

Opening Statement
Rep. Stephen F. Lynch, Ranking Member

Subcommittee on National Security
Committee on Oversight and Government Reform

Joint Hearing on “A Review of the Department of Homeland Security’s Policies and Procedures for the Apprehension, Detention, and Release of Non-Citizens Unlawfully Present in the United States”

February 25, 2015

Thank you, Mr. Chairman and thank you to all of our witnesses for being here today.

Let me begin by expressing our sincerest condolences to the families of Jamiel (jah-MEEL) Shaw, II and Grant Ronnebeck (RON-eh-beck) for the loss of their loved ones. Jamiel’s father, Mr. Jamiel Shaw, Sr., and Grant’s uncle, Mr. Mike Ronnebeck, are here with us today and I’d like to thank both of you for helping this Committee with its work as we examine the Department of Homeland Security’s revised immigration enforcement policies and procedures.

Importantly, the Department-wide memo issued by DHS Secretary Jeh (JAY) Johnson in November of 2014 provides enhanced guidance for those federal agencies responsible for carrying out immigration enforcement and removal activities. By specifying and prioritizing threats to our national security, public safety, and border security – including persons convicted of criminal street gang activity and other felonies - the Department is seeking to better ensure that its limited resources are dedicated to addressing our most serious law enforcement cases for the benefit and safety of the American people.

I understand that there are many, inside and outside government, who continue to raise concerns over the effectiveness of the Department of Homeland Security’s enforcement efforts. In fact, the underlying premise of today’s hearing appears to be that the Department of Homeland Security, including U.S. Immigrations and Customs Enforcement (ICE), is not enforcing our immigration laws at all. I do not believe that is the case. The Department of Homeland Security has detained and removed more people since 2008 than during any other period in its history. According to the Migration Policy Institute, approximately 1.95 million people were removed between 2008 and 2013, which is about the same number removed during the entire 8 years of the Bush administration. In addition, the Administration continues to focus resources on targeting immigrants who are criminals, threats to national security, and public safety risks. Eighty-five percent of Immigration and Customs Enforcement’s (ICE) removals from the United States in FY 2014 were convicted criminals. So while I have my own questions and concerns regarding our enforcement policies, I cannot agree that the laws are not being enforced. The facts show that they are.

I think it is important that we also understand that current law requires detainees who have served their time be released. Based on what I have read, it appears that most of the detainees released by the Department in fiscal year 2013 were released as required by the 2001 Supreme Court decision in *Zadvydas (ZOD-vee-dass) v. Davis* or other mandatory laws. Notably, the Zadvydas Court found that the indefinite detention of a non-citizen who has been ordered removed, but whose removal is not likely to occur in the reasonably foreseeable future, raises serious constitutional due process concerns. The Department also released some detainees “either due to eligibility for bond (pursuant to section 236 of the Immigration and Nationality Act) or for reasons such as deteriorated health or advanced age.”

In light of these legal and constitutional issues, I would very much welcome the opportunity to hear from DHS today. However, it is my understanding that the Department was invited to testify only 3 days ago – which I do not believe constitutes adequate notice for a congressional hearing. I must also mention that DHS has indicated its willingness to work with our Committee and testify on this topic in early March.

Moreover, we should remember that the Department of Homeland Security is currently less than two days away from a full agency shutdown. While I strongly believe that Congress must serve an important role in debating and shaping our nation’s immigration policy, we should not be holding our homeland security funding hostage. We should not be threatening to furlough approximately 30,000 Department of Homeland Security employees. And we should not be risking much-needed funding for the very law enforcement efforts that we are seeking to secure. This is especially true at a time when the Department and its more than 240,000 dedicated employees continue to remain on high alert amidst the threat of international terrorism, increasing cyberattacks on our nation’s governmental and private institutions, and natural disasters and emergencies.

Mr. Chairman, I look forward to hearing from our witnesses today and to hearing from the Department in the near future as we review our national immigration enforcement policies. I also look forward to working with you in a bipartisan manner as we examine key policy issues relating to our national security. Thank you, Mr. Chairman.