

Hearing Transcript

Senate Homeland Security and Governmental Affairs Committee Hearing on the Border and Immigration

March 1, 2017

JOHNSON:

Senate Committee of Homeland Security Government Affairs, Committee will come to order, this is actually a pretty simple hearing, not a whole lot of complexity to what I'm trying to accomplish here, just trying to lay out with some powerful stories, what happens when a nation does not secure its borders or enforce immigration laws, we're going to be hearing some powerful testimonies, I want to thank all the witnesses, for appearing for taking the time, for your thoughtful time, I want to particularly thank Julie Nordman who I realize is going to be telling a story that's going to be very painful, very tragic for you to tell but it's just one of many stories that we've heard around the country, we're all obviously familiar with Kate Steinle but there are so many other names of individuals that have had their life shattered because people are in this country illegally and they commit crimes and they traffic drugs and they traffic humans.

President Trump in his State Union Address asked a pretty simple question, he said to any in Congress who do not believe we should enforce our laws I would ask you this question, what do you say to the American family that loses their jobs, their income or loved one because America refused to pull this laws in defense of its borders. You know, to me the role of federal government, top priority is defense of this nation, defense of this homeland and the security of its borders, the security of its citizens and that's really what all this hearing is about is layout, a reality through some powerful examples.

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

In the 1980s a gram of heroin cost \$3200 per gram, Deputy Rectenwald, we were talking it about yesterday, you think it's about \$80 a gram, ten doses per gram that's \$8 a hit of heroin, it's a very affordable, destructive habit and that's because our borders so porous so there's a lot of destruction occurring, we've got two Sheriffs and deputy Sheriff here describing those things and of course Deputy Sheriff Rectenwald talking about another tragedy, another young mom Jill Sundberg who was murdered by five individuals, criminals who were in this country illegally. Again we're just - we're going to tell all these powerful stories to be told so we understand the consequences of not enforcing immigration laws and securing our borders and with that I'll turn it over to our ranking member, Senator McCaskill.

MCCASKILL:

Thank you Mr. Chairman and thank you for this hearing today, this morning we will hear from a constituent of mine, named Julie Nordman who on the morning of March 8th 2016 was forced to

run to the attic of her home in Montgomery county, Missouri while her husband Randy, a hero, desperate to save his wife and protect her, struggled with a stranger with a gun downstairs in the couples garage.

The man who allegedly shot and killed Randy and four other men, the night before in Kansas City, Kansas never should have been in this country. According to the information I have, Pablo Antonio Serrano- Vitorino, who is set for trial in a capital murder case in Missouri was deported in 2004 after serving a year in prison for felony conviction in California.

At some point, he illegally reentered the country and despite his prior felony he managed to slip through the cracks during at least three run-ins with the Kansas police. I'm told that in one case in Coffey County, Kansas, Mr. Serrano was arrested for DUI but his fingerprints were never taken.

So a match was never made with the department of homeland security's immigration database. After again being arrested in charge with domestic assault in Wyandotte County, Mr. Serrano's fingerprints were sent to DHS but immigration and customs enforcement did not take him into custody before he was released. Just three months later when Mr. Serrano showed up at Overland Park, Kansas municipal court to pay a traffic fine, his fingerprints were taken again, ICE was notified that they had an undocumented individual with a history of violent offenses within their grasp.

ICE issued a detainer request that Mr. Serrano be held until federal authorities could get there but amazingly the detainer was sent to the wrong place in which the Johnson county Kansas Sherriff's office instead of the Overland Park Municipal Court building. How did that happen? I don't know. Why didn't ICE pursue Mr. Serrano further? I don't know. What I do know is that six months later Mr. Serrano allegedly shot and killed five men in Kansas in Missouri including Randy Nordman and it appears that while the local authorities were doing their jobs, the federal government specifically ICE dropped the ball.

Now Mrs. Nordman I know, none of this is going to bring your husband back and I would never try to say that it would, Mr. Serrano should not have been in this country, your husband should still be with you today. I want to know, how this was allowed to happen and I am sure you have some of the very same questions, that's why I am so disappointed that someone with ICE couldn't be here today. As you know, I invited Director Homan or when I found out that he wasn't available, anyone in his organization to come and testify this morning. I would hope that he would be able to speak to some of the specifics of this case and the other cases we will be hearing about this morning.

I have also asked for a copy of Mr. Serrano's case file from ICE but at every turn my staff and I have met with resistance. The agency told us that due to privacy concerns, Mr. Serrano's case files cannot be released but that flies directly in the face of the Trump administration's new policy that says and I quote," the department will no longer afford privacy rights and protections to persons who are neither US citizens nor lawful permanent residents", how can you on one hand have an administration that says privacy rights do not attach and have someone in your administration tell United States Senate office that we're not allowed to look at a file that is critically important in terms of us fixing these problems.

If we want to stop future tragedies, we have to see that file, we have to understand the mistakes that were made and we have to have our questions answered. One of the reasons, I have devoted so much of my time in the Senate oversight is that I truly believe as legislators, we have an obligation to understand the problems before we try and pass new laws.

Sometimes passing new laws does more harm than good, if you don't really understand the underlying problem. What happened in this case was an absolute tragedy but it was caused by a failure either in our immigration laws or policy but was it caused by a failure in our immigration laws and policies or was it instead of the result of human beings failing to follow the rules or the policies or the directives. Unfortunately Immigration and Customs Enforcement, ICE, are the only people capable of answering that question and today have refused to either provide the information to my office or to participate in today's hearing. Mrs. Nordman despite the resistance from ICE, I am going to do everything in my power to get you some answers and I want to appreciate you and your sister being here today, I think Missouri should be very proud of your courage I know that I am. Thank you Mr. Chairman.

JOHNSON:

Thanks Senator McCaskill, we do have a vote that is going to be called as 10.30 so what I would like to do is get to the witnesses, make sure we go through their entire testimony, we are going to kind of canvassing staff for the people who want to come back, who want to recess or just continue this hearing as we are frequently do but with that it is the tradition of this committee to swear in witnesses so if you all rise and raise your right hand. You swear the testimony that you give for this committee will be the truth, the whole truth and nothing but the truth, so help you God.

NORDMAN:

I do.

SEVERSON:

I do.

JOHNSON:

You can be seated. Our first witness is Julie Nordman and Mrs. Nordman is from Wentzville, Missouri. On March 8th, 2016, as Senator McCaskill talked about, Julie's husband Randy Nordman was murdered by an illegal immigrant that had previously been deported. Julie, we have our deepest sympathies for your loss and we thank you for being here today and take your time, we realize this is not going to be an easy story to tell the so we will be more than understanding but again thank you for appearing.

NORDMAN:

Hello my name is Julie Nordman and I was asked to do speak to you today following the tragic and preventable murder of my husband Randy Nordman. Although this happened less than a year ago and the pain is still unbearable, the story starts newly two decades ago. The man who murdered my husband Pablo Serrano Vitorino first encountered third law enforcement in 1998 in California; he was here illegally and was charged with making a threat with the intent to terrorize.

He plead guilty to disturbing the peace and spent three days in jail, he was allowed to remain in the US between 1993 and 2003, he was arrested twice more for domestic violence. Then in 2003, he pointed a rifle at the mother of his three children and threatened her life. Later that year, he was convicted on those felony charges and was sentenced to two years in prison. Following his release in 2004, he was deported for being in the United States illegally.

No one knows when he returned to the US or how but he did and in November 2014, he was arrested in Kansas for driving while intoxicated, driving without a license and speeding, he plead guilty and again was allowed to be remain in the United States. Then less than a year later in June of 2015, he was arrested in charge with domestic battery, while being held in a county jail in the Sheriff's office notified Immigration and Customs enforcement, ICE that he was in custody.

Immigration is required to respond within a four hour deadline, yet they failed to do so and the Sheriff was required to release him, he later plead guilty to the charge and received a fine. Only two months later in August of 2015 he was again arrested for driving without a license. While at the municipal courthouse, he was fingerprinted and ICE issued a detainer for his immigration violation.

However because of their carelessness, ICE mistakenly sent the detainer paperwork to the incorrect location and it never reached the proper authorities. That brings you to my story, in the 18 months before the senseless mother of my husband, this killer has been in custody on three occasions yet federal officials failed to detain him or report him. Had they just done their jobs and followed the laws, my husband would still be alive and so would four other innocent victims, he brutally murdered.

On March 7th 2016, in Kansas City, Kansas, four men were found dead, Mike Caps, Jeremy Water and brothers, Clint and Austin Harter who were Pablo's neighbors and he murdered them from what I have heard over a parking spot. Authorities started to manhunt but they didn't find him until it was too late. On the early morning of March 8th, 2016, my husband was getting ready for work; I was awoken from my sleep when I heard my husband shouting, what are you doing? And then he called out for me, Julie, Julie.

I looked out the window into our garage and I saw a man and my husband fighting over a rifle, I immediately grabbed my phone and called 911 as I ran to the attic. I was scared out of my mind and I whispered to the 911 operator that we needed help. I asked him to hurry and I prayed and prayed for Randy to be OK. I saw our dog at the top of the stairs and told 911, I was worried that the dog was going to give my location away; I then remember asking the operator if the gunman shot me, would it hurt?

I tried to climb out of the attic window but it was stuck so I stayed put. I also asked if I could go check on my husband and they told me no. Then I heard a pop, I heard the gunman rustle through our things and we believe he was trying to find car keys so he could steal one of our vehicles and continue fleeing from law enforcement. I looked out the attic window and I saw police car racing toward our house but then it raced past our house, I told the dispatcher that the officer needed to turn around, that is when I saw the killer run across my property and jump face first into a ditch.

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

They searched for him for 17 hours using dogs and it would seem like hundreds of policemen and two helicopters but no one could find him, we later found out that he was lying 800 feet from my house in the grass, he waited until it had gotten dark and then walked to a gas station where he tried to hijack someone else, however because my husband had removed the clip from his gun, the killers only remaining bullet was used on my husband Randy.

My husband was a hero for not only saving my life but also saving all of the other people, this man would have attacked. Authorities quickly apprehended the man near the gas station and he is now in custody awaiting trial for the death of my husband. Following the incident I was never contacted by ICE or anyone else from the government to express the remorse, however I read in the paper that ICE said they would monitor Randy's case and place a detainer on the man.

They also said they would remain focused on smart effective immigration enforcement that prioritizes threats to national security, public safety and border Security. I find the statement couldn't be further from the truth, their actions were not smart, in 2015, they sent his detainer paperwork to the wrong place, their actions were not effective, in 2015 they also failed to respond to the immigration query.

They did not properly prioritize the threat, after this man was arrested on numerous occasions for violent crimes, he went on to kill five completely innocent men, not only has ICE failed us but our borders have failed us. They are obviously wide open as the man was able to enter not one but twice without being detected but I suppose if your policy is to let them go even after you arrest them for committing violent crimes, why even secure the border at all?

If the ICE authorities had just done the job, Andrew Harter would still be alive, Clint Harter would still be a husband and would have seen his second child being born, Mike Caps would still be alive, Jeremy Water would still be alive and most importantly to me, my husband, Randi would still be here, instead everyday that I am at our house, I am reminded of this tragic event, I wish you could bring my husband back but we all know that can't happen.

What you can do is make sure that this does not happen to another innocent family in the future and also before I go, I would like to publicly thank the Missouri State Highway Patrol and the nearby County officers for catching and arresting this monster.

JOHNSON:

Thank you Julie. I am sure, I speak for everybody in this room when we offer our sincere condolences, I will guarantee you, this committee will the answer, find, provide oversight and we will get the answers that you deserve but again thanks for testifying, our next witness is Sheriff Randy or Eric Severson, Sheriff Severson is the Sheriff for Waukesha County, Wisconsin, Sheriff Severson is re elected his current position 2014 and has 32 years experience as a law enforcement officer, Sheriff Severson.

SEVERSON:

Chairman Johnson, ranking member McCaskill and distinguished members of the committee, it is my honor to address you today in behalf of the citizens of Waukesha county in the state of Wisconsin. As Senator Johnson indicated my name is Eric Severson, I am the Sheriff of Waukesha county, Waukesha county is a mix of rural and suburban communities located West off and adjacent to Milwaukee county and I have served my community as a law enforcement officer for over 32 years.

To provide context to my testimony, I have included a brief biography, I would highlight that I currently only serve on the board of directors of the National Sheriff's Association and I serve on the board of directors of the Wisconsin HIDTA. The greatest impact on the safety of our community as it relates to border insecurity is the ease of bringing controlled substance into our community by way of the Mexican American border.

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

Methamphetamine is an emerging drug threat in Wisconsin and 95% of the Methamphetamine in Wisconsin comes from Mexico. The drug Public Health crisis is not limited to border communities or major cities alone. In the last 10 years my county has lost 387 of our citizens due to controlled substance overdose deaths. One third of that total, I'm sorry - last year alone we experienced over 35 drug related deaths, one third of that total involved heroin. Fentanyl an adulterer and often added to heroin has increased the lethality of heroin and we now see Fentanyl as another illicit drug entering the United States through the southern border.

At a local level we are doing all we can to protect our citizens and last year my deputies administered Narcan 21 times but only saving 17 lives. Along with the drug trafficking business comes violence, robberies, home invasions, burglaries and thefts are all the byproduct of the drug

users seeking a resources to fuel their addiction. Our communities' drug enforcement officers must face the dangerous reality of the drug trade in Wisconsin.

One example of this is the growing use of mobile drugs crews, these dealers sell heroin from stolen vehicles that are often carjacked at gunpoint and will evade apprehension by recklessly alluding police by ramming squads and even citizen owned vehicles in an effort to escape apprehension, these dangerous drug dealers are frequently well armed and use counter surveillance techniques which add to the danger to law enforcement and the community.

The trust to my testimony has been on border securities as it relates to drug trafficking; this is because my fellow Sheriffs, police chiefs and I see this as the greatest border related threat to our communities in Wisconsin. My testimony would be incomplete however if I fail to acknowledge the criminal threat posed by foreign nationals that are in our country in violation of our immigration status. Candidly I see criminal offenses by foreign nationals as relatively infrequent occurrences within the confines of my counties border.

It would be incorrect and in fact dangerous to conclude however that these events do not occur in Wisconsin. Some specific examples include a drug trafficking organization involving at least two undocumented Mexican nationals where 15 kilograms of cocaine was seized. Another DTO containing several undocumented Mexican nationals was attempting to illegally sell firearms to undercover agents; this DTO also had human trafficking ties. Recent 35 kilogram seizure of Methamphetamine had resulted in the arrest of several undocumented Mexican nationals.

JOHNSON:

from the Grand County, Sheriff's office in Washington State, Mr. Rectenwald is an army veteran with 25 years of public safety experience, chief deputy Rectenwald.

RECTENWALD:

Chairman Johnson, ranking member McCaskill, thank you for the invitation to come speak with you today, I am here to talk to you about the horrific murder which took place in rural, our rural community of Grand County, Washington. An incident that to this day remains the most dreadful scene I have encountered in my nearly 20 year long enforcement career.

We received a call around noon just three days before Christmas of 2016. A woman was out walking her dog near the Columbia River and a picturesque recreational area which is popular with tourist, rock climbers and endeared by residents. She said she found a dead body. What I saw when I arrived at the Crime Scene can only be described as straight out of horror movie. The body was lying face down in the snow, detectives found 13 Bullet casings, 11 of those bullets found their mark, striking the back - the victim's - the back of her head, her neck and shoulder area.

A box from a case of beer had a message, written in Spanish secured to the victims back with kitchen knife signed Gulf cartel. The victim was later identified as Jill Marie Sundberg, age 31 and mother of four young children. We later learned she was kidnapped by five men after an argument

at a party, she was forced into this vehicle with those 5 men, driven ten miles to this remote location and was executed.

The fear and brutality that this woman faced during that ten mile drive in the moment just prior to her death will forever haunt case investigators. During the investigation we developed the list of persons of interest who lived in the same trailer park where Jill occasionally lived, with the help of customs and - ICE - immigration and Customs enforcement and the US Marshal services, we were able to pick up and interview three of those five men.

All five were later arrested on murder, kidnapping and other charges. What's important to know is that all five men were determined to be in this country illegally and one had two prior felony convictions. The fact that these suspects were here illegally is not my point, it's that the shooter was still in the US after being convicted of crimes and previously deported so how did this happen? It turns out the alleged shooter had been previously deported in May of 2007 after his first felony conviction, he then illegally reentered our country in June of 2013, was arrested on new felony charges in Grand county.

He served out a sentence and then in January of 2014, he was released to immigration again but prior to his deportation hearing was allowed to post in the \$8000 cash bail. He never returned for this hearing, no failure to appear warrants were ever issued; he was then later rearrested in September of 2015 in our County on new domestic violence charges, that's not how legal residents are treated when we miss court days.

You and I would have had warrants issued for our arrest, meanwhile after the shooter returned to our community, local law enforcement had opportunity to bring him back into custody during unrelated context but due to the fact that no federal warrants were ever issued, he was never arrested. I was asked to provide insights on policies that Congress and the administration should be considering to stem the unlawful movement of people, illegal drugs and other counter ban into this country. Can we just start with some basic principles? It makes sense that after being convicted of a felony, you should not be allowed to bail out on your immigration hearing, if you abscond, warrants should be issued for your arrest and ICE and local law enforcement should be able to pick you up.

Now I realize that this may present administrative and budgetary concerns but we need easier access to the bad guys. This isn't about illegal immigrants who reside in our communities peacefully alongside of us. Allowing us these tools would help us distinguish between the truly law abiding and those whose existence is to harm through violence, drug distribution via enabling policies and practices.

This certainly is not justice, although I can empathies with that discussion about ripping families apart when it comes to immigration enforcement, I can assure you that the Sundberg family has been ripped apart because of lack of enforcement and current immigration laws. Lastly, I would like to publicly commend the hard work our men and women put into this complex investigation. We live by an unwritten code that dictates that we will never stop, they will never quit and we will always work for the one who knows longer can speak for themselves, their efforts have truly made our community far from safer place to live, thank you.

JOHNSON:

Thank you deputy Rectenwald, Julie, I am going to start with you but I am not going to ask for answer right away but I just want you to think about this to the very end. I do want to know what information, do you want. What haven't you been told from ICE, what can we get for you? So I just want you to kind of think about that and I am going to start with Deputy Rectenwald, you have been in law enforcement, how long?

RECTENWALD:

Over 25 years now.

JOHNSON:

Have you seen a change in - you said the legal residents wouldn't be treated the way we treated the illegal immigrants or illegal aliens, have you seen or shift over those 20 years in terms of how we handle this?

RECTENWALD:

I guess - sorry, earlier in my career, I was the corrections officer for the same County the Grand County Grand County Sheriff's office and ICE, immigration customers and enforcement regularly came into our facility and regularly picked up people on immigration polls ICE detainers and for an example, I was detective in 2008 where there was a rape in our County and I was the investigator and I knew the location of the supposed suspect and I asked ICE if we could work together and try to pick this individual up not only to help my investigation but to get someone who was previously deported on felony drug charges out of our county.

And in 2008, they said, they could not help me so my investigation took longer a lot longer than it should have and while this investigation was going on I finally made an arrest after we had a positive DNA hit from the crime lab. Picked the suspect up, arrested him and while the suspect was awaiting trial, my female victim had died in a car crash and charges were dropped. So to answer your questions all we want is just some simple principles and some simple things to be able to help us during our investigation.

JOHNSON:

I think to answer my questions if our policies were changed in terms of what, how you handle illegal residents versus illegal aliens, was that a lot of change? I mean something imposed on you? Is this just a miss narrative, guidelines, executive orders I mean so in other words, do we have to legislate something here to correct this problem or is this something that can't be done just through executive action? Policy change?

RECTENWALD:

I think - I think the current laws in place should be effective, they're not, I think that people, there are some of the law enforcement career that are afraid of a lawsuit, they are afraid of the challenges that present.

JOHNSON:

Chief Severson, I made a swing through Wisconsin early 2016, we called the national security listening session and every public safety official whether it is local, state or federal, that I asked the question that what is the biggest problem you are dealing with as a law enforcement official? Without exception this is unanimous, its drug abuse. Is that how you would answer that question as well?

SEVERSON:

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

JOHNSON:

There's been a debate about sanctuary cities but also sanctuary jurisdictions and deputy, you alluded to this because there is some civil lawsuits, that you know, Sheriffs that I have talked to in Wisconsin that wanted to help in force immigration laws, feel constrained because they may be subject to lawsuit, either one of you comment on that before I go to Julie?

RECTENWALD:

Well, thankfully, I work for a very good Sheriff, Sheriff Tom Jones and his number one priority is the protection and safety of our citizens so he has given us the backing and we work very well with immigration and Customs and enforcement and the US Marshal service and there are no qualms with allowing him into our jail or our facilities to allowing ICE agents into our jails or our facilities, to allow them to make a war community safe.

JOHNSON:

He is not concerned about civil liabilities, Chief Severson, HIDTA, something you report from your fellow chiefs?

SEVERSON:

Yes it is. We are concerned about civil liabilities, we are concerned about some - and I am not an attorney, Senator but we are concerned about some litigation that Sheriffs have faced whereby there is questions as to whether or not the detention or the detainers contain sufficient probable

cause for us to detain folks solely on the basis of those detainers and the frustration that Chiefs and Sheriffs of Wisconsin are feeling that there doesn't seem to be any movement to clarify how ICE is going to solve the problem of giving us the sufficient probable cause so that we can make those detentions without fear of litigation.

And for the most part we're communicative with ICE and we are trying to share information as best we can and we are limiting our add detentions to very short periods of time to give them an opportunity to resolve, there are legal issues but one of the frustrations that we have experienced is that ICE will not take responsibility for developing clear defensible probable cause for those detentions.

JOHNSON:

But again if you are really facing a civil law that may be outside of their jurisdiction we may have to actually change a law to make sure we provide those types of liabilities protection, correct?

SEVERSON:

I would agree with that.

JOHNSON:

Again Julie, we are so sorry for your loss and we want to do everything we can to provide you the information can you sometime; is there some specific questions you have that you want answered?

NORDMAN:

I just want to know why and I would love - I just want to know why and I just want to know - I want to make sure this doesn't happen to somebody else that some of the laws are strengthened or changed, more security, that's all. Thank you.

JOHNSON:

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

MCCASKILL:

Now, both the Chairman and I have reached out to ICE with a list of questions and I'll make sure that you have copy of the letter that I have sent them, I think it's unfortunate they're not here today to apologize to you at a minimum, it would have been nice to have somebody from ICE at this table to look at you and say I'm sorry and to acknowledge the failures of that agency, I wish they were here so they were doing that.

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

SEVERSON:

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

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

MCCASKILL:

That's the argument that's being-

SEVERSON:

That's the argument that is being made.

MCCASKILL:

Yes. So we need - we will track that down and follow those cases and figure out exactly what the facts and see what we can do to be helpful on that, especially if this is a priority deportation based on criminal activity. I'm assuming that both of you would agree that that should be the priority for our resources, is going after people who have committed crimes in this country, correct?

SEVERSON:

Yes.

MCCASKILL:

Sheriff? Deputy?

SEVERSON:

Yes.

MCCASKILL:

Both agree with that?

RECTENWALD:

Yes, I would agree.

MCCASKILL:

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

SEVERSON:

This was news to me and I was very shocked and surprised and actually appalled.

MCCASKILL:

Yes, that would - we shouldn't - that shouldn't be the case. A bail - a cash bail in those circumstances, I think that's a situation where detaining someone is appropriate, particularly for prioritizing the criminals, then we need to be putting the resources necessary into detaining the criminals.

Maybe not, the children that are going up on a company down our border that are saying please help me that are four and five years old but certainly for someone who has committed a felony in this country and who's here illegally, we ought to prioritize those resources and never let them get bail and hold them until the hearing, that's where I think we should be shifting these resources, let me ask you this too, in 2008, it is interesting to me that you are saying, in the calendar year 2008, ICE would not assist you when you had converging interest in a suspect, he said they could not assist you, did they give you a reason why they wouldn't assist?

RECTENWALD:

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

MCCASKILL:

Yes, so were they saying that was- they didn't say whether it was resources or it's just their policy not to?

RECTENWALD:

It may have be a policy or something back then and that's my point is that -

MCCASKILL:

It would be nice to be able to ask them that question, I do not understand that for the life of me, how anybody in ICE would not want to prioritize someone who had been previously deported for felony drug conviction, that's very hard to understand. What about have you seen ICE work affectively with you when you have a converging interest in terms of a criminal suspect and someone who is illegally in this country, either one of you, have you seen them do a good job?

SEVERSON:

In the case of Wisconsin, I'm happy to report that we don't have a lot of issues of illegally present foreign nationals that are committing a lot of criminal activity in my county. With that being said, for the most part, we are very blessed because we have a localized office in Milwaukee which is very close to us and we have a good working relationship with but I will also report to you that Sheriffs throughout the nation don't necessarily have that immediate access to ICE officials.

So resourcing can become a challenge, the time it takes to report to, respond to a detainer, that can be a challenge, beyond the obvious policy questions on whether or not, there is an aggressive and in vigorous effort on part of ICE to work cooperative deal with these problems.

MCCASKILL:

Yes, it seems to me that if we are going to prioritize, which we should, I mean that is one thing the President is doing, continuing the policy that has been in place, we should be prioritizing illegal immigrants who are committing crimes, that our working relationship with a law enforcement in this country would be step 1.

That making sure you are on the same page, that you have a communication, that you have a working relationship and certainly I will be working hard on that and in that regard, do either - do you plan Sheriff, to try to apply and be part of the 287G agreements, have you made a decision on that regard?

SEVERSON:

At this time, I don't have the resources to participate with that nor is our community structure such that I don't know if that is necessarily a high priority for us right now and again I am fortunate

enough to report to you today that the instances of criminal activity of illegally present immigrants beyond their status is relatively uncommon in my County and generally in Wisconsin, it is less common than some other communities.

MCCASKILL:

Right and what about you Deputy, do you know if your Sheriff is interested in participating in 287G agreements which are other agreements that would essentially perform the legal function of deputizing local law enforcement to perform immigration functions, immigration enforcement functions.

RECTENWALD:

I haven't had that conversation with my Sheriff so I don't know what is stand is.

MCCASKILL:

At the height of the program, we only have 72 agents agencies participating and I don't know how many thousands there are but as a former prosecutor, I know and my jurisdiction there were a lot of police jurisdictions and certainly if multiply that across the country, I'm not sure that is the key to the kingdom. I think ICE doing a better job and developing a working relationship with law enforcement that is out there, better communication is probably where we need to be focusing our attention, thank you all for being here please thank all of your departments for the work they do and once again Julie, couldn't be more proud of you.

JOHNSON:

Thanks Senator McCaskill so the vote has been called we are going to - the time will expire about 10:50, they will hold the vote until 11 so why don't we go on to Senator Heitkamp and then we will talk to the senators in terms of how they want to pursue the hearing but to Senator Heitkamp.

HEITKAMP:

Thank you Mr. Chairman and thank you ranking member, Julie, Kamala who is here from California and Claire and myself have all been prosecutors, ran large agencies and we have sat across the table from victims and I remember their faces and we're not going to forget yours and we are not going to forget your story and we are going to get to the bottom of this.

And so I just want you to know that it's hard to do what you just did and we are really proud of you but it make a difference because it unites us all in this tragedy to try and fix what's wrong so thank you so much for coming, I want to turn my attention to local law enforcement grounds I am very concerned that just- I ran the Byrne Grant program, I was probably one of the first states that had HIDTA program in their great plains.

So around the drug test forces out of my office, with in collaboration of local law enforcement, I was the state Attorney General and so one of the things that I am deeply concerned about is that

we have got Stone Garden that deals with on the border jurisdictions, we have cut that program, we have cut the Byrne Grant program to the point where we cannot get those resources, it is harder and harder to get find Cops money, it is harder and harder to find HIDTA money.

And we have a growing National crisis in drugs and the fact that people are pouring across the border, their pouring across the criminal element, it's pouring across the border because there is a market for what they are selling here and they are competing for territory, we know what is going on so can either one of you tell what you would do if we plussed up the Byrne grant program the way it was before even more, if we plussed up the cops program, if we extended Stone Garden to recognize that a lot of problems of the border actually come to the interior, what could we do with additional resources and how would you approach that, I guess we will start with you Sheriff, Deputy Sheriff.

SEVERSON:

Thank you, I agree that those programs have suffered over the last few years, again by way of background I did on our - one of the largest Metropolitan drug enforcement agencies within the state of Wisconsin and so I am very familiar with Byrne, I have been 20 years, almost 20 years on the board of directors of HIDTA and I'm here to tell you that the HIDTA in my opinion is the great success story, HITDA is one of the real flagship Federal programs in part because it didn't create an agency, it created a cooperative nature and...

HEITKAMP:

Collaboration.

SEVERSON:

...Collaboration and so that's been exceptionally effective in Milwaukee, it started in Milwaukee and now we are actually multistate now so that is a great thing so anything that we can do support HIDTA funding is going to really do a lot to do to get the boots on the ground and the local communities particularly in the non border areas.

One of the things that concern me is that that we focus our attention in the community and ignore what's happening at the border, it makes no sense to me to have somebody working at home play it so hard and nobody working around the diamond trying to help us control the influx of controlled substances, if we can see these large quantities at the border, that is going to go in my opinion have more in the local communities and so we need to do both.

And so it to me the border security issue in my conversations with border Sheriffs and other members of the national Sheriffs' Association, we are just at our wit's end that we are going to continue to sit and look at the border and watch this continue and so anything that we can do to increase the staffing at the border or increase the use of technology or create infrastructure that will allow us to patrol the borders is going to be important locally.

We are getting to the point where local law enforcement agencies don't have the resources anymore to participate in cooperative drug enforcement efforts and that's in part because of the reduction of the Byrne Grant program. When I started in drug enforcement we were getting 3 times 4 times what we are getting now.

HEITKAMP:

Yes, I mean, I think it's clear and the ability to collaborate with those resources is so critical.

SEVERSON:

It is.

HEITKAMP:

I will tell you that, we spend a lot of time talking about the open border and rural areas and that absolutely needs to be addressed but it is the DHS's position that most of the counter bat especially heroin and methamphetamines are actually coming through and the ports of entry. And so we need to do everything we can to plus up the resources, plus up the inspections and you know and find out how across border, how we can really attack this problem, whether it is detecting tunnels or whether it is in fact making sure that we have the resources at the border.

But I am concerned that the art with the lack home federal resources that takes that great collaboration and pulls it apart and people say I am not going there I got other things to do, this is your job and I am not saying that we are doing that but I do see that cohesiveness that I saw in the 90s on these programs is really falling apart because of lack of resources. Deputy Sheriff, you mentioned and I don't have it in my paperwork, I am sure it is in your testimony, the Sheriff's Association recommendations, we'll be very interested in reading those and understanding, spend a fair amount of time with the Sheriff's down at the border I know that level of frustration but from your prospective what can we do that she is going to get you the resources that you need to tackle this problem?

RECTENWALD:

I mean just a little background about myself, I am the commander of our inter agency narcotics enforcement team so we are a little different as in we don't have- we have DEA that is located in Spokane, Washington, we have DEAs located in Yakima and we are somewhere in the middle on an island so we're collaborating -

HEITKAMP:

So no DEA assigned to your region?

RECTENWALD:

Correct.

HEITKAMP:

OK.

RECTENWALD:

So we are kind of on an island and we are a collaborative of smaller agencies, we are a county of 93000 people, that doesn't mean that we don't have a huge drug problem which we do, and as I previously stated, the price of heroin is between 80 and \$100 a gram and the price of methamphetamine is even cheaper, it's \$60 a gram and it is not uncommon for us to make seizures of 10 to 15 pounds of heroin and or -

HEITKAMP:

In your county?

RECTENWALD:

In our county. Methamphetamine, I think we do have Cartel action and they are very well embedded in our state and having that money and having those funds to be able to support an inter agency narcotics enforcement team that is supported by funds and its allowing these small Counties who otherwise could not afford to have a detective assigned to the unit.

HEITKAMP:

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

RECTENWALD:

We are close to the Yakima nation but no- that really doesn't - other than -

HEITKAMP:

I raise this because at North Dakota, we see a lot of trafficking on and off the reservation and you know the jurisdictional issues that we have trying to tackle that are absolutely horrible and we need to that Federal help, we need DEA, we need FBI, we need any kind of Federal assistance that we could get to have a cop on the beat in the Indian reservation because if you are the bad guy and if you think there is no cop on the beat, where are you going to go?

And so we will work a very actively to try and figure out the relationship between you and ICE and the federal authorities but also to get us back where we need to be in the 90s and even beyond that given the crisis that we are confronting, to recognize the important role that you all play as boots on the ground to help us keep our community safe and thank you again Julie, thank you Mr. Chairman for the indulgence and the extra time.

JOHNSON:

Thanks Senator Heitkamp, it's difficult to deal with these both, we've got two of them so I think what we will do here is just thank the witnesses for your testimonies for coming in, gentlemen, thank you again for your service, Julie, again our sincere condolences, you have the commitment of this committee, we will do everything we can to work with you to get you the answers but also working with the new administration to secure our borders, to start the enforcing immigration laws so we can try and prevent these types of tragedies from happening again, your testimony was powerful, thank you for coming, it will make a difference. With that the hearing record remain open 15 days until March 16th, 5 p.m. for submission of statements and questions to the record, this hearing is adjourned.