

Hearing Transcript

Senate Homeland Security and Governmental Affairs Committee Hearing on Border Security and Public Safety

Wednesday, April 5, 2017

JOHNSON:

This hearing will come to order. I'd like to welcome the secretary of homeland security, General Kelly. We appreciate you coming and taking time and your thoughtful testimony, and we're looking forward to oral testimony and your answers to what should be a number of pretty interesting questions. Members of this committee, this should come as no surprise, the security of our borders been a top priority of -- of this committee.

In November 2015 after about 13 years and three roundtables, we did publish a report, "The State of America's Border Security" -- which by the way, we've got a bunch of copies so any -- any new members or old members who didn't get a copy, I'd -- I'd be happy to give you one. We've learned an awful lot and I would ask that my opening statement be entered into the record. I ask consent for that.

MCCASKILL:

Without objection.

JOHNSON:

Which I'll take silence as a consent, thanks. But what I would like to do is read some of the findings out of that opening statement as well as just some of the things we've learned. Just kind of bullet points.

First and foremost what we've learned during our -- this is going to be our 23rd hearing on various aspects of border security. First finding, our borders are not secure. Number two -- and we've mentioned this in yesterday's hearing -- America's sensational (ph) demand for drugs is one root cause, perhaps the root cause for bringing the (ph) achievement of a secure border. In order to secure our borders -- we heard this yesterday in -- in testimony on -- on fencing walls --agents need full situation awareness, which includes the ability to see on the other side of the border. This can be achieved with appropriate fencing and technology.

We had a hearing on November of last year. We had the former heads of border patrol and deputy border patrol, and they said that fencing works and we need more of it. We found out the last week in a hearing from the front lines, hiring is challenge and personal issues must be addressed, we're working with the secretary and his -- his deputy to try and address that -- really based off Senator Heitkamp's comments, in (ph) one hearing where she said, this is insane, this is crazy, and there

are some insane and crazy policies which we want to work with you to get those addressed and fixed right away so you can actually staff up to provide the manpower element of securing our border. Points of entry must not be forgotten. The majority of drugs in our country are through our points of entry and that's something I'd like to talk about. One difficult hearing to have was victims of an unsecured border, victims of not enforcing our -- our immigration laws.

So the truth is tragedies have occurs as a result of our unsecure borders; tragedies that could've been prevented. Going down another list, not on my opening statement, drug cartels and coyotes use minors to avoid prosecution. Unaccompanied children have been traffic into sex trade and involuntary servitude. Drug cartels are as, if not more, brutal and depraved then ISIS. Aerostats, you know good technology but as we found out about on our -- one of our trip down the border, they're not real good in wind, and so in certain areas they can only operate about 40 percent of the time. We had an incredibly interesting hearing and this is something I'm a big supporter of, the quadruple or quintuple use of dogs because no technology can beat the nose of a dog.

Brooks County, one of our trip, we found out that the 435 deaths of people who -- who have cross country illegally occurred just in the last five years. It's a very dangerous journey, we treat -- need to try to disincentivize people from -- from making that dangerous journey. Drug use is not a victimless crime. It has given rise drug cartels. Those drug cartels traffic little girls; and we were down in Guatemala, we went one of those shelters. I remember Senator Heitkamp, Senator Carper, Senator Peters,

I think the average age is 14 so it's not a victimless crime. I think we all realize that but unfortunately we need to understand the responsibility we bear because of our insatiable demand for drugs so that's just a list, I don't want to keep droning on here but we've learned an awful lot in 22 hearings, I think we're going to learn a lot more today and as Senator McCaskill said I think in yesterday's hearing, I don't think there's one United States senator who doesn't believe we need a secure border.

So let's start there with that area of agreement. We share that goal, we want to secure our border, we want to keep the folks that we represent in our states, we want to keep them safe and secure. Now we got to figure out the details. And so again, I want to welcome General Kelly and I'll also turn it over to Senator McCaskill.

MCCASKILL:

Thank you, Mr. Chairman. Secretary Kelly, thank you so much for being here today. We are cognizant of the demands on your time and part of our goal, and the chairman and I agree on this, is trying to be careful about what we ask for and how much we ask for but we've got to ask for stuff because our job is oversight. But we're aware that you're being pulled a lot of different ways.

That's why we look forward to you getting a full team in place so we can begin to have some of the people in charge in your operation come and answer some of these difficult policy and oversight questions. You and I have worked together on the armed services committee, I have -- I'm very -- I'm a fan of how you have served as a Marine and a general and no one has -- can question the sacrifices you made for our nation.

Ever since your confirmation, I have considered you a voice of reason within the administration. You have displayed throughout your career a willingness to speak truth to power, to say "no" rather than nodding, and have made your decisions based on the facts not political expediency. Those characteristics are needed now more than ever. I am counting on you to speak truth to this administration and to the president but I'm also asking you to speak to us and the American people.

Even though it may not seem like it, we are now three months into the new administration. I know that you want time to settle in and you need help to do your job. We're pleased that we confirmed Elaine Duke yesterday. I think she will be a terrific addition to your department. And by the way, I secured her vote tally, the original. I was going to bring it this morning and I forgot but I'll make sure I get that to her so she can have it to frame for her office.

We have two executive orders that ban travel from Muslim-majority nations. The first was implemented without notice and caused chaos at our nation's airports. Both have come under immediate constitutional scrutiny by the courts. The Department has overhauled its interior enforcement in the words of the White House to, quote, "take the shackles off" immigration and customs enforcement and the border patrol.

You have ordered the department to, quote, "immediately begin planning design, construction, and maintenance of a wall along the border." Even though Missouri isn't on the border, my state is directly affected by it. The drugs that get through the Mexican border have a huge impact on the opioid crisis that is gripping my state and the entire nation.

It is causing death and destruction to families all over the United States. I know you share my concern about drugs coming over the border but I am deeply concerned that all of the rhetoric and all of the budget requests have focused on the border and not the ports of entry, that there is no plan to increase resources at the ports of entry which we know, along with the mail, is the primary place that drugs are coming into our country.

I certainly hope that we have a chance to address that today. Away from the border, I'm concerned about the Secret Service and the unprecedented challenge of protecting the president and his family at numerous locations; the White House, Trump Tower, and Mar-a-Lago as well as the international travel by the president's sons.

In the meantime, the Secret Service is reviewing incidents that have threatened the physical security of the White House including a case in March where a fence-jumper was able to elude security and roam the grounds for 15 minutes. I'm deeply concerned that the Secret Service is being stretched to its breaking point. And just yesterday, I read news reports that the extreme vetting procedures that the president has ordered could force visa applicants from places like Australia and Japan and the United Kingdom to disclose not only all the information on their mobile phones, social media passwords, financial Records even to answer questions about their beliefs.

I've got to tell you, if my family was traveling United Kingdom and they told me that we would have to answer questions about my beliefs in the country, we would not go. And I have a hard time

imagining countries would see us as their friends. I think this has a profound impact on our standing in the world, a profound impact on the nature of our alliances around the world, and a profound impact on our national security.

And I will ask questions about that today I indicated to you in our conversation yesterday because I think we are doing things that in no way as a former prosecutor trips up the bad guys. That changes our image forever in the eyes of the world; permanent and irrefutable harm occurring. Secretary Kelly, we have been trying to ask questions about policies and problems like these to your department and there have been times it's been very difficult to get answers.

willing to do a reset and check that off as you not having all hands on deck, but going forward, I hope that together, the chairman and I can work to make sure that we have witnesses from the Department of Homeland Security answer some of the questions that need to be answered. And frankly, I think it works for the benefit of your department, because if you're not here explaining, then assumptions can be made that sometimes are unfair. So going forward I hope that we have a new beginning as it relates to not only getting questions answered, but also having witnesses at hearings.

I'm glad you're here today, there's a lot of important issues before us, and I've got a lot of questions. I hope we can count on you and that your department be willing to answer them going forward. Thank you very much.

JOHNSON:

Senator McCaskill, would point out General Kelly has already made himself available for a security briefing and now he's here already in early April. So I certainly appreciate his willingness to -- to testify. Secretary -- General Kelly, we do have a tradition in this committee to swear in witnesses, so if you'll please rise your right-hand. 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? Please be seated.

Secretary John F. Kelly, General Kelly was confirmed to be the 5th secretary of Homeland Security on January 20, 2017. He previously served as a United States Marine Corps general and commander of the United States Southern Command. Less than a year after retiring from the Marine Corps, Secretary Kelly once again answered the call to serve nation and the American people by leading the department homeland security. General, we thank you for your service past, present and future, and look forward to your testimony.

KELLY:

Thank you, Chairman and certainly Ranking Member McCaskill, all of the members of the committee. It's really an honor to be here. I will make myself available any time by phone, by drop-in. just recently I met with -- just yesterday with the entire Hispanic Caucus on the House side. We prided that with the entire Democratic caucus on the House side. I met with the Democratic caucus on this side last week, and I think I'm scheduled to speak with the Republicans. So anytime, anyplace, happy to do it, just a little notice.

Since I've respectfully taken on this assignment nearly three months ago, I have learned two very important lessons vis-a-vis the Department of Homeland Security and the defense of the homeland. The first is that the men and women of my department are incredibly talented and devoted public servants who serve the nation in very special ways.

In particular of those uphold the laws this institution, the Congress, passes by way the democratic process. It goes without saying the United States Coast Guard, supremely effective in their lane. One of the five military services of our country, they just happen to be lucky enough to be in the Department of Homeland Security.

Then there is the incredibly dedicated Immigration Customs Enforcement -- the ICE agents -- who have taken on the task of enforcing again, the laws you, have passed, and they do that in the interior of our country. They do it humanely, professionally, and always according to the law. The ICE team also includes the amazingly effective investigators of Homeland Security Investigations, HSI, who are second to none in their investigative effectiveness.

Then there are the professionals of the Customs and Border Protection, the CBP, who are among many other functions are the first and -- and last line of defense, depending how you look at it, doing the essential and often dangerous work of defending the borders. They're out there day and night, 24/7 suffering the heat of an Arizona summer or the deadly cold of a Montana winter. Third are another group, the Secret Service as you mentioned, Senator McCaskill. I want to highlight them, both the agents as well as the uniformed force.

They routinely work and are overworked to protect not only U.S. government officials but foreign dignitaries as well. They're amazing public servants dedicated to taking a bullet and giving their life for people that they don't even know. Then there's the TSA who ensure the security of, among other things, the traveling public, aviation- traveling public.

TSA enjoys little credit as the work they've been ordered to do and complete by the laws of this nation bring them in direct contact with a public that has little tolerance for minor inconveniences. Again, all of this required by the law. This same public forgets that the alternative to what we -- the TSA does at our airports is possibly dying in a fireball falling from 30,000 feet.

They're heroes, they do their work effectively, and they work very, very hard at improving their performance. The second lesson I've come to realize is that what homeland security means -- we must no longer think about the defense of the nation in terms of defense and nondefense initiatives and funding. In the world in which we live and the relentless and accumulating threats directed against our nation and our way of life, we must adjust our thinking to think about security and non-security which requires an increased melding of the thinking of the departments of defense and homeland security.

Secretary Mattis and his superb team fight the away game. They do it effectively every day. The quality of the equally superb men and women of homeland security that I'm in charge of fight the home game. The defense of the homeland starts with allies and partners willing to fight the fight in places like Syria, Iraq, and Afghanistan while standing ready in Europe, Asia, and South Asia.

Closer to home and winning the home game is all about increasing the partnership with willing and reliable friends like Colombia, Mexico, Canada, indeed, all of the nations of this hemisphere and around the globe. Securing a nation's border is the primary responsibility of any sovereign nation. To those of us who serve the nation as part of DHS, this is nonnegotiable and sacred.

Yet for a decade, the federal government in spite of passing one law after another to do just that has not lived up to its promise to the American people. President Trump in the early days of his administration issued executive orders and focused interest on this very issue and tasked me to accomplish it. Various executive orders have been put out there, some of them effectively, some of them not so effectively.

But all of them worth adhering to once the courts finish with their rulings. But what's happened in the last 90 days or so? We've seen an absolutely amazing drop in the number of migrants coming out of Central America that are taking that terribly dangerous route from Central America into the United States. In particular, we've seen a dramatic reduction in the number of families and the number of children that are in that pipeline.

It won't last -- it won't last unless we do something again to secure the border; the wall and our physical barrier, something to secure our border. You all know that we're looking at that. In fact I think the proposals closed out yesterday, what it'll look like, how tall it will be, how thick it will be, what color it will be, is yet to be determined. All we know is that physical barriers do work if they're put in the right places.

And of course I've already posed (ph) the men and women that work the border, CBP, they know exactly where they want wall and they know exactly how long the wall should be in their sector. They're also quick to point out that if they can't have a wall from sea to shining sea that at least give them the wall -- the physical barrier, the technology that will do the job for them in the locations where they've identified to me, and we'll do that.

Before I conclude, I'd like to highlight the committee and the American people total (ph) relentless threat that thankfully we have stayed probably two or three steps ahead of over the years. I thought of those would do us harm; primarily operating out of the Middle East, and they are unyielding in their attempt to destroy commercial passenger aircraft in flight. In response to this thread, DHS personnel primarily from TSA and CBP are deployed in near thousands overseas working with airports, air carriers and intelligence and law enforcement partners to deny the terrorists attempt to kill innocent in the largest numbers possible to make some sick statement.

As they say we, the CIA, NSA, FBI, DNI, DOD, DOI, DOJ, DOT, and DHS and all of our international partners have been successful thus far. I recently made several decisions that added additional baggage protocols at a number of foreign airports to fly -- fly flights directly to the United States. This decision was not -- I repeat, not about the Muslim religion, anyone's skin color or ethnicity, but to impact the bottom line of foreign air carriers to the benefit of U.S. air carriers.

My decisions were based entirely on saving lives and protecting the homeland. If we cannot get our arms around the current threat, you can expect additional protocol adjustments in the very near

future. I'll end by saying me thank you so very much for the support you gave Elaine Duke. The fact that she is now confirmed -- and with any kind of luck, I'll return to my building after this meeting -- or after this committee swear her in and put a very, very good heavy pat on her back, fill it up with a lot of rocks and make the Department of Homeland Security better than it already is. So with that Mr. Chairman, Ranking Member, I will standby for questions.

JOHNSON:

She ought to be look forward to that.

(LAUGHTER)

General Kelly, let me start. You talked about the -- the study on the board -- boarder barriers. Can you just tell me the -- a little more detailed the status of that, as well as any surprises that you've - in terms of initial results of that?

KELLY:

Sir, we know that a physical barrier works. It's -- the -- the parts of the border that have physical barrier now, roughly 650 miles built some years ago. In those sectors, it works. There are other places along the border -- and again that the professionals in the -- in the CBP, if you walk the terrain (ph), and I know some of you have, will tell you, you know boss, if you can give me 27 more miles here, 16 more miles here, I don't really care about the other 140 miles I'm responsible for, but I need something that works, and to deflect the flow of people, primarily bad actors, people in -- not all of whom are bad actors -- people who are coming United States for various reasons, to deflect them away from -- primarily deflect away from the cities, the idea with the coyotes in the traffickers to get them as close to a city crossovers -- as close to a city as possible, get them into the city where they disappear.

So if you can deflect them away from the city, then it's easier to pick them up and return them, whether they're Mexican or whatever. It's actually safer in many ways. Last year I think is somewhere in the neighborhood of 4,500 near-death individuals were saved by CBP primarily out in the -- out in the desert, and unfortunately unknown specific numbers, but some several hundred lost their lives in this attempt to get across the border and that's on our border.

It's no telling how many in addition to the -- to the rapes and the assaults and the abuse that they take in the network flowing up through Mexico. Not done by the Mexicans but by the Coyotes, the traffickers. There's no way to tell how many of those people lose their lives. But the point is, very, very dangerous trip. The barriers work, technology also works but all of it doesn't work at all unless you have men and women who are willing to patrol the border, develop relationships which they do with their Mexican counterparts directly across the border.

But that's where we are right now. There's no way I can give the committee an estimate of how much this will cost. I mean, I don't know what it will be made of, I don't know how high it will be, I don't know if it's going to have solar panels on each side and what the one side's going to look like and how it's going to be painted, have no idea. So I can't give you any type of an estimate.

I will say this, that it's unlikely that we will build a wall or physical barrier from sea to shining sea but it is very likely, I'm committed to putting it where the men and women say we should put it.

JOHNSON:

In your written testimony, you -- the quote is, you're going to implement a full complement of solutions to meet border security requirements and that's technology, that's manpower, that's going to be physical barriers. But my assumption is you're going to target kind of a step by step basis and put walls and fencing in top priority areas where your border agents are telling you, correct?

KELLY:

You're exactly right, Senator.

JOHNSON:

We had a hearing last week from the front lines with the heads of the unions from Border Patrol and OFO and ICE. There were some real problems. The problem -- the use of polygraphs, just way too high of rejection rates. Pay parity, I mean Border Patrol saying once you go try and hire 10,000 ICE agents, they're just going to teal them from border patrol because of the lack of parity.

Just work schedules. From OFO talking about how agents are working multiple days in a row 16 hour shifts. So can you just kind of address what you're finding out? We're going to try and do a very cooperative process with you, with the White House, bipartisan -- nonpartisan basis really and try and give -- produce the oversight same time you're enacting the solutions.

But can you just kind of address those personnel issues?

KELLY:

Yes sir. I mean this is going to be kind of a cinder block sized rock in Secretary Duke's pack. One of the things I will turn -- one of the things my good friend Jay Johnson started long before I obviously took this job was this unity of effort issue, to look at all of the department that is still a fairly broken up and disparate organization, to look at all of the department, where it makes sense, start to unify things like acquisition, like -- like pay.

Even though it's my understanding that some of the pay problems in a couple of the unions, one of the union anyways was actually negotiated that way by the union. It didn't turn out so well as I'm informed. So what we're going to do is turn that over to Elaine and look at all of the -- the Secret Service falls into the same category of another kind of different pay scale and there's a better way to do this so that unity of effort, we'll -- we're going to really breathe some life into it.

Jay started it, great thing. We're really going to finish it over the next year or so or more but find ways to do exactly what the Senate is suggesting. That is come up with better pay systems, better benefits. You know, one of the things the CBP folks tend to migrate into ICE frequently is because

they might be from, I don't know, the great state of Missouri and they're working on the border in Arizona and that's OK for a few years but they want to get maybe back home.

So we'll look at that too but that requires a lot of detail work and I think -- I don't know what the exact number is in terms of a larger force, CBP particularly, or ICE for that matter. And for sure, Secret Service needs to be bigger, for sure they need to be bigger. They are carrying a load that is almost crushing the individual agent and we're going to fix that.

But to your point, sir, we're going to take -- we'll take on all of that and improve it with your help.

JOHNSON:

OK, yes. We'll want to work with you on that. I come from a manufacturing background, continuous shift operation. You need four shifts and I'd love to work with you and the agencies design a proper ship that doesn't overburden the -- the -- the personnel.

Just real quick because you did raise this issue about the device searches. In -- in fiscal year 2015, under the Obama administration, there were 8,500 devices searched, and they realized this is actually pretty effective. So in 2016, they searched 23,877 devices. Can you just kind of talk about what -- I think an (ph) article -- I think a lot of concern about that. Can you just relay (ph) some of those concerns and talk about really effectiveness of why we should be doing this?

KELLY:

There's a -- roughly a million people a day come into United States, either by land or by aviation. You know, that million -- that tiny half of -- one half of 1 percent might have their devices looked at. Generally speaking, these would be foreigners anyways. In fact, in almost every case, they'd be -- a large percentage would be foreigners. But it's the normal process of coming into the country.

And so what do they -- what do they look for? Frankly, a couple of examples, I would give you is, it's one of the ways they find these pedophiles when they -- and the -- and the CBP people, of course are interviewing travelers entering the United States will send people to secondary (ph) for whatever reason -- and there a million of (ph) reasons they do this, will send people to secondary (ph). Usually they're there for a short period of time. It might be to do -- their passports look out of -- out of sync or something like that; their stories don't match what the passport says. There's a -- there's a million of (ph) reasons.

But some of those reasons revolve around men who are coming from certain parts of the globe that -- that -- what do they call it? Sexual tourism, I think -- pedophiles anyway. So that's one -- one way we catch them. We go on, we look at their -- at their device, and it's filled with child porn. That's one thing.

Recently, we had a -- and again, a couple of examples, we had an individual traveling here from a Middle Eastern country during the process. The profiling if you will, there was something not quite right about him matching up with what he was telling about his -- his past -- where he had come from, his passport. So we put him in secondary. They looked -- ran his -- his contact numbers out

of his telephone, and he was in contact with several -- I won't go into it too deeply -- but several well-known terrorist traffickers and organizers in the Middle East.

They then looked at the pictures and saw a full display of -- of you know gay men being thrown off of roofs and people being beheaded and all that. Now, we had no reason to hold him because he was not in any database, so we sent him back. That I think appeared shortly after that in a newspaper about how we were focusing on a Muslim male, and we did it because he was a Muslim and from the Arab part of the world.

But the point is, there are reasons for it. But to Senator McCaskill's concerns, this is not routine. It's done in a very small number of cases. It won't be done routinely for people that are coming here from -- from -- from anywhere -- it won't be done routinely from anywhere. But if there's a reason to do it, we will in fact do it. But whether it's France, Britain, Egypt, Saudi Arabia, or Somalia, I won't be routinely done at the port of entry.

JOHNSON:

Thank you, general. Senator McCaskill?

MCCASKILL:

General, is the president OK with fencing instead of a wall?

KELLY:

The president has told me "Kelly, go do it." I -- we need to protect the southwest border in any way that that makes sense.

MCCASKILL:

So you -- he understands...

KELLY:

...I have a lot of elbow room.

MCCASKILL:

So he knows that we're not going to build a concrete wall -- a 2,000 mile concrete wall? The president knows that, right?

KELLY:

The president knows that I'm looking at every variation on the theme and I have no doubt when I go back to him and say "you know, boss, wall makes sense here, fencing -- high-tech fencing

makes sense over here, technology makes sense over here," I have no doubt that he will go tell me to do it.

MCCASKILL:

And can you provide to the committee the request by the border chiefs for how many miles they're requesting of barrier?

KELLY:

Can I -- yes ma'am.

MCCASKILL:

Yes. I mean you're going to ask every border chief for their sector...

KELLY:

...Right.

MCCASKILL:

How many miles do you need and where?

KELLY:

Exactly right.

MCCASKILL:

And are you also going to ask them for their technology requests?

KELLY:

All of that will be part of -- I mean their input is absolute to what we're doing.

MCCASKILL:

Right. Can we get those requests as soon as you receive them?

KELLY:

Absolutely.

MCCASKILL:

Because I think it's really important -- the sooner we stop this, you know, we're going to build a wall from sea to shining sea and the Mexicans are going to pay for it, it's embarrassing. It's not going to happen, everybody in Congress knows it's not going to happen. Every Republican knows it, every Democrat knows it. It appears the only person who won't say it out loud is the president of the United States.

And it's embarrassing. I don't understand it. I mean, it makes no sense and frankly the money we reprogrammed for the -- the prototypes, the solicitation says no technology insertion is even a requirement of the prototype and you know situational awareness is going to be key for these border chiefs. They -- it does no good to build a big wall if they can't see over it because they aren't able to respond to the ladder or to some kind of breach.

And so I just -- it's just frustrating to me. You get it, we all get it, but the president is so stubborn and won't say to the American people "we're going to use your money wisely and we're going to protect the border in a way that makes sense. And by the way, Mexico is not going to pay for it." So I urge you to speak truth to power in that regard. The sooner the president gets some credibility on this, I think the better off we all are and I think it would make your job much easier.

That's my two cents worth. And by the way, you get a lot of bipartisan support immediately for budget requests that are based on sound ideas about securing the border. We're not -- I mean I think the majority of the Senate, and I can't speak to the House, is not going to sign a blank check for a wall that we know is never going to be built. So the sooner we all get honest about this, I think the better off we are.

So the extreme vetting, I get what you're saying that it will be applied to very few people but if it is the policy of our country to increase the questions asked for visa applications all over the world, and to expose the 38 visa waiver countries to this possibility, it has a dramatic impact. And you've got to understand, Secretary Kelly, that if they know we're going to look at their phones -- I'm talking about bad guys.

I've had some experience with bad guys. If they know we're going to look at their phones and we know we're going to ask them questions about their ideology, they're going to get rid of their phones and guess what they're going to do on ideology? They're going to lie. Are we going to use polygraphs?

KELLY:

That would be -- we couldn't do that for all of the people that we currently put into secondary, no but your point's well taken in terms of if we were doing these things routinely but there's -- there's databases we look at that bring us to cause to bring someone into secondary, travel patterns -- I'd prefer not to go into it but travel patterns tell us a lot about a person.

And that would get someone to go into secondary. But generally speaking, the average tourist coming into the United States is not going to have their -- we're not going to ask them...

MCCASKILL:

...So we're going to tell them we might -- we're going to tell them we might ask them about what they -- I think the things that -- was the article accurate that they're going to be asked how applicants view the treatment of women in society, whether they value the sanctity of human life and who they view as a legitimate target in military operation?

Are we going to explain to all of our friends across the world that they could be questioned like that if they come into the United States?

KELLY:

I wouldn't say those would be questions we would ask.

MCCASKILL:

So this article is incorrect that these are what -- this is what's being considered?

KELLY:

Which article is it?

MCCASKILL:

This is the "Wall Street Journal" article yesterday that said visitors to the U.S. could be forced to provide cell phone contacts, social media passwords, and answer questions about their ideology according to Trump administration officials.

KELLY:

I don't -- those questions you've indicated are not questions that I think would be, you know, used in the secondary kind of questioning. As far -- once again, I go back to very, very small numbers. We do -- it is effective to catch people -- you know, they come in -- they're coming in the country but they're not really here yet so if they don't want to cooperate, they can go back.

MCCASKILL:

But aren't we telling them what they need to do to get in? I mean, that's what's weird here. It seems to me we are signaling something that's very un-American to the rest of the world by announcing this policy. Every ambassador in Washington read this article in the Wall Street Journal yesterday and every ambassador in Washington called back to their country and said, listen to this, they're going to start asking people for their social media password and about their ideology in America. That is incredibly damaging, and all the bad guys are going to like just lie. I don't get how we get anything out of it. It's that damaged (ph).

KELLY:

As they say, very small numbers -- that we will go to those questions or requests social media -- and I'm talking really -- I'm talking right now about at our airports and ports of entry. We'll -- we'll go in that direction when the professionals at the counter decide that there's a reason going to in the direction. But the vast majority people will not -- will not be questioned in that way.

It's just like the vast majority of people that come into the country, foreigners, and for that matter, American citizens, we don't go into their luggage and inspected their luggage. Is the same kind of thing? We will do it when we think there's a reason to do it.

MCCASKILL:

Well, I'm -- as you can tell, my hair is on fire about this. I am really upset that America would be saying this to the world. and if -- if needs a classified briefing in terms of understanding better what the plans are and who would be pulled, and if somebody can explain to me how we get terrorists when they know all they've got to do is lie to the questions and buy a burner before they come to America...

KELLY:

I think you know, senator, this is nothing new. We've been doing this for -- to the best of my knowledge, my staff tells me for a number of years.

MCCASKILL:

We have never announced that it is the policy of America that all foreign visitors to our country could be subjected to this kind of questioning and this kind in intrusion.

KELLY:

Well, questioning again, I'm not aware the questions you -- the questions you -- you recited are not questions that I'm familiar with at all and I don't...

MCCASKILL:

That's what I want to get to the bottom of. And I will just tell you, Americans would never put up with this in other countries. If -- if -- if all of these countries sent a signal that if you come to our country -- can you imagine a U.S. senator saying, oh yeah, well lets go to Japan and they're going to take my phone for three days if they feel like it, and they're going to ask for my social media password, or I can't go in. Or they're going to ask me questions of my -- my ideology.

I mean, can you imagine anybody in America wanting to go there? And we don't want to send that signal. That's what the essence of my questions, secretary. And if you can follow up with us about how this is going to be applied and clarify it to the world that we welcome our friends to America, I think that would be very helpful.

KELLY:

Again, I'll just thank you, Senator McCaskill. I'll just remind you, in fiscal year, 2016, 24,000 devices were searched. So this is -- this is not new. I think its being somewhat blown out of proportion. Senator...

(CROSSTALK)

KELLY:

... chairman, if I can add to that, and of the ones that were searched, very, very small percentage were actually gone into forensically, if you will. It's essentially, they turn it on, and we'd like to see the pictures. And again, if we find child pornography, we find -- we find really grizzly photographs of terrorists' acts, that's the kind -- we -- we're not -- we're not sending these to -- we could if we want to, and in small numbers we do, but we don't send them to a place to be forensically taken apart...

JOHNSON:

And unfortunately publicizing this, does make it less effective, unfortunately. Senator Hoeven has graciously allowed the chairman or Armed Services to slide ahead of him. So, Senator McCain?

MCCAIN:

Thanks, Senator Hoeven. You know what sets my hair on fire? The fact that we know that coming out of Raqqa are people that have been directed to come and get into the United States of America and commit acts or terror. Isn't that true? It sets my hair on fire.

KELLY:

It's absolutely, sir (ph).

MCCAIN:

Does it set your hair on fire that there are now -- we know published reports, their efforts at taking these devices and planning explosives and committing acts of terror with this technology? Does that set your hair on fire?

KELLY:

It does, Senator.

MCCAIN:

And they are developing technology right now to put -- one of the reasons why there's been some of the band on what can be brought on an airliner sets my hair on fire right now. So I'm really worried about offending every ambassador in Washington. That's what always has been one of my

greatest concerns, is how they feel and I certainly wouldn't want to offend their feelings. But the fact is that there are people being trained in Raqqa today that are leaving Raqqa and trying to get the United States and use various devices to commit acts of terror in the United States of America. True?

KELLY:

It is true.

MCCAIN:

Thank you. So maybe we ought to put a little perspective on this in our hysteria.

KELLY:

If I could add to it...

MCCAIN:

...Go ahead.

KELLY:

Senator, we know there's somewhere in the neighborhood of 10,000 European citizens who are in the fight, in the caliphate, Iraq and Syria. And as that caliphate is being reduced, those individual fighters are being encouraged to return to Europe and do terrorist- type things. Now in many cases, because of the nature of Europe and the borders and whatnot -- lack of borders, in many cases the countries where they're citizens don't know that they've been out of the country fighting in Syria.

To the point of visa waiver countries, so we're in a position now where someone who's in Raqqa today returns to pick a country and basically can get on -- he's not in any database and can get on an airplane and fly here under the visa waiver program and be in the United States. That doesn't keep me up at night too much but it does keep me up so we're looking at visa waiver.

We're looking at all kinds of ways that to keep these people out...

MCCAIN:

...I want to make sure that -- I want to make sure that we are not restricted from looking at anybody's electronic device given the public information that we know of their attempts at trying to develop these capabilities in order to set off bombs. Also, by the way, it does -- I'll tell you what does set my hair on fire, and that is that we now have Phoenix, Arizona as the major distribution point for Mexican manufactured heroin coming in this country across the Sonora border. Is that true?

KELLY:

It is true, Senator.

MCCAIN:

And that it's killing people all over America including some governors in Northeast and Midwestern states are saying its an epidemic, particularly a group of Americans that I care about, and that's older white males. Is that right?

KELLY:

It's absolutely right.

MCCAIN:

OK. So we need to do one hell of a lot better job on this drug trafficking and human trafficking that's coming across our border. And I'm happy to tell you that I hear from my friends in the Border Patrol who say their morale has gone up now that we have your kind of leadership. By the way, I'm not sure you should have taken all that bullet for the travel ban but that's a subject for another day.

But what are you going to do about -- can you -- can you interpret a wall -- a wall, the word wall, as being drones, towers, fences, tunnel -- attempts at detecting using technology to detect tunnels, to have really what is an electronic wall plus the personnel? Could that -- could that fit the definition of a wall and maybe stop this flood of Mexican manufactured heroin that's flooding into this country and killing people at a very great rate including the fentanyl which is particularly lethal?

KELLY:

Yes sir. In my view, the wall is all of that. We -- just before you came in, we had this discussion. In my view, the wall is all of that.

MCCAIN:

So if we interpret the wall as that, I think most Americans would support it.

MCCASKILL:

True.

MCCAIN:

But however, we've got a problem with Mexico. Right now there's a lot of anti-American sentiment in Mexico. If the election were tomorrow in Mexico, you would probably get a left wing, anti-American president of Mexico. That can't be good for America.

KELLY:

It would not be good for America or for Mexico.

MCCAIN:

OK. And then finally would you just tell us a little bit about -- I thank the indulgence of my colleagues, what kind of cooperation are you getting from the Mexican authorities and what kind of cooperation are you not getting?

KELLY:

We're getting a huge amount of cooperation from the Mexicans. Senator, I go back to my time when I was in uniform at SOUTHCOM. Very, very good relationship with the Mexicans both on their southern border where they stopped 160,000 illegal immigrants from Central America last year all the way up to the -- to the northern border. The relationship between the local authorities on our side of the border is pretty good with the local authorities on the other side.

I count some of the -- certainly the -- the head of the Army and the Navy as friends. I was just -- I'll be -- I was there about a month and half ago, had a great meeting all of -- all the way up through with the president.

MCCAIN:

How serious is corruption?

KELLY:

Corruption is very, very widespread. And it's much -- much of that is due to the -- the profits that come out of the drug use in the United States. There's no doubt about it, corruption is widespread. They're trying to get after that, it's a dangerous place because of the corruption and the trafficking; most of it fueled by U.S. drug consumption.

MCCAIN:

Well, the heartbreaking one to me is the human trafficking, Mr. Secretary, and I wish all Americans were aware of how terrible this situation is. These young girls being transported up, hooked on drugs and its -- its -- its so terrible. A lot of times you don't like to think about it. How -- how high is that on your priority list?

KELLY:

It's very, very high. In fact, the good news is for really the fifth month in a row, but certainly the second big month in a row, the movement of the human -- the human trafficking of people in general is down significantly. And -- and to your point, and the young girls in particular in the

family units down even more significantly. And that is all as a result of what we've started to do on the border and frankly my working personally with Central Americans, presidents, attorneys general, religious leaders and with our -- our relationship with -- with Mexico.

MCCAIN:

Well, the next time you do a travel ban, how about thinking it through? Thank you.

JOHNSON:

Senator Hoeven?

HOEVEN:

Thank you, Mr. Chairman. General Kelly, good to see you again, thank you for being here. Thanks for the important work you're doing. In terms of the mix (ph), we -- we're talking about infrastructure, we're talking about technology, we're talking about people -- how to make sure you have the right mix as you put that together?

KELLY:

On the wall? Really, you know, really we have to rely on the folks that work the border. there are -- the younger agents are down there the (inaudible) work every day, but some of the more senior agents, they know the border in their sector better than -- you know, better than anyone, and they can tell us -- and we'll do that study.

HOEVEN:

So I'm a member of the Appropriations Committee for all Homeland Security, and we're putting together you know, your appropriation for FY'17 and then of course we'll work on '18. so it's very important that we have the resources, and that when we talk about building a wall, as you define, that wall is not only wall itself and fencing, but it's also technology and people. It's very important that we have that funding in your appropriation bill for FY'17, isn't it, to secure the country? That it -- that would be an incredibly important priority for you, wouldn't it?

KELLY:

It is, yes sir.

HOEVEN:

OK, thank you. Second thing is metrics. What metrics are most important? You provided us with some metrics here? We appreciate that, it's encouraging. It shows that you are having success. Tell -- tell us what of the most important metrics that we need to be cognizant of, you know, how do we use them to make sure that the American people understand what's going on, on the border and you know, that we are getting to a more secure border?

KELLY:

I think certainly the metrics are people that don't cross into the United States illegally. Another metric would be the amount of -- and it mostly comes through the -- the ports of entry, which is another discussion that we can surely have here. But the amount of drugs that come through -- but as I said so many times when I was in the United States Southern command, once the drugs get the Mexico -- Central America, Mexico, they're essentially in unless we do something about the border.

Now, I think the senator knows virtually all of the heroine consumed in the United States is produced in Mexico from Poppy to laboratory to packaging to in the United States. All of the cocaine that we consume comes up the same way. Much of the methamphetamine comes up the same way and an awful lot of opiate pills that are counterfeit -- produced -- counterfeit pills come up through that. Fentanyl, largely through Mexico, but now increasingly directly from China to the United States by -- by the U.S. mail. It's an unending struggle, it's -- but it really does go back to -- and I was just in a meeting last week or early this week -- last week now with the president and a number of people to get after this drug -- drug consumption in the United States. One of the first conversations I had with Then-Candidate Trump was when he brought up to me the issue of securing the southern border.

I said "you know, boss, Mr. Trump, there's no way we're going to do that unless we get after drug consumption in the United States. And I don't mean arresting more African-American guys and throwing them in jail for -- I mean, no kidding, a comprehensive drug -- drug demand reduction" and Mr. Trump has taken that on and has put together a task force.

So from -- from rehab to law enforcement to try to stop the production in Mexico, all of that adds up to, we'll have a much more secure border if we -- if we can stop drug demand reduction -- or drug demand in the United States. And we never had -- some states have, some communities have, some organizations have tried but we've never had a comprehensive campaign against it.

HOEVEN:

As we increasingly secure the southern border, won't that put more pressure on the northern border and other ports of entry?

KELLY:

And other ports of entry, for sure. The beauty of the northern border is Canada. I mean, they are committed to say the least, they have a very -- very, very, very low rates of corruption. They have tremendous law enforcement and -- and our partnership with them just couldn't be stronger so that's the advantage. And I hope over time Mexico -- and again, the strains on the Mexican society, the violence, again, corruption, we can hope that that gets better, they're trying.

My relationship with -- in fact right after this, I'll meet with the -- with the -- again for about the fourth or fifth time with a good friend who is the foreign minister of Mexico. I just had the military

leadership which play a different role in their society than our senior military people do. And my -- my HSI people, my CBP people, my ICE people are in Mexico in large numbers as are -- as is the FBI.

The collaboration's very, very good law enforcement. It's just not...

HOEVEN:

...You would -- but you would agree we need to do more on the northern border as well and what are those security measures? UAS for example, sensors, you know what are the priorities on the northern border for you?

KELLY:

Well, right now there is not nearly the same level of cross-border crime and whatnot. We obviously need to watch it, one of the things the Canadians recently did was to allow visa -- non-visa -- Mexicans to travel to Canada without visas and we're seeing a little bit of increase in Mexicans coming illegally into the United States from the north.

We're working with them. I'm on the phone with my counterparts in places like Canada all the time but we obviously have to watch the threat. I mean if we were successful in drying up the production of heroin in say Mexico, probably impossible...

HOEVEN:

...I'm not talking just drugs, I'm talking terrorism, I'm talking any -- you know, as you continue to secure the southern border, it's going to create pressure in other places and that's what I want to make sure we're taking the necessary steps on the northern border as well. And I would invite you -- at the Canada border station which is essentially Grand Forks, North Dakota, your border station, they have responsibility for 900 miles of border all the way from the Great Lakes through most of Montana.

And we're using everything from Predators, the Grand Forks Air Force Base there has Global Hawk. In fact we have UAS test site and the CBP station, they fly out of Grand Forks Air Force Base and I would invite you to come up and see the technology -- you talk about cooperation with the Canadians (inaudible) can also create -- use as an opportunity to build on some of that cooperation with the Canadians. Because you're talking 900 miles of border without a fence, we're going to have to continue to build those relations and that technology to do the job. And I hope you could come -- see what we're doing over here (ph).

KELLY:

I'll do that, senator.

HOEVEN:

Thank you, I appreciate it, general.

KELLY:

Sure.

JOHNSON:

Thank you, Senator Hoeven. Senator Heitkamp?

HEITKAMP:

Thank you. I didn't want to disappoint anyone, so I'm going to raise the Northern Border in the very beginning. Obviously the -- the law that was passed down requires that you meet a June deadline for telling us what the threats are and how we are going to secure the northern border. Can you tell me whether you're on target to meet that June deadline?

KELLY:

We're -- we're always on target. I was just up in Seattle and met with the local law enforcement folks. I've been on the phone number times on -- on real ID with the -- with the governor up there. So we've got a little bit of a relationship; more importantly, I talked to my people that are responsible for that stretch from the Pacific inland for about 650 miles -- something like that. They have, again, great relations with the -- with their counterparts on -- on the other side of the border. The real strength is the databases...

HEITKAMP:

So -- so we can expect a report in June which then we can react to in the next budgetary contrary, correct?

KELLY:

Yes senator, yes.

HEITKAMP:

OK. I just want to remind you that eight of the 15 senators actually represent the northern border, so we're going to be...

KELLY:

It's got my attention, believe me. I love the northern border

(CROSSTALK)

HEITKAMP:

... and obviously we would love to host you. I'm deeply concerned about personnel issues on the northern border and hope that whatever you are looking at in that study includes securing enough personnel to do the job and to meet the -- the challenges. I want to talk a little bit about Central America.

It's a -- it's a topic that I know you're well familiar with and it was one of, I think the great opportunity that we had given your position and South command -- command. And given the fact that you have so many great relationships, we continue to be challenged by the northern triangle countries. The -- the rate of murder and mayhem is unparalleled throughout the world, which is saying really something. We're -- we're looking at the alliance for progress as a way to kind of build that soft power, not just look at border security, but how can we in fact refugee in place.

It's my understanding that you're convening a conference in Miami. one of the concerns that I have is who's going all be at the table, because I think it's critically important that everyone be represented, whether it's NGOs, whether it's immigration groups, whether it's advocacy groups, that we all understand that we have a role in securing -- providing some security for those Central American countries. Can you tell me what the plan is and what you hope to accomplish in the Miami conference?

KELLY:

Yes, Senator. First I would tell you that I am close to the Central Americans. I've been -- in the short period of time I've been in the job, I've been down to Guatemala. The president of Honduras was just up in my office, he's someone that I've worked closely with before, I'm going to Honduras soon, then to Mexico. Since I've been in this job, I met Mr. Tillerson there -- Secretary Tillerson there.

So I met all three from the Northern Tier countries; Guatemala, El Salvador, and Honduras. All three of their Attorneys General came and we had great discussions, again, friends. Mexican -- go back to that Mr. De Lagre (ph) is in and out of Washington quite frequently. I plan another trip to Mexico so that's -- that's where we are in terms of what we're doing there.

Now when I briefed -- when I had discussions with Mr. Trump when he was still Mr. Trump, I talked to him about the issue again of drug -- drug use in the United States, drug trafficking, what that does to these countries. But some of the things -- and I'll take a little credit, not much, but a little credit for this; some of the things when I was still on active duty Southern Command, some of the things we helped the Northern Tier countries implement have driven down -- now the death rates are still horrific.

HEITKAMP:

So what do you hope to accomplish in Miami and...

KELLY:

...Economic -- both -- there'll be two day conference. One day will be economic. We've got certainly one of the real powers behind this is the Inter-American Development Bank. E.U. will be there, it's my understanding some European countries, obviously we will have -- I'm hoping to have secretary of commerce, secretary of treasury, I'll be there, the vice -- our vice president's coming down.

There will be businessmen and women. We -- I believe all three of the Central American presidents and their teams will be there for this. I've got the Canadian -- the Mexicans will co-host this.

HEITKAMP:

What -- will you be reviewing the Alliance for Progress and whether that's been valuable and what changes we need to make as it relates to that commitment?

KELLY:

The Alliance -- as you know, the Alliance for...

HEITKAMP:

... Prosperity, I mean (ph).

KELLY:

Prosperity, right.

HEITKAMP:

Excuse me.

KELLY:

I could go into it if you want but I'll just say that I had a lot to do with organizing that with the three countries. They put their own money against it, we, you, the Congress has put money against it. The real thrust of this -- of this event in Miami in June -- mid June I think, will be outside investment as opposed to U.S. investment. Although outside private investment.

So that's what we are trying to -- that's what we will accomplish.

HEITKAMP:

I think there's tons of folks who want to help out in the NGO community especially. And I think that -- it takes me to the kind of next topic which is why people are leaving Central America. And you know, I would say there's been a lot of confusion back and forth on what's going to happen to women coming to the border with children from Central American countries.

Just a quick yes or no, there's been reports that you are considering separating children from their mothers at the border and I want to know yes or no whether that's true.

KELLY:

Can I give you more than a yes or no?

HEITKAMP:

You can just a little bit.

KELLY:

OK. Only -- only if the situation at that point in time requires it. You know, the mother -- if the mother is sick or addicted to drugs or whatever. In the same way we would do it here in the United States if we...

HEITKAMP:

...Yeah, so -- so if you thought the child was endangered...

KELLY:

...Not routinely. Sure.

HEITKAMP:

That's -- that's the only circumstance to which you would separate?

KELLY:

Can't -- can't imagine doing otherwise.

HEITKAMP:

Yeah. I just want to -- I know a lot of people think that that might provide a deterrent and we have a number of people within the heartland alliance program and I'd ask that this letter -- and I know you get a lot of correspondence obviously sent to you March 8. But it's some comments from women who asked that this be...

JOHNSON:

...Without objection.

HEITKAMP:

And I just want to read a couple of them because I think it's really important to understand what's driving people north. My faith was in God when I made the decision to leave. I had never heard of asylum, all I knew was that the United States was a place where people could be protected and safe.

I didn't -- I came to the United States, I didn't think about the policies, I was just considering that United States is a thing that could protect us from violence where we were living. I think you know almost better than anyone else who serves in this administration how horrific the conditions are and I appreciate your answer. No one could disagree that if a child is endangering you believe that, that there should be separation and that that would be a rare circumstance. Is that correct, general?

KELLY:

That is correct.

HEITKAMP:

Thank you, Secretary.

KELLY:

That's a yes.

HEITKAMP:

Thank you, Mr. Chairman.

JOHNSON:

Senator Peters?

PETERS:

Thank you, Mr. Chairman. And it's good to see you, Secretary Kelly, it's good to have you here before the committee, appreciate your testimony and I also wanted to thank you again publicly for all coming to Detroit on my invitation and putting some time with the Muslim American/ Arab American community, Latino Hispanic community. And of course we had a wonderful opportunity to see firsthand one of the busiest border crossings in North America there from Detroit to Windsor into Canada, and appreciate your -- your interest and your involvement in that meeting.

But as -- as you know Secretary Kelly, there has been up appreciable uptick in hate crimes and crimes against our religious institutions across the country. Last month of Senator Portman and I let a letter that was signed by every single member of the Senate asking your department, the DOJ and FBI to take action against the rise in hate crimes against Jewish community centers, mosques and other religiously associated locations. And as you're aware it's so rare to have a letter signed

by all 100 of us, this is how serious we take it. It's been about 29 days since the letter's been written to you, the attorney general and the FBI and was just wondering, when should we expect a response back to all my colleagues?

KELLY:

It should have been a long time ago, I'll apologize and I'm on it. But I will tell you this, that I've added -- I've added our approach to this issue to add mosques and, you know, any religious building, church, whatever that might be affected by this. We do have some capability within the department to advise individuals that want to be advised about say the security precautions.

I think they told me -- my staff told me yesterday virtually all of the Jewish centers, large groups have taken that advice. We have teams that go out and travel and so we're very -- I don't know if any of the mosques have responded yet but as I say, add all religious communities to that, not just -- you know, I've told my people, let's just not talk one religion, let's just not talk terrorism for that matter.

How about we talk about white supremacists and things like that, so -- but I apologize for not getting back and I will get on that today.

PETERS:

I appreciate that, Secretary, and I think it's obvious from your comments you do believe there is a legitimate fear of hate crimes...

KELLY:

...I do...

PETERS:

...In our communities they need to be concerned about. And given that, will you commit to continued support for programs that support vulnerable locations such as the nonprofit security grant program that your department runs?

KELLY:

I will.

PETERS:

Thank you. I appreciate it, secretary. As you know, Michigan has an extension of the Real ID enforcement allowing federal agencies to accept driver's licenses and identification cards from Michigan. It runs through October 10 of this year in 2017. What is the current status of Real ID implementation across the nation?

KELLY:

As I know the senator knows, the Real ID law was passed by the Congress in 2005 and it's -- the real first big deadline is January -- this January coming, I think it's 22nd to where you'll have to have a appropriate Real ID -- approved Real ID or if you don't have that, something like a passport in order to fly domestically, internationally. The map -- and I addressed most of the -- of the governors of all of the states, 48 I think, of the states about three weeks ago.

And for those that are not compliant and is right now I think five that for sure aren't even really trying and that's their call, I mean I'm not criticizing them. But they're not really trying for issues inside the state and then there's another 18 or 19 states that are going in the direction but again are unsure they could be compliant. So when I talked to the governors -- and I would say the same thing here -- I think the governors have to kind of have a real serious conversation with their citizens, with the staffs first and decide whether they can -- they can hit the market in January.

And if they can't they'll have a conversation with their citizens about, you really need to consider getting a passport as an example. Passports for 10 years, \$110 I think to get a passport, very easy to get, because in January, if they don't have some compliant I.D., they're not going to be able to get on an airplane domestically or otherwise.

I had -- this was -- scared me to death actually, because I thought -- when I -- well I just thought that the people I was talking to in Washington, which is a really a red state right now, probably not get there. And by the way, the governor -- several governors have asked me to send some people from my staff to take a look at where they are to do an appraisal of if they're going to make it so that they could talk to their people. I've made that available to all the states.

But the point is when I was talking to these businessmen and women in Seattle who were in the - - in the -- you know, very well- informed people. They were all under the impression that their state enhanced drivers' license was real I.D. compatible, which it's not. So if -- if people like that were unaware of -- of the -- of the ID situation, I'd say the vast majority of the -- good citizens of Washington State.

So the point is, where it is right now, if you're not fully compliant on -- on 22 of January coming, then you will have to have a form of I.D., like a military I.D., or a passport -- passport card in order to get on an airplane. That's where it is right now.

PETERS:

Under section 102, of the Real I.D. Act, the DHS can wave laws to facilitate the construction of a border wall. This provision has been used up previously to waive dozens of laws, including some environmental load laws. What laws does DHS intend to waive to build this new wall along the southern border?

KELLY:

First, obviously, do the -- do the -- do the nuts and bolts survey of where we're going to put wall - and at those points, as I understand it, I would have to consult my -- my lawyers, obviously but places like the Indian reservation would be complicated, and -- and we're -- we're working with the Indian reservation in Arizona, 75 miles of the border. They already have some technology there. That would be a place that would be unwilling, unlikely to take on. There are some eminent domain issues.

We'll try to do as much as we can without those kinds of -- without those kinds of issues coming - coming to ahead. Certainly, I'm very, very aware of any critical habitat, particularly say the Big Bend part of Texas. So again senator, not going to build a wall where it doesn't make sense, but we'll do something across the Southwest border.

PETERS:

I understand you're -- you're going to need some time to review some of these issues and perhaps we can work closely with your office as that goes forward. But I would just ask if you'd be willing to commit to -- to one item, and that would be not to waive of FOIA under the wall project, so that we can have full transparency.

KELLY:

Can I get back to you? But it sounds like a yes to me.

PETERS:

Great, appreciate that. Thank you.

JOHNSON:

Senator Hassan?

HASSAN:

Thank you, Mr. Chair and ranking member, and good morning Secretary Kelly. It's nice to see you again. There is a specific program within ICE's Homeland Security Investigations division that focuses on bringing law-enforcement scrutiny to the adjudications of visa applications. The program is called the Visa Security Program. Right now in 30 United States diplomatic posts around the world, specially trained law enforcement teams are dispatched to provide recommendations to the State Department's consular offices in order to help these diplomats make informed decisions about whether to grant a visa to a foreign national.

Bringing law enforcement skills to the visa adjudication process makes a lot of sense at least to me, hope it does to you too. And it should probably be, I think, implemented across the board for all diplomatic posts that issue visas. We're working on possible legislation on this topic so I wanted to ask two questions. Would you support the expansion of visa security teams to more diplomatic posts and is the visa security team fully funded in the fiscal year '18 budget request?

KELLY:

I'll have to check on the funding issue but I think anything we can do overseas to make better decisions about who might come to the United States for whatever reason is -- is a good idea and should be reinforced and we should be constantly looking at even better ways to do that. But I'll get back to you on the funding if that's all right.

HASSAN:

OK, no, that's fine. Thank you. I want to now move to a different topic. As you know as well as anyone, we have seen multiple incidents of violence at the public or non-sterile areas of our airports. In 2013, a TSA officer at Los Angeles International Airport was murdered at the TSA checkpoint by a disturbed individual while earlier this year an active shooter killed five people near the baggage claim area at the Fort Lauderdale Airport.

Last spring, suicide explosions occurred in the public areas at Brussels Airport and Istanbul Ataturk Airport killed 61 people. In the president's initial budget release, the federal support for securing the public portions of airports has been gutted. The budget cuts the VIPR teams, the behavioral protection officer program is eliminated, and TSA grants to reimburse state and local law enforcement for their patrols at airports are also being slashed.

So amid this increasing threat to our airports, why is the administration cutting these key counterterrorism measures?

KELLY:

The VIPR teams for sure are something that I'm working very hard to save.

HASSAN:

OK.

KELLY:

As far as the grants go, and this doesn't fall under the sanctuary city thing or anything like that, I think the expectation is that parking lots and areas outside the immediate -- you know, the TSA security zones really belong to the state, local -- you know, the airports are great generators of revenue, are necessary for various states and I think the thinking there is that the state and local folks need to -- you know, I'm familiar with the Boston Airport, I mean there's more -- there's more state police that, you know, kind of, you know cycle around that airport, not to mention Boston Police.

So I think the thinking is that for outside the security perimeter that's established by TSA, that would belong more to the local community.

HASSAN:

Well, as a former governor, I might suggest that we discuss that a little bit more because I know how much additional work securing even the non-sterile areas are and it's a partnership to be sure but I am very concerned -- money is not growing on trees in our state budgets and so I think it's something we really need to look at because the overall security climate at airports I think will really be compromised with those grants.

So I'd look forward to discussing that with you more. I'll submit for the record a question on airport -- foreign airport staff screening. But I did want to talk a little bit about DHS and cyber defenses. In an effort to strengthen its cyber defense, the Department of Defense recently launched two programs to capitalize on the vast network of U.S. computer security researchers who may not want to work for the federal government, but still want to help secure our nation from cyber threats.

The first was a pilot program called Hack the Pentagon and it provided hackers across the country with legal authorization to spot vulnerabilities in DOD networks in return for cash payments. The second program with the establishment of a vulnerability disclosure policy which provides a legal avenue for these hackers to hunt for and report vulnerabilities in DOD networks without fear of prosecution. I think these are really forward thinking cyber programs that leverage an untapped resource in United States. So the question is, has DHS considered implementing similar programs?

KELLY:

One of the things -- I don't know if the Senator was here -- one of the things now -- now that I have a deputy, this -- this is a critically important issue, it goes without saying.

HASSAN:

Right.

KELLY:

Now that I have a deputy, this is another one of those things -- the -- the whole cyber enterprise within -- within DHS. But -- but another thing we -- were already doing, and that is -- that was just one of the reasons I was in Seattle recently, is reaching out -- reaching out as is, I think all of government -- reaching out to the commercial sector, because the -- the answers are just not -- they're definitely not just of the federal government.

HASSAN:

Right.

KELLY:

They're everywhere. So Elaine Duke, now that she is confirmed -- and thank you for that -- will - - will take this on, among a number of other things that -- that she'll focus on. I'm with you on this.

And I -- was unaware of these programs where I am now, and I can get back to you can and talk to you about it?

HASSAN:

I think it would be great just because, again we have a lot of people with talent and skill and interest in serving their country who may not want to come work for the government, but we really need their -- their skill and their insight.

One last area I wanted to touch on. I know you referenced this morning the president's commission on the opioid epidemic and I was glad to see you were there at the listening session on opioid and substance misuse last week. And you and I have spoken about the issue before, both in our one-on-one meeting and your confirmation hearing. And we've agreed on the need to crackdown on illegal opioids, while also dealing with the demand side of the problem of prevention, treatment and recovery efforts.

So I'm looking to find out more about the goals of the president's new commission on combating drug addiction and the opioid crisis, which he established by executive order last week. And I want to ensure that the rhetoric here is that by real action that reflects the seriousness of this crisis. The news reporting on the commission's been a little scattered. So the first question for you is, are you a member of the commission?

KELLY:

I am.

HASSAN:

OK, that's great to know. And my understanding from the executive order is at the commission has 90 days to make a report on interim recommendations. Do you know what the process will be to get to those recommendations?

KELLY:

I don't. It's in the staff realm, but let me just say, this -- to say the least is a passion for me. And my entire time in Southern command, I -- I talked about this To the point of getting a fair amount of -- getting crosswise with a fair amount of people in the White House and other parts of our government. The beauty, I think, of this president was -- I don't know if you were in the room when I made this comment before but one of the first conversations I had with President-Elect Trump was this issue of drugs, drug demand, what it does to not only our own country but to certainly the hemisphere.

HASSAN:

Sure.

KELLY:

And the money it makes available for corruption and terrorism and things like that. He's -- he's taken this big (ph) and he's going to make this work, I believe. So it's a comprehensive -- everything from drug demand reduction to rehab to law enforcement to helping out the Central American republics to working with Mexico on the heroin production.

We have great partners down -- it's just very long, 2,000 mile if you will, process of trying to get at the drug demand.

HASSAN:

Well, I appreciate that very much. I appreciate your presence on the commission, I look forward to working with you on it and I put a plug in for central benefits in our healthcare so that people can get the treatment that they need. Thanks.

JOHNSON:

Thank you, Senator Hassan.

By the way, I've seen cherry blossoms growing on trees here in Washington, D.C. Unfortunately I haven't seen money grow on trees here in Washington either.

Senator Daines?

DAINES:

Thank you, Mr. Chairman.

Secretary Kelly, thank you for being here today. I kind of figure when you put a four-star Marine in charge of homeland security, good things will start to happen. And...

KELLY:

... not everyone agrees with that.

DAINES:

Yeah, well I do. I was struck yesterday, we were in this same room in fact, this -- the same table, you had one of your former commissioners at the U.S. Customs and Border Protection, David Aguilar was here testifying and I asked him a question about the reductions that we're seeing in apprehension rates of illegal southwest border crossings.

That February data point came out and saw a 40 percent reduction in February when we typically see because of seasonality anywhere from a 10 to 20 percent increase, we saw a 40 percent decrease

in February. David then followed up and said "I believe we're going to revise those numbers as we have a little more time here" because that release came out on March 8, now we're into April.

He said "it looks like it's actually a 67 percent reduction in the month of February." This is not a statistical anomaly, something is going on. We talked about what that is in terms of the messages coming from the administration about enforcement rule of law. So I just want to congratulate you and the administration with some early success. My question is, these are encouraging results. What substantive actions will you be taking in order to make sure that we can sustain these reductions that we're seeing early on in this administration?

KELLY:

The first would be to gain control of our southwest border. Much of what we're seeing here -- and the second would be to work -- and I don't know if you were here when we were talking about this, the Central American issue of helping them security and economically. The -- again, I've traveled many times, they call me, they're my friends (ph). The people from Central America that are coming here, overwhelmingly nice people.

Simple for the most part, rural, not highly educated, that's just the nature of their societies but they come here for two reasons. One, lack of economic opportunity and two, because of violence particularly in the cities that are astronomical, although, to use Honduras as an example, in the four years that the current president is there, he's taken it from 91 per 100,000 which is what it was when I was in Miami on active duty, highest in the world, it's down I think 50 -- 59.

And that's still astronomical. Violence across our country is about 5 per 100,000 murders. So it's still high but the point is they're bringing it down and I was speaking with the -- separately with the president of Honduras in my office just last week. What he's done economically he expects to grow his economy by 600,000 jobs in the next five years.

KELLY:

This is phenomenal information or progress. The Jimmy Morales from Guatemala, similar kind of efforts and similar kind of successes both in reducing the violence rates as well as economics. That's why I think this -- this economic forum if you will, in -- in Miami in June will add to it. So why aren't they coming? They're not coming for the most part, because they don't know what's going on. they've heard of the -- the actions of the ICE agents internal of the United States, much of it terribly misreported by -- by our press but that said, it's -- it's added to the deterrent effect. What we're doing on the border -- what we intend to do on the border has added to the deterrent effect.

These people are not wealthy people. Their entire -- oftentimes their entire life savings are given to the coyotes -- to traffickers to get one or two or three them into the United States. We know because of the focus we're putting on the traffickers now when we catch them -- actually prosecute them. The traffickers now have raised their fares, their prices two and three times. So what used to be, say, \$4,000 per -- per individual to get into the United States from say, Honduras is now 8,10, \$12,000. Well, the people again, down in those parts of the world can't afford that kind of

money. They're already paying more than they could afford. So all that is added to the deterrent effect.

My appeals personally through the press and to the presidents and the attorneys general from those three countries, the Roman Catholic leadership, the evangelical leadership. I met with the -- our -- the Los Angeles Roman Catholic Archbishop, spoke with the Archbishop in Houston; again, asked them to contact their counterparts if you will, in those countries to -- to ask, beg the people not to take that horribly dangerous trip to the United States, because you will be sent back and you won't have the money, and you'll probably -- if you're a woman have been assaulted once if you're lucky; or if you're young, you could be siphoned off into the cartel gang Mexican fix. So that's why they're not coming.

DAINES:

Yeah, well I -- I -- I think you're also demonstrating in my opinion, the experience you are bringing from your Southern command leadership. I think is having already a significant impact on our country in protect our southern border (ph).

KELLY:

Thanks for that (ph).

DAINES:

No, thank you, truly. And also, I appreciate your compassion as you're looking at the effect it's having on very poor people who are being taken advantage of as they're seeking to come into our country. I'm from Montana. We think about our northern border but the southern border and the methamphetamines that are coming into Montana and they're coming in from our southern border having a huge impact on our state.

Mitigating the flow of drugs long before they reach our border, as you are well aware, your time in command of SOUTHCOM is very important. We discuss this concept to confirmation hearing. What steps have you taken on the job to stymie the flow of drugs as well as violence into our country?

KELLY:

Great question. One of the things we know about the flow of hard drugs, marijuana comes in vast amounts but it's also produced in the United States in vast amounts, but methamphetamine, heroin, and cocaine are the big killers and along with that are opiates that are counterfeited, if you will, and of course not with a lot of quality control so -- but you don't know -- the average person abusing opiates in the United States doesn't know that a lot of it is not produced by, you know, credible -- they're produced by labs in Mexico or in other places.

But the point is, most of that comes into the United States in 10, 15, 20 kilo loads via the ports of entry, in trucks and things like that. So what have I done? We're now looking very, very hard at

the ports of entry which are not really part of the wall, if you will, effort. But look at the ports of entry. If there is better technology out there and I think there is to look into vehicles without unloading the vehicle, particularly tractor trailers to get after it that way.

But I would tell you, methamphetamine, helping -- working with the Mexicans. They're good partners in law enforcement. My folks, I'm proud to say, my HSI, Homeland Security Investigation, working with the Mexicans led them to -- I'll just put it that way, to two huge methamphetamine labs that were destroyed by the Mexican -- Mexican marines, I think in that case.

Working with them and identifying the poppy fields in the south -- the Pacific Southwest of their country and helping -- offering them perhaps help in how to eradicate those, much as we've done for so many years in Colombia with coca. That's what we're doing but the big issue really right now in drugs coming into the United States is the ports of entry and a part of that as well is what goes south.

We don't look at much at going south out of our country. The Mexicans don't look at that very well either. I'd like to extend the effort to look in vastly more vehicles going south because bulk money in unbelievable amounts travels south out of the United States into the rest of the hemisphere to get laundered. I mean billions and billions of dollars in guns.

If we point a finger at the Mexicans or people who produce -- countries that produce drugs, we point our finger at them about the production of drugs, they will point their finger right back and say "what about guns?" So we need to do better and the southward flow to go after the money and to go after the flow of guns. And that'll take some time, some effort, but I think there's a next step and a next step after that in technology.

The stuff we have now is pretty good, I was up with Senator Peters looking at the busiest traffic point between Detroit and Canada. Technology that looks into trucks, tractor-trailers is pretty good but I know there's better stuff out there and we'll just -- we'll just get after it. But mostly the drugs come in, we believe, we know comes in, in relatively small amounts, 10, 15 kilos at a time in -- in automobiles and those kind of conveyances.

DAINES:

Thank you, sir. Secretary Kelly, thank you.

JOHNSON:

Thank you, Senator Daines. I just want to remind everybody kind of watch the clock. We've got great attendance, I appreciate it, want to make sure everybody gets a chance to answer questions - or ask questions. Senator Carper.

CARPER:

Thanks so much. General Kelly, great to see you How are you holding up? You've got a lot on you? You have a lot of tough jobs before?

KELLY:

I've been in this job for 15 years, but it's -- three months seems like 15 years.

(LAUGHTER)

CARPER:

I'm sure it does.

KELLY:

This is the most enjoyable thing I'll do this week.

CARPER:

Well for us, too. For us, too. We say this often -- we say (inaudible). Thank you for being the voice of reason, thanks for being just a great patriot. I -- we've been talking a bit about -- I'll just follow up on a number of (ph) the questions -- deal with the border, border strategy, and that sort of thing. I think the message I hear from both sides and on this side, hearing from you as well, is there's -- we need an all the above strategy on the border. It's not just a wall, it's not just as fencing.

Those are important and appropriate in certain places, but if -- if immigration -- comprehensive immigration reform was a guest worker program, it sort of takes away the need for people to come up here and get stuck up here on this side of the border but can go back and forth and do good work out for -- for -- for our country go back to their home. It includes reference the lines of perspective (ph), I'm delighted to hear the economic summit that you're planning for -- being held in May. Do you have the dates yet on that?

KELLY:

It's going to be now in June, and that was based on our vice president's desire to attend, either the 12th -- I think it'll be the 12th, might be a little later. It will be in Miami just because that -- that is -- is a great place to bring Latin Americans because of the language and all of this kind of -- he's very familiar with city. So that's the place to do it.

DAINES:

OK. Well, I'm glad you're doing it because it's a smart -- smart move. One other thing we need to do is we need to -- in order to incent of the private sector and others -- countries and other organizations to -- to help out in the work that needs to be done in Central America so they actually have some economic hope and opportunity and do a better job combating that crime and violence,

we set the example, our funding for alliance with prosperity (ph) I think, is very important for that. My hope is that -- that you can continue to support. I think you know what makes sense.

KELLY:

Absolutely.

DAINES:

I like to say for the folks down in Central America, you can do it, we can help. Do you (inaudible), but we can -- they (ph) can help and I think we're doing that. Border security -- the force multipliers that -- there's just a tone of them. Innovation, we talked about the innovation of technology, but it's -- it's not just drones and fixed wing (ph) aircraft, it's not just (inaudible), but it's those -- aircraft but it's with the right kind of surveillance technology. Invader (ph) system, that kind of thing, it's actually so much more helpful.

I mentioned yesterday in the -- in my -- in my comments, 23 years in the Navy, naval flight officer, P-3 aircraft mission command, we did a lot of anti-submarine warfare (ph), a lot of stuff (ph) off the coast of Vietnam and Cambodia. We also did search and rescue. And we did search and rescue with binoculars out of the P-3 aircraft at 500, 1,000, 2,000 feet, good luck; it's hard to find anything. Invader (ph) systems make all the sense in the world. But part of the -- part of the forces multipliers is observation tires (ph) that can be fixed.

As you know, they can be mobile, they can be mobile, they have to have the right surveillance systems. Part of it can be horses. And some of its been down (ph) and chairman, I've been down I think maybe with Heidi to see the horses do the work in (inaudible) force multiplier. There's motion detectors, there's intelligence -- better intelligence. How are we doing on the intelligence in terms of the intelligence we're sharing with the folks in Mexico and further south?

KELLY:

Sir, the law enforcement intelligence information sharing is very, very, very good.

DAINES:

Part of the force multipliers are boats and the ramp. We can get the boats in the water, so all kinds of stuff. In some places it makes sense, other places it does not, but it's an all the about approach. I want to ask you to talk a little bit about leadership and the management -- the ability of management -- to manage this organization. Senator Johnson and I, (inaudible) and I, and a number of this committee worked right closely with Jeh Johnson, with (inaudible) to try to make sure that the department had a terrific leaderships team -- a confirmed leaderships team.

And I think many of them are gone now, as -- as you know, and that's -- we had an election. The - - but we want to be helpful. We have Elaine Duke's confirmed yesterday, we want to be helpful and bringing the rest of your leadership team in. You'll have to tell us who you want to give us a chance to -- to do that. So we look forward to hearing about -- about that. The other think on

leadership I found -- and we talked about this before, it would be nice to have, instead of all the departments spread over hell's (ph) half acre throughout the greater Washington metropolitan area in Virginia and so forth. It'd be nice to have people I consolidated in a more close-knit area. That could be St. Elizabeth's (ph), I think it should be. I wasn't always at the end of the St. Elizabeth's project (ph) but I've come to believe that it's the smart thing to do -- smart fiscally smart thing to do. Your thoughts, please?

KELLY:

If I could comment on the leadership, I would tell you you're right. Elaine, myself, really the only two political types and almost -- I don't know -- I can't quite get my arms around the fact that I'm a political appointee because of my life before this.

CARPER:

Look up in the dictionary for political appointee, your picture is not there.

KELLY:

Thanks (ph). But we have tremendous career professionals so the function of the department has not -- from when Jay left and all the rest of the political appointees left has not stopped at all. We have tremendous long-serving public servants that are running the department now and as time goes on, of course, political appointees will theoretically be confirmed by the Senate and will take their places and then they'll learn their jobs underneath those tremendous public servants.

CARPER:

That's a good point.

KELLY:

On the consolidation, I don't think -- two things. DHS I don't think will ever be, you know, a functioning, cohesive organization to the degree that it should be and could be unless it does consolidate somewhere in more or less the same building or on the same campus. First issue. And the second issue is, and as long as the department answers to as many...

CARPER:

...Committees and subcommittees?

KELLY:

Yeah, I mean, you know, Jim Mattis has four committees that he has to concern himself with and a number of subcommittees and that's -- and that's what I -- that was my life before. This is a very, very different beast but I don't think it'll ever be, you know, as I say, as cohesive as it could be so

long as we have, I think it's a hundred -- well, it's 119 plus committees and subcommittees that still have jurisdiction from the olden days from when the department was formed.

It's not impossible to function but it won't be the same so long as there's so many disparate committees to answer to and that generates frankly a...

CARPER:

...Does St. Elizabeth's make sense?

KELLY:

It does make sense. The committee does make sense, yeah.

CARPER:

All right, good. Thank you. My time's expired, thank you so much.

KELLY:

Thank you.

JOHNSON:

Senator Harris.

HARRIS:

Secretary Kelly. I was heartened to hear your response to Senator Heitkamp's question about the separation of children from their parents. I understood you to say that only if the life of the child is in danger would there be a separation. Is that correct?

KELLY:

That would -- depending on what's going on, on the ground but that generally would be my approach.

HARRIS:

And are you willing then to issue a statement to your staff that that is your approach and that that's your policy?

KELLY:

My staff knows already that they will not separate anyone unless I'm informed and get my permission.

HARRIS:

Have you issued a directive to that?

KELLY:

They know that.

HARRIS:

That's not my question, sir.

KELLY:

My response is they know that so yes, I have through the leadership told them that if that's going to happen, that will only be me...

HARRIS:

...With all due respect sir, are you willing -- are you willing to issue a directive to your staff that that's your policy?

KELLY:

I have already done that.

HARRIS:

You have issued a directive?

KELLY:

Through my leadership.

HARRIS:

I'd like a copy of that then. Is that in writing?

KELLY:

It's verbal.

HARRIS:

OK. Are you willing to issue a written directive to your staff that that's the policy of the department? You have -- you run an organization of 230,000 people. Is that correct?

KELLY:

Right at 230.

HARRIS:

And why are you reluctant then to issue a directive to your staff if that is in fact your policy?

KELLY:

I'm not reluctant, I've already given the -- the verbal -- and it only really applies to...

HARRIS:

...So are you unwilling, sir, to issue a written directive that it is the policy of the department to not separate someone from their mothers unless the life of the child is in danger?

KELLY:

I don't need to do that. I've done it verbally.

HARRIS:

So is your answer no?

KELLY:

My answer is I don't need to do that.

HARRIS:

You don't need to do it. Sir are you aware that Sean Spicer said that with the new administration, that now finally the president wanted to take the shackles off individuals in this agency? Are you familiar with that?

KELLY:

No.

HARRIS:

Are you familiar with Brandon Judd who testified before our committee in response to a question from Senator Daines said that now that we can take the handcuffs off of us and put the handcuffs on the criminals. Are you aware of that?

KELLY:

No.

HARRIS:

Are you aware that...

KELLY:

Is that a recent hearing?

HARRIS:

Yes, it was. Are you aware that David Lapan, you're spokesperson said yesterday to the Washington Post that "immigration agents may arrest crime victim and witnesses at courthouses?"

KELLY:

Yes.

HARRIS:

And are you willing to exempt victims and witnesses who do not have serious criminal backgrounds from that policy?

KELLY:

Every case is different and we -- as they -- as the agents do their work, of course, the people that are taken into custody are put into a legal justice system. So that's where the decision would be made to deport, export, whatever.

HARRIS:

Are you willing to initiate a policy that says that if that person who is a victim or a witness to a crime who is at a courthouse in any county in the United States, appearing as a victim or a witness to a crime, that if they do not have a serious criminal background, that they would be exempt from a policy of picking them up at that courthouse?

KELLY:

No.

HARRIS:

And are you aware that local law enforcement has a concern, because this has created a chilling effect among victims and witness to crime, and has resulted in their reluctance to show up to actually testify about crimes committed in their community.

KELLY:

I have heard some number of laws enforcement people say that, but also hear the opposite view.

HARRIS:

During your confirmation hearing before this committee on January 10, you committed to doing a top to bottom assessment of DHS, is that correct?

KELLY:

I did.

HARRIS:

And have you finished this assessment?

KELLY:

No.

HARRIS:

When do you plan to finish it?

KELLY:

I don't know.

HARRIS:

You don't have a goal of finishing it?

KELLY:

I have a general goal.

HARRIS:

What is that date?

KELLY:

Well, one of the things I'll task my new deputy that was confirmed yesterday, she'll take that one.

HARRIS:

Have you given her a date for when that assessment will be complete?

KELLY:

No, because when she wasn't confirmed, I didn't deal with her as a deputy; I didn't want to presume confirmation by the Senate.

HARRIS:

So you do not have a goal for your department on when that assessment will be completed?

KELLY:

She and I will discuss a goal.

HARRIS:

And have you read the -- as part of the assessment that needs to be done, have you read the report issued by the Inspector General, John Roth that was issued just four months ago, November 7, 2016, entitled "Major Management Performance Challenges Facing the Department of Homeland Security?"

KELLY:

I'm aware of the report, yes.

HARRIS:

Have you read it?

KELLY:

I'm aware of it.

HARRIS:

So you've not read it.

KELLY:

An executive summary.

HARRIS:

OK. In the report, the I.G. says, quote "this year, we are presenting a broader picture of management challenges by highlighting those we have repeatedly identified over several years. We remain concerned about the systemic nature of these challenges, some of which span multiple administrations and department leadership." Do you agree that many of the challenges are systemic and deeply rooted in the department?

KELLY:

Well, of course that was pre-Kelly. And it was...

HARRIS:

It was four months ago that report was issued. Do you agree with the statement found by the I.G., based on his analysis of your department?

KELLY:

That was pre-Kelly. I am committed...

HARRIS:

I'm sorry, pre-Kelly, meaning you?

KELLY:

I wasn't in the job yet.

HARRIS:

OK.

KELLY:

I -- as I've committed to the committee before and to the Congress in general, we're going to take a top to bottom look at how we're organized and how we can do business better, and that includes how we're -- how we have -- through the leadership functions.

HARRIS:

Are you aware, sir, that on March 22, union officials and leaders from both ICE and border patrol appeared before this committee? During that hearing, Chris Crane, who is the national ICE council president said, and I will quote, "there is a toxic and failed management culture." He went on to say, quote "a good ol' boy network exist within your department." He went on to say officers are, quote "tripping over mangers in the field," and then said also that the agency has outdated and quote, "practically no policies in place." Are you aware that that is a sentiment among leadership in your department?

KELLY:

It certainly is -- certainly that's the sentiment through really, DHS in terms of how DHS was run for the last eight years. Going forward, it won't be run like that anymore.

HARRIS:

And how...

KELLY:

Once I -- once I determine how we're going to change the leadership approach.

HARRIS:

So you are going...

(CROSSTALK)

HARRIS:

... to come up with a plan for fixing this for the 230,000 people in your department? And is this a priority for you?

KELLY:

It is.

HARRIS:

And at the same hearing, both Mr. Crane and the National Border Patrol President Brandon Judd (inaudible) in terms of its morale?

KELLY:

That was certainly the case under the Obama administration, but we're changing that already.

HARRIS:

And you're going that within what time period?

(CROSSTALK)

KELLY:

It's already changing.

HARRIS:

Oh, it's changed?

KELLY:

It's already changing.

HARRIS:

It is changing, OK. And in regards to your top-to- bottom assessment, has your assessment included looking into the morale issues at the agency and putting in place programs and initiatives to actually improve the morale?

KELLY:

It's what I do, yes.

HARRIS:

And can you provide us with a list of the policies that you've instituted to improve morale at the department?

KELLY:

My leadership is the start point and we'll continue to look at ways to improve the morale. One of the issues most focused on by this -- by the workforce since -- over the last eight years that affected their morale was an inability to do their jobs. Now that -- now that we've opened the aperture in terms of the amount of work that they're allowed to do, the -- I'm deflecting a lot of outside influences into the workforce so they can do their jobs...

HARRIS:

Sir, my question to you -- with all due respect, my question to you is, what have you put in place to turn the morale around in this department and the morale which is the lowest of many large federal agency and the condition has existed throughout the -- it appears, the life of the agency and certainly has passed through many administrations.

KELLY:

Under the Obama administration, the morale suffered terribly.

HARRIS:

So what plans have you put in place, sir?

KELLY:

My leadership.

HARRIS:

So you're saying by virtue of you being there, morale will now change?

KELLY:

By virtue of the fact -- the greatest impact in raising the morale in the last 90 days or so has been that the workforce now is allowed to do their job.

HARRIS:

And that would be, they're now unshackled. Is that correct?

KELLY:

They're allowed to do their job as the professionals they are.

HARRIS:

And the administration has proposed tripling the current number of ICE agents and increasing the number of border patrol agents by 25 percent in addition to requesting a \$4 billion to begin the construction of a wall which has been discussed. Are you in support of actually bringing on these new agents before you have repaired the damage that has existed in your agency?

KELLY:

It's simultaneous, sure.

JOHNSON:

Senator Harris, we're going to give you an opportunity...

HARRIS:

I'll go to round two. Thank you, Chairman.

JOHNSON:

I'm not sure we're going to have round two but we'll have opportunities to submit questions for the record.

HARRIS:

I do have more questions so if we can do a second round, I would appreciate that.

JOHNSON:

I want to be, you know, thoughtful of people's time.

Senator Portman.

PORTMAN:

Thank you, Mr. Chairman.

And General Kelly, it's good to have you before the committee again. First of all, I'm glad we finally got Elaine, the great Ohioan over there in your department. You talked earlier about her being a political appointee. I view her as a career person having had 27 years in the federal government and including obviously big roles over at DHS as a career expert on management and procurement and some of the big challenges that you face trying to bring together all these departments and agencies into one.

So I'm glad she's there and I know she will be a tremendous asset to you. At your nomination, we talked a lot about this drug issue. And as you know, I was very complimentary of comments that you had made to this committee about a year and a half ago now regarding the importance of focusing on the demand side and that's where I've focused most in the last 25 years and I agree with you, that's the single most important thing is to reduce the demand.

And you talked about prevention and education, treatment and recovery, helping law enforcement and so on. I was a little concerned about the comments earlier about the commission. I do hope the commission heeds your comments and your thoughts on that. But you should also know just by way of information, Congress just spent three years going through this process that the commission's going to do in 90 days apparently which is helping identify the problem.

We had five conferences here, not just numerous hearings, but conferences bringing in experts from all around the country looking at best practices and came up with this Comprehensive Addiction and Recovery Act, a bipartisan bill that was finally passed last year and one of my concerns is that only three of the eight programs provided there, including things like helping out

on drug courts and some of the things you've talked about in terms of diversion, it's not about locking people up, it's about better prevention and getting people the treatment they need.

But only three of those eight programs have been implemented. And I pushed the Obama administration on this and I'm now pushing the Trump administration on it. So one, I hope you'll get up to speed on what CARA's about, what it does. It is comprehensive, not just in name but in reality and it's based on a lot of work that's been done not just over the last few years with these conferences but around the country over time.

Because I don't think we need to recreate the wheel

think we need to go to action, this is a crisis and it's an epidemic, certainly in my state and many other states around the country. It -- its one that is particularly difficult because of the opioid issue.

In other words, crystal meth is increasing in some communities. I understand the cocaine is back in some communities. This opioid issue -- the grip of that addiction has been a huge challenge as you know, for treatment and -- and recovery. We're beginning to learn more about it and how to do a better, but we got to get this legislation implemented and get the Cures Act money appropriated again.

I hope the budget will reflect that ,which is another \$500 million we need in next year's budget just for helping the states to be able to deal with this. On fentanyl, it's the new issue. As you know in so many of our states we probably are hit harder on it than other state, we're told per capita. But this is this toxic substance, as you know that is a synthetic heroine, carfentanil, euphoric (ph), it goes by various names, but it's -- its created by evil scientists in a laboratory somewhere. And you mentioned it coming in from Mexico. Yes, some comes in for Mexico but primarily that's coming from China to here as I understand from your people in and then going to medic going back into here.

The vast majority of it -- and there's a new commission report out -- the U.S.-China commission recently is coming from Mexico. I'm sorry -- coming from China. And it's coming from laboratories in China, and is coming by the U.S. mail system. And you and I talked about this again during your confirmation process, and the very difficult job that CBP and DEA and others have of identifying these packages, because the U.S. mail system does not require advance information as to what's in the package, where it's from, where it's going. By the way, FedEx and UPS and DHO and other private carriers do require that.

And what we heard from your folks, including Todd Owen, executive assistant commission, the office of field operations at CBP, when he testified before this committee on this, is that having this advanced data from the post office would be key to helping you to build to target these packages to find the ones that are suspect. we have legislation, as you know, called the Stop Act that is bipartisan, Senator Klobuchar, myself, Senator Hassan, who was here earlier, Senator Rubio, that we are attempting to get passed simply to say lets require that these packages have this information.

This is what we've heard about from your people as the solution to being able to target some of this fentanyl, to being able to stop some of this poison coming into our communities and killing our -- our citizens. By the way, that opinion was reinforced at a roundtable discussion I had just 10 days ago in Ohio with your CBP folks. We had two of your port chiefs there, we also had folks there who are from your HSI group, your group of individuals who work with law- enforcement every day to try to find this -- this material.

We also had folks from DEA who had testified on this. And so my question to you is what can we do to get this done President Trump in the campaign talked favorably about the Stop Act. You have talked favorably about the need to have that this information. I guess what I would ask is two questions. One, you agree with me that having this advanced data on shipments coming into the United States, up from both the post office and private carriers would help your officers be able to target illegal shipments?

KELLY:

I do.

PORTMAN:

Second, would this informed targeting by CBP potentially reduce the ability of the post office to be sent for illicit shipping of all kinds of contraband?

KELLY:

I think it will.

PORTMAN:

And third, have you had a chance now, since your nomination, to review the Stop Act and what are your thoughts and comments on the Stop Act and its potential to be able to help?

KELLY:

Just in -- in preparation for this hearing, we had a long conversation CBP people on the issue of the post office. Apparently -- and of course they don't work for us, but the -- the post office leadership is -- is starting to move in the right direction. Just the other day I get a DOG -- DOJ effort, DEA agreement, such as they are with China but in agreement at least that they will get after the fentanyl production and -- and shipment out of their country. I'll see how that turns out. One of the problems, as I think you know, Senator, that my folks have pointed out to me is, a lot of the countries that -- where these parcels come from, you know, just don't cooperate.

But that's -- that's an effort that we should focus on to have them cooperate in terms of identifying the package, what's in the package, this kind of thing so again, I was probably not as aware of this issue three days ago as I am now. And Kevin McAleenan who we hope someday will be the

commissioner, he's the acting now, has this very much on his front burner as it is now mine -- on mine.

PORTMAN:

I appreciate that but we're asking President Trump to raise this to President Xi because you're right, China's not doing enough to close down these laboratories and keep these materials from being spread. And by the way, it's a problem in China as well. I'm told the fentanyl is now leaking out into the...

KELLY:

I think that's the only reason now they're interest because it is a problem.

PORTMAN:

It is a problem. You know, a few flakes of this stuff can kill you. It is being put in relatively small packages and sent and there are millions of packages so do you agree that the STOP Act would be helpful to be able to identify these packages?

KELLY:

Yes, sir.

PORTMAN:

Thank you for that. And I guess the final thing I want to say with regard to the border because we talked a lot about this earlier and I really appreciate your comment which was we're not going to build a wall where it doesn't make sense. We do need a wall in certain areas including some urban and even some suburban areas and we do need, again, the technology that was talked about earlier in other areas.

You mentioned specifically the Big Bend of Texas. I was there at the end of the year, I've been there several times.

KELLY:

Canoeing, right (ph)?

PORTMAN:

I was and, you know, you're not going to build a wall on those canyon walls and so we need to reassure people that this is about an effective way to secure the border and I appreciate your comments, I understand (ph) think that will help clarify the situation. Thank you.

KELLY:

Thanks, sir.

PORTMAN:

Appreciate your service.

JOHNSON:

Senator Tester.

TESTER:

Thank you, Mr. Chairman. I want to thank you, Secretary Kelly, for your service and I mean that. I go back to what the ranking member in this committee said in her opening remarks and that is that we have faith in you, we have faith in you being the adult in the room because of your past record and your past performance. We believe that that will carry on as secretary of the Department of Homeland Security.

I've got a number of questions. One deals with, there was \$20 million worth of reprogramming money that you requested and that, Senator Boozman and I signed a letter basically stating, utilize the money but utilize it in the best way to protect the border. Not necessarily a concrete wall. Could be a fence, could be drones, could be technology, could be a number of things.

Have you determined how that \$20 million is going to be spent?

KELLY:

Again, Senator, on the barrier, wall, technology, whatever, we'll -- we'll do it where it makes sense and what makes sense. But we won't waste any money but we have not determined right now what this thing will look like, how long it will be, you know.

TESTER:

So -- and I appreciate that response but really the question is, is we reprogrammed \$20 million. I don't know that that's the best use of that money because I think it was going to be used in technology but that's a different debate. We did it and the question becomes, if you use all that \$20 million to put up a prototype concrete wall, for a prototype to be used, that pretty much tells me what we're going to be doing.

If you use that \$20 million, part of it to put up a concrete wall, part of it to use maybe blue rose (ph) technology, part of it to maybe use drones, part of it to use radar, part of it maybe for manpower discussions, that puts my heart at more of an ease. So the question is, is that if you have how this reprogramming money's going to be used, I would like to know it and if you haven't, could you tell me when you might have it?

KELLY:

Let me get back to you specifically on that, Senator, but you can -- you can rest assured we won't waste the money and we're not going to build one prototype. We're going to take a look at what makes sense along that whole border.

TESTER:

OK. Secret Service was brought up earlier and I also agree that due to circumstances with this administration, your Secret Service is probably stressed more than it ever has been before. Have you made any requests of Congress -- first of all, am I reading that right? I may be reading it wrong and if I am, that's fine. But have you made any requests on Secret Service and the demands that have been put on Secret Service and if we need to deal with that through the budget?

KELLY:

Not as of yet. Again, the first thing I'd like to say, and I think you'd agree. Individually the best men and women imaginable, they're just phenomenal that people and they work so hard, and they're -- they max out their over time.

I mean, they just leave (ph) themselves, coming and going. So they need -- and we will come forward to the -- to the Congress and make the case, but they need a lot more agents, not just because of -- of the Trump era, if you will, although that is additional, because he's got a lot of children, grandchildren. we need more agents and we need more uniform personnel regardless of whether it's a Mr. Trump or a Mr. Obama or a Mr. anybody because what they do is much larger than simply -- you know, the mission there at the White House and -- and with -- and with presidential travel.

I mean, things like the -- any -- any foreign dignitaries that comes to the United States. It's a much bigger than just that, so we need a larger Secret Service because we need to get some of these people a little bit of time at home with the families.

TESTER:

Got you. Coast Guard, you talked about it in your opening remarks. The president's budget came out and lacked Coast Guard, along with a lot of TSA and a lot of other agencies that are under your purview. Question number one is how much input did you have in that budget? Question number two is what are we going to do about fixing it?

KELLY:

Question number one, very little. I talked to the OMB people about way forward (ph), and we made -- we're going to make the money -- we'll make the money good for the Coast Guard. They -- they're too vital to securing the Southwest border and a lot of other things.

TESTER:

And Mar-a-Lago and a lot of other things. OK, thank you. Northern ports, we talked about ports of entries where drugs are coming through, and we all are focused like a laser on the southern border, and I think that's cool, but the northern border has its challenges too. Can -- can you -- can you tell me how concerned you are on the northern border, and if your concern is with -- I don't think this would be classified information -- is it with drugs?

Is with the undocumented people coming across the line? Is it with the terrorist activities? Where is your -- where is your concern with the northern border and -- and -- and then while follow-up on a that is RBC is concerned with what comes a with the northern borders of the border we'll have a follow up on that.

KELLY:

not as -- obviously as concerned with what comes with the northern border as the southern border, but it is our border, so I'm concerned with all the borders. The great -- the absolutely great news story in the northern border is that we have Canada there that it's...

(CROSSTALK)

KELLY:

... a friend and ally. They interact with us at every level, they're very careful about who comes into their country. Maybe not as careful as I -- I want us to be going forward about who comes in our country, but the good news story get up there is -- is the -- Canadians, their law enforcement, their commitment.

I would say the -- actually this might surprise you. I think -- not a concern really, what I'd like to see the northern border be is -- is even thinner if you will, so that the -- the movement safely and securely of all commerce and (inaudible) can be even -- you know, even streamlined more.

TESTER:

It's a big deal. Last thing, and excuse me if this has been asked before, I don't know that has been or if it hasn't. Eminent domain, on the southern border, if we're going to build a wall -- if we're going to do anything, it's going to require permission from the landowners. On the northern border, those landowners are critically important for security. By the way, they're an extra set of eyes we don't have to pay for. How you do with them eminent domain on the southern border?

KELLY:

We'll do it judiciously. There may be places we have to do it. Again, that will be part of the both of the -- of the evaluation of where we build the wall, how we build a wall.

TESTER:

I would -- I would just say that -- and this point has been brought up in these hearings before -- if you want to get people's attention in rural America, just talk about eminent domain. That hair will be on fire.

KELLY:

You know senator, I'm told that back in the -- I think 2008 effort to put fencing on the border, we're still in -- in -- in court with -- with people about eminent domain. Nine years ago.

TESTER:

Look I get it. I've got a farm that has to be in the family 100 years. Those ones down there, they're probably 140 or 150. If somebody tried to eminent domain my place, they'd take me off in a box because I wouldn't let them do it. So that's where we're at. Thanks.

KELLY:

Thanks.

JOHNSON:

This hearing is setting a lot of hair fire. Senator Paul?

PAUL:

And his is so special, to be on fire.

(LAUGHTER)

General Kelly, thanks for coming. If I travel abroad and I'm coming back home, do you think it's appropriate to deny me entry to the country unless I let you search my cell phone?

KELLY:

Under -- under very, very, very critical circumstances, I would say that an American citizen ought to be able to come back in and not have their electronics searched.

PAUL:

We've gone from 5,000 people having their cell phones searched to 25,000. We are denying people entry who are citizens or green card holders who are coming back home and your department is saying to them you cannot return to your home without giving us your fingerprint and giving us all of the data on your phone, access to all the data on your phone.

I think this is an extraordinarily unreasonable standard. I also think that you probably can differentiate between citizens, U.S. persons, and those who are coming to visit. So I'm not saying

you can't have some standards and that based on suspicion, you can deny someone entry to the country but not a citizen, not a green card holder. They are denying access to our own country.

I could travel abroad and be told I cannot enter America unless I let you look at my phone. That's obscene and do you have a response? We're up to 25,000 of these now.

KELLY:

Well it certainly hasn't increased significantly in the 90 days I've been in the job and the 90 days Mr. Trump has been the president. I don't believe we're turning -- I don't think we ever turn back legal citizens or -- I mean citizens or legal residents.

PAUL:

That's what's in the paper, I think the last month -- they're telling -- there was a guy that had a green card and his wife was a citizen but he lived here for many years, he was told he could not enter if he did not give his fingerprint to the government.

KELLY:

Let me take that on, Senator. The one thing I have learned in this job, that everything I read about this -- about this department or what goes on at our borders is always more to the story. But in general, just like an American citizen coming in and having his bag searched at the port of entry, generally speaking, it's done for a reason.

PAUL:

Right. But I think there are different -- and I'm not blaming you. It may sound like I'm blaming you. You've only been on the job for a month or two but in your nomination hearing, you said you were going to respect the fourth amendment and you were going to respect people's privacy. So my hope is that you'll go back and ask people, are we really doing this?

KELLY:

You know I will.

PAUL:

There have been many reports of this. I would also argue though that there's a difference between searching my bag and my cell phone, OK? If I'm coming in, there is -- it is known that one of the things that happens at the border are drugs, we have dogs, we do all the (ph) -- and we do random searches of bags.

We're doing that even domestically. So I think we can accept that but I think that people are going to be horrified the more they hear that their cell phone, all their contacts, we don't even know what's happening to our cell phone while it's gone and in possession of the government. Are they

downloading? And this is the story was this, that they're downloading everybody's contacts and information, there's an extraordinary amount of information on your phone.

KELLY:

Not happening.

PAUL:

All right but that's what the stories...

KELLY:

These are citizens (ph). And in some cases, it is certainly happening to foreigners coming in but not routinely.

PAUL:

But it's gone from 5,000 a year to 25,000. If you wouldn't mind, if you'd look into it and have your people get back to my office on this...

KELLY:

Will do.

PAUL:

But you know, we put forward legislation, bipartisan legislation because we're so upset about this that really if you're a green card holder or a citizen, even if you had suspicion, the way it would probably work if you were, I think, obeying the spirit of the constitution is you might be able to seize my phone but we would then go to a court and a court would determine whether you had probable cause to actual get the access to my phone for a citizen.

And for a noncitizen, I think if you don't give it, you can probably deny entry. I mean, there are rules on travel to our country. But I think for a citizen or a noncitizen to say I can't come back to my country without giving you the contents of my phone is, I think, really a...

KELLY:

Just don't believe we're doing it (ph).

PAUL:

All right. But we'll -- please look at the news reports because it wasn't just one, there was a whole series of them in the last couple days and a few interviews of people who are green card holders not being allowed entry. Thanks.

JOHNSON:

We will do a second round but I'm going to limit to five minutes because I want to be respectful of the secretary's time.

So Senator McCaskill.

MCCASKILL:

Yeah, following a little bit on Senator Paul, I -- I was -- I had to smile when Senator McCain said I was being hysterical. I was being focused and passionate and I learned it from him, by the way. So I was -- and I want to be very clear, I completely understand that we have to take steps to keep terrorists out of our country that are coming here to kill us. I completely understand that this is a global threat that we have to pay attention to and I understand and completely accept that there are people being trained in Raqqah to come here and hurt us.

My point is, I want to make sure what we're doing is effective. It's now out there that we're taking people's phones. I mean, no terrorist that has the ability to come into this country and hurt us is going to come in with anything other than a clean phone. And the people who are going to get caught up in this are going to be a lot of people who aren't probably terrorists because if they were, they'd be smart enough to clean their phone.

The same thing with some of the -- like I talked about, the questions, they're going to lie and we aren't going to -- you know, maybe we're going to -- for some, maybe we should do polygraphs if we have good information that they're terrorists. So I'm not -- I'm not in any way saying I don't want you to go after terrorists and I don't want you to figure out ways to find the people, and we're taking lots of steps around the globe to do that and I certainly identify with Senator Hassan's remarks about the law enforcement teams helping embassies in terms of screening visa applicants.

All great. So electronic devices, I agree with Senator McCain. I think we've got to be doing some extraordinary steps about electronic devices and I was supportive, I appreciated you giving me a call of you doing the unprecedented step of not allowing laptops in cabins from certain countries. And if you wanted to take a moment, I only have one other brief question so if you wanted to take a moment to maybe explain that so we all understand what steps you've taken and why it's important.

KELLY:

Senator, as we discussed on the phone and I made 15 phone calls that day to make sure the leadership, both sides of the aisle, both sides of the Hill understood what we were doing. And then we provided classified briefs to, you know to the Hill again and it's a real threat. I mean, we know on any given day there are dozens of cells that are talking about aviation -- attacking aviation.

And you just watch them over time and see if they develop, if they go from talking to actually doing something. So there's a real threat all of the time. You saw the Russian airplane that was

blown up coming out of Egypt as an example, the Somali airplane that thankfully didn't catastrophically come apart but a hole was blown in the side of the airplane and only because the airplane was not at altitude did -- was the pilot able to bring that aircraft home.

It's real. Based on the threat is -- and this was my decision. Certainly briefed it to the president but this was my decision, once I took in all the information from all the sources, that there is a real threat against aviation always but a specific threat and the airports that I decided to prohibit or to do the additional -- the new baggage protocol, that is to say the large electronic devices into the cargo hold are predominantly Muslim countries.

I didn't do it because of the Muslim religion or the color of their skin or -- as some have accused. I was trying to help out the American aircraft industry in places like the Emirates. It's real. I think it's getting realer so to speak. We may take measures in the not too distant future to expand the number of airports. It's real.

MCCASKILL:

We appreciate your focus on it and I certainly support the steps you've taken in that regard. Missouri is one of the states has not done Real ID and I just -- I just want to make sure that you clarify what is going to happen next year. And the reason I say this is the Missouri legislature is struggling with this. You know, this -- this happened before I came to the Senate.

Both Republican senators voted for this in 2005. In fact, all 100 senators voted for it in 2005 and I understand why it's controversial and frankly I kind of identify with that in many ways because of the state I'm from and our distrust of government in our DNA. But I -- I -- the governor said recently that he had gotten some signals from the Trump administration that would indicate that it wasn't going to be enforced.

And so as a result, the Missouri legislature I think is now struggling with whether they need to do anything. I don't know what you're going to do but whatever you're going to do, the more quickly you clarify whether or not this is going to be enforced next year is really important. Because I think there's some mixed signals going on and as a result I worry about Missourians and their ability to participate in aviation in this country come this time next year.

KELLY:

Senator, your comment just now is the only time I've heard anyone say that we're not going to enforce the law in January. I mean, as I say, I've been saying it to the press, we've been saying it to the governors, I...

MCCASKILL:

Well you need to call the governor from Missouri because the headline was, Trump administration indicates they may make a change, and then it goes on to say the people who are against doing say, well we need to give Trump time to change this...

KELLY:

I'll call some governors (ph) right away.

MCCASKILL:

Yeah, that would be terrific. I think that would be very helpful because I know he wants Missourians to be able to fly too. This isn't partisan. We want Missourians to be able to fly next year.

KELLY:

My -- my advice again to all of the -- to all of the states that are not right now compatible is to just tell -- tell their -- their citizens to -- you know, the best thing to do is get a passport. And again...

MCCASKILL:

Or a passport card.

KELLY:

Or a passport card. And again this -- this issue up in Seattle this last week was with this business group, all of whom thought that their state license enhanced will fill the bill and it won't. And if they didn't know that, then I'd say the average Joe and Jane Doe -- they're probably under that misconception. But there's about, I'd say 10 to 12 states anyways that are questionable that they could pull this off.

And so I will call the governor, yes.

MCCASKILL:

I really appreciate it.

KELLY:

Yes, Ma'am.

JOHNSON:

Senator Harris for five minutes.

HARRIS:

I appreciate that.

Secretary Kelly, I represent a state of almost 39 million people which is also a state with the largest number of immigrants documented and undocumented of any state in this country. And they have a right to have an understanding, a clear understanding of the policy priorities of your department. On March 8 confirmation hearing for Elaine Duke, I asked her how the seven enforcement categories from your February 20 memo would be prioritized and she answered that the priorities are listed in descending order.

Do you agree with that?

KELLY:

No.

HARRIS:

And so what is the -- can you please rank then the seven factors and the priority among them?

KELLY:

Those seven factors allow the ICE folks to make their decision as to who they will develop a target package on and then go try and apprehend. But they're not in descending order, they're just those are the categories.

HARRIS:

So what has been your direction to the folks on the ground about what the priorities should be understanding that they, like all law enforcement agencies, have limited resources and a very important charge? Are you not giving them any direction around priorities within the seven criteria?

KELLY:

The direction they have is, the start point is illegal -- illegal status and then something from the priorities. But they're not going to go after, as an example, all the murderers and then we get -- all the very, very serious criminals and then once we get all of them, go after the next and the next and the next. They can go after an individual if they -- according to the law, if they are on the list because they're illegal and then something.

HARRIS:

So sir, among the seven categories, you have as number one convicted of any criminal offense and obviously there's no doubt that especially if someone has been convicted of a serious and violent felony they should be apprehended and they should be dealt with. Second is that anyone charged with a criminal offense but then there has not been a finding of guilt.

The third is they've committed an act which would constitute a chargeable criminal offense so they've not even been charged with the offense. The list goes on to number seven or in the judgment of immigration officers otherwise pose a risk to public safety or national security. How are you training the folks on the ground to exercise their judgment as it relates to factor three or factor seven as an example?

KELLY:

They're already trained and they, through -- through that direction down through the leadership of ICE down to the local agents in charge and whatnot, they train them to execute that policy.

HARRIS:

So as former manager of a very large law enforcement organization, the California Department of Justice. I am well aware that you cannot lead a department just from the top down, and it is critical that you communicate the policies of leadership to everyone at every stage, including those at the lowest level who in your agency as in most enforcement agencies, have wide discretion to exert and use their authority.

I would like to know what specifically you are doing to train those people and I would like a copy of what you are doing that is beyond the conversations that you have had with managers, but actually what policies you have put in place to train those folks on how they should exercise the discretion that you've given them, as it relates to this expanded list of -- of -- of folks that can be contacted by the folks in your agency. I would like to have a list submitted, sir. And if you would agree to give us a written copy of the training that you are instituting in your department to train folks about how they should exercise their discretion.

KELLY:

we can certainly provide you the policy statements and -- and from that the training takes place. Again, they're already highly trained individuals.

HARRIS:

Well, we've already discussed how they have the lowest morale of any federal agency and that...

KELLY:

Under the Obama administration.

HARRIS:

OK. So sir, given the extent and depth of the problems that exist at DHS and that we had so far received no assessment or any program that you have our plan that you have to address these issues, how can you justify such massive increases in hiring and resources, and should the American public really be expected to give you billions of dollars and provide billions of dollars

your agency when on blind faith in spite of the fact that there had been no clear change of direction or cores beyond the fact that you are on appointed to lead the agency?

Should the American public believed in blind faith in the fact that you are now the leader and therefore everything has changed?

KELLY:

They should have faith in the fact that I'm the leader. They should also have faith that the rank-and-file have now been allowed to do their job. We've already seen a change in the -- the morale; yes.

HARRIS:

Thank you, I have no further questions.

JOHNSON:

Thank you, Senator Harris.

Just to add a little perspective and clarity to the device searches. In fiscal year 2015, there was 77.5 million people that can to this country internationally in the flights. That includes Canada and Mexico. There 38.4 million that came in overseas. The 23,877 devices that were searching 2016 was a under different administration, representing a .03 percent of total national arrival, a .06 percent of overseas arrivals, just to put it in perspective.

My concern about all of a sudden this now new administration, now all of sudden, this is a big problem, we're publicizing this, we may be taking a tool of out the toolbox. Kind of like when Osama bin Laden found out that -- that we can actually track his location based on his cell phone. So again, I -- I appreciate your comments on -- on how it's being administered in kind of extraordinary circumstances, many cases again .03 percent of time .06 percent on overseas flights. And I don't know it's -- its just unfortunate.

KELLY:

You know Chairman, if I could do, I think -- and this has a lot to do with the press reporting, not against the press -- just they pick up and tend to write off whatever the base story is. I think an awful lot of people are confusing what we're doing at the port of entry today. and the kind of thinking I have in terms of the additional vetting that we will be implementing, whether it's for these overseas -- in -- in overseas locations, whether it's for a visa request to come to the United States, or for that matter, asylum (ph) request.

We are going to do a lot more of this electronic stuff. In addition to other things, whether it's in refugee camps in -- in Kenya or in some other country. And we'll do it -- but we won't probably do the same type of additional vetting in say, Britain or Japan. It just depends on the country, depends on the threat. But I think an awful lot of people have jumped to the conclusion a little bit

or certainly the press has picked up for whatever reasons and I'll assume they were doing it, you know honestly, that we're not going to do everyone's phone and -- and you know, computer at the border.

JOHNSON:

And of course that's the impression the press leaves so we blow it out of proportion. We take what could be an effective tool out of our toolbox and we make this nation less safe, so. And again, I just think it's unfortunate, I kind of want to lay out -- and I think you explain it pretty -- pretty well. You look at a phone, you look at the photos, there's no password required for that it's just oh, I see -- I see a potential pedophile there and that helps prevent something.

And it's just unfortunate that we do publicize some of these things that from my standpoint ought to remain more at a classified level or just -- not discussed in public domain.

MCCASKILL:

Well I -- Mr. Chairman, I just want to say, I think having these hearings is how we get to the bottom of it and find out the facts. That's why we do this and the questions are important to be asked so we can get the clarification.

JOHNSON:

I -- I understand.

MCCASKILL:

And so I think -- I think the secretary now is in a position to understand the concerns and I think he'll respond to them and -- and we'll all be in a better place.

KELLY:

I'm unfortunately way ahead and I think if Jim Comey and people like that certainly sitting here at the table with me, law enforcement in general, these -- these new applications that will make it impossible to look into someone's phone or electronic device -- right. We will lose a huge -- this country, the good guys and gals in the world in the west and other places -- well, in the world that are trying to protect their people will lose tremendous asset when these applications become more widespread than they are, tremendous advantage lost.

JOHNSON:

And I will say (ph) the last time Director Comey was before this committee, he was basically predicting when we finally end the caliphate, Diaspora of terrorists unlike this world has ever seen, we're going to be dealing with that and you're going to have to be dealing with that so I want to make sure you got the tools in your toolkit to keep this nation safe.

So again, General Kelly, thank you for your service, thanks for coming here, thanks for your testimony, your answers to our questions. With that, the hearing record will remain open for 15 days until April 20 at 5:00 P.M. for the submission of statements and questions for the record.

This hearing is adjourned.