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United States Senate
COMMITTEE ON THE JUDICIARY
WASHINGTON, DC 20510-6275

April 5, 2016

VIA ELECTRONIC TRANSMISSION

The Honorable Sarah R. Saldaña
Assistant Secretary
U.S. Immigration and Customs Enforcement
Washington, D.C. 20536

The Honorable R. Gil Kerlikowske
Commissioner
U.S. Customs and Border Protection
Washington, D.C. 20229

Dear Assistant Secretary Saldaña and Commissioner Kerlikowske:

On March 27, 2016, multiple news outlets reported that Efrain Delgado-Rosales, a known human smuggler, had been apprehended by U.S. Customs and Border Protection (CBP) officials 23 times for smuggling undocumented immigrants into the United States since July 1999. Apparently, it was only after his 24th encounter with CBP that he was detained and charged with a crime.¹ According to reports, smugglers are charging individuals thousands of dollars, up to \$20,000 USD per person, to be smuggled on the dangerous journey across the border into the United States.²

Unfortunately, reports of human smuggling have become all too common. In a letter dated January 5, 2016, addressed to Secretary Johnson, I voiced my concerns about an unpublished Department of Homeland Security (DHS) report disclosed to the Committee that

¹ CNN: *Smuggler caught by Border Patrol 24 times is sentenced to prison*, by Dana Ford. March 27, 2016. www.cnn.com/2016/03/27/us/smuggler-sentenced-prison

² NEWSMAX: *Smuggler Sentenced After Getting Arrested 24 Times*, by Joe Crowe. March 28, 2016. www.newsmax.com/US/smuggler-arrest-mexican-undocumented

demonstrated a “notable” increase in 2015 of smuggled individuals arriving from countries with ties to terrorism known as specially designated countries (SDCs) – including Pakistan, Somalia, and Syria. And recently, at least one news outlet raised concern with CBP “fudging” apprehension rate statistics of illegal entry of those from SDCs.³

Further, in December 2015, a letter was sent to the Department inquiring into a newer smuggling practice whereby Unaccompanied Children (UAC) are paired with unrelated adults then smuggled across the border. A recent report received from the DHS Human Smuggling Cell confirmed that smugglers are exploiting children by pairing them with unrelated adults to create the appearance of a family unit to avoid detention in the United States. Migrants from the Northern Triangle even admitted to paying for counterfeit birth certificates to demonstrate a paternal relationship with the children. One Honduran interviewed by DHS officials reported that children are kidnapped, adopted, and families are even negotiating the use of their children by smugglers or migrants for the sole purpose of creating a faux family unit to avoid detention in the United States.⁴

Failing to detain known smugglers is not only a threat to our national security, but it poses grave risk to the health and safety of countless individuals, including children smuggled and exploited by Delgado-Rosales and other human smugglers.

For a more thorough understanding of the current smuggling crisis, please answer the following questions no later than April 18, 2016.

1. What is the average recidivism rate for known smugglers like Delgado-Rosales over a 5 year period? How does CBP track smugglers that cross the United States border?
2. Please provide the current CBP policy for tracking, apprehending, and detaining smugglers. Is it the practice of the department to return a smuggler to his or her country of origin without detaining or filing charges? Please explain.
3. How many known smugglers have been apprehended and returned to their country of origin from Fiscal Year 2012-2016? How many smugglers have recidivism rates of 25 or more times? More than 50 times? More than 75 times?
4. What are the top 10 countries of origin of known human smugglers? How many smugglers does CBP have data on from each of these countries?

³ The Daily Caller: *Border Patrol Union Chief Says Arrests of Afgans and Pakistanis Have Skyrocketed This Year*, by Chuck Ross. March 23, 2016. dailycaller.com/2016/03/23/border-patrol-union-chief-says-arrests-of-afghans-and-pakistanis-have-skyrocketed-this-year

⁴ See *Flores v. Lynch*, No. CV 85-04544, 2015 WL 9915880, at *1 (C.C Cal. August 21, 2015). Although the government did argue that “the proposed remedies could heighten the risk of another surge in illegal migration across our Southwest border by Central American families, including by incentivizing adults to bring children with them on their dangerous journey as a means to avoid detention and gain access to the interior of the United States” the court held that this argument was “speculative at best, and at worse, fear-mongering.” (p.11)

5. Of the 24 encounters Border Patrol had with Delgado-Rosales, were there any occasions on which he had smuggled UACs into the United States? Please explain.
6. How many smugglers have been detained from SDCs from Fiscal year 2012-2016? Which SDCs have they smuggled people from?
7. In the recent smuggling report, the Human Smuggling Cell recognized certain “intelligence gaps” of information. What is being done to close these intelligence gaps?
8. How does the Department determine whether a family unit is actually a legal family entity? How does the Department verify the authenticity of birth certificates or other similar documentation? Please explain.

Thank you for your attention to this important matter. Should you have any questions, please contact Katherine Nikas of my Committee staff at (202) 224-5225.

Sincerely,



Charles E. Grassley
Chairman
Senate Committee on the Judiciary

cc:

The Honorable Patrick Leahy
Ranking Member
Senate Committee on the Judiciary