

Prepared Statement by Senator Chuck Grassley of Iowa
Chairman, Senate Judiciary Committee
Oversight of the Department of Homeland Security
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Secretary Nielsen, welcome. Thank you for taking time out of your busy schedule to be here for this oversight hearing. I know it's being held the day after a federal holiday, which makes your appearance even more appreciated.

The Department of Homeland Security is an incredibly important part of our executive branch. The Department not only safeguards the American people and protects our homeland, but also plays a central role in overseeing our nation's lawful immigration system.

Oversight is one of the most critical functions and important constitutional responsibilities of Congress. Oversight brings much needed accountability. Events like today's hearing provide an opportunity for the people's representatives to investigate and question the policies and actions of the executive branch.

Today, it's more important than ever to have that oversight. As you well know, there are many important issues in your Department's jurisdiction that are facing our country.

One of those important issues is the continuing fate of the 690,000 individuals enrolled in the Deferred Action for Childhood Arrivals, or DACA program. Every member of this Committee, especially me, has an interest in ensuring that we find a fair and equitable solution for that population.

I hope my colleagues also share my concern about the continued integrity of our nation's lawful immigration system, and the safety of those who call America home. It is imperative we make sure that twenty years from now, we don't just wind up right back here at the negotiating table again. In order to do that, the simple fact is that any DACA solution has to address issues like border security, interior enforcement, and chain migration.

Let me take a moment and explain what I mean by border security. Real, robust border security is a puzzle, and it has multiple pieces. One piece of this puzzle, but just one piece, is the need for technical and technological infrastructure. That includes a combination of walls, where appropriate, fencing, drones, radar, and everything in between.

But another piece, and I believe you will agree a very important piece, Madame Secretary, is the legal authority to apprehend, detain, and remove illegal entrants. Unfortunately, our current legal authorities are riddled with loopholes, and don't allow us to effectively do that. Just ask any CBP officer about how effective our current authorities are. The answer you'll hear is pretty clear: They aren't.

That's why border security provisions in any eventual DACA deal need to include changes in authorities. Infrastructure without legal authority changes is useless.

But border security alone isn't enough. We also have to make changes to our interior enforcement laws, to allow us to easily remove dangerous criminal aliens.

We simply have to give your Department increased authority to remove human traffickers, sex offenders, criminal gang members, drunk drivers, and terrorists. Public safety threats should not be given free rein to roam about the country inflicting carnage on innocent Americans. We owe the American people a real solution to this problem, and the only way to provide it is to address these other pieces as well.

But, DACA isn't the only issue your Department is facing. American workers are increasingly at risk because the U.S. admits so many foreign workers, some of whom are permitted to stay for years, or even decades. Many companies use this cheap foreign labor to drive down salaries. Worse still, many of these employers commit terrible abuses.

That's why I was pleased to see this Administration take on the issue with its "Buy American, Hire American" Executive Order. However, it's unclear whether efforts to date have really moved the needle when it comes to protecting American workers. I'm hoping you can shed some light on that.

The H-1B visa is one program that really puts American workers at risk. The population of H-1B workers in the U.S. has been growing for decades. With that growth, comes an increased possibility for fraud or abuse, both of which I have seen and called on your Department, with the help of DOJ, to investigate and prosecute. The vast majority of these H-1B workers are employed in the technology sector, and we've seen salaries in that industry stagnate for decades, at the same time the number of foreign tech workers keeps growing. I'm encouraged that Citizenship and Immigration Services has announced several H-1B initiatives designed to protect American workers, and I hope you're prepared to continue supporting USCIS's efforts to reign in abuses in a variety of foreign worker immigration categories.

This Committee is also well aware that DHS is facing larger structural problems. DHS still doesn't operate like a single agency. It operates like a bunch of little agencies that don't always work well together. Time and again, I hear reports that the various components within the Department do not have adequate mechanisms for data collection, and information sharing. This means that the right hand often doesn't know what the left is doing – a practice that causes inefficiency and waste. That criticism is particularly concerning with regard to DHS' founding mission: to protect the United States from terrorism. When the agency doesn't adequately share information, it's hard to see how DHS will be well equipped to foresee the next New York City attack, or the next San Bernardino shooting. The threat from overseas continues to be real, but this country has also seen a rise in homegrown violent extremists. Collecting and sharing information within DHS – and with other law enforcement partners – is critical to combatting these threats.

Sadly, it always seems like the preferred solution is simply to throw more money at the agency and hope they'll fix it. That needs to end, and these inefficiencies need to be addressed.

In 2017, DHS was criticized, by its own Inspector General, for the lack of a unified immigration strategy; for poor information sharing between sub-agencies; and for serious IT challenges.

Regarding immigration strategy, last November the DHS OIG criticized the agency for failing to unify the approach across agency subcomponents like ICE, CBP, and USCIS. These sub-agencies enforce the same laws, and they must be reading from the same page. Otherwise you'll continue to suffer from conflicting enforcement priorities, which is inefficient and counterproductive.

Regarding information sharing, for years I have been raising concerns about this very real and serious problem, which affects all U.S. government agencies. DHS is no exception. In October 2017, the Special Inspector General for Afghanistan Reconstruction reported a significant problem with Afghan military officers in the U.S. for training, -- often going Absent Without Leave—or "AWOL." These AWOL Afghan soldiers are considered high risk because of their military training and low risk for detention. In fact, out of the 152 AWOL Afghan trainees, the Inspector General found 83 either fled the country or remain unaccounted for.

Apart from the obvious national security concerns, this also negatively impacts operational readiness, and wastes millions of taxpayer dollars.

In some of these cases, ICE failed to notify other U.S. government agencies that the Afghan officers had gone AWOL. I hope the Department is working to implement the Inspector General's important recommendations.

In another case that also happened under the Obama Administration, ICE was investigating a DACA recipient accused of child exploitation. Because ICE failed to share information with the rest of DHS, the man was issued an Employment Authorization Document and was able to get a job working with children at a summer camp, where he harmed several children before he was caught.

That's a tragedy. This kind of completely avoidable failure should never happen, but all of your recent OIG reports suggest that DHS needs serious improvement when it comes to sharing information between components.

The same is true for Information Technology. In 2017, every single DHS OIG report that touched on IT systems had something critical to say. And in some cases—like with CBP—your OIG says that IT systems are so old and ineffective that they are a risk to public safety and national security.

This risk became real for hundreds of thousands of holiday travelers when CBP's systems went down two weeks ago, on January 2, stranding them at U.S. airports around the country.

On top of that, DHS still has not fulfilled it's a decades-old promise to create a working entry/exit program. Because DHS has never been able to complete this system, we don't know who has departed this country, and that means we also don't know who is still here. Statistics show that almost half of aliens unlawfully present in the United States came here legally but overstayed when their status expired.

If we knew they were still here we could track them down, and penalize the people who overstay, but DHS has not been able to build the IT systems necessary to make this possible.

Despite all of these concerns, it's clear that, under the current administration, DHS is making real progress to improve homeland security. In 2017, we saw real efforts to curb illegal immigration, close loopholes in legal immigration authorities, and protect the American people from international terrorism. For these and other reasons I'm grateful for your service and I look forward to hearing more from you today as we explore ways to improve your agency and address our country's needs. Thank you Secretary Nielsen for your participation in this important hearing, and for your continued service to the country.