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TERRORIST TRAVEL: VETTING FOR

NATIONAL SECURITY CONCERNS

Thursday, December 17, 2015

House of Representatives,

Committee on Oversight and Government Reform,

Washington, D.C.

The committee met, pursuant to call, at 9:03 a.m., in Room 2154, Rayburn House Office Building, Hon. Jason Chaffetz [chairman of the committee] presiding.

Present: Representatives Chaffetz, Mica, Duncan, Jordan, Walberg, Amash, Gosar, DesJarlais, Gowdy, Farenthold, Lummis, Massie, Meadows, DeSantis, Mulvaney, Buck, Walker, Blum, Hice, Russell, Carter, Grothman, Hurd, Palmer, Cummings, Maloney, Lynch, Connolly, Cartwright, Duckworth, Kelly, Lieu, Watson Coleman, Plaskett, DeSaulnier, Welch, and Lujan Grisham.

Chairman Chaffetz. Committee on Oversight and Government Reform will come to order. Without objection, the chair is authorized to declare a recess at any time.

The United States has the most generous immigration system in the world. In fiscal year 2015, the State Department issued almost 10 million visas for people seeking temporary entry into the United States. The State Department issued an additional 531,463 immigrant visas last year alone. Those 10.5 million immigrants and nonimmigrant visa holders joined an estimated 20 million others who entered the United States without visas under the Visa Waiver Program. Our government also issued 1,075,063 border crossing cards to Mexican nationals in just the first 10 months of fiscal year 2015.

There are an estimated, we are guessing, close to 10 million border crossing cards in circulation today. On top of that, more than 1 million nonimmigrant students are lawfully studying in the United States on student visas. Some 2,093,711 individuals were granted employment authorization in fiscal year 2015. In fiscal year 2013, the last year for which statistics are available, the United States granted asylum status to 25,199 people. And from fiscal year 2008 to fiscal year 2014, the number of individuals claiming a credible fear of persecution in their home country increased some 921 percent.

If we can put that graphic up, I would appreciate it.

We are seeing a rapid rise in people coming to the United

States, stepping foot into our country and claiming asylum. We have had a lot of discussion about refugees, who the administration want to import to the United States of America, but let's also understand the surge that is happening on our borders. Just today on the front page of The Washington Post is talking -- has a front page story about the number of children that are coming across our borders.

You can put that graphic down. Thank you.

The total number of asylum applications filed between fiscal year 2010 and fiscal year 2014 more than doubled, going from 47,000-plus to over 108,000. And 69,933 refugees were resettled in the United States just last year, but that's an incomplete picture, and, evidently, not enough for the Obama administration. Not everyone who is -- who is here came legally, or obtained lawful status once they got here. In fiscal year 2013, 241,424 -- sorry -- 241,442 people were processed for expedited removal. In fiscal year 2014, the Border Patrol made 486,651 apprehensions. Still, there's up to an estimated 15 million people that are here illegally. It's estimated that 40 percent of those folks entered legally and simply did not leave.

These numbers beg the question of whether the United States is doing enough to vet people who are applying to come to the United States. Our world is changing, and along with it, the types of threats that we encounter. Certainly with our experience with 9/11, the Boston bombers, and the more recent terrorist attacks

make it clear that the immigration screening process is a critical element in protecting the American people.

Reviewing the background of foreign nationals before they come to the United States is crucial to understanding who is entering the United States, and the recent terrorist attacks in San Bernardino and Paris highlight how important these background checks have to be.

We saw some of the most horrific terror episodes that we've had in our Nation recently in California: 14 people murdered, wounding 21 more. It was the deadliest terrorist attack on the United States soil since September 11. Tashfeen Malik came to the United States on a fiance(e) visa before getting her green card. She reportedly passed three background checks as she emigrated to the United States from Pakistan.

First, DHS checked her name against American law enforcement and national security databases, then the State Department used her fingerprints to do a criminal background check. Finally, when she was applying for a lawful permanent resident status, DHS checked her out again. She cleared each check, no red flags were raised. But it was pretty clear, now looking back, that it was well known among her friends and family that she supported violent jihad against the United States.

It's being reported this morning, I think it's MSNBC, that as early as 2011, Homeland Security was preparing to check social media, and yet Homeland Security decided that was a bad idea.

Almost every story I've ever heard, read, and seen is about -- even the President has made comments about terrorists who are really good at using social media. And back in 2011, when Homeland Security was thinking about using social media, the decision in Homeland Security was, bad idea. They made the wrong call. They made the really wrong call.

It is unclear what DHS will actually do when it encounters fraud via social media or other tools it utilizes for applicants seeking admission to the United States. It's my understanding that Homeland Security might start looking at it. This is publicly available information. Under current law, overstaying a visa, violating its terms, or committing fraud in the immigration process is sufficient to render an alien deportable, but now, pursuant to executive actions, such conduct is not necessarily a priority for removal.

All too often, we hear stories of offenders who are encountered by law enforcement and told they overstayed and committed crimes, and then Jeh Johnson, the Secretary of Homeland Security, puts out guidance and says even if you commit sex crimes, even if you do certain other crimes, don't necessarily need to deport them. They're here illegally, they commit a crime, and Homeland Security is saying, use discretion, we may not want to -- we may not want to deport these people. It's not a threat to public safety.

You tell a woman who's been raped that it's not -- that it's

not against public safety to that have person here. We're going to go through that in this committee here today.

The joint subcommittee hearing last Thursday left many of this committee's members frustrated and confused about the country's ability to address a growing threat. Homeland Security sent its Deputy Assistant Secretary for Screening Coordination Office to this committee. It was an embarrassment. As the Deputy Assistant Secretary, her bio states she, quote, "deters, detects, and denies access to, or withholds benefits from individuals who may pose a threat to the United States of America." She couldn't answer a single question. "I don't know." "I'll have to get back with you."

All the promises she made, by the way, she didn't fulfill. She couldn't even tell me if more people come in by land, by sea, or by air. She thinks most people come into this country by air. And she's in charge of screening.

You can see why we're scared to death that this administration, the Department of Homeland Security, the State Department is not protecting the American people. She has worked in that office since 2007. The basic lack of information of a senior official raises serious concerns, it inspires little confidence, and Americans have legitimate concerns about the threat that radical extremists pose to their safety and the safety of their friends, families, and communities.

I'd like to complete my opening remarks with a video. This

is of the national security advisor, and then followed up by -- followed up by -- you'll see. It will speak for itself.

[Video shown.]

Chairman Chaffetz. At least the FBI Director calls it like it is. At least the FBI Director was telling us candidly what's happening out there. And in the case of the most recent terrorist attacks, when the person maybe hasn't been here, or there are other circumstances, you can see why we have great cause for concern.

So we have a series of questions today. What I'd like to do is introduce the panel, allow for their opening statements, then we will have the opening statement from Mr. Cummings, and we will go to questions from there.

I would -- I will hold the record open for 5 legislative days for any members who would like to submit a written statement.

We're now going to recognize our witnesses. We're pleased to welcome the Honorable Alan Bersin, Assistant Secretary for International Affairs and Chief Diplomatic Officer for the Office of Policy at the United States Department of Homeland Security; the Honorable Leon Rodriguez, Director of the United States Citizenship and Immigration Services; the Honorable Michele Thoren Bond, Assistant Secretary of the Bureau of Consular Affairs at the United States Department of State; and the Honorable Anne Richard, Assistant Secretary, Bureau of Population, Refugees, and Migration, United States Department of State. We welcome you

all, and thank you for being here.

Pursuant to committee rules, all witnesses are sworn before they testify. If you will please rise and raise your right hand.

Do you solemnly swear or affirm that the testimony you are about to give will be the truth, the whole truth, and nothing but the truth?

Thank you. Please be seated.

And let the record reflect that the witnesses answered in the affirmative.

In order to allow time for discussion, we would appreciate if you please limit your oral testimony to 5 minutes. Your entire written record will be -- statement will be made part of the record. We'll do the four opening statements, and then we'll hear the opening statement from Mr. Cummings, and then we will go to questions from there. Mr. Bersin, you are now recognized for 5 minutes.

STATEMENTS OF ALAN BERSIN, ASSISTANT SECRETARY FOR INTERNATIONAL AFFAIRS, CHIEF OFFICER FOR THE OFFICE OF POLICY, U.S. DEPARTMENT OF HOMELAND SECURITY; AND HON. LEON RODRIGUEZ, DIRECTOR, U.S. CITIZENSHIP AND IMMIGRATION SERVICES, U.S. DEPARTMENT OF HOMELAND SECURITY; HON. MICHELE THOREN BOND, ASSISTANT SECRETARY, BUREAU OF CONSULAR AFFAIRS, U.S. DEPARTMENT OF STATE; AND HON. ANNE C. RICHARD, ASSISTANT SECRETARY, BUREAU OF POPULATION, REFUGEES, AND MIGRATION, U.S. DEPARTMENT OF STATE

STATEMENT OF ALAN BERSIN

Mr. Bersin. Good morning, Mr. Chairman, members of the committee. The last time I had the privilege of being here, it was to discuss the issue of Libya. I'm happy to be here this morning. I look forward to our dialogue.

I, also, in this 15th year since 2001, since September 11, 2001, want to express the support and sympathy that I and my family feel, and I'm sure my colleagues on the panel share and our colleagues across Federal service, for the families of the -- those killed in San Bernardino and for the families and the victims who were injured, the 21 victims injured in that terrorist attack.

Our written testimonies and the statements submitted to the committee actually describe, in some detail, the systems that have been put in place for screening of terrorist travel. What I'd like to do in the 4 minutes I have left is to give you an overview to look at the system, and the four major shaping factors that have built it since 9/11. And I point out that this is a system that was built under the leadership of two presidents, one Republican and one Democrat; it was built under the leadership of four Homeland Security Secretaries, two Democratic and two Republican; it was built under four Secretaries of State, two Republicans and two Democrats.

What we faced after 9/11 was a situation in which we did not have a unified system. I was the United States Attorney in southern California, and I recall in the 1990s that there were terrorist watch lists in each of the various departments. We were stovepiped. In the aftermath in the 14 years since 9/11, we have built a system that can -- that brings together the information of the United States Government, and institutionalizes it in a multiagency way. We have the National Counterterrorism Center, the NCTC, that maintains the TIDE, the Terrorist Identities Database Environment; we have the TSDB, the Terrorist Screening Database, managed by a multiagency terrorist screening center, the terrorist watch list. We actually have brought the system together and we do communicate, and I trust during this hearing, we will have an opportunity to discuss that.

The second major shaping influence was we realized that 98 or 99 percent of all trade and travel into the United States is perfectly lawful and legitimate, and therefore, we needed to see security and travel facilitation and trade not as being mutually exclusive, but as being part of the same process. We needed to introduce a risk management into the trade and travel vetting systems.

The third influence was that we recognized, in a global world where there's a massive instantaneous constant flow of goods, people, ideas, capital, electrons, images, and ideas, that, in fact, protecting the homeland, the Homeland Security enterprise is inherently transnational. And we built out a system in which, together with the State Department, the Defense Department, the intelligence agencies, DHS has a presence abroad to watch the movement of cargo and move -- and the movement of persons toward the homeland.

And fourthly, what we've seen recently, and that is shaping the system now, is that, in fact, we have a transnational threat that is cyber-enabled, and that our terrorist enemies are actually using the Internet to radicalize those who listen to their message and are receptive to it.

So at end, what we have built, and what we need to continue to build, hopefully in a bipartisan fashion, is a system that protects the American people by building up a Homeland Security enterprise that takes into account predeparture toward the United

States, departure toward the United States, entry at the United States, and then exit from the United States in due course.

Lastly, Mr. Chairman, I would be -- with all due respect, I would be remiss if I did not say on behalf of Kelli Ann Burriesci, that I know of no other career person in the policy office that I'm responsible for who is more dedicated, more knowledgeable about screening. The fact of the matter is, Mr. Chairman, she came to this hearing expecting to talk about the Visa Waiver Program, and she was hardly questioned at all about it. I make no apologies for her. She is first-rate. She's an American, she's a patriot, and I regret that you came away with a different impression.

Thank you, sir.

[Prepared statement of Mr. Bersin follows:]

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Chairman Chaffetz. That, we will be discussing.

Mr. Rodriguez, you are now recognized for 5 minutes.

STATEMENT OF LEON RODRIGUEZ

Mr. Rodriguez. Good morning, chairman, ranking member, members of the committee. One of our -- our very most obligation as public servants is to safeguard public safety and national security. That is particularly true when we are briefing benefits and privileges. So when we give somebody a driver's license, we require a test so we know that that person will drive safely. When we give professionals licenses, we test them to know that they can practice their professions in a manner that poses minimal threat of harm. We work in every respect in what we do to minimize risk. That is particularly true in the area of citizenship and immigration. When we grant citizenship and immigration benefits, we take a number of safeguards to protect the national security.

An observation made by Congressman Gowdy last week at a hearing before his subcommittee resonated with me particularly, and he challenged us that when incidents occur, we be talking not just about what we are doing in response to that incident, but that we really be thinking in terms of prevention of future challenges. And as I reflected on that, that, in fact, has been our posture and will continue to be our posture in the future,

and I'll give a few examples.

We are, as Secretary Johnson has frequently observed, in an evolving threat environment. More and more, the threats are not the threats posed by organizations acting in a concerted manner, but increasingly those threats are the threats of isolated individuals, or isolated groups of people, perhaps inspired by the organizations that present a threat to our country. In light of that combination of threats, the organized and also the isolated threats, we have been taking a number of measures over the past few years to reinforce the work that we do. One clear example is the institution of the interagency check that we apply in refugee vetting and in other environments. That gives us a very organized, a very methodical way to query against intelligence databases when we are screening particular individuals.

So I know there have been discussions about individuals who entered the United States at earlier times. Some of those individuals were not subject to that sort of screening. They would be today, and, in many cases, that would have prevented their entry.

When we screen Syrian refugees, we -- we prescreen cases before interviews are conducted. That is another innovation in a spirit of prevention.

And we have been piloting the use of social media for the vetting of particular categories of people seeking individuals.

There have, in fact, been three pilots that USCIS has used in combination with its intelligence community and law enforcement partners to screen particular categories of individuals seeking immigration benefits. We have already concluded two of those pilots, which operated on a relatively small group of people. We have learned a number of important lessons from that pilot, which, no doubt, I will have an opportunity to expand on those lessons in this hearing, and now we are in a -- the midst of a third pilot, which, in fact, has been applied and is in the process of being applied to literally thousands of applicants for immigration benefits.

So any thought that the Department of Homeland Security had simply foregone the use of social media for purposes of immigration screening is a mistaken thought. We have not spoken about it in great detail, because the fact is the more we speak about it, the more those who will use it will cease to use it, knowing that we will be examining that content.

What happened in San Bernardino is a tragedy, and we should take no other lesson from what happened in San Bernardino that we need to look at what we do and make sure that something like that does not happen again, that a tragedy of that type does not happen again. And, in fact, we have been working together with our partners at the State Department, our partners elsewhere in DHS, our partners in the intelligence community, to further look at opportunities to strengthen the manner in which we screen

individuals.

As I have read news accounts of what occurred in San Bernardino, I am struck by the fact that among the victims in San Bernardino are individuals who news reports related were immigrants themselves, who had come from all over the world, who had come here to live lives of service, serving the most vulnerable people in our society. And I do feel that my oath applies to those individuals as well as all of the victims of San Bernardino to protect them.

While immigration is a privilege as to any one individual, it is not a luxury for our country. It is necessary for the vitality of our economy, it is necessary for the stability and unity of our families, it is fundamental to our values, and I pledge to operate my part of the immigration system in a way that maximizes every opportunity that we have to protect the American people, to protect our national security.

Thank you, Chairman, for inviting us here today.

[Prepared statement of Mr. Rodriguez follows:]

***** COMMITTEE INSERT *****

Chairman Chaffetz. Thank you. Thank you.

Ms. Bond, you're now recognized for 5 minutes.

STATEMENT OF MICHELE THOREN BOND

Ms. Bond. Thank you, Chairman Chaffetz, Ranking Member Cummings, and distinguished members of the committee. As has been described by my colleagues from the Department of Homeland Security, the Department of State, along with partner agencies throughout the Federal Government, have built a layered visa and border security screening system in order to review and assess the visa eligibility and status of foreign visitors from their visa applications throughout their travel to and arrival in the United States. We take our commitment to protect America's borders and citizens seriously, and we constantly analyze and update clearance procedures and look for new ways to do an even better vetting process.

My written statement, which I request be put in the record, describes the screening regimen that applies to all visa categories. And although the tragedy, the terrorist attack in San Bernardino sparked particular interest in the fiance(e) visa, we apply equally rigorous security screening to all visa applicants, all travelers to the United States.

The vast majority of visa applicants, and all immigrant and fiance(e) visa applicants, are interviewed by a consular officer.

And the information that has been provided describes the extensive training which is provided to the officers: A strong emphasis on border security and fraud prevention, interagency coordination, how to conduct those interviews, how to ensure that the name check process throughout the interagency is thoroughly done, all applicants' data are vetted in this interagency process against databases that contain millions of records of individuals found ineligible for visas, or regarding whom potentially derogatory information exists, including the Terrorist Identity Database, which was referred to. We fingerprint them and screen them against DHS and FBI databases of known suspected terrorists, wanted persons, immigration law violators, and criminals.

We screen their photos against the photos of known or suspected terrorists and the entire gallery of individuals who have ever applied for a visa, which is contained in our database at the State Department.

When the interagency screening process generates a red light hit, the consular officer suspends visa processing and submits the application for a Washington-based interagency review conducted by Federal law enforcement and intelligence agencies, and the Department of State.

At individual overseas posts, we have additional screening done by DHS's visa security program staff and the PATRIOT system. The visa security units are located in over 20 high-threat posts, and ICE special agents assigned to the visa security units provide

onsite vetting of visa applications and other law enforcement support to consular officers.

Security reviews do not stop when the visa is issued. The Department and partner agencies continuously match new threat information with our records of existing visas or Visa Waiver Program travelers, and we use our authority to revoke these as when indicated. Since 2001, the Department has revoked over 122,000 visas for a variety of reasons, including nearly 9,500 for suspected links to terrorism.

We are engaged with interagency partners in the senior level review of the fiance(e) visa process ordered by President Obama, and I expect that recommendations developed in this review will apply to all visa screening.

We're also working with the Department of Homeland Security and the Bureau of Counterterrorism at the Department on security screening of Visa Waiver Program travelers and enhancing the data sharing commitments required for VWP membership.

We are investigating the applicability of advanced technology in data analysis, risk screening, and credibility assessment tools.

Mr. Chairman, Ranking Member Cummings, and distinguished members, the Department of State has no higher priority than the safety of our fellow citizens at home and abroad, and the security of the traveling public. Every visa decision is a national security decision. There is nothing routine about our work. We

appreciate the support of Congress as we continuously work to strengthen our defenses.

Mr. Chairman, I know you have visited consular sections in Mexico. I encourage every one of you to visit our consular sections when you are abroad, to meet with our staff, and to observe for yourselves the process that applicants undergo.

I look forward to your questions.

[Prepared statement of Ms. Bond follows:]

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Chairman Chaffetz. Thank you.

Ms. Richard, you're now recognized for 5 minutes.

STATEMENT OF ANNE C. RICHARD

Ms. Richard. Chairman Chaffetz, and distinguished members of the committee, thank you for the opportunity to appear before this committee regarding U.S. Refugee Admissions program, and security vetting for refugees considered for resettlement in the United States.

In fiscal year 2015, nearly 70,000 refugees of 67 different nationalities were admitted for permanent resettlement in the United States, including 1,700 Syrians. In fiscal year 2016, the President has determined that we should increase the overall number to 85,000, including at least 10,000 Syrians. We recognize that admitting more Syrian refugees to the United States is only part of the solution to the current global refugee and migration crisis, but it is in keeping with our American tradition. It shows the world that we seek to provide refuge for those most in need; it sets an example for others to follow; and it adds to the diversity and strength of American society.

Resettlement is offered to refugees who are among the most vulnerable, people for whom a return to Syria someday would be

extremely difficult, if not impossible, such as women and girls at risk, survivors of torture, children and adolescents at risk, and refugees with medical needs, disabilities, or physical or legal protection needs.

Families or individuals who could benefit the most from resettlement are referred to the U.S. Refugee Admissions program by the UNHCR, the U.N. refugee agency. But let me make clear, the UN refugee agency does not determine who comes to the United States. That determination is made by the Department of Homeland Security.

I know the murderous attacks in Paris on November 13 have raised many questions about the spillover of not just migrants to Europe, but also the spread of violence from war zones in the Middle East to the streets of a major European capital.

Let me assure you that the entire executive branch and the State Department that I represent, has the safety and security of Americans as our highest priority. As an essential fundamental part of the U.S. Refugee Admissions program, we screen applicants carefully in an effort to ensure that no one who poses a threat to the safety and security of Americans is able to enter our country. Consequently, resettlement is a deliberate process that can take 18 to 24 months.

Refugees of all nationalities considered for admission to the United States undergo intensive security screening involving multiple Federal intelligence, security, and law enforcement

agencies, including the National Counterterrorism Center, the FBI's Terror Screening Center, and the Departments of Homeland Security, State, and Defense.

And I want to make clear that we work in very close partnership with USCIS that is headed by Leon Rodriguez, and so it is -- our offices are in constant touch.

Our responsibility is to help prepare the refugees for their interview, and to prepare them, those who qualify, for life in the United States. DHS, though, has the heavy burden of determining whether someone qualifies for a refugee, and screening out anyone who can pose a possible threat. No one has a right to come to the United States as a refugee, and so if there's any doubt, they screen people out.

Applicants to the U.S. Refugee Admissions program, as you know, are currently subject to the highest level of security checks of any category of travel to the United States. These safeguards include biometric or fingerprint and biographic checks, and a lengthy in-person overseas interview by specially-trained DHS officers, who scrutinize the applicant's explanation of individual circumstances to ensure the applicant is a bona fide refugee, and is not known to present security concerns to the U.S.

The vast majority of the 3 million refugees who have been admitted to the United States since the Vietnam era, including from some of the most troubled regions in the world, have proven

to be hardworking and productive residents. They pay taxes, send their children to school, and after 5 years, many take the test to become citizens. Some serve in the U.S. military and undertake other forms of service for their communities and our country.

I'm happy to answer any questions you may have about our refugee resettlement program, or our contributions to aid refugees and victims of conflict overseas and our diplomatic efforts related to humanitarian operations around the world. Thank you.

[The statement of Ms. Richard follows:]

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Chairman Chaffetz. Thank you.

We'll now recognize our ranking member, Mr. Cummings of Maryland.

Mr. Cummings. Thank you very much, Mr. Chairman. I thank you for calling this hearing.

And I think that if we were to -- as I listened to the testimony, there are two words that ring out for me, and I hope that it will be the theme of this hearing, and they are two words that I repeat to my staff over and over and over again: effectiveness and efficiency, effectiveness and efficiency.

I believe that I speak for every member of this committee when I express our condemnation for the actions of these two depraved terrorists, Syed Farook and Tashfeen Malik, who murdered 14 innocent people in cold blood, and injured many, many others in their sickening rampage in California just 2 weeks ago. Certainly we send our prayers to the people who were injured and to the families of the innocent victims. We know that their lives will be changed forever by this horrific act. We also extend our profound thanks to the hundreds of law enforcement officials, emergency first responders, and healthcare providers who responded then and are still responding today to this act of cowardice and evil.

This attack was unusual because it was carried out by a husband, a United States citizen, and a woman who came into our country on a fiance(e) visa, married this man and then had a baby

with him, and their baby was only 6 months old at the time of the attack.

Last week, the Director of the FBI, James Comey, testified before the Senate that based on the FBI's ongoing investigation, it appears that both Mr. Farook and Ms. Malik were radicalized before Malik entered the United States.

Director Comey explained yesterday, however, that contrary to suggestion that a simple Google search would have revealed Malik's radicalism, these terrorists did not post their messages on publicly available social media. Director Comey stated, and I quote, "We found no evidence of a posting on social media by either of them at that period of time or thereafter reflecting their commitment to jihad or martyrdom," end of quote.

Director Comey also said this, and I quote, "I see no indication that either of these killers came across our screen, tripped any tripwires," end of quote. He also stated that he had not seen anything that, quote, "should have put them on our screen," end of quote.

Unfortunately, due to the extremely short turnaround for today's hearing, we do not have anyone here from the FBI.

Mr. Chairman, I ask unanimous consent to place this Fox News story into the record, which is entitled, "San Bernardino Terrorists Didn't Pose Public Messages, FBI Director Comey Says."

Chairman Chaffetz. Without objection, so ordered.

[The information follows:]

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Mr. Cummings. Thank you, Mr. Chairman.

So if a search of the public social media would not, in fact, have prevented the attack, the question before us today is what else, and this is the question that is so vital to our witnesses and we need to know this -- and by the way, Mr. Rodriguez, I agree with you when you referred to our distinguished -- distinguished gentleman from South Carolina, Mr. Gowdy, about preventing things -- but the question is, what else needs to be done to identify foreign nationals seeking to enter the United States who pose a risk to our national security?

Again, effectiveness and efficiency. For example, should the United States agencies attempt to access password-protected platforms, like the one reportedly used by Mr. Malik? How should they identify people who use alternate identities, which law enforcement officials also believe Malik apparently used? Which agency should do it, the State Department? The DHS? The FBI? Our intelligence agencies? All of them?

And once they conduct the screening, how should they report the results? Should they go into the National Counterterrorism Center's TIDE database? The FBI's terrorist screening database? Or others?

And, finally, should Federal agencies be able to access communications over social media accounts of U.S. citizens who sponsor foreign nationals, and if so, under what circumstances? These are all very difficult questions, and a lot of the answers

may involve classified information.

I understand that there are several pilot programs already in the works. I also understand that the President has ordered a review, that is currently ongoing.

Our job is to grapple with these issues and develop solutions that help protect this great Nation. The American people expect aggressive and urgent action to screen people entering the country to ensure that they do not pose risks to our national security. Again, effectiveness and efficiency.

For these reasons, I believe that one of the most constructive steps our committee can take today is to examine the various information databases used by Federal agencies to make sure they are sharing as much information as possible to promote our national security.

And so I thank our State Department and DHS witnesses for being here on such short notice, and I look forward to your testimony as you address that question of how we can be more effective and efficient.

With that, Mr. Chairman, I want to thank you for your courtesy, and I yield back.

Chairman Chaffetz. I thank the gentleman.

We'll now recognize the gentleman from Ohio, Mr. Jordan, for 5 minutes.

Mr. Jordan. Thank you, Mr. Chairman.

Mr. Bersin, in your opening statement, you said that the

witness we had last week, Ms. Burriesci, was a patriot, so no one's questioning that, but then you also said that she came prepared to answer questions about the Visa Waiver Program last week. I just want to read from the transcript last week. Here was question one.

"How many Visa Waiver Program overstays are there currently in the United States?" Ms. Burriesci said, "I didn't bring that number."

Second question, "How many overstays in the Visa Waiver Program may have traveled to Syria before they got here? Do you have that number?" Her response, "I don't know that number."

Final question was "How many people came from a Visa Waiver Program country that are here today and then may have been in Syria or Iraq before they came here? Do we know that?" "I don't have that answer."

So she obviously wasn't prepared to answer questions about the subject you told her.

Now, does Ms. Burriesci work for you, Mr. Bersin?

Mr. Bersin. Yes, sir.

Mr. Jordan. So why didn't you just come last week?

Mr. Bersin. I was in London with Secretary Johnson at the G6 plus 1 meeting with --

Mr. Jordan. Are you prepared to answer the questions --

Mr. Bersin. -- Homeland Security --

Mr. Jordan. -- today?

Mr. Bersin. -- on the Paris attacks.

Mr. Jordan. We sent an email asking for some of these numbers. Are you prepared to give us the answers today?

Mr. Bersin. With regard to overstays, as was indicated, Mr. Jordan, the -- this has been an issue spanning both Republican and Democratic administrations with regard to the overstay.

Mr. Jordan. Let me just ask you some specifics. How many Visa Waiver Program travelers are in the country today?

Mr. Bersin. Sir, if you give me an opportunity, I'd be pleased to respond to your question.

Mr. Jordan. Okay.

Mr. Bersin. The overstay report, which has been the subject of attention to this committee and to the Congress for many years, if you'd like to understand why that report has not been produced despite 20 years of requests, I'd be happy to provide that.

Mr. Jordan. I'm not asking for a report, I'm asking for a number. How many people -- how many Visa Waiver Program travelers are in the country today? Just the overall number, not even overstays, just how many are here today?

Mr. Bersin. There are 20 million -- there are 20 million persons who enter the country each year on the Visa Waiver Program.

Mr. Jordan. Twenty million a year. Do we know how many are here today?

Mr. Bersin. I do not know. I cannot give you a number on -- given the way in which the 90 days --

Mr. Jordan. Of that 20 million, how many -- how many overstays are here in a year's time, then --

Mr. Bersin. We do not track --

Mr. Jordan. -- how many overstays?

Mr. Bersin. We track overstays and we are preparing a report for that. We do not have a number that has been vet --

Mr. Jordan. Let me ask you this: Of the 20 million who come in here in a year, do we know how many may have been to Syria and/or Iraq, some traveled there to Syria and Iraq and then come to the United States in the Visa Waiver Program. Do we know?

Mr. Bersin. The Homeland Security investigations, the counterterrorism and criminal exploitation unit has opened up a number of investigations with respect to the number of Syrians --

Mr. Jordan. But do we know a number?

Mr. Bersin. -- who have entered this country.

Mr. Jordan. You said 20 million come in the Visa Waiver Program in a year, a bunch of those overstay. We know that. You can't give me that number. I'm asking, of the people who come on the Visa Waiver Program travelers, of those people, do we know of any of those who were in Syria and Iraq some time in the year or so before they come here on the Visa Waiver Program?

Mr. Bersin. We do. There were 113 investigations opened up by Homeland Security investigations with regard to that matter, Mr. Jordan, and the bulk of those investigations have actually

been closed. And, in fact, there are 18 ongoing investigations associated with Syrian nationals.

Mr. Jordan. Did that 113 number specific -- specific to the question I asked, people in the Visa Waiver Program who may have traveled to -- who did travel to Syria or Iraq before they came here?

Mr. Bersin. I do not have a specific number. I'm telling you that on the overstays that were identified --

Mr. Jordan. So it could be much higher than 113?

Mr. Bersin. Mr. Jordan, I am very eager to answer your questions, but I cannot answer --

Mr. Jordan. And I've got a minute and 20 seconds.

Mr. Bersin. -- questions if you interrupt me every time I begin to do so.

Mr. Jordan. All right. I'm sorry. Keep going.

Mr. Bersin. Thank you. There are investigations, and over the last year in fiscal year 2015, there have been 118 investigations of Syrians. I cannot tell you which ones of those entered the country on the Visa Waiver Program. I can tell you that those were overstays that have been identified as having come from Syria. Of that 108 -- 118, 11 were administratively arrested, and the remainder were closed, with the exception of 18 ongoing investigations --

Mr. Jordan. Okay.

Mr. Bersin. -- which are connected to Syrians and

overstays.

Mr. Jordan. All right. I'm -- that gives us a few seconds. Let me switch subjects.

This news account that I think was MSNBC, top officials of the Department of Homeland Security considered a specific policy to strengthen security screenings for foreign visa applicants' social media accounts, but that proposal was ultimately rejected.

Were you part of the team that put together the memorandum and then rejected the idea of actually screening potential entrants into the country's social media accounts?

Mr. Bersin. No, sir. I was not in the Office of Policy at that point. And I do know that Secretary Johnson has encouraged the components of DHS to continue the work referenced by Director Rodriguez to continue the work they've been engaged in with regard to social media.

I'm aware of no memorandum, secret or otherwise, that bars components of DHS from using social media.

Mr. Jordan. Mr. Chairman, real quick. One different -- different subject, but in your opening statement, Mr. Bersin, you mentioned the last time you testified in front of Congress, you testified about Libya. I'm just curious. Do you think the situation in Libya today is more stable than it was in 2011, or less stable?

Mr. Bersin. The hearing on which --

Mr. Jordan. I'm asking your opinion on the stability of

Libya today.

Mr. Bersin. I am -- I would defer to the State Department. In my personal opinion, which is not relevant, it's not any more stable, but it had nothing to do with the issue that was before this committee.

Mr. Jordan. Is it true ISIL is down in Libya as well?

Chairman Chaffetz. The gentleman's time has expired.

Go ahead and answer the question, Mr. Bersin.

Mr. Bersin. I'll -- I'll defer to the State Department on that judgment.

Chairman Chaffetz. You are the chief diplomatic officer for policy. I think your opinion is relevant.

Mr. Bersin. What is that -- the question, Mr. Chairman?

Chairman Chaffetz. The question Mr. Jordan answered -- or asked you, what is your opinion of that question? Do you --

Mr. Bersin. Having to do with ISIL?

Chairman Chaffetz. Yes.

Mr. Bersin. Or with Libya?

Chairman Chaffetz. Well, both.

Mr. Bersin. I gave the answer with regard to Libya. And with regard to ISIL, I think ISIL remains a substantial threat, that is being treated as such by every rational political leader I know across the world, in addition to the European leaders that Secretary Johnson, Attorney General Lynch met with last week in London.

Chairman Chaffetz. The gentleman from Massachusetts, Mr. Lynch, is now recognized for 5 minutes.

Mr. Lynch. Thank you, Mr. Chairman.

Good morning. I want to thank the witnesses for helping the committee with its work and for your service to our country.

I do want to go back, Secretary Bersin, about the overstay issue, because last week, Ms. Burriesci, who is a fine person, she just didn't have her numbers person with her, she had four staff, but they had no numbers for us, and that was tragic, unresponsive to a huge number of questions, unfortunately, and I'm sure she's a fine person, but we're after the facts, and she didn't have many.

Okay. So she told us last week -- we had to recess the hearing so she could call the office. She told us that 20 million people a year come in under the Visa Waiver Program. She said that there was 2 percent overstay each year, that's what she told us, which comes to 400,000 overstays per year. And are you telling me something different here today?

Mr. Bersin. The -- the estimate is in that -- in that range, but the number that --

Mr. Lynch. Okay. I'm good with that. I don't want to eat up my time on that, but I just -- I just thought you -- I was going to come out of this hearing with less facts than what I came in with.

Mr. Bersin. But I did -- I did want to say that this -- this

issue of the overstay and the submission of a report, which is underway, and I admit --

Mr. Lynch. It's been underway a long time. I'm not a young man, so I don't even want to do anything more on this, because I just don't think that's happening. We've been promised that information for years, and --

Mr. Bersin. Well, I --

Mr. Lynch. -- that ain't happening. All right.

Mr. Bersin. I -- I --

Mr. Lynch. When I see the report, I'll believe it. All right.

Mr. Bersin. Fair enough.

Mr. Lynch. Let me go on. Look, between what Director Comey has said even just yesterday -- look, if you talk to the folks in our national security community, the Islamic State is using social media as a main recruiting tool; this is their game, this is their world, they're doing this all over the globe. And yet when we look at what Department of Homeland Security is doing, we don't have a regular, widespread requirement that our people review the social media of people coming from trouble areas where you've got a lot of terrorists, places like Pakistan, Afghanistan, Syria, Iraq, and Tunisia, parts of north Africa, where you've got, you know, a lot of support for radical jihad, violent jihad, we're not reviewing the social media, even though that's the world in which they operate, and we don't regularly review that, and

that's a major problem.

So, look, I think if someone is applying for citizenship to the United States, it is entirely reasonable that we ask for their social media contacts, their information that -- these people don't radicalize overnight. A lot of them have had public statements, not -- not their private emails. And I know that Tashfeen Malik, maybe her stuff was direct and it was private, we should have got that anyway. We should have said we want your social media, both your private stuff and the public stuff. That's entirely reasonable to ask people who are coming from countries that are known to sponsor terrorism.

Why aren't we doing that? Why aren't we asking people for their -- look, my colleges -- you know, I represent Massachusetts. Fifty-two percent of our colleges request all the information on that social media from applicants to college. Half of our employers do. They want to know what's going on on your -- you know, your Facebook, you know, your social media.

If the employers -- if half of the employers in America are doing that in the private sector, if your colleges are doing it for students, why the hell wouldn't Department of Homeland Security do it for someone coming from a terrorist country, or a country that sponsors terrorism, coming into the United States? It would seem to be, you know, I dare say, a no-brainer, but -- but it's not happening. So it's got me worried that we're not doing any of this.

Anybody care to respond to that?

Mr. Rodriguez. Yeah. I can -- I can certainly take part of that question, Congressman. I think, as I tried to make clear in my opening remarks, we have been piloting, and, again, the number of cases touched by --

Mr. Lynch. Very few, though. It's a pilot program. I know you've got some pilot programs there, but we've got millions and millions of people that are out there that want to come into this country, and we're doing a very small bit. And we don't even look at their public stuff. That's what kills me. DHS doesn't even regularly require that their -- their administration officers for people coming -- we don't even look at their public stuff.

Mr. Rodriguez. To be clear, we are moving -- both in the refugee and other immigration contexts, we have been doing some of it. We are working to develop more of it.

Mr. Lynch. You've got three very small pilot programs going, and I -- look, you know, we've talked to the folks overseas about what they're doing, and it's not regular, it's not routine, it's not widespread, just to be fair, and even our -- even -- and I talked to you before the hearing about what's going on in Beirut. We haven't had a regular vetting team there in a year. They fly in, they fly out, because of the conditions there. But I don't want happy talk, and sometimes I hear a lot of that, that we're doing fine overseas, and when I drove down, when I go to Beirut, you know, when I go to the Syrian border, when you go to Amman,

what you're telling us, the -- is just happy talk.

And they say they don't have the resources. They didn't have the resources when we had, you know, 160 applicants a year -- excuse me, a week, 160 a week, now they're getting 16,000 a week, and we have the same amount of resources we had before to vet them. It just -- it just troubles me greatly. I don't -- I don't think we're doing a good job, and I think we can do better. And I'd like to get the resources and the people to vet people well, and then if we deem them eligible, then you could take them in as refugees, but do -- we can be smart and then we can be compassionate, but right now, it doesn't seem like we're doing either.

I yield back. Thank you, Mr. Chairman.

Chairman Chaffetz. The gentleman's time has expired. We'll now recognize the gentleman from Michigan, Mr. Walberg, for 5 minutes.

Mr. Walberg. Thank you, Mr. Chairman.

Mr. Rodriguez, going back to that issue that my colleague, Mr. Lynch, broached with you, DHS has indicated that it began three pilot programs, we've talked about that, to include social media screening in the visa adjudication process in the fall of 2014.

Has DHS ever had a policy preventing adjudicators and attorneys from reviewing applicants' social media posts?

Mr. Rodriguez. I am not aware of a policy that prevented

it per se. There have obviously -- there are various privacy and other issues that govern, but there has never been a privacy per se. And certainly, during just about the entire time that I've been director, and that Secretary Johnson has been Secretary, what we have been doing is, in fact, piloting and developing the capacity to use social media in a -- in a thoughtful, functional manner for vetting purposes.

Mr. Walberg. Well, the "per se" -- the "per se" bothers me a bit.

Mr. Rodriguez. I'm sorry, sir?

Mr. Walberg. The "per se" bothers me a bit. You're indicating that there is no direct policy preventing --

Mr. Rodriguez. I am not aware of a policy. I am not --

Mr. Walberg. Then why wasn't --

Mr. Rodriguez. I --

Mr. Walberg. Then why wasn't it happening?

Mr. Rodriguez. Yeah. If I said that, I wouldn't read too much into the phrase "per se." I am not aware of there ever having been a policy that prohibited the use of social media.

Mr. Walberg. Well, then we have -- we have conflicting reports, then, in the last several days --

Mr. Rodriguez. Well --

Mr. Walberg. -- that there was and there wasn't.

Mr. Rodriguez. Again, I know full well that during my tenure as director, we have, in fact, been developing and piloting that

capacity.

Mr. Walberg. So it's a good policy that we look into social media?

Mr. Rodriguez. I do believe, and I believe that many of my intelligence community partners have the same view, that there is information of vetting value that may be garnered from social media.

Mr. Walberg. And it will be ramped up?

Mr. Rodriguez. We are in the process of doing that as we speak.

Mr. Walberg. Mr. Bersin, why did DHS wait, if there are three basic pilot projects, wait until 2014 to create these pilots?

Mr. Bersin. The activities, with regard to social media, have been conducted by the components, principally CIS, Mr. Rodriguez's agency; Homeland Security investigations, or ICE; and CBP have conducted their activities. There was no headquarters' overarching policy prohibiting that. To the contrary, these pilots have been going on under Secretary Johnson's leadership, and he's encouraged the components to -- to actually expand their ongoing efforts.

Mr. Walberg. Why did they wait until 2014 to initiate these pilots? Mr. Rodriguez, could you help me on that?

Mr. Rodriguez. I'm sorry.

Mr. Walberg. Why did we wait till 2014 to initiate, or to

create these pilot projects?

Mr. Rodriguez. I don't know. Again, during my tenure --

Chairman Chaffetz. I think you need to -- if you can bring the microphone --

Mr. Rodriguez. -- we have been busy doing this. So I am really unable today to speak to what occurred before. I certainly would be happy to get that information, to the extent that it's not privileged, and get that before the committee.

Mr. Walberg. When could we get that? We're getting used to hearing we don't have that information here in this --

Mr. Rodriguez. Yeah. I -- I think for us here, the main point is we are -- we are doing it. One of the reasons -- I just don't know what occurred years before I got here.

What we can say now is we are doing it, we are doing it in an abundant manner, we are looking to have it actually be useful for screening purposes. That seems to me the most important discussion. What happened 3 or 4 or 5 years ago, I can't speak to that, sir.

Mr. Walberg. What have been the results of what you're doing now?

Mr. Rodriguez. Well, I think there -- there is less there that is actually of screening value than you would expect, at least in those small early samples. Some of the things that we have seen have been more ambiguous than clear. There are challenges in terms of people using foreign alphabets to post.

That's a capacity that will need to be developed. As everybody has observed, many of these communications, as we've now learned from the Director, may have applied in the San Bernardino situation, are private communications, they're not openly -- open posts. Those are challenges that we've identified.

That said, I think we all continue to believe that there is a potential for there to be information of screening value, particularly as Congressman Lynch, and I think you have also observed, in particularly high-risk environments.

RPTR MCCONNELL

EDTR ROSEN

[10:02 a.m.]

Mr. Walberg. Well, I think recent events have shown there is probably significant, significant important information that we can get using the information gained from social media.

Mr. Rodriguez. We do not disagree.

Mr. Walberg. And we would hope that that would continue. And we hope to get more answers, and not to push back that this is something that we don't know. We have to know that. And when we hear, as we saw on the video earlier, the White House representative telling us that we are doing everything in our vetting process to secure, and then we see the results that are horrendous taking place, like in San Bernardino, we have got a problem. And I yield back.

Chairman Chaffetz. The gentleman yields back. I now recognize the gentleman from California, Mr. Lieu, for 5 minutes.

Mr. Lieu. Thank you. Let me first thank the panel for their public service. I have a question for Mr. Rodriguez, but first I want to make a statement. I am honored to be a U.S. citizen, and that's because you get amazing benefits of being a citizen of the most amazing country in the world, one of which the Constitution applies to you against your government. But for some time, it does seem to me that the executive branch has been

blurring the lines between U.S. citizens and foreign nationals, and sometimes you got it on backwards. Let me give you three examples.

In 2011, the executive branch deliberately, and I believe wrongfully, executed an American citizen via a drone strike. The Department of Justice has now said at least four Americans have been killed by U.S. drone strikes, four American citizens.

Second example, the executive branch, through the NSA, has been seizing hundreds of millions of phone records of U.S. citizens. They knew who we called, when we called, who called us, the duration of those calls, and it got so bad that Congress had to step in early this year, and prevent NSA from violating the Fourth Amendment rights of U.S. citizens.

And then the third example, which is this social media, there has been multiple reports, ABC News says that a secret U.S. policy blocks agents from looking at social media of folks seeking entry into the United States new visa program. The Hill reports immigration officials prohibited from looking at visa applicants. Politico says that Secretary Jeh Johnson believes that there are privacy reasons for why DHS is doing this.

Mr. Rodriguez, you mentioned, again, the privacy reason, and I just want to note, the U.S. Constitution does not apply to foreign nationals seeking entry into the United States. And so do not give foreign nationals seeking entry into the United States more rights than American citizens have. If you are an

American citizen, and you seek a job in the private sector, or the public sector, or in my office, we are going to look at your social media. And the response I have from you all today is, well, now you are doing three small pilot projects. That is not an adequate response.

And my question to you is, you need to reverse those -- that policy if, in fact, there is a secret policy. Maybe there isn't. But at the very least, you need to have a department-wide policy that we are going to look at social media, not just three small pilot projects. And I want to know why you can't, starting tomorrow, have a department-wide policy doing this instead of having three small pilot projects.

Mr. Rodriguez. So let me be clear. First of all, there is, not now, nor was there ever, a secret policy prohibiting use of social media for vetting. There needs to be a structure to these things. There needs to be a plan for doing these things. That is what we have been doing for many, many months now. In fact, a third of the pilots -- we are talking about small numbers -- a third of the pilots actually is being applied to thousands of individuals. I won't go into details beyond that, because I don't want to tip people off as to what we might be looking at.

I agree with you that U.S. privacy strictures apply to U.S. citizens. They do not apply in the same way to foreign persons. There are numerous examples in the manner in which we receive people at ports of entries, what we do at our foreign posts. There

is evidence of that -- of that distinction. So I do not -- I'm not sure I accept the premise that somehow we are safeguarding the privacy of foreign nationals, nationals to any greater degree. However, there are legal concerns that do need to be addressed.

Mr. Lieu. What are the legal concerns? We asked DHS earlier this week, give us a legal case, or a provision in the Constitution that says there is any privacy, any legal concerns with looking at anything related to a foreign national seeking entry into the United States. And I don't know where these legal concerns come from. I don't understand the quote that Secretary Johnson has attributed to him saying, there are, you know, legal concerns about scrutinizing Web postings. What is that case you all are relying on?

Mr. Rodriguez. There -- and again, I am not -- I am not the privacy law expert for purposes of this hearing. In fact, there are issues that we need to make sure are satisfied with respect, potentially, to treaty obligations that apply, with respect to our own laws that may apply, a variety of issues. And we are --

Mr. Lieu. That's more than --

Mr. Rodriguez. And also, I would also add --

Mr. Lieu. And let me just suggest, U.S. Constitution does not extend privacy protection to foreign nationals seeking entry into the United States. You need to not just have three pilot programs. There needs to be a policy of our government to look at social media, and other publicly available information of

people seeking entry into the United States. And with that, I yield back.

Chairman Chaffetz. Mr. Lieu, I would ask unanimous consent to enter into the record an article put out today. This is from MSNBC. You cited FOX News. I'm citing MSNBC.

Mr. Cummings. Fair and balanced.

Chairman Chaffetz. Yeah, fair and balanced. Fair enough.

Mr. Rodriguez. I must say, I appreciate the bipartisan --

Chairman Chaffetz. The title of this article: "Exclusive: Homeland Security rejected plan to vet visa applicants' social media," included in with this is an attachment supposedly from the United States Citizenship and Immigration Services. We have not vetted that, but in the spirit of getting to the bottom of this, I would ask unanimous consent to enter that into the record.

Without objection, so ordered.

[The information follows:]

***** COMMITTEE INSERT *****

Chairman Chaffetz. I now recognize the gentleman from Tennessee, Mr. DesJarlais, for 5 minutes.

Mr. DesJarlais. Thank you, Mr. Chairman. Ms. Richard, could you -- is it your understanding that the President still intends to bring about 10,000 Syrian refugees into the country this year?

Ms. Richard. Yes, sir.

Mr. DesJarlais. Could you tell the American taxpayer approximately what it costs per refugee per year to bring them here?

Ms. Richard. I don't have a per refugee cost. The overall program, though, is when you add together the costs of State Department, Department of Homeland Security, and Health and Human Services, that provide assistance to the States to help refugees once they are here, is close to \$1 billion.

Mr. DesJarlais. I had heard a number about \$84,000 per refugee. Does that sound reasonable?

Ms. Richard. I will have double-check that. I didn't have that --

Mr. DesJarlais. How many -- what percentage of the 10,000 refugees would be fighting-age men?

Ms. Richard. So far, we are putting a priority on bringing people who are the most vulnerable, so we have only brought 2 percent -- so far, only 2 percent of the ones we have brought, the Syrians we have brought, are fighting-age men who are

traveling without any family. So it would be a slightly -- it would be a higher percentage in terms of fighting-age men who are traveling with family. But the 2 percent number you may have heard are the ones who come as single without family attachment or ties.

Mr. DesJarlais. Okay. All right, I just hope the next time America gets attacked, that our fighting-age men don't want to resettle somewhere else. I hope they would stay and fight for our freedom.

Mr. Bersin, you said about 20 million people come on the Visa Waiver Program each year -- or Bersin, I'm sorry.

Mr. Bersin. Yes, sir.

Mr. DesJarlais. Okay. And did I hear that about 400,000 overstay?

Mr. Bersin. That's in the range of the estimate made, yes, sir.

Mr. DesJarlais. Okay. What are the repercussions for overstaying your visa?

Mr. Bersin. So if it's -- it has two, one potentially legal, and one in terms of your attempt to come back in to the country after using the ESTA. As I indicated, there is an Immigration and Customs Enforcement unit called the Counterterrorism and Criminal Exploitation Unit that tracks the overstays, and there have been relatively few, but some prosecutions for overstay. There have been removals of people who have overstayed,

administratively deported.

Mr. DesJarlais. So out of 400,000 who have come here, you have opened 113 cases. So there's not much repercussion for breaking the law for overstaying your visa.

Mr. Bersin. The main sanction that is applied, sir, is inability to get back into the country, depending on the facts of the particular overstay.

Mr. DesJarlais. How many of the terrorists that perpetrated 9/11 were -- had overstayed their visa?

Mr. Bersin. A number of them, sir, of the 9/11 --

Mr. DesJarlais. So we need to do much better. The Syrian refugees, how many of the Syrian refugees have been arrested in other countries in 2015, and have been accused of supporting of the Islamic State.

Mr. Rodriguez. I'm not aware of that number, I'm -- as we speak. If we have that information, we can certainly --

Mr. DesJarlais. Okay. And we probably --

Mr. Rodriguez. I'm not aware of that --

Mr. DesJarlais. -- actually, we don't really know, do we? We really probably couldn't get that information due to the lack of infrastructure in Syria.

Mr. Rodriguez. And I want to make sure I understand the question. This is individuals now in Europe, is that your question, or --

Mr. DesJarlais. In Europe, yes.

Mr. Rodriguez. I see. Yeah, I don't know, and I doubt, actually, that we would have that information.

Mr. DesJarlais. But Ms. Richard said, we are going to go ahead and bring 10,000 Syrian refugees into the country. The President, President Obama said we are going to go ahead and do this, but yet, even the FBI Director said there is no way we can vet these people because we can't access the Syrian database.

Bashar al-Assad is not going to help us -- tell us who the good ones and the bad ones are. So wouldn't it make sense to halt this program until we can tell the American people that we can safely protect them?

Mr. Rodriguez. Yeah, in addition to the passage by the FBI Director that was played on TV earlier, the FBI Director has also acknowledged that our vetting process is an extremely tough and thorough vetting process that involves multiple interviews, queries against multiple databases, so I don't think that was ever what the FBI Director said.

Mr. DesJarlais. I think it was exactly what he said. He said that we don't have access to any records because we have no cooperation from the Syrian Government, so we cannot adequately vet these people, correct?

Mr. Rodriguez. There is considerable data that we use, as I have repeated many times. In fact, there have been people who have been denied refugee status because of information that we found in law enforcement intelligence databases, as well as

hundreds of people that have been placed on hold, either because of what was in those databases, or that, in combination with information discovered during interviews. And, in fact, that has been acknowledged by Director Comey.

Again, if you can play one passage on TV. That is not the totality of what Director Comey has said about our screening process.

Mr. DesJarlais. I appreciate your confidence, but if we are bringing 10,000 refugees and we miss just 1 percent, that's 100 terrorists. It didn't take that many in Paris and it certainly didn't take that many in San Bernardino.

Chairman Chaffetz. I thank the gentleman. I now recognize the gentleman from Pennsylvania, Mr. Cartwright, for 5 minutes.

Mr. Cartwright. Thank you, Chairman Chaffetz. I want to follow up what -- the immediately preceding discussion with you, Ms. Richard. You are Assistant Secretary, Bureau of Population Refugees and Migration for the State Department, right? Is it fair to say you are intimately familiar with the vetting process for the refugees coming to this country?

Ms. Richard. I don't know it as well as Leon Rodriguez does.

Mr. Cartwright. Would you turn your microphone on, please?

Ms. Richard. I don't know the vetting processes as intimately as Leon Rodriguez does, because he oversees the people doing the vetting, but I am responsible for the overall program.

Mr. Cartwright. Well, that's what I'm interested in, the

overall program. Because I think what a lot of people don't realize, and you correct me if I'm wrong about this, Ms. Richard.

If you are somebody applying to be a refugee who is going to be resettled, relocated, you apply to the UNHCR, the United Nations High Commissioner for Refugees. Am I correct on that?

Ms. Richard. Yes.

Mr. Cartwright. And when you apply, you know, you are in one of these migrant camps. You have got your little kids with you. You don't know where you are going to turn next. You apply to the UNHCR. You don't get to say what country you want to go to. Am I correct in that?

Ms. Richard. That's correct. You can express a preference if you have family living in Australia, Canada, the U.S., but you don't get to decide that.

Mr. Cartwright. You don't get to decide where you are going?

Ms. Richard. And most refugees do not get resettled. Most stay in these countries to which they have fled.

Mr. Cartwright. So let's look at it from the shoes of somebody who wants to do harm to the United States. If you are an ISIS terrorist, and you want to sneak into the U.S., that would be the dumbest avenue you could take to apply for UNHCR resettlement to the United States that you could end up in Norway after the 24-month vetting process. Am I correct on that?

Ms. Richard. I agree.

It is not an efficient way for a would-be terrorist to enter

the United States. But that doesn't mean we let down our guard, because it would only take one bad guy to completely ruin the entire program. And we love this program. This program does so much good for tens of thousands of people every year.

Mr. Cartwright. Sure. Sure. And by the way, the shootings in California, were those perpetrated by refugees who were resettled?

Ms. Richard. No, sir. No. No refugees have carried out terrorist activities in the United States.

Mr. Cartwright. No refugees have carried out terrorist activities in the United States.

Ms. Richard. Successfully carried out an attack against American citizens in the United States.

Mr. Cartwright. Okay. What we really -- what I have been more concerned about is the visa program, and I want to follow up. Director Rodriguez, FBI Director James Comey reported publicly that the agency had no incriminating information about the shooters in the San Bernardino case. Is that consistent with your understanding, Director Rodriguez?

Mr. Rodriguez. That is on -- that is what I have come to understand from Director Comey, sir.

Mr. Cartwright. And Director Rodriguez and Assistant Secretary Bond, it has also been publicly reported that both the State Department and DHS followed all vetting and background check policies and procedures in this case. Is that also correct?

Ms. Bond. Yes, sir, it is.

Mr. Cartwright. Now, Mr. Bersin, the K-1 process begins when an American citizen petitions to bring his or her fiance to the U.S. Is that correct?

Mr. Bersin. That's my understanding, yes.

Mr. Cartwright. Mr. Bersin, how does the Department of Homeland Security screen the American citizen's K-1 petition?

Mr. Bersin. That would be an answer the CIA --

Mr. Rodriguez. My -- my portfolio, sir. So what we do at the point that a petition is made, remember the petition -- our sole, authorized purpose at the petition stage is just to adjudicate the relationship between the two individuals to determine whether they are, in fact, fiances. Nonetheless, we do run background checks at that stage, including the tax check, which goes against a number of law enforcement sources, both against the petitioner and the potential beneficiary. The results of those screens are then turned over to the applicable embassy for use in the actual visa screening.

Mr. Cartwright. Is the American citizen involved in the K-1 petition and interviewed at that time?

Mr. Rodriguez. Ordinarily, not interviewed at that time.

Mr. Cartwright. Why not?

Mr. Rodriguez. If they are not -- well, that's actually one of the points that we are exploring right now. Again, the adjudicative purpose for that interview at that point is limited.

It's really, again, to determine whether the relationship exists. If we are satisfied on the information provided, that that should be granted, obviously, the situation now -- and this is where, again, we say -- we say very clearly we should not act like nothing is wrong here.

I don't want to be giving, as Congressman Lynch worries, happy talk here. This is something we need to be thinking about, whether at least certain individuals need to be interviewed at that stage with the petitioner.

Mr. Cartwright. That's why I asked the question. And I do encourage you to look hard at adding an interview at that point in the process. And my time is up, and I yield back, Mr. Chairman.

Chairman Chaffetz. I thank the gentleman. I now recognize the gentleman from South Carolina, Mr. Gowdy, for 5 minutes.

Mr. Gowdy. Thank you, Mr. Chairman.

Mr. Bersin, Secretary Johnson is quoted as saying that there were legal limits on his ability to do some background investigations. I think that was a really unfortunate phrase that he used, but let's you and I see if we can kind of demystify that a little bit.

Do you agree that noncitizens who are not in the United States are not afforded any protections under the Fourth Amendment?

Mr. Bersin. That's my understanding, Mr. Gowdy.

Mr. Gowdy. Well, you were a U.S. attorney. You are being modest. Not only is that your understanding, it's also the law.

The Fourth Amendment does not apply to non-U.S. citizens who are not here, any more than the Eighth Amendment applies to non-U.S. citizens who are not here.

Would you agree with me that there is no legal bar to accessing data from noncitizens who are not present in the United States?

Mr. Bersin. Absent a treaty to the contrary, that's my understanding, sir.

Mr. Gowdy. Would you also agree with me that there is no legal right to emigrate to the United States? It's a privilege that we confer on people, but it is not a right.

Mr. Bersin. That's correct, sir.

Mr. Gowdy. So would you also agree that you can condition the conferment of a privilege on just about anything you want, so long as you don't violate a treaty, or --

Mr. Bersin. Or the Constitution.

Mr. Gowdy. Or the Constitution. But you made, I'm sure, extensive use of polygraphs when you were the United States Attorney.

Mr. Bersin. From time to time, yes, sir.

Mr. Gowdy. All right. And they are not admissible in court. Are they?

Mr. Bersin. Not generally, no.

Mr. Gowdy. But we still use them, because they are a very effective investigative tool. Do we use them in the vetting of

people who want to come here?

Mr. Bersin. With regard to immigration benefits, I'm not familiar with the policy in the refugee context. We do not regularly use a polygraph. If there's significant doubt in the operational component given the border authorities that ICE and CBP have, typically, the decision would be made to bar entry rather than go to the extent of trying to ascertain veracity.

Mr. Gowdy. But you and I just didn't use polygraphs in our previous lives because we had doubt. Sometimes it incents the person to want to embrace the truth when they think it might be a threat that they are going to be polygraphed. I mean, you certainly can't admit it in court, so it's not only the result, deception or otherwise, it is the threat that you may be polygraphed that sometimes provides people what the incentive to either tell the truth, or they need not apply in the first place, right?

Mr. Bersin. That can be one reaction from an individual. And I'm not aware, Mr. Gowdy, of any policy that would prevent that. I'm also not aware operationally as a former CBP commissioner that it's been used in any regular way.

Mr. Gowdy. Well, let me tell you where I find myself. I just listened to Ben Rhodes give a series of words like "extensive," "thorough," "careful." I have heard "tough." I have heard "multiple," all in connection with the word "vetting." It's all amplified the word "vetting." And I just sat here and

thought, well, if all of that was true, how did we miss the lady in San Bernardino?

Mr. Bersin. As the FBI Director said, Mr. Gowdy, and I think is the fact that there were no -- there was nothing in the system that we used that would pick that up. There was no data that we would turn into actionable information to deny admission.

Mr. Gowdy. I get you, Mr. Bersin, but I got to be candid with you. That doesn't make me feel any better. I mean, it is one thing to argue that there was information there and we missed it. That's one set of corrective measures.

Mr. Bersin. Right.

Mr. Gowdy. It's another thing to argue, as I hear we are currently arguing this administration, that we missed nothing. So we have someone willing and capable of killing 14 people, and there was nothing in her background that this administration says we missed, or should have picked up on, and yet, there's still 14 dead people. So how does that make us feel better?

Mr. Bersin. Mr. Gowdy, I think -- I don't think anyone would gainsay the sense of tragedy, and I don't think anyone is saying that were that information, that data in the system, that we would not all be over-relieved and thankful if it had led to the apprehension of that -- those murderers. The issue that you asked us factually were -- were there data in the system by which we could tell that this risk existed? And the answer to that is no. I think the inquiry that is being made here today is a valid

one, as Director Rodriguez suggests, and that we need to actually look at this hard and long in terms of the utilization of means.

I will say that there is no secret policy in DHS against the use of social media, and there is nothing in the privacy policy that would bar it for screening purposes.

Mr. Gowdy. Well, it couldn't be because it doesn't apply to non-U.S. citizens. I'm out of time. I just want to tell you the dichotomy as I see it. We have a choice. We can either tell the American people that our process and our systems are flawed, and that we have missed information that is otherwise available, and let them deal with that, or we can just tell our fellow citizens, we missed nothing. We did everything we were supposed to do, and there's still 14 funerals in California, so you just need to get used to the risk. Neither one of those is acceptable, I would argue to you.

Mr. Bersin. Mr. Gowdy, I have not heard anyone who was involved in law enforcement or in the Homeland Security enterprise that wouldn't say that we need to strengthen our systems. We have been doing that continuously for the 14 years since 9/11.

Chairman Chaffetz. The gentleman's time has expired.

Mr. Gowdy. All right. Forgive me for noticing the trend of extending time, but I will yield back.

Chairman Chaffetz. Yes, you will. We will now recognize the gentlewoman from Michigan, Mrs. Lawrence, for 5 minutes.

Mrs. Lawrence. Thank you, Mr. Chair. To everyone that's

is here today, thank you for being here. Assistant Secretary Bond, I want to ask you about the report of the visa office, which was issued by the Bureau of Consular Affairs at the State Department. According to this report, in 2014, Foreign Services posts issued about 467,000 immigrant visas, and 9.9 million nonimmigrant visas. The K-1, or the fiance(e) visas, which has received significant attention recently, are classified as a nonimmigrant visa. Is that correct?

Ms. Bond. The K-1 visa is an unusual, you could call it a hybrid. We process it as an immigrant visa case; we do all of the work on a fiance(e) visa that we would do for an immigrant visa case. For example, the applicant has to undergo a medical exam to show that there are no communicable diseases or other things. We wouldn't do that for a nonimmigrant. But when we actually issue the visa, it's a nonimmigrant visa, because until that person has married the petitioner and then applied for adjustment to legal permanent resident status, they don't have the right to remain in the United States after entering. So they are not coming in on an immigrant visa. But it's our Immigrant Visa Unit that does all of the preparatory -- all of the work --

Mrs. Lawrence. So for the record, are we saying that although it is classified as a nonimmigrant, you are saying, for the record, that they must go through everything as an immigrant -- through the complete process?

Ms. Bond. Exactly right.

Mrs. Lawrence. How many nonimmigrant visas do we have in the United States and we are processing in your department, and what are some of the other nonimmigrant visas?

Ms. Bond. There's an alphabet of them.

Mrs. Lawrence. So how many?

Ms. Bond. Examples of nonimmigrant visas are those that we issue to foreign diplomats who are coming here to serve in their embassies or consulates; to people who are coming as tourists, or on business, or they might be coming, for example, for medical care. We have people who are coming in as crew members, flying in on planes. They are coming in on ships, so --

Mrs. Lawrence. Ms. Bond, if I am coming in under the nonimmigrant fiance(e), at what point are we reviewed again to document? Is there any -- is there another step that happens? So I come in. I have to have a nonimmigrant. So I come back and just give you a marriage license and it's done, or is there additional screening?

Ms. Bond. In most cases, the fiance(e), the reason they are getting a fiance(e) visa is that they intend to marry and remain in the United States. So -- and they have 90 days to do that. We give them a one entry visa. They are allowed to enter the United States and they have 90 days, after entry, to either marry or depart. Most of them, having married, remain in the United States, and therefore, they get in touch with Director Rodriguez' colleagues in order to adjust status and, yes, they would -- they

would provide proof that they have married.

Mrs. Lawrence. Now, this is a question I have, and it was referred to by your colleague that they are reviewing the interview process of American spouses, because we don't interview the spouse. We just interview this application for the fiance(e) nonimmigrant visa. My question to you: The President has directed the State Department to review them. What is the review? When will this review be completed? And what is -- what is the objective of the review? Can you outline that, please?

Ms. Bond. Yes. The objective of the review which is an interagency effort, we are working very closely with different parts of the Department of Homeland Security and with other parts of the government, to take a look at every single element of the process. The specific focus is on the fiance(e) visa. So that you have the initial stage where the American citizen files a petition. We are examining that to see what more could we do there.

Then you have the stage where the information is vetted and then transferred to an embassy where the applicant is going to be interviewed. We are looking at that process, which is primarily under the direction of my colleagues in the Bureau of Consular Affairs.

Mrs. Lawrence. My time is running out, so my final question is, what is the timeline to complete this review and to report out?

Ms. Bond. My understanding is that we have to be providing a review to the NSC in January.

Mrs. Lawrence. Thank you, Mr. Chair. I yield back.

Chairman Chaffetz. Thank you. Members are advised that we have a vote on the floor. There are 11 minutes left in that vote. The intention of the chair is, I'm going to recognize myself for questioning. We will do one more Democrat, and then we will recess until approximately 11 a.m., or whenever the votes conclude.

So with that, I will now recognize myself.

Ms. Richard, you said that State Department is helping to prioritize the most vulnerable in Syria. Yet, in Syria, my understanding is in fiscal year 2015, only 29 people were Christians. I would think Christians in Syria are some of the most vulnerable people. Why is that number so low? It's less than 3 percent of those brought in, and, yet, Christians represent roughly 10 percent of the population in Syria.

Ms. Richard. I agree with you that Christians in the Middle East are some of the most vulnerable people, especially in the ISIL-controlled areas. And so that's one reason we have brought, in terms of our Iraqi refugees who we have brought to the United States, 40 percent have been Christians or other minorities.

Chairman Chaffetz. Okay, my question is about Syria. Look, I would appreciate if you would get back to me on this. I would spend a half hour going through it if I could. Please get back to us on that question.

Ms. Richard. We are bringing Christians from Syria.

Chairman Chaffetz. Not very many; 29 in a whole year, so --

Ms. Richard. They are underrepresented, in part, because they make up a smaller percentage of the refugees from Syria.

Chairman Chaffetz. And that's the problem.

Ms. Richard. They are not fleeing because they feel --

Chairman Chaffetz. Ms. Richard, I'm done with that question. I'm moving on. Ms. Bond -- I want you to get back to us with this question.

Ms. Bond, you wrote in your testimony since 2001, the Department has revoked approximately 122,000 visas for a variety of reasons, including nearly 9,500 for suspected links to terrorism. Of the 122,000 revoked visas, how many of those people are still in the United States?

Ms. Bond. I don't know.

Chairman Chaffetz. Doesn't that scare you?

Ms. Bond. Many of the people whose visas are revoked were not in the United States when we revoked the visa.

Chairman Chaffetz. You have no idea how many of those people are in the United States? Of the revoked visas, do you give those to the Department of Homeland Security?

Ms. Bond. Exactly. We revoke the visa and the information is --

Chairman Chaffetz. So Homeland Security, how many revoked visas are still in the United States of America?

Mr. Bersin. Mr. Chairman, I don't have that --

Chairman Chaffetz. You don't have a clue, do you? These are people that State Department, State Department, who gave the visa, thought about it, got more information, and decided, we better revoke that. Ninety-five hundred were tied to terrorists, and you don't have a clue who they are. Do you?

Mr. Bersin. No, Mr. Chairman, please understand that I head up the Office of Policy, the operational components that would have that information are not here.

Chairman Chaffetz. When will I get that? When will I get that information?

Mr. Bersin. I'm willing to during the recess see if we can find that.

Chairman Chaffetz. When will I get that information?

Mr. Bersin. If the operational representatives have that information, we will provide it to you when the hearing starts up again. If not, we will get it to you as soon as we can. I do not administer that.

Chairman Chaffetz. Mr. Rodriguez, do you have anything to add to that?

Mr. Rodriguez. I am -- we are not the operational component, so I don't.

Chairman Chaffetz. Okay. Is a visa overstay a key indicator of a threat to public safety and potential terrorism?
Mr. Bersin.

Mr. Bersin. It could be, depending on the facts. But in -- given the number of people involved in -- who come into this country who are processed, a million people a day, I don't suspect it's a large fraction at all. No, sir.

Chairman Chaffetz. Of the terrorist attacks that have happened in the United States, it's been a disproportionate number, hasn't it? How quickly, how quickly we forget about 9/11. Nineteen, I believe, of those people are visa overstays, correct? It's not even in the top three priorities for the Secretary of Homeland Security. That's what I got a problem with.

This memo of November 20, 2014, where the Secretary outlines the priorities for deportation. Category number two. And I want you to understand what I'm seeing at the end of category -- this is, again, not the top priority for removal, but number two. These aliens should be removed unless there are factors indicating the alien is not a threat to national security, border security, or public safety. And should not, therefore, be an enforcement priority.

Now, I don't know how you come to that conclusion about they are not a threat to public safety, border security, or national security. First of all, they are here illegally. That should be enough, in my book. But let me list to you, offensive -- offense of domestic violence, sexual abuse or exploitation, burglary, unlawful possession of a firearm, drug distribution or trafficking, driving under the influence, and

that is not an automatic deportation?

Well, you have got to be kidding me. And to think that they might -- do you think that's terrorism if a woman is raped? Do you, Mr. Bersin?

Mr. Bersin. Do I think that that is terrorism?

Chairman Chaffetz. Yeah.

Mr. Bersin. No, but it's an egregious, horrible crime which is the -- I think it is a horrible crime.

Chairman Chaffetz. It is for that woman. It is for that family, and you don't deport them. How do you do that? You give them an excuse to make a decision, put some poor officer there, to say, you know, maybe they should go ahead and stay here in this country. We had more than 66,000 criminal aliens in your control, and you let them go. You didn't deport them. You let them go. Why do you do that?

Mr. Bersin. Mr. Chairman, the policy provides that if they are a threat to national security, or border security, or public safety, that they are eligible --

Chairman Chaffetz. Give me a scenario when a woman gets raped and the person is here illegally, that they are not a threat to public safety. Explain to me that scenario.

Mr. Bersin. I didn't say that. I said that they would be subject --

Chairman Chaffetz. That's what the memo says.

Mr. Bersin. They would be subject -- I believe the memo

says, unless they are a threat to border security, unless they are not a threat to border security, national security, or public safety.

Chairman Chaffetz. How are they not a threat -- how are they not a threat to public safety?

Mr. Rodriguez. If I may, if a woman is raped, and the perpetrator is convicted of rape, that is a felony. That is a serious crime. That is a top priority for removal. So I'm not sure --

Chairman Chaffetz. It is not the top priority.

Mr. Rodriguez. I'm not sure where --

Chairman Chaffetz. It's already number two for the Department of Homeland Security, so says the memo.

Mr. Rodriguez. That person would be removed.

Chairman Chaffetz. It doesn't say that. It says, "unless there are factors indicating the alien is not a threat, or should not therefore be an enforcement priority." Jeh Johnson went out of his way to tell people, if you commit rape, rape, if you're in a DUI situation, if you commit burglary, don't necessarily deport these people.

Mr. Rodriguez. Respectfully, Congressman, I don't think you are reading that policy correctly. Rape is a serious crime that is a removal -- a removable offense. That is the policy.

Chairman Chaffetz. It is a removable offense, unless, unless, and it's priority number two for the Department of

Homeland Security. I want some answers about that. I am going to give you a copy to read. You are going to have a half-hour to go through it. And I want to understand why you let 66,000 criminal aliens remain in the United States of America.

That's a threat to the homeland. That's a threat of terrorism. That's a threat to every American. Those people should be priorities for removal and you had them in your possession, and you let them go. You did not deport them.

Mr. Cummings. If the gentleman will yield. Mr. Chairman, if your staff will give us a copy -- I just want a copy of whatever you are reading from, so we will know what you are talking about, the memo you just referred to.

Chairman Chaffetz. I ask unanimous consent to enter it into the record, and I will make sure all of the witnesses have a copy of it.

[The information follows:]

***** COMMITTEE INSERT *****

Mr. Cummings. No problem. I just wanted to make sure that we have it.

Chairman Chaffetz. Fair enough.

Mr. Cummings. Can we get it quickly?

Chairman Chaffetz. Yes. I'm sorry, yes. I will now recognize the gentlewoman from New York, Mrs. Maloney, for 5 minutes.

Mrs. Maloney. Well, thank you very much, and this is an important hearing, but the chairman said how quickly we all forget 9/11. I want to publicly thank all of the Members of Congress that are remembering 9/11 by including it in the omnibus which we will be voting on tomorrow. So I think that that is a wonderful way to remember 9/11 by providing permanent health care to the heroes and heroines, and survivors of 9/11, those who risked their lives to save others.

It was a bipartisan effort, and certainly one that we could all agree on. And I think we can all agree that we need to really work together on this whole area. Due to the questioning earlier, the woman who came in from Pakistan who became the terrorist, they didn't find her in the database. But according to a report from the IG in 2015 from the Department of Homeland Security, they said that TSA did not identify 73 people who had links to terrorism, and I find that very troubling. And according to this IG's report, this happened because TSA was not authorized to receive full information from the TIDE, the terrorist database

run by the National Counterterrorism Center.

I think we have two main questions. One is, if people are dangerous, we have to figure out how to get them into the database, but it's extremely troubling that they are in the database, and yet, a visa is given to them, which happened in this particular case.

So I would like to ask Mr. Bersin, can you briefly explain why TSA did not have access to all of the information in the TIDE database, which would have kept 73 people out of the country who had links to terrorism?

Mr. Bersin. Yes, ma'am. Actually, the 73 people referenced in the report were people who were credentialed to be in critical infrastructure. So of equal importance, but this was not a visa situation. Subsequent investigation actually demonstrated those 73 were not known as suspected terrorists. However, the larger point that you make, which is TSA access to TIDE's data, is something that is under consideration. I believe a policy decision permitting that access could be made, and is certainly under consideration right now.

Mrs. Maloney. Well, it seems to me that you have got to have access to who is -- why have the list if people don't have access to it in making decisions about who comes into the country? I mean, I find that -- I think that is something we can all agree on. We have to -- we certainly want legitimate visitors, but anyone on a terrorist watch list, you know, we should not be

granting access. So can you give me any reason why TSA should not have access? You are saying it's under consideration that they have access. Why in the world would TSA not have access to this counterterrorism list when it's their role to decide who comes in and who doesn't? I mean --

Mr. Bersin. It is the policy position of DHS, including TSA, that it have access to that data, ma'am.

Mrs. Maloney. That they have it?

Mr. Bersin. Yes.

Mrs. Maloney. Well, then, who is stopping that access?

Mr. Bersin. No, no, that they -- that they be authorized to receive that information directly from the TIDE.

Mrs. Maloney. But they are not receiving it.

Mr. Bersin. At this moment, no, but as I indicated, that policy has been under review, and I believe a decision will be made in -- shortly.

Mrs. Maloney. And who would make that decision?

Mr. Bersin. It would be a combination of an interagency process that would determine --

Mrs. Maloney. Who has the ultimate decision, the State Department, or --

Mr. Bersin. No, this -- ultimately, the Secretary would work with his counterparts in the cabinet, and it would be a decision that would be made by the interagency of the United States Government.

Mrs. Maloney. The interagency. Who heads the interagency of the United States Government?

Mr. Bersin. At the end of the process, the President, ma'am.

Mrs. Maloney. So it's the President of the United States?

Mr. Bersin. But this would not be -- it would be decided in the process of the National Security Council, headed by Ambassador Rice.

Mrs. Maloney. The National Security -- well, I think this should be changed immediately. This seems like a bureaucratic mistake. So do you have any sense when they will make this decision?

Mr. Bersin. The best I can offer you is shortly.

Mrs. Maloney. Okay. Well, I would like the committee to send a letter -- at least I'll send my own -- expressing that this policy change should take place.

May I just ask one brief question? Which entity has the final say on whether a visa applicant is approved to receive a visa?

Ms. Bond. The Department of State issues the visa when every part of the interagency clearance has cleared and there are no objections and no red lights. So we would not issue over the objection of one of the interagency partners.

Mrs. Maloney. My time is expired.

Chairman Chaffetz. Thank you. The committee is going to go into recess. Witnesses are advised that we will reconvene no sooner than 5 minutes after 11, and we will pick up from there.

The committee stands in recess.

[Recess.]

Chairman Chaffetz. The committee will come to order as we reconvene.

Mr. Bersin, I wanted to recognize you for a moment. You wanted to clarify something?

Mr. Bersin. Yes. Thank you, Mr. Chairman. Two points. The last set of questions and answers with Mrs. Maloney had to do with the access of TSA to TIDE data, and I talked about a policy change that was underway. On a manual case-by-case basis, that's been done from time to time. The policy change that I'm confident the Member of Congress would be pleased to hear is that this has to do with automated access of TSA to TIDE's data.

The second matter, Mr. Chairman, was that in responding to Mr. Walberg, I indicated that the number of visa -- of overstays were in the 4- to 500,000 range. And that number was correct, but my staff has corrected me, and I apparently misheard. This relates to both Visa Waiver Program, and also to all visas. So it was not just the Visa Waiver Program. There were approximately 4- to 500,000 overstays, but I believe when the overstay report does come, and Mr. Lynch is entitled to be skeptical, but I believe it is en route to the Congress, it will indicate a visa -- an overstay for the Visa Waiver Program that is considerably lower than the number I suggested inaccurately in my testimony, having misheard the Member of Congress. Thank you, sir.

Chairman Chaffetz. I appreciate the clarification. We now recognize the gentleman from Texas, Mr. Farenthold, for 5 minutes.

Mr. Farenthold. Thank you very much. Mr. Bersin, in your testimony, you talked about the various watch lists that were coordinated and maintained as a result of 9/11. Can you talk a little bit about what -- how someone gets on one of those watch lists?

Mr. Bersin. Yes, sir. There is a formal process. There is only one consolidated terrorist watch list in the United States following 9/11. And the way in which that happens is there is an interagency process. Any agency can nominate, and there are standards that govern the movement of a name --

Mr. Farenthold. Right.

Mr. Bersin. -- onto the terrorist screening base, or terrorist watch list.

Mr. Farenthold. There's a wide variety of agencies. Does there have to be some level of proof that you are on there, or is that a list based on suspicion?

Mr. Bersin. The standard followed for most, all cases, are -- is reasonable suspicion. There are other placements on the TSDB based on a couple of other factors that are actually much smaller, but for various immigration, or other reasons. But the --

Mr. Farenthold. So it's pretty easy to -- but it's pretty

easy to get somebody on the list. What about getting off the list? If, for some reason, let's say I were put on the list. How easy would it be to get off?

Mr. Bersin. So with regard to --

Mr. Farenthold. And would I know?

Mr. Bersin. With regard to a subset of the TSDB, which is the way in which people typically know that they are on the TSPB is if they are not permitted to fly abroad or within the United States, and there is a redress process that people can apply to to be removed, to ask to be removed from --

Mr. Farenthold. Do you know how long that process typically takes?

Mr. Bersin. It's an extended process, yes, sir.

Mr. Farenthold. Are we talking years or months?

Mr. Bersin. It depends on the particular redress application.

Mr. Farenthold. And there are American citizens on this list?

Mr. Bersin. Yes, sir.

Mr. Farenthold. Do you have any idea how many American citizens?

Mr. Bersin. Very -- the number of American citizens that are on the no-fly list, or the selectee list, are a very, very small fraction.

Mr. Farenthold. But there is a substantial number?

Mr. Bersin. There is a -- there are less than 0.1 percent, I'm told, with regard to the no-fly list.

Mr. Farenthold. All right. I guess my concern with this is there has been a lot of talk recently about using these watch lists for purposes other than they were intended, for instance, in determining whether or not Americans are able to exercise their rights under the Second Amendment.

Do you think it's appropriate that these lists be used outside of what they were designed for?

Mr. Bersin. I've not heard that, and I don't believe that it would be -- and I believe it would be apples and oranges.

Mr. Farenthold. All right, thank you very much.

Ms. Bond, I wanted to ask you a quick question about the folks that are interviewing folks who are coming into this country for a visa. That's done in your Consular Service Division. Right?

Ms. Bond. Yes. That's right.

Mr. Farenthold. And correct me if I'm wrong, is that not the entry-level job that almost everybody at the State Department has to start off and do a stint in the Consular Services section?

Ms. Bond. Almost every Foreign Service officer will serve in a consular tour in their first or second tour, and sometimes on --

Mr. Farenthold. And how long, typically, would someone serve in that position?

Ms. Bond. Two years.

Mr. Farenthold. And how many folks that are screening folks that are coming into the United States have been there, you know, for an extended period of time and have a high level of experience? To me, you testified they are adequately trained, but it's everybody's first 2-year stint. I assume most people don't choose to stay there.

Ms. Bond. I did. The people, the officers, as they arrive at post, if they are doing this as a first experience, a first consular tour, they are very carefully monitored during the first --

Mr. Farenthold. How many stay? I'm running out of time and I have got a question for Ms. Richard.

Ms. Bond. You stay -- you know, when we come into the Foreign Service, we come in in a cone, political, economic, consular. Approximately, I think, 20 percent of the Foreign Service are consular coned officers.

Mr. Farenthold. All right. Thank you very much. And I wanted to ask Ms. Richard. When we are admitting refugees into the United States from folks like Syria or countries of concern, what level of coordination is there with the States? Do we talk to the governors, or anybody within the States? I know Governor Abbott in Texas is none too pleased about some folks that are being resettled in Texas.

Ms. Richard. Every governor, I think 49 of them, have a State

refugee coordinator that is involved in making sure that the governor's office works with and talks to the local groups that are helping to resettle the refugees.

Mr. Farenthold. But they have no authority to stop it, or any formal process for expressing concerns. They are basically just informed, is that not --

Ms. Richard. We insist that our local partners consult with local government officials, including the State refugee coordinator from the governor's office. So they should be consulted.

Mr. Farenthold. Can you give me a definition of what "consulted" means? I'm out of time, and if you'll just kind of give me an idea.

Ms. Richard. You tell who is coming, how many, where they are going, all of that information.

Mr. Farenthold. So this is basically just a one-way --

Ms. Richard. Notification.

Mr. Farenthold. All right. Thank you. The States don't really have a lot of opportunity. Thank you very much. I yield back.

Chairman Chaffetz. I thank the gentleman. I will now recognize the gentlewoman from Illinois, Ms. Duckworth, for 5 minutes.

Ms. Duckworth. Thank you, Mr. Chairman. Ms. Bond, how long is that training process for those new Foreign Service officers

who end up in Consular Services?

Ms. Bond. The officers who are going out for a consular assignment for the first time take a training course that is 6 weeks long at the Foreign Service Institute here, and then, as I say, after arriving at post, are normally engaged in the process that each post sets up for assigning a more experienced officer to work with them for the first few months.

Ms. Duckworth. For the first few months.

Ms. Bond. Also, of course, we have managers in the section, more experienced officers, and the visa decisions, issuances, and refusals of the less experienced officers are reviewed by more senior officers, and are the basis of discussion to talk about what that officer looked at, what they based their decision on, what questions they asked, what questions they might have considered, or pursued, and so, it's -- there is, of course, an ongoing training program as people are settling into the job.

Ms. Duckworth. So approximately about equivalent to an infantryman who goes to basic training, and then goes -- we'd send them to combat under the supervision of more experienced leaders. And if we can trust our young Americans to go to combat with that amount of experience, I would think that we should be able to trust our consular officers who have been trained and are under supervision of far more experienced consular officers. You know, I strongly --

Ms. Bond. I think it's also worth noting that the -- we are

talking about Foreign Service officers, so these are people who have gone through a very rigorous, competitive program to be admitted to the Foreign Service. Many are lawyers, or have formerly worked in immigration law, or, you know, have been teachers, or many are, in fact, former military.

Ms. Duckworth. Right. So by no means are these inexperienced people, and even so, they get at least the same amount in terms of quantity of training as somebody we are sending into harm's way. I'm sure you are very proud of our consular officers, as am I, and I thank them for their service.

Ms. Bond. Thank you.

Ms. Duckworth. I strongly believe that we must do everything in our power to protect our country, but we can do it without devolving into demagoguery and focusing on imaginary problems. I agree with my colleagues that we must consider any and all options to improve the security of our refugees screening process, but let's remember that these refugees are fleeing the same terrorists that we are fighting, ISIS, and the brutal Assad regime.

Turning our backs on people who are being persecuted and killed, betrays our Nation's deeply-held values and ideals and weakens national security by helping ISIL recruit a new generation of terrorists through anti-American propaganda. And as we have already discussed, our current process already requires the collaboration of vetting of seven separate Homeland Security

departments and takes on average about 2 years to complete.

Mr. Bersin, and Mr. Rodriguez, you said that this process is incredibly rigorous. I would like to know if there are any other ways that we can further strengthen the refugee vetting process because, of course, I think we should if there are. But in your opinion, are there any other ways that we can further strengthen this process?

Mr. Rodriguez. Well, I certainly think that one key way that we have been starting to use piloting, could -- could be the use of social media research. There are other tools that we can use that I would not necessarily feel comfortable discussing in a public setting.

Ms. Duckworth. Okay.

Mr. Rodriguez. But needless to say, we are in a constant process of looking how we reinforce our security and law enforcement vetting across all lines of business. So I think it's helpful to talk about refugees, helpful to talk about the K visas, but I think it's also important that we realize that these security tools, in fact, are ones we need to think about using across all of our lines of business.

Ms. Duckworth. So it is not a stagnant process. It's something where you are constantly reviewing and when you have new cases, such as in the San Bernardino case, you go back and you look at other things that could be done. Mr. Bersin, you are nodding.

Mr. Bersin. Yes. I think the so-called hot wash, the after-incident, particularly of a tragedy of that proportion, always leads to a lot of examination, a lot of soul searching about how do we strengthen the system. And we will never get to the point where that process ends. This is -- this is clearly an example of something that requires continuous improvement. And when we have an incident, a tragedy of that proportion, yes, we look very carefully at what could have been done, what should have we known? What can we know? And then begin to address that, ma'am.

Ms. Duckworth. Do you have a regular process that's in place that is a periodic review of the -- of your processes that result in further improvement or adjustments?

Mr. Bersin. We do within DHS, and we do in the interagency. There is a constant review on an annual basis through, for example, the watch listing guidance. How do we actually manage these vetting processes. Yes, ma'am.

Ms. Duckworth. Thank you, I yield back, Mr. Chairman.

Chairman Chaffetz. I thank the gentlewoman. We will now recognize the gentleman from North Carolina, Mr. Meadows, for 5 minutes.

Mr. Meadows. Thank you, Mr. Chairman. I thank each of you for your testimony. Mr. Bersin, I'm going to come to you. You're a smart guy: Yale, Harvard, Oxford. You know, look at your resume. You know, you're a gifted attorney, and so as I look at

all of that, I'm puzzled by a little bit of your opening testimony.

Tell me, and let me quote you here, because it says that the second major-shaping influence is that we realize that 98 or 99 percent of all trade and travel in the United States is perfectly lawful and legitimate. How do you know that?

Mr. Bersin. The estimate comes, Mr. Meadows, from when CBP, for example, makes judgments about -- with regard to cargo, and with regard to the people who are coming in and out of the States. We have those assessments of that. And I think it's --

Mr. Meadows. All right. So following that logic, since it's an estimate, of the 20 million people that come here with a visa, you're saying that between 2 and 1 percent come here for less than lawful purposes?

Mr. Bersin. If you applied that figure, sir, to the --

Mr. Meadows. Well, if you are applying it to one, you have to apply it to all, don't you? I mean, either it's lawful or it's unlawful.

Mr. Bersin. No, the point is that when you look at, in the globalized world we operate in, with the 70,000 containers that come in, with the --

Mr. Meadows. Oh, so you are talking more about trade than people?

Mr. Bersin. No, I'm also talking about the million people a day that --

Mr. Meadows. All right. So let's talk about the million

people. Because really when we look at terrorist activity, we are talking about 20 million people who come here with a visa, and perhaps overstay. Is that correct?

Mr. Bersin. No.

Mr. Meadows. Twenty million a year.

Mr. Bersin. No, 20 million people come under the Visa Waiver Program.

Mr. Meadows. Okay, and of that, how many overstay?

Mr. Bersin. The estimate, as I indicated to the chairman on the clarification that I made, it's a -- when the overstay report comes out, the numbers that I have seen suggest that it is a relatively small number of --

Mr. Meadows. Okay. So you are talking about the internal document that you go --

Mr. Bersin. That's correct, sir.

Mr. Meadows. So what is the number on that internal document?

Mr. Bersin. Well, I'm -- it's less than --

Mr. Meadows. What's the number? Now, you have got a 2-inch binder there that has all kinds of research. In fact, it has got our pictures and our bios, so you have done good research. So you knew I was going to ask this question, I assume.

Mr. Bersin. I do, but I also have a duty --

Mr. Meadows. So are you going to give me the number?

Mr. Bersin. Mr. Meadows, I'm not going to give you a number.

No.

Mr. Meadows. Why?

Mr. Bersin. I'm not going to give you a number because there is a report that's is in preparation with a process that has to be followed.

Mr. Meadows. Is that the report that has been in process for 20 years?

Mr. Bersin. I -- it's that delay that makes me understand your skepticism.

RPTR HUMISTON

EDTR SECKMAN

[11:29 a.m.]

Mr. Meadows. The person who appointed you, Ms. Napolitano, promised it to this Congress in 2013, December of 2013, that it would be here. So are you all still working on that report?

Mr. Bersin. So, Mr. Meadows, I know you don't have enough time for me to explain why it's happened, but I take the criticism. I think it's a fair criticism.

Mr. Meadows. So when will we get the report?

Mr. Bersin. I believe that that report is in process, and the expectation is that it will be -- it will be delivered to the Congress within the next 6 months, and sooner if --

Mr. Meadows. So help me --

Mr. Bersin. -- this hearing --

Mr. Meadows. So help me understand this --

Mr. Bersin. -- has an impact.

Mr. Meadows. -- Mr. Bersin. We're supposed to believe you that you're vetting all the people coming here with unbelievable surety, and it's going to take 6 months to just give me a number?

Mr. Bersin. No.

Mr. Meadows. Because let me quote you, Mr. Bersin. You said that 400,000 is in the range of the estimate made. Now, that's -- that's an interesting -- it's in the range of an

estimate that's made.

Mr. Bersin. 400,000 to 500,000 are the -- are the total -- the total overstays, and that was the clarification asked for.

Mr. Meadows. All right. So answer this. The GAO said that there was potentially 1.6 million overstays in 2011. The GAO said potentially there was over 1 million overstays in 2013. How did you make such good progress, Mr. Bersin, if it's only 500,000 now, which is -- if you take the same numbers, means that there could be as many as 4,000 people here doing unlawful things, but how did you make good progress?

Mr. Bersin. The difficulty in the overstay process that we've had for 20 years is that in fact there is -- the entire exit industry -- the exit from our country for the last -- from the time it was organized did not build in the notion that we would screen people on the way out. It is based on screening people on the way in.

Mr. Meadows. That's exactly what I wanted to get to. So, Mr. Bersin, your testimony here today is you don't know who leaves this country. That's what you just said.

Mr. Bersin. No, I didn't say that. I said that when we -- the difficulty --

Mr. Meadows. So you do know? You do know how many people leave?

Mr. Bersin. We have a portion through the different

mechanisms, we have, yes, we know a certain portion. Those who come by air and leave by air, we can count them.

Mr. Meadows. So if they leave by boat or walk or car, you don't know?

Mr. Bersin. No. In the northern border, we've worked out with the government of Canada an entry-exit process where an entry into Canada is communicated to us for non-U.S. citizens and non-Canadians, so for that portion, we know. We also -- but the areas that we do not know --

Mr. Meadows. So you're under sworn testimony. The last question.

Mr. Bersin. Of the land borders of Mexico.

Mr. Meadows. Do you know the number of people that leave the United States each and every year?

Mr. Bersin. The --

Mr. Meadows. You're under sworn testimony. Yes or no.

Mr. Bersin. We can give you a large proportion of those, but not all, no, so we don't know.

Mr. Meadows. All right. I yield back.

Chairman Chaffetz. I thank the gentleman.

I now recognize the ranking member, Mr. Cummings, for 5 minutes.

Mr. Cummings. Thank you very much.

As I listen to this, it is very upsetting. It really is. I feel like -- you know, one of the things that I will go to my

grave remembering is Katrina. We had a situation there where people constantly told everybody that things were going to be all right if we had an emergency. And they said, "When the rubber meets the road, everything will be fine," but when it came time for the rubber to meet the road, we discovered there was no road.

The chairman and I, I think, when we looked at the Secret Service -- we looked at a number of situations where things are not as they appeared to be.

And the thing is, is that lives depend upon a lot of these things. And so I guess what I'm trying to figure out is, what did we learn? I want to get down to the bottom line. We can go through this all day, but I'm trying to get to the bottom line of something you said, Mr. Rodriguez, about how do we prevent, and what are we doing now to make sure things don't happen? First of all, did we learn anything from the San Bernardino incident? And if we did, what did we learn, and what are we going to do about it, and what are we doing about it? Now, if you tell me we learned nothing, that's okay; you can tell me that. Or if you tell me we learned something, but we're not going to do anything, but I need to know because I am of the firm belief that we need to -- we need to be frank about this, was it -- and by the way, we want to know whether it was an intelligence failure. What was it? Talk to me.

Mr. Bersin. So --

Mr. Cummings. And by the way, let me tell you something:

That 6-month thing, you can do better than that. All right? You need to get that information faster than that. All right? But go ahead.

Mr. Bersin. I was putting an outer limit on it, sir, so I didn't limit myself.

Mr. Cummings. Let's limit it -- you need to bring in the limit a little bit, but go ahead.

Mr. Bersin. I hear you.

Mr. Cummings. All right.

Mr. Bersin. So what did we learn? As I indicated, the fourth major influence is what Secretary Johnson and the President have been indicating, is that the threat is evolving and that, in fact, right now, we're dealing with something that is an online, cyber-enabled radicalization of people. It's the active shooter in the context of the lone wolf or lone wolves that are not necessarily organized, trained, and equipped by ISIL but actually inspired by the propaganda that is online.

And I think what we've -- what we've learned, as we saw, is that it was not in the system. And I think many of the questions that have been pursued and the inquiry that this committee is making about how far can we go with regard to social media, how far can we go into people's Facebooks and private chats, are all issues that are legitimate and need to be discussed. They --

Mr. Cummings. Idealistically, what would you do if you had the resources today that we would not have thought about or done

prior to the incident? I guess that's what I'm trying to get to where are we going to, if we're going anywhere?

Mr. Bersin. I think with regard to legal authority and privacy policy, I think all of those matters need to be looked at. We -- there are restrictions, but, for example, the privacy policy in DHS does not prohibit the use of social media for screening purposes. The question is, what are the other purposes that might permit that? What are the other civil liberties and protections that would actually say to us, "No, it would violate our values to actually go there"? But that's the debate that I take -- I take it is triggered by this action.

Mr. Cummings. Did you want to say something, Mr. Rodriguez?

Mr. Rodriguez. Yeah. I think I would say that we are -- we're hot -- we're autopsying the situation now.

Mr. Cummings. You're doing what?

Mr. Rodriguez. We are hot washing the situation.

Mr. Cummings. Hot washing.

Mr. Rodriguez. Yeah. In the sense that we are looking at it to see what lessons are learned. There are some preliminary lessons. You know, the question -- the point that Director Comey had made about a ripple in the pond, and we need to know -- just about everybody actually does leave a ripple in the pond, the question is, can we find the ripple in the pond?

Social media is clearly something that we need to be talking about. It is something that we have been building and are going

to continue to build. We've been focusing primarily on the refugee setting. We're going to be looking at also using it in nonrefugee settings as well. It's also a question of how, when, and who we interview because all of these tools need to be used together. So one of the questions here is, do we need to be doing things differently, more or less differently in the interview setting? That is something that we are digging into as part of our interagency collaborative process.

Mr. Cummings. Very quickly, Mr. Bersin, did TSA -- following up on Mrs. Maloney's question, did TSA submit requests? Does TSA now have all the information it needs from TIDE, the TIDE database?

Mr. Bersin. As I said, Mr. Cummings, they have manual access right now. The issue is to give them automated access, and we believe that decision will be made in the -- before the -- before 6 months.

Mr. Cummings. Has the request been made? Has the request been made?

Mr. Bersin. Yes, sir.

Mr. Cummings. And how soon -- you said "within 6 months"?

Mr. Bersin. No, no. I said sooner than 6 months. And actually I think this one is in the -- in the -- in the near future.

Mr. Cummings. The only thing I'm trying to get to, and we all should be concerned about this, is the sharing of information. Is that a problem? You know, sometimes, you know, I've found that

Federal agencies act in silos, and the next thing you know, one person has got -- somebody's got information over here, somebody's got some over there. Is that part of the problem?

Mr. Bersin. So, Mr. Cummings, that was clearly the case before 9/11. I think the testimony of your witnesses here today and the reality we know is that we don't have those silos with regard to the vetting process. There are other silos, to be sure, but not with regard to the exchange of metadata or the use of metadata to make judgments about whether or not a person is a high- or low-risk traveler.

Mr. Cummings. All right.

Thank you, Mr. Chairman.

Mrs. Maloney. Will the gentleman yield for a second?

Mr. Cummings. I'll yield for a second.

Mrs. Maloney. You know, who doesn't have access to the TIDE terrorist database? TSA doesn't have access to it. Are there other groups that don't have access to it, the K-1 visa, the other visa, visa waiver people, do they not have access to it? Who doesn't have access to that TIDE base? They should all have access to it.

Mr. Cummings. Reclaiming my time. Please answer.

Mr. Bersin. So the -- the TIDE's -- the Terrorist Identities Datamart Environment is actually a nexus of people who have -- in which there is derogatory information with an international nexus. For it to be operational, it comes into

the -- it comes into the Terrorist Screening Database.

The issue on TSA is that in doing its credentialing, we want them to have access on an automated basis so that they can get flags --

Mrs. Maloney. Yeah.

Mr. Bersin. -- about potential problems, and that's the issue that's at stake right now.

Mrs. Maloney. But I would think the other groups should have it too.

Chairman Chaffetz. The gentlewoman's time has expired. The gentleman's time has expired.

I now recognize the gentleman from North Carolina, Mr. Mulvaney, for 5 minutes.

Mr. Mulvaney. South Carolina.

Chairman Chaffetz. South Carolina.

Mr. Mulvaney. I thank the chairman.

Ms. Richard, we've had the chance to meet before. You and I have met with Congressman Gowdy to talk about some resettlement programs in South Carolina. I know that our staffs have worked together closely on that, and I appreciate your participation.

We find out yesterday in the media that your group has placed some Syrian refugees this month in South Carolina. I'd like to ask you about that. And full disclosure, it's a very small number of people. It's one couple, we understand. So this is not specific to these folks. But our Governor had reached out to you

and asked you not to do this. And when we had met previously, you said that one of the things that your organization considers when looking at placing folks is whether or not they are going into areas where you feel like they would be welcomed to the point where they would be easier to assimilate.

And I would suggest to you that maybe the Governor's letter to you might send a message that now is not the right time to send Syrian refugees into South Carolina. So why did you do it anyway? And why didn't you tell the Governor you were going to do it?

Ms. Richard. I didn't know we had sent a couple of Syrian refugees to South Carolina, so I will find out when that was, and I'll get back to you.

Mr. Mulvaney. How is it possible that that happened without you knowing about it, especially in light of the -- how many meetings have you had with me and Mr. Gowdy and our staff?

Ms. Richard. Oh, several, but I don't track all of the 70,000 refugees coming to the United States. That's carried out, you know, in a --

Mr. Mulvaney. How many delegations --

Ms. Richard. -- statewide --

Mr. Mulvaney. -- have you met with in the last year, congressional delegations --

Ms. Richard. Oh, lots and lots and lots.

Mr. Mulvaney. A dozen?

Ms. Richard. I'll find out right away and get back to you, you know, why we have a couple of Syrian refugees there. Our program is continuing, and it's continuing across the United States. And this is all legal, of course, but I --

Mr. Mulvaney. But that wasn't the standard you set, right? The standard was not a legal standard. We know you have the right to do it, and you have been very candid in your position that the Governors don't have the right to stop it, and we -- that's the law, but it is not a legal standard that you set out to hit, was it? You were going to try and put these folks in places where they would be welcome, so it would be easier for them to assimilate.

Ms. Richard. Yeah. And I suspect that the couple that's gone to South Carolina is welcome there as well, but I still would like to know --

Mr. Mulvaney. And let's talk about that, because --

Ms. Richard. -- where the Syrians are going.

Mr. Mulvaney. I'm sorry to cut you off, but let's talk about that because I hope very much that they are welcomed in South Carolina, and knowing what I know about my folks back home, I believe that they will be. But here's where we are, and where we are is we're in the middle of a debate nationwide over your vetting processes, we've got the FBI Director saying that while they're good, they're not perfect, and he can't certify that everybody who comes in is safe and not a national security threat.

We had a bill that we voted on in the House, had a veto-proof majority to pause this resettlement program. This issue gets a lot of attention. Now I have two folks who have been resettled in South Carolina, and sooner or later, the folks in their neighborhood are going to find out who they are. And I'm going to have people who look differently at those -- those refugees than they would otherwise. And in the back of their mind, they're always going to wonder: You know what? I wonder if these are the two who got through the system. FBI Director tells us it's not safe.

Doesn't it make it more difficult for refugees to assimilate if we haven't perfected our vetting process?

Ms. Richard. I think we have a very, very strong, robust vetting process for --

Mr. Mulvaney. Mr. Rodriguez and Mr. Bersin just said that this is an evolving threat and they're changing the way that they do business. Have you changed the way that you've vetted in the last 6 months?

Ms. Richard. We are going over how we vet in a very active way, not because --

Mr. Mulvaney. Have you changed the way --

Ms. Richard. -- we think we're letting in anyone --

Mr. Mulvaney. Have you changed the way you vet?

Ms. Richard. -- but because we're trying to make it even better.

Mr. Mulvaney. Have you made any change in the way you vet since San Bernardino?

Ms. Richard. Since -- no, but there were no refugees involved in San Bernardino.

Mr. Mulvaney. Okay. Fair enough. No. I get that. But are we not -- didn't we just have a discussion about silos? Aren't we going to learn something about the fiance(e) visa process and apply it to the refugee process? Are you looking at social media?

Ms. Richard. That I have to defer to Leon Rodriguez on.

Mr. Mulvaney. Mr. Rodriguez, are you all looking at social media --

Mr. Rodriguez. No. And --

Mr. Mulvaney. -- in the refugee program?

Mr. Rodriguez. As I've said very clearly, yes, we have been. We're not using it 100 percent. We've been piloting the use. We are now in the middle of a third pilot. I think I talked before about the lessons that we learned from that and how they're going to be applied prospectively, but, yes, we are building the capacity --

Mr. Mulvaney. And there's no way to know if the folks that got placed in my State yesterday have been through that process or not, is there?

Mr. Rodriguez. I think, as you know, the process is a very long and rigorous one. So I don't know. I don't know as to these two particular folks when they were interviewed and when --

Mr. Mulvaney. Here's my point. And I apologize, but I'm running out of time. Here's my point. Folks on your side of the table, folks on our side of the table recognize that the vetting process could be better. I think if we're really interested in having a viable refugee program that allows people to resettle here and to integrate and assimilate, that process has to be the very best that it can be. And the folks back home are entitled to that because they are entitled as citizens to know that if you want to place citizens in their community, which is what you've done, over our objections, they are entitled to know that you have done everything possible to make sure that it is safe to do so. And all I know right now is that we can't tell them that. So I will ask you to do what we've been unable to do legislatively, which is simply pause the process until you can give us that guarantee and tell us the folks back home are safe.

With that, I yield back the balance of my time. Thanks.

Chairman Chaffetz. I thank the gentleman from South Carolina.

I now recognize the gentlewoman from the Virgin Islands, Ms. Plaskett, for 5 minutes.

Ms. Plaskett. Thank you, Mr. Chairman, Mr. Ranking Member. Thank you, witnesses, for being here today.

I just have several questions that are related to a hearing that went on last week about the no-fly list. And it's our understanding that TSA draws this list from the Terrorist

Screening Database, which is maintained by the FBI, and that the no-fly list contains a small subset of names who, quote, are prevented from boarding an aircraft when flying within, to, from, and over the United States.

Assistant Secretary Bersin, according to the FBI's frequently asked questions, I'm going to quote here: "Before an individual may be placed on the no-fly list, there must be credible information that demonstrates the individual poses a threat of committing a violent act of terrorism with respect to civil aviation, the homeland, the United States' interests located abroad, or is operationally capable of doing so." Could you explain to us what types of information can credibly demonstrate that an individual poses a threat?

Mr. Bersin. So when a name is imported from TIDE into the TSDB and then you have a subset that goes onto the no-fly list, there are numerous kinds of data that would establish the reasonable suspicion or provide additional derogatory information that would say, "This is not someone that we wish to have flying to the United States, within the United States, or out of the United States," things like associations, things like acts, this may be a person who has been involved in a -- in a criminal terrorist investigation. So, I mean, there -- every case stands on its -- on its -- on its own, all four points. It depends on the facts, but there are many kinds of data that would suggest that this is a very, very high-risk person that we don't

want to take a chance with.

Ms. Plaskett. Okay. Thank you. And I know it's almost unfair, since the FBI are not here, in asking these questions. Can you explain to us what social media, what the role of social media has in posting in the no-fly list?

Mr. Bersin. I cannot speak to that in terms of the investigative tools that are used to establish those facts, ma'am.

Ms. Plaskett. And why can't you speak to those?

Mr. Bersin. Because I'm not operationally involved in supervising those activities.

Ms. Plaskett. Okay. So would you be able to explain to us with visa applicants, any of the witnesses, what information does social media play in the screening for other visa applications, or is it only for those that have already been considered for the no-fly list?

Ms. Bond. As part of the visa process, as I think has been described, when the vice consul is beginning to interview somebody at the window, they already have a lot of information about that person. Some of it came from the applicant themselves. It's information that's on their application. Some of it may have come from the interagency screen that's been done. We know, for example, if it's an individual who has traveled to the states, then right there on our computer, we can see their face, the photo taken every time they entered. We know that they've traveled.

So we have a background of information of things that we can ask people about, and that directs the line of questioning that is going to be used with a particular -- you know, if we're interested because they have close family members in the states, then we're going to be pursuing that. If we're interested in where they studied or what they studied or -- you know, it will depend on the individual.

It happens frequently that the consular officer comes to a decision that if everything that is being said is true, then he or she is comfortable approving that visa, but they want to confirm some of that information, they don't want it to be only based on the interview or what's being said in the interview. And in that case, what they often do is to refer the case to the fraud team at the consulate, and everyone has a fraud officer or office, and they often use social media in their --

Ms. Plaskett. So the social media --

Ms. Bond. -- verifying information.

Ms. Plaskett. -- component does not come in until the case is flagged, and at that point, then the fraud office will then use that?

Ms. Bond. At this point, that is when we typically might use social media as one of the ways that we could -- we might also -- for example, if we want to know if someone really works at a particular place, we might have one of the local employees on the staff call that place and ask to speak and confirm it that

way, but as part of the review, following the attack in San Bernardino, which, as I say, is looking at the K-1 process, but is applicable really --

Ms. Plaskett. Sure.

Ms. Bond. -- to all that we do, we are -- the agencies are looking at the broader use of social media.

Ms. Plaskett. I guess I'm just trying to pinpoint -- I'm sorry. I don't have a lot of time, and I am an impatient person anyway. At what point in the process does the social media process come in? Is it --

Ms. Bond. It can --

Ms. Plaskett. -- at the point when they consider that there's a question as to whether or not the information that has been given is incorrect, or does it come to the officer when the individual steps to that screen? What you're saying is it happens if there's a question about them, and it's going to the fraud component? Is that correct?

Ms. Bond. Yeah. That's exactly right. Either the officer is fully satisfied that it's a good case and approves it; or has decided to refuse the case and isn't going to waste resources doing more research; or is at a point where -- is willing and ready to issue but wants to confirm some of the data that has been provided, and social media is one of the tools that we may use in the process of confirming information that has been given to us.

Ms. Plaskett. Okay. Thank you.

Chairman Chaffetz. Thank the gentlewoman.

We now recognize the gentleman from North Carolina, Mr. Walker, for 5 minutes.

Mr. Walker. Thank you, Mr. Chairman.

Ms. Richard, the Washington Post reports that Christians are terrorized in U.N. refugee camps and, as a result, are unfairly excluded from the United Nations process. Is it true that Christians are underrepresented in the refugee camps because they're at risk of being attacked by non-Christians in the refugee camp?

Ms. Richard. We are very concerned about Christian refugees. And most refugees are not in camps in the Middle East. And so we've placed a priority on resettling refugees who are Christian or minorities if they are in danger.

Mr. Walker. You said you place a priority on Christians?

Ms. Richard. Yes, sir.

Mr. Walker. Did I hear you earlier say in this hearing, I might have misunderstood, that Christians are not fleeing Syria because they feel safe?

Ms. Richard. No. 4 percent --

Mr. Walker. We'll continue to hold because I'd like to play that back, if we would, please, on the video, because I'm pretty sure that's what you said.

And would you play that video, please?

[Video shown.]

Mr. Walker. You said they're not fleeing because they feel safe. Ms. Richard, how many --

Ms. Richard. Some, some.

Mr. Walker. -- how many Christians have we brought in in the last 5 years.

Ms. Richard. So in 2014 --

Mr. Walker. Ms. Richard, answer the question. In the last 5 years, how many Christians refugees have we brought in?

Ms. Richard. Four percent of all the Syrians we have brought have been Christian or other minorities.

Mr. Walker. You've brought in 53. You tell me that's 4 percent? Because according to the numbers, that aren't hard to find, you can look this up on CNN --

Ms. Richard. We can --

Mr. Walker. -- social media or anyplace else, there are 2 million Christians decimated, okay, 2 million Christians. According do Pope Francis, he calls it genocide. Just last month, a Syrian bishop for pleading for ransom money, 200 hostages held, some young ladies. Do you know what ISIS does to the young females? It's brutal. I'm sure you're aware of that, working for the State Department.

So please tell me why that we have brought in 53 Christians. How do you know they're Christians? What's the process?

Ms. Richard. We had just checked the number. It's

4 percent of the 2,400 total Syrians brought in since 2011 have been Christians or other minorities.

Mr. Walker. I want to --

Ms. Richard. They are brought in because they feel that they are in danger because of that.

Mr. Walker. So --

Ms. Richard. We agree with you 100 percent that these people should be given a chance for resettlement if they present a case.

Mr. Walker. But you said today that Christians are not fleeing Syria because they feel safer. Would you like to retract that?

Ms. Richard. Some, some. What I would like to say --

Mr. Walker. Some Christians? How many is some?

Ms. Richard. Ten percent of the prewar population of Syria was Christians.

Mr. Walker. Around 2 million, yes.

Ms. Richard. And so we are seeing less than 10 percent of the refugees coming out are Christians.

Mr. Walker. 200,000, according to the numbers.

Ms. Richard. And a disproportionate number of Syrians staying in the country are Christian. Now, why is this? It's because a higher percentage of them support Assad and feel safer with him there, but the ones who come out, who choose to flee and feel that they are in danger, those are the people we want

to help, absolutely.

Mr. Walker. Nine per year since the last 6 years. You see why there's a credibility issue, Ms. Richard.

I'd like to yield the balance of my time to my good friend from South Carolina, Mr. Trey Gowdy.

Mr. Gowdy. I thank my friend from North Carolina.

Mr. Chairman, we have two former prosecutors here, so I want to see if we can kind of disabuse some folks of some incorrect apprehensions with respect to the current gun laws.

Mr. Bersin and Mr. Rodriguez, would you agree with me that it is currently against the law for somebody who crosses the border without permission to possess or purchase a firearm?

It's sometimes unfair --

Mr. Rodriguez. I'm remembering back to my days prosecuting gun crimes, which has been a while, Congressman. I think you and I share that.

My recollection is that, yes, that would be --

Mr. Gowdy. It is sometimes unfair to --

Mr. Rodriguez. Yeah.

Mr. Gowdy. -- to put pop quizzes to folks who haven't done something in a while. So just trust me when I tell you that if you have crossed the border without permission, you cannot legally purchase or possess a firearm. If you have overstayed a visa, you cannot legally purchase or possess a firearm. In fact, if you're legally here on a visa, only in very limited circumstances

can you legally possess or purchase a firearm. So those are all categories with existing law where you can't purchase or possess a firearm.

Are those lists made available to federally licensed firearms dealers so they can make sure they don't sell firearms to those three categories of prohibited people?

Mr. Bersin. Mr. Gowdy, I'm just not familiar with the ATF process with regard to that. I know that I'd be -- I don't believe that DHS circulates those lists.

Mr. Gowdy. Well, this is the frustration that I face, is I listen to an administration call for additional gun laws. They want additional gun control in the wake of almost every tragedy. That's the very first place they run. And it just forces me to ask: Well, I wonder how we're doing with the current gun laws that we have.

And I'm not going to ask you for the statistics because I didn't tell you I was going to, and you shouldn't be prepared and probably would not be prepared, but I would encourage both of you as former prosecutors to go back and look at the statistics coming out of the Department of Justice on how many prosecutions exist for current gun law violations on all those three categories. And if we're going to create a list with, by the way, no due process, called a watch list, then, at a minimum, we ought to give the list of visa overstays to federally licensed firearms dealers because that list already exists. We already know who's

on that list, so your due process rights have already been afforded to you. So if there's going to be a list given to FFLs, I would think it ought to be the visa overstay list before it would be some list conjured up by folks that we're not familiar with. So I would encourage both of you, put on your former hats, and maybe we can meet privately and find out what you learn on that.

With that, I would yield back to the chairman.

Chairman Chaffetz. Thank you.

The gentleman yields back.

Mr. Connolly of Virginia is now recognized for 5 minutes.

Mr. Connolly. Let me ask about the line of questioning that somehow implies we ought to prioritize a particular religious group over all others. Mr. Bersin, Mr. Rodriguez, Ms. Bond, would that be constitutional?

Ms. Richard. Well, related to refugees, Mr. Connolly, one of the five ways that someone can be determined to be a refugee is if they've been persecuted on the basis of their religion. And from the perspective of my office, it doesn't matter what the religion is, but if it's the reason that they're being persecuted, then they could qualify to be determined to be a refugee. And so we see people fleeing from around the world --

Mr. Connolly. But that's not my question --

Ms. Richard. Oh.

Mr. Connolly. -- and I don't think that was the question being asked. Are we constitutionally permitted, could you and

your office put a little asterisk, we give a little extra weight if you're of a particular religion? Is that constitutional? Do you have the authority to do that?

Ms. Richard. If it's the cause of their persecution.

Mr. Connolly. No, no. I'm not asking that question.

Ms. Richard. I'm not -- I'm not going to change the program to somehow bring more of one particular religion than another.

Mr. Connolly. You're going to look at the nature of the --

Ms. Richard. The persecution.

Mr. Connolly. -- refugee status.

Ms. Richard. Right.

Mr. Connolly. Irrespective of religion.

Ms. Richard. That's right.

Mr. Connolly. Is that how it should work, in your opinion?

Ms. Richard. Yes. I'm absolutely very comfortable with that.

Mr. Connolly. Because actually that's what refugee programs are designed to do, isn't it? We're trying to help people who are suffering violence, oppression, discrimination in extremis, and provide a safe haven. And after all, it's not a huge program, right, about 70,000 a year --

Ms. Richard. That's right.

Mr. Connolly. -- total refugees?

Ms. Richard. Well, and proposing to go to 85,000 this year.

Mr. Connolly. Okay. And the actual number, for example,

of Syrian refugees is very small.

Ms. Richard. That's right.

Mr. Connolly. Have I got it right that it's under 3,000 in the last 3 years?

Ms. Richard. Yeah, 2,400 total since 2011.

Mr. Connolly. In the last 4 years.

Ms. Richard. Yeah.

Mr. Connolly. Why is that such a small number given the fact we have 4-1/2 million Syrian refugees?

Ms. Richard. Part of the reason is that the first response to a refugee crisis should not be to resettle people; instead, it should be make sure that they're safe where they've gotten to and also to see if the crisis can be resolved so they can go home again. Most Syrian refugees would prefer to go home and again and live in peace in their own home country.

However, as the time went on, it became clear that for some of the Syrian refugees, there would be no going home again. They had seen terrible things happen to them and their families. And for the most vulnerable people, who really can't make it on their own in the cities and the towns in the Middle East to which they fled or the camps that they may be living in, we have a program to offer resettlement in other countries, and the U.S. is the leader in taking refugees under that program.

Mr. Connolly. My understanding is it takes on average for Syrian refugees 18 to 24 months.

Ms. Richard. That's correct.

Mr. Connolly. Is that unusually long?

Ms. Richard. It's longer than other countries.

Mr. Connolly. And the reason for that is?

Ms. Richard. We are very thorough and --

Mr. Connolly. Okay. So we're being careful.

Ms. Richard. Yes.

Mr. Connolly. I assume it can also be -- I mean, if you flee, I don't know, the insurgent group or the Syrian Army is going to shell your village, your town, you may have to leave with what's on your back and your family, and that's it.

Ms. Richard. That's correct.

Mr. Connolly. So you don't have documents to prove who you are.

Ms. Richard. The surprising thing to me is that our colleagues at DHS -- and Leon can talk about this -- are finding that many of the Syrian refugees do have documents, but documents are not the only piece of evidence that they have to provide to make the case that they are bona fide refugees. It's a multilayered, multifaceted review.

Mr. Connolly. All right.

Mr. Rodriguez, I think this question is to you, but I know you covered a little bit the whole issue of the use of social media. We got a pilot program, but I guess my question would be a little bit broader. In the private sector, when people are

looking at employment, they go to public social media sites as part of a screening process. Why wouldn't we do that routinely when it comes to granting somebody a status to come into the United States, whether it be refugee status, visa, various visa statuses, and so forth? Why wouldn't we do that just like we do any other background document because it's part of the landscape now?

Mr. Rodriguez. That may well be where we end up. I think we have been focusing on areas where we detect a heightened risk. Obviously, in many of our conversations when we talk about individuals coming from countries where there is active terrorist activity, active terrorist recruitment, those seem to be the areas where we should primarily focus.

I think the question is going to be what's -- what ends up being the value. And if, in fact, there is value, if the work that we're doing shows that there is value, then we may well end up exactly in the place that you describe. That is -- that is what we have been evaluating for months now. We're certainly increasing the scope of our pilots, but that -- so there -- it may well be that the point that you make turns out to be correct.

Mr. Connolly. You -- I guess I'm a little puzzled, as somebody with both public sector and private management experience. I mean, clearly, the private sector sees the value in using it as part of the background check when they are hiring or screening. Why wouldn't we do that in this case? And then I'll yield back my time.

Mr. Rodriguez. I mean, I personally believe that as we get further into this, we will discover information of value. I think what is also going to happen, though, is that people will go underground and, knowing that we're looking at those mediums, will cease to use them, certainly in a public environment.

Mr. Connolly. Thank you.

Chairman Chaffetz. Thank you.

The gentleman yields back.

I now recognize the gentleman from Georgia, Mr. Hice, for 5 minutes.

Mr. Hice. Thank you, Mr. Chairman.

I asked this question the other day to Ms. Burriesci. In fact, there were many, many questions, as you've already heard today, that she was absolutely unable to answer that ought to be rather basic questions. So I want to ask you, Mr. Bersin, do you have any idea how many passports are reported stolen each year?

Mr. Bersin. I'm pausing, Congressman, because I know that the -- as the former vice president of INTERPOL, which maintains the lost and stolen passport database, I have a number of how many there are. I would defer to Ms. Bond, who administers the passport, because our --

Mr. Hice. All right. Ms. Bond, do you have any idea how many are reported stolen?

Ms. Bond. In terms of how many U.S. passports are reported

stolen every year, I'm going to find out for you right now. I did not bring that number with me.

Mr. Hice. All right. What about non-U.S. passports? Do you have any way of getting that number?

Ms. Bond. Individual governments report that data to INTERPOL, and so, yes, we can go to INTERPOL and ask them for that, but it's not -- that's not data that this government maintains.

Mr. Hice. Okay. Well, if you could get both of those for me as well.

Whether you or Mr. Rodriguez, with that awareness that we don't know, I would think that some of you would know how many passports are stolen. That's kind of what this whole hearing is about in an indirect way. We want to know what kind of -- what is the standard procedure when a passport is stolen or missing? What, if anything, is done -- do we do to make sure that it's not fraudulently picked up and used?

Ms. Bond. When --

Mr. Bersin. So -- go ahead.

Ms. Bond. When a U.S. passport is reported lost or stolen, we immediately deactivate it. It wouldn't be accepted. You wouldn't be able to travel with it, wouldn't be able to board a plane with it, and we notify INTERPOL very promptly.

Mr. Hice. Okay. What about a passport from somewhere else in the world? Are we notified in any way?

Mr. Bersin?

Mr. Bersin. Yes. This would be on the vetting. So when someone comes to the -- a port of entry or actually applies through the ESTA program, presents the passport, that part of the database that it's run against for vetting would be the Stolen and Lost Travel Document database of INTERPOL, which has just under 55 million records in it, and you would -- you would -- you would then be told if they were on alert -- that that was in the database -- then further inquiry would be certainly made.

Mr. Hice. Is there a penalty for a country that does not report this type of information?

Mr. Bersin. So with respect to currently -- currently, no, there is not a penalty. And, in fact, that's one of the problems we have in terms of international information sharing.

Mr. Hice. So how do we know that those passports that have been stolen are being reported to INTERPOL?

Mr. Bersin. We have as part of our Visa Waiver Program with the 38 countries that are part of the Visa Waiver Program, that's a requirement that they actually report --

Mr. Hice. Is there a penalty for one of those 38 countries if they do not report that information?

Mr. Bersin. They would then be subject to being suspended or being put on provisional status in the Visa Waiver Program.

Mr. Hice. So there is a penalty?

Mr. Bersin. There -- yes, sir, there is a penalty.

Mr. Hice. Is that automatic?

Mr. Bersin. It's not automatic, no, sir.

Mr. Hice. Okay. So it has to go through what kind of procedure, quickly?

Mr. Bersin. Yes, but the -- it's the monitoring of the Visa Waiver Program that's done on a 2-year basis that under Representative Miller's bill would actually be shortened to a 1-year period.

Mr. Hice. Okay. Let me ask this, then. What about, be it Syrian refugees or -- well, let's just use the Syrian refugees who are being resettled in Europe. Are they able to travel to the United States through the Visa Waiver Program?

Ms. Bond. No. No, they are not.

Mr. Hice. Okay. Then let me go back -- that's -- I'm glad to hear that. Let me go back, Mr. Rodriguez, to the social media question.

Did I hear you correctly a moment ago when you said that an applicant's social media profile is now a part of the screening process?

Mr. Rodriguez. No. We are piloting it with certain groups. The size of those groups is increasing. I don't want to leave the impression that that has yet become a comprehensive part of what we do. We are building toward that as we speak.

Mr. Hice. Okay. Could you discuss the lessons that have been learned from the piloted programs? Is this working? Is

the -- getting info from social media working?

Mr. Rodriguez. So far, the information that we have seen in the pilots has been ambiguous rather than conclusive about an individual's intent. And it shows the importance, however we proceed down this enterprise of social media use, that it really be thought of in the context of all the tools that we use to screen people, that this be thought of as a holistic process that involves interviews, screening across law enforcement and intelligence databases, further investigation and inquiry as the case might be appropriate.

Right now, the things that we've seen so far are relatively ambiguous. They would not necessarily lead you to conclude that the individual would trigger an inadmissibility under our laws. They would require further inquiry.

Mr. Hice. Thank you, Mr. Chairman.

Chairman Chaffetz. Thank --

Ms. Bond. Mr. Chairman, if I -- forgive me --

Chairman Chaffetz. Sure.

Ms. Bond. -- but I do have an answer for Mr. Hice's question. He asked --

Chairman Chaffetz. Sure.

Ms. Bond. -- how many U.S. passports are reported lost or stolen annually. On average, 300,000 passports worldwide are reported lost or stolen, and about 20,000 passport cards, which, as you may know, are used for people who are going across land

borders.

Mr. Hice. Are those 300 -- U.S. citizen passports?

Ms. Bond. Exactly.

Mr. Hice. Thank you.

Ms. Bond. And it's also perhaps of interest that when we are adjudicating visa applications, we always check against the INTERPOL database to be sure the person is not presenting a passport that's been reported lost or stolen.

Chairman Chaffetz. Thank you. Appreciate the clarification.

Ms. Kelly is now recognized for 5 minutes.

Ms. Kelly. Thank you, Mr. Chair.

I wanted to ask about information sharing with our allies. The 9/11 Commission recognized the importance of working with other nations when it wrote in its 2004 report, and I quote, "The U.S. Government cannot meet its own obligations to the American people to prevent the entry of terrorists without a major effort to collaborate with other governments. We should do more to exchange terrorist information with trusted allies and raise U.S. and global border security standards for travel and border crossing over the medium and long term through extensive international cooperation."

Assistant Secretary Bond, it has been 11 years since the 9/11 Commission issued that finding. How are we doing on information sharing with our allies?

Mr. Bersin. Ms. Kelly, I'm probably in a better position to respond to that.

So international information sharing relates to that third, that -- what I called the second major influence on our vetting process, the idea that the Homeland Security enterprise is transnational, inherently transnational, which means that we need to increase the information sharing with our foreign partners. And we do that, for example, while there's a long way to go, the Visa Waiver Program, with regard to the 38 countries in the Visa Waiver Program, they're required by congressional statute to provide information regarding known or suspected terrorists and also the certain criminal information under the so-called preventing and combating serious crime.

Part of Secretary Johnson's enhancements introduced during the summer, that are echoed in Representative Miller's bill on the Visa Waiver Program, actually now will embody the requirement, the legal requirement, that for countries that do not respond under those agreements, that there would be sanctions under the Visa Waiver Program.

So I think one of the challenges we face is that we do not have the kind of information sharing internationally that would be of utility. That's why the administration, led by Secretary Johnson in this case, actually went to the U.N. and sought under U.N. Security Council Resolution 2178 the idea that we need to be sharing information about foreign terrorist fighters in ways

that we had not been. So the point is well taken, ma'am.

Ms. Kelly. And how is it accepted? Do you see that there's going to be an improvement?

Mr. Bersin. It -- there will be an improvement, I suspect, to the extent that countries that want very much the benefits, including ourselves, of the Visa Waiver Program will understand that this is not a -- it's not optional. And, in fact, since the Secretary began the enhancements last summer, we've seen in our engagements with visa waiver countries a real stepping up. That, frankly, together with the events in Europe, including Paris, have actually led to much greater willingness on the part of European countries in particular to extend their willingness to share information.

Ms. Kelly. Okay. Also information sharing, as you know, is one piece of the puzzle, but there are other ways to engage our global partners. So to the extent that you can in an unclassified setting, can you discuss how our existing databases and information portals draw on information gathered by our international allies and partners?

Mr. Bersin. So it probably would be more appropriate in a different setting to go into great detail about the way in which that data is ingested, so-called, and then disseminated.

Ms. Kelly. Okay. I'll accept that.

I yield back.

Chairman Chaffetz. I thank the gentlewoman.

We'll now recognize the gentleman from Oklahoma, Mr. Russell, for 5 minutes.

Mr. Russell. Thank you, Mr. Chairman.

Secretary Bersin, in rough figures, how many people are on the terror watch list?

Mr. Bersin. So I'm just checking to see what -- on the terrorist -- the consolidated terrorist watch list, we're talking just under 1 million.

Mr. Russell. Under 1 million.

Okay. What -- what countries, and this could be for anyone, constitute the greatest threat and attempts to enter the United States illegally that would be, you know, perhaps flagged by being on these lists?

Mr. Bersin. I can't -- so there -- of those million records, there are the subsets of the no-fly list, which is about 100,000, and the selectee list, which is about 25,000. And I cannot give you the breakdown on the countries from which they come, although --

Mr. Russell. Do one or two come to mind?

Mr. Bersin. Well, I think the ones in which we have seen terrorist threats would be obvious candidates.

Mr. Russell. Such as?

Mr. Bersin. We've seen threats in Libya. We've seen threats in Pakistan. We've seen threats in a variety of countries in the Middle East and the Levant and some in Central Asia.

Mr. Russell. Of the half million a year that we think are overstaying their visas, given that we have no comprehensive exit tracking program, what countries have abused this the most?

Mr. Bersin. So, Mr. Russell, remember, in order to come into the country in the first place, whether by visa or by the Visa Waiver Program, there is extensive vetting against all of the lists. And, in fact, in order to enter the country, there is a vetting. So it's not a question of people being on those lists --

Mr. Russell. I understand the visa waiver will have necessarily better or a higher bar, but of those that have been granted visas and they have overstayed them, what countries would you say violate that the most, to the extent -- since we don't have an exit tracking program that's comprehensive? Who would they be? What countries?

Mr. Bersin. So the first point is that they were not on any of the lists, the known or suspected terrorist lists that we've discussed. In terms of what the breakdown is of that estimate, I cannot --

Mr. Russell. Do a couple of countries come to mind?

Mr. Bersin. But I would -- I suspect they're those in which many of the people come from countries in which you send many people here. And you might see people here for violating the no-work rule, for example, people who are coming here for -- they purport to come for a tourist B-1/B-2 reasons, and they end up

staying to work. So those are going to be a different subset of countries than those that --

Mr. Russell. Well, that goes to my point, Mr. Secretary. I think that the magnitude of the problem and trying to protect our country is -- you know, it is enormous, we all recognize that, and we certainly recognize the dedication from administration to administration and folks like yourselves. You know, I mean, you didn't just enter this field. You've been at it through decades through different administrations, and I respect that. But I point these things out because wouldn't we want to focus on those particular areas where the threat may be highest?

And with regard to visa waivers, once an individual obtains an Electronic System Travel Authorization, it is good for 2 full years as long as the passport is valid. Given that ISIS' rise has been less than 2 years, what steps are being taken to change the 2-year eligibility of the electronic travel authorization, and is this an area that is even being examined?

Mr. Bersin. So, yes, indeed, Mr. Russell, the ability to dial up and dial down the validity of the ESTA is one that the Secretary is very well aware of. It's contained in the Miller bill. And, in fact, Secretary Johnson as part of his own enhancements actually added questions to the ESTA.

Mr. Russell. Don't you think we ought to just reset all eligibility at this point? Given that ISIS has been on the rise for less than 2 years and now we have 2-year eligibilities out

there, they could have been coopted, converted. There's any number of issues that could have happened.

Mr. Bersin. The way in which these databases operate and the way in which the vetting process takes place is there is 7/24, 24/7, 365 re-vetting of that against whatever new information might come into the database. So, in fact, there is an updated -- it is updated by this constant refreshing of the database and the re-vetting of the names against the lists.

Mr. Russell. And then my last question, with the chairman's indulgence, is given that we have 1.8 million Chinese that come to the United States each year for travel and for tourism and the like, they don't seem to have a problem conducting business, I would suggest that this entire Visa Waiver Program, although it will have material impact on economies and other things, what do you see as the way ahead to restrict it so that we can secure our people the best, when other countries seem to be able to operate without it?

Mr. Bersin. So the Visa Waiver Program, the only difference -- first of all, China's not a member of the Visa Waiver Program --

Mr. Russell. That's my point.

Mr. Bersin. -- and not contemplated to become one. The Visa Waiver Program, the only difference between the visa process and the Visa Waiver Program is the consular office interview. You defer the time in which a U.S. official actually looks someone

in the eye from the Consular Affairs office abroad to the time when a CBP officer sees that person coming in, but there's been all of this security vetting through the ESTA before that person arrives on our shore.

Mr. Russell. Two-year eligibility on the ESTA, correct? I mean, so once you've been eligible, it's good for 2 years.

Chairman Chaffetz. The gentleman's time has expired.

Mr. Bersin. That -- a CBP officer can actually make a counter decision upon encountering someone at the point of entry.

Mr. Russell. Thank you.

Chairman Chaffetz. We now recognize the gentleman from California, Mr. DeSaulnier, for 5 minutes.

Mr. DeSaulnier. Thank you, Mr. Chairman. And I want to thank all of you for testifying.

Assistant Secretary Bersin, I wanted to talk to you in general about, as Mr. Rodriguez said, areas of heightened risk, and specifically the PATRIOT system program, or it's that acronym has bureaucratically been introduced, the Pre-adjudicated Threat Recognition Intelligence Operations Team. So in previous testimony in front of this committee and the House Judiciary Committee last year, you said, and I quote: PATRIOT is currently operational at 20 ICE visa security program staff locations overseas and will be rolled out incrementally worldwide throughout 2015. When implemented, PATRIOT will prescreen 100 percent of non-immigrant visas applications submitted online

before the Department of State adjudicates the application.

So could you tell me a little bit about how staff is using the PATRIOT program in the rollout in the sense of areas of heightened concern, and then what differentiates an application going through this program versus the general population?

Mr. Bersin. Okay. This is something both Ms. Bond and I can address, but let me begin.

So the PATRIOT system is actually installed abroad, and it works with the visa security units, the Homeland Security investigators, the 1811s, who are stationed abroad for the purpose of assisting the State Department to make judgments about whether this person should or should not receive a visa. So what the PATRIOT system does is it automates -- it automates the vetting process so that the kinds of checks that we've talked about here today are actually being done through a federated computer search of all the databases, so that when a visa security agent working with a Consular Affairs office, they've got the benefit of that, and if something needs to be investigated, that then proceeds. So it is an automation of -- and an acceleration, a telescoping of the process so that the consular officer has the benefit of it before a decision's made.

Mr. DeSaulnier. So to the point that Mr. Cummings made about agencies working together, at least the concept here is everybody's working together and the investment is being targeted. So tell me a little bit about -- I appreciate the

background, but how -- as in the rollout, how are you vetting this to make sure that you're actually getting really good returns on the system?

Mr. Bersin. So when the plan for the visa security units to expand this around to additional his offices is something that it's a decision that's being made subject to the -- to the budgetary resources being made available in the appropriations, but there's a positive result, yes, yes.

Mr. DeSaulnier. So you've evaluated it. It's working. It's in high-risk areas. It's in the Middle East. It's in Islamabad I'm told.

Mr. Bersin. Yes.

Mr. DeSaulnier. So coming from California to specifically San Bernardino, Ms. Malik went through this system. Is that right?

Ms. Bond. Yes. At the 20 posts, or roughly, where we have the visa security units, who are officers from DHS, those officers review all of the issued visas. In other words, if a consular officer has approved a visa for issuance, it then gets a second look by the colleagues from DHS. And, of course, they're all working together in the same space, and so they are talking about it. If there were disagreement, they would be talking about, you know, I'm seeing this and I think it's not a good case and so forth. It is extremely close collaboration.

The team from the -- the DHS colleagues have access to the

DHS data, and a lot of that has to do with things like overstays or people who were refused admittance at the border even though they arrived with a visa and so forth. Sometimes those are instances where it is possible to resolve and approve issuance, where they can say: Oh, well, see, the person did this or that, but it wasn't a security threat. It may have been a mistake.

Mr. DeSaulnier. Well, and I'm going to interrupt just because I have just a few seconds left.

So the program -- you think -- is working in terms of your assessment, but -- and I know this is just one instance, but this is a heightened screening process, as I take it, using the resources more effectively. Unfortunately, Ms. Malik went through this program. So the President has asked you to evaluate the program. It would be helpful at least for me and I think the committee to know what kind of evaluation you used.

And, Mr. Rodriguez, just back to the social media, it is a little frustrating, as Mr. Connolly said, is we want you to do your due diligence to make sure that it's an investment you want to make, but given that there are other applications at less risk in the private sector, when is the point when you say, "The pilot project has some merit, and we should go forward," which seems, as a generalist, very obvious that you probably should use social media to vet?

RPTR MCCONNELL

EDTR ROSEN

[12:28 p.m.]

Mr. Rodriguez. What I would say, we are moving, both in the refugee context and other contexts, pretty aggressively, pretty quickly. Probably the next time that we are all together, we will have a whole lot more to say about this subject. But we are moving very, very decisively. I would not venture to talk beyond that.

Chairman Chaffetz. I thank the gentleman. I will now recognize the gentleman from Alabama, Mr. Palmer, for 5 minutes.

Mr. Palmer. Thank you, Mr. Chairman. Ms. Richard, regarding an earlier line of questions, you pointed out the refugees may request any country for refugee status. Is that correct?

Ms. Richard. I'm sorry. I didn't understand the question.

Mr. Palmer. You, in a response to a question from Mr. Cartwright, you said that just because a refugee requests entry into one particular country, that doesn't necessarily mean they will gain entrance. They could be sent to any country.

Ms. Richard. That's right.

Mr. Palmer. Has it occurred to you that any foreign national who gains refugee status in another country is not necessarily prevented from obtaining a visa or passport in that nation, subsequently entering the United States, particularly in regard

to the number of lost and stolen passports?

Ms. Richard. Go ahead.

Ms. Bond. Sir, if I may respond to that. If someone is, for example, accepted in a country that is a visa waiver country, is given permission to settle there with his family, they would -- they may, at some point, obtain citizenship in that country, and, in principle, would be eligible to apply to use the Visa Waiver Program. But that would be a period of some years, of course, after arriving.

Mr. Palmer. Well, it's not that long. It's 5 years.

Ms. Bond. Uh-huh.

Mr. Palmer. But, in response to a question earlier that you gave to Mr. Hice, you didn't really make that clear. He asked you if someone could get a visa, or a visa -- go through the Visa Waiver Program, and you didn't -- I don't think that you made that clear.

Ms. Bond. No. I apologize if that was unclear. The question from Mr. Hice was, can these people who are arriving in Europe qualify for the Visa Waiver Program, and I should have said, no, they cannot. As refugees --

Mr. Palmer. Ma'am, what we are trying to figure out is how many holes there are in a bucket in terms of our ability to screen people getting into this country. And I think, you know, we sit here for an hour and a half, 2 hours, whatever it takes, trying to get information, and it's increasingly difficult to get

straight answers. And the answer to his question, frankly, was that, yes, if they stayed there long enough, they can get a visa waiver.

Now, my question is, are we evaluating those people whether they are citizens of Belgium, France, Germany, it doesn't matter, if they came from one of these countries that we ought to be tracking, are you evaluating those? Ms. Bond.

Ms. Bond. So, and I do, I apologize for the fact that I was responding to his specific reference to arriving refugees. An individual who has become a citizen of a visa waiver country is eligible to apply to use the Visa Waiver Program.

Mr. Palmer. I get that.

Ms. Bond. And they apply by signing up for ESTA, and those are not always approved. But it is a DHS program, so I would ask Mr. Bersin to respond.

Mr. Bersin. So the issue is, after the vetting, would they be precluded? The Miller bill actually has a provision that says for those people who have traveled to certain -- Syria, Iraq, other war zones, and who don't -- were not there for diplomatic or military reasons, that those people could not participate in the Visa Waiver Program.

Mr. Palmer. Well, my concern about that as well, is that they travel back and forth to these countries that some of them, it's their country of origin. But they don't have the same databases and the same security for passports in a lot of the

European countries that we do, particularly on the fingerprint database. They are not using, excuse me, the information that INTERPOL has.

So are we being proactive in vetting these people before they come in, whether they are citizens of another country or not?

Mr. Bersin. Yes, sir. Anyone coming in under the Visa Waiver Program would go through the extensive vetting that we have talked about.

Mr. Palmer. Well, apparently, Malik didn't.

Mr. Bersin. She didn't come in under the Visa Waiver Program.

Mr. Palmer. It was my understanding that you had an opportunity to evaluate her. You didn't take advantage of that through the social media, and it concerns me that we are not doing our due diligence to make sure that we know who is coming into the country, and making sure that people who pose a potential threat to us are kept out. Would you like to respond?

Mr. Bersin. That is, without question, the intent, and the reason for the vetting, and to the extent that we currently do it, sir.

Ms. Bond. Sir, if I may also add, that is also the purpose of the review that is currently underway, to examine what more can we do as part of the process. Because the very thorough review that was done for that visa applicant did not reveal the fact

that she was coming into the United States, and either then or later, decided to commit murder. So the purpose of the review is to look at, is there more that we can do then in order to identify this if possible?

Mr. Palmer. Well, that's our number one obligation to the American people. Thank you, Mr. Chairman. I yield.

Mr. Mica. [Presiding.] Thank you. Ms. Lujan Grisham, you are recognized for 5 minutes.

Ms. Lujan Grisham. Thank you, Mr. Chairman. Ms. Bond, you actually gave me a great lead-in, because I think that's our frustration. And frankly, in the last hearing last week, I was so frustrated, I was having trouble -- I was having trouble making it as fair and -- as possible, because when you don't get any information from the administration, and when there's this continual sense of, we're doing everything, and no matter what we do, you will have some gaps. I want specificity. Exactly, what are you doing to close those holes, to assure that those gaps get narrowed? I don't want to hear we are working together.

And in fact, I think that getting a response during this hearing about, we got to really assess the value, certainly, we understand that this is all subject to the priorities and resources. But beyond that, keeping this country safe, there should be no limitation in figuring out what you can do to do it all better. And you ought to be proactive about it. It shouldn't take one tragedy after another. And quite frankly,

what I expect is that you come to this committee and say, wow, we figured out 12 things we could do better. And now we want your assistance -- if you need our assistance -- to make sure that those are fully integrated, or, they're in the hands of the central agency that needs those tools and resources the most.

And given that, I wouldn't hire anyone today in my official capacity, or my unofficial capacity, where I don't do a Facebook check, or a social media check that doesn't create a privacy problem. And we understand that there are those issues. But just exactly, what are you doing with great specificity that's proactive in nature, that gives us the confidence that you evaluate with or without a tragedy, figuring out how you can securely, and safely, and effectively, given all of the other things that you have got to control, including other countries' data points, to do a better job? Give me one that you are doing since the last tragedy in San Bernardino?

Ms. Bond. First of all, let me say that we all agree with you 100 percent that there is -- there is nothing that is more important than getting it right. And there is never a point when anybody would say, okay, this is good enough. We have got it. We nailed it. We are always looking for ways to improve the vetting and to improve the screening, and to identify a trigger that indicates we should look more carefully at this case. That's -- that was what we did not see in this case of Malik, that there wasn't anything in that case that was a flag. So one

of the things that is underway since the tragedy in San Bernardino is a careful examination of what else could we look at, what could --

Ms. Lujan Grisham. Could you be specific about that?

Ms. Bond. All right. For example, and there're lots of, you know, there's a review process and people are talking about it. But so, for example, would it make sense to interview someone after arrival in the United States, after marrying the fiance as promised, and they get to the point where they are going to change status. Should they be interviewed again at that point? Or should we be looking at is there some other database that we could be looking at, maybe social media. I don't know. But so that's an example of what we are looking at in the review process.

Ms. Lujan Grisham. You go outside your agencies to -- and tell me how you are using that same evaluation process with all of your international partners? Do they get to weigh in? Do we take their ideas credibly too? Because again, this is after the fact, and one of the -- while I don't want to dispute that idea, I appreciate the notion that someone is here. Let's continue to the degree that we can look at that individual. But what could we have done better to maybe not approve that Ms. Malik came to the United States in the first place?

Ms. Bond. All right, well, I think --

Ms. Lujan Grisham. Because she is not going to be alone. We know that other folks are going to try to get here or, frankly,

are already here. So what are we doing about that?

Ms. Bond. Well, I will give an answer, and then I think Mr. Bersin will probably also want to speak to this.

Ms. Lujan Grisham. I have 20 seconds, unfortunately.

Ms. Bond. So absolutely, talking to the government of Pakistan about -- because she was a citizen of Pakistan to say, you know, what more could we do in terms of our collaboration to try to share information about people who might be a threat to our citizens or to Pakistan's? What information do you have? What information do we have? And are we sharing it effectively? We are, of course, having that conversation with other governments too. What more can we be doing to share information?

Ms. Lujan Grisham. So my time has expired. Mr. Chairman, with your indulgence, I would really like, without creating, you know, a written record that is problematic for national security, of course, but I want specificity. What's transpiring after these conversations that would give us, this committee and our constituents the sense that we're doing better all of the time, and this is a constant process that's meaningful, because I'm not there. Thank you, Mr. Chairman.

Mr. Bersin. Mr. Chairman, may I just add one short --

Mr. Mica. Very briefly. Go ahead.

Mr. Bersin. We're the people who actually do the vetting, and what you've rightfully said, how do we actually get additional information, and I would suggest that the committee hasn't.

Remember that it's the -- with regard to the domestic affairs, the Federal Bureau of Investigation has the principal counterintelligence and intelligence function, and with regard to abroad, it's the national security agencies that do that. It's not -- I'm not just passing it along. We use that information, but I would think a classified hearing in which you would understand exactly what the FBI is doing in a classified setting, and what the intelligence agents are doing, I think would be of great utility in answering your question.

Mr. Mica. You might want to arrange that. I thank the gentlelady.

Ms. Lujan Grisham. I just want to mention, we have all participated in all of those high-level -- I want to make sure that the viewers recognize that Members of Congress have been invited to a series of significant classified briefings. We take that very seriously, and we still have questions.

Mr. Mica. Well, for all of the witnesses and sort of in conclusion as we get to the end of the hearing here, we basically have lost control of our borders. We have somewhere between 11-, and I have heard 15 million people here who are illegal entrants. Is that correct? Anyone? Is that the range? Yes or no?

Mr. Bersin. The usual number is 11 million.

Mr. Mica. I have heard 11 to 15.

Mr. Rodriguez. Yeah, sir, actually the number that I have always heard is 11, and actually declining, sir.

Mr. Mica. Okay, 11 to 15. Everybody pretty much agrees. So we will just take it at 11. And about half of those people here overstayed a visa, or a tourist thing, or student, I'm told, just round numbers. And the others just came across the border illegally in that range. Rodriguez, about that range?

Mr. Rodriguez. That's consistent with what --

Mr. Mica. Okay, thank you. The President's executive -- I mean, we are talking about a visa, controlling our visas and the visa waiver control, and we have here about 4- to 6 million people, in that range, who have overstayed their visa. The biggest Visa Waiver Program in the history of mankind is the Obama waiver. He gave executive -- an executive order to allow those people to stay in spite of their being here illegally, isn't that correct?

Mr. Rodriguez. The President --

Mr. Mica. Yes, it's correct. The President gave an executive order, so --

Mr. Rodriguez. Well, we are not implementing it because the court has stopped us, but we are --

Mr. Mica. We had to go to court, but he implemented -- again, we have got -- and you have got hundreds or thousands of them that are illegal. So it's your job, Mr. Rodriguez, to deport some of those people. And I see that numbers of people, the removals has actually -- where's my figures here? Let's go; 2008, 244,000 removed; 2013, 133,000; 2014, last year, we are down to 104,000. Are these figures basically correct?

Mr. Rodriguez. We -- we are -- they sound right to me. We are exercising our process for --

Mr. Mica. And it's not a question of resources. We provided enough money to deport up to 400,000, which was the request we had from you. So ICE is doing less with more resources. In fact, criminal alien arrests have declined by 11 percent between 2012 and 2013. Are you aware of that, Mr. Rodriguez? Is it your job to deport these people?

Mr. Rodriguez. No, I am not -- it is not my job.

Mr. Mica. You are Homeland Security.

Mr. Rodriguez. Certainly, the Department of Homeland Security, removal, removal of --

Mr. Mica. So we have got illegals here. Ms. Bond, we interviewed that lady, a consular official interviewed the female terrorist from San Bernardino how many years ago? A couple of years ago?

Ms. Bond. In 2014.

Mr. Mica. Last year.

Ms. Bond. Yes.

Mr. Mica. Okay, and but she came here and she was fully vetted, according to the process that we have now. Is that correct?

Ms. Bond. Yes, it is.

Mr. Mica. Okay, and she thwarted that process. Is there anything you could recommend to us that we could do to stop that?

And if she thwarted it, and we got hundreds of thousands of people who have entered the United States illegally, and then we have them coming in, you approving them legally, you see why the American people have concerns about what's coming next.

Is there any way, or anything you could recommend that we could do to change that situation?

Ms. Bond. We are conducting a very thorough review.

Mr. Mica. Of what took place?

Ms. Bond. Not only of what took place, Congressman, but also of what it is that we do.

Mr. Mica. Yeah, do you tape that interview?

Ms. Bond. No.

Mr. Mica. You don't.

Ms. Bond. No.

Mr. Mica. I just wondered if it was taped, if we have any record. Have any of you known anyone who has joined ISIS of the Christian faith? Does anyone know anyone who is involved or -- no, okay. Just thought I would ask that question.

Well, obviously, we closed the door too late. We also have now information that ISIS has obtained Syrian passport machines. Does anyone know about that?

Ms. Bond. Yes, sir.

Mr. Mica. Have they obtained them? Can you disclose that to the committee?

Ms. Bond. Yeah, I do have some information on that, sir.

In August 2015, the State Department received a report of 3,800 stolen Syrian --

Mr. Mica. No, this is not stolen. There are many stolen. There're, we disclosed today, 300,000 lost or misplaced American passports. I'm told that ISIS has captured passport machines in Syria. Is that correct? Does anyone know? Mr. Bersin.

Mr. Bersin. There have been -- I have seen open source reports to that effect.

Mr. Mica. Okay, well, that creates a whole new set of problems. And then, you're the refugee screener lady. I was told that you get -- these Syrian refugees, are first vetted by the U.N. Is that correct?

Ms. Richard. UNHCR takes the initial application.

Mr. Mica. So we are getting our recommended entrants from the U.N.?

Ms. Richard. Normally. Not 100 percent, but normally that's true.

Mr. Mica. Well, I was told -- where's the rest of them?

Ms. Richard. Sometimes if someone comes to the attention of the embassy, they could be put in that process.

Mr. Mica. But that's a small, small percentage.

Ms. Richard. That's right. Most come through the U.N. refugee agency.

Mr. Mica. Have you vetted the U.N. process?

Ms. Richard. Yeah.

Mr. Mica. They are checking with Syrians to see if they have any ISIS connections?

Ms. Richard. We wouldn't check with the Assad regime on whether --

Mr. Mica. But you are saying the U.N. Somebody -- they are recommending these people. That's where you are getting them from. And they told us, don't worry. The U.N. has approved these people, and we are recommending them for entry into the United States.

Ms. Richard. They haven't approved them. They don't get to decide whether they come to the United States. They are referring the cases to us to match the things we have asked them to find.

Mr. Mica. But again, do you know if the U.N. is vetting them with Syrian and Assad officials and checking to see if they have ISIS connections?

Ms. Richard. I hope they don't check with the Assad officials because some of these people are fleeing Assad's torture chambers.

Mr. Mica. I recognize Mr. Gosar.

Mr. Gosar. I thank the gentleman. Now, I would like to get some clarification from all of these witnesses on the vetting and the investigative process for seeking entry into the U.S. by visa or refugee status.

So my question first, and we will go down the line.

Mr. Bersin, you will go first, but the same questions for all four of you. Is there any specific guidances, doctrines, directives, or memorandum, in effect now, either from this or a previous administration, that ties the hands of investigators in regards to getting the information they need to make informed admission decisions for those seeking to enter the U.S.?

Mr. Bersin. Only to the extent that there were constitutional and/or privacy policies that --

Mr. Gosar. There is no constitutional privacy -- constitutional applications for those seeking asylum that are not citizens. Mr. Gowdy went through that before. So, I mean, any doctrines -- I'm going to say it again, because it's very specific. Specific guidances, doctrines, or memorandum in effect now that either, from this or previous administrations, that ties the hands of investigators in regards to getting the information they need to make informed admission decisions for those seeking to enter the U.S.?

Mr. Bersin. I'm not familiar with any, except to the extent that there are privacy concerns, Congressman. I -- but I'm aware of no restrictions of that kind for screening purposes.

Mr. Gosar. But you earlier made constitutional remarks -- but constitutional remarks to our Constitution do not apply to refugees or those noncitizens?

Mr. Bersin. No. I didn't hear your asylum or refugees.

Mr. Gosar. Okay, but your answer is no.

Mr. Bersin. Yes.

Mr. Gosar. Mr. Rodriguez?

Mr. Rodriguez. No.

Mr. Gosar. Ms. Bond?

Ms. Bond. No.

Mr. Gosar. Ms. Richard?

Ms. Richard. No.

Mr. Gosar. So under the current policy and procedure, you have access to all of the information you need to make an accurate security assessment for all visitors. Mr. Bersin.

Mr. Bersin. We could only strengthen, and I think that's what the discussion has been, but yes, we have -- we seek to strengthen it. We have the authority to do the screening that we need to do, yes.

Mr. Gosar. Okay. Mr. Rodriguez.

Mr. Rodriguez. As to the refugees that we screen and the immigrant visas that we process, yes, we have quite robust resources that we bring to bear for all of those programs.

Mr. Gosar. Ms. Bond.

Ms. Bond. There are no restrictions on our access to the information that we seek, unless we can't get it because it's, you know, it's sometimes some other government might have it or something. But there is nothing from the part of our government that ties our hands in terms of seeking information we need to adjudicate a visa.

Mr. Gosar. Ms. Richard.

Ms. Richard. I defer to Director Rodriguez's judgment on this, but I want to reassure all of you that if you think there are sources out there that we are not checking that we should be, we're very open to looking at more work on this, but we have a very robust refugee vetting system.

Mr. Gosar. So going back to you, Mr. Bersin, and going back down, so there are no firewalls at all between the agencies for sharing this pertinent information?

Mr. Bersin. On screening, that's my understanding, yes, sir.

Mr. Gosar. Mr. Rodriguez.

Mr. Rodriguez. Also mine, Congressman.

Mr. Gosar. Ms. Bond.

Ms. Bond. Yes, the screening of applications goes through the entire interagency process.

Mr. Gosar. Okay, no firewalls?

Ms. Bond. No.

Mr. Gosar. Ms. Richard.

Ms. Richard. No.

Mr. Gosar. Ms. Richard, earlier in the testimony, you made the comment that you are not aware of -- I think you didn't even say that. There is no relationship to an asylee, political asylee for acts of terrorism in this country, true?

Ms. Richard. No, I didn't address that.

Mr. Gosar. I think you said that --

Ms. Richard. I said no refugee that came in through this process has carried out a successful terrorist attack against Americans in the United States. There have been -- there have been some troublemakers that have come in through this process.

Mr. Gosar. I would like to know how many of those troublemakers, by the way?

Ms. Richard. About a dozen.

Mr. Gosar. About a dozen?

Ms. Richard. Yeah.

Mr. Gosar. Any in Arizona?

Ms. Richard. Well, and then probably, you know, there is also an element of people who break the law, too, that is probably bigger.

Mr. Gosar. Oh, okay. And how many --

Ms. Richard. But I don't know --

Mr. Gosar. And how many of --

Ms. Richard. I have to refer you to the FBI on this.

Mr. Gosar. I would like to get those numbers. And what happens when they have a problem?

Ms. Richard. Well, the FBI has a program to track people that they are afraid will be, you know, their counterintelligence program to track people. So I have to defer to them. But we do have -- have heard of, you know, there were -- the famous case was the two Iraqis who were brought to Bowling Green, Kentucky,

and then it was discovered that they had been up to no good in Iraq, and so they were arrested.

Mr. Gosar. Well, we had a gentleman in Casa Grande Arizona, Mr. Aldosary, that tried to blow up the Social Security building during my first term. So that was kind of fun. So that's why I asked the question. I do have -- a little bit of indulgence here. There's a reason I asked you a question at the very beginning about guidance of specific memos. Are you familiar with the "words matter" memo, Mr. Bersin?

Mr. Bersin. Not by that title, no, sir.

Mr. Gosar. Mr. Rodriguez?

Mr. Rodriguez. No, sir.

Mr. Gosar. Ms. Bond?

Ms. Bond. No.

Mr. Gosar. Okay, I thank the gentleman. I yield back.

Chairman Chaffetz. [Presiding.] Thank you. I now recognize myself. I have a few wrap-up questions. There may be another member or two that come back.

Ms. Richard, you were quoted in this hearing as saying by the way -- Mr. Cartwright said, by the way, were the shootings in California perpetrated by refugees who were resettled? Your answer was no. And then you went on and you said, No refugees have carried out terrorist activities in the United States. And then Mr. Cartwright repeated that and then you said, that have successfully carried out an attack against American citizens in

the United States.

Ms. Richard. Correct, correct. So the second is correct.

Chairman Chaffetz. The second. The first statement by itself is not correct.

Ms. Richard. Well, I think the FBI would -- is concerned about a small number of refugees that have come in. That was a while ago that they came in. Under the current system, we haven't had anyone recently in that category.

Chairman Chaffetz. I would point to -- at least, I have got about a dozen names here of Senator Sessions, it's up on Breitbart. One of the more recent charges here, is August 12, 2015. I can't pronounce his last name, last name "Kurbanov, a native of Uzbekistan came to the United States as a refugee in 2009 was found guilty on charges that he conspired and attempted to provide material support to a designated foreign terrorist organization, and possessed an unregistered destructive device. U.S. Assistant Attorney General John Carlin stated that he 'conspired to provide material support to the Islamic movement of Uzbekistan and procured bomb-making materials in the interest of perpetrating a terrorist attack on American soil.'" He came to the country as a refugee in 2009.

Look, most of the refugees that I have interacted with we have a good, healthy refugee population in Utah. They are good, decent people that come from terrible situations. I don't think anybody suggested we don't bring any refugees in. What we have

asked is for a pause and a time out so that we can make sure that the vetting is there in place. And when you have the FBI Director saying we can only vet as good as the information is, I think it's a little bit of an overstatement to say, Hey, refugees are not your problem. Let me go back to the slide I brought up at the beginning, and this is of deep concern to me.

This is -- these are the number of people making credible fear, and so refugees are imported to the United States of America. You have people that are claiming asylum who come somehow to the United States of America. You can come here legally and lawfully, but you can also sneak into the country, as I witnessed down on the Arizona border, where people came across the border. They didn't run from border patrol. They wanted to get caught and the reason they wanted to get caught is, they wanted to go through this process.

And so Mr. Rodriguez, I want to ask you about this. This is a massive rise in the number of people claiming a credible fear with asylum. How many asylum officers are there at Homeland Security?

Mr. Rodriguez. The asylum core, give or take, is approximately 400 individuals.

Chairman Chaffetz. So you have 400 individuals, and in fiscal year 2014, we had 51,001 people claiming credible fear. There has been a lot from this administration about these exhaustive interviews. How much time does an officer spend

interviewing and investigating somebody who claims credible fear?

Mr. Rodriguez. Well, I think in credible fear, I think it, obviously, varies on the case. I have observed them. They seem to be approximately an hour. I will also say --

Chairman Chaffetz. Is that on average?

Mr. Rodriguez. -- reviewing them as a former -- that is my understanding. As a former prosecutor, observing those interviews, they appear to me to be robust interviews by very well-trained officers.

Chairman Chaffetz. So you have one officer. I want to make sure I get the math right here. You are saying one officer will take 1 hour to interview somebody. You have 400 officers, and we have over 50,000 people just in 2014 making that claim?

You were looking at the notes. Go ahead.

Mr. Rodriguez. I'm sorry. I -- in the particular case of credible fear, we have actually plussed up in the locations where we are screening people for credible fear as a result. Those screenings are getting conducted actually quite expeditiously.

Chairman Chaffetz. Well, that's my concern is that they are too expeditious. So my question is, how long is the average interview, and how many people are doing the interviews?

Mr. Rodriguez. Again, I will have to get back to you on the exact number. I believe --

Chairman Chaffetz. Yeah, this is a hearing about -- this is a hearing about vetting.

Mr. Rodriguez. Right.

Chairman Chaffetz. So I'm asking a very specific question about vetting.

Mr. Rodriguez. I believe at any given time, there are approximately 40 individuals, give or take. We are going to get you the exact number, but that's the neighborhood of the number, who are in the locations where we are screening individuals who have come across the border, and they are conducting those credible fear and reasonable fear interviews. Again, within the timeframes that the law -- that the law and our policies require.

Chairman Chaffetz. Okay, you put a lot of asterisks on that.

Mr. Rodriguez. You also asked me about the direct --

Chairman Chaffetz. Forty or 400?

Mr. Rodriguez. Four hundred is the total asylum core. So those individuals are doing credible fear and asylum. They are doing credible fear and reasonable fear. They are also doing the general work of asylum screening --

Chairman Chaffetz. Okay.

Mr. Rodriguez. -- as well --

Chairman Chaffetz. Okay. So who are the 40?

Mr. Rodriguez. The 40 are the ones who are deployed specifically to be meeting our goals, to process individuals claiming credible fear and reasonable fear at the border.

Chairman Chaffetz. How long, if you come across, and I'm assuming they have come across illegally. There's people that

come across legally, but there are a lot of them are coming across illegally. How long are they detained until they have completed that process, on average?

Mr. Rodriguez. I would -- it's roughly -- I think our target, basically, is 20 days. If they're -- in terms of either getting them into expedited removal or moving them into some sort of proceedings. A lot of those people, obviously, go into --

Chairman Chaffetz. You said you are going to give me some additional information. When will I get that?

Mr. Rodriguez. We will work to get it to you as soon as possible.

Chairman Chaffetz. No, give me a date. Give me a date. I know it's the holiday season, but give me a date.

Mr. Rodriguez. Given that, let's target the end of the first week of January.

Chairman Chaffetz. The end of the first week of January. I think that's reasonable. Because the math doesn't seem to add up. Here's the problem. Refugees have the State Department and other assets working towards that. I've got huge, huge questions. But now, as we look back at asylum, we are saying we have got 40 people with 50,000 people coming in the door. Think of a football stadium, okay. You have a football stadium full of people coming at us each year. You are saying that that these people do interviews, background checks, write-ups. They are not able to do that 8 hours a day. They have got other

responsibilities, paperwork they have got to do.

Here's the problem. Here's what I experienced. When I went to Arizona and I saw people come across and they wanted to claim credible fear, they would go to a judge and say, an administrative judge and say, Your honor, you know, I have got credible fear, and they'd read a little statement, and then the judge would say, Well, okay, we are going to have to go through the adjudication process. And that adjudication process means what? What in Arizona is the next time we are going to see these people?

Mr. Rodriguez. Yeah, that's the ordinary asylum process, and it is a number of -- quite a number of months before they are seen.

Chairman Chaffetz. You mean years?

Mr. Rodriguez. It can be years, yes.

Chairman Chaffetz. Okay, so in Arizona when I went there last year, I believe it was last year, the dates they were giving out, the court date was for 2020. And so what often happens is, the people have come here illegally. They claim asylum. They say, oh, you might have credible fear. We are going to give you a court date, and now the backlog is so big that they are not going to get a court date until 2020, and then what happens? They do what? They apply for a work permit. How many work permits are you handing out each year?

Mr. Rodriguez. I don't know the exact number. I certainly can --

Chairman Chaffetz. It's a big one. Now they are in the United States legally. They can work and they can compete with an American taxpayer for jobs and all the other resources. They get benefits. They go to our schools. They do a lot of things just like an American citizen does. And I got a problem with that. I got a problem with that.

Mr. Bersin, did you want to say something?

Mr. Bersin. Sir, when the last time we had the surge in the summer of 2014, the administration put a bill up and one of the key elements of that bill was to build an immigration court system that actually would work. Because you put your finger on the problem. We have 243 immigration judges, and we need many more in order for an immigration process to work and produce the result either way, but to produce a result in a timely fashion.

Chairman Chaffetz. And the frustration is, you got to lock down that border. And you have got to get rid of the people who are here committing crimes, for goodness sake. They are here legally committing crimes, and you all release them back out in the public. Some 60-plus thousand times you did that. These are the criminal element. Don't tell me about the nice, you know, lady who is just trying to help her family. These are people committing crimes, get caught, they get convicted, they are in your hands, and Homeland Security says, no, go back out into the community. Right? Am I -- did I say anything that's wrong there?

Mr. Rodriguez. Again, to be clear, the removal priorities

are that if an individual is convicted of a felony they are priority one for removal. Returning to our earlier conversation that includes rape. That is a priority one priority for removal. Just to be clear, and so the public is clear about what that is --

Chairman Chaffetz. So if they commit a rape, and maybe just pled down, am I wrong on the number two, they plead down to say sexual abuse and exploitation, that's not good enough?

Mr. Rodriguez. If the person, if their top count of conviction is rape, which is a serious felony, then in that case, they are --

Chairman Chaffetz. But sexual abuse is not?

Mr. Rodriguez. Sexual abuse may not necessarily be rape. So in fact, in the criminal law --

Chairman Chaffetz. But it might, right?

Mr. Rodriguez. Well, certainly as a prosecutor, I have seen people pled down to sexual abuse, if that's the point you are trying to make. So let's be clear about that. What sexual abuse actually means in the criminal law is not rape.

Chairman Chaffetz. So based on the Homeland Security directive from Secretary Johnson, if you commit and are convicted of sexual abuse, or exploitation, that is priority two?

Mr. Rodriguez. Which means that you are still a priority, a priority for removal.

Chairman Chaffetz. You are not the top priority. You're not the top priority.

Mr. Rodriguez. But if you are convicted of rape, the felony of rape, you are a top priority for removal. Let's not -- let's not have people misunderstand that fact. If you are convicted of a rape, you are a top priority for removal. Let's not have the American people believe anything else.

Chairman Chaffetz. But let's get the list of the things that are number two: Offense of domestic violence, sexual abuse or exploitation, burglary, unlawful possession or use of a firearm, drug distribution or trafficking, driving under the influence; all of which are not the top priority of Homeland Security.

Mr. Bersin. Mr. Chairman, you have heard Secretary Johnson say that his top priority is national security and public safety. And with all due respect, the priority one goes to felonies, the priority two -- and sexual abuse can often, short of rape, be a felony. If it's a felony, it's priority one. The priority two that you're referring to are significant misdemeanors. And frankly, as a former prosecutor, I think the felony should take precedence. It doesn't mean that we don't pay attention.

Chairman Chaffetz. But why not just get rid of all of them? You have got them in your possession.

Mr. Bersin. Because you know that when you actually allocate resources either as a prosecutor or --

Chairman Chaffetz. Are you saying it's a resource problem? Are you saying it's a resource problem?

Mr. Bersin. No, I'm saying that when you have a choice to

be made --

Chairman Chaffetz. Why is -- if somebody is convicted for any crime, why are they not deported? Immediately? I mean, or serve time and then be deported? Why don't they all get deported? Why are there exceptions?

Mr. Bersin. So 90 -- more than 90 percent of priority one and two removals, so I don't think it's fair to suggest that there is no attention to priority two. There is. And it --

Chairman Chaffetz. We obviously have a -- we obviously have a policy discussion -- difference. I don't think I misunderstand. I think you understand it as well. My point is, you got people convicted. They are here illegally. They are convicted, and you let them go. If it's only 90 percent --

Mr. Bersin. That's a different -- that's a different issue than the priorities for enforcement. The issue of removal --

Chairman Chaffetz. Is it true or not true that during 2 fiscal years, you had 66,000 people in your possession that were convicted of crimes that you released into the public. True or false?

Mr. Bersin. What crimes?

Chairman Chaffetz. Any crime.

Mr. Bersin. Yes. So, well, you say any traffic violation, a misdemeanor. Look, I understand --

Chairman Chaffetz. Are there people on priority one and priority two?

Mr. Bersin. There are minor -- there are minor offenses that are misdemeanors that are not top priority.

Chairman Chaffetz. I just -- no, yes or no, 66,000 people over two-year fiscal year period, that you had in your possession and that you released into the public. You did not deport them. Correct?

Mr. Bersin. Chairman --

Chairman Chaffetz. True or false?

Mr. Bersin. It's not just a yes or no, because you know there are requirements --

Chairman Chaffetz. Is it true or false?

Mr. Bersin. The answer is that there are requirements to release people under court decisions that you're aware of.

Chairman Chaffetz. This is so screwed up about the Obama administration. You're here illegally, you commit a crime, you deport them. Get rid of them. Serve your time, and get rid of them. They are a threat to public safety. They are a threat for terrorism. And they should not be released back into the public. That's what's so outrageous.

Let me recognize the gentleman from Florida, Mr. DeSantis for 5 minutes.

Mr. DeSantis. The priorities are related to your failure to remove these folks because you say, oh, they are priority two, we will still get to them. The fact is, that those 66,000, when we got the individual offenses, you did have people convicted

of homicide that were released. You had people convicted of sexual assault, rape, child molestation; really, really significant crimes. And to say there are court decisions, that's a rationalization for why you released them, but you did release them and that's putting the public at risk.

And so I second the chairman's concern about that. And the fact of the matter is, I was a prosecutor, particularly with some of the child molestation stuff, you do plead that down, some prosecutors do, because you don't want to put the child on the stand. And so they end up with offenses that could probably be considered priority two. And that's putting the American people at risk. But I digress.

Ms. Richard, you were quoted recently as saying that the biggest myth is people coming here could be terrorists in relation to the Syrian refugee situation. Why are you so dismissive of the possibility that they are going to have terrorists in the refugee flow?

Ms. Richard. I am not dismissive of the idea that terrorist organizations --

Mr. DeSantis. You said it was a myth. Why did you say it was a myth then?

Ms. Richard. I don't remember saying that.

Mr. DeSantis. You said the biggest myth is that people coming could be terrorists, and your point was that they were likely to be fleeing terrorists. But the issue is, is that if

you have 10,000 people, even if 99 percent of them are, you know, no threat, 1 percent, that's a significant number of people that would be injected into our society. We just saw, recently, two refugees linked to the Paris attack were arrested in an Austrian refugee camp, and you will acknowledge, will you not, that we have had refugees come to this country who have been prosecuted for material support to terrorism, correct?

Ms. Richard. Correct.

Mr. DeSantis. You will acknowledge that?

Ms. Richard. Yeah.

Mr. DeSantis. Because we had a number of them just this year, you know, the Eastern District of Virginia, Liban Haji Mohamed. You had Abdinassir Mohamud Ibrahim from the Western District of Texas. A lot of these people came as refugees. Some then ended up getting LPR status, some even citizenship. But the fact of the matter is, these are folks who have come through the program and have gone to terrorism.

Let me ask you this: What is your appraisal of how the Somali refugee community in Minnesota has worked out for the interest of the United States?

Ms. Richard. What I wanted to say was that most -- all bona fide refugees are people who are fleeing terrible things, including terrorists.

Mr. DeSantis. That's the point though. I think a lot of us are concerned that we can't tell the difference between a bona

fide refugee, given what the FBI Director has said, and given what other very high officials have said. So I take that point. But what about the situation with the Somali refugees in Minneapolis? There's tens of thousands have settled there over the last 20 years. We know that there is very high rates of cash assistance, and food assistance paid for by the taxpayer. And here's the thing: You have had over 50 people from that community go to join ISIS, or al-Shabaab, or other terrorist groups in the Middle East. Is that something that's in the United States' interest?

Ms. Richard. No, it's not. The U.S. is closed to al-Shabaab and to ISIS and to ISIL.

Mr. DeSantis. Well, how did that end up happening then?

Ms. Richard. This, to me, is the key question, why anyone would be attracted by ISIL or al-Shabaab. People born in the United States, people who are converts to this -- these followings, people who are refugees who came into the United States.

Mr. DeSantis. So you're not sure why it happens?

Ms. Richard. I think this is the key question for all of us. What is the attraction?

Mr. DeSantis. But here's why your statement bothered me because what I think the Somali experience in Minnesota shows, a lot of people who were coming directly, when they were adults, were not necessarily involved in terrorism and did not pursue

terrorism when they got to the United States. But then they have the families and you have the second generation. You have U.S. citizens. So their choice, they could have grown up in Somalia, and they draw the biggest, you know, it's like a royal flush to be able to grow up in America, and given all of that, how do they thank the United States? They go join the jihad.

Ms. Richard. I agree with you 100 percent.

Mr. DeSantis. Well, here's the point, though.

Ms. Richard. This is what keeps me awake at night. Why would someone who grows up in the United States be attracted to this?

Mr. DeSantis. But here's the point: The refugee policy that we have, even getting beyond the vetting initially, you are having to essentially try to figure out what's going to happen 10, 20 years down the road. And so the folks that we are bringing in now, we don't know what the downstream effects of that are going to be. So when I see something like what's happened in Somalia, it gives me a lot of cause for concern.

Mr. Rodriguez, let me ask you this: We have got Tashfeen Malik's form that she executed when she was applying for her K-1 visa. She was asked, there's a question on there basically saying, "Are you a terrorist? Check yes or no."

Is that really the best that we can do, because I think even from her perspective, I don't even think she has to lie because she probably doesn't consider herself to be a terrorist.

Mr. Rodriguez. I think you are referring to the consular interview. I will talk about what we know and what we think we need to do. For example, in the refugee screening process, we developed lines of questioning as part of the interview that go beyond just what might appear on a mere form, and actually --

Mr. DeSantis. So you are in the process of developing that?

Mr. Rodriguez. No. No, that exists. That has existed for years. And those are being reinforced.

Mr. DeSantis. What about her address application? They asked that question.

Mr. Rodriguez. That, the unless there is a -- under current practice, unless there is a specific trigger, some derogatory information that would lead us to probe into those kinds of issues, we don't, obviously, that's one of the things we need to be thinking about.

Mr. DeSantis. Well, see, I think, you know, this is somebody who obviously we know that there was statements that she had been making over the Internet. She is traveling from Pakistan and Saudi Arabia, and those are hotbeds of Salafist ideology, very, very dicey when you start talking about individuals.

Ms. Bond, is the State Department recommending that Congress, do you guys need to us change any laws so that we can have a system that would screen out people like Tashfeen Malik?

Ms. Bond. We do have laws that would screen out the likes of Tashfeen Malik.

Mr. DeSantis. So you don't think there needs to be any changes?

Ms. Bond. If we identify them. And we are looking at --

Mr. DeSantis. But that's my point. Does Congress need to give you authority or change policy in any way so that they are identified? Obviously, if they are identified, I hope they wouldn't be let in. I mean, that would be to me -- but we are not identifying everybody now, and the question is, is this just kind of bureaucratic mistakes, or do we need to change policies? Do you have recommendations for us?

Ms. Bond. I would -- I do not at this moment, but I think, based on the review that we are looking at now, it's possible that some of the ideas that we generate might require a change in the law.

Mr. DeSantis. Thank you, I yield back.

Chairman Chaffetz. Thank you, as we conclude, I do have to get through a couple more, and then we will be done.

I really do believe that one of the untold stories, the biggest -- one of the biggest threats that we have, are those that are coming illegally to the United States, and those that are coming to the country illegally and claiming asylum because they will get papers. They will be working. They don't go through a vigorous insightful interview. And I think that is a huge, gaping hole that has to be plugged. There's a reason why that we have had this huge ascent, this huge growing number.

I went to the Eloy detention facility in Arizona. There were some 150 different countries represented there; a lot of people coming that have to be addressed. We still, in this country, do not have an entry-exit program. There have been at least a half dozen times, where law has been put in place since 1996. Why do we not have an entry-exit program?

Mr. Bersin. So, with respect, I have been asked, and I'm prepared to answer that, Mr. Chairman, to the best of my ability. There was, apparently, an agreement for a hard stop at 1 o'clock, and I would ask if we can, in due course, bring the hearing to a conclusion as staff had negotiated. I happen to have a --

Chairman Chaffetz. I don't -- I'm sorry, but I'm just not negotiating the end time here. We are going to answer these questions. I think it will be a few minutes.

Mr. Bersin. Okay. So the -- starting in 2012, CBP started to get the resources to be able to start to develop in earnest, the entry-exit system. As I indicated before, Mr. Chairman, the way in which our airports, our whole infrastructure was constructed, it was not -- you were not able to capture biometrics on the way out. There was no screening on the way out. The focus was screening on the way in.

So CBP, and I remember this during my tenure there, Mr. Chairman, there were three ways you could do it. You could actually rebuild the infrastructure, and that was rejected for cost reasons. You could actually put CBP --

Chairman Chaffetz. Who rejected that?

Mr. Bersin. That was a decision made with -- I participated and I recommended that, in fact, we not rebuild all of the airports and the seaports.

Chairman Chaffetz. Where is the proposal, and when was it rejected?

Mr. Bersin. I will, if, in fact, it was ever -- if it came to the Congress, which I don't believe it did, I will -- I will endeavor to get it by the end of January.

Chairman Chaffetz. When will I get that?

Mr. Bersin. The second reason --

Chairman Chaffetz. Wait, wait, wait. When will I get that proposal that was rejected?

Mr. Bersin. By the end of -- consistent with Mr. Rodriguez's schedule, by the end of January.

Chairman Chaffetz. The end of the first week of January, I believe is what he said.

Mr. Bersin. Were you that generous, Mr. Rodriguez?

Mr. Rodriguez. Well, I think a more modest --

Chairman Chaffetz. I want you to leave right now as you want to go at 1 o'clock, but I'm hopeful that it is to go get this report. But --

Mr. Bersin. The second was --

Chairman Chaffetz. No, no, no. What's the date? Tell me the date.

Mr. Bersin. January 30.

Chairman Chaffetz. Okay.

Mr. Bersin. The second was to put CBP officers, and we actually had a pilot where CBP officers would be placed at the -- would be placed at the ports of entry. And the estimate there was that it would -- that would take resources away from other functions that we did not have in terms of CBP officers.

Chairman Chaffetz. So you're saying that this is rejected, those two instances, because of money?

Mr. Bersin. Yes, sir.

Chairman Chaffetz. And yet --

Mr. Bersin. Well, not only money in the first order because, in fact, it would have required a complete restructuring of our ports of entry. So it would also interfere with commercial activities and other interests we had.

Chairman Chaffetz. There was a conscious choice not to have an exit program. My question here, and again, I'm trying to wrap up here, but if it's a resource problem, why did Homeland Security come to -- and reprogram \$113 million from ICE, and give it to Secret Service and FEMA?

Mr. Bersin. I'm not familiar with that decision, Mr. Chairman.

Chairman Chaffetz. Homeland Security recently gave \$150 million to the Mexican Government. It may be worthwhile. But I just don't understand, since it's law six times over, why there

isn't an exit program. I just don't understand that.

Mr. Bersin. The effort to get an overstay report, which I have communicated to the committee, is underway, is part of this process that has been initiated to capture all of the biographic. We actually do a fair amount. You will see in the overstay report, we do a fair amount that actually captures biographic; those who come in, and those that go out.

Chairman Chaffetz. Do most people come in by land, sea, or air?

Mr. Bersin. There are 180 crossings -- 182 million crossings on the land. We have about a million people a day that are processed in. And it's -- most of the people are coming by air.

Chairman Chaffetz. You think that most people are coming in the air?

Mr. Bersin. Individual people. So I'm saying of the 182 million crossings that we have, those are repeated crossings going back and forth. Separate individuals, but in terms of sheer traffic, it's the land, obviously. But the crossings and individual people is actually more coming by air.

Chairman Chaffetz. With nearly 10 million border crossing cards, do you collect biographical, or biometric information on those people?

Mr. Bersin. We do not, no.

Chairman Chaffetz. Okay, I could go on and on. It is such

a mess and a disaster. Let me recognize the gentleman from Georgia, Mr. Carter, for 5 minutes.

Mr. Carter. Thank you, Mr. Chairman. I will be very brief. Thank you for staying, and I will be respectful of your time. And I will try to be as quick as I can.

Ms. Bond, based on earlier testimony, a K-1 fiance(e) visa is classified like a nonimmigrant visa, but the applicant must go through the full immigration visa screening process. Is that correct?

Ms. Bond. Yes.

Mr. Carter. So what kind of screening and tests must a K-1 applicant pass?

Ms. Bond. Okay. Because it is treated like an immigrant visa, in other words, this is an individual that we expect to remain permanently in the United States, and so, they get exactly the same security screening as any other traveler to the United States. We don't distinguish between immigrant and nonimmigrant in terms of the interagency security terrorism criminal background, all of that review. However, for example, if you are applying for an immigrant visa, you do have to undergo a medical exam. And so someone who is getting a fiance(e) visa gets that medical exam.

If you are applying for an immigrant visa, you have to present a police certificate from any country where you have lived for more than 6 months since you were 16, showing that you didn't

have a criminal record in that country.

Mr. Carter. So that's the background check that you do?

Ms. Bond. That is part of the process for immigrant visas that you wouldn't require if someone is coming in a nonimmigrant capacity.

Mr. Carter. Okay. Was Tashfeen Malik, was she subject to that process as a K-1 visa applicant?

Ms. Bond. Yes.

Mr. Carter. She was? So nonimmigrant visas, such as those that under the Visa Waiver Program, are they less stringent than a K-1 visa?

Ms. Bond. If you're applying for a nonimmigrant visa, for example, a tourist visa, we do not require you to submit proof that you have a clean criminal record in every country where you have lived.

Mr. Carter. So your answer would be yes?

Ms. Bond. Yes.

Mr. Carter. So a nonimmigrant visa, such as those under the Visa Waiver Program, they are less stringent than a K-1 visa?

Ms. Bond. Right. We ask the question about whether you have any criminal record, but you are not required to prove it.

Mr. Carter. So we have got 1.6 million overstays in the backlog, 400,000 of which are from the Visa Waiver Program, which is the less stringent program, correct?

Ms. Bond. The Visa Waiver Program is not less stringent in

terms of the security check that is done than the other visa --

Mr. Carter. But the background is?

Ms. Bond. Well, the interagency name check is the same for all of them. But if you're traveling as a nonimmigrant, you are normally not required to provide the police certificate, for example. You are not required to undergo a health exam that you would if you were coming in as an immigrant.

Mr. Carter. Well, I would say that that's less stringent than. Would you not agree?

Ms. Bond. Yes, I agree that the paperwork that is required -- for example, also, if you are coming in as an immigrant, we have to see a certified copy of your birth certificate. If you are coming in as a married couple, we need a certified copy, of your marriage certificate. We are not asking for that kind of documentation for nonimmigrants. So there are a number of documents that have to be in the file if you are moving permanently to the United States, which we do not require if you are.

Chairman Chaffetz. Will the gentleman yield?

Mr. Carter. I yield.

Chairman Chaffetz. You don't have to actually provide a marriage certificate prior to coming on a K-1 visa, correct?

Ms. Bond. No. If you are coming on a K-1 visa, you wouldn't have a marriage certificate, but you would have to provide a -- in other words, if you are not married, you don't have to provide

a marriage certificate. However, you would have to provide -- suppose you are someone who has been married before, we would need a certified copy of the divorce decree, or the death certificate.

Chairman Chaffetz. No, you just suggested, if I heard it right, that you had suggested that they had to -- anyway, I just wanted to clarify because in the case of San Bernardino, that's how she got here, was claiming that she would get married, and it looks like she did get married based on records that I have seen. But I just wanted to clarify that for --

Ms. Bond. Okay. But what I was saying was, if you were a married couple coming into the United States on immigrant visas, we would need to see your marriage certificate. I wasn't talking about a fiance. Although, again, if she were previously married, or if a petitioner was previously married, we have to see, or USCIS has to see a certified copy of the death certificate or the divorce decree that ended the previous marriage.

Chairman Chaffetz. Yield back.

Mr. Carter. So we have got almost 400,000 immigrants who are under this Visa Waiver Program who are on backlog, as we understand it, through a system that you are telling me is perhaps less stringent than what we would require of others, and I'm just disturbed by that. You can understand where my concern is, especially in light of the recent events that we have experienced here on our homeland.

Mr. Chairman, I yield back.

Chairman Chaffetz. Thank you. I want to thank all of the members and our witnesses today, as the clarifier, particularly to Mr. Gowdy's comments about the sharing of lists, and there were several members, both sides of the aisle, talking about sharing as we go through the vetting process. There are people that are here illegally. There are people that are here legally and have committed crimes. There are people that are here on visas. There are people who have overstayed their visas. I mean, I could keep going on and on. But they are not eligible to purchase a firearm.

The question is, do you share that information with appropriate authorities, and are those lists given to those other agencies, particularly ATF, FBI? There's others that I'm not thinking about, but there's certainly State needs as well. When can you give me that information?

I mean, we are simply interested in whether or not -- it should be a fairly easy -- there are other agencies, particularly the Department of Justice, that are responsible for those, but I need to know if you are giving them that?

Mr. Bersin. We will make inquiry. I know that they have access to them, and let me make inquiry by the last week in January. I think the question that is being asked in return is whether or not people who were on the terrorist screening database ought to be included as well. I think that's the question.

Chairman Chaffetz. Correct. That's what I'm saying. There's a lot of lists that you all go to great lengths to populate. Then the question becomes, do those populated lists get in the hands, so if somebody was here at, say, a visa overstay, and they go to purchase a firearm, because there are States that are handing out driver's licenses. One of my questions that I would appreciate, part of that answer is, if you have somebody who is here illegally, and they have taken their driver's license -- and they have got a driver's license, we know and now have identified that person, can we, have we shared that information? So last week of January, is that fair enough?

Mr. Bersin. Yes, sir.

Chairman Chaffetz. All right, thank you. And I would like to know on those that are here and refugees, do you track or do anything in terms of any of those people, have they committed any crimes?

Ms. Richard. No. Our Bureau does not do that.

Chairman Chaffetz. Give us one moment. Mr. Palmer has two quick questions and we will adjourn.

Mr. Palmer. Thank you for indulgence, Mr. Chairman. I want to go back to the discussion that we had earlier about people who were allowed to enter the country, and in the context of refugees, do you keep track of people who transition from refugee status to immigrant status?

Mr. Rodriguez. Well, we keep track of them in the sense that

at the time, presumably, that they apply for adjustment, which they are, in fact, required to do. We encounter them again; we know that they have applied for adjustment. We know the address that they are giving at that time. We run a fresh set of checks at that point, so in that respect, we do keep track of them.

Mr. Palmer. Is there a time limit? Is there a length of time that they have to be here before they are eligible to apply for immigrant status?

Mr. Rodriguez. They are expected to apply for adjustment within a year of --

Mr. Palmer. Well, all I'm asking is, is that -- you have to be here a year before you are eligible to apply?

Mr. Rodriguez. That is the time of your eligibility. That is correct.

Mr. Palmer. So after you have been here 1 year, you can apply for your immigrant status?

Mr. Rodriguez. That's correct.

Mr. Palmer. If they have been here a year, can they apply for citizenship?

Mr. Rodriguez. They will then need to wait 5 years after they have become legal permanent residents before they can become citizens.

Mr. Palmer. So 6 years?

Mr. Rodriguez. That is correct.

Mr. Palmer. Okay. And what is the typical wait time for

them once they have applied for citizenship? Do you have a --

Mr. Rodriguez. As we speak right now, we are at target on processing naturalization applications, which is 5 months.

Mr. Palmer. Five months.

Mr. Rodriguez. Yes, sir.

Mr. Palmer. So you have people who have applied for citizenship, you know, who have come here legally and applied for citizenship, who literally wait years at an enormous cost, but are we giving -- are we expediting, giving priority to the folks that have come here as refugees, and became, you know, applied for immigrant status and applied for citizenship?

Mr. Rodriguez. Not in any of those processes, no. I mean, they are in the queue. Essentially first in, first out.

Mr. Palmer. Why is it you can then process them faster than you do people who have been here for years trying to --

Mr. Rodriguez. It is just, the point -- the law for refugees is that they are expected to apply for legal permanent residence within a year. At that point their wait time to become citizens is another 5 years. That's just the way -- that's the law. That's not our processing. That's the law.

Mr. Palmer. But that 5-year wait applies to other immigrants as well.

Mr. Rodriguez. It's anybody who has become a legal permanent resident. That is correct, with certain exceptions.

Mr. Palmer. But my point is that those who have come here

legally, and Mr. Chairman, I hear report after report, after report, of people who have immigrated here legally who have applied for citizenship after 5 years that literally have to wait years and spend enormous amounts of money relative to their -- to their net worth, and can't get -- and still are on a waiting list to become citizens.

Mr. Rodriguez. Yeah, years.

Mr. Palmer. And just it troubles me, Mr. Chairman, that it appears that not only are we not doing a particularly good job of vetting people coming here on visas, we are not adequately vetting the refugees before we admit them, particularly from countries that might be problematic, that somehow people get moved to the head of the line.

Thank you, Mr. Chairman. I yield the balance of my time.

Chairman Chaffetz. Thank you. A, I want to thank the witnesses here today. B, I want to especially thank the men and women who go out and do a very hard job, thankless job, that are out there serving their country, and doing so to the very best of their ability, sometimes with very limited tools and resources. We do this in the spirit of trying to help and to fix this in a bipartisan way, and our thanks and gratitude goes to them.

Let me be clear. We do not make deals as to when hearings will end. And so for staff to suggest that we agreed 1 o'clock -- I'm sorry, that never came to me. I want to be clear for future hearings, that's just not a deal we are going to make.

Under House Rules, each member is allowed to ask 5 minutes of questions per witness. So all told, we can have all of these members ask four sets of 5-minute questions. Most members ask one question, some members didn't show up, and I think I asked three questions. So I just want to understand and clarify that.

The other thing is, we weren't planning to have this hearing this week because we expected last week's hearing to be productive, and it wasn't. I think we made our point on that. But please help us and provide us people who come as witnesses to this committee, as you would other committees, and make sure that they are properly prepared to answer the full array of questions. Again, we thank you all for your time.

We wish you best this holiday season and the committee stands adjourned.

[Whereupon, at 1:35 p.m., the committee was adjourned.]