

Senate Appropriations Subcommittee on Homeland Security Holds Hearing on Fiscal 2019 Budget Request for the Homeland Security Department

LIST OF PANEL MEMBERS AND WITNESSES

CAPITO:

I want to welcome everyone. I call this hearing of the Subcommittee on Homeland Security to order. And I'm very please to begin my first hearing as the chair - chairman of this subcommittee. It is the subcommittee's first hearing of this budget cycle and its purpose is to review the Department of Homeland Security's fiscal year 2019 budget request.

We thank the Secretary, Secretary Kirstjen Nielsen of Homeland Security for agreeing to appear before our subcommittee. Secretary Nielsen is appearing before our subcommittee for her first time and we look forward to hearing her insight. I'm also very, extremely pleased to be joined by our subcommittee's Ranking Member, Senator John Tester from Montana. We look forward to working together. We were just talking about that, through the fiscal year 2019 process.

I'm also very pleased that the Vice Chair of the full Appropriations Committee, Senator Patrick Leahy from Vermont is here with us today. So, thank you. As the highest ranking official at the Department of Homeland Security, Secretary Nielsen has one of the most challenging jobs in government.

Her department and its nearly 250,000 employees carry out a broad set of missions that spans the entire globe. They work to combat terrorism, manage who and what passes through our air, land and sea borders. Secure civilian cyber space, prepare for and respond to disasters and protect countless other national security interests.

The subcommittee will work to support the department in meeting these demands in an effective and efficient manner. The recently enacted appropriations bill provided significant investments for the department towards those ends. It made significant investments in a new border wall system for the highest trafficked portions of the southwest border.

It provided a record level of funding for immigration enforcement. For the first time, it dedicated significant funding to opioid detection equipment and to research and to improve those detection capabilities, something I'm extremely interested in.

It included the largest ever investment in equipment for the men and women of the Coast Guard. It dramatically accelerated the deployment of the cyber security tools

that will be used by nearly every single civilian agency of the federal government.

And in combination with emergency supplemental appropriations bills, it provided the necessary fiscal year 2018 resources response to and recovery from a historic 2017 disaster season.

While that bill took many positive steps, we are now turning our attention to the 2019 budget request. It is very clear to me that the department's workforce, which I'm very pleased to say, includes many West Virginians, it's - they consider this their most valuable resource and this budget request acknowledges that.

I know that it is your goal to ensure the department can improve workforce retention, recruitment, development and Senator Tester and I want to be partners with you in those efforts. We will hear from Secretary Nielsen, today, about border security.

While we saw a dramatic decrease in illegal border crossing, last year, it is my understanding that those rates have increased in recent months.

We look forward to hearing how your budget seeks to meet that challenge. I am pleased that the department has provided our subcommittee with a comprehensive plan for border security. Your budget request mirrors that plan, would suggest that continuous investment in a border wall system should be made over a 10 year period.

While there are other areas where we believe your budget request gets it right, there are some areas where we want to work with you to ensure we are recommending a sufficient level of investment in these areas, cyber security, equipment to detect opioids and other dangerous substances before they enter our borders, Coast Guard vessels, aircrafts and infrastructure, strengthening partnerships between state and local leaders and research and development.

These are also parts of this budget request that are not - there are also parts of this budget request that, I believe, are not grounded in reality and that artificially deflate the real overall needs of the department. The request assumes a billion dollars in revenue which could only be realized by a fee increase proposals that have not yet been authorized by law.

CAPITO:

We request your assistance as we consult with you and your staff, to make adjustments necessary to allow this budget to work, despite these challenges. Again, Madam Secretary, we appreciate your testimony and your willingness to answer questions from members of this subcommittee. I'll now turn to our distinguished Ranking Member, Senator Tester, for any opening remarks. And then, I will go to,

after that, Senator Leahy for any opening remarks before you begin your testimony.

So, thank you, again, and Senator Tester.

TESTER:

Thank you, Chairman Capito. Good afternoon, Madam Secretary, welcome. We're here today to examine the DHS budget request for fiscal year 2019. I also want to recognize our new chairman of the subcommittee.

Senator Capito, I look forward to working together to develop some of the bipartisan DHS appropriation bill for fiscal 2019, and by your opening statement, Madam Chair, I would just tell you that we're pretty much on the same page.

So thank you. It is also worth recognizing that the 240,000 DHS employees who go to work everyday with -- with the goal of keeping this nation safe, we are absolutely indebted to them for their dedication and their service.

In total, the department's request for fiscal year 2019 includes \$47.4 billion, that's \$289 million below the fiscal year 2018 appropriation that we just enacted back in March. The department that you lead has a multitude of diverse missions, including border and immigration security, protecting cyber space, making sure air travel is secure, helping communities prepare for and respond to natural or manmade disasters

and monitoring our coast lines and waterways to save lives, intercept the legal drugs, prevent bad actors from invading our ports.

It's a big job. As appropriators, our job is to allocate resources across the entire DHS enterprise to address all threats. This budget provides close to seven percent increase for border security and immigration enforcement.

But it has a near equal reduction for the rest of the department. I support additional funding for border security when done in a smart and effective way. But at the same time, we cannot shortchange other priorities like local law enforcement, fire fighters, cyber security -- excuse me, airport security, and critical R&D.

Montana's police officers and sheriffs have told me time and time again how critical these resources are to keeping them safe. Unfortunately, it is my assessment that the budget underfunds TSA staffing, eliminates VIPR teams, and ends funding for airport law enforcement support.

The science and technology directorate would be cut by 30 percent. It is incredibly important that we have good science and technology to leap ahead of technologies and stay ahead of terrorist groups.

There is no additional or dedicated funding request to help states secure their election systems, even though at least 21 states were targeted by Russian hackers in the last election. This is a big deal for a democracy.

FEMA prepared it's (ph) grants and state and local training would be reduced by 20 -- 20 percent, while quite frankly the threats are more diverse than ever. And finally the budget relies on a faulty assumption that an unauthorized increase in aviation security fees would be enacted to offset \$520 million in budget authority.

Look, we're at the beginning of this process, and I look forward to discussing with you these priorities and these issues today. Your request also proposed to hire a thousand new personnel for CBP and ICE, despite the fact that those agencies have had a hard time simply backfilling for attrition.

Hiring has been a challenge. In fact, such a challenge that the CBP awarded a contract to a company in 2017 to aid with the hiring of new agents. The total value of that award is \$297 million, \$43 million of that \$297 million has been obligated so far, and yet based on the latest data that I think we got from the CBP, there are fewer border -- border patrol agents on board today than when that contract was awarded.

Before I can agree to additional contracts -- additional funds for this contract, we need to see evidence that this is truly a wise use of taxpayer dollars, because so far it doesn't appear to be that way.

Finally the fiscal year 2018 omnibus included \$1.345 billion for the construction of a physical barriers along the southwestern border, some replacement miles, some new miles.

The department still needs to supply this committee with an execution plan that describes the total number of miles, location and cost for each segment. If there are potential cost increase, we need to know those details too and the implications that that could have on this budget.

So thank you again, Madam Secretary, for appearing before the committee and I look forward to our discussion.

CAPITO:

Thank you, Senator Tester. And I'd like to recognize the ranking member of the full committee, Senator Leahy for opening statement.

LEAHY:

Thank you, Madam Chair. I -- I appreciate that. We have a lot of work ahead of us and, Madam Secretary, you're here to pen (ph) the Department of Homeland Security's budget request.

It reflects the Trump administration's priorities for your agency, as well as priorities that we're going to discuss with you today. And we're all (ph) going to ask who are those (ph) priorities are supported by the facts.

I know within days of taking office, the president attempted to make good on his Muslim ban by ordering a travel ban on citizens of certain Muslim majority countries. He did this despite a consensus among top national security experts, even within his own administration.

This (ph) citizenship alone is not a reliable indication of terrorism. And after promising to treat DREAMers with great heart, his words, the president proved heartless. He abruptly ended the program, he walked away from the only serious (ph) bipartisan, republican and democrat compromise to protect DREAMers, in order to, in his words, stop the massive in flow of drugs.

The president should know by now that DREAMers, by definition, are law abiding strivers, they're not drug kingpins. President Trump has repeatedly argued that a

border wall is necessary to prevent drugs from pouring into our country, despite the reality that most illegal drugs come to illegal ports of entry, including the post office. And when Mexico laughed off the president's promise that Mexico would pay for the wall, well then he broke his campaign promise and said the American taxpayers should foot the bill, even though he promises Mexico would pay for it.

Just yesterday after months of claiming the DHS does not have an official policy to separate families, your department announced to refer (ph) 100 percent of adults who cross the border for criminal prosecution, which of course is a de facto family separation policy.

No matter what you call it, a new policy is going to result in thousands of children, some of them infants, being forcibly separated from their families. The view of this around the rest of the -- rest of the world is shocking and most people around the rest of the world say this is so beneath the great United States.

LEAHY:

Also (ph) (inaudible) straighten our limited federal resources, it will clog our court systems, all without any clear explanation, oh it (ph) keeps America safe. So at my

core, my concern is not just a administration that's turning its back on immigrants by pursuing ineffective policies in the name of national security.

I'm equally concerned this administration is turning its back on what it means to be Americans. We are a nation of immigrants. All right (ph) my grandparents or my wife's parents were a proud on at that (ph). Now this committee will gladly retain a bunch of request with flexed (ph) priorities that rooted in reality.

And address the real threats facing our nation. Not a budget in campaign promises that will never be fulfilled. But we're going to be much less receptive to a bunch of request intended to provide a megaphone. The administration is fear mongering against immigrants and refugees and chair, thank you very much.

CAPITO:

Thank you. That concludes our opening statements and we'll have the testimony from the Secretary. Thank you for coming.

NIELSEN:

Thank you. Well good afternoon. I thank you all for having me here today to discuss the needs, gaps and vulnerabilities we have in the Department of Homeland Security and ways in which we can work together to meet those and give the folks executing these missions what they need.

So madam Chair, ranking member Tester, distinguished members of the committee it's a privilege to appear before you here today. I'm honored to present the President's 2019 Budget Request for the Department of Homeland Security and discuss how that budget will help keep the American people safe.

I want to first start by thanking this committee for the 48.2 billion provided to the Department in the recently passed Consolidated Appropriations Act. The hard working men and women of DHS deserve the resources needed to do their jobs and they deserve our support as they safe guard our communities.

I thank you for your continued support, for supporting them in this last budget cycle and hope that we can work together to continue to do so. The President's 2019 Budget builds on the 2018 budget and request 47.5 billion in net discretionary funding for DHS. It also includes an additional 6.7 billion for the disaster relief fund for response and recovery to major disasters.

Today, I'd like to outline several (ph) core missions empowered by this budget. Securing and managing our borders and enforcing our immigration laws. Protecting our nation from terrorism and countering threats. Preserving and upholding the nation's prosperity and economic security. Securing cyber space and critical

infrastructure and strengthening Homeland Security preparedness and achieving resilience.

Within all of these missions we are aiming to put our employees first and empower our front line defenders to do their jobs. This will help mature the department and more importantly help us better secure the Homeland.

I want to spend the bulk of my time this afternoon focusing on border security and the enforcement of our immigration laws. We are preparing to release our northern border strategy soon which I know members of this committee will take an interest in reviewing. I look forward to speaking with you in greater detail on your thoughts and perspectives.

I also look forward to working with you on that and keeping an open dialogue on what needs to be done to further enhance security on our northern frontier. On the Southwest border which gets more attention these days, we have made vast improvements over the past 15 months but make no mistake we do face a crisis.

We continue to see unacceptable levels of illegal drugs, dangerous gangs, criminal activity and illegal aliens flow across our southern border. The current statistics for last month are simple -- simply sobering.

Over all, the number of illegal aliens encountered at the border more than tripled when compared to the same time last year. For the second month in a row we have seen more than 50,000 illegal aliens enter our country.

We've been apprehending these crossers with historic efficiency but illicit smuggling groups understand that our ability to actually remove those who come here illegally does not keep pace so they continue to come back.

For example, just the other week our agents received a tip about a suspected smuggler in McAllen, Texas. When they searched his residents, they found not only a fire arm and ammunition but also 70 people in a so called stash house. All illegally in the United States.

The man himself had four removal (ph) orders and had been convicted of illegal entry five times. That's what we're up against. Fortunately, the President's budget would invest in new border wall construction, technology and infrastructure to stop illegal activity.

The proposed budget would also allow us to recruit, hire and train additional U.S. border patrol agents, additional U.S. immigration and customs enforcement officers and additional support personnel to help carry out these critical missions.

As we seek more funding for our border wall system, our people and the assets we need I will press forward with tough border security actions and enforcement to the fullest extent of the law. My message to smugglers, traffickers and criminals is clear.

If you try to enter our country without authorization you have broken the law.

The Attorney General has declared that we will have zero tolerance for all illegal border crossings and I stand by that. We are a country of laws. It is our policy that anyone crossing the border illegally will be detained and referred for prosecution.

We will no longer exempt classes or groups of individuals from prosecution. And if they file a fraudulent asylum claim or assist others in doing so, they will also be referred for prosecution, convicted and removed from the United States.

But our zero tolerance policy and more funding for border security will only get us part way there. We urgently need Congress to pass legislation to close legal loop holes that are being exploited to gain entry into our country.

Apprehensions without the ability to remove those who have no legal right to be here is not border security. The smugglers know these loop holes and they are taking advantage of us every single day. They know it's easier to get released into America if they claim asylum, if they're part of a family or if they are unaccompanied children.

So it should come as no surprise that we are seeing a spike in all of these categories.

Word is getting out. Asylum claims are up 200 percent in the last five years. Family unit apprehensions are up nearly 600 percent compared to this time last year.

And UAC apprehensions are up more than 300 percent. In fact, five years ago, apprehensions of families and unaccompanied children were less than 1 out of every 10 apprehensions. Now they approach almost one half, 40 percent of all apprehensions.

The gaming of the system is unacceptable. We need urgent action from Congress to close these dangerous legal loop holes that are making our country vulnerable. For border security to work violation of the law must have consequences.

Before I move on, I want to make one final point. While activists claim that these migrant flows are helping people, I would argue the opposite. The journey to our border endangers the illegal alien themselves. The communities they pass through, our agents' border and U.S. communities in our homeland.

Illegal migrants face the prospect of robbery, rape and murder as they travel. And the criminal network smuggling them are the same networks that smuggle drugs and weapons and which have caused instability in communities throughout the region and our country.

To be clear, human smuggling operations are lining the pockets of transnational criminals. They are not humanitarian endeavors. Smugglers prioritize profit over people and when aliens pay them to get here they're contributing (ph) up to 500 million a year to groups that are fueling greater violence and instability in America. There are other options aside from the dangerous journey north to our borders, ones that I continue to advocate.

If they have a legitimate need to flee their home countries, migrants should seek protection in the first safe country they enter, including Mexico, not subject themselves to an unnecessary long and dangerous journey and or turn themselves in to the ports of entry.

I have met with hundreds of members of Congress, they have all told me they want to secure the border, but when it comes down to it, too often there is reluctance to support our folks in doing what they were required to do, which is enforce the law.

That's what are men and women have signed up for, that's the oath I took. This is also what the American people demand, we are a country of laws. This administration and this department will continue to do everything we can to enforce the law, which is why we are committed ourselves to do when we swore our own oaths.

In addition to border security and immigration, I wanted to quickly touch on another -- other topics, but happy to ask -- answer any questions you might have. We also make important enhancements across our other missions to support countering terrorism, the budget would allow TSA to deploy advanced tools to detect threats.

It funds new CBP initiatives to identify high risk travelers, ramps up defenses against weapons of mass destruction, provides vital funding to protect soft targets from concert venues to schools against attack.

To advance our economic security and prosperity, the president's budget provides critical resources to enforce our trade laws and to keep foreign adversaries from stealing our trade secrets, technology and innovation.

To support cyber security and critical infrastructure security and resilience, the budget equips DHS to continue making historic strides to address systemic cyber risk, secure .gov networks and assist critical infrastructure owners and operators.

It also enables DHS importantly to support state and local election officials in defending our election systems. Finally this year's budget will allow us to strengthen homeland security preparedness and national resilience.

Last year we experienced one of the most costly and damaging season for national disasters in history with accumulative cost exceeding \$300 billion. President's budget

will devote the resources and attention needed to ensure recovery and to help communities across our nation create a culture of preparedness to be more resilient to disasters.

In addition to the areas I mentioned today, I'm also firmly committed to maturing the department and putting our employees first. I ask the committee to -- to work with me on this budget, to support the needs of the men and women of DHS, to support our missions (ph) and help us make our country more secure.

It's a true honor to lead the men and women of DHS and I commit -- remain committed to working with you to do just that. Thank you very much for your time today and look forward to your questions.

CAPITO:

Thank you, Madam Secretary. And I want to help my colleagues stay happy on my subcommittee, so Senator Hoeven is going to be chairing the -- on the floor -- presiding on the floor, so I'm yielding my time to Senator Hoeven to begin the questioning.

HOEVEN:

Thank you, Chairman Capito, very much, I really appreciate it. Secretary Nielsen, thank you for being here, more importantly thank you for the very good job that you're doing as Secretary of Homeland Security.

We appreciate it very much. One of the tools that we're using on the border is unmanned aerial systems, both on the northern border and the southern border. You and I have talked about it and we're looking forward to having you come to Grand Forks, where we have 900 miles of border security responsibility and we're using unmanned aircraft as a big part of that.

My question to you is we also have to be -- not only using unmanned aircraft for surveillance, but also now increasingly we have to be aware that we've got to protect our borders from unmanned aircraft threats that may come into our country. And I know you're working on that, so my first question is, do you have adequate funding for counter-UAS type activities that you need to do?

NIELSEN:

I thank you for the question because this is an emerging threat and one that's very top of our mind. We see how UASs are used in the theater, but we also have already seen them used by TCOs to transfer drugs across our border.

HOEVEN:

OK.

NIELSEN:

So, it's only a matter of time, we fear, until we watch them use it to, actually, transfer IEDs or something explosive materials. They disrupt our surveillance and they cause problems with our communication already. So, we have put together a legislative request for authority that would help us surveil (ph) and disrupt.

It's not dissimilar to what the Department of Defense has. We're working with DOJ to finalize that language, but I would, very much, look forward to working with you on that so that we can protect our border.

HOEVEN:

Have you started looking into utilizing private companies to help leverage your capabilities, both, in some of that counter-UAS work, but also, even in using your fleet. One of the challenges, and I remember from my time chairing this subcommittee, is personnel. You know, getting enough personnel because you have such and incredible demand for skilled people, you have great people and you need more of them, including pilots. And so, have you started to look at private sector options, both, to fully utilize your fleet of unmanned aircraft, as well as, to do some of this counter-UAS work.

That's one of the things that we can show you are some of these creative, innovative uses because we, not only, have the military using unmanned aircraft up there, we have civilian, Guard, Reserve, active forces, but then, also, Customs and Border Protection. And so, are you moving this direction to try to leverage, you know, your resources - your manpower needs?

NIELSEN:

We are, as you know, we're working with some of the great establishments in your state to do some training and piloting, but there's a lot we can learn. We work with the private sector, now, using UAS, already, in a variety of means, for example, to determine the damage after a disaster. We often...

HOEVEN:

Right.

NIELSEN:

...do that in conjunction, you know, pre and post disaster along the coastlines. So, we do have partnerships, already, with the private sector. Yes, we are looking to continue to leverage those for the security needs across the border and around crowded places.

HOEVEN:

Again, thanks for the work you're doing. We look forward to working with you in this area and other areas as well.

NIELSEN:
Thank you.

CAPITO:
And now I'm going to turn to Senator Leahy for his questions.

LEAHY:
Thank you, very much. Madam Secretary, I recall the morning you appeared before the Judiciary Committee in January where you are required under the law to tell truth in your answers. You released, the morning you appeared, you released a report claiming that 73 percent of individuals convicted of international terrorism charges since 9/11, or 402 in total, were foreign born.

I asked you questions about that, points (ph) you couldn't answer. You testified, again, under your requirement of telling the truth that you'd get back to me, you haven't. I've had a number of inquiries to you, it's been four months. Even though you stated you would get back - just let me try again.

A report was released pursuant to the President's travel ban. How many of the 402 individuals, listed in the report, were citizens from countries included in the travel ban? Easy question, go ahead.

NIELSEN:

Sir, I continue to commit to get back to you with the information, the challenge.

LEAHY:

Oh come on, it's been months and months and months and you were relying (ph) in the travel ban based on the president's statement. He must have had something to back it up with. You had to have something to back it up because you said it.

Now you said it (ph) and that's what the country has to fall. So tell me, how many of the 402?

NIELSEN:

So there's two issues here, one is the information that we have from our partners in the interagency and I thank you for your detailed letter in February, we are looking to make sure that we respond fully, but some of the information is not DHS information.

So you do have my commitment (inaudible) --

LEAHY:

But you used it as your information, the president used it as his information, are you telling me these numbers are just sort of made up out of whole cloth and then we'll just stall the Congress if they ask us where it comes from?

NIELSEN:

No sir, I'm not. The second point I was going to make is the two are somewhat disaggregated, so what we have done with the countries that you mentioned, we have set a international for the first time baseline of information that we need to assure ourselves that we know who is travelling to our country and whether they have an intent to do us harm.

If those countries cannot meet that burden, then we have tailored travel restrictions for them. As you know, we worked very closely with the country of Chad. Chad just came off (inaudible) --

LEAHY:

How many of the 402 came from Chad?

NIELSEN:

Sir, what I'm saying is the two are separate. One was a report on international terrorism, and yes three -- the report said that three out of four --

LEAHY:

Are -- are you -- are you saying that cannot answer my question after all these months of the 402? Yes or no.

NIELSEN:

I do not have that information with me today, sir.

LEAHY:

OK, do you know how many of these were people extradited here, sent here by law so they could be tried?

NIELSEN:

I do not have that information.

LEAHY:

Like Osama Bin Laden's son-in-law.

NIELSEN:

I do not have that information with me today.

LEAHY:

Now the White House cites its report when they argue for an end to diversity visas and family unification, can (ph) the 402 come through those programs?

NIELSEN:

I'm -- I'm sorry?

LEAHY:

The White House says that we need this -- in talks about the 402, it said that shows a need to end diversity visas and family reunification. How many of the 402 came through either of those programs?

NIELSEN:

Sir, as I said, I am committed to getting you the information, I don't have it in front of me today, I'm working with the air (ph) agency where the information was pulled.

LEAHY:

OK these -- these facts are still on the White House website. There doesn't seem to be any backup for them. But it becomes what our policy is made on. I can make any policy if I just want to make up the facts.

Now I'd ask you about CBP directive that permits border officers to search (ph) through Americans like trying devices (ph) at the border for no reason at all. You responded and I agreed with your response, there has to be a reasonable suspicion. But now CBP has the directive that allows for officers to manually search through U.S. citizens phones, having no suspicion at all. Senator Daines and I introduced a bill, requiring CBP to at least have reasonable suspicion in these cases.

In other words, Americans faced (ph) with American officers who say here we're going to go through your phone. Now would you support codifying this standard for border searches of American's electronic devices based on what said before?

NIELSEN:

Sir, I would look forward to looking at the language and working with you, absolutely. There should be a reason to search a phone. I don't, to my knowledge...

LEAHY:

You said there should be a reason.

NIELSEN:

Yes, sir.

LEAHY:

OK, that's not what the policy says now, so you're saying that you should have a reason, it can't just be because they feel like it?

NIELSEN:

CVP, as you know, has broad authority to -- for inspections at the border, but I'm not aware of any policy that says they can take any American's phone and search it for no good reason. I'm not aware of that policy.

LEAHY:

Well, this new CVP Director says they can. So, please look at that because, you know, it becomes a police state if you do that. I'll submit my other questions for the record and I appreciate the courtesy of, both, you and Senator Tester.

CAPITO:

Thank you, Senator Leahy. So, I'll begin my questioning, Madam Secretary, the 2018 appropriations bill, recently enacted into the law, provides, for the first time in about a decade, significant new funding for new mileage of a border wall system along the southwest border. You addressed this in your opening statement. Do you believe that these investments will secure the southwest border in ways that cannot, feasibly, be achieved through technology or personnel?

Let me -- let me go ahead, I have three questions and you can, sort of, (inaudible).

NIELSEN:

OK.

CAPITO:

It's my understanding, too, that the funds provided in 2018 and those requested in 2019 will be used to build a border wall system. Can you explain what those

components would be? And then, lastly, how will these investments improve the safety of our Border Patrol?

They, obviously, are well trained. Many of them go through Harpers Ferry at the training center there, in my -- in my state. So, how will this more effectively secure their -- their own security? So, those are my three questions about the border wall.

NIELSEN:

Sure. Thank you for combining them because it's easier to answer. So, for the wall system, as you know, the wall system is a combination of personnel, technology and infrastructure. What we're attempting to do with, what we call, the wall system is reach operational control at the border.

So, there's -- that's made up of four capabilities. One is impedance and denial, which is that infrastructure wall which we, do believe, in and of itself, decreases the amount of assaults on our Border Patrol which, as you know, is up 73 percent. It's a 30 foot wall, so it makes it that much more difficult for those attempting to cross illegally to attacked our -- or attack our folks.

Two, it provides access and mobility. So, that's the roads. That's the ability to get to the wall, to get to somebody that we need to interdict. Three, it's the domain awareness surveillance. We do that through technology, as you know, as well as

personnel. And the fourth is the personnel themselves and making sure they're mission ready, which is the training that occurs at Harpers Ferry and others.

So, together with '17, '18 and '19, we're looking at about -- if '19 should be funded at the request, looking at about 200 miles of wall. Some of that is replacement and some of that is wall that has never existed there before.

CAPITO:

So, is that wall (ph) -- is that a wall system or is that...

NIELSEN:

It's, it's.

CAPITO:

...all physical wall. I think that's the question Senator Tester.

NIELSEN:

Yes, so two -- good -- so, 200 miles is what we -- it would -- that would -- that includes physical infrastructure.

CAPITO:

OK.

NIELSEN:

But when we have physical infrastructure, we make sure to include the other capabilities with it...

CAPITO:
OK.

NIELSEN:
...so that we get the biggest thing (ph).

CAPITO:
It's a combination then? Yes. My second question is on election security. It's Election Day in West Virginia, in case you missed that on the national news. And, obviously, we saw, during the last election, some of the difficulties that we had, in terms of some cyber security and cyber hacking and all of the things that -- known and unknown to some of us, already. I'm not sure we know what all happened in 2016.

So, on a scale of one to ten, where you rate the United States in relation to other nation states, in terms of our overall cyber security posture in elections? And the other thing I'm wondering is, what kind of lessons learned your department has -- has learned? I know you've been working with the Election Assistance Commission which we just funded, that was my last subcommittee. I think it was \$340 million for this -- in -- in the 2018 budget -- or 2018 bill that we passed.

But how you're working with states to make sure that their election infrastructure is safe and that for the 2018 election we're going to have the assurances that our elections are much safer than we found out they were in 2016.

NIELSEN:

So there's two things that are top of mind for me as part of this conversation, one is helping state local secure the election infrastructure itself, and the other is combating what we've seen very visibly now as foreign influence and attempts to influence voter's decision making through false propoganda or through a speech that is misdescribed (ph) in terms of who is providing that speech.

On the former DHS has lead, compared to other countries, I would say that we are pushing the bubble. We actually provided threat indicators for example to France for their election.

We also have seen in other countries physical attacks on election places, such as in Libya over the last couple weeks. So the part that DHS does, I believe that we are above or actually helping other countries. We talked about it at the G7 a couple weeks ago when I represented the United States' security administer.

In terms of what we are doing, we need to do more, we're working hand in glove with the Election Assistance commission as you mentioned, as well as state and local

officials. I also, in the weeks to come, will be hosting a meeting on the Hill and ask for as many members who have time to attend that I can explain to you not only what we're doing, but how we can further help our state and local partners.

There's a lot of best practices we've learned, redundancy is always top of mind, we either need paper ballots or a way to audit. But there are some things that we can encourage our state and locals to do.

For example, every state has the opportunity for provisional ballot, but some do not give a provisional ballot if you show up at a voting place and you are not on the voter roll. So if you look at the system and everywhere in which it could be compromised, there is a lot more that we need to do to work with the state and locals.

CAPITO:

Thank you, I will like to say since I voted early in my state, we did change the local voting system where we were and we've got a touch screen but it does have the paper back up to it, so I felt very secure there and -- and was pleased to cast my vote. So I'll go to the ranking member and Senator Murray.

MURRAY:

Thank you very much, and thank you Senator Tester for -- for yielding. Madam

Secretary, thank you for being here. I just have to start -- I just have to say I am really

disappointed in this administration's treatment of our immigrants and religious minorities and many others.

I can't say I'm shocked, I listened to President Trump's rhetoric during the campaign, but I am disappointed and I'm going to keep standing with these families across our country to fight back, whether we're talking about DREAMers who have come out of the shadows to participate in the DACA program or whether we're talking about TPS recipients who have been part of our communities for decades.

There are families who are being torn apart at our borders today, and we're banning people from visiting our country really because of their religion. So I just want to state I disagree with this administration on every step of the way.

But I, today, wanted to focus my questions to you on one of the more damaging decisions. In December, acting in secret, ICE changed how it would treat pregnant women in their custody.

And the new policy means that a lot more pregnant women will be stuck in detention for a longer period of time, often with inadequate support, whether it's nutrition or medical care or prenatal care.

And in response to that, the American Academy of Pediatricians, the American College of Obstetricians and Gynecologists and the American Academy of Family

Physicians wrote to you saying that detention quote puts the health of women and adolescents and their pregnancies at great risk.

And they go on to explain something that should be obvious, detention facilities do not offer the level of care that pregnant women need. Now on top of the real consequences to these pregnant women, for months the departments didn't even tell Congress about this inhumane and dramatic policy change, and when this new policy change was finally posted on your website, the question and answer page included a question stating, and I quote, isn't detaining pregnant women a human rights abuse?

Well your question and answer page raised the question and I think the answer is pretty clear. When your department is doing something that is wrong and misguided and in my opinion cruel and an embarrassment to our country, I think it's wrong and I really urge you to reverse course on this.

I know it's wrong, I -- I think you should, but I want to ask you a couple of questions about this. Can you truthfully tell us that detention facilities offer the same level of care to pregnant women as a hospital or other medical facility that's designed to care for pregnant women?

NIELSEN:

What I can tell you is we screen everyone, every female for pregnancy from ages 18 to 56 when we encounter them. We provide them prenatal care, we provide them separate housing, we provide them specialists, we will take them to appointments if they need to go somewhere else.

We provide them counseling and we provide them religious --

MURRAY:

OK, but they are in detention for this (ph). Do you know how many pregnant women are detained today?

NIELSEN:

I don't know how many, no ma'am. But I will say the reason they're detained is because they illegally crossed our border. If they went to a port of entry, that would not be a crime. So I would like to encourage those who are pregnant --

MURRAY:

(Inaudible) let me just tell you, I'm short on time, I have another question, but I will tell you you're just trying to discourage pregnant women, they don't come here because they're pregnant.

NIELSEN:

No, I'm trying to encourage them from breaking the law. If they go to a port of entry, they have not broken the law. They can make their asylum claim.

MURRAY:

But to put them in a detention center, that is inhumane (inaudible).

NIELSEN:

They broke the law, yes ma'am, we -- we do not exempt classes, we enforce the law.

MURRAY:

And so therefore (inaudible) treat them inhumanely and cruelly.

NIELSEN:

Well I will tell -- I will tell you actually they provide -- they are given not only adequate care in facilities --

MURRAY:

Well you -- you and I will disagree on that point.

NIELSEN:

OK, but it is much better care than when they're living in the shadows and they're not provided any care after entering our country illegally.

MURRAY:

We obviously disagree, and let me just ask you another question because this committee gets a lot of requests for additional funds to reprogram our funds or transfer funds due to overspending and a lack of fiscal discipline in your department.

As you know, Congress, not this administration, sets your budget and you have to live within the means that we give to you, and to me far too frequently it seems a big part of DHS overspending is caused by ICE unnecessarily detaining people, like we talked about, pregnant women.

As you know, detention is really expensive, every year ICE -- each year ICE detains someone, it costs taxpayers over \$50,000. For comparison, by the way, that's four times the amount the federal government spends on each child in our public schools.

So what this means is that taxpayers are now footing the bill for food, medical care, clothing and the expensive prison contracts that ICE is using for detention, like the facility that's in my home state.

To me that's really inexpensible (ph) because there are less expensive and more effective alternatives to detention. And in fact, according to your own budget, to use one of the alternatives to detention costs less than \$1,500 per year compared to that \$50,000.

So while you're asking for billions of dollars in additional funds to build the unnecessary border wall, hire more ICE and border patrol, expand detention, militarize the border, you're asking to cut funding for alternatives to detention in your budget.

So why is the department not asking us to expand the use of alternatives to detention in order to save taxpayer money?

NIELSEN:

We are looking to do both. So as you know, one of the alternatives to detention is an ankle bracelet. We do utilize those in situations where appropriate. If somebody, however, is -- has broken the law, in the sense that there are multiple re-entry, or they have some other reason to be criminally prosecuted, we actually turn them over to the Marshals.

We defer them over for prosecution, in which case there is no option for an alternate to detention. So if you look at all the numbers, we are trying to find ways to do it. But I do want just say again, if you cross in between the ports of entry, if you -

MURRAY:

I know what your philosophy is. I'm out of time. I just want -

NIELSEN:

It's not a philosophy. It's a law Congress passed.

MURRAY:

Well, I -- I just will say to you -

NIESEN:

So she's encourages you to go to the ports, if they need to come to seek alyssum.

MURRAY:

-- I believe that you (inaudible), and the use of ATD. It seems to me it's cost payer saving, and much more humane. Thank you.

CHAIRWOMAN:

Senator Lankford?

LANKFORD:

Thank you. Senator Nielsen, would you pass on a thank you from this committee to the law enforcement folks that we work with. They have an incredibly difficult job.

And they literally put their lives on the line every single day, to be able to protect the United States, and our neighbors.

And we very much appreciate the work that you're doing, and the work that they're doing all the time. I'd also like to thank you for the very hard work you all have done on election security. You all have done a lot in the past year, working on election

security issues, and trying to get to a better place than what we were in 2016, both clearances and getting security clearances for state leaders, working in coronation, helping people to think through the "what if's" and trying to be able to have that ongoing dialogue that's much needed.

So I appreciate that very much. And if you could pass that on to your team as well, because they've done a lot of work on that.

NIESEN:
Thank you.

LANKFORD:
Let me ask some specific appropriation questions. One of them is about the dollars that were given during -- for 2018 for wall construction -- the wall system. Can you give us a progress report of what's happening? And I have a ton of questions to be able to go through, so if you can give me just a brief update on what's happening on that wall construction -- the wall system for 2018?

NIESEN:
Sure. So what we're doing right now, as you know, is building a 30 foot new bollard-style wall in Plaxico. We are then moving to Santa Teresa. After that, we will move to RGV. So we have, as you know, about 650 for existing miles now.

And we're -- 980 we're looking at. But over the next three years, we'd get to that 200.

So we're moving forward as expeditiously as we can. As you know, it's a complicated process with the land acquisition, and working with state and locals. We work very closely with the governors, the ranchers, and others, who along the border own the property, to understand where and when we need the wall.

LANKFORD:

OK. But that's moving expeditiously at this point?

NIELSEN:

Yes, sir.

LANKFORD:

Great. So \$276 million has been requested for Calexico to finish up that port of entry as well? Help me understand what those dollars would go towards. That's a chunk of money to be able to finish off that port of entry there. That's -- and I believe that's the second year of that funding for that. What would happen with Calexico if that money is allocated?

NIELSEN:

If the money is allocated, we'd build up the rest of the wall system. So it's not just that infrastructure, and impence, but it's also the surveillance. It's also looking at how

to connect it to the nearest port of entry, and some of the technology -- it's the integrated towers. And it's the training of personnel, and additional personnel who would then be needed to work at that location.

LANKFORD:

So Calexico, itself, is a border crossing port of entry? How -- give me a ballpark, not just for that facility, but for all of our southern border, the number of legal crossings that happen a day, or a year, whichever one you want to do there?

NIELSEN:

It's 360 million a year that DHS encounters, and that's northern and southern border.

But of course, it's mostly southern.

LANKFORD:

Mostly southern?

NIELSEN:

Yes, sir.

LANKFORD:

So easily estimate half a million -- one way, half a million people cross from Mexico into the United States every day?

NIELSEN:

Yes, San Ysidro -- which has been in the news a lot lately, as you know -- we process 100,000 people a day in San Ysidro, alone.

LANKFORD:

It -- it is always interesting to me the number of times I get into a conversation with people and they talk about the only way to get into the country is illegally crossing into the country, that that's the only route, when we have half a million people a day, legally crossing into the United States...

NIELSEN:

Yes, sir.

LANKFORD:

...working through the process the right way. So it's not as if the only way to be able to cross our southern border is to illegally cross that border.

NIELSEN:

Correct, and it's much, much safer to go through the ports of entry for the immigrant.

LANKFORD:

Let me ask you your vision for the St. Elizabeth's facility. Who do you think would move there, as -- what part of your office? I know there's been some debate on where that will go, and who will go there for that St. Elizabeth's facility.

NIELSEN:

St. Elizabeth's has been a bit of a difficult construction project. We were very much restricted in how we can build. As you know, we had to build within a building, if you will, to observe the historical requirements that D.C. laid out. And so what that means is we're constantly rejiggering who can go there at what time, because we're trying to get people there as quickly as possible.

So the Coast Guard is there. The headquarters elements (ph) fortunately are now not slated to go there until about March 2019, but we continue to work with GSA to move forward as quickly as we can.

LANKFORD:

OK. Do you anticipate FEMA moves there?

NIELSEN:

FEMA is -- is still slated to move there, yes sir.

LANKFORD:

OK.

NIELSEN:

Now, that could change, and we would definitely let you know if that's the case.

LANKFORD:

Let me run through a couple of quick things as well. I visited with folks from the Coast Guard and Customs and Border Patrol about the steps that they have to go through in the process of interdicting drugs on the water. They're -- they have the same steps, but a very different process. Customs and Border Patrol can move very rapidly through those steps, Coast Guard may take 30 to 40 minutes to be able to move through the exact same steps.

If you wouldn't mind, take a look at that, and try to figure out why Customs and Border Patrol can move much faster than Coast Guard can. That makes -- makes it very, very difficult for them, and is also a large cost savings if we can actually make those two consistent on it.

I know that there is -- from the omnibus bill, there was a decision that was requested to be on (ph) H-2B Visas. You were given additional authority to be able to increase those numbers, and we're still waiting for that process to work through that.

And one last quick question from you: are there asylum laws in Costa Rica, and Belize, and Ecuador, and Brazil, and other countries? Because there's a lot of talk about people from Central America coming to the United States. It's my understanding Costa Rica's a very peaceful country as well, Belize's a very peaceful

country, what -- what -- what's the belief of why they would come here rather than there for asylum?

NIELSEN:

What I can say is we encourage anybody who is in fear for their life to go to the first safe country that they enter. That is the international approach, the G7 approach, the Five Eyes (ph) approach, the UNHCR approach. So we continue to encourage those to do it. Under our laws, the only way that we can stop people is if we have safe third (ph) agreements with other countries. We are working towards those, we have -- we'll have one with Canada.

LANKFORD:

OK. Thank you.

CAPITO:

Thank you. Senator Murkowski.

MURKOWSKI:

Thank you, Madam Chair, and Madam Secretary, welcome. Nice to see you here. I'm not going to ask questions on immigration, but I -- I do want to acknowledge, as you say, we are a nation of laws, absolutely.

We are also a nation filled with very compassionate hearts, and I am going to share with you a letter that I received from the Alaska Catholic Conference, with specific requests to programs such as the Refugee Assistance and Immigration Services, where we have helped, in Alaska, to -- to establish about 130 refugees, as -- as well as some other -- some other measures that they have asked to be brought to -- to the attention of not only the committee, but to yours as well. So I will be forward -- forwarding that to you.

NIELSEN:
Thank you.

MURKOWSKI:
You mentioned in your comments the northern border, and I would like to speak to the northern border. In your F.Y. '19 budget request, you state, "Our great nation has always been shielded by threats -- from threats by distance and by two oceans. And we can no longer have confidence in that protection." I need to you amend that statement because we have three oceans that we need to be aware of. It's the Atlantic, it's the Pacific and it is the Arctic.

And I would argue that, as an arctic nation, in the past that sea ice, up north, has really acted as that shield, to provide protection for our northern-most border. But as we're

seeing the rapid diminishment of the Arctic sea ice that once protected us and then the heightened international interest that is, certainly, focused in the region, coming from Russia, coming from China and other, other nations. We are -- we are more and more vulnerable to, to, not only, domestic, but international threat.

The importance of protecting our political, our economic, our energy, environmental, other interests in the region, I think need to be a priority. And yet, the, the department's budget, in my view, doesn't reflect the Arctic as a priority, now, having said that. Thank you, thank you for the recognition that as an Arctic nation, we do need a polar icebreaker and the resources that are in this budget are significant and important and, absolutely, welcomed.

But we, also, recognize that what the Coast Guard needs to achieve its statutory mission in the Arctic is a fleet of icebreakers. And it's been recommended that there be three heavy and three medium icebreakers. So, we're making momentum. I'm not complaining about that, but I am worried that we're not setting ourselves up to do more than to address the needs for one icebreaker, something that we recognize is going to take many of years to construct.

So, how do we expedite the construction of the remaining two heavies and then the subsequent three medium icebreakers that we need? Do we need to look to, to block buying? How can we be smart about this? Because I think we need to be smart.

NIELSEN:

We are looking at block buying. The good news is, as you very well know, the Coast Guard is now positioned to accept money through the DHS budget or through the Navy. That makes a very big difference. The 30750 (ph), together, there will get us the next icebreaker. But I share your concerns. China is much more strategic than we are in this area, Russia, much more strategic than we are in this area.

This is the way to defend our sovereignty and we need to take it seriously. So, I, very much, look forward to working with you on other creative ways that we can get the money faster, into the private sector and encourage the industry to build faster.

MURKOWSKI:

Well, we, we will work with you on that because I am fearful that we're taking this one at a time. And one at a time means that we're not going to be prepared. And it will be just extra costly. As I'm speaking about Coast Guard, we have -- we have been working hard with the Coast Guard to deal with replacing some, some aging assets that we have up north.

And we've got new, new offshore patrol cutters coming our way, as well as patrol boats and that's good. But where we're lacking is the, is the shore-side infrastructure. So, we need to know that we can work with you in ensuring that we're able to bring these assets online without being delayed because we haven't provided for the necessary resources for the, for the shore-side infrastructure. So...

NIELSEN:

Thank you. Yes, you have my commitment.

MURKOWSKI:

Good. Thank you. And I'm moving quickly because I need to get this last one in. And Secretary Lankford - Secretary - Senator Lankford mentioned the H-2B visas and you have received yet another letter from the Alaska delegation on the H2B Visa situation. We are coming up against the beginning of our season. If we don't get an answer really within this next week, we're in a situation where once again our processors are not able to be on the ready to -- to receive the fish when they hit.

We can control lots of things. We cannot control when the fish come. So this is -- this is a priority for us and we are -- we are asking you -- urging you politely and then

forcefully to -- to address this very, very quickly. We can't be in the same situation that we were last year. Where in the assistance came after the fish had already come.

NIELSEN:

I agree. If I could just ask in return to work with you. I've talked many members of Congress on this issue. Because of our appropriations cycle as you know does not correspond to the seasons of -- the seasonality of the H2B. So I just like to request formally that Congress please put the sealing (ph) number in law.

It's the only thing that is fair to these companies who are trying to plan for understand what they will have each year. So you have me now. I will make a decision. The decision is working its way through the international -- or inner agency process, but I can't guarantee what the next secretary will say neither can the companies.

So the fairest thing to do for these companies to insure their survivability is to put the number in law. Not to give it up to the discretion of process that then has to go through the inner agency. We have to write a reg. Takes a long time.

So you have both my commitment to get this done as quickly as possible. I should be able to give you an update here very shortly on that. But also I would like to work with you to just get this in law so that companies know what they can do.

MURKOWSKI:

I appreciate that and we'll look for that very -- very promptly. Thank you. Thank you, madam Chair.

CAPITO:

Thank you. Senator Tester's being very generous here and yielding his questioning time to his friend Senator Boozman now.

BOOZMAN:

What's happened?

TESTER:

New chair.

BOOZMAN:

Very good. Well, first of all I want to congratulate the new Chair and I know that you're going to do an outstanding job as you do in everything you, you know sink your teeth into around here. So congratulations. You do have a very, very good partner.

And then certainly; Adam, Peter, Chris and Christian, you're staff do a great job as does Senator Tester. So thank you all for helping us be successful. And we really do appreciate all of your hard work. And thank you Secretary Nielsen for being here.

I've enjoyed working with you and you're staff and then visiting all over lots of men and women that are working very, very hard in lots of different components. I think with Homeland Security, you know we tend to concentrate on the border in this (ph). We forget all of the other things whether it's cyber, you know, international gangs, all of those kind of things that you all work so, so very hard and really do an outstanding job.

NIELSEN:
Thank you.

BOOZMAN:
So, we do appreciate it. Let me ask you about -- the Department is considering reorganization actions that would involve programs within the science and technology directorate. We started being supportive of D.H. cargo -- DHS cargo and poor security research.

How will the reorganization change the cargo and border security research program -- programs that are currently underway within DHS and ...

NIELSEN:

Yes. Let me -- if I could, let me give you a -- a high-level answer and then would love to have (inaudible) folks then brief you in detail. What we're trying to do writ large is take the S&T portfolio and have it be driven by requirements.

So there is a bit of a -- there has been a bit of a disconnect in the past. So what we've done is we've moved some of the requirements; identification, the piloting, some of the research and development into the components which includes in this case cargo.

So we're actually looking at increasing our capabilities in National Targeting Center.

As you know, we're working towards the National Vetting Center which will enable us to get the information from either department.

So the mission still remains. It's just an efficiency question of the best way to make that it very quickly follows from the requirements. But happy to come and break it down for you very specifically as to how we're doing that.

BOOZMAN:

No, that would be helpful. And again, I guess as things go forward if you just kind of keep us updated. You know kind of give us where we're at and where we're going.

And then again, update us as we get there.

NIELSEN:

Happy to.

BOOZMAN:

That'll be very, very helpful. I hear a lot as I'm out and about with our local fire departments and emergency service organizations that benefit from FEMA grants. And such as the assistant to Fire Fighters Grant, the staffing for adequate fire and emergency response grant, the President's Budget cuts those significantly.

I guess what I'd like to know is what the cuts are based on and then also how is the Department insuring that these local organizations -- they really do work very, very hard stretching their dollars, you know better than anybody stretches them. How do they -- how can we insure that they have the tools to keep their community safe?

NIELSEN:

I think part of the answer is one of partnership. So what we've endeavored to do since I've been here is to reach out -- and I spent actually quite -- quite a bit of time with the fire community asking what is the best way they can receive support from us.

So we continue to remain support of the Safer Grantson (ph) AFG Grants but they also need additional training, they need additional guidance, they need additional protective action information. For example, we've recently published something on fentanyl and how to, you know not to be infected by that, dogs.

So there's other things we're doing to try to supplement the pure grant of money to help them most effectively build the capacity. But the need is there. I would very much look forward to working with you. Have spent quite a bit of time with them. Again, we -- we will continue to support SAFER and AFG in particular.

BOOZMAN:

Very good. And again, I would appreciate you looking at that and -- and whoever's -- you know is in charge of those. Since -- Congress is probably going to be helpful in that regard and we do want plus (ph) dollars being used as wisely as they can.

I would argue that -- that again nobody stretches those dollars any -- any -- anymore than those local -- local budgets. They do a very, very good job in our community. So with that I yield back. Thank you very much.

CAPITO:

Thank you. Senator Kennedy. Questions?

KENNEDY:

You caught me off guard Madam Chairman. Thank you.

CAPITO:

Part of my strategy.

KENNEDY:

I understand. You're good at it. Madam Secretary, I'm going to deal a preliminary issue out of the way first. The impoverished pregnant women in our detention centers who came here from Guatemala, Nicaragua, Mexico, where do you think they get better medical treatment, in our detention centers or back home?

NIELSEN:

I would offer per what they have told us in our detention centers.

KENNEDY:

OK. Let me ask you this. Is there a country on God's green earth that let's in more immigrants legally than the United States of America?

NIELSEN:

Not close. No, sir.

KENNEDY:

OK. How many illegal immigrants came into America last year?

NIELSEN:

Well, we had 50,000 just the last month and the month before that I don't have the total figure but a substantial number.

KENNEDY:

OK. While (ph), you're the Secretary of the Department, 500,000?

NIELSEN:

Sure. That would be about right.

KENNEDY:

OK. You're -- you're a National Security expert and you're Secretary of the

Department. I want you to forget about the politics for a moment, I can't believe I'm

saying this but forget about the money for a moment, forget about trying to make

somebody happy for a moment.

I want you to -- to -- to take your expertise and tell me one, two, three, four, five, six,

what we have to do to cut that 500,000 in half.

NIELSEN:

OK, putting the other two aside, what we need to do is agree as a country that we are

going to enforce the laws that Congress has passed.

KENNEDY:

OK, I -- I understand that, Madam Secretary. I'm not trying to be rude, but I try to --

NIELSEN:

Do you want me to go through the loopholes?

KENNEDY:

-- stay within my time, and -- and I want to come down from -- from the -- the platitudes, tell me as secretary what we need to do. One, two, three, four, five.

NIELSEN:

Sure, so we need to get rid of the floor as a settlement, we need to revise --

KENNEDY:

Get rid of the what?

NIELSEN:

The floor as settlement. We need to revise TVPRA, we need to get rid of --

KENNEDY:

What is TVPRA?

NIELSEN:

That is the -- trafficking prevention act -- victims prevention act. So what that does is unfortunately through the court cases, they way that they have --

KENNEDY:

It's OK, I'll look it up later.

NIELSEN:

OK, got it. Zebidos (ph), which is a court case that requires us to release illegal aliens back into the communities, we need a safe third country agreement with Mexico.

We need to increase the penalties for asylum fraud, all the fraud does is ruin the chances of people who really need asylum. We need to change the way in which we process UACs so that we discourage the smuggling and the TCOs, and we need to go ahead and very closely focus on dismantling the smuggling in TCOs from beginning to end.

I think that's six, I can keep going, but those six would get us probably 75 percent of the way there if not 80 percent.

KENNEDY:

Now we're talking. Thank you for being candid. I'm going to have my -- my team get in touch with your team so we can go into that in a little more detail. I want to talk about the wall for a second.

We've got about 1,900 miles of border with Mexico. I know that all of it doesn't need a wall, I get that, and some of it is already walled. We've already built a wall in -- in America, 2,700 miles of walls along the interstate, spent about \$5 billion.

Now that's not how I would've spent the money, put walls along the interstate. I'd have spent the money fixing the interstate, but they did it anyway. We built 2,700 miles of walls along our interstates in America.

And they're tall walls, and they're thick walls. They cost \$1.8 million a mile. How come the wall with Mexico costs \$25 billion -- million -- \$25 million a mile?

NIELSEN:

So I -- I'd be happy to come break it down with you. The border security investment plan goes section by section, not all sections are the same. We have some parts in the desert where we have floating wall.

We have other parts in Calexico where we need a 30 foot wall. We have parts in Yuma where the wall is very different. So first of all I just want to be clear, the -- the wall is not the same.

When you're filling in a wall in an area like Smuggler's Gulch, it's very expensive, excuse the numbers because you literally are building, you know, in a -- in a ravine.

It's also the wall systems, so when we put the numbers together it's not just the infrastructure, but it's everything that makes that infrastructure work (ph).

KENNEDY:

Suppose we told you look we understand that, we don't want a Cadillac wall, we want a Chevy wall. And we said how about -- how does \$12.5 million dollars a mile sound?

NIELSEN:

What -- what --

KENNEDY:

You can give a -- a Chevy wall, can't you?

NIELSEN:

Well I don't know that we can, sir, because again this is all based on the needs that the men and women who have experience and do this for a living have told us that they need to ensure...

(AUDIO GAP)

NIELSEN:

... works, nobody can scale it, nobody can tunnel under it, nobody can bust through it.

I don't that the (inaudible) for the walls on highways, I don't know. But be happy to sit down with you in detail and determine if there is a Chevy version that will meet their operational needs.

KENNEDY:

Chevy's a good car.

NIELSEN:

Absolutely.

KENNEDY:

Am -- am I done? I am done.

CAPITO:

I think you are.

KENNEDY:

I stayed within -- almost within my time. Thank you, Madam Secretary.

NIELSEN:

Thank you, sir.

CAPITO:

Senator Tester.

TESTER:

Yes, thank you, Madam Chair. Thank you for being here, Madam Secretary. Through the previous questions there's about -- between '17, '18 and '19 there's about 200 miles of wall planned (ph). Is that correct?

NIELSEN:

Yes, sir.

TESTER:

Recent -- in recent discussions we've had, both with folks familiar with the southern border and -- and I -- I don't want to (inaudible) but even (ph) you, I think the biggest

advantage we get out of a wall is folks are restricted once they get -- it takes them awhile to get across the border, by that time you can get folks there.

So that 200 miles, where's it going? Can you tell us today? Is this going to be going in populated areas?

NIELSEN:

So it's in Calexico, San Diego, Santa Teresa.

TESTER:

OK, these are all towns then, right?

NIELSEN:

Some of them, some of the replacement wall for example --

TESTER:

OK, I'm talking about the new wall.

NIELSEN:

OK, so 200 includes both.

TESTER:

OK, the new wall portion?

NIELSEN:

But yes, the new wall is in mostly urban areas where the vanishing time is highest.

TESTER:

That's -- and that's exactly -- that's the word I was thinking of, vanishing time. So you

(inaudible) you said you -- you -- you're working with the ranchers and the farmers

along the border where that may happen.

Are you working with the cities and towns?

NIELSEN:

Absolutely, yes.

TESTER:

(Inaudible) ask this is because I -- on a totally different issue, because I'm on the

Banking Committee, I had...

(AUDIO GAP)

TESTER:

... noxious weeds that are on the banks of the Rio Grande and how they need to be

controlled, because folks can hide in them. And I told them that they weren't going to

have to worry about that because there was probably going to be a wall. There's two

towns, one on each side of the Rio Grande right there, because that's mostly where it

was.

They were shocked, they didn't believe me, they didn't think it was possible. They in fact said that can't be, and so the question is -- is -- and -- and I do this more for the two senators from Texas than I do myself, but if the folks on the border don't know that this is coming, there's going to be an incredible price to pay from a P.R. standpoint.

Are you OK with that?

NIELSEN:

No, sir, I'm not. I think the outreach is vital. So if -- if you'd be willing, I'd love to talk to them myself, but we do spend a tremendous amount both through the governors, through the Sheriff's Association, through a whole variety of associations to try to work with everybody in those -- in those state and local areas.

And as you say, we do spend quite a bit of time removing those more nefarious species down there.

TESTER:

And -- and -- and the other thing I would say is, is if you could -- you don't have to give it to me today, although if you have it at your fingertips I'd love to have it, but I need you to have -- give this to committee where those miles are going.

NIELSEN:

Yes, happy to.

TESTER:

And also as long as you're doing it, where the existing fence is going to be replaced at too.

NIELSEN:

Happy to.

TESTER:

OK, I appreciate that. Let me talk a little bit about another issue that was already talked this morning, and that is the request for pre-disaster mitigation in the case of wildfires. I don't need to give you the statistics, but I will.

52,000 fires this last year, 9 million acres burnt, 1.3 in Montana, yet the budget proposes only \$39 million for pre-disaster mitigation. And I will tell you, there are plenty of folks like the National Institute of Building Sciences that every dollar you put into pre-mitigation is worth -

NIELSEN:

Is six.

TESTER:

-- six. You got it. You got the figure. This 39 million is about 200 million less than '18. And I will grant (ph) we plussed '18 up pretty healthy. But even off of '17, it's -- it's about 60 percent cut. What's the plan there?

I mean, because it doesn't make a lot of sense to me. The fires are going to burn. The climate's changed. We heard Senator Murkowski talk about the Arctic Ocean going away.

And I can tell you that we burnt 1.3 (ph) million acres in Montana last year.

Pre-mitigation monies are important. Are you -- what's the plan?

NIELSEN:

The plan is to (inaudible) be frank here. The plan is to work with you all to try to (inaudible) relook overall at the grant program. As you know, people are embedded in the state program that you asked (inaudible), et cetera.

We at DHS though very much do believe that money spent at the front end, to help the communities become more resilient to all hazards, the way not only to best protect them, but to best use limited resources.

TESTER:

OK.

NIELSEN:

Though I would be happy to come and talk to you about how we can do that.

TESTER:

So (inaudible) be great. And we need to do that. We really do.

NIELSEN:

Yes, sir.

TESTER:

So thank you.

Election security, very quickly and then I'll turn it back to the chairwoman. You talked about audits and provisional ballots, and physical attacks. I want talk about the voting machines for a second.

NIELSEN:

Yes.

TESTER:

And who's (ph) responsibility it is to make the determination. Because we -- we had a classified briefing a while back, and they talked a little bit about what had transpired in the 2016 election. It's concerning. And I'm not going to get into that.

But what I am going to get into is who's responsibility is it to make sure the states are doing what they need to do to make sure (inaudible). There are some folks in some of

the states think election tampering is going to help one side or the other, which is crazy, because, quite frankly, the Democracy is at risk.

So can you tell me whose responsibility is to make sure the voting machines are -- I mean -- Chairwoman Capito said, you know, we've got a charge a paper trail with ours, which is great, by the way. Give credit, to -- where credit is due. Is there somebody telling these states what they need to do to be able to stop this tampering? Because I -- it's serious business.

NIELSEN:

Yes, it's -- it's very serious. I mean all Americans should know that their vote is counted, and it's counted correctly.

TESTER:

That's correct.

NIELSEN:

I mean its -- so I'm in full agreement.

It's the -- ultimately, constitutionally, it's the responsibility of the state and locals.

Having said that, DHS is pushing very forward in prioritizing any request we get from the state to do a whole variety of things.

On the voting machines, themselves, we've encouraged them as a best practice to unplug it. It does not need to be connected to the internet. It should not be connected to the internet. So we've offered vulnerability assessments. We've given clearances. We do classified briefings. We're doing information sharing.

TESTER:

What if they don't (inaudible)?

NIELSEN:

Well, we -- we have had instances where that is the case. They have either worked with third-party vendors into (ph) provide their cyber security, or they remain concerned about what they consider to be interference of the federal government, as we've tried to assist them.

But what I would like to just mention quickly is I am going to host a day on the Hill. I'd invite all members to come. I'd like to walk you through very clearly what we at DHS are doing, but to also ask you help us message to the state and local officials what they need to do to secure the election.

TESTER:

Well, and I've got take to kick it back. But I'll just tell you very quickly, I'm not absolutely sure that people know the threat that's out there, because some have tried to

minimize that threat. And so, some (inaudible) really has to take the bull by the horns.

And I don't know if it's you, or if it's Department of Justice, or who it is. But we've got to be able to hold somebody accountable on this.

Thank you, and I would sure like another round if I could.

CAPITO:
Senator Shaheen?

SHAHEEN:
Thank you, madam chair, and thank you Secretary Nielsen for being here.

I understand that Senator Murkowski has already raised with you the issue of H-2B visas, so I apologize for raising it again. But, let me just start by saying that the employment rate in New Hampshire is 2.6 percent. We are the second lowest in the country.

We have businesses, particularly in the agriculture sector, in the tourism sector, who cannot find workers, to the extent that last summer we had restaurants and business in our tourism industry who were closing an additional day a week because they couldn't find people. And what we're hearing now that they are desperate to get those workers who have come here on H-2B visas.

I talked to a landscaper last week who has the same folks from Jamaica who have come here for the last 10 years. They have bank accounts in the United States. They have drivers licenses in New Hampshire. They come here, they work hard for the summer, and then they go back.

And yet, right now he has no idea whether these folks are going to be able to come to the country or not. So what can I tell these businesses who are desperately calling to say, what are we going to do about workers, because we don't know what the governments going to do?

NIELSEN:

What I'd say is we have to balance two things. We want to make sure that Americans who need jobs have them, but we also do not...

SHAHEEN:

Well, let me just say in New Hampshire that is not an issue.

NIELSEN:

As I said -- if you could let me finish ma'am? What I was going to say was, it is not the intent of the Department of Homeland Security to administer any visa program that inadvertently puts companies out of business because we are not giving them the

visas that they need. So the decision should be coming out very shortly, and I'm happy to give you a call, even later today, to talk to you a bit about it further.

But what I would say again is -- I ask Congress to put the ceiling in law then countries can, countries -- excuse me, companies can understand how many they'll get, they can plan towards it, they'll have sustainability, there'll be predictability and transparency in the system.

Every time Congress kicks the can to DHS we have to wait for an appropriations, we have to do an independent review, we have to do a reg -- the system doesn't work. The best -- my best thing that I can ask you to do is please put the amount in law to help the companies who need the help.

SHAHEEN:

I think we'd be delighted to do that. And in fact as you know, the Senate did that when we passed a comprehensive immigration bill in 2013. So I would hope that we could do that as well, and provide some certainty.

Let me ask you about refugees to this country. We have an Indonesian community in New Hampshire who came to this country fleeing religious persecution. We had an agreement with ICE during the Obama administration, as long as those folks checked

in regularly that they would be allowed to stay as long, as they were holding jobs, not getting in to trouble.

And yet this administration has prioritized those individuals, many of whom have been here for over 10 years, who have children who are American citizens -- they've been prioritized for deportation. Can I -- can you explain that? And can I have your commitment that you will relook at this issue? Because they are facing very real dangers if they go back to Indonesia because of the persecution of Christians in Indonesia.

NIELSEN:

You do have my commitment to relook at it. DHS does not send anybody -- and actually we don't make the final decision. As you know, an immigration judge does, but collectively we do not send anyone back to their deaths, so...

SHAHEEN:

Well let me just say these folks until they recently were able to get a stay from the court, had not been before an immigration judge. They were targeted by, as I said, by ICE for deportation. Just were asked -- they reported in as they had been doing for years under this agreement. When they reported in, they were told come back the next

time on a given date with your ticket because you're going back to Indonesia, even though you may be in danger of being killed.

NIELSEN:

You have my commitment to look into this.

SHAHEEN:

Thank you. As you know, the number of refugees who have been admitted during 2018 has been set at 45,000. That's an historical context where we have under the refugee act, accepted about 95,000 refugees a year, it's my understanding.

I understand that despite the target of 45,000 for 2018, that so far this year, as of April 1st, so more than halfway through the fiscal year, we've only accepted 10,548 refugees for resettlement. That's just 23 percent of the admissions determination and 73 percent fewer than the same time period last year. Can you talk about what the reason is for this reduction and whether you expect we will get to the 45,000 number by the end of the fiscal year?

NIELSEN:

We will process whatever applications we've received. As you know, we work with UNHCR and there's a whole refugee resettlement process. I would like to work with

this committee and other members of congress. There's some confusion in the U.S., because in the U.S., we're the rare country that combines asylees and refugees.

The only difference is a refugee applies aboard and an asylee applies at point of entry who's already here. We have 300,000 asylees in backlog. So when you put the whole number together, it's not only a very large number, but the number of refugees that we accepted in 2017 were more than the top other three countries combined.

The summary in here is the right math and the right way to think about this, but most countries do not -- they just consider it as one number or they don't accept asylees. So we either have to decide do we want to accept refugees that go through the formal refugee process, or do we want to accept those claiming asylum on our border.

As you know, we've had a 1,750 percent increase in asylum claims in the last five years. So to put it in perspective, it's the same resources that look at asylees and refugees. So I would like to have a further conversation with you about how we want to work it as a country.

SHAHEEN:

That would be very helpful. Madam chair, I know that I'm out of time but could I just ask for a clarification? So the 10,548 refugees, is that number on top of a number of asylees?

NIELSEN:

Yes, ma'am, 300,000.

SHAHEEN:

That have been accepted into the country?

NIELSEN:

We had -- I'll get that to you. I want to say there's about 100,000 last year. We have 300 currently being processed. But, yes, I'll be happy to get you the number.

CAPITO:

Thank you. Senator Baldwin.

BALDWIN:

Thank you, Madam Chair. Secretary Nielsen, I want to follow up with you on an issue we discussed last month. According to Citizenship and Immigration Services data, as of March 31st, there were more than 9,000 pending DACA renewal applications for individuals whose deferred status and work authorization had expired.

Some of them have undoubtedly faced the impossible choice faced the impossible choice between stopping work, including teachers needing to quit in the middle of an academic semester the, or continuing to do so without authorization.

I wanted to, again, ask you on the record what I raised with you previously is, will those individuals seeking to renew their DACA status be penalized in that process if they have continued to work without authorization?

NIELSEN:

Will they be penalized? If they have the application in, which I believe is what we discussed the last time, then we're giving them that benefit of the doubt, if you will, and we will not take any prosecutory decisions above them.

So that's above and beyond what we're required to do by the court, but I do understand that there were those who have applied late in the process because of previous court decisions. So if you have an application in, we will not target you for deportation and we will not prosecute you if you're continuing your status while you're waiting for the formal renewal.

BALDWIN:

So if you continue working, say you're that third grade teacher, and you're waiting for your DACA status to be renewed, that will not be viewed as a factor of somehow being, you know, in or out of compliance?

NIELSEN:

Right. We will not target you for deportation because of that.

BALDWIN:

But how about would the renewal be rejected?

NIELSEN:

If the application is in, we are processing all renewal applications, not new applications but all renewal applications under the current court case. So as long as you haven't committed a crime or otherwise fallen out of status, I mean, you should be approved.

BALDWIN:

So the second question I have is, will the administration be asking any of the courts that have made orders in this matter to clarify whether applicants for renewal can receive work authorizations at the time that their cases are pending?

NIELSEN:

I'm not aware if DOJ is asking for that specific clarification, but I'm happy to find out and get back to you.

BALDWIN:

And that's not something that your department has requested?

NIELSEN:

No, ma'am. Partially because we're -- we have court cases telling us to stop, court cases telling us to restart, so we're just waiting, unfortunately. What we're doing is complying with all final judicial orders at the moment. One of them, as you know, includes the direction that we must continue to execute the program as it was executed before September of last year.

BALDWIN:

That's the most recent one.

NIELSEN:

Yes, ma'am.

BALDWIN:

And they didn't have any comment in that order about work authorization?

NIELSEN:

Not that I'm aware, but I'll get that to you.

BALDWIN:

Yeah, please do. I'm happy to.

NIELSEN:

Last month, senator Cassidy and I introduced legislation that gives the Food and Drug Administration more tools to reduce illicit fentanyl and other drugs from entering

through our international mail facilities including by strengthening coordination with CBP. This measure was included in a broader opioid crisis response measure that has been approved by the help committee. We introduce this measure because international shipping is a major source of illicit fentanyl. Particularly from China. According to a report by the U.S. China Economic and Security Review Commission, China is the largest source of illicit fentanyl entering the U.S. with Chinese manufactures shipping fentanyl products to small scale distributors and criminal organizations across the United States.

Do you agree that China is a major source of illicit fentanyl that enters the United States and do you believe that more must be done to combat the shipment of illicit fentanyl from China to our international mail facilities?

NIELSEN:

Yes, to all the above.

BALDWIN:

OK. Thank you. I see my time has expired.

CAPITO:

Thank you. I think I have an additional question or two and then so we'll go a quick second round and I -- I thank you for your patients and for your questions and so I'm

going to go ahead start. I want to kind of follow up on Senator Baldwin on counter drug efforts through DHS.

Senator Shaheen and I worked on a number of issues surrounding fentanyl as all of us have but our states are particularly highly affected by this. So I'm very interested and we're going to be having a hearing in this subcommittee where we're going to be talking about the department's effort, more specifically on opioid trafficking.

But if you could talk a little bit in more depth on -- I know we've passed the INTERDICTION Act, we -- we put \$65 million into that, what you're doing with that, and then I know in combination of what the Coast Guard is doing.

But I'm really interested more on the fentanyl coming across the border and -- and what -- how this has developed and how you're using the \$65 million.

NIELSEN:

Sure, and I -- I thank you for your continued focus on this area, this really is one where we all have to work together and unfortunately it just keeps getting worse. And so we -- we -- there's a lot more we can do.

So at DHS, we work to stop it at source, we're working on international agreements.

China does remain the main source, without question, of fentanyl, but China also has

recently signed an agree -- or passed a law a couple months ago to stop to (ph) the precursors of fentanyl.

So we're working as much as we can in the international community. In terms of stopping it at the border, we do so by land, sea and air. The Coast Guard plays a role, CBP plays a role, ICE plays a role, we have border enforcement security teams, 58 throughout the country. They work with state and locals to combat opioid trafficking.

In the mail, I'm happy to announce that in November we have canines now at every international mail facility. Canines, as we know, when imprinted correctly, are actually the best source of detection.

We also are using money that you have provided us in the omnibus for non-intrusive detection equipment. We have an additional ask in '19 that will help with the ports of entry so that we can see even smaller and smaller amounts.

We also have provided guidance on a medical preventive perspective for first responders to take care, and then finally we're also doing things through S&T. So we're about -- through our (inaudible) technology director to issue a contract for a wearable fentanyl detector, so that first responders can also be even more protected when they are looking at packages.

CAPITO:

(Inaudible) I hadn't that final -- your final thought there, I'd be interested in maybe when it moves forward to see a -- a demonstration on how it works. Just last question I have is on cyber security, and we haven't talked about that a whole lot, but that is obviously part of our nation's critical infrastructure.

And the president's FY2019 budget called for a transfer of approximately \$48 million cyber security research and development to the national protection and programs directorate.

Without this transfer, the fiscal year 2019 request is actually a \$28 million net decrease from the fiscal year. So I -- that's concerned to us and -- and it raises a question. What is the status of the department's effort to secure federal networks and why does the budget request propose a relatively stagnant level of funding for cyber operations?

NIELSEN:

So the good news is in many of our systems and programs, they were necessarily front loaded, in other words the first phase and second phase of programs such as continuous diagnostic monitoring (ph) or what we call the Einstein program required a capability build on the front end.

The back end is really maintenance and operation and then agreements with the departments and agencies on how to employ it in training. So actually the -- the -- the initial influx of cash, if you -- if you would, was required and now we have gone down. What we're looking to do now though is we're looking much more at systemic risk. We're changing the way that we look at the protection of critical infrastructure, we're doing so with sector specific agencies and owners and operators themselves so that we can understand through the interdependencies what we need to do better to fill those gaps.

So it's sort of a -- what I would say is a general evolution of the maturation of -- of what we need to do. We do need to do more. Everyday we're looking at gaps and -- and -- and following the threat indicators to see the patterns and -- and then to come back to you to see what else we will need.

CAPITO:

Well I appreciate that, I would say just in the form of a comment, it's -- it's a little -- when you -- when you see the threat -- the threat you see today is not -- and you can tell me a lot more about this, is not the threat we're going to see tomorrow.

So I -- I would -- I would think that resources to -- in an anticipatory fashion or research and development is going to be critical to be able to -- so we're not just

always looking at what happened and trying to fix that, we're -- we're looking ahead to see -- to prevent what that next threat could be.

So I appreciate that. Senator Tester.

TESTER:

Thank you, Madam Chair. Just real -- real quickly, I referenced this in my opening remarks, there's a contract out there that -- that -- that the CBP has entered into on hiring, and -- and I want the contract. I'll just be honest with -- your -- your 43 million bucks, supposed to hire 7,500 people, they haven't hired anybody.

And by the way, if they would have hired the 7,500 people, it would have been \$39,000 per person, would have been the cost. It's one of those things that people go to the Senate floor and make speeches on, and I just want to know why is this happening, and are you going to stop it?

And I -- I just don't see the positive. I mean, I see a positive for trying to get people on board, we need to do that, but this seems a bit beyond the pale.

NIELSEN:

Yes, sir -- Senator, let me just start by -- you and I have had many conversations about the border security and the hiring, and I really appreciate your support, always.

TESTER:

Yes, absolutely.

NIELSEN:

And I know that you're asking the question for the purposes of trying to get us the focus that we need in the most effective way possible.

TESTER:

Yes.

NIELSEN:

The way the contract works is a sentry (ph) does not get paid until we have entry on duty, until there's an EOD. The 13,000 is meant to capture the full life cycle of hiring, so it's everything from the advertising through to the training, through the onboarding; in CBP's case, it's the polygraph, it's the physical test, so our...

TESTER:

And the -- and the 297 -- 297 million is for the 13,000 people to be hired?

NIELSEN:

Yes, sir, as far as I believe, I'll get back -- I've got numbers wrong in my mind, but I believe so, yes sir.

TESTER:

OK.

NIELSEN:

So we're -- we're happy to show you our modeling. CBP and our HR folks did quite a bit of work on what is the most effective way to do this...

TESTER:

Yes.

NIELSEN:

...and at least the figures showed that rather than hiring up our HR department to be able to have all the people we need to process this, it was more cost-effective to do it by EOD, so again, they're not paid unless we actually bring somebody on board.

TESTER:

OK, so just -- OK, at that rate it's 43,000 bucks a person; 13,000 by 297 million. Here -- here -- here's the rub: you signed the contract in November, it says you've allocated 43 million, you said they get no money until they bring on the person and they're actually on board, but -- but the question is they haven't done anything yet. I mean, it -- we're -- November, hell, we're 7, 8 months into this thing.

NIELSEN:

So some of this was the strategy around, for example, looking at how we could add mobility into the process. As you know, there are some places in front of our border areas where people do not necessarily -- it's not a draw. So...

TESTER:
I -- I got it.

NIELSEN:
OK.

TESTER:
I understand that. What I don't understand -- and there's plenty of folks out there, there's third-party administrators that do all sorts of things for the government, and I could tell you a lot of them I've had some pretty bad experience with, because they promise, they don't deliver. And this doesn't look like they're delivering.

Whether they're delivering in Washington D.C. or Whitefish, Montana, or Minot, North Dakota, anywhere, hard places, easy places, but we obviously want to try to get some more people on board, and I just -- I've gotta tell you, when I look at this, it appears to be just a total boondoggle. I mean, I'm just going to tell you.

NIELSEN:
Well I -- you know, I share your view on holding -- holding accountable...

TESTER:

Yes.

NIELSEN:

So why don't we come talk to you this week, and just walk you through...

TESTER:

We'd love to.

NIELSEN:

...and let's figure out how to make it better.

TESTER:

We'd love to. And then I've got a number of questions, just want to touch on one real quick, and that's TSA -- TSA's cut, getting rid of some VIPR units, getting rid of a number of other things, it's pretty important. That's all I'm going to tell you.

I mean, those guys do a hell of a job, and we need to make sure that's beefed up just as much as we do on our ports and borders, which I think we all agree to. Thank you for being here.

NIELSEN:

Thank you.

CAPITO:

Senator Shaheen?

SHAHEEN:

Thank you, Madam Chair. I want to pick up on Senator Capito's questions about cyber-security, because I was pleased to hear recently that all federal agencies were able to comply with DHS's directive to remove Kaspersky Lab products from their systems.

Now, as you know, when we passed the Defense Authorization Act, we went a step farther, Section 1634 of that directive requires that the federal government remove Kaspersky software from third parties when they are using Kaspersky products. Can you talk about what the status is of the implementation of that piece of the directive?

NIELSEN:

Yes. I can't get you the exact figures, which I'm happy to do later today. Potentially (ph) what we're doing is we're -- we're looking at it from a supply chain perspective, which is what you're describing and what was in the NDAA. So it's very important for us to understand not only who our contractors are contracting with, but when they provide a service or a software, what's embedded there within.

So we've done a lot of assessment and modeling to understand where it can be found.

Unfortunately, for many of the third party providers, they weren't even aware that they had Kaspersky...

SHAHEEN:

Right.

NIELSEN:

...on their systems and within their products.

So we're pretty advanced on that. We're also working with other parts of the federal interagency to determine how to be more forward-pushing and consequences for not pulling Kaspersky out of all systems.

But I'm happy to get you the numbers later today.

SHAHEEN:

And is there any thought going forward to make sure that any foreign parties are also required to disclose the identity -- any foreign parties that we're doing business with are also required to disclose the identity of the service providers that they work with, so we know that they also are not using Kaspersky software or other software that we might have concerns about?

NIELSEN:

We are -- yes, is the short answer. We're working very closely with the intel community, so that as soon as there is a flag or a concern, we can work very quickly within the federal interagency to do that. We also at DHS are looking throughout our contracting process; it has to be that we can pause and turn off contracts the moment we have a concern. If someone's been hacked, if someone's vulnerable, or if somebody's using software that we know will put us at risk.

So we'd love to come talk to you about that. We're doing a full review, and working within the authorities we have to find out ways to do that.

SHAHEEN:

That'd be great. Thank you. I heard Attorney General Sessions' announcement about taking children from their families when they're apprehended at the southern border. I had a chance to visit the southern border during the -- 2015, and to visit some detention centers down there where children were staying with their families, and there was a great deal of concern about the potential impact on the children of that. Do we have any projections about how many children -- I think I heard the number 700 or 800 children who had already been taken from their families when they had come across the border -- do we have any sense of how many we're projecting for the

next fiscal year, what kind of situation they're going to be in, whose -- how many foster families are going to be needed, what the cost of that is going to be?

I -- I -- I am -- as former governor who used to worry about how we kept children in their families when there were difficult family situations, and remember that the research that I had shows that children were better off with their families in terms of their long-term development; do we have any idea what the potential is for us to have an impact on these kids for years to come because we will have taken them away from their families?

NIELSEN:

We are working with the community to understand the science. I think another member had referenced studies that are available. As you know, we turn over all children to the Health and Human Services, that then goes through a process to find a custodial relationship or some other sponsor.

I was very concerned when I came back to the department to learn that in many cases we did not do any sort of check before we turned over children, and so we now are making sure that those children are going to safe places, which I think is very -- for obvious reasons, very important.

In terms of separating, I just would make one more plea to everyone who can help me message: if you are fleeing and you have a need to come to the United States, please come to the ports of entry. You -- you -- you know, we will process your claim there.

But if you come across the border illegally, you've -- you've broken the law and we have to prosecute. It's the only way to keep our border -- to have a border.

So if you have a claim, you have children, you're concerned for your life, go to a port of entry. You'll be processed. We have asylum laws. But when you break the law, that's where it gets very difficult because we have to prosecute those who break the law.

But we'd love to work with you more, if you have other ideas on -- on how to do that.

SHAHEEN:

Are we messaging that to the Central American countries where many of these refugees are coming from?

NIELSEN:

We -- we are. We have a youth outreach program, we're doing an internship with the Department of State, we also are working with local radio stations as well with the Department of State to try to message this. Certainly the embassies are messaging

this. But again, if you have a legitimate claim and you come to a port of entry, you haven't broken the law.

SHAHEEN:
Right, that's why I'm asking...

NIELSEN:
Yes

SHAHEEN:
...but are we messaging that piece of it?

NIELSEN:
Yes. We need to do more and more, but yes, that is a campaign that we are -- we are in the midst of executing, yes.

SHAHEEN:
Thank you very much (ph).

CAPITO:
Thank you. Senator Baldwin?

BALDWIN:

Thank you. In the fiscal year 2018 funding bill, I worked with my colleagues on a \$10 million set aside within FEMA's State Homeland Security Grant Program for nonprofits that are at risk of terrorism.

Previously, nonprofits in Wisconsin and those located in most of the states represented on this subcommittee were ineligible for that type of funding.

FEMA will now be able to help enhance the security vulnerable targets in smaller communities. This is important because the terrorist threat is not limited to America's big cities. I think of the 2012 tragic shooting at a Sikh temple in Oak Creek, Wisconsin, in which six people were killed and four wounded.

In 2016, a planned terrorist attack at a Milwaukee Masonic temple was thwarted, thankfully, by the great work of the FBI, and the multiple bomb threats that have been received by the Milwaukee Jewish community center last year. Setting up this program is, therefore, a top priority of mine, and it has been for years, so I'm eager to learn when the Department of Homeland Security already stands it up and open up an application period to start awarding funds.

NIELSEN:

Thank you. It is very important. As you know, there's 50 million set aside traditionally in (inaudible), but to your exact point that was -- that pretended that the attacks and

those funds that are needed by non-profits only existed in urban areas. So this will help us make sure that non-profits in other areas throughout the country, you know, have the funding that they need to protect.

The short answer is, the time schedule that we normally follow per law in the appropriations cycle will be making those notices later this summer but I just received a brief talked to my folks on it this past Friday, so we're happy to come and talk about our plans of how we'll implement it and what we're looking at in terms of allocations and -- and, you know, going towards the date in the normal cycle of grant funding.

BALDWIN:

OK, I'll look forward that follow-up. Thank you.

CAPITO:

Well, I see there are no further questions. This concludes today's hearing. Secretary Nielsen, we appreciate you appearing for the subcommittee and your frank and open and honest answers.

The hearing record will remain open for two weeks from today. I think you did mention you were going to do a lot of follow-up with members so that will be appreciated. Senators must submit written questions for the record. We ask that the department respond to them within a reasonable amount of time.

The subcommittee will meet again -- this subcommittee next Wednesday, May 16th, to more closely examine the role of the department in countering the flow of opioids and other dangerous drugs into our country. With that, the subcommittee stands in recess.