

Prepared Testimony

**Secretary of Homeland Security Jeh Charles Johnson
Senate Judiciary Committee**

June 30, 2016

Chairman Grassley, Senator Leahy, and members of this Committee, thank you for the opportunity to be here. In this prepared testimony I will address (i) counterterrorism, (ii) immigration/border security, (iii) Syrian refugees, (iv) aviation security, and (v) cybersecurity. I welcome questions on other homeland security-related topics.

Counterterrorism

The events of Orlando are still fresh in our minds. They are a terrible reminder of the new phase of the complicated terrorist threats we face. Globally, we have moved from a world of terrorist-directed attacks, to a world that also includes the threat of terrorist-inspired attacks – attacks by those who live among us in the homeland and self-radicalize, inspired by terrorist propaganda on the internet. Attacks that are complicated by other motives like hate, such as the attack on the LGBT community in Orlando. By their nature, terrorist-inspired attacks are often difficult to detect by our intelligence and law enforcement communities, could occur with little or no notice, and in general, make for a more complex homeland security challenge.

This threat environment has required a whole new type of response.

As directed by President Obama, our government, along with our coalition partners, continues to take the fight militarily to terrorist organizations overseas. ISIL is the terrorist organization most prominent on the world stage. Since September 2014, air strikes and special operations have in fact led to the death of a number of ISIL's leaders and those focused on plotting external attacks in the West. At the same time, ISIL has lost about 47% of the populated areas it once controlled in Iraq, and thousands of square miles of territory it once controlled in Syria.

On the law enforcement side, the FBI continues to, in my judgment, do an excellent job of detecting, investigating, preventing, and prosecuting terrorist plots here in the homeland.

Following the attacks in Ottawa, Canada in 2014, and in reaction to terrorist groups' public calls for attacks on government installations in the western world, I directed the Federal Protective Service to enhance its presence and security at various U.S. government buildings around the country.

The Department of Homeland Security and the FBI have intensified our work with state and local law enforcement. Almost every day, we share intelligence and information

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with Joint Terrorism Task Forces, fusion centers, local police chiefs and sheriffs. We provide grant assistance to state and local governments around the country, for things such as active shooter training exercises, overtime for cops and firefighters, salaries for emergency managers, emergency vehicles, and communications and surveillance equipment. We helped to fund an active shooter training exercise that took place in the New York City subways last November, a series of these exercises earlier this year in Miami and Louisville, and just two weeks ago at Fenway Park in Boston. In February, we announced another round of awards for FY 2016 that will fund similar activities over the next three years.

We are also enhancing information sharing with organizations that represent businesses, college and professional sports, community and faith-based organizations, and critical infrastructure.

We are enhancing measures to detect and prevent travel to this country by foreign terrorist fighters.

We are strengthening the security of our Visa Waiver Program, which permits travelers from 38 different countries to come here without a visa. In 2014, we began to collect more personal information in the Electronic System for Travel Authorization, or “ESTA” system, that travelers from Visa Waiver countries are required to use. ESTA information is screened against the same counterterrorism and law enforcement databases that travelers with traditional visas are screened, and must be approved prior to an individual boarding a plane to the United States. As a result of these enhancements, over 3,000 additional travelers were denied travel here through this program in FY 2015. In August 2015, we introduced further security enhancements to the Visa Waiver Program.

Through the passage in December of the Visa Waiver Program Improvement and Terrorist Travel Prevention Act of 2015, Congress has codified into law several of these security enhancements, and placed new restrictions on eligibility for travel to the U.S. without a visa. We began to enforce these restrictions on January 21, 2016. Waivers from these restrictions will only be granted on a case-by-case basis, when it is in the law enforcement or national security interests of the United States to do so. Those denied entry under the Visa Waiver Program as a result of the new law may still apply for a visa to travel to the U.S. In February, under the authority given to me by the new law, I also added three countries – Libya, Yemen and Somalia – to a list that prohibits anyone who has visited these nations in the past five years from traveling to the U.S. without a visa. In April, DHS began enforcing the mandatory use of high security electronic passports for all Visa Waiver Program travelers. In both February and June, CBP enhanced the ESTA application with additional questions.

We are expanding the Department’s use of social media for various purposes. Today social media is used for over 30 different operational and investigative purposes

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within DHS. Beginning in 2014 we launched four pilot programs that involved consulting the social media of applicants for certain immigration benefits. USCIS now also reviews the social media of Syrian refugee applicants referred for enhanced vetting, and is extending this review to additional categories of refugee applicants. Based upon the recommendation of a Social Media Task Force within DHS, I have determined, consistent with relevant privacy and other laws, that we must expand the use of social media even further.

CBP is deploying personnel at various airports abroad, to pre-clear air travelers before they get on flights to the United States. At present, we have this pre-clearance capability at 15 airports overseas. And, last year, through pre-clearance, we denied boarding to over 10,700 travelers (or 29 per day) before they even got to the United States. As I said here last year, we want to build more of these. In May 2015, I announced 10 additional airports in nine countries that we've prioritized for preclearance. Last month, CBP announced an "open season," running through August, for foreign airports to express interest in participating in the next round of preclearance expansion. I urge Congress to pass legislation enabling preclearance operations in Canada, by providing legal clarity to CBP officials who are responsible for the day-to-day operation of preclearance facilities there.

For years Congress and others have urged us to develop a system for biometric exit – that is, to take the fingerprints or other biometric data of those who leave the country. CBP has begun testing technologies that can be deployed for this nationwide. With the passage of the FY 2016 Omnibus Appropriations Act, Congress authorized up to \$1 billion in fee increases over a period of ten years to help pay for the implementation of biometric exit. In April, the Department delivered its Comprehensive Biometric Entry/Exit Plan to Congress, which details CBP's plan for expanding implementation of a biometric entry/exit system using that funding. I have directed that CBP redouble its efforts to achieve a biometric entry/exit system, and to begin implementing biometric exit, starting at the highest volume airports, in 2018.

Last January I announced the schedule for the final two phases of implementation of the REAL ID Act, which go into effect in January 2018 and then October 2020. At present, 24 states are compliant with the law, 28 have extensions, and 4 states or territories are out of compliance without an extension. Now that the final timetable for implementation of the law is in place, we urge all states, for the good of their residents, to start issuing REAL ID- compliant drivers' licenses as soon as possible.

In the current threat environment, there is a role for the public too. "If You See Something, Say Something"™ must be more than a slogan. We continue to stress this. DHS has now established partnerships with the NFL, Major League Baseball and NASCAR, to raise public awareness at sporting events. An informed and vigilant public contributes to national security.

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In December, we reformed “NTAS,” the National Terrorism Advisory System. In 2011, we replaced the color-coded alerts with NTAS. But, the problem with NTAS was we never used it, it consisted of just two types of Alerts: “Elevated” and “Imminent,” and depended on the presence of a known specific and credible threat. This does not work in the current environment, which includes the threat of homegrown, self-radicalized, terrorist-inspired attacks. So, in December we added a new form of advisory – the NTAS “Bulletin” – to augment the existing Alerts, and issued the first Bulletin providing the public with information on the current threat environment and how they can help. The December Bulletin expired this month, and we issued a new and updated Bulletin on June 15.

Given the nature of the evolving terrorist threat, building bridges to diverse communities is also a homeland security imperative. Well informed families and communities are the best defense against terrorist ideologies. Al Qaeda and ISIL are targeting Muslim communities in this country. We must respond. In my view, building bridges to our communities is as important as any of our other homeland security missions. In 2015 we took these efforts to new levels. We created the DHS Office for Community Partnerships, headed by George Selim. George and this office are now the central hub for the Department’s efforts to counter violent extremism in this country, and the lead for a new interagency Countering Violent Extremism (CVE) Task Force that includes DHS, the Department of Justice (DOJ), the FBI, the National Counter Terrorism Center (NCTC) and other agencies. We are focused on partnering with and empowering communities by providing them a wide range of resources to use in preventing violent extremist recruitment and radicalization. Specifically, we are providing access to federal grant opportunities for state and local leaders, and partnering with the private sector to find innovative, community-based approaches.

Ensuring that the Nation’s CVE efforts are sufficiently resourced has been an integral part of our overall efforts. I thank Congress for the funds appropriated in the FY 2016 Omnibus Appropriations Act, which allocated \$10 million in CVE grant funding to be administered jointly by the Office for Community Partnerships and the Federal Emergency Management Agency (FEMA). This is the first time federal funding at this level will be provided, on a competitive basis, specifically to support local CVE efforts. The funding will be competitively awarded to state, tribal, and local governments, nonprofit organizations, and institutions of higher education to support new and existing community-based efforts to counter violent extremist recruitment and radicalization to violence.

Finally, given the nature of the current threat from homegrown violent extremists, homeland security must include sensible gun control laws. We cannot have the former without the latter. Consistent with the Second Amendment, and the right of responsible gun owners to possess firearms, we must make it harder for a terrorist to acquire a gun in this country. The events of San Bernardino and Orlando make this painfully clear.

Immigration/Border Security

I am, of course, disappointed that the Supreme Court was not able to come to a majority opinion in *United States v. Texas*, and that the lower court rulings stand. Meanwhile, we have moved forward with the other executive actions the President and I announced in November 2014.

In general, with the finite immigration enforcement resources we have, we are focused more sharply on public safety and border security. Those who pose a threat to national security, are convicted of serious crimes, or who have been apprehended at the border attempting to unlawfully enter are top priorities for removal. We will enforce the law in accordance with these priorities.

Accordingly, over the last several years deportations by ICE have gone down, but an increasing percentage of those deported are convicted criminals. And, an increased percentage of those in immigration detention, around 85%, are in the top priority for removal. More than 99% of ICE's detention population meets an enforcement priority. We will continue to focus our resources on the most significant threats to public safety and border security.

In furtherance of our public safety efforts, we have done away with the controversial Secure Communities program and replaced it with the new Priority Enforcement Program, or "PEP." PEP was developed to address concerns previously raised by state and local law enforcement agencies and their communities. Under PEP, DHS seeks to work collaboratively with state and local law enforcement agencies to take custody of certain removable convicted criminals before they are released, while sustaining trust between law enforcement and local communities. Since PEP was created, cities and counties that previously refused to work with Secure Communities are coming back to the table. Of the top 25 jurisdictions in terms of previously declined detainers, 20 have now agreed to participate in PEP. In 2016, we will work to get even more to participate.

We have also prioritized the removal of those apprehended at the border while attempting to unlawfully enter the United States.

Over the last 15 years, our Nation – across multiple administrations – has invested a lot in border security, and this investment has yielded positive results. Apprehensions by the U.S. Border Patrol – which are an indicator of total attempts to cross the border illegally – are a fraction of what they used to be. For example, in FY 2000, the total number of southwest border apprehensions reached 1.6 million. Over the last several years, the number of apprehensions has been a fraction of that – despite an improving economy, a traditional "pull factor" for illegal migration.

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In FY 2014, apprehensions on the southwest border by the Border Patrol increased over the preceding four years. That year, the overall number of apprehensions was 479,000. In FY 2015, the number of those apprehended by the Border Patrol on the southwest border was 331,000 – with the exception of one year, the lowest since 1972. This Fiscal Year, we project that total apprehensions will be higher than 2015, but considerably lower than 2014.

We also saw a spike in the number of families and unaccompanied children from Central America during the spring and summer of 2014. Across the government, we pursued a multi-pronged approach, working with the Department of State, regional partners, and others, to address this surge, and the numbers fell sharply within a short period of time. On May 19-20 this year, I personally visited El Salvador and Honduras to discuss illegal migration with government leaders there, and publicly sent the message that our borders are not open to illegal immigration.

We are closely monitoring the situation on the southwest border and will not dial back our efforts.

We recognize that more border security and removals may deter illegal migration, but they do nothing to overcome the “push factors,” including high rates of violence, that prompt desperate people to flee Central America in the first place. We are working to expand safe and alternate paths to the United States to those who qualify for protection. We are expanding our Refugee Admissions Program to help vulnerable men, women and children in Central America who qualify as refugees. We are partnering with the U.N. High Commissioner for Refugees and non-governmental organizations in the region to do this as soon as possible. This approach builds on our Central American Minors program, which is now providing an in-country refugee processing option for certain children with lawfully present parents in the United States.

Our overall policy is to focus our immigration enforcement resources more effectively on threats to public safety and border security, and, within our existing legal authority, to do as much as we can to fix the broken immigration system. We recognize and appreciate that this Committee marked up legislation and a bipartisan majority of Senators supported immigration reform legislation last Congress. However, we’re disappointed that the House has not passed comprehensive immigration reform legislation.

I do agree with members of this Committee that the EB-5 program is in need of reform, and we have proposed legislative changes for your consideration. Although we continue to believe legislative changes are necessary, in the interim we have also begun to work on a notice of proposed rulemaking to address certain issues consistent with current statutory authority. We expect to have a proposed rule out for public notice and comment in the coming months.

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DHS agencies also continue with their work to interdict the flow of illicit narcotics that transnational criminal organizations seek to smuggle into our country. We are fully supportive of the administration's effort to address the enormous challenges posed by heroin and fentanyl that enter our country from abroad. These drugs, as well as methamphetamine, cocaine, new psychoactive substances, and marijuana threaten the health and safety of Americans in every state, city and town. The trained men and women of DHS are working every day to prevent drug smuggling and to work with partner agencies to investigate, disrupt and dismantle trafficking networks that move drugs in and illicit proceeds out of our nation.

Syrian Refugees

We are doing our part to address the Syrian refugee crisis. USCIS, in conjunction with the Department of State, is working hard to meet our commitment to admit at least 10,000 Syrian refugees by the end of this fiscal year. We will do this by carefully screening refugees in a multi-layered and intense screening process involving multiple law enforcement, national security, and intelligence agencies across the Federal Government. For certain categories of refugees, we've added other security checks.

To date this Fiscal Year, we have welcomed and resettled nearly 5,000 Syrian refugees into the United States. Meanwhile, another 6,500 Syrian refugees are most of the way through the admissions process and await only minor out-processing before they can board flights to the United States.

I note also the Special Immigrant Visa program for our Afghan wartime allies. While not necessarily "refugees" as a technical matter, these Afghans need and deserve refuge in the United States because of their faithful and valuable service to our troops and civilian personnel. These individuals have experienced or are experiencing an ongoing serious threat as a consequence of that employment. Ensuring that these men and women have the opportunity to seek safety in the United States helps our government secure needed cooperation in Afghanistan. I understand the Senate came very close to extending the program during consideration of this year's National Defense Authorization bill. I urge Congress to find a way to get this done.

Aviation Security

We are taking aggressive steps to improve aviation and airport security. In the face of increased travel volume, we will not compromise aviation security to reduce wait times at Transportation Security Administration (TSA) screening points. With the support of Congress we are surging resources and adding personnel to address the increased volume of travelers.

Since 2014 we have enhanced security at overseas last-point-of-departure airports, and a number of foreign governments have replicated those enhancements.

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As you know, in May of last year, a classified DHS Inspector General's test of certain TSA screening at eight airports, reflecting a dismal fail rate, was leaked to the press. I directed a 10-point plan to fix the problems identified by the IG. Under the new leadership of Admiral Pete Neffenger over the last six months, TSA has aggressively implemented this plan. This has included retraining the entire Transportation Security Officers (TSO) workforce, increased use of random explosive trace detectors, testing and re-evaluating the screening equipment that was the subject of the IG's test, a rewrite of the standard operating procedures manual, increased manual screening, and less randomized inclusion in Pre-Check lanes. These measures were implemented on or ahead of schedule.

We are also focused on airport security. In April of last year, TSA issued guidelines to domestic airports to reduce access to secure areas, to require that all airport and airline personnel pass through TSA screening if they intend to board a flight, to conduct more frequent physical screening of airport and airline personnel, and to conduct more frequent criminal background checks of airport and airline personnel. Since then employee access points have been reduced, and random screening of personnel within secure areas has increased four-fold. We are continuing these efforts in 2016. In February, TSA issued guidelines to further enhance the screening of aviation workers in the secure area of airports, and in May, TSA and airport operators completed detailed vulnerability assessments and mitigation plans for nearly 300 federalized airports.

Without short-cutting aviation security, we are also working aggressively to improve efficiency and minimize wait times at airport security check points in the face of increased air travel volumes. I thank Congress for approving our two reprogramming requests that have enabled us to expedite the hiring of over 1,300 new TSOs, pay additional overtime to the existing TSO workforce, and convert over 2,700 TSOs from part-time to full-time.

We have also brought on and moved canine teams to assist in the screening of passengers at checkpoints, solicited over 150 volunteers from among the TSO workforce to accept temporary reassignment from less busy to busier airports, deployed optimization teams to the Nation's 20 busiest airports to improve operations, and stood up an Incident Command Center at TSA headquarters to monitor checkpoint trends in real time.

We continue to encourage the public to join TSA Pre✓®. The public is responding. While enrollments a year ago were at about 3,500 daily, now enrollments are exceeding 15,000 a day. For 90% of those who are enrolled and utilize TSA Pre✓®, wait times at TSA checkpoints are five minutes or less.

Airlines are also assisting to address wait times. We appreciate that major airlines have assigned personnel to certain non-security duties at TSA checkpoints, and are

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providing support in a number of other ways. Longer term, we are working with airlines and airports to invest in “innovation lanes” and other technology to transform the screening of carry-on luggage and personal items.

Our efforts are showing results. Nationwide, the wait time for more than 99% of the traveling public is 30 minutes or less, and more than 90% of the traveling public is waiting 15 minutes or less. But we are not taking a victory lap. Now that summer is here, we will not let up on aviation security or addressing the increased levels of air travel.

As I have said many times, we will keep passengers moving this summer, but we will also keep them safe.

Cybersecurity

While counterterrorism remains a cornerstone of our Department’s mission, I have concluded that cybersecurity must be another. Making tangible improvements to our Nation’s cybersecurity is a top priority for President Obama and for me to accomplish before the end of the Administration.

On February 9th, the President announced his “Cybersecurity National Action Plan,” which is the culmination of seven years of effort by the Administration. The Plan includes a call for the creation of a Commission on Enhancing National Cybersecurity, additional investments in technology, federal cybersecurity, cyber education, new cyber talent in the federal workforce, and improved cyber incident response.

DHS has a role in almost every aspect of the President’s plan.

As reflected in the President’s 2017 budget request, we want to expand our cyber response teams from 10 to 48.

We are doubling the number of cybersecurity advisors to in effect make “house calls,” to assist private sector organizations with in-person, customized cybersecurity assessments and best practices.

Building on DHS’s “Stop. Think. Connect” campaign, we will help promote public awareness on multi-factor authentication.

We will collaborate with Underwriters Laboratory and others to develop a Cybersecurity Assurance Program to test and certify networked devices within the “Internet of Things” -- such as your home alarm system, your refrigerator, or even your pacemaker.

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I have also directed my team to focus urgently on improving our abilities to protect the Federal Government and private sector. Over the past year, the National Cybersecurity Communications Integration Center, or “NCCIC,” increased its distribution of information, the number of vulnerability assessments conducted, and the number of incident responses.

I have issued an aggressive timetable for improving federal civilian cybersecurity, principally through two DHS programs:

The first is called EINSTEIN. EINSTEIN 1 and 2 have the ability to detect and monitor cybersecurity threats attempting to access our federal systems, and these protections are now in place across nearly all federal civilian departments and agencies.

EINSTEIN 3A is the newest iteration of the system, and has the ability to automatically block potential cyber attacks on our federal systems. Thus far E3A has actually blocked over a million potential cyber threats, and we are rapidly expanding this capability. About a year ago, E3A covered only about 20% of our federal civilian networks. In the wake of the OPM attack, in May of last year I directed our cybersecurity team to make at least some aspects of E3A available to all federal departments and agencies by the end of last year. They met that deadline. Now that the system is available to all civilian agencies, 50% of federal personnel are actually protected, including the Office of Personnel Management, and we are working to get all federal departments and agencies on board by the end of this year.

The second program, called Continuous Diagnostics and Mitigation, or CDM, helps agencies detect and prioritize vulnerabilities inside their networks. In 2015, we provided CDM sensors to 97% of the federal civilian government. Next year, DHS will provide the second phase of CDM to 100% of the federal civilian government.

I have also used my authorities granted by Congress to issue Binding Operational Directives and further drive improved cybersecurity across the federal government. In May 2015, I directed civilian agencies to promptly patch vulnerabilities on their Internet-facing devices. These vulnerabilities are accessible from the Internet, and thus present a significant risk if not quickly addressed. Agencies responded quickly and mitigated all of the vulnerabilities that existed when the directive was issued. Although new vulnerabilities are identified every day, agencies continue to fix these issues with greater urgency than before the directive.

This month, I issued a second binding operational directive. This directive mandated that agencies participate in DHS-led assessments of their high value assets and implement specific recommendations to secure these important systems from our adversaries. We are working aggressively with the owners of those systems to increase their security.

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In September 2015, DHS awarded a grant to the University of Texas at San Antonio to work with industry to identify a common set of best practices for the development of Information Sharing and Analysis Organizations, or “ISAOs.” The University of Texas at San Antonio recently released the first draft of these best practices. They will be released in final form later this year after public comment.

Finally, I thank Congress for passing the Cybersecurity Act of 2015. This new law is a huge assist to DHS and our cybersecurity mission. We are in the process of implementing that law now. As required by the law, our NCCIC has built a system to automate the receipt and distribution of cyber threat indicators at real-time speed. We built this in a way that also includes privacy protections.

In March, I announced that this system was operational. At the same time, we issued interim guidelines and procedures, required by this law, providing federal agencies and the private sector with a clear understanding of how to share cyber threat indicators with the NCCIC, and how the NCCIC will share and use that information. We have now issued the final guidelines and procedures consistent with the deadline set by the law.

I appreciate the additional authorities granted to us by Congress to carry out our mission. Today, we face increasing threats from cyber-attacks against infrastructure and I strongly believe that we need an agency focused on cyber security and infrastructure protection.

I have asked Congress to authorize the establishment of a new operational Component within DHS, the Cyber and Infrastructure Protection agency. We have submitted a plan which will streamline and strengthen existing functions within the Department to ensure we are prepared for the growing cyber threat and the potential for large scale or catastrophic physical consequences as a result of an attack. I urge Congress to take action so we are able to ensure DHS is best positioned to execute this vital mission.

I look forward to your questions.