the other areas that we will look at and identify?

REARDON:

I'll let these gentlemen respond to that because I represent the folks in the ports of entry.

LANKFORD:

Thank you.

JUDD:

The Board Patrol is very fluid. We don't dictate where illegal immigration takes place unlike the ports of entry. The ports of entry know how many vehicles are going to come to Sweet Grass, Montana. They have a very good idea how many vehicles are going to come across that port. So, you can basically staff based on history there.

With the Border Patrol, we have to constantly be fluid and we have to address the problem where the problem lies. For instance, in the 2000, it was all Tucson, Arizona. Now, it's RGB, Texas. Next year, it could be Havre, Montana simply because of the loose visa regulations up in Canada now. So, we have to be fluid in addressing the problem as the problem arises.

LANKFORD:

OK. Any other comment, Mr. Crane?

CRANE:

Sir, we need people everywhere. We got 5,000 people in 50 states, Guam, Puerto Rico, Saipan and the U.S. Virgin Islands. And basically, all of our folks should be doing the same mission everywhere they're at.

And just to give you kind of example of what's been happening on the interior enforcement side, 9/11 happened because why? Because people came here. They're on visas. They entered the country legally. They never would have been prevented from being here by the U.S. Border Patrol, but the response from Congress was to triple the Border Patrol and make us smaller.

And so, we are way overdue for some staffing adjustments. And I promise that if we had had 10,000 more officers tomorrow we need them all, but I think with kind of what Senator McCaskill said, I think we need to take a look at -- we've got too many people, too many officers with guns, badges and immigration arrest authority sitting in offices doing data entry all day long. They need to be out on the street.

LANKFORD:

So, that's a scenario we're hearing loud and clear and that's a scenario that we will work with Senator Kelly to be able to try to determine what is happening and trying to be able to push people out of the office, what's slowing down, and what's requiring all the data entry and the reporting not allowing people to actually get into the field.

I think that's extremely helpful. The E-Verify system, the enforcement structures, all those things are in an ongoing conversation here on how do we actually strengthen that and to be able to bring in encouragement to it. All these hiring issues, though, in the push to the surge to the hiring, I look at and Senator Heitkamp and I does a lot with the hiring measures.

As many of you may know, the federal government wide on average in 2015 it took 90 days to hire a federal employee. In 2016, it took 100 days to hire a federal employee, except for you guys where it takes 460 days to hire one employee, 460 days, at a 65 percent failure rate on the polygraph in the middle of that. So, I need help on both of those. Why does it take 460 days? Can't some of those processes be combined so they're simultaneous rather than linear in order and why do we have a failure rate of 65 percent?

JUDD:

ICE doesn't have a pre-employment polygraph. The Border Patrol does.

LANKFORD:

Right.

JUDD:

I will tell you right now we are not administrating the polygraph correctly, period. We have police officers that have passed the polygraph for their agencies that fail our polygraph. That means it's one of the -- one of two things happened, that police officer upon entering in as a police officer became corrupt or we're not -- we're not administering the polygraph correctly. I would see ...

LANKFORD:

And no one else is even close.

JUDD:

Yes. Nobody comes close to having that three times. Senator Lankford, I will tell you -- Senator McCaskill said, you know, drop a plan. I will tell you we have drawn a plan after plan after plan for the agency. And the funny thing is there's nothing in it for me. I can't kingdom build. I can't promote myself. So, when we draw up a plan, this plan is altruistic; whereas, the agency -- when the agency draws up a plan, it's based upon themselves and it's based upon how can I further my career based upon this plan.

I will tell you right now we have -- I have spoken with Commissioner Kerlikowske, with Deputy Commissioner McAleenan and tell them and blew in the face about this polygraph issue and they just refused. If they change it, they have to admit that they were wrong. And they refused to admit they were wrong. We are not administering the polygraph correctly. If we do that, we will not have the kinds of problems we currently face. And Senator Flake is introducing legislation. Why does it take legislation to fix a problem that's this simple?

LANKFORD:

The obvious (ph).

JUDD:

It is. It is.

LANKFORD:

Yes. It should be obvious. And this is something we'll continue to be able to press on in the days ahead because this -- I would hope any of the new administration would step in and take a look at all the previous things from decades back and try to evaluate.

DHS, obviously, is a merger of multiple agencies to be able to come together, and there are still H.R. issues. There are still documents that are missing. There are still process issues that are missing and we'll try to continue to be able to press on this to be able to make sure it gets there. I

would say to you anything you can resubmit needs to be resubmitted and so it can get into a process right on the conversation with the administration. Mr. Chairman, thank you.

JOHNSON:

Senator Carper.

CARPER:

Thanks for (INAUDIBLE). To our ranking member and to all of our witnesses thank you for the work you and for your leadership. I am reminded Senator (INAUDIBLE) a couple of years ago to take up along the border with Canada and several of them did a similar thing on the border with Canada border and Michigan. I learned a lot from both of those trips. And then on the border with the Mexico from San Diego to Brownsville and other places in between, probably (ph) more place I did not see but among the lessons I learned is that what may work on a border with -- first of all, I think everybody on this panel, I think everybody in the Senate agrees we need to do -- we have to secure borders.

I think most Americans agree we need secured borders. The question -- the big question is how do we get them? And what may work well on the northern border with Canada may not be appropriate in Mexico. What may work in parts of Texas may not work in parts of California -- along the Mexican border. What may work in parts of Texas -- one part of Texas may not work in another part of Texas. The times that I've been on the border to talk with a lot of the folks at your colleagues and compatriots Mr. Judd.

I don't remember many of them ever saying we need a wall. I just don't remember that. I remember them saying we need a fence. It might make some sense. And so some place it does and some place it does not, but what I come back to as I've focused on the force multipliers. I think that force multiplier is how do we make the men and women who are doing the work on the ground every day on our border? For example, how would we make them more effective? How do we make them more effective?

And you ask them questions and they will go give you ideas, as you know, in some cases -- one of the things they said is actually we need helicopters that are reliable and maybe it makes sense to have a variety of different kinds of helicopters that require different maintenance, different maintenance crews, different technologies, different maintainers, different supply chains. Maybe we should have some of our helicopter or maybe in some places we need boats. In other cases, we need both ramps. In some places where the grass is really high along the border that horses actually work.

In some places we need stationary observation towers. In other places we need mobile observation towers. In some places we need an (INAUDIBLE) that goes up thousands of feet up in the air with cameras (INAUDIBLE) to look deep into Mexico. Almost everybody said we need a good intelligence, better intelligence and we need -- sometimes we need drones. Sometimes we need fixed winged aircraft. We need all of the above. We need all of the above, and we need to figure out which works best and -- (INAUDIBLE) I'd like to say ask your customer -- ask your customer.

In this case the customers are the folks that are working in the border and they've given some pretty good advice. I would just say Mr. Judd if I could, do you believe that some of the alternatives that I've mentioned, the force multipliers that I've mentioned make sense? Does some make more sense than others or are there some that I've not mentioned and there probably are that you would like to bring to our attention.

JUDD:

Force multipliers are extremely important. What I will tell you is that we do have an awful lot of technology that were just flat-out not utilizing. For instance, early in my career helicopters flew at night. We had no problem getting night coverage and what's interesting is the vast majority of the arrest that take place on the border happen at night.

Right now the Office of Air and Marine, they fly very little at night. In fact in RGB, we had to use Coast Guard to fly sorties in certain areas and when their apprehensions became so great, the officer, it's my understanding the officer at Air and Marine asked them not to fly anymore at night in RGB because it was making them look bad.

So, what we have to do is we have to take to the technology and the resources that we do have and we have to utilize that technology and resources correctly. But the problem is when we see on the Office of Air and Marine not utilizing the technology correctly or the way that we've utilized it before, and yet this individual who was the head of the Office of Air and Marine is now the acting deputy commissioner, you know, we're rewarding ineptness that's happened under his watch.

Now I don't know this individual personally but I can tell you that because we are a separate agency, which never should have happened in the first place in the past, the border patrol had their own air unit and we got to dictate when the flight hours were, when the flight time was. But because we created this huge bureaucracy, this kingdom building that I mentioned before, because we did that, we separated it out and now the Office of Air and Marine has complete and total control, and we've lost a lot of the flight time and flight hours. So, we have to utilize the technology that we currently have better and were just not doing that.

CARPER:

All right, thanks. Our chairman and along (INAUDIBLE) have travelled to parts of the (INAUDIBLE) triangle (INAUDIBLE) El Salvador (ph) and I'm going to meet later today with the president of Honduras, President Hernandez to talk about some of these issues that we're talking about. One of the things -- I kind of said many times is that we need to focus on root causes of illegal immigration and that it goes back to our addiction in this country to illegal narcotics which are trafficked through these countries -- Honduras, Guatemala, and El Salvador as you know.

And if we don't focus on trying to make of those place more habitable, places where there's more hope, rule of law, then we can deploy our kind on asset -- human assets and other technology assets along the border and we want to really make the kind of progress we otherwise could make.

When the general code was before, a mother (ph) took over his confirmation pretty much said the same thing. We just ask for the three of you, just react briefly to what I've just said and what General Kelly said, just very briefly.

JUDD:

We have to be proactive. We can't be reactive. Our intel is reactive instead of being proactive. If we take a proactive approach we'll be much more successful.

CARPER:

All right, thank you. Mr. Reardon any comments.

REARDON:

Yes, I would agree with that, that we need to be proactive.

CARPER:

All right.

REARDON:

Absolutely.

CARPER:

Mr. Crane.

CRANE:

We definitely do need to be proactive on the intel side. You know, we've been telling the (INAUDIBLE) for a long time we need to do more info gathering. We're encountering these people, we're interviewing them and we're not really gathering intelligence on them. We're not asking, hey, where are these fraud (ph) dog houses at. You know, what kind of drug trafficking information could you have for us, things that we could pass up the pipeline. We're just not doing it. And so there's a lot of simple answers out there that real quick for to where we could be more proactive and more aggressive in our law enforcement.

CARPER:

All right, thank you.

JOHNSON:

Senator Tester.

TESTER:

Thank you Mr. Chairman. I want to thank all the reps for being here today. It's good to see some union voice at the table. I sent a letter off yesterday to Acting Commissioner Kevin McAleenan (INAUDIBLE). They plan to have 5,000 for the folks for the southern border northern border. The northern border is kind of important to me and I'm sure it's important to all you guys too. So, just to get a baseline we're talking about in the northern border. Brandon I know you talked about your guys and gals at the fluid (ph), but just overall, do you guys have any numbers on what you might be short on the northern border?

JUDD:

Absolutely. In fact, this is talking about being proactive instead of reactive. What I'm scared of is that we're going to throw all of our resources down in the southwest border and we're going to leave our northern border wide open.

TESTER:

Yes.

JUDD:

If you look at the cost that a smuggler charges to bring somebody up through Mexico now, it's actually more cost-effective to fly them into Canada and so we are creating a situation where we're not going to have enough agents up on the Canadian border. If we hire 5,000 new agents, we must at least put 1,500 those agents on the northern border not all down on the southwest border.

TESTER:

OK. I thank you for that. I'll get to the porch in a second with you, Mr. Reardon but we did we talked about hiring and the polygraph issue. This is the first I have heard about it either and I don't know about you guys but I've made plenty of mistakes and you need to admit them and move on or you never get it fixed and I would expect the leadership within the agency would do that, to do the right thing here.

But the question becomes, and you brought it up a little earlier, Brandon, there's new immigration -- I guess that's the word you would use -- policy up in Canada and have you, I mean I think the statistics show that there's a lot more detentions happening over the last six months, since his policy went into effect. Does this shift your guys priorities or not in and if you know this, because I think you do, do the folks above you know this, because I think it's -- truthfully, it's -- everybody focuses on that southern border. You just pointed out. When in fact they will go to the weakest link, and if the northern border is the weakest link, that's where it will happen. So, can you comment on that?

JUDD:

Well, yes. Just real quickly, in the mid-90s the problem part -- the primary for illegal immigration was San Diego and El Paso, Texas.

TESTER:

Yes.

JUDD:

And so that the board just did was they threw all of their resources thinking that they weren't going to create this funnel through Tucson, Arizona, but in fact they did create that funnel. And they're doing the exact same thing right now. They are creating this vacuum that they are going to force illegal immigration to start coming through Canada because it's too cost prohibitive to come across the southwest border. The leaders do know that but again, our leadership is always reactive. They're very rarely proactive.

TESTERS:

OK. Let's talk about the ports just for a second. I'm sorry, Mr. Reardon, you talked about being short about 3,500 folks and you seem to indicate that was on the southern border alone and correct me if I'm wrong, go ahead.

REARDON:

That was actually just in San Isidro. It was the 350 -- 3,500 is nationwide.

TESTER:

OK, so how many of those folks are new the northern ports?

REARDON:

Well, I can give you certainly an example. We are short nearly 100 people in Burton, in Buffalo and in Seattle.

TESTER:

Those are each 100 in each one.

REARDON:

Yes, 100 each.

TESTER:

OK. So let me -- and this applies to any one of you. I mean, right now I believe the CPP needs about 1,700 just to get up the levels we're at now. Now we're talking about another 5,000 above that. We talked about the polygraph. I'm asking this question honestly, why aren't we getting even up to staffing? Is it just a polygraph? Is it pay? Is it working conditions? What is it? Why aren't people want to go to work there?

JUDD:

It's all of the above. Senator McCaskill, I want to tell you right now. I pray that you do not stop border agents from going to ICE. That will kill morale exponentially. Senator, the problem is agents do not want to work for the border patrol because we have this issue. If you look at the federal employee viewpoint survey, we are at the bottom and we've always been at the bottom. If we're not dead last, were always somewhere right at the bottom.

TESTER:

But why are you dead last?

JUDD:

Because we have this management structure that is so over heavy and it is so overbearing that agents just don't like it when. When I came in the border patrol, I had to show up for work an hour before work and I spent as a trainee, I spent that hour just getting yelled at. That's all I did. I just got yelled at. And so, you know, when you have that culture -- we brought in Commissioner Kerlikowske brought in Chief Morgan to fix the culture of the border patrol and all he did when he came and was surrounded himself with the exact same people that were the problem in the first place. And so we've got a fix that.

TESTER:

OK. Do you have an estimate on how many people on the northern or the southern or nearing retirement?

JUDD:

Yes, and that's another problem that we're going to face. We already have this high attrition rate and on top of that in a couple years from now, we're going to start seeing the people that we hired in the mid-90s, we're going to start seeing them start retiring. I'm going to be eligible for retirement in just a couple years and I'm young, and so we have a lot of it -- we have a lot of individuals that are coming up for -- that are going to be retirement eligible and so that's going to add to the attrition as well. We've got problems.

TESTER:

I came in right as Senator McCaskill was asking her questions on the wall so I did not hear it all, but I will just tell the committee this, you're right, we do need to massage the stuff but right now

the administrations is asking for a re-programming of \$20 million not to look at technology, not to look at drones, not to look at anything other than a concrete wall, and if we allow this to happen without getting input from the folks that are sitting at that table, we're not doing the American taxpayer justice or we're not doing justice to the folks who wants to see this country secure, which is all of us. So thank you very much.

JUDD:

Senator, may I address that. I was just told a couple of days ago by a very, very high leader that union bosses should not be involved in certain processes. Now, I was very offended because I'm not a union boss. I'm a border patrol agent, period. I'm a border patrol agent that was elected to represent border patrol agents and to have somebody tell me that I shouldn't be involved in certain processes especially when I am a border patrol agent, when I'm in every single area speaking with agents almost on a daily basis and to be told that I shouldn't be involved in that process, that's a problem.

TESTER:

We're missing out on information that we need to have make good decisions. If you don't have good information, you don't make good decisions. You have delivered good information. Thank you guys for being here.

JOHNSON:

Again, there's a reason you're involved in process here today so we appreciate your testimony. I will also say in terms of walls and fences. One reason I went to Israel right before Christmas was to inspect their fence, very effective, \$2.9 million per mile. It works. It cut their illegal immigration rate from 16,000 to 18, one eight. So fencing does work in the right spots and that's why we're looking at this so we can provide better guidance for better policy. Senator Heitkamp.

HEITKAMP:

Thanks so much and thanks for everything that you do every day. I've spent a lot of time on both borders and so I want to get right to it. Number one, I have to stick up for my friends at Air and Marine. You know, they are short pilots, they are short staffed and they have the same -- I think the pilots would give you the same argument that you're giving us about people up here don't understand and they want to be in the mission. It is clear to me they want to be in the mission and the guys who are flying are trying to assert the kind of inputs that they think they need, so I just had to kind of stick up a little bit for the Air and Marine guys.

Northern border -- we passed last Congress a northern border bill that says you have to tell us the threat and you have to tell us what we're going do about it. We want -- I want you guys to inject yourself in that process. I want to see that threat assessment and that plan reflect the ideas that you have. We have huge staffing problems on the northern border. Let me tell you a couple of stories. We have a border patrol agent who lives 50 miles from Portal (ph). They make him drive his private car 50 miles to Portal to pick up his border patrol car to patrol the border and go 100 miles

so he can drive back to Portal to pick up his personal car because they change the policy on whether you can take the car home.

Now, that is something that is ridiculous, but it affects morale. And let me tell you about Customs And Border Protection. I have done a lot of discussing and talking, especially on the northern border. We have a gentleman up there who has worked for in Portal, who has worked for Customs And Border Protection for 30 years. He has a family in Kentucky or Tennessee, one of those states.

He wants to go home. He wants to do just a quick transfer and go home. They won't let them go home and they work him 16 hours a day, and he's in the mission and he is not giving up. And he's kind of a grandfather to a lot of the new guys coming on and I think that's one of the reasons why they won't let him go, because he's a mentor to the new agents and keeps morale up.

But why would we abuse this person who has given so much to our country, and so much to border protection. Those stories need to be told and they need to be told clearly. We have a bill called flexible hire which would get beyond the OPM, you know, kind of nonsense that goes there and says if you have a need, we've got to give the ability to hire directly to the agencies and we've got a speed up this process. Hope you guys will take a look at that. I hope your unions will take a look at that and weigh-in.

As Senator Lankford is absolutely correct, we're on this. We're concerned that you have somebody who came out of the military, a veteran who wants to serve, continue in the country. Guess what, we make him re-take a polygraph and even though they have the most highest clearance, they don't pass a polygraph. That is crazy. It is insane.

We've got to get beyond these problems and so, we also have an opportunity regardless of what you think has happened politically to hit the reset button, right. To rethink how we're going to do this and what we view to be situational awareness in this country on the border. We can't hit the reset button. Unless we do some of the things that you've heard, you know, which is talking to employers and doing some white-collar investigations, which should help quite a bit, doing something in terms of verifying citizenship when people are being hired making that easier, and then obviously, you know, figuring out a plan to deal with the overstaying of visas.

I think Mr. Crane you clearly, you know, made that point in terms of 9/11 and what we need to do to have interior enforcement. But with all of that said, we need to get politics out of border protection and we need to start talking about what works and what doesn't work and I can tell you I have spent a lot of time on the southern border, building a wall, a concrete wall across the southern border will not enhance border security. Well fencing and walls help.

My biggest concern is what's happening at the port of entry. What -- when you have a lineup like that, what are you missing because most of you guys would say most of the really horrible drugs, whether it's fentanyl, whether it's heroin coming across the border going to come in the ports of entry. I also know that we have a lot of people walking across the border and jumping over you know Normandy fences. That isn't particularly helpful either. And so, I want you guys to commit to us that you are going to once again and we can help you with this, be involved in that reset

button. Be involved in the northern border strategy. Be involved in the southern border strategy and think about the ports of entry. Mr. Reardon, I think you want to comment.

REARDON:

I do, and thank you very much Senator. NTEU is very interested in playing a role in that process. I will tell you that number one, I've been a very appreciative of you in terms of the pay flexibilities that you've talked about and I've testified in front of you before about things have gone in the Balkan Region, and I think we need to pay attention to some of the opportunities that we have for the utilization of pay flexibilities right now to take care of some of the situations that we have where people don't want to go to work at San Isidro.

It's very difficult to get people to want to go down there and deal with what you see every day on that picture. You know, I think to be able to use recruitment awards and those kinds of things are important but I also think that we need to make sure that we're paying attention to the hiring process. I don't remember who, somebody mentioned about the length of time that it takes to bring somebody on board. The numbers that I've heard, and they vary, but I'll give you the range that I've heard.

At CBP, it takes anywhere from 105 to 150 applicants to generate one new employee. That to me is just incredible. I've gotten the stories. I've heard the horror stories candidly from folks who have taken the polygraph and they've been sitting in a polygraph for eight hours in some cases. The fact that 65 percent -- we've heard that number earlier, are failing when kind of the expected failure rate is somewhere in the 25 to 30 percent range is outlandish. So I think we do need to fix that.

In terms of also related to hiring, I've heard horror stories where an individual has to go to an interview in one location and then several weeks later or a month later they've got to go somewhere else in a different part of the country. They've got to pay for that. It takes 18 (INAUDIBLE) makes it very difficult for people, you know, and they say I don't need this. And they go to work somewhere else at their local sheriff or wherever.

The fact that it takes in some cases 16 to 18 months to bring somebody on a new hire on board, how many people in this country can afford to sit around for 16 to 18 months before they can be brought on board? So, the hiring process has to be looked at very carefully as well. So thank you very much.

JUDD:

May I jump in? You touched on something that's very interesting. You talked about vehicle assignments and how you have to drive so far to get to -- this is something that I have been pressing on the agency for forever. We could save millions of dollars if we would actually use industry best practices, which is have the agents deployed to the field directly from their homes instead of showing up to a border patrol station where we're paying millions of dollars that we actually don't use other than just to show up there.

We could actually deploy and it would actually save time. We would get more time on task of our agents if a self-deployed straight from their home, just like any DPS officer, just like any sheriff's officer, just like any police force. Industry best practices have shown, but the border patrol seems to be behind the curve because we always say we've never done it that way so we're just not going to.

HEITKAMP:

Well, this all, you know, they may seem like small things but they are huge thanks to the personnel. And so they stay engaged at a very high level and will help you do that.

CRANE:

Ma'am can I comment on this vehicle thing just -- I want to throw this in there, so, and it's a whistleblower thing, I think. At ICE we've kind of done a complete opposite thing. They've taken our vehicles. Congress gave us money to buy undercover vehicles, basically unmarked vehicles to do our law enforcement mission out on the field. Managers have taken the majority of those vehicles and their personal take-home rides at taxpayer expense. They have no mission need to take them. They don't respond to things while our officers then don't have enough vehicles out in the field to perform the mission.

We literally have people in, you know how big a 13 passenger detention van is a great big mark there out there trying to do undercover work in 13 passenger detention vans with ringers on them when they go in reverse, right. And so at 5:00 in the morning when you went too far down a one-way and you need to backup every, window is opening up going, hey, there is ICE, you know, because our managers have taken all of our vehicles. So, and it's been reported to OIG and OSC and it's been in the media and they just continue to do it because they can.

JOHNSON:

So Senator Heitkamp, let me tell you what we're going to do here. Again, I got a smile on my face when you said crazy and insane. It is. I mean you're defining bureaucracy. And so what we're going to do is we're going to as a committee as members, we're going to sit down with, you know, folks like these three and more and we're going to find out the crazy and insane things and why I didn't have to worry about legislation because as Mr. Judd said, the departments can do these things out of their own authority. We'll find out what we can, but we're going to highlight it and we're going to provide the oversight.

We're going to make sure the department actually does these things, get rid of these crazy and insane policies that they've enacted to prevent these good men from actually fulfilling their mission. So, this isn't rocket science. This is not hard and we're just going to get this done, OK, because there's a lot of varying (ph) agreement here and I think we can make some significant improvements without having to try and pass it off because you know how hard that is.

Again, I think we've got a good secretary in General Kelly. Secretary Kelly, I think he'll work with us and so this is what we'll do as a committees and we're going to hop in this, OK.

HEITKAMP:

And I would assume Mr. Judd and Mr. Crane, I mean I saw you at rallies. I know you're big supporters of President Trump. I think you guys have a lot more power than I do, trust me. You guys have a lot more stick (ph) with this administration than a whole bunch of us on this committee. So hopefully with that in addition to our work on the committee, you know, maybe we can actually move the needle on this, this management problem in I think we're all in.

JOHNSON:

I'm dead serious about this. It should not be this hard and I want to make sure it's not. Senator Harris.

HARRIS:

Thank you. I want to thank all of you for your candor this morning. You represent the rank-and-file and they deserve to have a voice at the tables so I appreciate that. Mr. Crane starting with you, you have been very candid about what is going on with your troops. Tell me, how many members do you have?

CRANE:

We represent approximately 5,000 employees.

HARRIS:

OK, it would be to that number that the request has been made that there would be a 10,000 additional added to that number, correct.

CRANE:

Yes ma'am.

HARRIS:

So you've describe the good old boy network. You've described, folks, rank-and-file folks tripping over managers in the field. You've describe the morale issue being one of the worst of any agency. You've describe something that concerns me greatly and all of us, which is officer safety issues. Tell me something, how long do you believe that it will take to fix the dysfunction in the agency?

CRANE:

It's going to depend on who we have as a leader. If we get --

HARRIS:

Let's say we have the best leader possible. How long do you think it will take to fix it because it sounds like it is pretty systemic?

CRANE:

It is very systemic but I think that once you come in and you say there's going to be accountability and this is how it is and when people don't follow that direction and we start getting rid of people, then you're going to see changes very quickly. I watched a hearing that they did with the Secret Service and Chairman Chaffetz with OGR, Oversight and Government Form and I think they said something the effect that they had something around 13 directors and out of them 12 of them were fired. I mean, those are the type of actions. I'm not saying we need to fire all our managers but I am saying that that we you can make changes. I think fairly quickly.

HARRIS:

OK. Well, based on the number 5,000 members and that you also mentioned that ICE has no policies. I would suggest that it's going to be probably at least a couple of years before whatever the leader wants to have happen actually hits the ground. So, I'm going to ask you in light of that reality, it seems to me that it's not necessarily a good idea to bring on 10,000 more members when those policies are not in place.

And I have to ask you to tell me your candid concerns about doing that as it relates to ongoing morale issues. For example, I'm going to assume that you've got members who have come in as we have heard from Mr. Judd who've dedicated their careers to this issue, came in when standards were high, when their morale was good, and they've been doing a good job and working in earnest on behalf of the people of our country.

If you start bringing in 10,000 more folks who have not been adequately trained and are coming into an institution where there is dysfunction, don't you see continuing morale problems for your members?

CRANE:

The morale problem is actually -- it's absolutely always going to continue. There is no doubt about that until we make a change on that end. But we've got to get some more officers out in the field and I do not believe at all that it's going to be anything but positive in terms of the mission, which is always, yes, we're union folks but we got into this because we care about the agencies and the mission first. And getting some more officers and employees out on the field, that's going to help us do our mission -- it's incredible what you see out on the field is. It's like our agent, our employees are on autopilot. They are most without leadership.

HARRIS:

Right. But let's go into that a little bit more specifically please. The Chief Justice of the California Supreme Court put in a request to Secretary Kelly that ICE stop deportation agents from making

apprehensions at state courthouses. Can you tell me, is there a policy or a directive or training for your members on safe zones and where they can and cannot, or may or should not detain folks and in particular, let's talk about courthouses. Let's talk about schools. Let's talk about places of worship. Is there, to your understanding and understanding among your members about what is a safe zone and where they should not go?

CRANE:

So, there are a couple different policies and there is actually one that deals with, they are called sensitive locations and they would talk about the proximity to a school or something like that where we --

HARRIS:

OK, what about and places of worship?

CRANE:

Yes, that's also in the sense of location.

HARRIS:

And what about courthouses?

CRANE:

Well, I want to say to you on the courthouse part. We recently had in our area a situation where, and there is guidance on it. But they -- our officers were forced to try to apprehend this person on the street instead of inside the courthouse with the Bayles (ph) --

HARRIS:

Are you and I talking about the domestic violence victim that was contacted because that's what I have in mind.

CRANE:

No ma'am, no ma'am. What happened then is that the officers got outside and tried to make the arrest. Subject then assaulted them. From my understanding, it came close to then that individual almost getting one of their guns. It could obviously been used on them then. So, it's a very dangerous situation to put our officers in when it's so much easier for them to be able to go into a court and actually make the arrest --

HARRIS:

OK, but here's the concern I have. In an agency that you have described as being highly dysfunctional, how can I be sure because I actually am not satisfied that your agents know what to do in terms of the policies that have been enunciated by this administration. For example, there are -- from a memo, I think it was February 27 priorities when Elaine Duke (ph) was here and her testimony to become the deputy secretary. I asked her about those seven priority enforcement areas and she said to me that they are in descending order of priority. Is that your understanding that those seven factors are in descending order of priority for enforcement?

CRANE:

I'm sorry ma'am, what list are you looking at?

HARRIS:

The list that was issued February 20th on the memo by, through DHS.

CRANE:

The Secretary Kelly memo?

HARRIS:

Yes. Are you familiar with it?

CRANE:

I am.

HARRIS:

Are you familiar with the seven factors and are you familiar with policy of the department as it relates to the priority of each of those seven factors, and are your members aware of the priority?

CRANE:

I think that -- can you tell me what page you're on so I can look exactly what you're talking about.

HARRIS:

It's a memo that was issued by the Department of Homeland Security. It's been widely published and it was part of the executive order as it relates to new policies for DHS. It includes one, people convicted of a criminal offense. Two, charged with a criminal offense. Three, may have committed an act that is chargeable which sounds to me like the standard there is suspicion of committing a crime. You're not familiar with this?

CRANE:

Well, I am ma'am. I have it right here.

HARRIS:

So tell me, what is it your -- what is your understanding about the instruction your members have received about the prioritization of this list?

CRANE:

Well my understanding of these priorities are that they are of course priorities but...

HARRIS:

Are they each equal in weight?

CRANE:

I would say that there probably not all equal in weight...

HARRIS:

And what has the training been for your members about the prioritization of these factors one through seven. Elaine Duke (ph), like I said, in this testimony -- testifying before this committee said they are in descending order. Is that your understanding that it's descending order of priority?

CRANE:

I think the priority would be in that descending order but ...

HARRIS:

Have your members been trained on that?

CRANE:

I am not aware of any specific training to this memo ma'am, no.

HARRIS:

So does this speak to again, the concern that you have about dysfunction in the department? I would have believed and it has been my experience in law enforcement (INAUDIBLE) when troops on the ground have not been trained, it leads to dysfunction because there is a lack of consistency and accountability and direction. So, I am concerned about this and I'd like to know whether you're concerned about it.

CRANE:

Ma'am, we've got some great employees, great officers. Well, it's part of the answer.

HARRIS:

That's not my question. That's not my question. I'm not talking about looking into the hearts of the agents. I'm talking about are they trained.

CRANE:

I'm not looking at their hearts either. I'm talking about the jobs that they do every day in the field for you and everybody else in this country, right.

HARRIS:

Are you concerned about the training?

CRANE:

Oh, I'm always concerned about training. We always want more training.

HARRIS:

Have you made a request and if not, a request that you do make a request of Secretary Kelly that your members are trained on the policy priorities for the department as it relates to those seven factors because they are varied and to your point, your folks are barely doing the job that they want to do because they don't have the resources. So there going to have to be priorities and they're going to need to know what the agency's priorities are so they can have some level of job satisfaction.

CRANE:

But priorities do not work the way it on the street that the people and for example, the Obama administration I think you were trying to box us into. It doesn't work that way. It's not real life.

HARRIS:

Sorry, I'm talking about the seven factors.

CRANE:

I understand what you're talking about and I'm talking about trying them in the field...

(CROSSTALK)

HARRIS:

Mr. Chairman I ask that we get follow up to these conversations and I'd like something in writing from these witnesses about what training is happening consistent with Elaine Duke's testimony before this committee about the priorities.

JOHNSON:

Well, you'll always be able to submit additional questions in for the record so be prepared to do that.

HARRIS:

Thank you.

JOHNSON:

Senator Hoeven.

HOEVEN:

Thanks Mr. Chairman, I'd like to thank all three of you for being here and I'd like to thank all three of you for the work your members do and know how much we appreciate you and a hard job that you do, and I chaired DHS probes for the last several years and was down and I've seen your work in the northern border, of course I am from the northern border, but also seen your work on the southern border.

And I agree that the sentiment I got from your people is they really want to do the job. And same with ICE on an interior mission invariably when I talked to them. They want to do the job. As you said they signed up because they believe in what they are doing so thank you for that on the front end. I would like to ask each one of you, does your top three priorities in terms of addressing the personnel issues in each area for border patrol, for CBP, for ICE, top three things you think really work in addressing the, you know, the personnel issues.

JUDD:

Number one, we have to have pay parity. That's the first thing that you have to give us. If you don't give us pay parity you're always going to have agents looking to the other agencies that will pay them more. Number two, we have to address the morale issue and that morale issue has existed even when we did have pay parity. We have to address the morale ...

HOEVEN:

And the main thing in addressing the morale issue?

JUDD:

Accountability from the top down instead of the bottom up.

HOEVEN:

Accountability.

JUDD:

That has to be done. And the third issue as far as the hiring goes, we have to start administering these polygraphs correctly. We have to. If we don't, we're just not be able to hire people.

HOEVEN:

And the reason for the disparity in the -- the main reason for the disparity in the polygraphs is...

JUDD:

I believe that that Commissioner Kerlikowske put forth his anti -- he had an initiative that he put forward and I believe that to show that initiative, he had to have a high failure rate. And so now that we -- now that Commissioner Kerlikowske is no longer around -- I'm sorry -- the anti-corruption initiative is what he put forth. Now that we are going to have a new commissioner, I believe that we get to hit the reset but as Senator Heitkamp said, we can we can actually do it right because if he was to change the way he did the polygraphs he would have had to admitted that he was wrong. And we know people just don't like admitting that they're wrong.

HOEVEN:

Right. I understand. OK, that is helpful. Thank you. Mr. Reardon.

REARDON:

Thank you, Senator. I would say the number one issue in the ports is the staffing, the number of staff that...

HOEVEN:

Staffing numbers.

REARDON:

Staffing numbers, yes sir. Second thing is fix the segmented hiring process. I think that needs to be tightened up.

HOEVEN:

That means what, segmented hiring process.

REARDON:

Well, for example, there are many cases where an individual has to go to one location on one day to go through some initial interviews and that sort of thing, and then a couple of weeks later or several weeks later they have to go somewhere else. There's a lot of expense, a lot of time that's involved with that and to the extent possible were you can get people to be able to go to one location and in a concise period.

HOEVEN:

Yes, more coherence on the hiring process.

REARDON:

Absolutely. And then I would also suggest that the polygraph process is to...

HOEVEN:

We doubled up on one there.

REARDON:

Yes, that is significant...

HOEVEN:

And you like Mr. Judd's general explanation on how to address that on the polygraph.

REARDON:

Yes.

HOEVEN:

OK. Mr. Crane.

CRANE:

I'm sorry. Just so everybody knows, we don't have a polygraph right now but it is on our horizon. I think they're going to implement it in 2018 or something is the plan, but for our three things as I understand your question correctly on the hiring process. One I think for us is that we want the agency to innovate. We want them to look at the how's the best way to do this to get these officers that are in a detention center or doing data entry out on the street replace them maybe with lower paid administrative type people -- I'm sorry do you have a question sir?

HOEVEN:

Yes, well this is interesting, innovate, and I'm trying to catch up with you and what you mean by that so, keep going.

CRANE:

So, what I mean by that, again, is that you know we need -- we have too many officers out there now that are sitting in offices with a gun and a badge in this limited immigration arrest authority that everybody wants task force and all these different things and they are in our offices doing data entry all day long. We need to replace them with administrative folks who can do that data entry work for them.

Yes, police work is a lot of paperwork. They're still going to have a lot of paperwork as officers when they make arrests and things like that, prosecutions, but the data entry and some of those other things we can bring in people that are paid less that don't have arrest authority to take their place and do a lot of that work.

HOEVEN:

Well that would indicate you need more non-officers in essence. You need more administrative assistant.

CRANE:

And partly...

HOEVEN:

That's a very I think important point in terms of how you attack the hiring process.

CRANE:

Absolutely, in part, we do need more administrative folks. We need a shift in our perspective, though, to about how we get work done in general. Right now, I think ICE is just wanting to do things business as usual. We're saying no, let's take a look at what we do and how we do it and we think it's better.

HOEVEN:

Is that -- so I think you are making a strong point here. Is that happening? I mean is the agency...

CRANE:

No.

HOEVEN:

...looking at saying hey, it's the mix of workers that can make a real difference here or two. We can make our resources go further and we can make our agents much more effective if they are on the street doing their job and they have some administrative backup or assistance that gets the clerical aspects done. I mean that's true of every law-enforcement agency. So I think that's a very compelling point as you're talking to General Kelly and the administration and DHS and obviously and ICE.

CRANE:

And we have conveyed this very briefly to General Kelly last week, but to be clear we're still going to need more officers...

HOEVEN:

I understand. I'm not saying you don't need more officers. I'm just saying the mix you hire matters and it seems that goes to the point that chairman, just our illustrious leader here, just made a minute ago and that's, you know, instead of passing a law, we can help you become more effective with those kind of changes.

CRANE:

Right. And I think that in that innovation. We need to look at expanding the duties of the ERO officers so that they can better perform their mission out on the street. There is a lot of things that we could be doing right now but I think there is kind of this attitude that ICE -- everybody needs to stay in their lanes. HSI does that, so ER shouldn't and trust me, there is plenty of criminality out there to go around for everybody.

We could have something where there is a right of first refusal or something for HSI but it doesn't need to be that everybody stays in their lanes and in little boxes, right. So there's a lot that we need to do that so -- that's what I mean by innovation. The other two things I think that we need to make sure that we do to this process is not only maintain our standards but I think in a few areas, we need to up them and the other part of that is we need the time to do this right.

Yes, we can run some people to the Academy fairly quickly. We know that, but there is a sweet spot in there and we need to hit that and we don't want all of these newbies coming out in the field too fast because when they come out of the Academy and I'm not saying anything bad about the Academy that training that they get, but they don't know a whole lot and they're going to have to be shadowing somebody for quite a while before they really know what they're doing.

And so, that's kind of what we're looking for innovation, maintaining our standards, may be raising them, and having the time to do it right.

HOEVEN:

Very good. I think in all cases, your recommendations are extremely helpful and it seems to me if followed will make a real difference for the agency. Thank you.

CRANE:

Thank you.

JOHNSON:

Senator Daines.

DAINES:

Thank you Mr. Chairman, ranking member McCaskill. Thank you all for testifying today. Mr. Judd, good to see you again and thanks for your service on Montana's border. You're very much appreciated. You all touched on some similar needs. And that is to enforce existing law. Mr. Judd, under the last administration, the border patrol had disappointingly low morale in fact you mentioned it was the lowest of the three administrations you had serve under.

In addition to pay, and polygraph challenges, my understanding is one of the root causes has been the inability to enforce existing laws. How will President Trump encouraging law enforcement enforce the law do you think help morale?

JUDD:

First off border patrol agents, they signed up for a job to be law enforcement agents. They did not sign up to be humanitarian specialist, that's the first thing that we have to look at. In enforcing the laws and actually allowing us to do our job, you're allowing the employee to do what the employee signed up for the first place. A lot of these individuals grew up always wanting to be law enforcement. They wanted to serve and protect the public, and if we allow them to do that morale will increase exponentially.

In fact, Senator Daines I will tell you that there has been a huge spike in the morale on November -- on November 8th, there was a huge spike in the morale of the border patrol simply because we knew that this new administration was going to actually allow us to do our jobs. Take the handcuffs off of us and put the handcuffs on the criminals.

DAINES:

So I know recruitment can be a challenge. What will that mean for recruitment and frankly probably most importantly, our national security?

JUDD:

Oh, I think that it's going to help in improvement. Well, I'll tell you right now, we don't have a problem with recruitment. We have plenty of people that want to be border patrol agents. We have a problem hiring those individuals once they apply for the job.

DAINES:

And why is that?

JUDD:

Several factors, but the main factors, the three times the national average of polygraph failures. We just don't administer the polygraph correctly.

DAINES:

Is that fixable?

JUDD:

It is. It is fixable. And now that we can hit the reset button, now that we have new individuals, we can actually fix the polygraph.

DAINES:

I want to switch gears and talk about drug flow. Virtually all the methamphetamines in Montana now coming from south of the border and traffic to our interior, we have seen the price drop in half with this influx and now more than 90 percent of all drug offenses in Montana are meth related. This impacts our communities, increases violent crimes, we're seeing a disturbing rise in child endangerment in foster care cases. It's a tragic negative spiral that we're seeing. Mr. Crane in your testimony you mentioned interior enforcement is the key to effective border security. In addition to more personnel, what can we do to stop the movement of drugs?

CRANE:

Well, sir I think for us really, it's just always a big picture thing on (INAUDIBLE) side. That is something that we could use as Title 21 Authority probably a ERO and somebody to let us be more involved in drug prosecution. We have basically to policy within the agency, this little turf war going on that they don't want ERO agents doing a lot of different types of things, I think, like on drug interdiction worksite, firearms prosecution. While some of it does happen and in a limited amount, it's very rarely, and so we need to expand the duties of these ERO officers. They're fully capable of doing it and they're out on the street coming in contact with things.

But in addition to that, when we start enforcing a law on these businesses and on the interior and sending that message to the rest of the world, I think what you're going to find is that law enforcement from the patrol, from everybody sitting here, we're going to be able to get more and

more focused as time goes on things like drug interdiction because we're going to be dealing less and less with just this mass flow right now of illegal immigration coming into the country.

So, I'm not saying it's going to happen overnight, but I think from our perspective, we're to slow down this immigration flow and it's going to make it easier for all of us to concentrate on issues like that.

DAINES:

You know, that's a pretty important consequence on doing with immigration flow in terms of the resources now to stop the drug trafficking which as we see is just devastating our communities across Montana as well as across this country. I appreciate that insight.

JUDD:

Senator may I jump in just really quick on that?

DAINES:

Yes, please.

JUDD:

One of the things that we have to do is we have to be proactive in our intel. Our Intel needs to be driving the operations and how we try to interdict the drugs before they get into the United States. We don't want to Mr. Crane and his officers to have to even deal with the drugs on the interior. What we need to do is we need to stop that flow at the border and that has to be done by stopping illegal immigration because when we tie our hands up, when border patrol agents hands are tied dealing with people that are crossing the border asking for asylum, we create the holes that allows these drug -- these criminal cartels to bring the drugs to cross the borders. So we have to be proactive in our intel to address this issue.

DAINES:

Thank you for that insight. I want to shift gears now and talk about sanctuary cities. Sanctuary cities willfully violate federal law and they allow illegal immigrants to remain in the United States. These cities forbid its local law enforcement from sharing information on illegal immigrants with ICE or complying with an immigration detainer. Mr. Crane, what challenges does this create for your job?

CRANE:

Oh, the challenges are many but I think most importantly, you know, it is so much easier and effective for us to apprehend these individuals while they're in somebody else's custody. They've been arrested by somebody else. Place the detainer, they get with him, turn them over to us and

we're putting them in the proceedings we're making a removal happen. So, it's a day and night difference.

So then what happens though with these hundreds and thousands of people that we -- don't get turned over to us in sanctuary cities. Instead, our officers are out on the on the street chasing ghosts. I mean, you know, these guys rarely leave much of a fingerprint. And yes, we have people out there like the Marshall Service that are out looking for these guys but it's so much more time intensive. We may never catch him again until they actually get arrested for something else.

DAINES:

Let me, if I could, one final question. Believe it or not, in my home state of Montana, there are some Montana cities, including my hometown -- I was looking at this -- considering enacting sanctuary city policies. In fact we have two congressional (INAUDIBLE) right now. We have one that is for sanctuary cities, what advice do you have for those elected officials?

CRANE:

They need to open their eyes up and look around and you know, I know we see something in the press every once in a while about -- and one of the members brought up this morning the incident in Maryland -- that type of stuff is happening all over the country every day and like I said earlier my testimony, everything that the members here say have a consequence and these folks back in your home state what they do as a consequence to consequence is that they're stopping law enforcement and they are putting bad guys back on the street who are going to commit crimes and who are going to victimize and harm people in their communities, and there is no two ways around it. Please cooperate with law enforcement. Please follow the laws of our country. That would be my message.

DAINES:

Thank you.

JOHNSON:

Thank you Senator Daines. I just want to know (INAUDIBLE). Mr. Crane, you said it is easier for your agents to apprehend these individuals. Can I say it's safer?

CRANE:

Oh, absolutely.

JOHNSON:

It's a whole lot safer. You're going to put your agents lives on the line less often if you're doing it this way?

CRANE:

Absolutely.

JOHNSON:

Again, I know, yes, it's easier. I think it's more important to say it's safer.

CRANE:

You're absolutely correct sir.

JOHNSON:

Senator McCaskill would like to make comments.

MCCASKILL:

Yes, I just wanted, you know, Mr. Judd, on the polygraph thing, you know, I tried to look at this as you know, most law enforcement, FBI uses a polygraph. The use of the polygraph is very widespread in any law enforcement employment situation. What I learned is the difference is the FBI does it at the end. You are doing it at the very beginning so, a lot of people who are weeded out during the process of any background investigation or other vetting of a potential agent or police officer has already occurred before the polygraph and one of the reasons that was given why the polygraph is at the beginning is you save all of that those resources if you weed out at the beginning, as opposed to going through all of that and getting doing the polygraph at the end. Does that have any validity as far as you're concerned?

JUDD:

It really doesn't but simply put, and again I'm not advocating not having a polygraph.

MCCASKILL:

Right.

JUDD:

We have to have a polygraph.

MCCASKILL:

Right.

JUDD:

We need it. In the past, we've hired criminals. We've hired -- I'm sorry -- we've hired convicted felons...

MCCASKILL:

Right.

JUDD:

...into the border patrol so, we do have to have a polygraph but where we do the polygraph, whether we do it on the front end, whether we do it on the back end, if it's not administered correctly, it doesn't matter.

MCCASKILL:

Right.

JUDD:

We're just not going to get employees into the service.

MCCASKILL:

Great. And Mr. Crane finally, the heartbreaking case of the murder in Missouri. That was the situation that was in sanctuary city. ICE was contacted an ICE didn't get there. ICE ended up sending the paperwork to the wrong jail. I mean it was a series of errors that was not for lack of willing to cooperate by local law enforcement, but it was a problem with ICE being there when they were called, so, I hope you will continue to inform the committee how we can help with that issue because that woman's husband would still be alive if ICE had responded in a timely manner to the request from law enforcement in that case.

CRANE:

Yes ma'am and I would be if -- I currently don't have all the finite details about that situation but if you do, I'd be happy to take a look at it.

MCCASKILL:

That would be great. ICE was not at the hearing. I had hoped ICE would be at the hearing to talk about the problems with that case but they were not and so hopefully we'll be glad to share those details with you and maybe you can shed some light on what went wrong and why ICE did not respond in a way that was timely.

CRANE:

Love to do it and if need be, we will reach out and ask other questions and see what else we can...

MCCASKILL:

But I think it would be great if you could help facilitate. I don't think anybody in ICE has ever told this woman they're sorry.

CRANE:

I'd love to.

MCCASKILL:

OK, great. Thank you Mr. Crane.

CRANE:

Yes ma'am.

JOHNSON:

Thanks Senator McCaskill. Again, I want to thank all of our witnesses. I think from just a standpoint of providing us action items that I think can have a real impact and real affect. This is probably one of the best hearings we've had certainly as I've been chairman in the last couple of years. It does surprise me. I come from many special (ph) background. If I want to figure out what's happening on the shop floor I went to the shop floor.

I've talked to actual machine operators and because my managers knew I was going to do that, they also talked to their -- the people on the shop floor. So, I want separate process. I'm 100 percent serious about this. I know that we got great input from you. You just demonstrated here during this hearing. We will work with this committee upfront immediately to lay out all these crazy and insane policies so you can do your job more effectively and Mr. Crane, more safely.

So now, I want to thank you for your service. I know that you are -- all of you and all the people that work with you and your units are risking their lives, trying to enforce our laws. The least we can do support you and not denigrate your service and make sure that we -- make sure that whatever policies we enact help you do your job, increase your morale and keep you safe.

So, with that the hearing record will remain open for 15 days until April 6, 5:00 p.m. for the submission of statements and questions for the record.

This hearing is adjourned.