

# **EXHIBIT 28**

National Security

# White House chief of staff tried to pressure acting DHS secretary to expel thousands of Hondurans, officials say

By **Nick Miroff** November 9, 2017

On Monday, as the Department of Homeland Security prepared to extend the residency permits of tens of thousands of Hondurans living in the United States, White House Chief of Staff John F. Kelly called acting secretary Elaine Duke to pressure her to expel them, according to current and former administration officials.

Duke refused to reverse her decision and was angered by what she felt was a politically driven intrusion by Kelly and Tom Bossert, the White House homeland security adviser, who also called her about the matter, according to officials with knowledge of Monday's events. They spoke on the condition of anonymity to discuss internal deliberations.

"As with many issues, there were a variety of views inside the administration on a policy. The Acting Secretary took those views and advice on the path forward for TPS and made her decision based on the law," DHS spokesman Jonathan Hoffman said in a statement, referring to a form of provisional residency called temporary protected status. He added that it was also "perfectly normal for them to discuss the issue before she had reached a decision."

A White House official confirmed the calls to Duke on Monday but said Kelly's frustration had to do "with Duke's lack of decisiveness."

With the extension of the Hondurans' residency permits, Kelly told her that the TPS decision "keeps getting kicked down the road" and that the additional delay "prevents our wider strategic goal" on immigration, the White House official said.

Duke, who was confirmed by the Senate in April, has informed Kelly that she plans to resign, the officials said. Hoffman said there is "zero factual basis" to the claim that Duke has said she will step down, and he disputed the claim that Kelly called to pressure Duke, insisting she had reached out to him to solicit advice on the TPS decision.

DHS had until the end of the day Monday to announce its plans for some 57,000 Hondurans and 2,500 Nicaraguans who were allowed to remain in the United States under TPS after Hurricane Mitch hit Central America in 1998.

An additional 50,000 Haitians and 200,000 Salvadorans were nervously awaiting the decision, as their residency permits will expire early next year. Trump administration officials have repeatedly cited the TPS program as an example of what they say is U.S. immigration policy gone awry, because a program designed to be temporary should not be used to grant long-term residency in the United States.

Duke had decided to end the TPS designation [for the Nicaraguans](#), giving them until January 2019 to leave the United States or change their immigration status. But Duke felt that she did not have enough information for the much larger group of Hondurans, so she deferred, granting them a six-month extension, administration officials said Monday when they announced the TPS decision.

As DHS officials prepared to make that announcement, Kelly made an urgent call from Japan, where he was traveling with President Trump. He was "irritated," administration officials said, and did not want [his handpicked nominee for DHS secretary, Kirstjen M. Nielsen](#), to face potentially uncomfortable questions about TPS during her confirmation hearing.

"He was persistent, telling her he didn't want to kick the can down the road, and that it could hurt [Nielsen's] nomination," one administration official said.

Duke held her ground, the official said. "She was angry. To get a call like that from Asia, after she'd already made the decision, was a slap in the face."

"They put massive pressure on her," said another former official with knowledge of the call.

Duke wanted to proceed cautiously, because the Central Americans have lived in the United States for two decades or more, and she had been contacted by former U.S. diplomats who implored her to weigh the decision carefully.

Congress created the TPS designation in 1990 to refrain from deporting foreign nationals to nations too unstable to receive them following natural disasters, civil strife or a health crisis. Previous administrations have repeatedly renewed the residency permits every 18 months, and over the years TPS has become a target of immigration hard-liners who say the law has been abused.

Trump wants to overhaul the U.S. immigration system, replacing a model based in part on family reunification with a "merit-based" approach to favor skilled labor.

The White House official said Kelly did not mention Nielsen by name during the calls with Duke but told her that "this shouldn't be a problem for the next secretary to deal with."

The pressure from the White House ended up delaying Monday's announcement, which DHS officials did not make until an 8 p.m. conference call with reporters, just hours before the deadline, as tens of thousands of immigrants and their families remained in suspense.

In public, at least, the White House has deferred questions about TPS, calling the decision a prerogative of Homeland Security officials, in consultation with the State Department.

Last week, Secretary of State Rex Tillerson [sent a letter](#) to Duke essentially giving DHS a green light to send the Nicaraguans and Hondurans back, telling her that conditions in Central America had improved.

White House officials said Kelly acknowledged during the call that the decision was Duke's to make. But she felt the pressure amounted to a direct intervention in the process, administration officials said.

Sen. Chris Van Hollen (D-Md.) said the White House had given assurances that it would not interfere in the TPS decision-making process. "They told us one thing and turned around and did something completely different," Van Hollen said in an interview. "I'm glad the acting secretary stuck to her professional opinion."

Maryland has 22,000 TPS recipients, he said.

Duke, a DHS veteran, has informed Kelly that she will resign once Nielsen takes over, according to several officials, even though Trump has publicly asked her to remain in the deputy role.

Nielsen, who is Kelly's deputy at the White House and was his chief of staff when he ran DHS between January and July, [appeared to breeze](#) through her Senate confirmation hearing Wednesday and did not face especially tough or contentious questioning.

No one asked her what she planned to do with the 300,000 TPS recipients who will lose their legal status and face deportation if their residency is not renewed. Their families include an estimated 275,000 [U.S.-born children](#).

The Senate Committee on Homeland Security and Governmental Affairs [postponed](#) a vote on her nomination scheduled for Thursday, citing "a large number of questions" about Nielsen's testimony to the panel Wednesday.

Sen. Ron Johnson (R-Wis.), the committee chairman, said members had submitted 197 written questions for Nielsen, far more than any previous nominee. He rescheduled the committee vote for Monday.


Senate aides say the White House is pushing for a full vote on Nielsen to get her confirmed before the Thanksgiving recess.

Duke, who returned to DHS to be Kelly's deputy earlier this year, was never among the top candidates for the secretary job, lacking the law enforcement and counterterrorism credentials typically associated with that role. But she is considered a skilled manager and has earned praise for her stewardship of the massive federal agency, which has 240,000 employees, 22 subagencies and a \$40 billion budget.

Nielsen, a cybersecurity expert, began her career as a Senate staffer, then crafted legislation and policy at the Transportation Security Administration. She was a White House adviser for emergency preparedness and disaster management under President George W. Bush, a job that put her [at the center](#) of the administration's bungled response to Hurricane Katrina.

Kelly brought Nielsen to the White House to be his deputy, and she [earned a reputation as a disciplinarian](#), with unwavering loyalty to the retired Marine Corps general.

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