



Statement

by

Secretary of Homeland Security Jeh Charles Johnson

**United States House of Representatives
Committee on the Judiciary**

July 14, 2015

Chairman Goodlatte, Ranking Member Conyers, and distinguished members of the Committee, thank you for the opportunity to be here. I will devote this prepared statement to (i) counterterrorism, (ii) aviation security, (iii) federal .gov cybersecurity and (iv) immigration/border security, all matters I know this Committee is interested in. At the hearing, I will be pleased to take questions on these and other homeland security topics.

COUNTERTERRORISM

Counterterrorism remains the cornerstone of our homeland security mission. It's still a dangerous world. In 2015, the global terrorist threat has evolved to a new phase. Today, the terrorist threat is more decentralized, more diffuse, and more complex.

We are concerned about the foreign fighter who leaves his home country, travels to another country to take up the fight there, links up with terrorist extremists, and may return home with a terrorist purpose – whether it's to this country or elsewhere.

We are concerned about terrorist organizations' adaptive and skilled use of the Internet to publicly recruit individuals to conduct attacks within their own homelands. Al Qaeda in the Arabian Peninsula no longer hides its intent to build bombs; it publicizes its instruction manual, and urges people to use it.

We are concerned about the domestic-based terrorist threat that may lurk in our midst – the “lone wolf” – who may become inspired by violent extremist propaganda on the Internet, and who could strike with little or no notice.

In late October, following the attacks in Ottawa and in reaction to terrorist groups' public calls for attacks on government installations in the West, I directed the Federal Protective Service to enhance its presence and security at various United States Government buildings in Washington, DC and other major cities and locations around the country.

We are taking action with our international partners to prevent the travel of foreign terrorist fighters.

In May, I represented the United States at an unprecedented interior ministry session of the United Nations Security Council to discuss the problem of foreign fighters. We discussed the progress of implementing UN Security Council Resolution 2178, which underscores the need for member states to prevent travel of foreign terrorist fighters. At this session of the UN, I encouraged implementation of UNSCR 2178, whether through

information sharing, cooperative application of DHS border security expertise, or bilateral security programs.

We are also making security enhancements to the Visa Waiver Program. This Program, by which we do not require travelers from 38 countries to not obtain a visa, is a good program that should be continued. But, in 2014 DHS strengthened the security of the Program by adding additional data elements to the Electronic System for Travel Authorization application. We are now preparing additional measures that will achieve our goals of even better security for the United States and increased security partnerships with Visa Waiver Program countries as we maintain the economic benefits of the Program.

Given the new reality of the global terrorist threat – which involves the potential for small-scale homegrown attacks by those who could strike with little or no notice -- we are working in closer collaboration with state and local law enforcement. As often as several times a week, DHS and the FBI share terrorist threat information and intelligence with Joint Terrorism Task Forces, state fusion centers, local police chiefs and sheriffs.

We have also enhanced our information sharing with businesses and critical infrastructure. Our DHS office of Infrastructure Protection, together with the FBI and the National Counterterrorism Center, are engaged in a multi-city campaign with commercial businesses to review and enhance their security plans.

Given the evolving nature of the homegrown terrorist threat, I and other government officials have engaged in community outreach to counter violent extremism here at home. In my view, this is indispensable to our homeland security efforts. We must reach communities that they themselves have the ability to reach those individuals who may succumb to the slick internet appeal of ISIL and turn to violence. In 2014, DHS held over 70 meetings, roundtables and other events in 14 cities. I personally participate in these efforts. Since becoming Secretary I have met with community leaders in Chicago, Columbus, Minneapolis, Los Angeles, Boston, New York City, Houston, Maryland and northern Virginia.

The new reality is that our homeland security efforts must involve public vigilance and engagement. At the Super Bowl earlier this year, we refashioned our "If You See Something Say Something" campaign with a new look. This is more than slogan.

AVIATION SECURITY

Much of our homeland security/counterterrorism efforts continue to center around aviation security.

Last summer, DHS started requiring enhanced screening at select overseas airports with direct flights to the United States. The United Kingdom and other countries followed suit with similar enhancements, and the European Union passed legislation for both near and long-term enhancements to cabin baggage screening requirements.

Earlier this year I asked the Aviation Security Advisory Committee to review and make recommendations to address concerns about whether aviation workers with airport identification badges could bypass security and smuggle weapons or explosives into an operation area or even onto an aircraft. This issue was raised by an incident last December at Hartsfield-Jackson Atlanta International Airport. In April, in response to the ASAC's report, I directed the TSA to take several immediate actions, including "real-time recurrent" criminal history background checks, reducing the number of access points to secured areas, and encouraging airport workers to report suspicious activity.

I have also prioritized the expansion of preclearance operations at foreign airports with flights to the United States. Preclearance allows Customs and Border Protection officials overseas, to screen passengers bound for the United States, at the front end of the flight, protecting the plane, its passengers, and our country. We now have 15 preclearance sites overseas, in 6 different countries, operated by more than 600 law enforcement offices and agriculture specialists. The most recent preclearance operation was set up early last year in Abu Dhabi. Since that time, in Abu Dhabi alone, we have already screened more than 500,000 passengers and crew bound for the United States, and have denied boarding to 785 individuals, including a number who were found in the terrorist screening database. We are now seeking to enter into negotiations to expand preclearance operations to ten new foreign airports. I view preclearance as an important piece of our aviation security and our counterterrorism mission.

A little over a month ago the preliminary results of an Inspector General's test of TSA's screening at airports leaked to the press. The IG's tests were fairly discreet -- just 70 tests across eight airports. But, the results were completely unsatisfactory. In response, I immediately directed, and TSA has undertaken, a 10-point plan to address the concerns raised. Many of these measures have already been completed and others are underway.

I am very pleased that, on June 22, the Senate confirmed retiring Coast Guard Vice Admiral Pete Neffenger to be the next TSA Administrator. Pete has now taken office. He will be a strong, effective and innovative leader of TSA.

CYBERSECURITY

Cybersecurity is a top priority for me, the President, and this Administration.

To be frank, our federal .gov cybersecurity, in particular, is not where it needs to be. In the case of the breach of the Office of Personnel Management, a large amount of highly personal and sensitive information was taken by a very sophisticated actor. In response, on June 12 the White House announced the establishment of a Cybersecurity Sprint Team, comprised of OMB, the NSC, DHS DoD, and other personnel from across the government to conduct a 30-day review of the Federal government's cybersecurity policies, procedures and practices.

This response is part of a much broader federal cybersecurity effort that has been underway for some time. There is a great deal that has been done and is being done now to secure our networks. We do in fact block a large number of intrusions and exfiltrations, including those by state actors.

But, there is more to do, by the Administration and by Congress.

The Department of Homeland Security's National Cybersecurity and Communications Integration Center, or "NCCIC," is the U.S. government's 24/7 hub for cybersecurity information sharing, incident response, and coordination. Thirteen U.S. departments and agencies, and 16 private sector entities have regular, dedicated liaisons at the NCCIC, while over 100 private sector entities collaborate and share information with the NCCIC on a routine basis.

The NCCIC shares information on cyber threats and incidents, and provides on-site assistance to victims of cyberattacks. In this fiscal year alone, the NCCIC has shared over 6,000 bulletins, alerts, and warnings, and responded on-site to 32 incidents – over double the number of on-site responses for the entire prior year.

The NCCIC is also the place where we manage the EINSTEIN system. EINSTEIN is the first basic layer of protection we provide at the network perimeter of each federal civilian department and agency. EINSTEIN consists of three programs:

EINSTEIN 1 observes and records basic information about all activity entering and exiting an agency network. EINSTEIN 2 detects known, prohibited adversaries that have entered or exited the fence, and alerts us to them. Today, EINSTEIN 1 and 2 protect all federal civilian traffic routed through a secured gateway to the Internet.

Then there is EINSTEIN 3 Accelerated, also known as "E3A." E3A has the capacity to both identify and block known malicious traffic. E3A was first deployed in 2013. By December 2014, E3A protected 237,414 federal personnel. Today, E3A protects over 931,000 federal personnel, or approximately 45% of the federal civilian government. I have directed that DHS make E3A fully available to all federal departments and agencies, and have challenged us to make aspects of E3A available to all federal civilian departments and agencies by the end of 2015.

E3A has demonstrated its value. Since its introduction, E3A has blocked over 550,000 requests to access potentially malicious websites. Importantly, EINSTEIN 3A is also a platform for future technologies and capabilities to do more. This includes technology that will automatically identify suspicious Internet traffic for further inspection, even if, as was the case with the OPM breach, we did not already know about the particular cybersecurity threat.

As an additional line of defense, DHS helps federal agencies identify and fix problems in near-real-time using Continuous Diagnostics and Mitigation programs – or “CDM.” Once fully deployed, CDM will monitor agency networks internally for vulnerabilities that could be exploited by bad actors that have breached the perimeter. To date we have made the first phase of CDM available to eight agencies, covering over 50% of the federal civilian government. I have directed, and we expect, that DHS make the first phase of CDM tools available to 97% of the federal civilian government by the end of this Fiscal Year. I have already requested authorization from Congress to reprogram additional funding to speed up CDM Phase 2.

The NCCIC also provides on-site assistance to federal agencies, as well as to private companies operating critical infrastructure. We, in effect, make house calls. When an incident like the OPM breach occurs, the NCCIC helps the victim organization find the adversary, drive them out, and restore service.

By the authority given to me by Congress in the Federal Information Security Modernization Act of 2014, I can now, as Secretary of Homeland Security, issue Binding Operational Directives to federal departments and agencies. A Binding Operational Directive is a direction to agencies to mitigate a risk to their information systems. I issued the first Binding Operational Directive on May 21 of this year. In response, departments and agencies responded quickly, and have already reduced critical vulnerabilities covered by the Binding Operational Directive by more than 60%.

Information sharing is also fundamental to achieving our mission. To that end, we are supporting the development of Information Sharing and Analysis Organizations, as called for in the President’s Executive Order 13691 issued on February 13, 2015. Next month, we will select the organization that will develop best practices for these ISAOs.

I have also directed an aggressive schedule for deployment of next-generation information sharing techniques by the NCCIC. DHS itself now has a system to automate our sharing of cyber threat indicators, and we are working to extend this capability across the federal government and to the private sector, so we can send and receive this information in near-real-time. We are working closely with other agencies of our government to stand up the Cyber Threat Intelligence Integration Center, or “CTIIC.”

This new center will help us better understand the various threats and provide more actionable and timely intelligence to the NCCIC to share with our private sector partners.

There is more Congress can do. We believe there should be three basic things in any cyber legislation:

First, Congress should expressly authorize the EINSTEIN program. This would eliminate any remaining legal obstacles to its deployment across the federal government. The House has passed H.R. 1731, which accomplishes this, by ensuring agencies understand they are legally permitted to disclose network traffic to DHS for narrowly tailored purposes.

Second, we must incentivize the private sector to share cyber threat indicators with the federal government through the NCCIC in a manner that provides protection from civil and criminal liability for private entities that share threat indicators, and protects privacy.

Third, we need a national data breach reporting system, in lieu of the existing patchwork of state laws on the subject, and enhanced criminal penalties for cybercrime.

We cannot detect and stop every single intrusion. That is not news. So often, the most sophisticated actors penetrate the gate because they know they can count on a single user letting his guard down to an act of spearphishing. But, we have increased, and will continue to increase, the instances in which attempted intrusions are either stopped at the gate, or rooted out from inside the system before they cause damage.

IMMIGRATION

Border security

Over the last 15 years, while other government agencies have faced cutbacks and limits in these times of fiscal constraint, our national leaders in Congress and the Executive Branch have chosen to build our U.S. Border Patrol to an unprecedented level in resources. Today's Border Patrol is itself one of the largest agencies of our government, with a budget of \$3.5 billion, a total of 22,000 personnel, including 20,499 border patrol agents, and the largest-ever level of technology and equipment. Today the Border Patrol has the largest deployment of people, vehicles, aircraft, boats and equipment along the southwest border in its 90-year history.

And, this Nation's long term investment in border security has produced significant, positive results over the years.

Unlawful migration into this country peaked in the year 2000, reflected by over 1.6 million apprehensions that year. In fact, unlawful migration into this country has dropped considerably since then, reflected by the decline in total apprehensions from 1.6 million in 2000 to around 400,000 a year in recent years. Last fiscal year the number of apprehensions on the southwest border was 479,371.

The slight increase in fiscal year 2014 was due mostly to the unprecedented spike in unlawful migration into the Rio Grande Valley sector of the border, in South Texas. Almost all of it came from Guatemala, Honduras and El Salvador. It consisted of large numbers of unaccompanied children and adults with children. In fact, more than 53% of all apprehensions across the southwest border in FY 2014 were in the Rio Grande Valley sector.

We responded with a surge of resources and personnel, and beginning in mid-June 2014, the number of illegal migrants crossing into south Texas dropped sharply.

So far this year we have not seen a return of the spike from last year, or anything close to it. In Fiscal Year 2014, through the month of June, apprehensions on our southern border were at 381,459. Through the month of June this fiscal year, total apprehensions on our southern border are at 242,435— a 36% decrease. If this pace continues — and I'm not saying it will necessarily -- through the last third of this fiscal year, the total will be the lowest since the 1970s. Apprehensions of unaccompanied children across the southwest are down significantly as well. During the first nine months of Fiscal Year 2015, apprehensions of unaccompanied children along the southwest border were 26,685, a 54% decrease when compared to the same period during last year's surge.

The bottom line of all this is, it's now much harder to cross our border illegally and evade capture than it used to be — and people know that.

Though the numbers have in fact declined dramatically, we are not — repeat not -- declaring mission accomplished. The poverty and violence that are the “push factors” in Honduras, Guatemala and El Salvador still exist. The economy in this country — a “pull factor” -- is getting stronger.

The President and I are committed to building an even more secure border, and a smart strategy to get there.

Our Fiscal Year 2016 budget proposal includes a \$373 million request for improved border technology and infrastructure, to include more remote video surveillance capability, sensors, night vision detection devices, wireless sensor data link systems, re-locatable towers, and replacement fence.

Our executive actions also strengthen border security. As part of the executive actions, we have prioritized the removal of anyone who came to this country illegally after January 1, 2014.

We have created the Southern Border and Approaches Campaign. To promote border security, this Campaign will, for the first time, put to use in a combined and strategic way, the assets and personnel of Customs and Border Protection, Immigrations and Customs Enforcement, Citizenship and Immigration Services, the Coast Guard, and other resources of the Department when necessary. We are discarding the stove pipes.

Finally, we must address underlying “push” factors from Central America. President Obama has requested \$1 billion for aid to Central America, to address the underlying causes of illegal migration in El Salvador, Guatemala, and Honduras. This would be a sound investment, and we seek your support for it. Last year, the United States spent over \$1.5 billion managing the migrant surge then. In Fiscal Year 2014, DHS alone spent over \$500 million processing unaccompanied children and family units immediately following their detention at the border. It is a far better investment to help Central America create jobs, push back against violent crime, and help address the conditions in Central America that prompt desperate families to send their children to the United States.

Family detention

Let me say something additional about immigration detention – specifically, family residential centers. Last summer a large part of the spike we saw consisted of unaccompanied children. By law, DHS transferred those children to the Department of Health and Human Services, which was then required to promptly place them in a setting that is in the best interests of the child. Another large part of the spike was adults who brought their children with them.

Prior to last year, out of 34,000 beds for immigration detention in all of DHS, we had only 95 beds for adults with children, as they waited for resolution of their immigration cases. We needed to build more, and we did.

I understand the sensitive and unique nature of detaining families, and we are committed to continually evaluating this. I and other DHS officials have conducted numerous visits to family residential centers. I personally visited the Karnes, Texas facility on June 15, 2015.

We are making substantial changes in our detention practices with respect to families with children. In short, once a member of a family has established a credible fear or reasonable fear of persecution or torture, long-term detention is an inefficient use of our resources and should be discontinued.

More specifically:

First, we are reviewing the cases of any families detained beyond 90 days to evaluate whether detention during the pendency of their immigration case is still appropriate.

Second, we have discontinued invoking general deterrence as a factor in custody determinations in all cases involving families.

Third, we are undertaking additional measures to ensure access to counsel, attorney-client meeting rooms, social workers, educational services, comprehensive medical care, and continuous monitoring of the overall conditions at these centers.

Fourth, we are appointing a Federal Advisory Committee of outside experts to assist us in identifying family residential center areas for improvement.

On June 24, I adopted a plan to offer release with an appropriate monetary bond or other condition of release to families at residential centers who are successful in stating a case of credible or reasonable fear of persecution in their home countries.

Additionally, I am directing that USCIS conduct credible fear and reasonable fear interviews within a reasonable timeframe. During that time, we will have the opportunity to confirm accurate address and sponsor information so that ICE can more effectively monitor and ensure compliance with immigration obligations.

Finally, ICE has been rapidly ramping up its use of Alternatives to Detention (ATDs), expanding program capacity from approximately 23,000 individuals in 2014 to a planned 53,000 in 2016. ICE has enrolled thousands of family members apprehended since last year's surge in the ATD program, and plans to expand the use of ATDs to facilitate release of individuals from Family Residential Centers if appropriate.

Our executive actions

There were ten executive actions the President and I announced last November to fix our broken immigration system. While two of them are the subject of litigation, the other eight of them are well underway. Overall, these actions are devoted to strengthening border security, prioritizing the deportation of dangerous criminals, promoting and increasing access to citizenship, supporting high-skilled businesses and workers, and a number of other things to reform our immigration system.

As part of our executive actions we are also promoting and increasing access to U.S. citizenship. We are working to permit payment of the application fee by credit card.

We will also launch a multi-lingual citizenship awareness program, to encourage those who are eligible for citizenship to apply. The first phase is moving forward in July and the second phase will launch in September. The President's Task Force on New Americans, which USCIS Director Leon Rodriguez co-chairs, is hard at work implementing its strategic action plan.

As part of our executive actions, we are working quickly and aggressively to implement reforms to strengthen the program that provides Optional Practical Training for students in the STEM fields who are studying at U.S. universities. We finalized and have begun implementing a new policy that allows certain spouses of high-skilled workers on the path to a green card to apply for work authorization.

As part of our executive actions, we have published draft guidance on the L-1B program that allows specialized foreign employees to work temporarily at an American office of a multinational company. This guidance will be implemented in August.

We are creating a single career path for our immigration enforcement personnel.

As part of our executive actions we have issued new enforcement priorities. This is clearer and sharper guidance to the field, stating that we must prioritize the use of our immigration enforcement resources on the removal of those who are dangerous criminals, national security threats, and recent border crossings, rather than on those who have been here for years, have committed no serious crimes, and have, in effect, become integrated members of our society.

Consistent with these new priorities, Immigration and Customs Enforcement has begun a new push in the interior of this country to search for and apprehended undocumented immigrants who have been convicted of serious crimes, through "Operation Cross Check" and other initiatives. Currently, 96% of all those detained by ICE and the Border Patrol fit within the top two out of the three enforcement priorities; 76% of those currently detained by ICE and the Border Patrol are in the top priority – convicted felons, those convicted of an offense that involves participation in a criminal street gang, those apprehended at the border while attempting to cross illegally, and anyone suspected of terrorism or espionage, or who otherwise poses a danger to national security.

We have ended the controversial Secure Communities program, and are replacing it with a new Priority Enforcement Program. Secure Communities was a program by which our immigration personnel lodged orders known as "detainers" to hold individuals in local jails, so that they could be handed directly over to federal authorities for immigration enforcement purposes after their time in police custody. But, Secure Communities became embroiled in political and legal controversy. A rapidly expanding list of city, county and state governments – depending on how you count, about 200 --

enacted laws, ordinances, executive orders and policies that limit or outright prohibit their cooperation with federal immigration enforcement personnel. The results of this have, regrettably, led to a number of instances – some notorious on national level -- in which dangerous undocumented criminals were released to the streets to commit further crime.

We acted to stop this program, and the growing resistance to it. Our new Priority Enforcement Program is a balanced, common-sense approach to help us achieve this goal. We are now reaching out to governors, mayors and local communities to seek cooperation with us in the new program. In engaging a number of state and local jurisdictions, we are seeing good progress. Our overarching goal is to enforce our immigration laws in a way that promotes public safety, national security and border security.

Finally, we must reckon with the estimated 11.3 million undocumented immigrants who are here in this country. More than half have been here over 10 years. Many have spouses and/or children who are United States citizens or legal permanent residents. We must reckon with these people.

These people are here, they live among us, and they are not going away. They are not going to “self-deport.” No administration is going to deport this large a population of people. We simply do not have the resources to do that.

In 2012, we created the Deferred Action for Childhood Arrivals program. As part of this program, to date, 670,000 people have come forward, submitted to a background check, and got on the books to become accountable and pay taxes. This is not citizenship, it’s not lawful permanent residence, and it is not amnesty. It is simply a determination by the government to defer deportation for a period of two years, and an authorization to work during that same period.

President Obama and I want to go further, and extend eligibility for deferred action to parents who are not removal priorities, have kids who are citizens or lawful permanent residents, and have been here five years or more.

Although these programs have been temporarily enjoined and are currently on appeal, we continue to believe we have the legal authority to do this. This was one of the executive actions we announced in November. A federal district court in Texas disagreed, and temporarily enjoined this new deferred action program, along with an expansion of the deferred action for childhood arrivals program we announced at the same time. That case is on appeal, and we will continue to fight to defend it. I believe we will prevail, as deferred action is a tool that has been in use by Republican and Democratic Administrations for decades.

To those in Congress who say we do not have the authority to issue deferred action without a change in law, I say change the law.

From the perspective of homeland security and law enforcement, we should encourage people who have lived here for years, and are not going anywhere, to come out of the shadows and get on the books. We want to know who these people are, and we want to encourage them to report crime. We want these people to work on, not off, the books, and pay taxes.

I submit it's also the right thing to do. In the United States, do we say to a class of people who have lived here for years and are not going away: we know you are here, your family is here, but you are destined to live in this country as a second-class person? Or do we give them an opportunity to earn a better place?

Moving forward, I remain firmly committed to enforcing our immigration laws effectively and sensibly, in line with our Nation's values, and in a manner that promotes national security, border security and public safety.

I look forward to your questions.