

finally have a serious discussion here on the floor of the House and the Senate about gun violence reform, then so be it.

This is an average summer weekend in New York, with a little girl getting paralyzed and shootings throughout Saturday and Sunday night. People are getting shot in the middle of broad daylight on a Sunday afternoon. We can do something about it. We don't have the power to eliminate gun violence, we can't make bad people stop doing bad things, but we can pass commonsense laws such as background checks to check if criminals are getting guns or people with serious, dangerous mental illness. We can increase the resources of social workers and psychologists to try to reach some of these kids to try to teach them other ways of dealing with their anger than going in and reaching for a gun. We can lock up anybody who takes a bunch of guns from a gun show, throws them into a sack and sells them to criminals on the streets of New York, Bridgeport, Los Angeles, or Chicago.

We are not helpless. We have power in this place to do something about the mass shootings in Newtown, the mass shootings in Santa Monica, and the 5,033 people who have died across this country since December 14, in the 6 months since. It is not too late. We have a chance to come back to this floor after immigration, perhaps after the summer, let cooler heads prevail and allow this body to do something about the scourge of gun violence that so far this place has had no answer for. It causes the families of Newtown and the families of these victims to leave this place shaking their heads.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. SESSIONS. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### IMMIGRATION REFORM

Mr. SESSIONS. Mr. President, I earlier reported on some points in speeches I had made about some of the promises from the Gang of 8 concerning the legislation they have offered and why they are not fulfilled in their bill; for example, the triggers, and the merit-based movement they claim is significant in their legislation. I believe both of those are inaccurate.

Today I wanted to point out how government officials are refusing to enforce our current law and the unease that causes all of us. This bill does not fix that problem but gives even more power and discretion to the political appointees to waive, moderate, and get around the enforcement requirements of this new bill. These are the requirements of enforcement that our bill's sponsors say are important and must happen, but the bill does not require it to happen in many different places.

The story I will be telling is effective to explain why, despite the pleas from the American people for 30 years, lawlessness continues to rise in the immigration area and why we now have 11 million people here illegally.

Senator DURBIN earlier made a reference to the DREAM Act that he has worked hard on. It does present, for the most part, some of the most sympathetic claims for some sort of legalization in the country. The reason Congress rejected his legislation is because it overreached, in my opinion, which is not necessarily to say that it would have passed had it been more narrowly drafted.

It did not pass, but the President of the United States did it anyway. The President of the United States just did it anyway. He issued a directive to Federal law enforcement officers: Don't enforce this law, this law, and this law. Instead, do it as we tell you to.

That comes from the President to the Secretary of Homeland Security, to John Morton, and all the supervisors down to the officers.

Officers are up in arms about this. The ICE officers who enforce these laws have voted no confidence in Mr. John Morton. Today Mr. Morton announced his resignation after quite a long time being the center of this controversy. ICE officers said they had no confidence in him. He basically spent his time promoting amnesty, meeting with special-interest groups, not helping them do their job, and directing them not to do what the law plainly required them to do. It put them in an untenable position of having to follow their boss's political direction and violate their oath to follow the law.

Indeed, and amazingly, the law enforcement officers filed a lawsuit against Secretary Napolitano and Mr. Morton. They are claiming they are being forced to violate the law.

The judge has allowed this case to go forward, and it is being reviewed. It is in court right now. I never heard, as a federal prosecutor of nearly 15 years, of such a thing where the officers are suing their supervisors who won't let them follow plain law. This is the problem we are dealing with.

Over a year ago, as Senator DURBIN mentioned earlier, the Obama administration implemented a backdoor amnesty for an estimated 1.7 million, a Pew estimate, illegal immigrants through a program called the Deferred Action for Childhood Arrivals, the DACA Program. It covers aliens who entered the country illegally when they were under the age of 16 and not older than 31 as of June 15, 2012.

Congress dealt with legislation to that effect and rejected it. It did not pass it. According to the published Department of Homeland Security guidelines, each DACA applicant is required to submit biographic and biometric information along with other information to prove they are eligible for the program.

The U.S. Citizenship and Immigration Services, USCIS, is to process the applications. In a little under a year, USCIS has approved an astonishing 291,859 applicants. On May 20, Kevin Palinkas, president of the National Citizenship and Immigration Service Council, the union representing the 12,000 USCIS adjudication officers who were supposed to adjudicate these matters, issued a press release reporting "a 99.5 percent approval rating for all illegal alien applications for legal status filed under the Obama administration's new deferred action for childhood arrivals, DACA, policies."

He reported a 99.5-percent approval. He attributed the exceptionally high approval rate to policies implemented by the Department of Homeland Security leadership that essentially made it impossible to make any real effort to eliminate fraud or identify dangerous criminal aliens.

He goes on to say:

DHS and USCIS leadership have intentionally established an application process for DACA applicants that bypasses traditional in-person investigatory interviews with trained USCIS adjudications officers. These practices were put in place to stop proper screening and enforcement.

He is saying the new policies that eliminate the interviews "were put in place to stop proper screening and enforcement, and guarantee that applications will be rubber-stamped for approval, a practice that virtually guarantees widespread fraud and places public safety at risk."

That is a pretty gutsy thing to say for a person who works in the Department of Homeland Security about his supervisors. I am sure he gave great thought to that.

This press statement goes on to say:

The attitude of USCIS management—These are the political appointees.

is not that the agency serves the American public or the laws of the United States, or public safety and national security, but instead that the agency serves illegal aliens and the attorneys which represent them. While we believe in treating all people with respect, we are concerned that this agency tasked with such a vital security mission is too greatly influenced by special interest groups—to the point that it no longer properly performs its mission.

That is a strong statement. It should be something we listen to as we evaluate whether we need to give more discretion to these supervisors when we pass a new bill.

Mr. Palinkas sent a letter to Congress on June 5 of this year, a few weeks ago, reiterating his concerns in light of S. 744.

He wrote and said this bill "would lead to the rubber-stamping of millions of applications for both amnesty and future admissions, putting the public safety and the taxpayer at risk."

He further stated:

In addition to the impossible time constraints imposed on each and every adjudicator to complete our assigned workloads, we are currently lacking the manpower, training, and office space to accomplish our mission and achieve what our jobs demand.

These challenges cry out for reconsideration of S. 744 in its present form.

A few days ago, a report released by Judicial Watch revealed that documents obtained through the Freedom of Information Act confirm all of Mr. Palinkas' concerns. The documents reveal the administration has abandoned official background check procedures in order to keep up with the hundreds of thousands of amnesty applications under the program.

For example, according to a September 17, 2012, e-mail from Associate Regional Director for Operations Gary Garman, field offices could expect the benefits center to conduct just "lean & light" background checks with only random samples of modified cases being sent to the field for verification.

It goes on to say about the inadequacy of the applications submitted for amnesty under the "lean & light" system. St. Paul Field Director Sharon Cooley e-mailed staffers in October of last year with the following observation:

As you are already aware the [applications] will not be as complete and interview ready as we are used to seeing. This is a temporary situation—I just can't tell you when things will revert back to the way things used to be.

That is the kind of situation we are in today. Then, on November 9, 2012, last November, the entire agency was directed to halt all background checks. It is unknown how long USCIS stopped conducting background checks, but apparently they did. They may still be approving applications without background checks.

We must conduct background checks to protect against public safety and national security threats. We can say that we want to move people out of the shadows, but if we don't complete the necessary background checks, those who are criminals or terrorists would be out of the shadows, and hiding in broad daylight with the absolute protection of legal immigration status. We should not transform them from the shadows to legal status without some sort of serious analysis of who they are, as the USCIS adjudicators and ICE officers tell us.

If nobody is checking, nobody is digging into it, then this will become a common thing. They will just submit some false documentation, nobody will look at it, and they are home free. That is not the way we should be doing this. It is the kind of sliding, slipping away from real enforcement that has helped put us in the fix we are in today.

This is troubling because the bill of the Gang of 8 gives Secretary Napolitano the discretion to determine the specifics of the amnesty application process for the entire 11 million people who will be given legal status in the country, including the responsibility or the discretion to determine the specific information required of the applicant; the form of the application, paper or electronic—and electronic ought to be

a big part of it because we can immediately check with the National Crime Information Center on criminal backgrounds. It would be easier whether any applicant is actually going to be interviewed or not.

It also requires the Secretary to collect biometric, biographic, and other data the Secretary deems appropriate for use in conducting "national security and enforcement clearances," which is left undefined.

Knowing the administration is so determined to accelerate these other clearances, we can assume they would not be following strictly any of the law as it would be passed. This is why our law enforcement officers are concerned about the bill. This is what is causing them angst.

If the administration does not currently do even minimum interviews under the DACA Program they are not going to do it in the future when we have 11 million people being cleared. These clearances should include checks against Federal and State law enforcement databases, both biometric and biographic, including the Department of Homeland Security and FBI databases, the consolidated watch list, and "lookout," and the biometric immigration databases. They are there to identify people who may be in violation of the law, have warrants out for their arrest for murder, drug dealing, or robbery, and are on a terrorist watch list. That is why we have these systems.

I offered an amendment during the Judiciary Committee markup that would have mandated those checks as well as allowed for electronic filing of applications so that information could be easily checked against the law enforcement electronic data bases. It would have required in-person interviews where national security or public safety concerns arise, not interviewing everybody—although we really probably should interview everybody. But my amendment just said for those where national security or public safety concerns arise.

Under this legislation, the Secretary doesn't have to interview a single amnesty applicant. But my amendment was rejected. This is a quote from the bill's lead sponsor, Senator SCHUMER, when talking about requiring such safeguards being unacceptable because they would "slow things down dramatically. It will be impossible—it could take a year, 18 months, 2 years before this would be effectuated. We hope that most folks could get in[to] within 6 months."

So I would say this is the plan: We say we have an effective background check system for all those who are going to be applying to be put on a guaranteed path to citizenship. We say to the American people we have a system, while failing to require any of that in any effective way.

Mr. President, I don't know, do we have a time limit on these remarks? I see some of my colleagues here.

The PRESIDING OFFICER. The Senator may proceed for 3 additional minutes.

Mr. SESSIONS. I thank the Chair.

A quick turnaround of applications seems to be far more important to the Gang of 8 than the issue of identifying people who may be a threat to public safety—criminals who may have warrants out for them and who may have been arrested or served time for felonies. We need to know that. They are not supposed to be given status if they have been convicted of a felony.

This is despite what we learned from the 1986 amnesty. The failure to conduct adequate background checks in 1986 and vet for national security threats enabled both criminals and terrorists to be legalized. A 2009 report by the Homeland Security Institute, prepared at the request of the USCIS Ombudsman in anticipation of immigration reform concluded:

The potential volume of new cases generated by immigration reform legislation could overwhelm USCIS capabilities and capacities.

I think that is true. The report also warned:

It is important to recognize that every ineligible illegal immigrant who comes across the border during the preparation and implementation phases of any new legalization program intending to apply for legal status entails yet another possible fraudulent application for a limited number of adjudicators to weed out.

In other words, we are going to have people coming right now—the immigration flow has picked up dramatically—once they hear amnesty is afoot. If we don't have any ability to do the kind of fundamental checking here, everybody will be successful and fraudulent applications will be cleared in large numbers.

The bill does not require the Secretary to interview a single amnesty applicant, including those who might pose a national security risk. Even the 2007 comprehensive immigration reform bill mandated in-person interviews, with terrorism concerns being one of the reasons. The 1986 amnesty required face-to-face interviews, but no routine interviews are being conducted under the President's DACA Program—his amnesty for those who came here as teenagers—and there is no reason to expect there will be anything done in this program either, which is 22 times larger.

Interviews are very important. Not interviewing applicants for admission to the country facilitated the 9/11 hijackers, hundreds of terrorists who have entered the country since the 1990s, and most recently was a contributing factor to the Boston Marathon terrorist attack. The 9/11 Commission concluded that:

There were opportunities to stop both World Trade Center pilots in secondary interviews at the border. That did not happen. We also know that not having a fifth man on the Pennsylvania flight mattered as well. Al-Kahtani's turn-around at Orlando International Airport after an extensive secondary interview meant there were only four

hijackers on the flight headed for either the White House or the Capitol. That plane was overrun by the passengers who knew their plane was headed for disaster, and gave their lives to stop the hijackers. This one secondary interview prompted by two astute border inspectors in Orlando determined how many hijackers the passengers had to fight on Flight 93.

Press reports indicate that Boston bomber Tamarlan Tsarneav was watchlisted, but because of a “downgrade” on the watchlist, he was not placed in a secondary interview when he returned from six months in Russia in 2011. If Tsarneav had been interviewed, and even slightly questioned about where he had been and why, knowing he was already watchlisted, then he could well have been further interviewed by the FBI’s Joint Terrorism Task Force. Because the bill does not require basic checks, the bill will continue to allow terrorists and criminals to exploit weaknesses in our immigration system and use it to gain legal status.

Indeed, the bill specifically permits the Secretary to streamline applications for adjustment of status of those who were recipients of the administration’s DACA initiative. In fact, in the Justice Department’s brief recently filed in *Crane v. Napolitano*, in which ICE agents have sued DHS leadership over policies that they believe require them to violate the law and their oath, the Obama administration made clear that it believes it “inherently” has almost unbridled discretion in the matter of immigration enforcement. It even argued that the federal court has no jurisdiction to review or question DHS’s decisions. The court disagreed.

This bill surrenders to the executive branch’s overreach. In fact, many provisions inexplicably weaken the law with regard to future illegal immigration and we are going to talk more about that as this debate continues. If this bill is going to secure the border and end illegal immigration “once and for all” as its sponsors say it will, these provision that weaken law enforcement must be removed.

The American people rightly expect their government to enforce the laws enacted by Congress and keep its promises. But given this administration’s refusal to enforce the laws currently on the books, the American people have no reason to believe that the loopholes, waivers and discretion granted to the administration will not be used, as they are being used now, to reduce enforcement and public safety.

The PRESIDING OFFICER. The Senator’s time has expired.

Mr. SESSIONS. I thank the Chair.

I yield the floor.

The PRESIDING OFFICER. The Senator from Indiana.

#### NSA SURVEILLANCE PROGRAMS

Mr. COATS. Mr. President, I come to the floor today to discuss recent national security leaks by a former NSA contractor by the name of Edward

Snowden. His name is known now throughout the world. Some have praised Snowden as a hero and a whistleblower. I do not. Anyone who violates their sworn oath to not disclose classified information and then leaks national security documents that compromise our intelligence operations and harm our country’s ability to prevent future terrorist attacks should neither be called a hero nor a whistleblower. What Snowden has done borders on treason, and I believe he should be prosecuted to the fullest extent of the law.

Mr. President, it is no secret we have a serious trust deficit in this country with the Federal Government. I understand the concerns and the fears of my constituents and the American people relative to some of the things that have occurred here that lead them to question their trust in their elected officials or in their government.

There has been a series of scandals over the past several months, including but not limited to the IRS targeting conservative groups, the actions of Attorney General Eric Holder, and the ever-changing responses from this administration regarding the attacks on Americans in Benghazi. We still don’t have the full story, and the narrative keeps bouncing around with change after change after change. So I understand this distrust the American people have about anything that comes out of Washington, DC.

A lot of this is being fueled by mischaracterizations and misrepresentations in the media, grabbing onto whatever is said in the *Guardian*. Of course, the *Guardian* says, and people hear: This is what is happening to your country. This is what is happening with your government. They are violating your civil rights and violating your privacy. But none of us stand for that, nor will we stand for that. But in their rush to be the first to break the news of the NSA or other classified programs, to break it first online or on the air, the media has fueled this distrust of the American people by misrepresenting the facts.

Contrary to what some news reports and other sources have said, let me say this for the record: The government is not and cannot indiscriminately listen in on any Americans’ phone calls. It is not targeting the e-mails of innocent Americans. It is not indiscriminately collecting the content of their conversations. And it is not tracking the location of innocent Americans through cell towers or their cell phones.

There are civil liberties and privacy protections built into this program that are now being released in great detail, and it is important the American people understand those and know what they are. We have to understand this careful balancing act between protecting classified methods and sources to the detriment of losing that information, losing lives, identifying sources, and compromising programs,

and the need to reassure the American people we are following the law and following the constitutional right of Americans to privacy. All of this has to be put in the right context.

As a side note, let me just simply say, Mr. President, that it is ironic that a lot of American private companies seem to have more information about us than the government does. They may have a phone number, but many of the private companies know what we like to eat, where we shop, what we like to wear, what movies we order, where we like to vacation, and we are flooded with marketing attempts to use the information they have collected against us.

But that is not what the NSA is doing under these programs and the programs in question. These programs are in place solely for the purpose of detecting communications between terrorists who are operating outside of our country but communicating with operatives potentially within the United States.

The intelligence community neither has the time nor the inclination nor the authority to track people’s Internet activity or pry into their private lives. Even if someone is suspected, by the way, of a phone call match with a foreign terrorist and someone residing or living in America and suspected of having a link to terrorism, the government can go no further than the court to get an order to investigate any other information or material about them. And let’s not forget why these programs are there in the first place.

Following the tragic attacks on September 11, 2001, America realized it needed to greatly improve our intelligence efforts and communications among our agencies—we were facing a different kind of war. This wasn’t two States lining up against each other. This wasn’t addressing wars from the past. This was a whole new way that enemies were attacking Americans on our homeland. We needed to modernize our approach, and we needed to connect the dots before a terrorist attack occurred again at the level of 9/11 or others.

In fact, had these programs been available to NSA before that September date, I believe we could have identified some or all of the hijackers. When one of the September 11 hijackers called a contact in Yemen from San Diego, we could have identified them through this program. We could have prevented the terrorists from boarding those planes and blowing up the World Trade Center, striking the Pentagon, crashing into a field in Pennsylvania, and killing thousands of Americans.

These programs connect the dots and have successfully thwarted dozens of terrorist attacks. They are some of the most effective tools available to protect our country from terrorist organizations like al-Qaida.

That is why I find it so troubling and, frankly, irresponsible for the media and others to distort the nature of