

**Statement of Jeh Charles Johnson
Before the Senate Committee on Homeland Security
and Governmental Affairs
New York City
September 9, 2019**

Chairman Johnson, Ranking Member Peters and members of the Committee:

Welcome to New York City, my hometown.

Accompanied by my predecessors Mike Chertoff and Janet Napolitano, I welcome the opportunity to testify at this field hearing in lower Manhattan, in conjunction with the 18th anniversary of the 9/11 terrorist attacks. Senators Johnson and Carper will recall that on the 14th anniversary of 9/11, they accompanied me to the annual observance in Shanksville, Pennsylvania.

Like millions of others, 9/11 is painful and significant to me. I am a New Yorker, I was in New York City on 9/11, and I personally witnessed the collapse of the two towers. 9/11 also happens to be my birthday. Out of that day 18 years ago came my personal commitment to national security. In the years that followed I served as General Counsel of the Department of Defense (2009-2012) and Secretary of Homeland Security (2013-2017). Three years ago, on the 15th anniversary of 9/11, I presided at the ceremony to welcome the federal government back to One World Trade Center. My DHS office in New York City sat on the 50th floor of that building.

Any assessment of today's homeland security must include an assessment of today's *Department* of Homeland Security.

I confess that I view today's DHS with despair and dismay. The Department appears to be under constant siege, in constant crisis, suffering from management upheaval and leadership vacancies, and crippled, attacked and constantly sued for the abrupt launch of ill-conceived, controversial immigration policies. More so than ever before, DHS is now villainized and politically radioactive. There are public calls for a boycott of private businesses that contract with DHS, while certain elected officials call for the outright elimination of certain components of DHS, if not DHS in its entirety.

In the current environment, it is easy to forget that DHS is responsible for the vital missions of protecting the American people and their homeland from the land, sea, and air and in cyberspace. The Coast Guard performs vital maritime safety, national security, law enforcement, and counterdrug functions. The Secret

Service protects the President and others. TSA provides aviation security to over two million people per day. FEMA is the Nation's disaster response agency. The NCCIC is the U.S. government's primary information exchange hub for the nation's cybersecurity. These are matters in which politics should play little role, and around which there should be bipartisan consensus and support. Yet the Department and its leadership appear to be overwhelmed by the politically contentious and emotional immigration mission and the crises that have existed on the southern border – to the exclusion, I fear, of all of these other important homeland security missions.

For the Nation's Cabinet-level department charged with protecting the homeland, it shouldn't be this way.

Here, in some key areas, are my assessments of the state of our homeland security in 2019:

Terrorism

The threat of terrorism on our homeland still exists. But the nature of the threat has evolved significantly in the 18 years since 9/11.

Through the good efforts of our military, intelligence, and law enforcement communities, the threat of large-scale terrorist-*directed* attacks on our homeland launched from abroad, by either Al Qaeda or ISIS, has been seriously degraded. Including during my time at the Department of Defense in President Obama's first term, we took the fight to the enemy overseas, and many of Al Qaeda's leaders are now captured or dead. During President Obama's second term and continuing into the Trump Administration, our military, aligned with an international coalition, has beat back the size and strength of much of ISIS's self-proclaimed caliphate in Iraq and Syria. But ISIS is far from defeated, as recent and alarming reports indicate a resurgence by that group.¹ The attack that killed 63 at a wedding in Afghanistan last month is a stark reminder of that fact.²

Meanwhile, we now also live with the threat of smaller scale terrorist-*inspired* attacks across the homeland. These style of attacks most often involve a lone actor inspired by something he sees or reads on the internet. These have

¹ Dep't of Def., Operation Inherent Resolve: Lead Inspector General Report to the United States Congress (August 9, 2019), available at https://media.defense.gov/2019/Aug/09/2002169448/-1/-/1/Q3FY2019_LEADIG_OIR_REPORT.PDF.

² Mujib Mashal, Fatima Faizi and Fahim Abed, *One Minute It Was an Afghan Wedding. The Next, a Funeral for 63*, N.Y. Times (Aug. 18, 2019), <https://www.nytimes.com/2019/08/18/world/asia/kabul-wedding-bomb-isis.html>.

ranged from attacks on the Boston Marathon (2013)³ to ISIS-inspired attacks in San Bernardino (2015),⁴ Chattanooga (2015)⁵ and Orlando (2016).⁶ More recently, there has been a surge in violent attacks inspired by right-wing extremism/white nationalism. In fact, violence in this country inspired by right-wing extremism now outpaces violence inspired by ISIS and/or Al Qaeda.⁷

DHS's original counterterrorism model from 2002 is now outdated. DHS was created to be the Cabinet-level department of government that would regulate all the various different ways someone or something enters our country – on the land borders, at the ports of entry, from the sea and in the air – on the 2002-era assumption that counterterrorism was a matter of regulating our borders. Particularly with the advent of the internet, we must now also be on guard for terrorist threats that originate *within* our borders.

In the current environment, I believe DHS and others at the federal level must rededicate themselves to the following:

First, through JTTFs, fusion centers and the like, DHS should continue efforts to partner with the FBI and other federal, state, and local law enforcement agencies to detect, investigate, prosecute, and prevent domestic-based terrorist threats before they mature.

Second, DHS must continue grants to state and local homeland security efforts. The risk factors on which DHS bases its awards must be continually re-evaluated to meet the evolving threat environment, free of parochial political influences. This includes continued support for active-shooter training exercises by local law enforcement and private security operations.

³ Masha Gessen, *At the Boston Marathon bombing trial, harrowing testimony and detail about the explosive devices*, Washington Post (March 26, 2015), available at <https://www.washingtonpost.com/news/post-nation/wp/2015/03/26/at-the-boston-marathon-bombing-trial-harrowing-testimony-and-detail-about-the-explosive-devices/>; Richard Valdmanis, *Boston bomb suspect influenced by Al Qaeda: expert witness*, Reuters (Mar. 23, 2015), <https://www.reuters.com/article/us-boston-bombings-trial/boston-bomb-suspect-influenced-by-al-qaeda-expert-witness-idUSKBN0MJ0Z620150323>.

⁴ *Everything we know about the San Bernardino terror attack investigation so far*, L.A. Times (DEC. 14, 2015), available at <https://www.latimes.com/local/california/la-me-san-bernardino-shooting-terror-investigation-htmlstory.html>.

⁵ Devlin Barrett and Arian Campo-Flores, *Investigators See Radicalization in Chattanooga Shooter*, Wall St. J. (July 21, 2015), available at <https://www.wsj.com/articles/investigators-see-radicalization-in-chattanooga-gunman-1437510290>.

⁶ White House Archives, *Remarks by the President After Counter-ISIL Meeting* (June 14, 2016), available at <https://obamawhitehouse.archives.gov/the-press-office/2016/06/14/remarks-president-after-counter-isil-meeting>; Ed Pilkington and Dan Roberts, *FBI and Obama confirm Omar Mateen was radicalized on the internet*, Guardian (June 14, 2016), available at <https://www.theguardian.com/us-news/2016/jun/13/pulse-nightclub-attack-shooter-radicalized-internet-orlando>.

⁷ *Murder and Extremism in the United States in 2018* at 16, American Defamation League (Jan. 2019), available at <https://www.adl.org/media/12480/download>.

Third, DHS should continue efforts to promote public awareness and vigilance, and continue to partner with public and private “If You See Something Say Something”™ campaigns. In a free society, law enforcement cannot be everywhere to detect trouble; evidence shows that public awareness and vigilance do make a difference.

Fourth, DHS should rededicate itself to efforts at countering domestic-based violent extremism at the national level, and through support for state and local efforts. This must include grants to viable local community programs dedicated to countering violent extremism, including right-wing extremism.

Fifth, meaningful homeland security in this country *must* include additional gun safety laws and regulations consistent with the Second Amendment. Given the persistent plague of mass shootings in America, we must accept that tighter gun safety restrictions are indispensable to our homeland security. The proposals to further restrict the ability of those who are dangerous and deranged to obtain a gun are well developed, and I need not recount them here. Our continued failure to address these measures is inexcusable in my view.

Finally, our leaders can also contribute to public safety simply by restoring civility to the current divisive political rhetoric. Like it or not, those who command a large public audience set the tone for all the rest of us, and the public does follow the examples they set. One cannot read the writings left by Paul Hasson (the self-proclaimed white supremacist arrested in February for plotting to kill various political and public figures)⁸ and Paul Crusius (arrested last month for shooting 22 people in El Paso)⁹ and not come away with the impression that these individuals believed in their own deranged mind that an element of our political leadership would condone their violence.

⁸ Motion for Detention Pending Trial, *U.S. v. Hasson* (D. Md. Feb. 19, 2019), available at <https://int.nyt.com/data/documenthelper/625-us-v-hasson/be7a4841596aba86cce4/optimized/full.pdf>; Dave Philipps, *Coast Guard Officer Plotted to Kill Democrats and Journalists, Prosecutors Say*, N.Y. Times (Feb. 20, 2019), available at <https://www.nytimes.com/2019/02/20/us/christopher-hasson-coast-guard.html>; Isaac Stanley-Becker, ‘They hate white males’: A Norwegian mass murderer inspired the Coast Guard officer accused of plotting terror, feds say, Washington Post (February 21, 2019), available at <https://www.washingtonpost.com/nation/2019/02/21/they-hate-white-males-norwegian-mass-murderer-inspired-coast-guard-officer-plotting-terror-feds-say/>.

⁹ Simon Romero, Manny Fernandez and Mariel Padilla, *Massacre at a Crowded Walmart in Texas Leaves 20 Dead*, N.Y. Times (Aug. 3, 2019), available at <https://www.nytimes.com/2019/08/03/us/el-paso-shooting.html?module=inline>; Peter Baker and Michael D. Shear, *El Paso Shooting Suspect’s Manifesto Echoes Trump’s Language*, N.Y. Times (Aug. 4, 2019), available at <https://www.nytimes.com/2019/08/04/us/politics/trump-mass-shootings.html>; Patrick Crusius, *The Inconvenient Truth About Me* (Aug. 4, 2019), available at <https://louisproyect.org/2019/08/04/the-manifesto-of-the-el-paso-white-supremacist-killer/>.

Those who occupy or seek political office, or otherwise command a large audience, have in my view a civic and moral responsibility to elevate the civility of our political discourse and avoid rhetoric that will stoke intolerance, prejudice, and fear. A downward spiral in the civility of our leaders' discourse lowers the bar for all the rest of us, makes the previously intolerable tolerable, and for the deranged few who lurk among us, violence inevitable.

Cybersecurity

Cyber threats to our homeland continue to grow in pace, severity and sophistication. Whether nations-states or cyber criminals (including those who engage in the growing Ransomware industry), bad cyber actors are increasingly aggressive and ingenious, while those on cyber defense struggle to keep up. On my watch we strengthened the role of the NCCIC, established an automated information-sharing capability between the private sector and the NCCIC, and worked with Congress to enact the National Cybersecurity Protection Advancement Act,¹⁰ the Federal Information Security Modernization Act of 2014,¹¹ the Cybersecurity Act of 2015,¹² and other new laws.¹³ I am pleased that in 2018 Congress acted on DHS's long-standing request to create a Cybersecurity and Infrastructure Security Agency within DHS.¹⁴ There is much more to do.

Without a doubt, Russian interference in the 2016 election highlighted a new form of cyber threat. The hacks into the DNC represented not just a cyber theft, but a weaponization of that stolen material for purposes of foreign influence on voter attitudes. The scanning, probing and infiltration of voter registration data highlighted the vulnerability of state election systems. The masked foreign dissemination of fake news and extremist views in the U.S. revealed that our strength as an open society is also our vulnerability.

Following my January 2017 designation of election infrastructure in this country as critical infrastructure, it appears DHS has been working effectively with state election officials to improve their cybersecurity.¹⁵ This is good news.

¹⁰ Pub. L. No. 113-282, 128 Stat. 3066 (2014).

¹¹ Pub. L. No. 113-283, 128 Stat. 3073 (2014).

¹² Pub. L. No. 114-113, 129 Stat. 2935 (2015).

¹³ *See also* the Border Patrol Agent Pay Reform Act of 2014, Pub. L. No. 113-277, 128 Stat. 2995 (which also includes additional authorities for cybersecurity recruitment and retention).

¹⁴ Pub. L. No. 115-278, 132 Stat. 4168 (2018).

¹⁵ Senate Select Comm. on Intel., Report on Russian Active Measures Campaigns and Interference in the 2016 U.S. Election Vol. 1: Russian Efforts Against Election Infrastructure with Additional Views at 4 (July 25, 2019), *available at*

https://www.intelligence.senate.gov/sites/default/files/documents/Report_Volume1.pdf.

Though I am not in a position to endorse specific legislation, I generally support federal legislation to further assist states in their election cybersecurity efforts.¹⁶

Intelligence reports indicate that Russian efforts to influence our democracy continue unabated.¹⁷ There can be no complete line of defense against such activity; it is therefore up to the U.S. government, the current Administration, and the current President to impose costs for cyberattacks by nation-states sufficient to serve as deterrents. All nation-states – whether democracies, monarchies, or communist regimes – respond to sufficient deterrents that render bad behavior cost prohibitive. When it comes to Russian efforts to interfere in our democracy, it appears that our government has yet to impose those appropriate costs. Though Congress and the Trump Administration have imposed considerable sanctions on the Russians, and President Trump’s subordinates sound dire alarms that “our democracy itself is in the crosshairs,”¹⁸ the President himself appears to not take the threat seriously, barely acknowledges it exists, and has yet to communicate directly to President Putin in any serious way that the U.S. will not stand for it any further.

Immigration

Finally, no discussion of DHS is complete without a reference to the immigration mission. Immigration is the most difficult, emotional and contentious issue I have dealt with in public life. In private life I have sought to be a voice of common sense on this issue.

One of the hard lessons I learned managing the problem of illegal immigration for three years is that border security and so-called “consequence delivery” enforcement measures alone will not in the long run deter those desperate to flee the poverty and violence in Central America. Public pronouncements about building a wall, “raids” in the interior, additional detention space, changes in the asylum process, and even the zero-tolerance policy the Trump Administration tried last year will *at best* serve as deterrents in the short term only; so long as the underlying conditions of poverty and violence in Central

¹⁶ See generally The Foreign Influence Reporting in Elections (FIRE) Act, S. 2242, 116th Cong. (2019); The Duty to Report Act, S. 1247, 116th Cong. (2019); The Securing America’s Federal Elections (SAFE) Act, H.R. 2722, 116th Cong. (2019).

¹⁷ Mark Mazzetti, *Mueller Warns of Russian Sabotage and Rejects Trump’s ‘Witch Hunt’ Claims*, N.Y. Times (July 24, 2019), available at <https://www.nytimes.com/2019/07/24/us/politics/trump-mueller-testimony.html>; Julian E. Barnes and Adam Goldman, *F.B.I. Warns of Russian Interference in 2020 Race and Boosts Counterintelligence Operations*, N.Y. Times (Apr. 26, 2019), available at <https://www.nytimes.com/2019/04/26/us/politics/fbi-russian-election-interference.html>.

¹⁸ Secretary Kirstjen M. Nielsen’s National Cybersecurity Summit Keynote Speech, Dep’t of Homeland Sec. (July 31, 2018), available at <https://www.dhs.gov/news/2018/07/31/secretary-kirstjen-m-nielsen-s-national-cybersecurity-summit-keynote-speech>.

America persist, illegal migration on our southern border will inevitably revert to its longer term levels.

The problem of illegal migration from Central America must be addressed at the source. Hardened and experienced border security experts all recognize this. It can be done. In FY 2016, Congress began this effort with an appropriation for aid to Guatemala, Honduras and El Salvador of \$750 million.¹⁹ This was a modest start, but since 2016 the levels of funding have decreased, not increased. Earlier this year President Trump suspended it altogether,²⁰ which is the exact wrong thing to do if illegal migration on our southern border is going to be addressed.

Though politically difficult, there are common sense answers to fixing our broken immigration system. But real solutions require Congress, and congressional action requires compromise between Republicans and Democrats. Comprehensive immigration reform has traditionally encompassed two poles: that we treat those who are here (including, specifically, the Dreamers) in a fair and humane way, and that we secure our borders. This mirrors American public sentiment, yet this consensus is drowned out in the current very loud political debate.

Thank you again for convening this field hearing. I look forward to your questions.

¹⁹ Pub. L No. 114-113, 129 Stat. 2796 (2016).

²⁰ *Donald Trump cuts off aid to Central America*, Economist (Apr. 4, 2019), available at <https://www.economist.com/the-americas/2019/04/04/donald-trump-cuts-off-aid-to-central-america>; Vivian Salama and Juan Montes, *Trump Wants to Punish Guatemala Over Failed 'Safe Third Country' Deal*, Wall St. J. (July 23, 2019), available at <https://www.wsj.com/articles/trump-says-he-will-punish-guatemala-for-not-reaching-safe-third-country-agreement-11563887818>; Lesley Wroughton and Patricia Zengerle, *As promised, Trump slashes aid to Central America over migrant*, Reuters (June 17, 2019), available at <https://www.reuters.com/article/us-usa-immigration-trump/as-promised-trump-slashes-aid-to-central-america-over-migrants-idUSKCN1TI2C7>;