

## **OVERSIGHT OF THE UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES**

HEARING  
BEFORE THE  
SUBCOMMITTEE ON  
IMMIGRATION AND BORDER SECURITY  
OF THE  
COMMITTEE ON THE JUDICIARY  
HOUSE OF REPRESENTATIVES  
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## **OVERSIGHT OF THE UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES**

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**WEDNESDAY, DECEMBER 9, 2015**

HOUSE OF REPRESENTATIVES  
SUBCOMMITTEE ON IMMIGRATION AND BORDER SECURITY  
COMMITTEE ON THE JUDICIARY  
*Washington, DC.*

The Subcommittee met, pursuant to call, at 1:15 p.m., in room 2141, Rayburn House Office Building, the Honorable Trey Gowdy (Chairman of the Subcommittee) presiding.

Present: Representatives Gowdy, Goodlatte, Labrador, Smith, King, Buck, Ratcliffe, Lofgren, Conyers, Gutierrez, and Jackson Lee.

Staff Present: (Majority) Andrea Loving, Counsel, Subcommittee on Immigration and Border Security; Tracy Short, Counsel, Subcommittee on Immigration and Border Security; Kelsey Williams, Clerk; (Minority) Gary Merson, Chief Counsel, Subcommittee on Immigration and Border Security; Maunica Sthanki, Counsel; and Micah Bump, Counsel.

Mr. GOWDY. The Judiciary Committee will come to order.

Without objection, the Chair is authorized to declare a recess of the Committee at any time.

We welcome everyone to today's hearing on oversight of the United States Citizenship and Immigration Services.

I will begin by recognizing myself for an opening statement.

I first want to welcome our witness, Mr. Rodriguez.

U.S. Citizenship and Immigration Services, USCIS for short, is responsible for processing over 6 million immigration benefit applications per year as well as implementing programs important to immigration enforcement such as E-Verify and the Systematic Alien Verification for Entitlements Program, also known as SAVE.

Even without concerns being raised about terrorists seeking to exploit our refugee program or other aspects of our immigration system to enter the United States, processing such large numbers of immigration benefits applications would be a daunting task.

But those concerns are being raised, and they are on the forefront of my fellow citizens' minds. And, as a result, I will look forward to hearing what changes, if any, Director Rodriguez has or will soon implement at USCIS to help ensure terrorists are not approved for visas or other immigration benefits.

Many of the people I work for are particularly concerned about the prospect of a terrorist being resettled in our communities through the U.S. Refugee Admissions Program. And while I know we discussed this very issue weeks ago in the Subcommittee, those concerns are not going away. We are still looking for assurances that refugee program vetting is secure and effective.

Our concerns were only exacerbated by the remarks of our colleague, Homeland Security Chairman Mike McCaul, indicating that efforts to enter our country via fraud in the refugee program are currently—emphasize “currently”—occurring.

Aside from security vetting concerns, fraud is always a problem in immigration benefits processing. I know the current and former Directors of USCIS have come before this Committee and said how fraud detection is a number-one priority, but that it is difficult to reconcile when we consistently hear from sources within USCIS that leadership will not pursue antifraud technology; that rubber-stamping of benefits applications is encouraged and even, in some instances, forced; and that USCIS’ own antifraud unit, the Fraud Detection and National Security Directorate, is routinely sidelined and underutilized.

My constituents are proud that the United States has the most generous immigration policy in the world, and they are proud that the United States is a beacon of hope for foreign nationals seeking a better life. But they have a right to know that the immigration programs are being run in a manner that does not put them in danger, and right now they don’t feel that way.

That is not to say that there is not some good news coming out of USCIS. The bright spot seems to be the E-Verify program, the use of which by employers is growing and which has had an extremely high successful verification rate. So I want to thank Director Rodriguez for his continued support of the E-Verify program, and I look forward to his testimony today.

With that, I would recognize the gentlelady from California, Ms. Lofgren.

Ms. LOFGREN. Thank you, Mr. Chairman.

And, Director Rodriguez, it is good to see you here again. Welcome to the Immigration Subcommittee.

I am sure we will hear from you to the extent you are able to discuss security measures taken by the agency, especially in light of the news coming out of San Bernardino in my State, so I am going to focus on other elements that are part of your important mission.

As we know, a year ago, Secretary Johnson issued a series of directives, two of which have been held up in a dispute with Republican Governors. I won’t address that because the Supreme Court is going to do so. I would like to talk about some of the issues that were not the subject of the litigation, specifically the parole program for immigrant entrepreneurs.

You know, one of the things that keep our country ahead of the game economically is the tech sector. And we have failed in our necessary effort to reform the immigration laws, which is really the result that is necessary. But the President was trying to think and Secretary Johnson was trying to think about things that could be done consistent with the current law that would make the economy

work better, and one of the things was that parole program for immigrant entrepreneurs.

Now, a lot of companies that are household names are right in my neighborhood. Intel, Google, Yahoo, eBay, et cetera, et cetera, et cetera, were founded by innovative immigrants. They now employ tens of thousands of people. And, according to new research, immigrants have created half of America's top venture-backed companies, and those companies, in turn, have created an average of 150 jobs each. And, of course, when you look at some of them, like Google, it is tens of thousands.

So I am concerned that we haven't launched the entrepreneur program. I am eager to know where that stands, and maybe you will be able to address it.

I just want to touch on an action that I found gravely disappointing, and I realize it was not primarily the USCIS, but that was the October visa bulletin that was mistaken. Many people, immigrants, relied on the bulletin, as is reasonable to do, to their detriment.

For example, I met personally with an individual who is a post-doc doing cutting-edge neuroscience research funded by the Federal Government, funded by the NIH. He was going to file for his permanent residence based on the priority date. He did not review his H-1B visa. Then the visa bulletin was amended, and he is nowhere. He is nowhere. It is crazy that someone who has been here for years, who we are funding, who may get a Nobel prize, is just nowhere.

And so I don't know how many people like him were disadvantaged, but I am wondering what efforts the agency has thought about just to ameliorate the harm done by that mistake in the bulletin.

I am concerned that the program really set up to avoid the rush of refugees across our border who have come through Mexico fleeing violence, the alternative to process refugee applications in-country has not really worked. I don't think any child has been admitted yet. And I am concerned. Whatever light you can put on that situation, I would appreciate knowing.

And I also would like an update on the technology efforts that the agency has been making. When the President was elected, we were almost entirely paper-based, and I think we have made some progress but not as much as I expected or hoped that we would. And I am hoping you will be able to give us—you know, if you have a FedEx package, you can track where it is, you know, if you are expecting delivery. We haven't been able to deliver that kind of customer service, and I think the American public would be better served if we could.

So anything you can give us on those topics. And I know that you will talk about the security issues that the Chairman has also touched on.

With that, Mr. Chairman, I see my time is about to expire.

Mr. GOWDY. The gentlelady yields back.

We are pleased to welcome our distinguished witness today.

Director, if you would please rise and allow me to administer the oath. Thank you, sir.

Do you swear that the testimony you are about to give is the truth, the whole truth, and nothing but the truth, so help you God?

Mr. RODRIGUEZ. I do.

Mr. GOWDY. May the record reflect the witness answered in the affirmative.

Director, you have a long and distinguished career as a prosecutor, which I am going to give short shrift to in my introduction, so forgive me for that.

But today's witness is the Director of the United States Citizenship and Immigration Services. He was sworn in as Director on July 9, 2014.

He previously served as the Director of the Office of Civil Rights at the Department of Health and Human Services, a position he held from 2011 to 2014. From 2010 to 2011, he was chief of staff and Deputy Assistant Attorney General for Civil Rights at the Department of Justice.

He received a B.A. from Brown University and a J.D. from Boston College Law School.

As I mentioned to you beforehand, I think you have prosecuted at about every level that one can possibly prosecute, so thank you for your service to our country.

And, with that, I would recognize you for your opening statement.

**TESTIMONY OF THE HONORABLE LEON RODRIGUEZ, DIRECTOR, UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES**

Mr. RODRIGUEZ. Thank you, Chairman. It is great to be here in front of the Committee today and to address the myriad of issues that both you, Chair, and Ranking Member Lofgren have raised during your own opening remarks.

I had planned in my opening remarks to discuss my own broad priorities for USCIS, specifically to fully and effectively implement the executive actions, to effectively and safely process our refugees, to continue to advance our transformation process, and to continue to maintain a high level of customer service and stakeholder engagement.

However, the recent mass murder in San Bernardino, California, near Ms. Lofgren's district, and a number of recent events, I think, as the Chairman pointed out, make it particularly important that we talk about security issues here this afternoon.

I would note at the outset two things. One, I will not, unfortunately, have the luxury to be able to talk about specific cases. Some of these are cases under law enforcement investigation. In any event, there are privacy policies and laws that apply to specific files.

Two, I would observe that, after nearly a quarter-century in and around law enforcement, one of the things that I have learned very much through personal experience is that violent criminals can come from pretty much any faith, any nationality. They can be U.S.-born; they can be immigrants. They can come from just about anywhere.

My particular role, our particular role, in USCIS is to ensure that those who seek the privilege of admission to the United

States, be they as travelers or as immigrants, that they, in fact, be individuals who deserve that privilege, that they not be individuals who either intend our Nation harm or who intend to become criminals when they come here to the United States.

And we have been working diligently in recent years to enhance our ability to weed out both individuals who are criminals and who are threats to our national security. And to give some examples of the kinds of things that we do, we have enhanced the resources against which we vet all immigrants, not just refugees but also all immigrants. We have developed improved techniques for fraud detection, for interviewing, in order to advance that.

Now, in light of the events in San Bernardino, the President and the Secretary have both directed USCIS to review both the K-1 visa program as a whole, which we are in the process of doing right now, but also to do a retrospective look at cases approved in recent years under the K-1 visa program. And we are fully along in conducting that effort.

I remain mindful, however, that our charge in USCIS is really to look at the security of our entire process. So, while we are focusing on K-1 today, I want to make clear to this Committee and, importantly, also to the American public that our focus will be across all of our lines of business to ensure that bad guys don't gain admission to the United States.

I am blessed at USCIS with a tremendous staff who is dedicated both to following the law, to serving the American people, and, importantly, to preventing fraud and threats to our national security.

As a couple of examples of the kinds of things that we have done, in light of concerns about our asylum program, we have been increasing the presence of fraud detection and national security officers in our asylum offices. We have doubled the number of those individuals in recent years. Similarly, in the EB-5 program, we have doubled the number of fraud detection and national security officers there, as well.

There are many other topics that I would like to address, and, hopefully, through questioning, I will have the opportunity to address a number of the issues that Ranking Member Lofgren raised.

But I would like to conclude with this observation. I read something in the paper just a few days ago that really rang of truth to me. And that was the notion that the worst thing that we can do to the terrorists that wish us harm, the terrorists who are trying to recruit others to harm us, is to continue to be a beacon to people throughout the world.

The fact that many of the very same people who those terrorists would like to recruit, in fact, are seeking admission to the United States is the most severe indictment of what they are trying to do. That inspires me as much as anything else to do the work that I do as USCIS Director.

Thank you, Chairman, for having me here today.  
[The prepared statement of Mr. Rodriguez follows:]



# **U.S. Citizenship and Immigration Services**

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**WRITTEN TESTIMONY  
OF  
LEON RODRIGUEZ  
DIRECTOR  
U.S. CITIZENSHIP AND IMMIGRATION SERVICES**

**FOR A HEARING ON**

## **“OVERSIGHT OF U.S. CITIZENSHIP AND IMMIGRATION SERVICES”**

**BEFORE  
THE HOUSE JUDICIARY SUBCOMMITTEE  
ON IMMIGRATION AND BORDER SECURITY**

**DECEMBER 9, 2015  
1:00 PM  
2141 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC**

Chairman Gowdy, Ranking Member Lofgren, and Members of the Subcommittee, I appreciate the opportunity to appear before you today to testify about the state of U.S. Citizenship and Immigration Services (USCIS) and discuss several critical issues important to this Subcommittee.

I continue to be extremely grateful to the Members of this Subcommittee for your continued strong interest in USCIS and its programs. Having last appeared before the full Committee over a year ago, I am pleased to report on the tremendous work the agency has done on issues that are important to all of us.

USCIS has a proud history of providing benefits to individuals from all over the world. These benefits support fundamental values and needs of our nation, be they economic, humanitarian, or otherwise in the public interest. USCIS delivers these benefits while being ever vigilant for those who seek to undermine the integrity of our immigration system—or worse—those who seek to do us physical or economic harm. USCIS is only able to accomplish its complex and vital mission through the efforts of its thousands of dedicated public servants who each day administer a complex immigration system fairly and professionally.

I fully appreciate that our ability to overcome challenges and take full advantage of our potential requires close relationships with our partners, including Congress and this Subcommittee, in particular. As evidence of these relationships, I can point to the more than 86,000 congressional inquiries we received and almost 11,000 engagements with congressional staff that USCIS participated in during Fiscal Year 2015. I trust that the information and assistance that we have shared with you over the past year, as well as the information I provide you today, is informative and responsive.

As I told you last year and as it still stands true today, I take very seriously the trust that has been given to me. Our Agency embodies our core principles of transparency, integrity, consistency and efficiency; this ensures we are effective stewards of the resources we manage. I will continue to ensure that USCIS delivers the appropriate benefits to the right people while ensuring that benefits are denied to those who are ineligible. I also assure you that USCIS will continue to do its work efficiently and ensuring the highest level of security.

### **Priorities**

In my time at USCIS, I have discussed with the management team what I see as our top priorities. I would like to lay them out here for you, and then, for each, describe the work that USCIS has done and is doing to realize our goals.

### **Executive Actions**

Besides the safety and security of the American people, my top priority is to implement the President's Executive Actions on Immigration. On November 20, 2014, Secretary Jeh Johnson announced a series of executive actions to crack down on unauthorized

immigration at the border; prioritize deporting those most dangerous to our nation; improve our legal immigration system for families, employers, students, entrepreneurs and workers; and on a case-by-case basis, consider for deferred action certain undocumented immigrants under two initiatives— Deferred Action for Parents of Americans and Lawful Permanent Residents (DAPA), and expanding the population of individuals eligible for Deferred Action for Childhood Arrivals (DACA). While DAPA and expanded DACA are on hold pursuant to a court injunction, USCIS and our partners in the Department of Homeland Security (DHS) and other departments have been working to implement the other parts of our executive actions.

- Provisional Waivers: On July 22, 2015, DHS published a proposed rule to expand eligibility for provisional waivers to all individuals who are statutorily eligible for a waiver of certain unlawful presence grounds of inadmissibility.

Under current regulations, eligibility for a provisional unlawful presence waiver is limited to those who are immediate relatives of U.S. citizens and who can show extreme hardship to their U.S. citizen spouses or parents. By making the process available to all individuals who are statutorily eligible for an unlawful presence waiver, DHS is expanding the population of those who can potentially qualify for this waiver, thereby promoting family unity and improving administrative efficiency.

The comment period closed on September 21, 2015. DHS and USCIS are reviewing the comments received and are currently working on the final rule.

- Visa Modernization: On November 21<sup>st</sup>, 2014, President Obama issued a Presidential Memorandum on “Modernizing and Streamlining the U.S. Immigrant Visa System for the 21<sup>st</sup> Century.” In this Memorandum, the President directed the Secretary of State and the Secretary of Homeland Security to lead an interagency effort to develop recommendations, in consultation with stakeholders and experts. To further this effort, USCIS published a Request for Information in December 2014 asking for suggestions to meet the Administration’s call to:
  - (1) reduce government costs, improve services for applicants, reduce burdens on employers, and combat waste, fraud, and abuse in the system;
  - (2) ensure that policies, practices, and systems use all of the visa numbers that Congress provides for and intends to be used, consistent with demand; and
  - (3) modernize the information technology infrastructure underlying the visa processing system with the goal to reduce redundant systems, improve the experience of applicants, and enable better oversight.

Approximately 1,650 individuals and organizations responded with many helpful suggestions.

After conducting a thorough review of options, in July 2015, the White House issued its report, “Modernizing & Streamlining Our Legal Immigration System for the 21<sup>st</sup> Century,” which included specific recommendation to modernize our system for

efficiency and accessibility, streamline our legal immigration system, and strengthen our humanitarian system.

USCIS is the lead on many of these initiatives. We are making good progress towards making our legal immigration system better.

- **Task Force on New Americans:** Recognizing the value of undertaking deliberate immigrant and refugee integration efforts, President Obama created the White House Task Force on New Americans in November 2014. The Task Force includes 18 federal departments, agencies, and White House offices. I'm honored to serve as co-chair of the Task Force, along with Cecilia Muñoz, Director of the White House Domestic Policy Council. On April 14, 2015, the Task Force submitted to President Obama its report titled, *Strengthening Communities by Welcoming All Residents: A Federal Strategic Action Plan on Immigrant & Refugee Integration*. The report establishes an immigrant integration strategy to help build welcoming communities across our nation and improve opportunities for new Americans to contribute to society to their fullest potential. Bringing new Americans together with their communities will strengthen the fabric of our nation and bolster our global competitiveness. The report provides an action plan that establishes 16 core goals that will be achieved, in part, through 48 recommended actions that Task Force members will pursue to help build welcoming communities, strengthen existing pathways to naturalization and promote civic engagement, support skill development, foster entrepreneurship, safeguard workers, and expand opportunities for linguistic integration and education.

In response to the recommendations of the White House Task Force on New Americans, USCIS announced a series of initiatives in September to improve customer service, highlight the rights and responsibilities of citizenship, and support aspiring citizens. These include online preparation and study tools, competitive grants supporting citizenship and immigrant integration, the ability to pay the naturalization fee with a credit card, a multilingual citizenship public education and awareness campaign, and new partnerships to strengthen engagement with customers at the local level.

To better facilitate federal and local collaboration of civic, economic, and linguistic integration, the Task Force launched the Building Welcoming Communities Campaign in September 2015. This campaign assists local communities in building welcoming communities for immigrants and refugees and providing them with the tools they need to succeed to the benefit of their local community and our nation. As of today, 47 communities have signed onto this campaign. In the coming weeks, the Task Force will submit a status report to the President on progress made since the release of the action plan in April.

- **Extreme Hardship:** On October 7, 2015, USCIS posted draft extreme hardship guidance on USCIS' website for public comment. The comment period ended on Monday, November 23, 2015, and USCIS is currently reviewing the comments.

Several provisions of the Immigration and Nationality Act (INA) authorize discretionary waivers to overcome certain grounds of inadmissibility. To qualify for the waiver, an eligible individual must demonstrate extreme hardship to specified qualifying relatives, such as U.S. citizen or lawful permanent resident (LPR) family members.

Over the years, the public has requested that USCIS clarify the extreme hardship standard, and on November 20, 2014, Secretary Johnson directed USCIS to develop such guidance.

The INA does not define “extreme hardship,” but the federal courts and Board of Immigration Appeals have developed certain principles that govern the extreme hardship determination.

Building on these principles, USCIS drafted guidance that outlines factors USCIS officers consider when determining whether the extreme hardship standard has been met. The draft guidance applies to extreme hardship determinations under existing statutory waiver authority and does not create new authority to waive grounds of inadmissibility. The burden of proof continues to lie with the applicant to demonstrate that he or she meets the statutory requirements and merits a favorable exercise of discretion.

- Improvements to Employment-Based Immigrant and Nonimmigrant Programs: DHS will propose, through a rulemaking, to allow certain beneficiaries of approved Immigrant Petitions for Alien Worker (Form I-140) to obtain general work authorization. We will also propose to implement through regulation various provisions of the American Competitiveness in the Twenty-first Century Act of 2000 (AC21) and thereby clarify long-standing USCIS policy with respect to AC21. In doing so, consistent with that statute, DHS will propose to clarify which nonimmigrants are exempt from the numerical H-1B cap, increase job flexibility for certain workers, and provide increased guidance on the maximum period of admission for H-1B nonimmigrants. DHS will also propose to clarify protections for certain H-1B whistleblowers.

Same/Similar: On November 20, USCIS issued draft guidance to clarify when positions are considered to be in “a same or similar occupational classification” to promote consistency and efficiency in section 204(j) portability adjudications. Section 204(j) of the INA, 8 U.S.C. § 1154(j), permits individuals who have long pending employment-based adjustment of status applications to change jobs without impacting the validity of their approved immigrant visa petitions for workers, as long as the new job is in the same or a similar occupational classification as the original job offer. Once implemented, this guidance should help individuals with pending adjustment of status applications who are unable to adjust due to visa unavailability to change employers, seek new job opportunities, or even accept promotions while they wait to become permanent residents, consistent with existing statutory authority.

**Effectively Managing the Refugee Admissions Program**

Another top priority focuses on our Refugee Admissions Program.

USCIS, working with other government partners, remains steadfastly committed to fulfilling its humanitarian mission to protect vulnerable refugees from around the world while maintaining the integrity of the process and ensuring the highest levels of security.

In Fiscal Years 2013, 2014, and 2015, USCIS and the State Department have succeeded in nearly reaching the annual refugee admissions ceiling of 70,000. This accomplishment reflects a worldwide commitment to refugee protection, as well as intense and committed efforts by all the interagency partners to improve, refine, and enhance the security vetting regime for refugee applicants, while maintaining its integrity and rigor. To that end the refugee security screening and vetting process has been significantly enhanced over the past few years. Refugees are subject to the highest level of security checks of any category of traveler to the United States, including the involvement of the National Counterterrorism Center, the Federal Bureau of Investigation's (FBI) Terrorist Screening Center, the Department of Homeland Security, the Department of State and the Department of Defense. All refugees, including Syrians, are admitted only after successful completion of this stringent security screening regime.

USCIS is prepared to work closely with the State Department and other interagency partners to support a larger refugee admissions program of 85,000 arrivals in FY 2016, including at least 10,000 Syrian refugees, while assiduously maintaining the integrity of the program and our national security. We will also continue to carefully monitor the security situation in the locations in which we travel to ensure the safety of our officers, program partners and refugee applicants.

The Central American Minors (CAM) Refugee and Parole Program provides certain minors in El Salvador, Guatemala and Honduras a safe, legal, and orderly alternative to the dangerous journey that some children are currently undertaking to the United States. This program allows certain parents lawfully present in the United States to request a refugee resettlement interview for unmarried children under age 21 in Guatemala, El Salvador, or Honduras. In some situations, the in-country parent of the qualifying child may also be eligible for consideration under the refugee program. Individuals considered for refugee status or parole will undergo the same rigorous background checks as all refugees. All refugee and parole applicants will be required to complete an in-person interview with a trained immigration officer.

**Continue Progress in Transformation**

Another priority is to modernize USCIS business and customer interaction processes. Over the past year we have made progress toward moving our workload to an electronic environment. All applications to replace a green card are now being processed in our new system. We also rebuilt and improved mechanisms for new immigrants by providing greater flexibility in paying the USCIS Immigrant Fee. At the end of FY 2015,

approximately 16% of the volume of casework we process was achieved in the new system. We are now developing the capability to process all citizenship and naturalization applications as well as temporary protective status and deferred action applications and requests in an electronic environment. By the end of FY 2016 we anticipate at least 30% of USCIS workload volume will be in the new system.

#### **Improving Customer Service**

My final priority focuses on improved customer service and public engagement.

Public Engagement – Recognizing the need for transparency, we continue to emphasize the importance of communication and outreach, which is evident through our implementation of a robust stakeholder engagement program. Our Customer Service and Public Engagement Directorate maintains an open and accessible platform where a broad array of stakeholders are informed of, and are given the opportunity to comment on, immigration policy and operations as they are being developed. We also keep our customers informed about USCIS issues and activities. Each year, our Public Engagement Team hosts thousands of engagements with the immigration stakeholder community on a wide variety of topics such as parole options, business programs, humanitarian benefits, citizenship, and the Task Force on New Americans. Our engagements are conducted in person, by phone, through webinars, and through social media.

In Fiscal Year 2015, we hosted or participated in more than 3,700 local engagements and in 73 national engagements, reaching nearly 200,000 people. We also provide outreach to our stakeholders and customers in their own languages to share information about the services and benefits we offer. We have expanded our in-language engagements to include Spanish, Chinese, Creole, Korean, Vietnamese, Arabic, and Urdu. We are actively engaging with the community in new ways by seeking stakeholder feedback through our crowd-sourcing tool, USCIS Idea Community. We also have instituted a very successful monthly Twitter “office hours” session where we answer stakeholder questions about customer service.

Online Tools – USCIS is mindful of changing customer demographics and preferences. We are developing a successful multifaceted digital experience to better reach and serve our customers. Our prior customer service model did not adequately implement emerging technologies or reflect customers' needs. We are designing, in collaboration with our customers, a new online customer service experience known as myUSCIS.

Early this year, we launched the first of several tools for public use:

- The Help Center is a quick and easy way for customers to search for information about immigration benefits. This tool gets smarter over time via user feedback and use.

- The Explore My Options feature helps alleviate anxiety about the immigration process by using information from the customer to provide some immigration options for them to consider. The tool then narrows the options available.

Since its initial launch, myUSCIS has grown and evolved. One feature we recently launched is a tool to locate doctors who are authorized to conduct the immigration medical exams for people who seek adjustment of status. We have also deployed tools that help people pursuing U.S. citizenship easily to locate an ESL or citizenship class in their neighborhood and take an interactive practice civics test.

Our work with myUSCIS is just beginning. Over the next year, we will launch enhanced features to schedule an appointment at a local office, get timely case updates, and locate an authorized legal services provider. We will also create ways for our customers to communicate with USCIS online, and we will launch multiple forms in our e-filing platform.

- Emma: Last week we launched “Emma,” another innovative element of our strategy to improve our customers’ digital experience. Emma is a computer-generated virtual assistant designed to help our customers find answers to their questions and to navigate through the USCIS.gov website. Because Emma uses natural language, customers feel as if they are speaking with a real person. We are the first DHS component to introduce a virtual assistant, and, in so doing, we have provided a new channel for our customers to engage with USCIS and to access trusted information.
- National Call Center: Our national call center handles an average of 1.2 million customer calls each month. Most of these calls are requests for general information, which Emma can handle quite easily. Currently, Emma can answer many common questions, and her knowledge base is growing. For the questions that Emma cannot answer, our development team works to analyze them so Emma can give more informative responses in the future. We are confident that the quantity and quality of Emma’s answers will grow exponentially in a short time.
- Customer Management Information System: In the past year, USCIS has deployed the Customer Management Information System (CMIS) to nearly two-thirds of domestic field offices. CMIS enables USCIS to improve the customer experiences within field offices by providing real time data to office leadership on the time spent in the customer interview process. The system indicates how long customers have waited before being called, how long they spent with an officer, and the general outcome of the interview. In addition to managing the customer experience, CMIS data is extremely valuable in planning and allocating office resources according to quantitative data being collected by the system. The data will be used to increase efficiencies within the interviewing experience. All domestic field offices will be using the system by the end of February 2016.

**Operations Updates**

Beyond the work done in these priority areas, USCIS continues to process the more than eight million requests, applications, and petitions it receives each year. In order to accomplish this massive volume of work, USCIS established a new service center. USCIS signed an occupancy agreement with the General Services Administration (GSA) for 280,039 rentable square feet of GSA-leased office space in Arlington, VA. USCIS announced that the Crystal City Facility, named the Potomac Service Center (PSC), will become the fifth USCIS Service Center. While the “move-in ready” building was initially leased for processing anticipated requests under DAPA, USCIS has shifted existing workloads and funded vacant positions from the existing Service Centers and the National Benefits Center to the PSC to increase processing capacity, address existing case backlogs, and provide relief to the existing service centers that are currently operating above maximum capacity. Additionally, USCIS is using space at the PSC to hold Basic Training for incoming USCIS officers.

Over the last year, USCIS experienced some challenges with workload balance. While USCIS can anticipate some workload spikes or troughs, world events sometimes cause workloads for which USCIS cannot plan. Workload surges and new immigration benefit types may require re-prioritization of work until the agency can expand capacity. Changes in the demand for immigration benefits are extremely difficult to predict accurately. However, USCIS remains committed to maximizing operational efficiency by maintaining a flexible and nimble organization structure that is strengthened by adding additional staff capacity and rebalancing workloads to help mitigate the possibility of backlogs that could result from such unforeseen changes in demand.

In FY15 USCIS focused its efforts to meet its Government Performance and Results Act goals for the Form N-400, Application for Naturalization. The Form N-400 cycle time was reduced from 5.5 months at the end of FY14 to 5 months at the end of FY15, meeting the cycle time goal. This achievement was made without sacrificing quality or integrity.

**USCIS Anti-Fraud and National Security Screening Efforts**

USCIS remains committed to ensuring that immigration benefits are not granted to individuals who pose a threat to national security or public safety, or who seek to defraud the U.S. immigration system. In keeping with this commitment, USCIS has instituted a robust system of programs, procedures, and security checks, led by the Fraud Detection and National Security Directorate (FDNS). At its core, this system ensures that every application for an immigration benefit is screened before it is adjudicated.

FDNS has taken a number of recent steps to enhance its operational effectiveness, including:

*Fraud Detection Enhancements*

- Expanding and providing standardized guidance regarding the External Source Site Visit (ESSV) program. Under the External Source Site Visit (ESSV) Program, Department of State (DOS) Consular Officers located overseas can request domestic site visits to verify critical elements of visa applications and petitions. If a Consular Officer encounters a visa application which raises questions with fraud or eligibility that cannot be resolved at the consular post, a site visit to the petitioning individual or organization located stateside may help resolve the issue. FDNS Immigration Officers are posted full-time at Department of State's Kentucky Consular Center (KCC) and National Visa Center (NVC) to facilitate the exchange of information between DOS and USCIS.
- Expanding the Administrative Site Visit and Verification Program (ASVVP) to include L-1A Intracompany transferees, while continuing to conduct unannounced pre- and post-adjudication site visits on religious worker and post-adjudication site visits on H-1B petitions. During these site visits, FDNS officers verify information submitted with petitions, confirm the existence of the petitioning entity, review public records, take photographs, and speak with organizational representatives and the beneficiary. FDNS has conducted over 90,000 ASVVP site inspections since 2009 when this program was created.

Ensuring officers are provided with current information on fraud trends and patterns through the use of intelligence reporting and mandatory anti-fraud training. To that end FDNS has implemented an updated intelligence report tracking and dissemination method via an agency-wide communication mechanism, and enhanced its ability to share immigration-related intelligence reporting with U.S. Government counterparts. The age is harnessing technology to better enable identification of imposters, criminals, and others who are attempting to circumvent the immigration system.

- Implementing field-wide the Customer Profile Management System Identity Verification Tool (IVT), an Internet-based tool that retrieves, processes, and displays biometric and biographic data from the Automated Biometric Identification System. IVT displays applicant photos and information allowing visual verification of identity and biometric capturing prior to adjudication. IVT ensures that the immigration benefit is granted to the correct individual.
- USCIS is currently in the planning stages of centralizing the adjudication of Special Immigrant Juvenile (SIJ)-related petitions and applications. Centralization will better leverage and develop the expertise of personnel adjudicating SIJ benefits, to ensure consistency and better identify fraud indicators and trends.
- FDNS Training Division added thirty-eight hours of criminal investigation for non-law enforcement officers to the FDNS Officer Basic and Journeyman training courses. The training is conducted by Federal Law Enforcement Training Centers (FLETC) personnel.

*National Security, Screening, and Vetting Enhancements*

To ensure national security and public safety threats are recognized and addressed, USCIS continues to conduct a combination of automated and manual biographic and biometric background checks. In support of these screening efforts, FDNS partners closely with law enforcement and intelligence community agencies, including the FBI's Joint Terrorism Task Forces and all State and Major Urban Area Fusion Centers, and has detailed FDNS officers to U.S. Customs and Border Protection's National Targeting Center, U.S. Immigration and Customs Enforcement's Document and Benefit Fraud Task Forces, and Forensic Laboratory, the National Counterterrorism Center, the Terrorism Screening Center, the Department of State's Kentucky Consular Center and National Visa Center, INTERPOL's National Central Bureau, and others.

**Asylum and Credible Fear Claims**

The influx of migrants across the Southwest border for the last couple of years has resulted in significant increases in apprehensions and expedited removals. In the expedited removal process, USCIS plays an important role in ensuring that those who are being persecuted and qualify for asylum are not improperly returned to their home countries. Our specially-trained asylum officers interview individuals who express a fear of return during the expedited removal process to determine whether they have a credible fear of persecution or torture. Individuals who meet the credible fear threshold are placed in removal proceedings before an immigration court, where they can apply for asylum or other relief. Individuals found not to have a credible fear of persecution may request review of that finding by an immigration judge. USCIS coordinates closely with our DHS partner agencies, CBP and ICE, to screen individuals for credible fear as part of the expedited removal process.

Over the last four years, the number of credible fear claims has climbed sharply from 13,880 in FY12 to 48,052 in FY15. USCIS has pursued a number of strategies to address this increased caseload, including:

- Expanding asylum officer staffing by 110 new positions in FY15 and by 260 officers since 2012;
- Deploying 30 officers on temporary assignments throughout the year to Southwest border detention facilities;
- Maximizing overtime; and
- Maintaining a remote adjudication capability that enables asylum officers to process credible fear cases from any location.

As a result of these efforts, USCIS has aggressively expanded our adjudicative capacity and accelerated processing times, maintaining an average processing time of 10 days or less for credible fear and reasonable fear. In addition, as part of the federal government's coordinated response on the southwest border, USCIS has deployed additional asylum officers to key detention facilities along the border. Our ability to timely process credible fear claims saves valuable detention resources, enables the entire expedited removal

process to operate more efficiently, and most importantly, minimizes detention of potential asylees and victims of torture.

These efforts have not come without costs. Resources have been diverted from our affirmative asylum caseload to the credible fear caseload, causing our pending affirmative asylum caseload to grow from 15,526 cases at the end of FY12 to over 108,000 cases at the end of FY15. In order to help reduce the pending caseload, the expansion of the Asylum Corps continues, and this quarter USCIS is in the process of onboarding 72 additional asylum officers. We will continue to identify ways to maximize our resources, work efficiently, and enhance quality as we work to address both the credible fear and affirmative asylum caseloads.

USCIS is also supporting efforts to address the flow of unaccompanied children across the Southwest border. While unaccompanied children are not subject to expedited removal and therefore do not enter the credible fear process, USCIS has initial jurisdiction over asylum applications filed by unaccompanied children under the Trafficking Victims Protection Reauthorization Act of 2008. In FY15, USCIS has received 14,218 asylum applications from unaccompanied children—approximately seventeen percent of the asylum applications received overall by USCIS in FY15. Of the 10,763 unaccompanied children asylum cases adjudicated on the merits in FY15, 41.2% (4,439) have been granted asylum status.

USCIS also adjudicates Special Immigrant Juvenile (SIJ) petitions filed by unaccompanied children. In FY15, over 11,500 SIJ petitions were filed.

USCIS remains strongly committed to supporting the government-wide response to the migration flows on the Southwest border, including ensuring those who have protection claims are provided the opportunity to have those claims heard. At the same time, USCIS remains committed to preventing immigration fraud, including in asylum and other humanitarian adjudications. In the last several years, USCIS implemented several organizational changes that strengthen our ability to combat asylum fraud including the creation of a dedicated Fraud Detection and National Security (FDNS) branch at Asylum Division Headquarters; doubling the FDNS immigration officer corps nationally at the eight Asylum Offices; and the establishment of an interagency working group to investigate and prosecute asylum fraud including partners from DHS Homeland Security Investigations and DOJ Executive Office for Immigration Review and Executive Office for United States Attorneys. These developments, and numerous successful criminal convictions in recent years, demonstrate the Department's commitment to asylum fraud detection and prevention.

#### **International Operations – Intercountry Adoptions, Haitian Family Reunification Program, and Filipino World War II Veterans Parole**

USCIS plays a critical role in the intercountry adoptions process in coordination with the Department of State. The International Operations division within USCIS provides services to U.S. citizens living abroad and U.S. families who travel abroad to adopt

children. The National Benefits Center has a very unique and highly specialized line of customer service for prospective adoptive parents. Domestically at the National Benefit Center there are a team of officers who work with prospective parents and adjudicate orphan-related Forms I-600A and I-600 and Hague-related Forms I-800A and I-800. Overall USCIS has seen a decrease in the number of petitions for intercountry adoptions. In FY15, filings decreased by 17.8 percent from the previous fiscal year.

Over the past two years, USCIS has realigned its international footprint to better optimize its international presence and resources by adjusting staffing levels in certain international locations and closing three offices, given the significant reduction in workload in those offices following the centralization of the filing and adjudication of waiver applications in the United States. USCIS will be closing an additional office in December. USCIS also has enhanced the integrity of its programs by expanding the use of secure boarding foils in lieu of travel letters for certain benefit types in partnership with the Department of State.

USCIS has worked with the Government of Guatemala, in partnership with the Department of State, to facilitate resolution of long-pending adoption cases filed by U.S. citizens. Guatemala has made significant progress in the past year and only 5 cases remain pending from approximately 3,000 that were in process when the Hague Adoption Convention entered into force for the U.S. on April 1, 2008. In addition, USCIS has worked in partnership with the Department of State and the government of Haiti to develop a smooth transition process for pending adoption cases after the Government of Haiti joined the Hague Adoption Convention. USCIS has participated with the Department of State in joint delegations to the Democratic Republic of the Congo (DRC) to try to resolve the continuing suspension on exit permits preventing adopted children from leaving the DRC and stands ready to provide any further technical assistance to enable these children to join their new families in the United States as soon as possible.

In December 2014, USCIS announced via *Federal Register* Notice that it would implement a Haitian Family Reunification Parole (HFRP) Program to enable certain beneficiaries of approved immigrant visa petitions to receive a discretionary grant of parole to enter the United States up to approximately two years before their immigrant visas become available. The program is intended to expedite family reunification through safe, legal, and orderly channels of migration to the United States, increase existing avenues for legal migration from Haiti, and help Haiti continue to recover from the devastation and damage suffered in the January 12, 2010 earthquake.

In addition, USCIS is developing the criteria and process for certain Filipino WWII veterans to seek parole for their family members to join them in the United States while they await visa availability. As announced in the report *Modernizing & Streamlining our Legal Immigration System for the 21<sup>st</sup> Century*, DHS is creating a parole policy that will allow certain family members of Filipino-American veterans to request parole to come to the United States to provide support and care to their Filipino veteran family members who are U.S. citizens or Lawful Permanent Residents. It is estimated that there are between 2,000 and 6,000 Filipino-American veterans who fought under the American

flag during World War II and are living in the United States at this time. Many are separated from their family members who must await many years to immigrate to the United States because of the annual limit on the number of available family-based immigrant visas. USCIS intends to announce and implement this program in the spring of 2016.

#### **Temporary Protected Status**

Under the INA, the Secretary of Homeland Security has discretionary authority to designate a country for Temporary Protected Status (TPS) after consulting with other appropriate federal agencies, including the Department of State. As the Department of Homeland Security component responsible for administering the TPS program, USCIS plays a significant role in the designation process.

Currently, thirteen countries are designated for TPS: El Salvador, Guinea, Haiti, Honduras, Liberia, Nepal, Nicaragua, Sierra Leone, Somalia, South Sudan, Sudan, Syria, and Yemen. In response to emerging humanitarian and protection needs, several of these countries have been newly designated since I last testified before the full Committee, and I would like to highlight those. Guinea, Liberia, and Sierra Leone were designated in November 2014 due to the outbreak of Ebola virus disease in West Africa. Nepal received its initial designation for TPS in June 2015 following a devastating magnitude 7.8 earthquake. And Yemen is the latest country to receive TPS, having been designated in September 2015 because of the ongoing armed conflict. Additionally, Syria and South Sudan were redesignated for TPS in April 2015 and November 2014, respectively, increasing the number of nationals of those countries eligible for TPS.

Applicants for TPS undergo thorough security checks, and individuals with certain criminal records or who pose a threat to national security are not eligible. Those who are granted TPS are authorized to work, may request travel authorization, and cannot be removed from the United States for the duration of their status. TPS does not provide a way for individuals who are not residing in the United States at the time of designation to come to the United States, nor does it provide a means by which beneficiaries may bring family members into the United States.

#### **EB-5**

USCIS continues to take steps to improve operational capacity and program integrity in the EB-5 immigrant investor visa program. In FY15, USCIS's Immigrant Investor Program Office expanded the number of adjudications staff by 37% and grew the number of support staff by 20% from the prior fiscal year.

There was a marked increase in EB-5 filings as FY15 drew to a close, presumably due to the potential sunset of the regional center program, the high demand for visa numbers and the desire to lock in a priority date. Absent reauthorizing legislation, the EB-5 regional center program will lapse on December 11, 2015.

In FY15, USCIS more than doubled the embedded Fraud Detection and National Security staff devoted to EB-5 and more than tripled the number of overseas verification requests sent to post in support of the adjudication of EB-5 applications and petitions. USCIS is also preparing to launch a domestic site visit pilot program in support of EB-5-related adjudications in FY16.

Stakeholder engagement continues to be a critical part of efforts to improve both program efficiency and integrity and in FY15 USCIS offered a new series of EB-5 informational series to enhance engagement with the stakeholder community. In April 2015, the Secretary of Homeland Security approved protocols related to the ethical administration of the EB-5 program. USCIS provided training on these protocols to all DHS and USCIS employees and contractors involved in policymaking, evaluation, or review of the EB-5 program or the adjudication of any particular EB-5-related petitions or applications.

#### E-Verify

E-Verify is a critical program within the Department that encourages and assists employers in their compliance with our immigration-related employment eligibility verification laws. We are doing everything we can not only to optimize performance of the system but to ensure its integrity and accuracy, improve ease of use, and expand customer services. I am committed to building on the success of this program that enrolls approximately 1,200 new employers per week, with more than 70,000 enrolled in total in FY 2015. In the past FY, almost 32,000,000 queries were run through the system, representative of cumulative total of more than 622,000 employers enrolled.

USCIS continues to improve E-Verify's accuracy by increasing the number of databases checked by the system and introducing quality control enhancements designed to reduce the likelihood of data entry errors. In FY15, we expanded the RIDE Program (Records & Information from Department of Motor Vehicles for E-Verify) an ongoing E-Verify initiative that links E-Verify with state departments of motor vehicles (DMVs) and other state public safety offices in conjunction with the American Association of Motor Vehicle Administrators. RIDE allows E-Verify to validate the authenticity of driver's licenses and state identification cards presented by employees as Form I-9 identity documents. RIDE helps to reduce document fraud and boosts the accuracy of E-Verify employment eligibility verification. In FY15, RIDE added Nebraska and North Dakota to the rolls with Mississippi, Florida, Idaho, and Iowa. Wisconsin was just added in November FY 2016.

USCIS continues to implement improvements to E-Verify, with a specific focus on the scalability of E-Verify's technical infrastructure for future expansion. To that end, a Program Management Office was established to oversee this operation, which is classified as a major information technology investment for the department. Closely following an approved acquisition strategy and baseline life-cycle cost estimate, the underlying E-Verify system architecture will be decoupled to ultimately deploy a modernized system.

In an effort to ensure that employee rights are protected, USCIS continues to offer services for job seekers. In FY15, USCIS deployed myE-Verify, a website that provides information and tools that serve the needs of workers and job seekers, in both English and Spanish, in all 50 states, the District of Columbia, and U.S. territories. myE-Verify incorporates the previously released Self Check which allows workers to verify personal information against the same records E-Verify checks. Job seekers can confirm that their records are in order or, if a mismatch occurs, learn how to make updates before accepting a position of employment with an E-Verify enrolled employer. Additional features rolled into this online suite of services include the capability to create a unique, secure personal myE-Verify account by allowing users to protect their identities and the fraudulent use of their SSNs by self-locking their SSNs in E-Verify. There is also a case history feature, which allows the account holders to see when and where their identity was used in both E-Verify and Self Check, along with the ability to track the status of their E-Verify case. Finally, within the site there are multi-media resources for workers and jobseekers to learn about employee rights.

Lastly, USCIS is working to establish a formal process within E-Verify by which individuals can request a review of their final case outcomes in order to help reduce erroneous results. Initial planning has begun with an E-Verify Paperwork Reduction Act notice and request for comment published in the Federal Register to include the proposed Final Nonconfirmation (FNC) review process, which will allow a case to be re-opened once an employee calls DHS/Verification (or SSA), returning the final response to the employer electronically in the form of a Case Status Alert in E-Verify instead of issuing a hard copy letter.

#### **Unlicensed Practice of Immigration Law**

Immigration services scams are a serious national problem. Anyone can fall prey to a scam, including U.S. citizens and lawful permanent residents. We have made fighting these scams one of our highest priorities. Our agency is committed to educating applicants about immigration fraud, warning them of the potential dangers and common tactics, and ensuring that they know how they can find qualified legal advice and assistance with their immigration forms.

This past summer, we celebrated the fourth anniversary of the launch of our efforts to combat these scams through the Unauthorized Practice of Immigration Law (UPIL) Initiative. In Fiscal Year 2015, we hosted about 1,600 national and local UPIL engagements, reaching more than 106 thousand people with the intent of raising awareness in local communities and equipping applicants with the information they need to protect themselves from such deceptive practices. We continue to leverage our long-standing relationships with federal and local partners to combat UPIL.

**Conclusion**

I appreciate the support and interest of this Subcommittee in our efforts, and working with on these and other matters critical to the transparency, integrity, consistency and efficiency our immigration system and the work of USCIS.

I look forward to your questions.

Mr. GOWDY. Thank you, Director.

I will recognize myself for 5 minutes of questioning.

Director, I am going to make a series of what I think are factually supported assertions. If any of the assertions are incorrect, I want you to correct them, because hypotheticals or realities are no good if there is an incorrect factual assertion.

So it appears as if the female terrorist in California entered the United States in July of 2014 on a K visa. And there is an application process which includes some level of investigation on our end. And, as I understand the application process, it may well be that USCIS and the State Department have some level of engagement, at least at the application process.

And then, as I understand it, there is or is supposed to be an in-person interview at an embassy or a consulate, which is another level of investigation. So you have the application, which may involve USCIS and the State Department. Then you have an in-person interview. And the way I count, that is at least two and maybe more levels of inquiry or investigation.

And then we fast-forward. The FBI Director today, I believe, tells us that there is evidence that the female terrorist was radicalized 2 years ago. And there is a media account, and you are free to put whatever stock you would like in a media account, but it has been widely reported that the male terrorist was part of a plot in 2012 to do harm in this country.

So it appears to me that the investigations done by our government would have occurred after both her radicalization and after his previous plot to commit an act of terror. And yet the visa was approved and she immigrated here. And 14 body bags later, we are trying to figure out what went wrong.

So assume arguendo that the FBI is right, which is not an unreasonable assumption; the female terrorist was radicalized well before her application to come to the United States. How did we miss that twice?

Mr. RODRIGUEZ. So, again, I will take that question as a hypothetical, given my inability to speak to the specific factual scenario.

I think, in addition to the interviews that you described, individuals are also vetted against law enforcement and intelligence databases at multiple stages in the K-1 visa process. So when we adjudicate the petition by the U.S.-based person, usually the fiancé on our side of the ocean, there is a series of background checks done at that time. The State Department does another more fulsome series of checks. And then we see that individual then again at the time of adjustment once they are in the United States.

The nature of the interview depends on what derogatory information we have about the individual. So, in the absence of a specific—we ask a series of questions that obviously are intended to vet that individual out, but in the absence of a specific basis, we probe, basically, the record that is before us.

One of the things that we are looking at right now is—and, again, I think about this not just in terms of the fiancé visa program, but I really think of it in terms of everything that we do—are there things that we need to be doing differently prospectively to probe even more deeply to ensure that we are not admitting individuals who will come here to do us harm.

Mr. GOWDY. I wholeheartedly concur that we should be looking at all visas, no matter what letter occurs in front of them. It just so happens that this is a K visa, but the analysis could very well be the same regardless of what kind of visa it was.

And I am not trying to put words in your mouth, but what I hear you saying is we don't know if anything would have been done differently, and it is a thorough investigation, and yet we still missed it, which tells me that I have to go back to South Carolina and tell people there is just going to be an error rate.

Mr. RODRIGUEZ. Well, you know, one of the issues that we are looking at are what are our authorities at different points in the process. So, for example, at the point when we adjudicate the petition, as it stands right now, as long as the bona fides of the petition are established by the U.S.-based petitioner, regardless of what derogatory information may exist against that individual, we don't—and, again, I am talking generally. I am not talking about any specific case. That is certainly an issue we are looking at as to whether we need to think differently about what we do in that stage of the process.

We are also looking at what we do on the back end of the process, at the time when we actually give that person a green card or we give them a conditional green card, are there additional measures we need to be taking at that stage, as well.

Mr. GOWDY. Director, do you know whether or not the female terrorist in California was interviewed in person at an embassy or a consular post?

Mr. RODRIGUEZ. Again, respectfully, Chairman, I am not at liberty in this setting to talk about any specifics.

Now, I can tell you what our practice is. There have been exceptions to this. Generally, it is our protocol that we only interview people in the K-1 visa program in cases where there is some issue that needs to be explored as part of the case. That could be derogatory information about the individual. It could be factual questions, not necessarily derogatory, about the application.

That is the existing practice as we speak. That is certainly going to be part of our review.

Mr. GOWDY. Do you know how long the investigation lasted from the time she applied for a K visa until the time she was interviewed at whatever consular post or embassy?

Mr. RODRIGUEZ. Again, I am not at liberty to discuss a particular case.

From the time they get in—if I am understanding the question, from the time they are interviewed at the consular post to the time that we adjust them? Is that the question, sir?

Mr. GOWDY. I was more interested in from the time she applied until the time there was whatever first interview, whether or not there was research done into her school, if any, attended; social media, if any; employment history, if any.

And I am out of time, so I am going to go to the gentlelady, and I will give her exactly the same amount of time I took.

I will just tell you this. I appreciate—because I hear it a lot from Administration folks, that they cannot discuss an ongoing investigation. I would just note the obvious. They are dead. So I don't

know that we are terribly worried about their privacy considerations.

And I am not lodging this allegation at you specifically. I can just tell you, I have been around 5 years now, and it just strikes me that sometimes folks cite an ongoing investigation or prosecution when they just really would prefer not to answer the question.

Because there is not going to be a prosecution of either one of these terrorists. You and I agree on that. So I am not sure what we are worried about jeopardizing by allowing Congress to look at her file.

What investigative or prosecutorial strategy would be jeopardized by allowing Ms. Lofgren and I to look at her immigration file?

Mr. RODRIGUEZ. Again, I am really citing the general practices in rules. I mean, I think you and I are both aware of cases where, in fact, regardless of the fact that there may be two dead perpetrators, where there are still actually investigative reasons to maintain secrecy. I am not speaking necessarily to this specific case. That is the practice that I have lived by, be it in my role as USCIS Director or when I was a prosecutor previously, that I did not talk about cases that were ongoing, regardless of those characteristics.

I understand why this body would want them. I understand why that information might be helpful to this body in discharging its responsibilities. I don't see myself as at liberty to share that information at this time.

Mr. GOWDY. The Chair will now recognize the gentlelady from California.

Ms. LOFGREN. Thank you, Mr. Chairman.

Just picking up where the Chairman has left off, I will disclose that my office did call over and ask for a copy of the K-1 application, and we were advised that it was the FBI who had said, really, this needs to remain confidential at this point because of their investigation. And I accept that. You know, I want the FBI to be able to do everything it is supposed to do. When they are done, however, I want to take a look at all of it.

And so I think how long that investigation will take none of us can know. But I know that the Chairman, I am sure, would share my desire that, once it is over, let's take a look at all of it. We wouldn't want to jeopardize the ongoing investigation.

In terms of what USCIS does, the interview for—and not talking about this case, but just how one obtains nonimmigrant visa, be it the K-1 or H-1B or whatever, the applicant applies abroad, and it isn't USCIS that does the interview. It's the State Department, isn't it?

Mr. RODRIGUEZ. Yes, that's correct. All we do at that stage is adjudicate the bona fides of the petition here, meaning the bona fides of the relationship. The actual interview, the actual screening, is conducted by the State Department at a consular post overseas.

Ms. LOFGREN. And you're not a law enforcement agency per se. What you're doing, in terms of the criminal element and checking it out, is checking with the FBI and the database and the like to see what comes up. Isn't that right?

Mr. RODRIGUEZ. That is correct. I will amend that to say we do see ourselves as having both a national security and law enforcement responsibility——

Ms. LOFGREN. Yes.

Mr. RODRIGUEZ [continuing]. To ensure that people who trip either of those wires are—

Ms. LOFGREN. Of course. But you don't have an army of agents as a law enforcement agency. You rely on the FBI to do that.

Mr. RODRIGUEZ. Nobody on my staff carries guns as part of their job.

Ms. LOFGREN. All right.

So, in terms of the—if a person comes over on a K-1 visa, say, they have 90 days in which to get married to the American who has petitioned for them. What happens then?

Mr. RODRIGUEZ. At that point, I believe they have 120 days—once the individual is here, they have 120 days within which to seek adjustment, which, in the ordinary course, most people actually do.

At that point, they become, essentially, conditional permanent residents. And I apologize, I don't know the exact duration.

Ms. LOFGREN. So it's conditional, and the marriage has to prove valid.

Mr. RODRIGUEZ. Yes.

Ms. LOFGREN. And, after 2 years, then the couple goes in and they apply to remove the condition because they're still married, it's a valid marriage. Is that correct?

Mr. RODRIGUEZ. Correct.

Ms. LOFGREN. So, at that point, you are still interviewing to make sure that there is nothing that you can discover that is fraudulent or wrong, aren't you?

Mr. RODRIGUEZ. We are both interviewing and also running additional checks, you know, of the kind that are frequently discussed before this Committee. We're doing additional checks on those individuals.

Ms. LOFGREN. And so if somebody came on any kind of visa like that, there's, you know, many, many grounds for inadmission to the United States, whether or not you are married to an American or a fiancé. I mean, if you have committed drug smuggling or if you are a human trafficker, you are not admissible to the United States, no matter what. If you are intending to commit a crime in the U.S. or you have terrorist ties, you are not admissible to the United States.

Mr. RODRIGUEZ. That is correct. If there are indications that you are a criminal or that you are intending to immigrate or travel to the United States to commit a crime, then that would—

Ms. LOFGREN. So the real question is not whether or not the law needs to be changed. That is the law. It's a matter of how that information is discovered and by whom.

Mr. RODRIGUEZ. Correct. And one of the issues that we're looking at is our authority at different points in the process, in addition to our practices at different points in the process, to ensure that we are trapping those issues at every opportunity that we can.

Ms. LOFGREN. I'm going to switch to another subject. There was a report both in Disney and Southern California Edison who were using the H-1B program to replace U.S. workers. It was pretty outrageous reports. And Secretary Johnson described it, and I quote, as a very serious failing of the H-1B program and that Congress

could help put an end to this through increased enforcement mechanisms for situations where an employer does, in fact, replace American workers with H-1B visa holders.

What type of enforcement mechanisms do you think are needed to ensure that the H-1B program is not used to displace American workers?

Mr. RODRIGUEZ. So I think this is an area where we would be very happy to work with this Committee to provide technical assistance.

I think one of the issues to which you are speaking, one that I was very interested to learn as I was digging into the H-1B process, is that you can accomplish a certain result through contractors that you couldn't necessarily accomplish directly. And that is certainly a discussion that we would be happy to have with this Committee as a technical assistance matter.

Ms. LOFGREN. Well, we may take you—I've got some ideas on that, as well. I mean, some of it is regulatory, but some of it is economic. And we might change the utility of that method through just the economic parameters of the program.

You know, I want to touch just—and I know that we're over, but the Chairman said I got the same amount of time, so I want to talk about the Special Immigrant Juvenile program. As we know, this category has been in the law since 1990, and it provides protection to children who essentially have been abandoned by their parents. The juvenile court in the given State is the one that makes that determination on whether the child before the State court has been, in fact, abandoned.

Now, although your agency is charged with combating fraud, I am hearing reports that your adjudicators are seeking evidence essentially to collaterally attack the decisions that have been made by State courts about dependency. And I am wondering, absent information about specific fraud, would that be something your agency should do? And what would be the legal basis for a collateral attack on a State court determination of juvenile dependency?

Mr. RODRIGUEZ. Yeah, the concerns about our examination of State court findings are issues that have been raised to us frequently by stakeholders. As a former county attorney, I actually come with the background of having represented a child welfare agency myself, so I understand this process pretty well.

Those inquiries by our staff members are not meant as collateral attacks, but they occur in circumstances where the order issued by the family court or the juvenile court or whatever the court of jurisdiction may be does not satisfy, on its face, the requirements of the law. In essence, it doesn't say everything that it needs to say in order to qualify under the Special Immigrant Juvenile. It is at that point that our officers are asked to look further to ensure that those elements are established.

Ms. LOFGREN. All right. That is very helpful information.

I see my time has expired, Mr. Chairman. I yield back.

Mr. GOWDY. The gentlelady yields back.

Director Rodriguez, at the end of this, I am going to make sure the Congresswoman has exactly the same amount of time I have. It's just if I don't ask that question now, I probably will forget to

ask it before I go to Chairman Smith, which is that something she said prompted me to want to ask this.

It strikes me that there are at least two things we could say to our fellow citizens, one of which is, "We missed it," as it relates to the female terrorist, and that's just a risk that we're going to have to accept as an open society. The other alternative is to say, "This is what we have learned from that fact pattern, and this is what we are doing differently to prevent the next one."

Which is it? And what assurances could you give that we are going to do it differently so there is not a repeat of this fact pattern?

Mr. RODRIGUEZ. Again, I think the point that I made earlier is we're looking at everything. In other words, we are looking at cases that may have happened today, and we are looking at all the issues related to where we can do our job better and make sure that, to the extent of our ability—we're never going to eliminate all risk—but, to the extent of our ability and the resources that we have, that we reduce risk to the greatest extent possible.

That is a commitment that I make to the American people. That is the purpose of having me, as a former prosecutor, as the head of the agency, is to really press us to not miss those opportunities to do better and to keep the American people safer.

Mr. GOWDY. The Chair recognizes the gentleman from the great State of Texas, Mr. Smith.

Mr. SMITH. Thank you, Mr. Chairman.

Director Rodriguez, it seems to me that the President's words and actions are having an unfortunate impact on both immigration levels and on immigration policy. For example, the President's proposed amnesty led to a surge last year in illegal immigrants coming from Central America, and we're seeing a similar surge today.

The President's proposed changes in our Cuban policies have led to a recent surge in Cubans particularly coming across our southern border. Now, they are not illegal immigrants, but the point is it has led to a surge as a result of his policies.

Because of this Administration's lack of enforcing current laws, the number of sanctuary cities has doubled under this Administration. All that is worrisome to me, as is the Administration's policy toward Syrian refugees, which is what I want to ask you about.

In regard to those applying for asylum from Syria, do you feel that we are able to get as much information about their backgrounds as we are applicants for asylum from other countries?

Mr. RODRIGUEZ. I think we do have. It's very hard to compare because I think it would be easier to take two cases and compare two cases. I think comparing one broad body of individuals to another broad body or different nationalities, I think, is a different kind of scenario—

Mr. SMITH. Right. But you say generally you think we're getting as much information and there's as much data?

Mr. RODRIGUEZ. I think we are getting a lot of information that is useful, that enables us—

Mr. SMITH. Okay.

Mr. RODRIGUEZ [continuing]. In particular cases to deny individuals applications for refugee status, to put questionable cases on

hold. I don't feel able to engage in the kind of comparison that you're inviting me to engage in.

Mr. SMITH. Okay. Well, initially, you said you thought we were getting the same. You're aware, of course, of the FBI Director saying that we are not getting the same amount of data on Syrian refugees as we are other individuals.

Mr. RODRIGUEZ. If I understood—

Mr. SMITH. Are you aware that the Director of FBI said that?

Mr. RODRIGUEZ. Oh, yeah, no, I'm aware of that.

Mr. SMITH. Okay.

Mr. RODRIGUEZ. And if I may, Congressman, I think the main comparison that was being made—and it's a hard comparison to argue with—is that we're not in Syria. We don't have boots on the ground in Syria. We did have boots on the ground in Iraq.

That doesn't mean that we're blind.

Mr. SMITH. No, no. And I'm not implying that.

The Director of FBI said, "My concern about bringing Syrian refugees into the United States is that there are certain gaps I don't want to talk about publicly in the data available to us."

As a result of that, do you think it is more risky to admit individuals from Syria than other countries because we don't have as much information? Or do you think there's no more risk involved in admitting individuals from Syria?

Mr. RODRIGUEZ. There is risk in our business.

Mr. SMITH. No, no.

Mr. RODRIGUEZ. And our job is to—

Mr. SMITH. That wasn't my question. I wasn't asking you about general risk. I was asking you, specifically, is it riskier to admit individuals applying for asylum from Syria than from other countries.

Mr. RODRIGUEZ. I think individuals who come from places where terrorists are active, where terrorists are seeking to recruit, command from us a higher level of scrutiny. That is why Syrian refugees, in particular, receive the toughest, most—

Mr. SMITH. Right. I understand that, but that doesn't count for anything if there's no information available. If you don't have good data, you don't have a good result, no matter how good the process is. I'm not questioning the process.

Mr. RODRIGUEZ. But that's the point I'm trying to make through concrete example. We have denied people admission because of information that we learned from law enforcement—

Mr. SMITH. Is your denial rate for those applying for refugee status from Syria a higher denial rate than other countries? And, if so, what is the rate?

Mr. RODRIGUEZ. Well, I think the denial rate is a deceptive statistic, and I will tell you why. It is very easy to demonstrate a claim for refugee status in Syria. Syria is a mess. And there is all kinds of sectarian violence, violence based on political opinion.

Mr. SMITH. Yeah.

Mr. RODRIGUEZ. So it would be very hard not to establish a claim for refugee status. The question is, is the individual inadmissible because they are a terrorist or a criminal?

Mr. SMITH. I understand that. What was the answer to my question, what is the denial rate for those applying from Syria versus the denial rate for those applying from other countries?

Mr. RODRIGUEZ. At this point, I believe it is approximately 20 percent.

Mr. SMITH. Twenty percent denial?

Mr. RODRIGUEZ. Yes. Of the group that we have admitted so far. In other words, there are a number of individuals in the pipeline, so that rate could shift.

Mr. SMITH. So you admit 80 percent of the refugees from Syria.

Mr. RODRIGUEZ. Given the very small pool that we've seen so far.

Mr. SMITH. Okay.

Mr. RODRIGUEZ. In other words, I don't think that necessarily speaks to what our rates are going to be.

Mr. SMITH. Okay. Seems to me, you know, for a group that seems to be riskier and a group on which you have less information than those applying for refugee status from other countries, it seems to me that that is a dangerously high admission rate.

Mr. RODRIGUEZ. Yeah, actually—and let me correct that. That is a rate of non-admission.

Mr. SMITH. Right.

Mr. RODRIGUEZ. In other words, those could be individuals who have either been outright denied or who are on hold.

Mr. SMITH. I understand.

Mr. RODRIGUEZ. They have not been admitted as yet. Again, that's why I say that that could shift over time.

Mr. SMITH. Okay.

Thank you, Mr. Chairman.

Mr. GOWDY. The gentleman yields back.

The Chair will now recognize the gentleman from Michigan, Mr. Conyers.

Mr. CONYERS. Thank you, Mr. Chairman.

Welcome, Mr. Director.

Tell me, what is the Immigration Services doing to ensure that the Deferred Action for Childhood Arrivals renewal applications are adjudicated in a timely fashion so that young people don't suffer some of the grave consequences we've heard about?

Mr. RODRIGUEZ. Thank you, Congressman Conyers. That is an important question.

We did have some circumstances early on, because of delayed applications, because of issues related to either errors in applications, background checks, where some individuals were not being approved prior to the expiration of their deferred action.

We have taken a number of steps to ensure, especially for those individuals who actually apply on time, that we are able to finish adjudicating those applications before the expiration.

So what we have done is, first of all, we have extended the time at which we give them initial notification of the fact that they're coming up for renewal. We now do it 180 days before expiration rather than 150 days.

We have accelerated the time in the cycle when we begin adjudicating issues that we find with applications. Be it if there are, for example, criminal history hits that need to be analyzed or if there

are errors in the application, we're doing that earlier in the adjudication cycle than we used to.

And we have engaged in extensive engagement with community-based groups to make sure that individuals understand what they need to do in order to be ready for us to be able to adjudicate the case in a timely manner.

And those are examples of two among a number of steps that we've taken. In fact, we've seen considerable improvement, and I believe all about a fraction of 1 percent of cases are now adjudicated within 120 days of application and, I believe, roughly 90 percent prior to expiration of those cases.

Mr. CONYERS. I'm happy to hear that.

Let me turn to the subject of Haitian Family Reunification Parole. This program has the potential to help many more Haitian families, and I want you to tell me what you see as challenges involved in expanding the Haitian Family Reunification Parole Program to include all of the Department of Homeland Security-approved Haitian beneficiaries and not just a small subset.

Mr. RODRIGUEZ. Again, I think, as you know, generally, parole is a tool that is a kind of relief that we use on a case-by-case basis either where there is a humanitarian reason or where there is a significant public interest.

What we have done in the Haitian case is created parameters in those cases for individuals who have a qualifying family relationship, who are within a certain horizon prior to the ability to adjust. That, for us, in designing that policy, seemed to be the right parameters to put on that case. In fact, that has offered relief to a number of individuals.

But we can certainly continue to engage on ways that we can possibly improve that program. We certainly know that Haiti, in particular, is a country that has had great difficulties in recent years. The reason we have the policy altogether is because we believe that it is in the interests of the United States to help Haiti and the Haitian people get back on their feet. So we can certainly continue to engage on that topic.

Mr. CONYERS. And let me close by asking you about, with reference to Syrian refugees, since USCIS holds responsibility for conducting in-person interviews with refugee applications to determine eligibility, how can it do so in a manner that most appropriately assesses for potential threats?

Mr. RODRIGUEZ. Thank you for that important question.

Our officers are—first of all, many of them are very experienced. The ones who are sent to work in those particular groups of cases are among the most experienced. They are briefed extensively, both from classified and nonclassified sources, on country conditions within Syria. They have benefits of prior interviews conducted of those individuals. They have the benefits of the background checks conducted of those individuals.

Those all provide very strong tools for those individuals to conduct thorough and intensive interviews to identify possible bases of inadmissibility.

Mr. CONYERS. Thank you, Mr. Chairman. And may I ask unanimous consent to have my statement on this subject entered into the record?

Mr. GOWDY. Yes, sir. Without objection.

Mr. CONYERS. Thank you.

[The prepared statement of Mr. Conyers follows:]

**Prepared Statement of the Honorable John Conyers, Jr., a Representative in Congress from the State of Michigan, and Ranking Member, Committee on the Judiciary**

The United States Citizenship and Immigration Services is the federal agency charged with overseeing lawful immigration into the United States. The agency's responsibilities include: adjudicating immigration applications, granting citizenship, issuing green cards, and making decisions on asylum and other matters for eligible individuals, all of which are crucial to our Nation's security and economy.

But, I want to preface my remarks by noting that we are holding this hearing just *two days* after a Republican frontrunner in the ongoing race for the Presidency of the United States proposed banning Muslims from immigrating to America.

This is a vile, unconstitutional, and fascist idea that must be confronted and condemned. I will not stand by while an entire religion is maligned.

As many of you know, my district has one of the largest Arab-Muslim communities in the United States. The community I represent is hard-working, law-abiding, and shares the same American dream as immigrants who came before them.

The last time Director Rodriguez appeared before our Committee, the Majority alleged that USCIS improperly approves fraudulent petitions and does not properly screen applications. Unfortunately, the Majority may make similar allegations of fraud and abuse during today's hearing.

I agree that we must take all appropriate steps to root out fraud. This is a matter of public safety and the integrity of our immigration system. But I fear that my Majority colleagues often substitute political posturing for legitimate discussion. We should **not** insert our disagreements on immigration policy into a discussion on agency practice and operations.

Today, I look forward to hearing, **first**, about how USCIS plans to address asylum backlogs and efforts to ensure there are no more delays in Deferred Action for Childhood Arrivals renewal applications.

Processing delays threaten people's livelihoods and can disrupt their education, healthcare benefits, driving privileges, and even housing and food stability.

**Second**, USCIS has been on the front line of implementing the President's executive actions. While two of these programs, the Deferred Action for Parents of Americans and the expanded Deferred Action for Childhood Arrivals, have been enjoined, the other executive actions have been or are in the process of being implemented.

Accordingly, I look forward to hearing the Director's updates on USCIS's progress on these executive actions.

**Third**, USCIS has led the Administration's efforts to thoroughly screen Syrian and other refugees. Refugees are subject to the highest level of vetting—more than any other traveler or immigrant to the United States.

USCIS relies on methodical and exhaustive background checks, which typically range 18 from 24 months on average and longer in many cases. These checks are performed by the Departments of Homeland Security and State, in conjunction with the CIA, FBI, and other law enforcement and intelligence agencies.

Nevertheless, I would like to know whether any additional steps should be taken to ensure refugee screening is conducted efficiently and effectively.

In closing, I must note that notwithstanding the advances made by USCIS over the past year, our broken immigration system cannot be fixed by agency action alone. We *must* pass comprehensive immigration reform.

Although the House Majority has refused to bring such a bill to the floor, an overwhelming majority of Americans support comprehensive immigration reform.

The American people sent us here to solve problems. They demand action on comprehensive immigration reform and I urge my Majority colleagues to listen to the American public.

Mr. GOWDY. The gentleman yields back.

The Chair would now recognize the gentleman from Iowa, Mr. King.

Mr. KING. Thank you, Mr. Chairman.

And, Director Rodriguez, I thank you for coming back a second time within a month's period of time to testify to us here today.

I was listening to your earlier testimony, and I was interested in a statement that you made. "Violent criminals can come from just about anywhere" was a summation of that, although there was a little more detail in your statement, as I recall.

And I'm curious; that statement I don't have any doubt is true, but is there a higher incidence among those violent criminals—let's say, for example, are they more likely male or female?

Mr. RODRIGUEZ. Again, I take the cases as they come. I don't screen based on whether people are men or women or where they come from, because the point is just about everybody can be a bad guy.

Mr. KING. You've been in law enforcement for 25 years, and you don't have a judgment on whether they're more likely male or female?

Mr. RODRIGUEZ. I have seen male violent criminals, female violent criminals. That's the point I was trying to make. They can be just about anybody.

Mr. KING. We recognize that, and I recognized that in my first sentence to you, I believe. But could we establish here that there are more male than female that are committing violent crimes?

Mr. RODRIGUEZ. I speak to my job as a law enforcement officer. When people commit violent crimes or have histories that disqualify them from particular benefit, we do our jobs.

Mr. KING. Can we recognize that the population of our male prisons are substantially greater than the populations of our female prisons?

Mr. RODRIGUEZ. Sure.

Mr. KING. Would that be an indicator, then, that—

Mr. RODRIGUEZ. As far as I know, that is correct.

Mr. KING. We know that's correct.

Mr. RODRIGUEZ. Yeah.

Mr. KING. And so wouldn't that be an indicator that males commit more crime and likely more violent crime and more homicides than females?

Mr. RODRIGUEZ. Sure.

Mr. KING. Okay. So it took us a little while to get to that, and I'm thinking it's going to be a little harder to narrow this down a little more.

Is it against the law to profile?

Mr. RODRIGUEZ. It is, certainly, based on race. For example, based on national origin, it is against the law to profile.

Mr. KING. Against the law. Could you cite the laws that prohibit law enforcement from profiling?

Mr. RODRIGUEZ. I couldn't specifically cite it. It's based on caselaw. It's based on constitutional caselaw.

Mr. KING. Not on statute?

Mr. RODRIGUEZ. That I'm aware of, there's certainly not a Federal statute that prohibits—

Mr. KING. So, as law enforcement officers, are you prohibited from looking for a person based upon a profile?

Mr. RODRIGUEZ. You can—for example, if you have somebody who is suspected of a crime and there are identifiers—I think this is part of where you're trying to go—identifiers based on their race, their national origin, some other identifying characteristic about

that individual, of course you're allowed to know that in order to be able to catch that individual.

Mr. KING. And it could be multiple identifying characteristics.

Mr. RODRIGUEZ. Sure.

Mr. KING. It could be height, it could be skin color, it could be sex, it could be clothing, it could be a vehicle they drive, it could be patterns that they have?

Mr. RODRIGUEZ. Patterns of behavior.

Mr. KING. Patterns of behavior.

Mr. RODRIGUEZ. The bar they go to, I guess, is sort of the example you might be going to. Sure.

Mr. KING. And then if we happen to see that criminals are coming out of that—I just described a profile, by the way. If they happen to see that criminals are coming out of that profile, are you prohibited, then, to give greater scrutiny, by law, to that profile that is consistently coming back to us as the most likely profile of a violent criminal?

Mr. RODRIGUEZ. Again, I think as a matter of criminal investigation—and I think, also, this principle applies to antiterrorist investigations—you go where the activity is. So I don't think that's based on what race the person comes from, what national origin a particular group comes from. You go where the activity is.

Mr. KING. Okay. But we would also know that if we—and I'm not going to speak to this specifically, but when we walk through prisons, we get a pretty good idea of the makeup of the prisoners there. And you can't walk out of there and not have some ideas about where you're likely to find crime on the streets in America. Would you agree with that?

Mr. RODRIGUEZ. I think that's a fairly complicated topic, actually, Congressman King.

Mr. KING. Okay. We got to this place here less than a month ago, too, and I wondered if you went back and reviewed a couple of Federal sections of Code, 1101 and 1158, that require that you consider the race, the religion, the nationality, the membership in a particular social group, or political opinion as a factor when you do the background checks on individuals that are applying for asylum.

Mr. RODRIGUEZ. Well, those are the bases for either asylum or a refugee claim, would be persecution based on membership in those categories.

Mr. KING. Okay. But last time you said that you don't inquire as to religion. Have you had a chance to reconsider?

Mr. RODRIGUEZ. And I have to be clear. I misspoke. We actually do inquire as to religion as part of the interview. That may be relevant to many elements of the claim.

Mr. KING. Thank you. I'm glad we got that clarified, and I'm glad you had an opportunity to do that.

And then do you recognize that there are Muslims who are persecuted because of their religion?

Mr. RODRIGUEZ. Without a doubt, yes.

Mr. KING. And that there are Christians that are persecuted because of their religion?

Mr. RODRIGUEZ. Without a doubt, yes.

Mr. KING. And that there are applications for asylum in both of those categories.

It's curious to me, when I look at the report from 2015, from Syria, 1,573 Sunni Muslims admitted under that and 29 Christians. That would seem to be very disproportionate, to me, when I look at the pictures of the film and go over there and see the numbers of victims that are displaced and persecuted. In a population of Assyrian Christians that was something like 2 million, now down under 400,000, we could only find 29 out of that group, but we found 1,573 Sunni Muslims.

So I'd ask you to consider the religion in perhaps a different light than you might be.

Mr. RODRIGUEZ. Appreciate that feedback. I will certainly let you know that we have, both in Syria and in Iraq, we have screened and admitted refugees, not just Muslims but from a number of other religious minorities, including Christians.

As I understand it, Christians represent about 1.3 percent of the cases seen by UNHCR. So, you know, part of what the proportions that you're talking about reflect is the population of who's in Syria. Last I checked, barrel bombs don't discriminate.

Mr. KING. Or the U.N.'s regulator.

And I've run out of time. I thank you, and I yield back.

Mr. GOWDY. The gentleman from Iowa yields back.

The Chair will now recognize the gentleman from Illinois, Mr. Gutierrez.

Mr. GUTIERREZ. Thank you.

Good to see you, Mr. Director. Thank you for coming and joining us and for your service.

So I won't try to figure out if you discriminate against Christians or Muslims, who you are showing some preference for. I think that's another hearing here. But I'd like to ask you about the new guidance on the 3- and the 10-year bar.

How far are you along to implementation of that new guidance, given that one of the most infamous and onerous impediments to legal immigration was changing the law in 1996 here with the 3- and the 10-year bar? Before that, there was no 3- and 10-year bar. Where are we along the way on giving guidance?

Mr. RODRIGUEZ. And, Congressman, I share your views about the importance of that guidance. There was a clear lack of understanding as to the definition of extreme hardship as a basis for a waiver from those 3- and 10-year bars. The draft guidance that we issued, I guess a couple of months ago now, was meant to bring clarity to that purpose.

We opened it for comment for 45 days. I will tell you that we received a number of productive comments that we think we will be incorporating into the guidance. That comment period is closed now, so we're in the process of incorporating the comments that we got.

Mr. GUTIERREZ. Yes. How much longer do you predict?

Mr. RODRIGUEZ. I would venture, again, without being able to be exactly specific about it, just a very small handful of months before we'll be ready to issue that as final.

Mr. GUTIERREZ. Okay.

And then who exactly is going to receive this guidance? What's the name of this officer within your service that's going to receive this guidance?

Mr. RODRIGUEZ. They will be Immigration Services officers.

Mr. GUTIERREZ. Immigration Services officers.

Mr. RODRIGUEZ. We will also, of course, make it public. We will take steps to train the staff that will be adjudicating those cases so that they understand not just what the guidance says but how to use it. And, also, we will—

Mr. GUTIERREZ. And how many of these officers exist?

Mr. RODRIGUEZ. Well, I think, as you know, I have thousands of officers—

Mr. GUTIERREZ. You have thousands of them.

Mr. RODRIGUEZ. Yeah. What I can't tell you right now is how many of those are eligible receivers for those kinds of cases.

Mr. GUTIERREZ. For those kinds of—but we have thousands of them that could be eligible.

But they just don't only determine the 3- and the 10-year bar; they determine a wide variety of things.

Mr. RODRIGUEZ. That is correct. I would guess that we will have, you know, sort of, particular groups of officers working on these cases.

Mr. GUTIERREZ. That's where I was—you must just be able to read exactly what I'm thinking.

Mr. RODRIGUEZ. It's been said, Congressman.

Mr. GUTIERREZ. Yeah. You're good.

I thought, since it's new guidance—they're using the old guidance, right? And you're giving them new training. We might—and there's thousands of them, and you don't need thousands of them to do the 3- and the 10-year bar. You can take a group of people. You might want to train a group of people.

Mr. RODRIGUEZ. Yeah, I mean, it's curious—

Mr. GUTIERREZ. So do we know who the 3- and the 10-year bar guy is that's been trained? Or woman.

Mr. RODRIGUEZ. Again, I'm not exactly sure who we're going to pick as the eligible, sort of, group of receivers for those cases. I will observe this. My guess is that the volume of those kinds of applications will go up now that there's more clarity.

Mr. GUTIERREZ. Okay. Now that there's more clarity.

And just for my friends on the minority and the majority side, I think this is important, because this could help us. Fifteen, 20 percent of the 11 million undocumented, with no action of the Congress of the United States, through the sponsorship of an American citizen or permanent resident that is eligible to sponsor them, could get their undocumented status cleared up. We could start doing the work that America sent us here to do. So I think it's a very important job.

Secondly, because my time is running out—I've got 40 seconds more. So, historically, people become citizens, there is an uptick in citizenship applications when three things happen: A, you guys increase the price, so people want to get in before there's an increase in price. That's not happening on citizenship.

But there are two other things that historically we've seen increase people's participation in becoming citizens. And since 6 million of the 8 million are Mexican nationals that are eligible to become citizens, this is particularly important to a group of people that have been called murderers and rapists, and it's very par-

ticular to them that they could become citizens at this particular point.

So the other two factors are an election and they feel under attack. Well, the feeling under attack, I think even the majority would probably say, yep, that one, they're under attack. And there's an election that they can use to respond to that attack. That has been traditionally.

Are you ready for what I expect to be hundreds of thousands of permanent residents who can be—if the past is any indication of what you're going to confront in the coming months, are you ready for that uptick in citizenship applications as we get ready to go into 2016 and those permanent residents legally admitted to the United States who feel under attack and want to participate get to participate?

Mr. RODRIGUEZ. I would add to the drivers the fact that we're also engaged, because there are 9 million legal permanent residents, many of them now for a very long time, in a very active process of promoting civic, linguistic, and economic integration of legal permanent residents. So we think that, too, will drive people. And the answer is, yes, we ready.

Mr. GUTIERREZ. So, in addition to the two that I gave that will be drivers, there's the third.

Mr. RODRIGUEZ. We are. And one of—

Mr. GUTIERREZ. You guys are out there engaging the community civically.

Mr. RODRIGUEZ. We are. And because of the importance of naturalization, in particular, we have made sure to bring those processing times in line with target. They are at target.

Mr. GUTIERREZ. My time is up, and the Chairman is so good. I just want to make sure that everybody knows we're out there teaching them English, the Constitution of the United States, and getting them ready to be American citizens. And nobody can be against that.

Thank you.

Mr. GOWDY. The gentleman yields back.

The Chair will now recognize the Chairman of the full Committee, the gentleman from Virginia, Mr. Goodlatte.

Mr. GOODLATTE. Mr. Chairman, thank you.

And, with your permission, I will give my opening statement, and then, if times allows after all the other Members have asked their questions, I will—

Mr. GOWDY. Permission granted.

Mr. GOODLATTE [continuing]. Ask some questions of Director Rodriguez.

So, Director, your appearance before this Subcommittee comes at a time when Americans are feeling increased concern about the security of our Nation and, in particular, about the way U.S. immigration policy is being exploited by those who wish to harm this country's citizens.

Quite frankly, Americans don't believe that their interests are being put front and center when it comes to decisions about whether or not to issue an immigration benefit to a foreign national. And your agency has the responsibility to show a commitment to reversing that belief.

Today, I hope you can convince us that the USCIS is, in fact, putting American interests first, but I am dubious, given recent events, immigration benefits data, decisions by your agency, and even your own written testimony.

At the beginning of your testimony, you give the slightest nod to “safety and security,” one small part of a sentence in fact, and then launch into an unabashed commitment to your top priority of implementing the President’s executive actions on immigration.

As you know, I and many Americans believe that such executive action is unconstitutional. It’s a usurpation of Congress’ plenary power over immigration law and policy. And despite the outcry to that effect, your agency continues to approve Deferred Action for Childhood Arrival applications, with a denial rate of only 6.5 percent out of nearly 700,000 approvals.

But there are many other reasons that my constituents and I don’t have confidence in the USCIS. For instance, when the General Accounting Office finds, as it did in a scathing report released last week, that USCIS has very limited fraud training for asylum officers, that USCIS doesn’t regularly assess fraud risks and, thus, doesn’t have in place mechanisms to mitigate fraud, and that, even when random reviews of asylum cases to assess whether the cases are being adjudicated correctly are conducted, fraud is not considered.

The fact that the USCIS approved for a K visa a radicalized Islamic extremist, who went on to murder 14 Americans and injure many more, does not exactly instill confidence in the work that the USCIS is doing.

The fact that my staff was told that there were no plans to review previously approved Special Immigrant Juvenile cases in light of suspected rampant fraud brought to light by a news organization’s superior investigative work does not instill confidence in the work that the USCIS does.

The fact that USCIS issues policy memos determining that individuals initially classified as unaccompanied alien minors can continue to pursue UAM status despite the fact that they subsequently live with their parents doesn’t instill confidence.

The fact that, despite valid concerns about the vetting of refugees raised by Members of Congress, the American people, and even the Federal Bureau of Investigation and intelligence officials within the Administration, USCIS simply tells us not to worry, the vetting process is good enough, doesn’t instill confidence.

The fact that the USCIS keeps abusing what is supposed to be its limited discretionary parole authority to create new classes of foreign nationals eligible for parole in the United States despite Congress’ unwillingness to do so doesn’t instill confidence.

The fact that there continues to be a seeming rubber-stamping of “credible fear” claims for the record high number of individuals surging across the southwest border doesn’t instill confidence.

And the fact that sources tell us that USCIS is considering making it easier for individuals with DUI convictions to get DACA doesn’t instill confidence.

The American people are not impressed with paying lip service to security and antifraud measures in written testimony to Congress. They deserve action ensuring their safety and security.

I appreciate your appearing before the Subcommittee and look forward to asking you some questions to follow up on these comments that I have made so that you can assure me, despite all that I have outlined and the numerous examples I have yet to outline, that the USCIS is putting American interests first.

I yield back, Mr. Chairman.

Mr. GOWDY. The gentleman from Virginia yields back.

The Chair would now recognize the gentleman from Colorado, the former fellow prosecutor, Mr. Buck.

Mr. BUCK. Thank you, Mr. Chairman.

Good afternoon, Mr. Rodriguez.

Mr. RODRIGUEZ. It's nice to see you, Congressman.

Mr. BUCK. I wanted to ask you, how did Ms. Malik get into the country? How did she slip through the procedures that you have?

Mr. RODRIGUEZ. Again, I am constrained, given, one, there's an ongoing law enforcement investigation and, two, existing policy and law with respect to alien files, I am constrained from talking about an individual case.

Mr. BUCK. Okay.

Mr. RODRIGUEZ. I can certainly describe the process.

Mr. BUCK. You are a former prosecutor.

Mr. RODRIGUEZ. Yes, sir.

Mr. BUCK. And I was a former prosecutor also. I didn't specialize in prosecuting dead people. I'm wondering why you can't talk about someone's application after they have been killed or after they've died.

Mr. RODRIGUEZ. Again, without speaking to the specific case at hand, without a doubt, there is a law enforcement investigation that is ongoing right now.

Mr. BUCK. Well, there are a lot of law enforcement investigations going on right now throughout the country. But how does information on her application that you would have examined or that your agency would have examined implicate a Federal investigation?

Mr. RODRIGUEZ. Our practice is, when there is an ongoing law enforcement investigation and when we're talking about an alien file, that we don't talk about specific cases in public. So those are the constraints that I'm under, Congressman.

Mr. BUCK. Okay.

What have you learned from the fact that your agency allowed someone into this country who ended up participating in a mass killing? What changes has your agency made to its procedures?

Mr. RODRIGUEZ. We are in the process right now, at the directive of the President and the Secretary, of reviewing both cases, the K-1 cases in the last 2 years, and also overall looking at our procedures.

One, a couple of issues that we have identified—remember, we're in this process at two different points. We are at the petition stage, when a U.S.-based petitioner is filing a petition for an applicant who is abroad. At that point, our only authority, given to us by this Congress, is to adjudicate the bona fides of the application. If there are inadmissibilities at that point, we don't have authority at that point to do anything about it.

Mr. BUCK. Well, what authority would you like to have?

Mr. RODRIGUEZ. Well, that's, I think, a discussion that we can have going forward.

Mr. BUCK. Can we have it today in 2 minutes and 1 second?

Mr. RODRIGUEZ. We can give technical assistance to this Congress. I'm identifying a particular gap that we've seen.

Mr. BUCK. Could you do anything in terms of developing a profile on this particular individual that would help you in your determination of whether other individuals should come into the country?

Mr. RODRIGUEZ. I'm sorry, Congressman. I know your time is short. I don't think I understood the question.

Mr. BUCK. Sure. Did you do anything—we all understand what happened in San Bernardino, and you know who did it. And you had information on this individual that you can't share with us. Did you look at that information and make any changes to your background checks and what information you need and what information you'd like before admitting somebody into this country?

Mr. RODRIGUEZ. We are weighing changes now and are also looking to see what other changes we may want to make.

Mr. BUCK. What are you weighing?

Mr. RODRIGUEZ. Right now, I can't speak more specifically than that, other than to see if there are enhancements to background checks, not just in K-1 but possibly in other areas; the points at which we do those background checks. Those are among the kind of issues that we are looking at.

Mr. BUCK. Okay.

Mr. Chairman, based on my inability to get any specific information that's helpful, I will yield back.

Mr. GOWDY. The gentleman yields back.

And I'm sure the gentleman's frustration is fueled in some part not because of this witness, but it's the Director of the FBI, himself, who has given us some of this information. For instance, I read today that the female terrorist was radicalized years before her application. That came from the Director of the FBI.

So I'm not blaming today's witness. I'm sure he's doing exactly what he was told to do. But you can't cherry-pick certain information and share that with the public and then hide behind an ongoing investigation and expect to be taken seriously. But that's not a reflection on today's witness.

With that, the gentleman from Idaho, Mr. Labrador.

Mr. LABRADOR. Thank you, Mr. Chairman.

And thank you, Mr. Rodriguez, for being here today.

I want to start with the affirmative asylum process. You are no doubt aware of the December 2 GAO report regarding fraud in the asylum process, and I'm sure you were just as troubled as I was by the ultimate conclusions.

I notice that there is significant backlog in affirmative asylum adjudications that linger way beyond the established timetables for adjudications. Can you provide this Committee with the exact number of cases currently pending adjudication for over 180 days?

Mr. RODRIGUEZ. I can't provide that specifically, other than to acknowledge that that number is significant. I can assure this Committee that we are working as fast as we can to hire up asylum officers so that we can move those caseloads.

I also have some things I'd like to say, if the opportunity presents itself, about the GAO report.

Mr. LABRADOR. Is it your testimony that this is solely due to the lack of resources, that the delay is solely due to the lack of resources?

Mr. RODRIGUEZ. We've certainly seen a significant increase in the volume of asylum cases, and so it has necessitated an increase in resources to process those cases.

Mr. LABRADOR. While adjudication times are important to keep the process moving, I'm concerned that the GAO found that there was no enterprise-wide fraud risk assessment completed by the agency.

I could understand a delay in adjudications if such a fraud assessment was underway. Can you explain why USCIS has not completed such an assessment?

Mr. RODRIGUEZ. I would say that we are taking a number of steps based on the findings that the GAO made. We are adopting most of the recommendations that they have made.

I would also indicate the fact that there have been a number of prosecutions for asylum fraud which resulted from our asylum officers identifying those cases as fraud cases.

So I, to some degree, take issue with certain omissions in the GAO report. We are embracing its recommendations. We think it will make our work better.

Mr. LABRADOR. So do you believe that fraud is a pervasive problem in the asylum context?

Mr. RODRIGUEZ. I believe that it is something that we need to do everything we can to prevent. I certainly perceive it as a risk.

Mr. LABRADOR. So, obviously, when you say "everything we can to prevent it"—but is it a pervasive problem in the asylum context?

Mr. RODRIGUEZ. Again, I view it as a risk. I'm not sure that I would agree that it is a "pervasive problem." I view it as a risk that we need to safeguard against.

Mr. LABRADOR. So how many asylum cases are being granted in the United States right now, percentage-wise?

Mr. RODRIGUEZ. I believe it's roughly 25,000 in recent years.

Mr. LABRADOR. So what percentage is that of the adjudicated cases?

Mr. RODRIGUEZ. I couldn't tell you specifically what percentage it is. We can certainly get you that information.

Mr. LABRADOR. Okay.

Based on USCIS internal investigations and audits, does the agency have an estimated percentage of the number of fraudulent asylum applications that are affirmatively filed each year?

Mr. RODRIGUEZ. Again, we know the cases that we found. And that's why I point to the cases where our asylum officers detected fraud and flagged those cases.

We can certainly get you a number of cases where we have specifically identified the—

Mr. LABRADOR. Okay. Can you get us a percentage and—

Mr. RODRIGUEZ. Yeah, we can give you a briefing on what we know about the, sort of "pervasiveness" of fraud in our cases.

Mr. LABRADOR. Are asylum officers given the training and resources necessary to detect fraud?

Mr. RODRIGUEZ. They are. And, in fact, they have. They have detected fraud.

Mr. LABRADOR. Do you believe that the 35 fraud detection and national security officers embedded at asylum offices nationwide is sufficient to combat the fraud in the process?

Mr. RODRIGUEZ. That represents, as I think you know, a doubling of the number of fraud detection and national security officers assigned to the asylum. I think that has permitted them to provide much greater support to the asylum offices. We're obviously going to continue evaluating whether that is enough, and if we need to increase the number, we'll increase the number.

Mr. LABRADOR. Do you currently believe it is enough?

Mr. RODRIGUEZ. I have no reason to believe that it's not enough.

Mr. LABRADOR. But what other steps is the agency taking to address this issue?

Mr. RODRIGUEZ. The main issues is to continue to train our officers and to make sure that they're getting the resources they need to combat fraud.

Mr. LABRADOR. I yield back my time.

Mr. GOWDY. The gentleman from Idaho yields back.

The Chair would now recognize the former U.S. attorney from Texas, Mr. Ratcliffe.

Mr. RATCLIFFE. Thank you, Chairman Gowdy.

Director Rodriguez, I want to follow up on a point raised by Chairman Goodlatte in his questioning to you, and it's about your stated testimony that your top priority is to implement the President's executive action on immigration.

I know you're a former prosecutor. I am, as well. We both took an oath to defend the Constitution. I was one of the first folks who questioned the constitutionality of the President's actions in that regard. And while that certainly may not matter to you, I think what should matter to you is the opinion of a Federal judge, followed by the opinion of a Federal circuit court of appeals, which ruled that the constitutionality of the President's action still remains very much in doubt. And so for you to make, you know, what would appear to be a highly questionable, likely unconstitutional action of the President your highest priority is troubling for me.

This is especially true when there's very little doubt that it was the President's action in that regard, regarding executive amnesty, that was the catalyst for the 2014 surge of unaccompanied alien children across our southern border. And even though the courts have now issued an injunction on the President's amnesty, the belief in other countries that you can still simply show up here in the United States and be granted amnesty and legal status is very much a pervasive belief in those countries.

And, accordingly, we are, as you know, still seeing a continued rise in the influx of unaccompanied alien children. According to the Department of Health and Human Services, in just the past 2 months, the number of unaccompanied minors crossing into the United States is 10,000, in just the last 2 months. That's a spike in activity.

And I know this is a fact because HHS contacted my office to let me know that, as a result of this dramatic increase, they're going to have to open additional facilities to handle the influx. And two

of those facilities are going to be in Texas and are going to open on Friday. And one of those facilities is going to open on Friday in my district, in Royse City, Texas.

So, to be clear, we certainly didn't advocate for this, and we didn't support the policies, which have been the catalyst for this crisis, but, nevertheless, we're left with dealing with the aftermath of the President's actions in this regard. And, as I hope you can appreciate, this is an issue of great concern to my constituents.

So I want to ask you, the inspector general report back in 2012 found that 25 percent of the Immigration Service officers were pressured to, in their opinion, get to "yes" in handling questionable applications.

And I know that you were not the Director back in 2012, but given that the President's executive amnesty has been put on hold by the courts but your stated priority remains administering the President's executive actions in that regard, what assurance can you give me—I hope that you can—that presently staffers aren't being asked to approve questionable applications as a way to implement the President's intended policies in this regard?

Mr. RODRIGUEZ. So I'll tell you exactly what I have done. I have communicated with my entire workforce through townhalls, I have visited USCIS offices throughout the world, and I have communicated very directly to my officers that the authority to make decisions about cases rests with them and with their supervisors, that my role is certainly to set policy, to set procedures, but the individual cases are theirs to decide.

I have a tremendous amount of respect for my workforce. I have gotten to know many of them. I would say that all of them take their professionalism far too seriously and their oath far too seriously to be bullied by anybody into making anything other than the decision that they believe is right based on the law, based on our policies, based on our procedures.

I haven't seen the inspector general report that says that 25 percent, "feel that way." What I have seen is what I have seen, being fully engaged with my workforce as its Director, and I have not seen evidence of that.

Mr. RATCLIFFE. Mr. Chairman, it appears my time has expired, so I will yield back.

Mr. GOWDY. I thank the gentleman from Texas.

And the Chair would now recognize the gentleman from Virginia, the Chairman of the full Committee, Mr. Goodlatte.

Mr. GOODLATTE. Thank you.

Director Rodriguez, it's my understanding that there was a teleconference last week between the Refugee, Asylum, and International Operations Division and the USCIS office personnel regarding refugee processing. And, on that call, the Deputy Associate Director of RAIO, Jennifer Higgins, told the field office personnel that, as refugee pools decrease in places from which we have resettled many refugees in recent years like Malaysia and Nepal, our real focus is going to be in the Middle East, Jordan, Turkey, Iraq, Russia, Kenya.

Is what Director Higgins said true, that in the next few years essentially the bulk of refugees will be coming from places like Jor-

dan, Turkey, and Iraq, places where we know security is of great concern?

Mr. RODRIGUEZ. So, Chairman, I am not going to be able to comment on internal deliberations, but let me answer the main question that you're asking.

It is, in fact, that there are certain refugee streams that we've been seeing in recent years where, basically, they are drying up—I don't know that I would necessarily have used that phrase, but where the cases are essentially slowing down.

At the same time, the Syrian example speaks for itself. You have 4 million applicants for refugee status in Jordan, Lebanon, and Turkey. They are coming from a country that is absolutely devastated, more than half of its population displaced. The President has been clear in his directive to us that we admit at least 10,000 people from Syria in this fiscal year, along with an overall target of 85,000. We have been very public about that, about those goals.

So, yes, we are perceiving that in certain places the refugee streams are drying up, where, in fact, they're increasing from other countries.

Mr. GOODLATTE. And it doesn't concern you that there might be security issues in some parts of the world, that it is more difficult to vet the refugees?

Mr. RODRIGUEZ. Oh, of course, it concerns me. And that's why a big part of what I have dedicated myself to is to digging into our security vetting process, observing our officers in action, visiting them on site, which I have already done—I traveled to Turkey back in June. I've had engagements with my refugee officers, with my asylum officers, as well, to assure myself that we are, in fact, deploying what we have described, and I now believe correctly, as an intensive, multilayer process to ensure that refugees deserve the status—

Mr. GOODLATTE. All right. Well, let me interrupt, because I'm going to run out of time, and we have votes on the floor.

Would it be acceptable for a USCIS asylum officer to grant asylum in cases that they suspect fraud?

Mr. RODRIGUEZ. If we suspect fraud, then we need to chase down that issue.

Mr. GOODLATTE. What changes do you plan to make regarding asylum processing procedures, given that asylum officers in seven out of eight asylum offices the GAO spoke with told the GAO "that they have granted asylum in cases in which they suspected fraud"?

Mr. RODRIGUEZ. We are enhancing our training. I am engaging with my workforce so that I hear those concerns directly, not just through reports. And we will continue to support our officers, both in training and also—

Mr. GOODLATTE. Support or admonish them to change their practices?

Mr. RODRIGUEZ. To support them.

Mr. GOODLATTE. And to continue to approve cases where fraud is suspected?

Mr. RODRIGUEZ. If they suspect fraud, then those issues should be chased down.

Mr. GOODLATTE. In May of 2013, the USCIS issued a guidance memo regarding asylum applications filed by unaccompanied alien

children. I have heard from several immigration judges that this memo is problematic. One of the end results is that an individual initially classified by DHS as a UAC can continue to benefit from the UAC status despite the fact that they actually live with their parents in the United States.

How does it possibly make sense that an individual is classified as a UAC when the Department of Health and Human Services officials have released them into the care of a parent?

Mr. RODRIGUEZ. I will need to dig into that issue further, Congressman. That memo was issued before I arrived at the agency. I will familiarize myself and get—

Mr. GOODLATTE. Does that raise some concerns to you?

Mr. RODRIGUEZ. Again, I need to know the facts and circumstances related to that directive.

Mr. GOODLATTE. I understand that the fraud detection and national security officers conduct open-source research on refugee applicants as part of security screening. So they check to see if there is evidence that an event that the applicant claimed has occurred as evidence in support of a refugee claim actually did occur.

But isn't it true that, with open-source checking, an applicant could simply describe an event that he or she has heard about or has knowledge of and that it really doesn't prove the individual was present at the event?

Mr. RODRIGUEZ. I am fairly confident that my fraud detection/national security officers are looking at a whole lot more than open-source information when they're checking claims by our applicants.

Mr. GOODLATTE. Well, I wonder if you could give us a comprehensive description of what it does mean to use open source, number one; and, number two, what, in addition, is done when open source, in some instances, seems to be the only thing they cite as the basis for approval of the claim.

Mr. RODRIGUEZ. I mean, again, depending on the facts and circumstances, I could see where the open source does not raise the concerns that you're talking about. I also know, however, that our officers look to classified, confidential, secret sources, as well, as part of our vetting, as part of their evaluation of claims made by applicants, be it for refugee status or whatever other benefit lines we're talking about.

Mr. GOODLATTE. Thank you.

And, Mr. Director, if I might ask, when do you think you could provide those answers to the Committee?

Mr. RODRIGUEZ. Within 2 weeks of today.

Mr. GOODLATTE. All right. That would be very good.

Thank you, Mr. Chairman. My time has expired.

Mr. GOWDY. Yes, sir. The gentleman yields back.

Director, they have called votes. There are 6 minutes left in the vote.

I'm happy to try to get the gentlelady from Texas in. I don't want to jeopardize anybody missing votes. Do you want to go vote?

I hate to do it to you.

Mr. RODRIGUEZ. I don't mind a water break.

Mr. GOWDY. Okay.

There are two votes, so we'll cast both procedural votes. And then we'll come back immediately and recognize the gentlelady from Texas. Thank you.

We'll be in recess.

[Recess.]

Ms. JACKSON LEE. I want to thank the Chairman and Ranking Member for yielding.

I want to raise a question about the U visa and those who work with immigrant crime victims. And I have had legislation on that issue regarding benefits that immigrant victims, crime victims, can get.

But they were asking you to implement a parole program for those on the U visa waiting list. And can you tell us what is delaying implementing this program that is so vital to immigrant crime victims so that they can participate in the criminal justice system and render justice?

And what comes to mind, of course, first, is the domestic violence, the issue of being taken advantage of, robbed, assaulted, raped, based upon their vulnerability and their inability to testify.

And can I give you a series of questions? So it's the U visa and how long it's been taking to implement it. I'd be very interested in that.

We had the Director from Department of Justice from the EOIR, dealing with immigration courts, but I also know that you work, with your responsibilities, to deal with asylum seekers coming into the United States. And I just wanted a sort of forceful, if you can give it, confidence of the vetting process that you have for those refugees.

Some landed in Houston on Monday, and I hope that the response in Houston was a celebratory one. Because of the recent discussions—they happen to be from Syria—all the news cameras and stations were going to film or record their coming into the State.

I might say that we have been taking refugees in the State of Texas for a very long time, and I'm delighted that the State of Texas abandoned what was an illegal action to attempt to stop the refugees from coming in. But I'd be happy for a—as forceful and vigorous as you can.

My last question, which is one that I may want to probe a little bit more, but I really want to track the fiancé visa. And let me be very clear. Over the years, I've seen a number of our men and women who have worn the uniform who have brought in their fiancés from the place in which they have taken up arms. And these were wonderful marriages, and this was a wonderful tribute to the diversity of people.

But in the instance of the terrorists and this individual, I cannot help but wonder, having discovered publicly that this person had been radicalized for 1 or 2 years, as to where we were in that visa vetting program. Because it hurts the program, and it should not. But she went to very conspicuous places. She was an educated woman, which is unusual—when I say “unusual,” in terms of how far education is allowed to go in some communities.

So if you can at least give me some framework. And, as I understand it, her point of departure was Saudi Arabia. And so I am very disturbed that she even got into the United States and re-

ceived a fiancé visa. And maybe I should ask the question, and I can receive it in whatever form, but how long that process took.

So if you could just start quickly with the U visa and then the asylum question, refugee question, and then this K-1 visa, I'd appreciate it very much.

Mr. RODRIGUEZ. So, as to the U visa program, I know we've been working on—the parole program, we've been working on developing that policy. I know that there is eagerness and urgency, and we will continue to work expeditiously. And I appreciate your urging us to get it done.

Ms. JACKSON LEE. And you keep me updated, please, the Committee.

Mr. RODRIGUEZ. Yes, ma'am.

Ms. JACKSON LEE. Thank you.

Mr. RODRIGUEZ. As to refugee screening, I would point out that we have admitted 785,000 refugees since September 11 and 3 million since the beginning of the modern refugee program, let alone how many we admitted prior to the modern program. Not quite 20 of those 785,000 have been arrested on charges related in some way to terrorism.

So it shows, historically, how that process has, on the whole, admitted people who came here to be law-abiding, hardworking citizens, raising families, just like all of us here.

Notwithstanding that, we have continued to tighten up the vetting. It is an intense, redundant, multilayered process that involves three interviews—one by UNHCR, one by the State Department contractor, one by my officers, who are trained in depth on country conditions—not to mention extensive background checks that are done tapping from intelligence community resources, law enforcement community resources.

And the key point of evidence here is, in fact, individuals have been denied, individual's cases have been put on hold, either because of derogatory information that was found as a result of those background checks or because of things that were discovered during the interview process.

Finally, as to the fiancé—

Ms. JACKSON LEE. Mr. Rodriguez, before you go to the last one, in my review of the process, there are at least 21 steps. Some of those probably are yours; some of them are the State Department. But what you are suggesting is it is a layered review.

And just as a testimony which Members don't give, I have in my State Texas Impact, Catholic Charities, and Interfaith Ministries, of which I used to be the chairman of the board. All have been engaged in refugee resettlement over the years, and I have to strain myself to find an incident out of the refugee resettlement program. You have an ally in me. But I think it is important for the American people to know how stringent the vetting process is.

Mr. RODRIGUEZ. No, I appreciate that observation, Congresswoman. I think it is important that the American people understand how intensive a process it truly is, in particular, when people are coming from war-torn environments, terrorism-plagued environments like Syria.

Ms. JACKSON LEE. Thank you.

Mr. RODRIGUEZ. Finally, as to the fiancé visa program, I appreciate your observation that most of the relationships that are a part of that program are legitimate relationships between people who love each other and are trying to start a life together.

In fact, one of the things that I focused on in most of today's hearing is on the fact that our security posture really needs to be for all visa categories. We're examining the fiancé visa program. We are looking for different points where we can make improvements in that process. We're looking retrospectively at those cases and identifying whether there are gaps that we need to address.

Ms. JACKSON LEE. May I just pursue a line of questioning?

When you say reviewing it, I mean, what would you look at? I mean, if you want to look at the present circumstance objectively, without going into the details, you have a person that seems to have traveled to—or came from very challenging areas. And she wasn't marrying a former military or a military person. And it seems that there needed to be more assessment, longer period of time, than what we did.

Mr. RODRIGUEZ. Those are exactly the issues that we're delving into. Right now, I can't speak to the specific case. I'm constrained from doing that. But those are the issues we're digging into right now.

Ms. JACKSON LEE. Let me finish, if the Chairman would indulge me just for a moment—

Mr. GOWDY. Well, I've indulged you for 3 1/2 minutes over the allotted time.

Ms. JACKSON LEE. You're very kind, Mr. Chairman.

Mr. GOWDY. Can you assure me this will be your final question?

Ms. JACKSON LEE. Yes, I will do so.

Mr. GOWDY. Okay.

Ms. JACKSON LEE. Thank you so very much, Mr. Chairman.

The Ranking Member and myself went down to the border, a summer or two ago, dealing with Central American families that we still maintain were fleeing horrific conditions, persecution. And they are in the asylum process, which is seemingly delayed, and they are now in detention in a lot of numbers.

We've made some progress. But what are you doing with those families that have basically been documented that they are fleeing murder, pillage, drugs, heinous acts, and they're in detention as opposed to moving through the asylum process?

Mr. RODRIGUEZ. Yeah, actually, you know, what we have been doing is moving with the "credible fear" and "reasonable fear" screenings as quickly as we can. Our processing times for those are now below 9 days—I think we're down to around 6 or 7 days right now—to conduct those screening processes.

Again, if there is a positive finding, then, you know, they move forward into the NTA process with the immigration courts. If there's a negative finding, they go home; they're removed.

So we are moving expeditiously in that process.

Ms. JACKSON LEE. Thank you.

Mr. RODRIGUEZ. Thank you.

Ms. JACKSON LEE. Mr. Chairman, I have two items to put into the record, if I might: a letter dated May 7, 2015, to Mr. Leon Rodriguez from a number of organizations, dealing with the ques-

tion of the U visa and the numbers of women who experience domestic violence, sexual assault, dating violence, who need to come under the U visa, and for it to be moved quickly.

I ask unanimous consent for the letter to be put into the record.

Mr. GOWDY. Without objection.

Ms. JACKSON LEE. I have an op-ed indicating “Gilman: Asylum-seeking families need help, not detention,” dated December 1, 2015. I would like to ask for it to be placed into the record.

The GOWDY. Without objection.

[The information referred to follows:]

May 7, 2015

Mr. León Rodriguez  
 Director  
 US Citizenship and Immigration Service  
 20 Massachusetts Ave, NW Washington, DC 20549

RE: Implementing Parole Procedures for U visa Program

Dear Director Rodriguez:

The undersigned 124 organizations that support, serve and/or advocate on behalf of survivors of domestic violence, sexual assault, dating violence, stalking, and human trafficking, write to voice our strong support for creating streamlined parole procedures for conditional grantees under the U visa program.

Given the number of crime victims eligible for U Nonimmigrant relief, it is apparent that the 10,000 annual U visa cap allocation has resulted in a several year delay in the availability of U visas. Without legislative changes, this situation is likely to remain unaltered, leading to ongoing multi-year waits for final U visa approval. US Citizenship and Immigration Service (USCIS) has indicated that they are currently adjudicating applications for visas available in FY 2018, and that there are currently about 22,000 conditional grantees on the U visa waitlist.<sup>1</sup>

Although we greatly appreciate USCIS providing Deferred Action to those who would otherwise receive U visas, the delay in receiving secure status is especially problematic for those with derivative family members abroad. Despite a regulatory mandate,<sup>2</sup> USCIS and the Department of State have not implemented policies that would allow U conditional grantee derivatives to travel to the United States. We therefore urge USCIS to implement parole procedures for U visa conditional grantees abroad.<sup>3</sup>

The current USCIS approach to humanitarian parole under INA § 212(d)(5) does not take into account the unique legal and practical character of the U visa program. Although the statute states that parole may be granted “on a case-by-case basis for urgent humanitarian reasons *or significant public benefit*,”<sup>4</sup> USCIS parole adjudications appear to focus solely on the first prong, whether individuals can show compelling humanitarian reasons for seeking immediate entry to the U.S. We suggest that a more appropriate assessment for this class should focus on the “significant public benefit” such parole would serve.

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<sup>1</sup> Based upon information shared by Vermont Service Center staff at the Freedom Network Conference on April 21, 2015 in Alexandria, Virginia.

<sup>2</sup> 8 CFR 214.14(d)(2) states, in relevant part: “USCIS *will grant* deferred action or *parole* to U-1 petitioners and qualifying family members while the U-1 petitioners are on the waiting list.” (emphasis supplied).

<sup>3</sup> We will address in a separate communication the need for a clear advance parole procedure for U grantees in the United States who wish to travel.

<sup>4</sup> INA § 212(d)(5)(emphasis supplied).

USCIS should facilitate and prioritize parole procedures for conditional U grantees abroad (both principals and derivatives) to support those who have helped law enforcement make our criminal system work. We all suffer when law enforcement and immigrant communities lose confidence in the U visa program.

As former USCIS Director Alejandro Mayorkas (now Deputy Secretary of DHS) stated,

The U-visa is an important tool aiding law enforcement to bring criminals to justice . . . At the same time, we are able to provide immigration protection to victims of crime and their families. Both *benefits are in the interest of the public we serve.*<sup>5</sup>

The lack of parole undermines the Congressional goals of the law.<sup>6</sup> We therefore urge USCIS to implement the regulatory mandate by issuing parole guidelines that reflect the special nature of this class.

Specifically, for those conditional grantees and derivatives abroad we urge USCIS to:

- Presume that, absent individual evidence to the contrary, all conditional grantees meet the “significant public benefit” test for parole: U principals and qualifying family members abroad with conditional approvals should be presumed eligible for parole by virtue of their conditional approval. Because supporting victims of crimes who have been helpful to law enforcement is a central goal of the U visa, USCIS should not require a declaration, detailed statement, or other evidence articulating individualized reasons the applicant merits parole.
- Eliminate the requirement of an I-134 Affidavit of Support for Parole Applications: The Violence Against Women Act of 2013 (VAWA 2013), codified in INA §212(a)(4)(E)(ii), makes the public charge ground of inadmissibility *inapplicable* to persons with U visa status. There is, thus, no legal rationale for requiring affidavits of support for conditional grantees. Moreover, U visa conditional grantees often lack the resources to provide typical I-134 affidavits of support. U applicants and grantees are either exempt or subject to liberal fee waivers precisely because they often lack financial resources.<sup>7</sup> Requiring such affidavits, therefore, lacks legal foundation and undermines the public interest.

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<sup>5</sup> Press release, USCIS Reaches Milestone for Third Straight Year: 10,000 U Visas Approved in Fiscal Year 2012” (emphasis supplied) (available at: <http://www.uscis.gov/news/uscis-reaches-milestone-third-straight-year-10000-u-visas-approved-fiscal-year-2012>)

<sup>6</sup> In creating the U visa program, Congress recognized that “providing temporary legal status to aliens who have been severely victimized by criminal activity...*comports with the humanitarian interests of the United States.*” See section 1513(a)(2)(B), Public Law No: 106-386, 114 Stat. 1464.

<sup>7</sup> See “New Classification for Victims of Criminal Activity; Eligibility for “U” Nonimmigrant Status” 72 FR 53014 (September 17, 2007). USCIS has determined that no fee will be charged for filing Form I-918 or for derivative U nonimmigrant status for qualifying family members. Furthermore, there are no fees for biometric services for U visa applications. See USCIS, “I-918 Petition for U Nonimmigrant Status” available at: <http://www.uscis.gov/i-918>.

- **Ensure Fee Waivers Are Adjudicated Appropriately:** Consistent with 8 CFR 103.7(c)(3)(xviii), USCIS should fairly review fee waiver requests for Form I-131 parole request where the evidence indicates that the applicant for parole, who is conditionally approved for U Nonimmigrant Status, is unable to pay the required fee.
- **Eliminate DNA Testing Requirement:** USCIS should not require DNA testing absent a specific problem with the traditional relationship documentation already provided and reviewed by USCIS to grant conditional status. The derivative applicant's qualifying family relationship to the principal U applicant has already been established by the conditional approval of the I-918 Supplement A by USCIS.

On behalf of the courageous survivors that our organizations serve, we thank you for all the work you do on behalf of immigrant survivors; we know you have many problems to solve. We encourage you, however, to prioritize rectifying this problem in the U program.

Please do not hesitate to contact Gail Pendleton, Co-Director of ASISTA Immigration Assistance ([gail@asistahelp.org](mailto:gail@asistahelp.org)) or Jessica Farb, Directing Attorney at the Immigration Center for Women and Children ([jessicafarb@icwclaw.org](mailto:jessicafarb@icwclaw.org)) for more information regarding these issues.

Sincerely,

**National Organizations (23)**

American Friends Service Committee  
 Americans for Immigrant Justice  
 Asian Pacific Institute on Gender Based Violence  
 ASISTA Immigration Assistance  
 Church World Service  
 Freedom Network  
 Futures Without Violence  
 Global Workers Justice Alliance  
 Lutheran Immigration and Refugee Service  
 Mil Mujeres  
 National Center on Domestic and Sexual Violence  
 National Coalition Against Domestic Violence  
 National Guestworker Alliance  
 National Immigrant Justice Center  
 National Immigration Law Center  
 National Immigration Project of the National Lawyers Guild  
 National Latin@ Network; Casa de Esperanza  
 National Latina Institute for Reproductive Health  
 National Network to End Domestic Violence  
 Southern Poverty Law Center  
 Tahirih Justice Center  
 We Belong Together  
 Women's Refugee Commission

**State and Local Organizations (101)**

**Alabama**

Hispanic Interest Coalition of Alabama

**Alaska**

Alaska Network on Domestic Violence and Sexual Assault

**Arizona**

Arizona Coalition to End Sexual and Domestic Violence

**California**

California Partnership to End Domestic Violence

Alliance for Community Transformations

Apoyo Legal Migrante Asociado

Casa Cornelia Law Center

Catholic Charities of Santa Rosa

Catholic Charities of San Francisco

Coalition to Abolish Slavery & Trafficking

Community Legal Services in East Palo Alto

Considine Sorensen Trujillo, APLC

Franco Law Group, APLC

Immigration Center for Women and Children

International Institute of the Bay Area

Law Office of Julie Cyphers

Law Office of Kristin Love Boscia

Los Angeles Center for Law and Justice

Meath & Pereira, APLC

Mira Law Group, A.P.C.

Pangea Legal Services

Redwood Justice Fund

Social Justice Collaborative

**Colorado**

Kelly Ryan Law, LLC

**Connecticut**

Connecticut Legal Services

New Haven Legal Assistance Association

**District of Columbia**

Ayuda

**Florida**

Legal Aid Service Collier County

UNO Immigration Ministry

**Georgia**

Georgia Asylum and Immigration Network

**Illinois**

Illinois Coalition Against Domestic Violence

**Kansas**

Kansas Coalition Against Sexual and Domestic Violence

Law Office of Sarah J. Schlicher, P.A.

**Kentucky**

Kentucky Coalition for Immigrant and Refugee Rights

**Louisiana**

New Orleans Workers' Center for Racial Justice

**Massachusetts**

Central West Justice Center

MetroWest Legal Services

**Maryland**

Immigration Legal Services, Esperanza Center, Catholic Charities of Baltimore

**Minnesota**

Minnesota Coalition for Battered Women

De Leon & Nestor, LLC

Immigrant Law Center of Minnesota

**Montana**

Biesenthal & Gray, LLC

**North Carolina**

North Carolina Coalition Against Domestic Violence

Charlotte Immigration Law Firm

Helen Tarokic Law PLLC

Yanez Immigration Law

**Nebraska**

Nebraska Coalition to End Sexual and Domestic Violence

Center for Legal Immigration Assistance

ST. MARY'S IMMIGRATION PROGRAM

**Nevada**

Nevada Network Against Domestic Violence

Jeglaw LTD

Pershing County Domestic Violence Intervention, Inc.

S.A.F.E. House

Safe Nest

**New Jersey**

Latin American Legal Defense and Education Fund

**New Mexico**

Catholic Charities Legal Services Diocese of Las Cruces  
New Mexico Immigrant Law Center  
Rebecca Kitson Law

**New York**

Bellevue/ NYU Program for Survivors of Torture/ NYU Center  
for Health and Human Rights  
CAMBA  
Community Development Project of the Urban Justice Center  
Domestic Violence Project at Urban Justice Center  
Law Office of Usman B. Ahmad, PC  
Northern Manhattan Improvement Corporation  
Safe Horizon Immigration Law Project  
Sex Workers Project at the Urban Justice Center  
STEPS to End Family Violence

**Ohio**

**Ohio Domestic Violence Network**  
Asian Services In Action, Inc.

**Oregon**

Immigrant Law Group PC  
Immigration Counseling Service (ICS)  
Lane County Legal Aid and Advocacy Center  
Marandas and McClellan  
Waxler Immigration Law LLC

**Pennsylvania**

Friends of Farmworkers, Inc.  
Hogan & Vandenberg LLC  
Pennsylvania Immigration Resource Center

**Tennessee**

Jackson & Hurst, LLC

**Texas**

American Gateways  
Immigrant Justice Alliance  
Law Office of Lynn Coyle  
Paso Del Norte Civil Rights Project  
Ponce Law Firm, P.C.  
Refugio del Rio Grande

**Utah**

Holy Cross Ministries  
Immigrant Defenders Law Group  
JLJ Law Group PLLC  
Perretta law office

**Virginia**

Just Neighbors Ministry  
Transitions Family Violence Services  
Virginia Poverty Law Center

**Washington**

**Washington State Coalition Against Domestic Violence**  
Domestic Violence Services of Benton & Franklin Counties  
Kuiskila Immigration Law Office  
Law Offices of Carol L. Edward & Associates, P.S.  
Lower Valley Crisis and Support Services  
OneAmerica  
Northwest Immigrant Rights Project

**Wisconsin**

**End Domestic Abuse Wisconsin**  
Pionek Valle Law Group, LLC

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OUTLOOK ^

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## Gilman: Asylum-seeking families need help, not detention

Speeding up asylum process would be in the interest of Central Americans fleeing human rights abuses

By Denise Gilman | December 1, 2015 | Updated: December 1, 2015 6:21pm

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As my family and I enter the holiday season, I struggle to feel the usual joy. My thoughts are with the Central American families who have fled blood-curdling violence in their home countries only to face lockdown detention upon arriving in the United States.

At the University of Texas School of Law's Immigration Clinic, my students and I represent Central American children and mothers seeking asylum. We know that many will be unable to share a hug, a prayer or a family meal with loved ones for the holidays.

[www.chronicle.com/opinion/c](http://www.chronicle.com/opinion/c)

because they will be held in immigration jails.

This country can and should live up to its well-earned reputation for offering compassion and refuge. Rather than detaining Central American families, the Department of Homeland Security should quickly process and release them at the border, placing them before the immigration courts to pursue asylum.

Sadly, the federal government has taken the opposite approach.

Although overall numbers of unlawful border crossings are at historic lows and net migration from Mexico is now negative, the number of asylum-seeking children and families from Central America has increased. There is a simple explanation - the human rights situation in Guatemala, Honduras and El Salvador is awful.

The region has some of the highest murder rates in the world, and domestic violence and targeted gang attacks are rampant.

Based on this danger, many arriving Central American families have valid asylum-related claims under U.S. law. However, they must present their cases before immigration authorities to receive protection.

What defies comprehension is the government's treatment of the families. Beginning in 2014, the federal government chose to treat these families as a threat that requires a law enforcement response, including widespread immigration detention.

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#### OPINION

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##### Correction



**Not-so-bad economy beats the alternative**

##### Editorial: Reward for work



**Cartoonists take on U.S. reaction to Syrian refugees**



**Cartoonists tackle Paris attacks**

The policy deems women, children and other recent border-crossers to be priority targets for law enforcement to the same degree as people who have committed violent crimes.

The same misplaced fears that have recently begun to poison the discussion around vulnerable Syrian refugees have already tainted the treatment of Central American mothers and children.

Our experience with dozens of Central American families shows that detention is unnecessary and causes unacceptable harm. For example, one 18-year-old Guatemalan mother suffered domestic violence and fled to the United States with her 2-year-old son because she could not obtain help at home. They were sent to the 2,400-person Dilley detention center for almost a month, suffering a severe emotional toll.

Like many in detention, the mother and son have close family members living in the United States and were eventually released to family to await their asylum hearings.

Even then, the Department of Homeland Security insisted on placing an electronic monitoring device on the mother to track her whereabouts.

Families such as this one present no danger or flight risk because they have strong incentives to attend their hearings in order to obtain asylum protection. Detention serves no purpose and is actually counterproductive.

Although vast resources are directed to enforcement, funding is not available for the immigration courts to adjudicate the resulting backlog of cases brought into the system, leading to inefficient and unjust delays.

One case involving a threatened Honduran journalist who arrived in 2013, for example, is not scheduled for an initial hearing until November 2019.

Meanwhile, this asylum seeker is separated from his wife and daughter in Honduras, and his anxiety and fear recently led him to suffer a heart attack.

Our country is better than this.

Asylum-seeking families should be released to reside with relatives while they attend hearings before the immigration courts in their area on a time line that is neither unduly delayed nor rushed. The families should receive support through intensive nonprofit case management services.

They should also be connected to legal representation if they cannot afford it. Research suggests that such services would allow them to effectively present their asylum claims and ensure participation throughout the process.

These are beautiful, sad, scared children. These are mothers who are desperate to protect and care for their babies. This holiday season, they are praying for support, not detention. It is a gift that we ought to be giving them.

*Gilman is a clinical professor of law and the director of the Immigration Clinic at the University of Texas at Austin.*

HEARST magazines

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Ms. JACKSON LEE. Thank you.

Mr. GOWDY. The gentlelady yields back.

The Chair would now recognize the gentlelady from California for any concluding remarks or observations she may have.

Ms. LOFGREN. Thank you, Mr. Chairman. Just a couple of comments.

I note that the agency is now posting on the Web site waiting times in months. It's kind of like the visa bulletin for asylum cases. And it's backlogged in every office, but I can't help but notice that Los Angeles is twice as long as any other area. So I am hoping that efforts will be made to not particularly let L.A. Just completely fall off the cliff. Fifty months is—I mean, it's all too long, but that's really unacceptable.

I wanted to comment briefly on the open-source issue and also consolidating information on asylum. I remember the first asylum case I ever worked on was an Iranian who was in the United States when the fundamentalists took over and the Shah was deposed, and he was Jewish. And open-source data—I mean, they were machine-gunning Jews in Iran, and that was the key element to making his case. So the fact that there's open-source information doesn't mean that it's not helpful.

But I've always wondered why—and I'd like to, you know, suggest that this be done not only—it should be done in the immigration courts, as well—why don't we consolidate country information and update it, you know, every day?

I mean, you can read in the paper that last month gangs murdered all the bus drivers in San Salvador and left their bodies in the buses. You know, there's more information—I mean, there are things that are material that should be available and shouldn't have to be made part of the record in each and every case. Their background data and the assurance of the facts ought to be made available. And then applicants can add to it if they wish, but just the background data ought to be provided.

I wanted to mention also that discrepancies in an asylum case does not equal fraud. If you have a woman—as Sheila and I, when we went down to visit asylum applicants in Dilley and Karnes, and we met a lot of women, many of whom had been raped and abused. And, honestly, if you put, "I was raped on X date" on one document and a different date on another document, it doesn't mean you're making it up. I mean, you need further inquiry, obviously, but the fact that there are discrepancies when people are fleeing chaos and violence does not, per se, indicate fraud. And I think it's important to note that for the record.

I also was concerned by your comment that it's completely hands-off with officers making determinations. And I think it should be hands-off in terms of political interference, but officers can make mistakes, and there needs to be some way to correct it. Not that they're bad people, but I remember getting requests for evidence on whether a particular petitioning company existed, and it was Microsoft. And, you know, that doesn't mean that the application should be approved because there's a whole—but I could tell them that Microsoft did exist as a company.

We had to request for evidence on whether the job description of a former Prime Minister of a European ally of the United States

was legit. I mean, these are things that were just boneheaded mistakes, and there's got to be some capacity to fix that, not just say, well, we can't interfere.

And I'm hoping that it's a management issue, more than anything else, to make sure that mistakes are made—every congressional office gets complaints, and each one of us has to respond and send them to you for correction. And there should be some way to deal with that in a systematic way that makes sure, obviously, there's not political interference but that errors are caught and corrected if that is the case. Because usually people contact us when they've run out—they don't know what else to do but call their Congressman.

And, finally, just a comment on the Syrian refugees and the amount of information available to them. I think comparing the Syrian refugees to the Iraqi refugees may be a mistake, because the fact is we know more about the Iraqi refugees than any other refugees ever, because most of them were our translators and they're people that we know firsthand, we have extensive contacts with them. I think the real comparison is a Congolese refugee or somebody who fled complete chaos where we don't have anybody on the field.

And so the challenge is, how do you find out the truth when you don't have—because the situation is so hazardous, you can't have American officials in the field. And the truth is you do that by creating crowd-sourcing, in a sense, I mean, by recreating an entire history of an area and then seeing if what the person is saying is true or not true. And we're going to make mistakes, but we're not going to be reckless in that decisionmaking either.

So I want to thank the Chairman for giving me the additional time so we'll be even. I would just finally note that if you read the Fifth Circuit decision on the administrative actions taken by the Secretary of Homeland Security, it was really focused on the Administrative Procedure Act and whether the Administrative Procedure Act applied in these discretionary actions. It wasn't really a finding of unconstitutionality. I just thought it was worth pointing that out for the record.

And, with that, I would yield back, Mr. Chairman.

Mr. GOWDY. The gentlelady yields back.

Director, I want to thank you for your patience. I want to make a couple of observations, and then I want to end it by allowing you to answer an open-ended question.

The first observation I want to make is for folks that are following this issue. And I would argue, and I know you would agree, a lot of folks are following this issue nationwide because of what happened in California and, frankly, because of some comments made by other Administration officials with respect to the refugee program. There's a justified, legitimate sense of angst.

And I'm glad to hear that you did not confine your remarks today to just the K visa process, that you understand that there's both a prospective and retrospective need to evaluate all the visa processes. So I want to thank you for that.

I want to say this delicately but as firmly as I can. I realize that we learn a lot post-tragedy. It'd be great if we could learn some of these lessons pre-tragedy. We just have a tendency to want to

focus—I've read more articles today in the last couple of days about the K visa program than I have probably read in the last 10 years. It'd be great if it did not take something like what happened in California for all us, frankly, to redouble our efforts to make sure—the first objective should be to prevent it from happening, not to figure out what happened afterwards.

I have no reason to quarrel with the statistics, the crime statistics, that one of my colleagues shared with you. I don't know whether they're accurate or not, but I have no reason to quarrel with them, other than to say this: The margin for error is very, very, very small. In fact, it's nonexistent. And we can get it right a lot of the time. We can get it right the overwhelming majority of the time. But there's still risk. And, at some point, as a country, we're going to have to weigh and balance the risk with what we perceive to be the reward of the program.

What I want to do at the end is, I'm not going to ask you questions that I know you cannot answer, but I do want to put the questions on the record. So I don't expect you to answer them, I realize that you cannot answer them, but I want people to have a sense of what I think Congresswoman Lofgren and I would both like to ask. She's willing to wait until the Bureau concludes its investigation. I'm a little, maybe, more skeptical of whether or not it can't be done now.

But, regardless, I would like to know if the female terrorist did travel to the United States in July of 2014 on an approved K visa. The media reports are that she did. If the Director of the FBI can say certain things, I would think that that could be either confirmed or not confirmed.

At which embassy or consular post was the visa issued?

Are the reports correct that one or more of the addresses she listed on her visa application were wrong? And it can be mistakenly wrong or it can be fraudulently wrong, and it's important which it was, if either.

Did she undergo an in-person interview with a consular officer? And if so, how long did that in-person interview last?

When did she first apply for the K visa?

What does the investigation consist of before you get to the in-person consular interview? Were her neighbors interviewed in the country of origin? Her work history, school, employers?

You know, it strikes me, Director, that this country is conferring a privilege on people to allow them to immigrate here. Therefore, we should be able to ask to see whatever information we think would be relevant to that inquiry, whether it is cell phone records, if that's applicable in a country, or whether it is interviewing neighbors.

I want to make this one observation. I'm not going to pressure you. You say you can't answer the questions. I get that. I respect the fact that prosecutors and law enforcement officers oftentimes cannot comment on whether or not an investigation is even ongoing.

I would tell you that people like consistency because it breeds confidence. And our President has, on at least two different occasions, commented during an ongoing investigation. And I try not to criticize him gratuitously, but when you comment on an ongoing in-

vestigation, as he has done twice, on the merits, the facts, and then you ask Administration officials who come before Congress and, in my judgment, correctly note that they could not comment on an ongoing investigation, it breeds a lack of confidence.

I don't think the lack of confidence is with you. I just think the President would do well to take the same advice that you have received, which is, if you don't know what you're talking about, it's better to say nothing.

With that, we're all going to go back to our districts at some point, hopefully in the next week or so, and I think we're likely to be asked, are we safer than we were a month ago, are we safer than we were 6 months ago, with respect to what we've learned about the visa.

I want to let you close us out by giving an assurance, if you're able to, that we've already taken steps to at least make us safer than we were the day before the incident happened in California.

Mr. RODRIGUEZ. Thank you, Chairman, for that invitation.

Again, without being able to go right now into the specific details, there are affirmative steps that we are preparing to take now that will certainly enhance our visibility into the backgrounds of at least certain categories of individuals who seek admission to the United States. I think as we complete our process of review, we will be able to talk in greater detail as to what that means.

Mr. GOWDY. When and if you learn that it is appropriate for the Ranking Member and I or anyone else who's interested to review that file, we would like to do so. I don't want to interfere with an investigation, but I also don't want that to be cited as a reason if it's not legitimate. So if it's brought to your attention that it's okay, Ms. Lofgren and I will be happy to come to wherever the file may be.

Mr. RODRIGUEZ. Understood, Chairman. Thank you.

Mr. GOWDY. With that, we want to thank you again, particularly for accommodating our vote schedules and for answering all the Members' questions and the collegiality with which you always interact with the Committee.

With that, we are adjourned.

[Whereupon, at 3:36 p.m., the Subcommittee was adjourned.]

