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THE PRESIDENT'S EXECUTIVE ACTIONS ON IMMIGRATION AND
THEIR IMPACT ON FEDERAL AND STATE ELECTIONS
Thursday, February 12, 2015,
House of Representatives,
Subcommittee on National Security,
joint with the
Subcommittee on Health Care, Benefits and Administrative Rules,
Committee on Oversight and Government Reform,
Washington, D.C.

The subcommittees met, pursuant to call, at 2:00 p.m., in
Room 2154, Rayburn House Office Building, the Honorable Ron
DeSantis [chairman of the Subcommittee on National Security]
presiding.

Present from Subcommittee on National Security:
Representatives DeSantis, Hice, Duncan, Lynch, Kelly, and Lieu.

Present from Subcommittee on Health Care, Benefits and
Administrative Rules: Representatives Jordan, Carter, Hice,
Meadows, Walker, DeSantis, Walberg, Watson Coleman, Norton, and
DeSaulnier.

Also Present: Representatives Chaffetz and Castro.

*Mr. DeSantis. The subcommittee will come to order.

Without objection, the chair is authorized to declare a recess at any time.

We are a government of, by, and for the American people. This means that the American people can, through their elected representatives, set whatever policies, including immigration policy, they see fit. The law can allow for unlimited immigration, limited immigration, or even zero immigration. But when the Government fails to enforce whatever laws happen to be on the books, it undermines our ability to govern ourselves.

Likewise, when the President issued his executive edict granting five million work permits and Social Security numbers for individuals illegal present in our Country, which, by the way, will also make these individuals eligible for taxpayer finance welfare payments, he harmed the American people's ability to govern themselves. After all, the American people never voted for such a policy. Indeed, the stinging rebuke delivered to the President's party in November, if anything, provided evidence that the public rejected what the President had long been threatening to do.

Under the President's policy, U.S. workers will face a \$3,000 hiring disadvantage due to the Affordable Care Act. The American people had no say in enacting such a policy. Legal immigrants will see the hefty application fees they must pay to be diverted to administer the President's unconstitutional program, which will make these legal immigrants wait longer. The American people never approved such unfairness.

Taxpayers will be on the hook to pay, as Commissioner John Koskinen said just yesterday, retroactive tax credit payments to people who were working in our Country illegally for years. The American taxpayer was never given a voice about this.

So the President's policy undermines our basic ability to govern ourselves. And the reason we are having this hearing today is to showcase an even more significant, perhaps, ramification of what the President has done, a ramification that could undermine the integrity of our elections.

Through the President's executive actions, millions of non-citizens will be able to obtain valid Social Security numbers and State driver's licenses. Under Federal law, any person with a valid Social Security number or driver's license can register to vote as long as he attests to his eligibility to do so. Therefore, the President's executive actions dramatically increase the risk that non-citizens may illegally register to vote.

Now, the problem of non-citizens voting already exists. Some experts have found that thousands of non-citizens may be registered to vote in some States, and perhaps as many as tens

of thousands nationwide. A study that was released last year found that some non-citizens do participate in U.S. elections and that this participation has already had a meaningful effect in election outcomes, including electoral college votes and congressional elections.

The President's executive actions make this problem of non-citizen voting worse without offering any solutions or assistance to the States. Non-citizen voting undermines voter confidence and damages the integrity of Federal elections. And make no mistake, as an elected official, I don't want my vote totals diminished because of a non-citizen vote, but I also don't want them to be enhanced, either. I want the actual voice of the American people to carry the day.

Today we will hear from secretaries of State, officials tasked with the responsibility of administering elections in their States. They will testify how the President's executive actions will affect their voter registration rolls and their elections in their States. In fact, one of our witnesses today, Ohio Secretary of State Jon Husted, wrote to President Obama about this very issue. He requested his Administration to "work with us to minimize the impact on the integrity of our elections and to ensure only eligible voters participate in State and Federal elections."

We will also hear from an expert on voter fraud and voting rights laws issues to help us understand the consequences of the President's executive actions.

Today's hearing is about upholding the integrity of our elections and ensuring that every American's vote counts.

This is the first hearing that we have had on the Subcommittee on National Security, but it is a joint hearing with my friend, Jim Jordan. But I did want to recognize the ranking member on our National Security Subcommittee, Stephen Lynch, from the frozen tundra of Boston.

I am happy to work with you, Stephen, although I am jealous. Coming from Boston, you guys four Super Bowls in the last 15 years, three World Series. We don't get that much love in Florida.

With that, I will recognize the ranking member for five minutes.

[Prepared statement of Mr. DeSantis follows:]

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

*Mr. Lynch. Well, I appreciate the congratulations and the condolences for the weather.

Mr. Chairman, I want to thank you and I also want to thank our panel of witnesses that have come forward to help the committee with its work.

While I do share President Obama's frustration with the inability of Congress to produce a balanced and sustainable immigration policy, I do have some lingering concerns about the precedence set by the President's executive actions on immigration, especially when it comes to other major issues that a future Congress may struggle to address. That is why I continue to welcome the opportunity as a direct representative of my constituents to consider and debate our Nation's immigration policy on its merits.

Regrettably, the looming February 27 deadline to avoid a shutdown of the entire Department of Homeland Security demonstrates that some members of Congress have chosen a more drastic route in response to the President's executive action. In particular, Republican leadership is attempting, I think, to condition our Nation's continued anti-terrorism, border enforcement, and cybersecurity funding on reversing the President's immigration orders. And I am not sure, but is a partial Government shutdown and furloughing of approximately 30,000 dedicated Homeland Security employees an appropriate response to the President's executives? I am not so sure that it is.

Similarly, today's hearing now attempts to tie the debate over the President's executive action to a different and unrelated issue, I think, the misguided, at times, premise that the President's immigration orders pose a threat of voter fraud by non-citizens who will somehow hijack the election process and thereby threaten our national security.

The rights of citizens in this Country to vote is one of the most basic tenets of who we are as a people and is a cornerstone of our democratic system that must be protected. However, the threat we are here to discuss today is virtually nonexistent if you look at the legal and electoral evidence.

Non-citizen voter fraud is not in fact an active or present threat to our national security. None of the President's executive actions on immigration launch voter fraud into the realm of a clear and present danger or national security concern.

The truth is the President's actions leave State and Federal voting requirements untouched. I want to repeat that. The President's actions leave State and Federal voting requirements untouched. They do not change Federal elections law and they leave State elections laws unaltered.

Nevertheless, it appears that we are here today to discuss voter fraud, especially by non-citizens present in the Country.

I understand some of our witnesses have expressed concerns to the contrary; however, it simply does not seem plausible that immigrants who apply for deferred action will then choose to ignore Federal and State laws prominently displayed on voter registration forms and then fraudulently attest to being a U.S. citizen just so they can illegally register to vote.

When you look at the penalties that would be on an individual in that case, that might have received a deferred status and is allowed to come to the Country, that they would risk all of that to vote in an election where only 30 or 40 percent of our own citizens, without penalty, choose to vote in those elections, it just strains the realm of credibility.

Further, this argument presumes that these people will then fraudulently vote en masse in order to affect the outcomes of elections in swing States, even though this means that under the immigration law they will be deemed ineligible for admission to the U.S. or other immigration benefits, the very kinds of benefits these people are seeking in the first place.

To fraudulently vote, non-citizens would have to ignore every real consequence of voter fraud, such as being deported if discovered. And yet some of our colleagues claim that we should be worried about a flood of these instances.

I looked at the numbers, thinking that perhaps despite all the protections in place, this is a widespread problem. But studies and investigations have shown that non-citizen voter fraud makes up .00003 percent, the tiniest percent of votes cast in this Country.

Just to cite a few examples, only 17 instances of non-citizen voter fraud, again, .0003 percent of the total votes cast were found through Ohio Secretary of State Jon Husted's own investigation, and he is here to testify today, of the 2012 general elections.

Additionally, in a State legislative hearing on the issue in Kansas last year, Secretary of State Kobach, again a guest of us this morning, could only cite 20 non-citizen registrants in the whole State. And out of the 20 non-citizens who were registered, only 5 actually voted, so they are having the same problem with non-citizens voting as we are with citizens actually coming to vote.

So, again, I am disappointed that we are here today spending our valuable time and resources on unfounded concerns, because there are some real concerns out there. I realize that the President's executive orders have spurred extremely polarizing conversations in Congress, but as the ranking member of the National Security Subcommittee, I hope I can work with

you, Mr. Chairman, to refocus on our efforts on some of the very real issues that we face moving forward.

Again, I want to thank the panelists for taking the time from their important responsibilities to testify today, and I especially look forward to hearing more about what we are doing to protect the rights of eligible voters in our States and getting the 60 to 70 percent of voters who are legal citizens of this Country but who don't choose to vote.

Thank you, and I yield back.

[Prepared statement of Mr. Lynch follows:]

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*Mr. DeSantis. The vote clock, it looks like we have about four minutes left on the vote tally. I wanted to get Mr. Jordan's opening statement, but I think it would be prudent just to recess the hearing now. When we return, Mr. Jordan will give his statement, Ms. Norton will give hers, the witnesses will give theirs, and then the members will be able to ask some questions.

So we stand in recess until the conclusion of this first vote series.

[Recess.]

*Mr. DeSantis. Before I recognize my colleague, Chairman Jordan, I ask unanimous concern that our colleague from the 20th District of Texas, Congressman Joaquin Castro, be allowed to fully participate in today's hearing. Without objection, so ordered.

I now recognize Mr. Jim Jordan, chairman of the Subcommittee on Health Care, Benefits and Administrative Rules for his opening statement.

*Mr. Jordan. I thank the chairman.

In the previous, Mr. Lynch, the ranking member, talked about just 20 non-citizens on the voter rolls in Kansas, I think was the example. If it's one, that is a problem. And the issue today is there is potentially five million more potential problems.

So let's remember what got us here. Twenty-two times the President said he couldn't do what he turned around and did. His actions violated the rule of law and the United States Constitution. You don't have to take my word for it; we have all kinds of law professors who say what he did was unlawful and a violation of the Constitution. And not just any law professors, all kinds of liberal law professors said that.

But the point is also it is not just the unconstitutional action the President took last November; it is the unfairness of that action. As the chairman pointed out in his opening statement, is it fair to seniors that non-citizens are going to get Social Security benefits? Is it fair to taxpayers that non-citizens are going to get tax refunds? Is it fair to legal immigrants that non-citizens, illegals, are going to get moved to the front of the line and slow down the legal immigrants from getting the status they deserve? And is it fair that now there is the potential for non-citizens to participate in our elections?

Those are the issues and that is why we are having this hearing, and that is why I want to welcome our panel. I particularly want to welcome Jon Husted, our Secretary of State, who has done an outstanding job in a State that is always the center of the universe every four years in presidential

elections, and just done a commendable job in his work running the elections in our State.

Seven Democrats, Mr. Chairman, seven Democrats in the United States Senate, if they would just do what they said should be done last November. Last November, when the President did his violation of the rule of law, violation of the Constitution, executive amnesty order, seven Senate Democrats said it was wrong. If they would just vote to allow our bill to come up for debate. They can amend it, they can try to change it; that is how the process works. They won't even let it come up. If seven Democrats would just do what they said last year should be done, we could get this Department of Homeland Security funded and we could stop the unconstitutional action of the President.

And I again want to thank our panel for being here and highlighting one of the real concerns that exist because of what the President did.

With that, I yield back.

[Prepared statement of Mr. Jordan follows:]

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

*Mr. DeSantis. The gentleman yields back.

The chair now recognizes Ms. Norton, Ranking Member of the Subcommittee on Health Care, Benefits, and Administrative Rules, for her opening statement.

*Ms. Norton. I thank you, Mr. Chairman. Actually, I am here for the ranking member. I am a member of the full committee and a member of this subcommittee, but I want to express my condolences to the chair of this committee, Matt Cartwright, whose father passed and who, therefore, cannot be here today. I know our thoughts and prayers are with Representative Cartwright.

This hearing on immigration fraud by non-citizens would be laughable if the subject were not so serious. Latino and other people of color and other immigrants will not regard it as very funny. They will be particularly insulted by this faux hearing on a non-existent issue, and they will be joined by countless of other Americans.

I quote from the testimony, which I will ask to be included in the record, of the Ohio State NAACP. As they say in their testimony, "Voter fraud has not been perpetuated by immigrants, nor have they been exacerbated by changes in national immigration policies. Rather, we have spent 106 years battling voting fraud, which was perpetuated primarily by election officials who refused to register voters because of what they look like or whose purges appear to be concentrated among certain demographics.'"

This hearing, coming as it does on the 50th anniversary of the Voting Rights Act, when Republicans and Democrats are about to go to Selma to commemorate that Act in March, comes close to an insult, and this is particularly so when the Majority has announced, indeed, announced early, that the House will not even have a hearing on the Voting Rights Act.

I want to take a moment to thank Representative Jim Sensenbrenner, Republican of Wisconsin, and Representative John Lewis, Democrat of Georgia and a hero of the civil rights movement, for their co-sponsorship of a bill to update the Voting Rights Act of 1965, as instructed by the Supreme Court of the United States.

It takes chutzpah, or disregard, or even disrespect, to hold a hearing alleging fraud by Latino and other immigrants. What have they received? Only the rudimentary right, the temporary permission to remain in this Country to work, unrelated entirely, of course, as the Majority knows, to the right to vote. The data about fraud is manifestly and overwhelmingly in the other direction. We should be glad that there is something in this Country that you don't have to have a hearing about.

It took minority Americans 150 years after the Civil War to get the same right to vote that other Americans took for granted and often don't even exercise. A couple of years ago the Supreme Court did not nullify the Voting Rights Act, but they did ask this Congress to update it. Instead, we see States covered by the Act already passing laws designed to keep black people and Hispanics from voting, manifestly so, and we see Republicans in the rest of the Country spreading barriers, including Ohio, where we have a witness today and one of the States involved.

The President's executive order gives immigrants the right to stay; immigrants who have been here for years; immigrants who have been working hard and whose labor we have needed. Even the bipartisan immigration reform bill passed by the Senate last Congress would have postponed the right to vote for immigrants for more than a decade.

The Republicans may want to go down in history as the party who tried once again, 100 years later, to nullify the right to vote. Well, I am here today to say they shall not succeed.

Thank you, Mr. Chairman.

[Prepared statement of Ms. Norton follows:]

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*Mr. DeSantis. The gentlelady's time has expired.

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

We will now recognize our first panel of witnesses. I am pleased to welcome the Honorable Jon Husted, Secretary of State for the State of Ohio; the Honorable Kris Kobach, Secretary of State for the State of Kansas; The Honorable Hans von Spakovsky, Senior Legal Fellow at the Edwin Meese Center for Legal and Judicial Studies at The Heritage Foundation; and the Honorable Matthew Dunlap, Secretary of State for the State of Maine. Welcome all.

Pursuant to committee rules, all witnesses will be sworn in before they testify, so please rise and raise your right hand.

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

[Witnesses respond in the affirmative.]

*Mr. DeSantis. All witnesses answered in the affirmative. Thank you. Please be seated.

In order to allow time for discussion, please limit your testimony to five minutes. Your entire written statement will be made a part of the record.

With that, Mr. Husted, you are up.

STATEMENTS OF THE HONORABLE JON HUSTED, OHIO SECRETARY OF STATE;
THE HONORABLE KRIS KOBACH, KANSAS SECRETARY OF STATE; THE
HONORABLE HANS VON SPAKOVSKY, SENIOR LEGAL FELLOW, EDWIN MEESE
III CENTER FOR LEGAL AND JUDICIAL STUDIES, THE HERITAGE
FOUNDATION; AND THE HONORABLE MATTHEW DUNLAP, MAINE SECRETARY OF
STATE

STATEMENT OF THE HONORABLE JON HUSTED

*Mr. Husted. Thank you, Chairman DeSantis and Ranking Member Lynch and the members of the subcommittee. I appreciate the opportunity to be here today. My name is Jon Husted. I am the Ohio Secretary of State, and in that capacity I serve as our State's chief election official. I am here to proactively address what I believe is an important issue facing my State and the Nation regarding the integrity of our elections.

As the chief elections official in a key swing State, I have tried to build an election system where it is easy to vote and hard to cheat. We have done this by ensuring easy access to the voting process and by working to ensure that only eligible voters are on the voting rolls. I want to bring to your attention my concern that the President's recent immigration accountability executive actions will make it more difficult for elections officials to determine if all voters meet the primary standard for voting, which is U.S. citizenship.

I am not here to debate immigration policy or the President's executive actions. However, I am here to emphatically say that we cannot follow both the Federal law and the executive action and ensure the integrity of the elections process without further assistance from Congress or from the Obama Administration. Let me briefly explain why.

For an estimated four to five million non-citizens, the President's executive actions provide access to Social Security numbers and driver's licenses. These are the same documents that Federal law requires the States to recognize as valid forms of identification for voter registration. Under Federal law, anyone with a valid Social Security number or driver's license number can register to vote provided they attest they are a U.S. citizen. However, there is no way for us to validate this citizenship statement since, under the executive actions previously, undocumented non-citizens will have access to the same documents as U.S. citizens.

This issue becomes especially complicated in States like Ohio, where millions of dollars are spent on third-party voter registration drives where no election official would be present to make clear the eligibility requirements for voting. By signing the voter registration form and asserting citizenship

falsely or erroneously, non-citizens could face real legal consequences. In Ohio, falsification is a fifth degree felony. This could affect their ability to remain in the United States and to become citizens.

Let me interject some perspective before I go further. It is not my belief that four to five million non-citizens are going to get on the voting rolls. Nor is it my belief that third-party registration drive organizers are waiting to exploit this loophole in law. While I am committed to ensuring the security and the integrity of the elections in Ohio and throughout the Country, it is important for us to recognize that people can sometimes sign documents, in this case a voter registration form, without fully comprehending the rules and requirements.

Acknowledging that I do not expect this to be a systemic or widespread problem, we also cannot ignore that there are real electoral consequences. Presidential elections get most of the attention, but every year there are thousands of State and local elections in Ohio, and in the last 15 months alone 70 elections in our State were decided by one vote or tied. Seventy elections were decided by one vote or tied. These were mayoral elections, school and tax levies, bond issues, members of city councils, township trustees, and school boards.

In light of these examples alone, we simply cannot overlook policies that may allow ineligible voters to cast ballots. We want to find the least intrusive solution to closing this loophole without making it unnecessarily difficult to register to vote.

While opinions may vary on the best solution for this issue, one thing is clear: we cannot solve this Federal problem solely at the State level alone.

In a letter to President Obama on January the 27th, I asked that his Administration provide election officials with realtime access to accurate searchable electronic databases of non-citizens who have valid Social Security numbers. This would enable me and my counterparts in other States to prevent illegal registrations and, more importantly, reassure the public that steps have been taken to ensure only eligible voters are participating in Federal, State, and local elections.

In Ohio we are what we can to prevent non-citizen registrations in voting. We electronically share data between the State's Bureau of Motor Vehicles and our county boards of elections which process voter registrations. This partnership and the data provided allow my office to conduct a review of Ohio's voter rolls to determine if, through the use of a driver's license, non-citizens were registered to vote in Ohio.

Following the 2012 presidential election, we found through

this information that 291 non-citizens were registered to vote and 17 had actually cast ballots. Those 17 were referred for further investigation and prosecution, and my office sent letters to the other 274 to cancel their voter registrations.

However, without Federal assistance, we cannot perform the same cross-match with registrations using Social Security numbers. As a result, these executive actions could significantly increase the potential pool of illegal registrations in Ohio and around the Country.

It is also important to note that Federal law limits the ways States can maintain their voter rolls, in some cases prohibiting States from removing a voter from the rolls until they have been inactive for two consecutive Federal general elections. That means that when evidence suggests a person is a non-citizen on the rolls, we cannot remove them immediately; they have to remove themselves. This makes it especially important that we prevent an ineligible voter from getting on the rolls in the first place.

As I stated earlier, my focus as the chief elections official in Ohio is to make it easy to vote and hard to cheat. The debate over voter fraud and voter suppression already breeds significant hyperbole from across the political spectrum that erodes public confidence. In this environment, administering elections fairly and accurately becomes more difficult when the path exists where millions more non-citizens can register to vote in elections and elections officials have no way to identify these individuals.

[Prepared statement of Mr. Husted follows:]

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*Mr. DeSantis. Thank you, Mr. Husted. Your time has expired. We are going to take your statement, it will be entered in the record, and you will have the ability to expand on some of that with our questions.

The chair now recognizes Secretary Kobach for five minutes.

STATEMENT OF THE HONORABLE KRIS KOBACH

*Mr. Kobach. Thank you, Mr. Chairman and members of the committee. I come to you chiefly in my capacity as Kansas's Secretary of State, but also in my private capacity I am the lead attorney representing 10 ICE agents who sued the Secretary of Homeland Security in the case of Crane vs. Napolitano, now Crane vs. Johnson. The District Court in Texas ruled that the President's first executive amnesty violates Federal law at 8 U.S.C. 1225(b)(2)(A) by ordering ICE agents to refrain from placing into removal proceedings aliens who are required to be placed into removal proceedings by Federal law.

I mention this because it is problematic for so many legal reasons what this executive amnesty has done. But let's talk a little bit about the voter fraud that we have observed empirically in the State of Kansas.

At the outset, it is important to note that four States, Kansas, Arizona, Georgia, and Alabama, require proof of citizenship, documentary proof of citizenship when the person registers. In the other 46 States they are exceedingly vulnerable to what this executive amnesty has done, but even in those four States, because of the recent decision of the Election Assistance Commission, a board that is not supposed to have any policy-making authority, people can use the Federal form to circumvent our proof of citizenship requirement in those four States.

I want to give you a few examples of aliens being registered and voting illegally in the State of Kansas. The most notorious case was in Seward County, in southwest Kansas, in 1997. There was a county issue on the ballot whether or not to prohibit a certain kind of hog farming operation. Across the border, in Guymon, Oklahoma, there was a processing plant where they hoped to render the hogs that were raised in Kansas.

Shortly before election day, according to the testimony of the county clerk of Seward County, an envelope arrived with about 50 registration cards from employees at the hog processing plant in Oklahoma giving, in many cases, fictitious addresses in Kansas and asking to be registered in Kansas. She knew, based on her own personal knowledge of some of the individuals and in subsequent observations, that many, if not, most of these were not U.S. citizens, and also based on her knowledge of the

composition of the plant employee base. But she was powerless at that time to do anything about it.

They were registered and on election day many van load after many van load of employees at the Guymon plant in Oklahoma came north and voted in Kansas to try to steal that election. Fortunately, it was a very high election turnout; it was a very contentious issue. Fifty-one percent turned out and the illegal votes did not prevail and sway and overcome the votes of the U.S. citizens.

I want to give you another example. In August of 2010, across the river from where I live, I am in Kansas City, Kansas, in North Kansas City, Missouri, this one has been widely reported in the press, August primary in a district for a State representative seat between Rizzo and Royster. According to the sworn testimony of poll workers, and I have attached one of those to my written testimony, they observed approximately Somali nationals who were brought in by a coach and the ballot was translated for those individuals. They were instructed to vote for Mr. Rizzo and in that case Mr. Rizzo won the election by one vote. Successful use of aliens to steal an election.

Again, it occurs typically in smaller elections, not so much in mass, nationwide elections.

I give you another example in my testimony of 20 aliens in Kansas. Now, it was mentioned in some of the opening remarks that, well, that 20 is not very much. Well, those 20 are the ones where we know the exact name of the alien and we presented those to Federal District Court in a separate litigation. We know of many others, including the 50 in Seward County, but we don't have the exact names.

And this illustrates a problem. Once the alien gets on the voter rolls, there is no magical way you can say that must be an alien or that must be an alien. You cannot identify them once they are on, except for very limited ways, such as using your driver's license database to cross-match in those limited cases where the driver's license indicates that it is an alien and not a citizen. So this is an irreversible consequence. Once these individuals get on the voter rolls, you are not going to get them off except in very, very rare circumstances.

Now, I want to talk a little bit about how the President's directive actually exacerbates the problem. In many States these aliens will get a driver's license once they have an employment authorization document. Some States, like Wisconsin, State law requires it to be issued. In all of the 10 States of the Ninth Circuit now, they will have to give these individuals driver's licenses. That comes out of a decision that the Ninth Circuit rendered last year. So that does change things.

Five point eight million illegal aliens who previously did

not have a driver's license now have the ability to get one, and they certainly have the ability to get a Social Security number, which will in turn allow them to register to vote. If these aliens in Kansas, or in Arizona, Alabama, Georgia, even our States where you have proof of citizenship, if they use the Federal form, they can register to vote.

This is a problem. These consequences are irreversible. And we are trying to fight this in the courts, but the courts are taking a long time to hear these issues, even though they have, to date, agreed with our position that it is illegal and it is a problem. The consequences are not imaginary, the numbers are real, and we need your help in dealing with it.

[Prepared statement of Mr. Kobach follows:]

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*Mr. DeSantis. The gentleman's time has expired.
The chair now recognizes Mr. von Spakovsky for five minutes.

STATEMENT OF THE HONORABLE HANS VON SPAKOVSKY

*Mr. von Spakovsky. Thank you, Mr. Chairman.

The U.S. already has a problem with non-citizens being able to easily register and vote with little chance of detection or even prosecution. There have been numerous such cases from Florida to Virginia to Ohio to California. These ineligible voters could make the difference in a close election. Let me just give you a few examples.

In 2010, a Florida immigration judge issued an order in a removal case for a Cuban citizen who entered Miami in 2004. She voted in the November 2004 election. This was not detected by local election officials; it only came to light because she applied for a change in immigration status. She initially lied about voting, but admitted it after DHS uncovered it in a check of local voter registration records. If she had not tried to change her immigration status, she could have easily continued to vote illegally, without detection.

This is not an isolated case. In 2005, a GAO report said that it found that 3 percent of the 30,000 individuals called for jury duty from voter registration rolls over a two-year period in just one United States district court were not U.S. citizens. Now, that may not seem like many, but 3 percent of registered voters would have been more than enough to provide the winning margin in Florida in 2000.

In just one three-year period, from 2002 to 2005, the U.S. Justice Department prosecuted a dozen non-citizens for registering and voting in Florida, including a non-citizen who had been a candidate for the State legislature. These cases were discovered accidentally, not through any systemic review of election records.

The current Justice Department is not interested in enforcing these laws. In 2011, when I was member of the Fairfax County electoral board in Virginia, we discovered 278 individuals who had registered to vote, despite Virginia DMV records showing they were not U.S. citizens; 117 of them had voted. We provided that information to the Justice Department; no action was taken to investigate or prosecute these cases.

A voter registration card is an easily obtainable document that an illegal alien can use for many different purposes. Federal law requires employers to verify the identity of new employees. The Federal I-9 Form provides a list of documentation that can be used to establish identity, including

a voter registration card.

A Federal grand jury in 1984 found large numbers of aliens registered in Chicago. The grand jury reported that aliens "register to vote so they can obtain documents identifying them as U.S. citizens and have used their voter cards to obtain a myriad of benefits, from Social Security to jobs with the Defense Department.' "

Now, Federal immigration law requires DHS to "respond to any inquiry by a Federal, State, or local government agency seeking to verify or ascertain the citizenship or immigration status of any individual. However, it is only since Florida successfully sued DHS, in 2012, over its refusal to verify citizenship data for election officials that the Government has finally started working with State election officials and given them limited access to the Systematic Alien Verification for Entitlements, or SAVE, database.

President Obama's executive action for as many as 5 million aliens will greatly exacerbate this problem just given the sheer numbers of new individuals who will be given quasi-legal status to be present and working in the U.S. These aliens will be given Social Security numbers and will obtain driver's licenses. Thus, it will be easier for them to register to vote illegally, since they will be able to meet the Help America Vote Act's requirement that voter registration applicants provide the last four digits of their Social Security number or their current driver's license. As a result, it will be more difficult for election officials to prevent or detect non-citizens who intentionally or negligently affirm their eligibility to vote and use these new ID documents.

What I would recommend is as follows:

First of all, all Social Security numbers issued to aliens should have the letter N to designate non-citizen at the end of the number so they can easily be identified as non-citizens.

DHS should work with the States to develop a more accessible process or system to verify the citizenship of registrants, especially those who get deferred action.

Congress should investigate why DOJ is not prosecuting registration and voting by non-citizens, which are serious criminal offenses.

They also should investigate whether DHS is granting citizenship or deferred status to aliens who have illegally registered or voted in past elections.

All Federal courts should be required to notify local election officials when individuals are summonsed for jury duty from voter registration rolls are excused because they are not U.S. citizens.

And a voter registration card should not be acceptable as

ID on the Federal I-9 Form in States that have not implemented proof of citizenship requirements.

Thanks.

[Prepared statement of Mr. von Spakovsky follows:]

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*Mr. DeSantis. The gentleman's time has expired.
The chair now recognizes Secretary Dunlap for five minutes.

STATEMENT OF THE HONORABLE MATTHEW DUNLAP

*Mr. Dunlap. Thank you, Mr. Chairman, distinguished members of the committee. My name is Matt Dunlap. I live in Old Town, Maine, and I am Maine's Secretary of State, and I thank you for the opportunity to sit with you today and talk a little bit about the aspects of voter registration and some of the supporting documents that we utilize to ensure the integrity of that process.

I am also the chief motor vehicle official for the State of Maine, so we issue about a million driver's licenses, and that process has changed significantly over the last 10, 15 years, and I will speak to that quite briefly.

I am quite pleased to tell you that in the State of Maine, at least, registering to vote, along with every other aspect of the elections process, is highly accessible to qualified citizens and is quite secure. In order to register to vote, you fill out the registration card, you have to present a photo identification or non-photo government official documentation, provide an official document that shows proof of your residency; and we allow for election day registration, no-excuse absentee balloting. We had strong systems in the military and overseas voter empowerment act. We have a number of provisions in the law that open the doors to voters to come and participate in our process.

In the 10 years that I have been Secretary of State, we have sent two cases of misuse of a ballot to the attorney general for prosecution. Now, I think it is important for me to note here, in the discussion that is centered today around the prospect of voter fraud, that no amount of fraud is acceptable.

Nonetheless, it is extraordinarily rare, so what we talk about in the context of voter access is the importance of having integrity in the process, but also access. People need to know that that system belongs to them and that they can trust it. So the processes that we have in place, including a series of sworn statements that people take an oath to, works quite well and is well policed by local elections officials.

The consequences for violating Maine election law are fairly precipitous. In fact, under one of the very first sections of Title 21-A in the Maine revised statutes, it says a person is guilty of a crime if they knowingly violate a provision of this title for which no penalty has already been provided. So the message there is don't even think about it. And for people who are non-immigrant aliens, the consequences

for attempting to register to vote or vote are even more precipitous. After they serve a prison sentence, they are deported and can no longer seek admission as a citizen to our Country.

Now, assuming that they get that far, it is also important to know that the documents that they have access to are heavily described in law to prevent misuse of those documents, including the driver's license. It used to be all you had to do was pass the eye test, written test, and road test. But now you also have to provide proof of citizenship or legal presence in this Country. If you are eligible for a Social Security number, you must provide it to us. And these things have done an awful lot to make the credentials more secure, but also less convenient to obtain for our citizens.

In terms of the work that we do on voter registration and driver's license issuance, it is important for me to note, in looking over the executive orders, that the executive orders really change nothing in how we do our work. The protections in our systems remain, they are uncompromised, and, at least in the State of Maine, they work pretty well.

What I have experienced as the chief motor vehicle officer in the State of Maine is that, actually, a lot of the new requirements I just described, which run parallel to requirements for compliance to the Real ID Act of 2005, do create profound hardships for American citizens trying to comply, and we spend a lot of time in our exceptions process trying to make sure people can comply with the law.

As an administrator, you have to treat everybody the same. It is easy to isolate people and call them potential terrorists or illegal aliens using systems that the Federal Government has very neatly exempted itself from participating in, but when you have people who are born in Canada, who are American citizens, trying to prove that they are Americans can be a troubling process for them; and we spend a lot of time trying to help American citizens comply with our laws.

We have never had an experience as described by my colleagues, with undocumented aliens trying to throw our elections. My experience is they don't come here to vote and they don't come here to drive; they come here to find a better life; and the changes in immigration law which make it very difficult for them to pursue that is occupied entirely by the Federal Government. That field is yours, and yours alone. It is our job to try to help citizens comply with the law.

I will try to answer any questions at the pleasure of the chair that come from this committee, sir.

[Prepared statement of Mr. Dunlap follows:]

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*Mr. DeSantis. Thank you, Secretary Dunlap.

The chair now recognizes himself for five minutes.

If you look at the President's executive order, I think, as has been pointed out by some of my Democratic colleagues, it doesn't say anything about voting; it talks about the work permits and the Social Security numbers, kind of the positive benefits that will result from this exercise of "prosecutorial discretion.'" But it doesn't say anything about voting.

So, Secretary Kobach, what would your response be when people say the President didn't even address voting. How could this possibly be an issue?

*Mr. Kobach. Thank you, Mr. Chairman. It is perhaps an unintended consequence of what the President has done through these executive actions, because you are now giving approximately 5.8 million people, once they get their deferred action, a Social Security and they, in turn, can get that driver's license.

I want to point something out. Of the aliens that we have specifically identified in Kansas on the voter rolls, the ones that were presented to the Federal District Court, approximately half of those aliens registered at the DMV; and this was before we had our proof of citizenship requirement in place. So when you get that driver's license, at all too many DMVs across the Country, the clerk who has been handing out licenses all day long and has done several hundred within just the morning alone, will oftentimes, out of rote habit, say, and would you like to register to vote at the end of the process.

So aliens are often given the opportunity to register to vote by someone they see as a government agent. And they sometimes use that as an excuse when they eventually are found, and sometimes in cases in the previous administration, when people were deported for falsely asserting U.S. citizenship, which is a felony under Federal law, they would sometimes say, but I thought I could register to vote because this lady who works for the government asked me if I would like to register to vote.

So quite often the government agent on behalf of the county unwittingly invites the alien to register; the alien unwittingly assumes that he is able to register. So in many cases it is going to be completely accidental, but it will happen. It is a guaranty that it will happen, because when they go to the DMV they will almost certainly be asked that question.

*Mr. DeSantis. Mr. Husted, you wrote a letter to the President after he issued these executive actions, this was late January 2015, and you wanted the Federal Government, I think, to cooperate with the State so that you could ensure the integrity of the elections. Have you received a response from the

Administration about that letter?

*Mr. Husted. Mr. Chairman, I have not.

*Mr. DeSantis. And what would you like the Administration to do and how will that help you do your job to ensure elections with integrity?

*Mr. Husted. What we have asked them for are anybody who is receiving a Social Security number who is a non-citizen, we would like to have the name, the date of birth, and the last four digits of their Social Security number. That would allow us to match it against our statewide voter database to determine whether anyone who is a non-citizen is on our voter rolls, and then we would go through the process of trying to remove them.

But that is simply what we are asking for. We believe that it is something that should be easily doable for the Federal Government. And that would include people who are here under present tools that allow you to be America legally and those who would come under the President's new administrative action.

*Mr. DeSantis. And do you concur with that, Mr. Kobach, would that be helpful?

*Mr. Kobach. That would be helpful. I do think it would also be helpful for the Congress to clarify that the Election Assistance Commission is a service agency, not a policy-making agency, and that it should not have the authority, which it has illegally exercised, at least according to the district court, but that case is still pending, its authority to tell States, no, we don't think you need proof of citizenship, which is essentially what that agency did. In fact, I shouldn't say that, it wasn't the Commission, it was a temporary executive director of the Commission that rendered that opinion. So that would also be helpful.

*Mr. DeSantis. Mr. von Spakovsky, you are somebody who is very knowledgeable; you write a lot on voting issues. Are you familiar with this Richmond Chattha, and Earnest study that came out in 2014 about non-citizens voting in the 2008 election?

*Mr. von Spakovsky. I am familiar with it.

*Mr. DeSantis. I think, as I read that, it was their contention that, and I think as people have pointed out, you are talking about some of the big national elections. There may not be enough people who are non-citizens to make a huge difference, but in 2008 it was these authors' contention that there were enough non-citizens that voted in North Carolina to shift those electoral votes one way, and that the 2008 Senate race in Minnesota, the margin of victory was lower than the number of non-citizens who voted. Is that an accurate restatement of what they concluded?

*Mr. von Spakovsky. It is. Now, I should mention that there has been some debate over the validity of that, but they

based that assessment on something called the Comprehensive Congressional Survey, which was a survey of literally tens of thousands of voters in the 2008 and 2010 election. Look, you can debate that. The authors of the study actually posted a long article at The Washington Post in which they answered some of the claims of critics, but that shows that we do have a potential problem; and the actual prosecutions that have occurred shows it is a real problem.

*Mr. DeSantis. Secretary Dunlap, in Maine, if somebody gets a work permit based on the President's executive action, will that, ipso facto, entitle them to get a driver's license in Maine?

*Mr. Dunlap. Not necessarily, Mr. Chairman. There would be other required documents as well. We do require proof of residency. The Social Security number is not, we don't utilize that as proof of citizenship simply because you do not need to be an American citizen to obtain a Social Security number. It causes a fair amount of discomfort with people. For example, when we tell them we don't accept military ID cards as proof of citizenship for the same reason.

So a work permit on its face would not be sufficient for us to issue a driver's license; there would be other required documents, including proof of identity, which might be a passport, it might be a birth certificate. Lacking those documents, we would probably have to go into a lengthy exceptions process.

If I may give you a very brief example using an American citizen, last year we were confronted with the difficulty of somebody trying to obtain a renewal of their driver's license, and we could not process that request because they could not prove citizenship. As it happened, the individual is of Vietnamese birth, had been adopted by an American serviceman during the Vietnam War, and the hospital where he was born was destroyed by missile fire two weeks after his birth and all the records were lost. After a fair amount of research and working with some of our partners in the Federal Government, I was able to inquire after the constituent if they had a copy of his adopted father's obituary, and it was found because he had been listed as a survivor, that was sufficient to satisfy our regulations.

So it takes a fair amount of detective work to ascertain proof of identity.

*Mr. DeSantis. But Maine, though, you would think it would be unacceptable if a work permit comes in, nothing else; no rubber stamped driver's license in Maine, correct?

*Mr. Dunlap. That is correct, Mr. Chairman.

*Mr. DeSantis. Okay.

I will recognize the ranking member here in a second, but I just would like to respond to one contention that was made about the fact that there are penalties for people who vote illegally in the Country, and that if somebody obtained work authorization, that could actually lead them to be removed from the Country and sent back to their home country.

The problem with that is I don't think that any of those penalties have any bite whatsoever anymore, because we know, for example, by DHS's own admission, they released, in 2013 alone, 36,000 people who were illegally in our Country and had been convicted of criminal offenses, in some cases very serious offenses like homicide and rape and aggravated assault and drug trafficking. And of those 36,000 in 2013, guess what we now know? One thousand of them have already been convicted of new crimes. So you literally have a situation in which these folks were in the criminal justice system, being convicted. Supposedly we say that would be a penalty that people would be sent back to their home country. And yet they are released into society by DHS and now other people have been victimized already, less than two years later.

So I appreciate the fact that there are penalties. I just don't think that those penalties have very much teeth, given the way this system has been administered in the last couple years.

My time has expired and the chair will now recognize the ranking member of the National Security Subcommittee, Mr. Lynch, for five minutes.

*Mr. Lynch. Thank you, Mr. Chairman.

My thanks again to the panel.

Secretary Husted, I was trying to read your reports from the Ohio statewide election survey. Is it correct that you actually referred 135 cases of voter fraud in 2012? Are those numbers right?

*Mr. Husted. Off the top of my head, I believe that sounds about right.

*Mr. Lynch. That was 135 cases out of 5.63 million voters in Ohio. I did the math and it comes out to about .0002 percent.

Secretary Dunlap, you had a chance to review your predecessor's request of review of Maine's election practices as it was considering adopting new voter ID laws. You agreed with the recommendations to continue early voting and hold off on any proposed requirements for voter identification. Secretary Dunlap, how many instances of voter fraud has Maine uncovered, if any?

*Mr. Dunlap. We had two cases of misuse of an absentee ballot, for alleged double voting, Congressman.

*Mr. Lynch. That is illegal in Maine?

*Mr. Dunlap. It is, sir.

*Mr. Lynch. Okay. There are some parts of my district I think this is going on, so I just had to question that.

*Mr. Dunlap. And I would point out that that is over the course of four years.

*Mr. Lynch. The old slogan for James Michael Curley was vote early, vote Curley, vote often. So I am correct in saying that you would generally describe voter fraud as very rare?

*Mr. Dunlap. Extremely rare.

*Mr. Lynch. Would you say the incidence of voter fraud by non-citizens is even smaller?

*Mr. Dunlap. I have no evidence of it in the State of Maine, Congressman.

*Mr. Lynch. I just want to go over this again. The proposition here is that these folks who have received deferred action status, and whether you agree with that or not, that is beside the point. I actually think, and I think the President agreed, that the best result would have had us coming up with a comprehensive immigration policy that would address everyone. I think even the Administration said this is imperfect. This was done, in some sense, out of frustration because we couldn't get comprehensive immigration reform done.

So now we have this deferred action executive action, and that leaves us with this situation where certain individuals are going to be allowed to stay in the Country. But if they vote, the penalty is that they would be deported. That is the penalty. And I am not sure equating people who rape and maim and rob is the same group that you are talking about going in and actually voting in an election. I don't think you can equate those.

But does it make sense that someone that has been given a chance, at least through deferred action, would go and jeopardize their status here in order to be .0002 percent of a statewide election? What is your sense of this, Mr. Dunlap?

*Mr. Dunlap. It doesn't make sense to me, and in many ways, Congressman, the executive order brings this around full circle to an earlier time in motor vehicle administration when many motor vehicle administrators really wanted to provide credentials to people who came here for work purposes, legally or illegally, for the simple premise that, if they are in your system, you know who they are and you know where they are. And for the purposes of highway safety, we all want to make sure that everyone who is operating on the roads that are shared by our families are in fact qualified to operate those vehicles.

The reality is if you make it difficult for them to obtain those credentials, they are going to drive anyway, they are just not going to have a license.

What we find is that if people have the opportunity to comply with the law, they will. If it is impossible for them to comply with the law, then they are already at variance with it. So it only makes logical sense that if people have the opportunity to succeed in America, that they will seize upon that opportunity and not throw it into jeopardy. At least that is what history shows us.

*Mr. Lynch. Well, thank you, Mr. Secretary. I have eight seconds left and I am just about done here.

All I can say is I am honored to be the ranking Democrat on a National Security Subcommittee, and I am sure, during this next couple of years, we are going to have a real opportunity to deal with national security issues. This, however, does not strike me as being one.

Thank you. I yield back.

*Mr. DeSantis. The chair now recognizes Mr. Jordan, chairman of the Benefits Subcommittee, for five minutes.

*Mr. Jordan. I thank the chairman.

Secretary Husted, you had some numbers in your testimony. I want to go through them. The first number is 291, 291 people who were non-citizens who were on the registration rolls in Ohio, is that right?

*Mr. Husted. That is correct.

*Mr. Jordan. How did you derive that number?

*Mr. Husted. When you apply for a driver's license in Ohio as a non-citizen, you have to indicate that at the time you receive the license. We went back, searched that data, then went and looked at the statewide voter roll after the election, found the matches of 291 people, and then waited an entire year, because this is self-reported data, and then waited an entire year to see if these individuals also self-reported themselves as non-citizens a year later. So it is their information; they are the ones that provided it.

*Mr. Jordan. And a year and a half way to get to that number.

*Mr. Husted. That is the only way we could get to it.

*Mr. Jordan. In your professional judgment, is that a low estimate or could the number be significantly higher?

*Mr. Husted. It could be higher. That is just what we can find out at this point.

*Mr. Jordan. Okay. Then another number you had in your testimony was 70 elections. These are the number of elections decided by one vote?

*Mr. Husted. That is correct.

*Mr. Jordan. And that was in what time frame?

*Mr. Husted. That is in the past 15 months.

*Mr. Jordan. In the past 15 months. So that .00002

percent that the gentleman from Massachusetts was talking about, that is a small number, but that small number could have changed 70 elections in Ohio in the last 15 months, is that right?

*Mr. Husted. Yes. We have had 70 elections that were decided by one vote or a tie.

*Mr. Jordan. So you have 291 on the voter registration rolls; that is a low estimate. You had 70 elections in the last 15 months decided by one vote. And now the President just said five million more non-citizens can get access to the very documents that allow people to register to vote. Is that accurate?

*Mr. Husted. That is correct.

*Mr. Jordan. So the problem is potentially much bigger, right?

*Mr. Husted. Correct.

*Mr. Jordan. Now, in your testimony you also talked about voter registration drives as maybe the biggest concern that you have as the head election official in your State. Can you walk me through that?

*Mr. Husted. Yes. In Ohio, as you are well aware, there are a lot of third-party voter registration drives. Their goal is to register as many people as they can. A lot of times those individuals don't take the care that somebody at the DMV might be at explaining the rules for doing this, and a lot of times folks who -- of that 291, some of them didn't even know that they weren't allowed to be registered to vote.

*Mr. Jordan. So the point is that compounds everything I just went through, potentially.

*Mr. Husted. Correct.

*Mr. Jordan. Right. So we have 70 elections in Ohio decided by one vote in the last 15 months. Now, think about it. If some of that was done by non-citizens illegally participating in the election process, what does that say to citizens?

What does that say to a senior citizen, when this non-citizen is already getting Social Security benefits? What does that say to a taxpayer when this non-citizen is already getting tax refunds? What does it say to legal immigrants who came here and did it the right way and are citizens, what does it say to them that now the position they took may have been defeated because a non-citizen potentially in 70 different races in the last 15 months decided the outcome of an election? That is what we are concerned about, right?

*Mr. Husted. It says we are letting them down and we need to fix it.

*Mr. Jordan. Exactly. And that is why you are here and that is why you wrote the letter to the President of the United States, right?

*Mr. Husted. That is correct.

*Mr. Jordan. Now, in November, when the President decided he was going to go down this path and create this mess we just walked through, did he contact you, John Husted, Secretary of State for the State of Ohio?

*Mr. Husted. No.

*Mr. Jordan. Now, think about this. Every political pundit in the world knows Ohio is always a central State in every presidential election; important State, seventh largest State, a lot of people there. And the President of the United States didn't contact the guy who has been running elections in the State that is always the center of the university in a presidential race, didn't contact you and ask, hey, is there going to be concerns or problems if we do this?

*Mr. Husted. He did not, no.

*Mr. Jordan. Now, you are in town, you and Mr. Kobach and Mr. Dunlap are in town with the Secretary of State Association, right? You have a conference and you are listening to speakers and all the things you guys do. Do you know, Mr. Husted, if the President contacted the Secretary of States Association before he issued this order in November of last year?

*Mr. Husted. I am not aware of any contact.

*Mr. Jordan. Mr. Kobach?

*Mr. Kobach. I am not aware.

*Mr. Jordan. Mr. Dunlap?

*Mr. Dunlap. The President does not require my permission to issue an executive order.

*Mr. Jordan. I didn't ask that. I said did he contact you?

*Mr. Dunlap. He did not, sir.

*Mr. Jordan. So the head of election officials, the association that represents and conducts elections, the President didn't even talk to you guys when he did this, and now is potentially allowing five million people to get access to the documents so they can register to vote, and he didn't even have the decency to call you guys?

*Mr. Husted. We did not get contacted, and I would say why I wrote the letter is that I want to comply with the Federal law.

*Mr. Jordan. Exactly, which brings me to my last question, Mr. Chairman.

We have Secretary Husted, who is offering a solution. In fact, he wrote the Ohio delegation and he wrote the White House and said, hey, here is all we have. I am not even going to comment. I think what he did is unconstitutional; most law scholars do. Even liberal ones think what he did is unconstitutional.

But you are not even commenting on that, you are just saying we want to fix it so at least our elections can only be decided by people who are actually citizens. You have offered a solution. Have you heard from the White House about your solution, Mr. Husted?

*Mr. Husted. We have not. And it is particularly important when you are the Secretary of State from Ohio because we will get sued for not complying with Federal law.

*Mr. Jordan. Exactly. Exactly. This is unbelievable. The White House didn't talk to the people who run elections before they did the order, and now we have a secretary of state in one of the most important States in every election, every presidential election, offers a solution and the White House doesn't even have the decency. They weren't contacted on the front-end, but they should at least have the decency, when they offer a solution to fix the problem the White House created, the decency to talk to them and say, all right, let's work on it.

I yield back.

*Mr. DeSantis. The gentleman yields back.

The chair now recognizes Ms. Norton for five minutes.

*Ms. Norton. Thank you, Mr. Chairman. As I hear what passes for evidence, I can only say it is no wonder that the last two Congresses have gone down in history as the least productive in American history.

I want to say for the record that the Social Security card that these immigrants get says valid for work only with DHS authority. These are immigrants who, for years, have been living in fear because they are undocumented. They live in such fear that they don't even report crime. Now we are made to believe that they will go to the polls and throw elections, even the much vaunted election in Ohio.

Mr. Dunlap, let me thank you for apparently being able to secure the vote without denying the vote.

In Kansas, Mr. Kobach, you have implemented so-called proof of citizen voting requirements. I do want to note that it delayed voting registration applications for 22,000 people, at least as of last four. That is 16 percent. Most of those were probably just as full citizens as you and I are.

But let me turn to Ohio while I still have some time. Mr. Husted, you have been particularly determined. In 2012, you initially denied the expansion of early voting hours in urban Democratic-leading counties covering Cleveland, Columbus, Akron, and Toledo. But at the same time, the record will show, there were early voting hours in heavily Republican counties like Warren and Butler. They were expanded to include nights and weekends.

The record shows there were such loud complaints about this

patent, unadulterated unfairness that you limited early voting across the State to weekdays only. Is that not true?

*Mr. Husted. Ranking Member Norton, that is not true. What is true in Ohio is that we have nearly a month to vote, 24 hours --

*Ms. Norton. Wait a minute. I didn't ask you what happens in Ohio. Did you not deny the expansion of early voting?

*Mr. Husted. I did not.

*Ms. Norton. In Cleveland, Columbus, Akron, and Toledo?

*Mr. Husted. And the answer to your question is I did not.

*Ms. Norton. What did you do?

*Mr. Husted. I set uniform hours for the State of Ohio so that every voter would have equal access. The local --

*Ms. Norton. And you are denying that at the same time --

*Mr. Husted. I am denying.

*Ms. Norton. -- the early voting hours were set in Republican-leading districts. You are denying that on the face of the record.

*Mr. Husted. I had nothing to do with it. Those were local election officials that did that.

*Ms. Norton. So you had nothing to do with that. Well, then, Mr. Husted, while my time is up, sir, before my time is up, isn't it true that these voting restrictions were overturned by a Federal district court and that you did not immediately comply with the full restoration of those voting rights?

*Mr. Husted. That is not true, ma'am. We have complied with the Federal court ruling. We were also granted a stay.

*Ms. Norton. I said you did not immediately comply.

*Mr. Husted. We immediately complied.

*Ms. Norton. Well, you appealed to the Supreme Court.

*Mr. Husted. Ma'am, that is how the justice system works.

*Ms. Norton. And they refused to hear your case.

*Mr. Husted. And they did hear my case.

*Ms. Norton. And what did they decide?

*Mr. Husted. They gave us a stay, and it is still in Federal court.

*Ms. Norton. So you believe you have every chance of prevailing in this case, a case with the facts I have just enumerated, with the differences?

*Mr. Husted. Ma'am, we vote for twice as long as the District of Columbia does, and everybody votes by the same rules.

*Ms. Norton. I doubt that you vote for longer than the District of Columbia. I doubt that very seriously and I challenge you to send to this committee evidence of that. But if you do, let me make sure that I inform elected officials so that they would at least be as good as Ohio is.

Mr. Husted, a recent study by two of your prominent State universities, Case Western Reserve and Cleveland State University, found that in 2008 African-American voters made up 56.4 percent of all weekend voters in Cayuga County, even though adult African-Americans made up only 28 percent of the population there. Can you understand, therefore, why there has been such an outcry in Ohio when two prominent research universities in your State found that cutting early voting on Sundays and weekend evenings could disproportionately affect African-Americans? I mean, shouldn't that concern you in a State like Ohio?

*Mr. DeSantis. Her time has expired, but I will let you answer that, then I will recognize Mr. Walberg.

*Mr. Husted. Ma'am, I understand that, and I would invite you to Ohio to see what we do. I enforce the Ohio law, I don't make the Ohio law. But when granted the opportunity to establish hours, I have granted two weekends of early voting on the Sunday and Saturday before the elections; and that is how the presidential election will be run in Ohio under a directive that I have issued so long as the courts allow so.

*Mr. DeSantis. The chair now recognizes Mr. Walberg for five minutes.

*Mr. Walberg. Thank you, Mr. Chairman, and I thank the panel for being here. And though this cuts into some of my questioning time, I think it is important that I express real concern, and even offense, at some of the statements that are being made. I hope it comes from emotion, and not from the heart of hearts, that any party is attempting to quash and take away the rights that are given to all citizens of this Country, all legal citizens of this Country, regardless of color, race, creed, origin, gender. That is not happening with any of my support, and I know my colleagues as well.

I also say that that is offensive to those legal and documented aliens who serve in my communities well in providing services on farms, in hospitality, in construction, in IT, and all sorts of things that are extremely important to us, and yet they are doing it legally.

I say it as a proud father-in-law of a Rwandan who is here on an appropriate legal visa in the United States right now that expires in April, and he, with my daughter, will be going back to their home in Uganda. I say it as well based upon the fact that this hearing is important not so much even for the issues of voting, but the issue of constitutionality and the strength of our Constitution, a Constitution that a legal constitutional scholar, our President, stated 22 times he did not have the power to do this executive order, and then he did it. This is a constitutional crisis that we are dealing with and this is one

of the issues that has resulted from that constitutional crisis.

So I make that statement. I believe it is important for us to make sure that is on the record as well, that we want to see this Country move forward legally, and all citizens, all legals that are here are treated justly and fairly.

Mr. von Spakovsky, how big do you think this problem is?

*Mr. von Spakovsky. Well, it is really hard for us to know because there is no systematic verification of citizenship status across the Country; we can only get a rough idea of it.

*Mr. Walberg. There is no way to quantify it?

*Mr. von Spakovsky. No. But that is why, for example, I cited the GAO report, where they found that three percent of people called for Federal jury duty, and those come from voter registration lists, so three percent of 30,000 were excused from jury duty under oath because they were not U.S. citizens. That gives you a flavor of it.

I would remind this committee that in 1996 this committee issued a report investigating an election contest in California, one congressional race won by less than 1,000 votes, and in that one congressional race, after comparing INS records with voting records, this committee found that there were 624 non-citizens, clear evidence, who had voted illegally in that congressional race, and another 192 where there was circumstantial evidence that they were not U.S. citizens. Now, the race wasn't overturned, but this is just one investigation 20 years ago that found hundreds of non-citizens who had voted in a congressional race in California.

*Mr. Walberg. And it is likely to increase in its problem exponentially?

*Mr. von Spakovsky. I believe so because now individuals who are here illegally are going to be legally obtaining Social Security numbers and driver's licenses, which are key documents in order to get registered to vote, according to the law that Congress itself passed in 2004, the Help America Vote Act.

*Mr. Walberg. In your opinion, how do we prevent or stop non-citizen voter registration or voter fraud? Does Congress need to change the law?

*Mr. von Spakovsky. Yes. I think what Secretary Husted has said about getting access to the DHS database on everyone given deferred action, for example, so they have their name, the last four digits of a Social Security number, and a birth date so they can start verifying that. That is the first step. The other thing you should do is require all Federal courts to notify State election officials when someone is called for jury duty and they are excused because they are not a U.S. citizen. They are not doing that right now. That is just a basic step.

*Mr. Walberg. So are there existing laws that could be

enforced that aren't right now that would assist in this problem?

*Mr. von Spakovsky. Yes. I would tell you I spoke to a former election official just this week, and he said that while DHS has finally started complying with the Federal law that requires them to verify citizenship information when they get inquiries from State election officials, that they put up all kinds of burdensome red tape to make it difficult. The current system is slow and cumbersome, and he highly recommended that DHS work with State election officials to set up a better, quicker system.

*Mr. Walberg. Thank you.

*Mr. DeSantis. The gentleman's time has expired.

The chair notes the presence of the committee chairman, Mr. Chaffetz. Would you like to be recognized?

The chair now recognizes the gentleman from California for five minutes.

*Mr. Lieu. Thank you, Mr. Chair.

Mr. Husted, for the record, I believe that Congresswoman Norton was talking about a 2012 case and you were giving answers to a 2014 case. That is sort of my understanding of her interchange.

But my questions are for Mr. Dunlap. I have heard a lot of hypotheticals today. I am sure anything can happen. It is certainly possible that that .002 percent change could one day affect the State of Ohio, that could one day affect a presidential election. Anything is possible. But I just note that in the last election two-thirds of Americans did not vote. That number dwarfs by orders of magnitude .002 percent, and my view is that in our republic, in our democracy, we are better served by having as many voters voter as possible. Everyone's time is limited and constrained. I think that our democracy is better if the 50 secretaries of state focused their time on increasing voter turnout for eligible voters, that makes our Country stronger, than focusing on .002 percent hypotheticals.

So let's talk about what the actual laws are right now in America.

Mr. Dunlap, can you just walk through again the requirements that an individual must meet to be eligible to vote in your State of Maine?

*Mr. Dunlap. In order to be eligible to vote, sir, they have to be a domiciled resident of the State, they must demonstrate citizenship, they have to give proof of identity, and affirmative proof of where they live.

*Mr. Lieu. And what are the consequences if someone, under Maine law, engages in voter fraud?

*Mr. Dunlap. The penalties range from elevated

misdemeanors to Class C felonies, which are punishable by up to five years in prison and \$5,000 in fine, and then being remitted to Federal authorities for further penalties and expulsion from the Country, sir.

*Mr. Lieu. And has the President's executive order changed the law on voter fraud in any way whatsoever?

*Mr. Dunlap. No, sir. We still maintain the same due diligence that we did before.

*Mr. Lieu. Has the President's executive order conferred any new right to vote for non-citizens in Maine?

*Mr. Dunlap. It has not affected the right to vote for anyone other than naturalized or born United States citizens, sir.

*Mr. Lieu. And it is still illegal for non-citizens to affirm that they are citizens in order to vote in Maine.

*Mr. Dunlap. That is correct, sir.

*Mr. Lieu. As a representative of California, I would like to, at this time, read an excerpt from a statement prepared for this hearing by California Common Cause, a national non-partisan advocacy organization founded in 1970 to enable citizens to make their voices heard in a political process. California Common Cause writes: "Ensuring that every eligible citizen has the opportunity to cast a vote free from discrimination and obstacles is fundamental to a democracy that aims for and professes representation of all. As stated below, we see no threat to election processes at either the State or Federal level resulting from the President's orders."

I ask unanimous consent to enter this statement into the congressional record, Mr. Chairman.

*Mr. DeSantis. Without objection, it will be so entered.

[The information follows:]

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

*Mr. Lieu. And with that I yield back the balance of my time.

*Mr. DeSantis. The gentleman yields back the balance of his time.

The chair now recognizes the gentleman from Georgia, Mr. Hice, for five minutes.

*Mr. Hice. Thank you, Mr. Chairman.

I think it has been clearly established here so far that I don't think there is anyone in the room that would not acknowledge that there at least have been instances, as you have brought up, in the thousands, perhaps, in fact, certainly over the course of time. We have examples from North Carolina and Minnesota extensively so. We all know that there have been problems of voter fraud. We also know that Federal law authorizes the Department of Justice to prosecute non-citizens for both registering and voting. This is a criminal offense and, as has just been mentioned, can result in removal from the Country.

My first question to each of you, do you know, to the best of your knowledge, of any example where the Department of Justice has in fact brought charges against anyone or deported them?

*Mr. Husted. I do not, sir.

*Mr. Kobach. I know of examples in the prior Administration. I cannot think of anyone of an alien voting in this Administration where charges have been brought against that alien for voting.

*Mr. von Spakovsky. I have to agree with Secretary Kobach. I know of instances, during the prior Administration, where individuals were not only prosecuted by the Justice Department, but this was considered in their citizenship applications. But as I pointed out, I am not aware of that being done in this Administration, and I know from personal knowledge that of the almost 300 individuals that Fairfax County sent over to the Justice Department notifying them that these were not U.S. citizens, that they had registered and that almost half of them had voted. That fell into a black hole at the Justice Department.

They did nothing to investigate or prosecute those cases, and I don't believe that any of those non-citizens had any of the penalties brought up against them that could have allowed their removal from the Country. In fact, I cite in my written testimony a letter published by a county election official in Tennessee that she got from a non-citizen. He had gotten this from DHS and it was a letter -- this person was applying for citizenship and this was a letter telling him that he needed to be sure that he was taken off the local voter registration list.

So they clearly weren't going to punish him or in any way delay his citizenship; they just told them, well, to go forward with your citizenship application, you need to be sure you are off the list.

*Mr. Hice. Okay, thank you.

Mr. Dunlap?

*Mr. Dunlap. I do not know of any such action in my State, sir, but I also stated earlier that we have never had a complaint of such action, either, so it makes sense.

*Mr. Hice. Okay. All right, so what we have here, evidently, is that at least within this Administration we have no examples that we have any knowledge of where the law in this regard has been upheld by the Justice Department. So we have, evidently, a Justice Department unwilling to abide by the law, which, of course, is what we are seeing across the board even in so many instances right now; and if the rule of law is not going to be upheld, it is of very little value at all to any of us.

Now, it has also been brought up that the motor voter law, as it is known, where individuals are given the opportunity to register to vote when they get their driver's license, is posing a significant problem, as you have mentioned; and from what we hear from multiple DMVs across the Country, they don't believe it is their responsibility to find out whether or not these individuals are citizens of the United States or not.

Would you agree with that?

*Mr. Kobach. I would say that those States that are fully complying with the Real ID Act of 2005, they are least trying to ascertain whether or not the person is a citizen who is a U.S. citizen or is an alien here lawfully present. But it is at the later stage of the process where they ask that final question, and would you like to register to vote. Even in fully compliant Real ID States they are not going back and checking, hey, wait a minute, I have to check your citizenship.

*Mr. Hice. But at some point someone has to be responsible; it is either the State or the Federal Government. Real quickly, almost a yes or no answer, is the DHS trustworthy? Do States believe that they can trust the DHS to give this information?

*Mr. Kobach. We have asked DHS for a lot of information and it has not been forthcoming from DHS. And the one program they do make available, SAVE, which was created in the 1990s for State governments to use, they make that virtually impossible to use; they say, well, we won't let you check those names unless you can give us an independent number associated with that alien. Virtually impossible for the State to do.

*Mr. Hice. We have an enormous problem here, obviously, and it is only getting bigger. The President's actions to grant

de facto amnesty to five million is just exasperating an already existing problem, and I and Congress should look for solutions to prevent non-citizens from diluting the ballots of citizens in this Country.

Thank you.

*Mr. DeSantis. The gentleman's time has expired.

The chair now recognizes Ms. Kelly for five minutes.

*Ms. Kelly. Thank you, Mr. Chair. I would first like to ask for unanimous consent to enter a statement into the record by our colleague, Congresswoman Marcia L. Fudge, who represents the 11th District of Ohio.

*Mr. DeSantis. Without objection.

*Ms. Kelly. Thank you.

[The information follows:]

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

*Ms. Kelly. I would like to focus a bit on the occurrence specifically of non-citizen voter fraud.

Secretary Husted, your office released a report on voter fraud in May 2013, including a review by 88 county boards of election in Ohio. According to that report, over five million total voters were cast in Ohio in that election. According to a letter you sent to the Ohio Attorney General, Mike DeWine, on December 18, 2013, how many instances of non-citizen voter fraud did you refer for the investigation?

*Mr. Husted. We referred 291 cases on the non-citizen aspect of the issues. Those are two separate reports, so that you know; there was the voter fraud report, which did not include our non-citizen research because we had to wait for a calendar year after the election to double-check our work on that to make sure we didn't include anybody that shouldn't have been on the list. But on the non-citizen piece, there were 291 non-citizens that were referred to the attorney general's office.

*Ms. Kelly. And what happened with those cases?

*Mr. Husted. Those were investigated. Some of them were referred to local prosecutors. Seventeen of the people in those individual cases had voted; some of them have been prosecuted; there were plea agreements in other cases. But what we did with those who didn't vote, we simply sent them a letter and asked them to remove themselves from the voter rolls, because we do not have the authority under the law to remove them, so we asked them to remove themselves.

And then after waiting a few months, if they didn't comply, we sent them a second letter. And if they didn't respond to the second letter, then we turned them over to the attorney general's office for further action. Some of them removed themselves; some of them have, in some cases they didn't know they were on the voter rolls; in some cases they didn't know that they weren't allowed to be on the voter rolls; and in some cases we have never been able to track the individual down.

*Ms. Kelly. So you wouldn't say people maliciously were trying to do something wrong if they didn't even know or some of the things you just said.

*Mr. Husted. I think it is across the board. Some people were on there that knew they shouldn't be; some people were on there that didn't know that they shouldn't be.

*Ms. Kelly. Okay. So 17 cases of non-citizen voter fraud, so that, as I think one of my colleagues said, represents 0.0003 percent of the over five million total voters in Ohio.

I would like to say I believe it is a misallocation of time, money, and committee resources to combat a voting problem that is practically non-existent. This is especially true when

many States are taking steps to make voting more difficult for eligible Americans by curtailing early voting hours and other barriers. We need to combat that problem. And I believe this is especially important to make this point now, as this is the fiftieth anniversary of the Voting Rights Act, and it is utterly ridiculous in 2015 that American citizens are still fighting for the right to vote.

I yield back.

*Mr. DeSantis. The gentlelady yields back.

The chair now recognizes Mr. Carter for five minutes.

*Mr. Carter. Thank you, Mr. Chairman.

Gentlemen, thank you for being here. Appreciate you for being here very much.

Full disclosure: I am from Georgia, and in Georgia we are only one of four States that has a voter ID law. In further full disclosure, I am proud of the fact that I was a member of the Georgia State legislature when we passed that bill, and I voted in favor of it and even co-sponsored it. So full disclosure there.

I want to ask each of you, if you will, do you think it is one of our greatest rights here in America, the right to vote? Do you value that, as I do, as one of your greatest rights as a citizen?

*Mr. Husted. I certainly do.

*Mr. Carter. Thank you.

*Mr. Kobach. Absolutely. And I would add that every time an alien votes, even if it doesn't succeed in stealing the election, it effectively cancels out the vote of a U.S. citizen and effectively disenfranchises that U.S. citizen.

*Mr. von Spakovsky. And I have to agree wholeheartedly with that.

*Mr. Dunlap. I would certainly say, sir, that the right to vote is the preeminent of all of our rights.

*Mr. Carter. Thank you all.

Let me ask you. At least three of the four of you are secretaries of state. Do you consider it your responsibility in the office that you hold to make certain that only American citizens vote in our elections?

*Mr. Husted. Yes, sir, I do, and I am here to try to find a solution to that problem, because as the Ohio Secretary of State, we cannot comply with the Federal law if we don't have access to the name, the date of birth, and the last four digits of the Social Security number. And we will see litigation where the courts will settle this issue rather than the Congress or the Administration, and I ask of you to give us what we need so that we can comply with the Federal law.

*Mr. Carter. Thank you.

*Mr. Kobach. Absolutely it is our responsibility do that, and I would note, partially in response to what Mr. Lynch said in his opening remarks, the fact that you attest to your U.S. citizenship on a voter registration card is not enough; it is clearly not enough from the many hundreds of cases, collectively, who have shown where people have signed the voter registration card, have checked the box, yes, I am a U.S. citizen. In many cases they probably didn't even know what they were checking because we subsequently learned that many of these aliens on our rolls don't read English or know English particularly well. So they may have been manipulated into signing that card.

But the bottom line is simply checking a box is not enough. That is why we in Kansas, and likewise in Georgia, moved to a proof of citizenship system. More States need to move in that direction and we need the Federal Government, especially the EAC, to get out of our way so that we can ensure that our voter rolls are clean.

*Mr. Carter. Thank you. Thank you.

Mr. Dunlap?

*Mr. Dunlap. I do believe that it is part of our prime directive to make sure that our systems do have integrity, but also that people can access them as well, and that is a very delicate balance that we maintain through our State legislature as we craft election law.

*Mr. Carter. Mr. Husted, you have made it clear that Ohio takes this very seriously and you have a number of checks and balances to make sure that it is a truly American citizen who gets to vote.

Mr. Kobach, I am very aware you have the same laws as the State of Georgia with voter ID.

Mr. Dunlap, I am just a little bit concerned. I still don't understand the checks and balances that exist in Maine to make sure, the system there, that only Americans are voting.

*Mr. Dunlap. Well, if you are speaking in reference to a voter ID statute, that was proposed the last legislature and it was converted under the Republican administration that preceded me into a resolve that created a study committee that examined that issue. In the State of Maine, that study committee actually recommended that we not pursue photo ID to access a ballot because of the hardship that would cause on legal citizens from being able to access their ballots to participate in their election.

*Mr. Carter. Okay, so you don't have voter ID, but what proof do you require, then?

*Mr. Dunlap. Well, in order to register to vote, as I mentioned before, you do have to present photo ID, a government

issued identification, and also an official document that shows that you live in the precinct in which you are registering. In order to obtain that driver's license, if you will, under Maine law, and I didn't get an opportunity to answer Mr. Hice when he asked the same question, but we are required under Maine law to determine citizenship. So if you follow that line, then we do have that check and balance, along with the subscribed oath that you take when you register to vote that everything you state in there is in fact true.

*Mr. Carter. I understand. Is a Social Security card enough?

*Mr. Dunlap. No, sir.

*Mr. Carter. So it takes more than that.

*Mr. Dunlap. Absolutely.

*Mr. Carter. Much has been made here today about the fact of this .002 percent, and I get that, I understand that. But I think all of you agree that even that should be zero, not .002 percent.

Mr. Dunlap, one last question. How many elections in the past few years have been decided in the State of Maine by .002 percent or less?

*Mr. Dunlap. When people say, sir, that they don't think their vote counts, I invite them to come to a recount where we see many races decided by one vote.

*Mr. Carter. So that .002 percent could have made a difference.

*Mr. Dunlap. Our races can be small, so it may exist outside that statistical figure, sir.

*Mr. Carter. Thank you, Mr. Chairman.

*Mr. DeSantis. The gentleman's time has expired.

The chair asks unanimous consent that Mr. Husted's letter be entered into the record. Without objection, so ordered.

[The information follows:]

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

*Mr. DeSantis. The chair now recognizes Mrs. Watson Coleman for five minutes.

*Mrs. Watson Coleman. Thank you, Mr. Chairman. First of all, I would like to ask unanimous consent to enter certain forms into the record, and those forms are the voter registration forms for Kansas, Ohio, and Maine. I think each of these documents clearly asks whether the submitter is a U.S. citizen. Kansas, for example, has a clear statement saying, Warning: If you submit a false voter registration application, you may be convicted and sentenced to up to 17 months in prison. So I ask unanimous consent to enter this form into the record because it seems clear to me that non-citizens who receive a driver's license are fully apprised of the consequences of lying about citizenship on their applications.

*Mr. DeSantis. Without objection.

*Mrs. Watson Coleman. Thank you very much.

[The information follows:]

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

*Mrs. Watson Coleman. Mr. Kobach, I have a question for you. You mentioned something relating to a hog election in Kansas, and that you had problems with people from, I believe it was, Oklahoma? Were those people from Oklahoma non-citizens of Kansas or non-citizens of the United States of America?

*Mr. Kobach. They were non-citizens of the United States of America based on the county clerk of Seward County. Most of the employees at the hog processing plant in Oklahoma were non-citizens, both legal and illegal, it is believed. But some of the Seward County personnel recognized some of those applicants as being non-citizens based on personal knowledge and then based on the general perspective --

*Mrs. Watson Coleman. Non-citizens of what?

*Mr. Kobach. Of the United States.

*Mrs. Watson Coleman. Okay. How do they know that?

*Mr. Kobach. As I just mentioned, there was some personal knowledge involving specific individuals, and then the county clerk also made a general assessment based on the fact that most of the employees at the plant were non-citizens.

*Mrs. Watson Coleman. Thank you.

Mr. Dunlap, how does the Maine mail-in registration form clarify voting eligibility requirements?

*Mr. Dunlap. Well, under State and Federal law, we do allow people to mail in their voter registrations. They do have to include a photocopy of their ID, as well as copies of those official documents I mentioned earlier; and they have to provide us with either the last four digits of their Social Security number or their driver's license as part of that mail-in registration.

*Mrs. Watson Coleman. So, to your knowledge, has there been a significant reporting of individuals not understanding this, these requirements?

*Mr. Dunlap. I have not gotten any reports of people not understanding the requirements. The work that is done, especially under the National Voter Registration Act, in our motor vehicle offices around the State of Maine, that work does include ascertaining, as I mentioned, citizenship and explaining the meaning of the documentation to those that are applying. And when people do mail in their voter registration forms, if they are incomplete, they are rejected and referred back to the registrars of voters, who then follow up with the voter to make sure the documentation is complete.

*Mrs. Watson Coleman. So when third parties go out and do voter registration, how are you sure that they are getting people who are eligible to register to vote to actually register? Are they asked to accompany those forms with the information that you would ask of an individual?

*Mr. Dunlap. We handle those one card at a time., so each one is treated separately and each one is examined for every field to make sure the fields are complete and that the documentation that is required is in fact provided.

*Mrs. Watson Coleman. Do you think that the laws on the books as of right now are really adequate to ensure that there is an understanding and a compliance for voting?

*Mr. Dunlap. I do. I do. And we have had, as I say, a number of hotly contested recounts over this last election cycle, and as those recounts were concluded and as the election itself was certified and tabulated, I have had no question about the integrity of our election systems in the State of Maine.

*Mrs. Watson Coleman. Has there been anything identified in the presidential executive actions that are loosely related to this issue, if at all, and I certainly don't think that they are, that somehow enhances the opportunity of voter fraud by non-citizens?

*Mr. Dunlap. It has not impacted our ability to enforce Maine election law.

*Mrs. Watson Coleman. Does your office have a sense that our participation of eligible voters voting or not voting has become sort of diminished in our elections and that we should be doing something to encourage those who can vote to vote?

*Mr. Dunlap. Not in the State of Maine. This last election cycle, I am proud to say that Maine led the Nation in turnout, with 60.9 percent of voter-age eligible voters utilizing the processes that we provide them.

*Mrs. Watson Coleman. Well, I certainly wish we could take that as a standard and try to apply it and exceed it.

I certainly think that what we have been experiencing these last elections would suggest very strongly that we need to be concentrating on efforts to get eligible people to vote, and that the few instances and the expectations or the projections of a possibility of a problem does not necessitate the kinds of resources and application of time, resource, or money that we are devoting to this today. Thank you very much.

Thank you, Mr. Chairman.

*Mr. DeSantis. The gentlelady's time has expired.

The chair now recognizes the gentleman from North Carolina, Mr. Walker, for five minutes.

*Mr. Walker. Thank you, Mr. Chairman. I would like to commend you guys for the duration here and hanging in there. But I think even more I am impressed with these young ladies who have sit on this front row the entire time. I don't know who their parents are, but maybe we need to have you back on a committee on parenting or something. So, yes, excellent job there. Well behaved.

I want to start off by addressing something absolutely crucial to the understanding and the purpose of this hearing. I have heard a few comments today saying this is frivolous, why are we here, but let's be clear. The exact purpose that we are here today, and that is because of President Obama's executive overreach. Whatever the President could not pass through Congress in his first six years is now getting force-fed to all Americans. He has created chaos at the Federal, National, and at the State level by expanding the executive powers at whim. That is one of the reasons that you guys are here today.

Strong statement, but I believe his disrespect of the presidency, that is, the President, the legislative process, and the States as independent sovereign bodies. Most of all, he has cheated Americans out of their constitutional prerogative to be heard by their elected representatives.

I do have a question. It seems like today that we have tried to make a case in some instances that only a little bit of illegal activity is okay. I don't understand that, so my question is what percentage of voter fraud is okay. I know that is rhetorical, but I would love to hear just a quick response on how you feel about that for the record.

*Mr. Husted. Mr. Walker, no amount of voter fraud is okay, particularly for a Secretary of State who is in charge of overseeing elections. And I have heard the topic come up about voter turnout. I think voter turnouts improve when people believe that their elections are run with integrity. And this is part of helping to build confidence in the entire system of elections, and that is, in part, along with the legal responsibilities I have, as to why I am here today.

*Mr. Walker. Well, thanks for taking pride in that, Mr. Husted.

Mr. Kobach?

*Mr. Kobach. I agree with Secretary Husted. Absolutely no voter fraud is okay. And even if the instances are relatively small in a particular election, like we saw in the 2010 election in North Kansas City, Missouri, it can steal an election. There are so many close elections. So it is a red herring to keep reciting a very small percentage. If we didn't have that close elections in America, then that would be a legitimate argument. But we do.

*Mr. Walker. Thank you.

*Mr. von Spakovsky. Congressman, the whole reason the U.S. Supreme Court upheld the voter ID as constitutional in 2008 was because it said not only does this Country have a history of voter fraud, but could make the difference in close elections. It is a completely invalid comparison to take the number of prosecutions in cases and compare it to, for example, the total

number of votes cast in a particular State because of that very issue, it can make a difference in close elections.

I keep going back to Fairfax County, the 117 individuals we found who were not U.S. citizens who had voted in past elections. Virginia has millions of registered voters. Yet, in the fast few years we have had attorney generals in other cases decided by less than 500 votes in one case, less than 1,000 votes in another case. And that was only one county where we found over 100 non-citizens who had voted in prior elections.

The key thing is any kind of fraud like that cheats American citizens from the value of their vote.

*Mr. Walker. Thank you.

Mr. Dunlap?

*Mr. Dunlap. No violation of law can be excused or dismissed. In the context of this discussion here today about the impact of the President's executive order and our ability to conduct free, fair, and transparent elections, and some of the solutions that have been offered, I am a little bit bewildered by it all simply because, as I have stated repeatedly here today, the executive order has not impacted my ability to enforce Maine election law or Maine motor vehicle law.

I would point out that I flew here in a plane; I did not build an airport and start an airline. So the real solution to the problems that are perceived here is immigration reform, not trying to build new databases and find ways to screen out ineligible voters.

*Mr. Walker. Thank you, Mr. Dunlap.

One last question. I have about 45 seconds left, so just a quick answer. What percentage of voter fraud goes undetected? Is there any way to have a number on that? How would we know that?

*Mr. Dunlap. I can say with great assertion that our 503 municipal clerks and registrars do an extraordinary job making sure that this system is executed to its fullest and that every T is crossed and I is dotted.

*Mr. von Spakovsky. And I have to say that, as the 7th Circuit pointed out when it upheld Indiana's voter ID law, you can't detect that kind of fraud when you don't have the tools in place to detect it.

*Mr. Walker. Thank you. That is my point.

Yes, go ahead, Mr. Kobach.

*Mr. Kobach. Prior to our adoption of laws with proof of citizenship and photo ID, the vast majority of voter fraud went undetected. And one other point. The numbers we have given you, 291 cases in Ohio, I mentioned in my testimony approximately 200 cases in Arizona, 20 cases in Kansas over a three-year period; those are just driver's license database

checks. That is only the small subset of aliens who happened to have applied for a driver's license. The rest of the alien population you cannot detect on the voter roll using that method.

*Mr. Walker. So the point being this: the numbers that we have heard thrown out, .02 percent here, really is a number that shouldn't even be taken into consideration because of what we can't detect that is voter fraud.

Mr. Husted, I will let you close, then I will yield back.

*Mr. Husted. I would just reiterate that I can't answer the question without access to the last four digits of the Social Security number, the name, and the date of birth, because there is no way for us to make that determination without access to that information.

*Mr. DeSantis. The gentleman's time has expired.

The chair now recognizes the gentleman from Tennessee, Mr. Duncan, for five minutes.

*Mr. Duncan. Well, thank you, Mr. Chairman.

I had other meetings, and I apologize if I get into something that you have already covered, but I read in our briefing paper that it says non-citizen voting is a criminal offense under 18 U.S. Code Section 611, and a removable offense in INA Section 212, various subsets. But then it is very seldom prosecuted, seemingly, because there are not high-profile people involved in it, and too many prosecutors don't seem to want to prosecute things unless they are going to get some good publicity about it.

Our briefing paper also says the California Secretary of State reported in 1998 that 2,000 to 3,000 of the individuals summoned for jury duty in Orange County each month claimed an exemption from jury service because they were not U.S. citizens. But these individuals were summoned from the voter registration list. It seems that if that kind of thing is happening in that one county, this is a much bigger problem than perhaps some people have said here today.

Mr. von Spakovsky, I know you wrote a book about this, I think, at one point. Now, in one of our briefing things it says that voter fraud could be dramatically reduced if Federal, State, and local governments simply share the information they already obtain regarding citizenship status. Do you agree with that? And what would be the number one thing that you think we could do that is not being done now, or should be done that is not being done now?

*Mr. von Spakovsky. Require DHS to put in an easily checked system that allows the Secretaries of State, such as the gentlemen here today, to run data comparisons between their State voter registration lists and DHS records, similar to what,

frankly, the State of Kansas is already now doing with a number of other States, where they are doing data comparisons to find people who have registered in multiple States.

*Mr. Duncan. Well, it just seems a shame to me that this is a violation of Federal criminal law, and a lot of people just slough it off as if it is really not anything too bad, so we are not going to do anything about it.

Thank you very much, Mr. Chairman.

*Mr. DeSantis. The gentleman yields back.

We are happy to welcome Mr. Castro from Texas, who is not on the committee, but asked to be waived on, and I will now recognize you for five minutes.

*Mr. Castro. Thank you, Chairman DeSantis, and thank you for the courtesy of allowing me to be here. This is an issue that I take great interest in. I served in the Texas legislature when the legislature passed the Texas voter ID law. It was around the same time that redistricting plan was passed in Texas, which a Federal court found intentionally discriminated against minorities in Texas, African-Americans and Hispanics. So I apologize, like all of us who have been running around, I may have a few questions over which you have already tread.

But let me ask each of you very quickly what was the participation rate in each of your States for the 2014 mid-term elections? Just a number real quick, or ballpark.

*Mr. Husted. Thirty-nine percent.

*Mr. Kobach. Our participation rate was 51 percent. And I would note that that increased from 50 percent in our previous non-presidential election --

*Mr. Castro. Okay. No, no, that is fine.

*Mr. Kobach. And we put photo ID in place is my point. And the number went up.

*Mr. Castro. Sure. I don't mean to make an argument of it; I just need a number.

*Mr. Kobach. Just thought you might want to know.

*Mr. Castro. Fifty-one percent?

Sir, what was yours?

*Mr. Dunlap. It was 60.9 percent of voter age eligible.

*Mr. Castro. Okay, so somewhere between 39 and 60? And which of your States has voter ID laws in effect now?

*Mr. Kobach. In Kansas we have photo ID and proof of citizenship.

*Mr. Castro. Okay.

*Mr. Husted. In Ohio we use the Federal standard.

*Mr. Castro. So did you pass a State voter ID law or not?

*Mr. Husted. We have an ID law, but not a strict photo ID law, so you could use bank statements and another type of

document.

*Mr. Castro. Certainly, Mr. Dunlap, would you agree that when there is photo ID passed or voter ID passed there are some legitimate voters who are not going to be able to vote because they don't have the ID with them?

*Mr. Dunlap. That is precisely why the Maine legislature rejected that very piece of legislation and why the study committee said that it would be a disenfranchising force. We do require photo ID to register to vote, but not to access an actual ballot at the polls.

*Mr. Castro. And do you know of any estimates about the percentage of people that might be denied their legitimate right to vote because of these laws?

*Mr. Dunlap. It would probably be fairly significant. It could run 5 to 10 percent.

*Mr. Castro. Okay. So let me ask any of you this: Do you think that the argument here is that the President's executive action may cause undocumented folks to vote? Do you think these folks are more patriotic than, in Kansas, 61 percent of your Kansans? I guess what I mean to say is you really think that these folks are so patriotic and so wanting to go vote that they want so much to go vote more than 61 percent of the Kansans who didn't want to go vote?

*Mr. Kobach. Let me tell you a story about a specific individual.

*Mr. Castro. No, please answer my question. If you are going to, yes or no?

*Mr. Kobach. It is directly in answer to your question. These individuals may vote for some of the same reasons that you are suggesting. A woman in Wichita, an alien, voted --

*Mr. Castro. Do you think -- I need to reclaim my time.

*Mr. Kobach. She voted multiple times. She was a green card holder with an application for U.S. citizenship --

*Mr. Castro. Mr. Chairman, I asked a direct question for which the witness won't give me a direct answer.

*Mr. Kobach. I am trying to answer your question. The answer is she wanted her U.S. citizenship application and she said, when asked, she voted as a green card holder because she thought it would increase the chances of her becoming and accepted as a U.S. citizenship. So it was an error.

*Mr. Castro. But, Mr. Kobach, you believe that --

*Mr. Kobach. So many are motivated to vote.

*Mr. Castro. -- there are so many undocumented folks there who just want to vote so much in Kansas that this is going to be a problem?

*Mr. Kobach. Some, like her, are in error, and they think voting will help them. Others are manipulated, like those in

Seward County, Kansas, in my written testimony, but evidently you haven't looked at it.

*Mr. Castro. Okay, so you feel there are so more patriotic than 61 percent of your Kansas out there, that they are just dying to go vote. Okay.

Mr. Kobach. I doubt that the participation rate would exceed 61 percent.

*Mr. Castro. Now, let me ask you this.

Mr. Dunlap, do you think that there are more people who are going to be legitimately disenfranchised, Americans, legitimate voters who have the right to vote, disenfranchised by laws passed in Kansas and other places, or are there going to be more undocumented folks who actually turn out and vote? Which number do you think would be higher?

*Mr. Dunlap. Those denied access to the process, sir.

*Mr. Castro. Yet, these were laws that were very graciously passed in places like Kansas and Tennessee, which the Government Accounting Office has said cost the vote for a lot of people. I know you have disputed that report, but the GAO has said that it was solid and credible.

*Mr. Kobach. The GAO report was before the 2014 election. We now have empirical evidence that the voter participation went up after we put photo ID in.

*Mr. Castro. So you think that putting roadblocks in front of people is okay, right, even though legitimate voters, everybody agrees that are going to be some legitimate voters who aren't going to be able to vote. Even you agree with that, right?

*Mr. Kobach. No, I don't agree with that.

*Mr. Castro. Not a single legitimate voter is going --

*Mr. Kobach. Not a single one. We have been unable to find a single person --

*Mr. Castro. Wow. That is a remarkable answer, that you won't even admit a single person is not going to be able to vote.

*Mr. Kobach. Every person can get a free non-photo ID --

*Mr. Castro. So there are going to be more legitimate people, right, who can vote, there are going to be more legitimate people that can vote because of the laws that you all passed versus these undocumented folks that you are worried about today.

*Mr. Kobach. Not a single U.S. citizen or other legitimate voter, I assume you are talking about someone who didn't bring their driver's license with them.

*Mr. Castro. No.

*Mr. Kobach. Not a single legitimate voter has been denied the right to vote in Kansas, and we have many cases --

*Mr. Castro. Mr. Kobach, you are being unreasonable.

*Mr. DeSantis. The gentleman's time has expired.

*Mr. Castro. Thank you, Chairman.

*Mr. Jordan. Mr. Chairman, could I just do one quick question for Mr. Kobach?

*Mr. DeSantis. The chair recognizes the gentleman.

*Mr. Jordan. I just want to be clear. It was tough for us to hear exactly what you said. So in the 2010 non-presidential election you had a percentage of Kansas that showed up and voted. Between 2010 and 2014 you implemented a photo ID requirement. And if I heard you, I think you said in 2014 the percent of Kansas who showed up to vote went up, is that accurate?

*Mr. Kobach. That is accurate. The percentage went up and the raw number of voters who voted in 2014 set an all-time State record, and that, again, was after we implemented a photo ID requirement.

*Mr. Jordan. I yield back, Mr. Chairman.

*Mr. DeSantis. The ranking member, the chair recognizes.

*Mr. Lynch. Thank you, Mr. Chairman. I have a report here entitled, Truth in Immigration: The Myth of Widespread Non-Citizen Voting, by the Maldef Legal Defense and Education Fund, that I would ask to have submitted to the record.

*Mr. DeSantis. Without objection, it will be so entered.

[The information follows:]

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

*Mr. DeSantis. Well, let me thank the witnesses for your time and providing your input. I think part of the issue that we are seeing emanating from what the President did is we are really in unchartered law. I mean, this is kind of a law-free zone. The work permits that are issued are not contemplated by the statute; the different benefits have never been passed by Congress. So this is going to trickle down to how that new status that has been created by executive fiat is going to interact with State laws, and I think it is going to be confusing and I think that the President was wrong to do what he did, and I don't think that that is how the system is supposed to operate.

But I do appreciate all of you for coming here today.

This hearing is now adjourned.

[Whereupon, at 4:28 p.m., the subcommittee was adjourned.]