



TESTIMONY OF

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BEFORE

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ON

“The MS-13 Problem: Investigating Gang Membership, its Nexus to Illegal Immigration, and
Federal Efforts to End the Threat”

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Introduction

Chairman Grassley, Ranking Member Feinstein, and distinguished Members of the Committee: thank you for the opportunity to appear today to discuss the role of U.S. Customs and Border Protection (CBP) to protect the homeland and secure our Nation's borders while facilitating lawful international travel and trade. As a Nation, control of our borders is paramount. Thanks to the support of Congress, during the past decade CBP has deployed more personnel, resources, technology, and tactical infrastructure to secure our borders than at any other time in history. And thanks to the hard work of the men and women of CBP, and the leadership of the President, the Secretary, and the Acting Commissioner, we are making significant progress towards securing our borders against the threats posed by transnational criminal organizations (TCOs) such as Mara Salvatrucha (MS-13).

Executive Actions

This Administration has taken early and important steps, in conjunction with Secretary Kelly and other leadership within the Department of Homeland Security and other federal agencies, to adjust federal policies and refocus federal law enforcement and homeland security resources on domestic and international threats. Since taking office, the President has issued Executive Orders to secure our borders and enforce immigration laws- including with respect to TCOs- and preventing international trafficking. The purpose of these orders are to direct executive departments and agencies to deploy all lawful means to secure our Southern border, to prevent further illegal immigration into the United States, and to keep Americans safe.

The men and women of CBP work hard every day to secure our borders. By supporting CBP's dedicated men and women who are responsible for securing the border--to prevent illegal immigration, drug and human trafficking, and acts of terrorism--these executive orders have significantly enhanced our capacity to secure our borders.

Stemming the Flow of Illegal Aliens

The Southwest border of the United States is a highly diverse environment with equally diverse threats to the security and safety of our border communities and communities throughout the United States. One of the biggest challenges we face are TCOs such as the international criminal organization known as Mara Salvatrucha 13, more commonly known as MS-13. While MS-13 has had a presence in the United States and been a regional threat for many years, it has proliferated both throughout the United States and the region more recently, as our partners at U.S. Immigration and Customs Enforcement (ICE) and the Department of Justice have reported.

CBP has faced many challenges in recent years, including large-scale flows of foreign nationals from Central America and Mexico. MS-13 took full advantage of these flows of foreign nationals into the United States by hiding in these populations to enter our country. As a result, American citizens have died, and domestic law enforcement across the nation has had to deal with the burden of MS-13 violence and drug-dealing on American streets on a daily basis.

As a result of the Executive Orders issued by the President, implementing policies issued by the Secretary, as well as earlier policy changes and the significant investments we have made in

border enforcement personnel, technology, and infrastructure, we are seeing a historic shift in illegal crossings along the Southwest border. Since January 2017, the number of illegal aliens we have apprehended on the Southwest border has drastically decreased, indicating a significant decrease in the number of aliens attempting to illegally enter the country. The number of illegal aliens apprehended in March 2017 was 30 percent lower than February apprehensions and 64 percent lower than the same time last year. This decline also extends to unaccompanied alien children (UAC).¹ The U.S. Border Patrol (USBP) apprehended 1,493 UACs in the entire month of May of 2017. By contrast, in May of 2016 USBP apprehended 5,594 UACs.²

Operational Coordination and Information Sharing

When CBP encounters known gang members or aliens who admit to having a gang affiliation, including international gangs like MS-13, biographic information is collected and recorded in the electronic systems of record. This system enables the capture, organization, and presentation of data collected during processing. Biometric information is also collected for all aliens over 14 years of age apprehended by the USBP. This includes known gang members or aliens who admit to having a gang affiliation. The electronic system collects fingerprint information as well as runs records checks on detainees, helping ensure criminals are prosecuted to the fullest extent of the law. CBP coordinates and shares law enforcement information with our federal partners at DHS and across government. In addition, CBP supports its local, state and tribal partners through the sharing of information and participation in various task-forces.

UACs with suspected TCO affiliations such as MS-13 present unique challenges. UAC – the majority of whom are males between the ages of 14 and 17, and from Guatemala, El Salvador, and Honduras – are processed in accordance with all applicable law, regulation, court orders, and policy. Processing guidelines are derived from the *Trafficking Victims Protection Reauthorization Act of 2008* (TVPRA); the *Flores v Reno* Stipulated Settlement Agreement; CBP Standards to Prevent, Detect, and Respond to Sexual Abuse and Assault in Holding Facilities; CBP Transport, Escort, Detention and Search National Standards; and the USBP Hold Rooms and Short Term Custody Policy. Pursuant to the TVPRA, once a child is determined to meet the definition of a UAC, CBP is required to transfer the UAC into the care and custody of the Department of Health and Human Services (HHS) within 72-hours, except in exceptional circumstances.³

CBP continues to implement enhancements to our automated systems to provide better documentation of agent/officer decisions and better coordination with our partners across government and law enforcement. If, for example, a UAC is identified as being a member of a gang or being affiliated with a gang, the information is recorded in the CBP electronic system of

¹ As defined by 6 USC § 279(g) (2), an “unaccompanied alien child” means a child who (A) has no lawful immigration status in the United States; (B) has not attained 18 years of age; and (C) with respect to whom (i) there is no parent or legal guardian in the United States; or (ii) no parent or legal guardian in the United States is available to provide care and physical custody.

² Per <https://www.cbp.gov/sites/default/files/assets/documents/2016-Dec/CBP-fy2016-border-security-report.pdf>

³An exceptional circumstance may be when a UAC requires medical attention; does not tell the truth about his/her age and is inaccurately classified as an adult, and later found to be a minor; or the UAC is a material witness in a prosecution case. 8 U.S.C. § 1232(b)(3)

record. In addition, the information is conveyed to (HHS/Office of Refugee Resettlement (ORR) and ICE/ Field Office Juvenile Coordinator (FOJC) when a placement request is generated via an HHS intake form. Secure placement will be requested for any UAC who has a known gang affiliation. The decision on placement is made by HHS/ORR based on the information provided by CBP in the placement request. Of the approximately 5,000 individuals apprehended by USBP with confirmed or suspected gang affiliations since FY 2012, 159 were UACs. Of those 159, approximately 56 UACs were suspected or confirmed to be affiliated with MS-13.⁴

CBP also uses the, Unaccompanied Alien Child Screening Addendum (CBP-93 Form) to screen UAC for human trafficking indicia, including trafficking by TCOs such as MS-13. If a Border Patrol Agent or CBP Officer suspects that any member of the group in which the UAC was travelling is involved or complicit in the trafficking act, they will detain all individuals for further processing and interview by ICE/Homeland Security Investigations (HSI).

Next Steps

The Department's Unity of Effort initiative has put new and strengthened management processes in place to enable more effective DHS component operations to address TCOs, including MS-13; human- and drug-trafficking; and other cross-border threats. DHS-wide border security activities along the Southern border are guided by the Southern Border and Approaches Campaign Plan and coordinated through the Department's Joint Task Forces (JTFs) to coordinate the efforts of the combined resources of DHS component agencies.

In addition to prioritizing enforcement of Federal law in order to thwart TCOs such as MS-13 per the President's EOs, per Secretary Kelly's February 20, 2017 implementation memo,⁵ JTF-West will plan and implement enhanced counter-network operations directed at disrupting TCOs. In FY 2017, JTF-W achieved operational alignment across the Southwest border through the implementation of "CX/17". CX/17 symbolizes the integrated efforts of the Southwest border Corridors and impacted Components, aimed at enhancing Departmental Unity of Effort and CX operations focused on TCOs. JTF-W is currently executing over 40 integrated operations against TCOs and illicit networks.

The ability to leverage the full spectrum of DHS intelligence, interdiction and investigative efforts has maximized consequence application to TCO and illicit network members exploiting our operational seams, prosecutorial thresholds, and immigration systems. In addition to the disruption of certain TCOs and illicit networks' infrastructure and capabilities, CX operations achieve a secondary effect by mitigating a number of threats to public safety, which represents an immediate positive impact on communities. Those positive public safety impacts include the arrest of gang members as convicted felons and sex offenders, the seizure of assault rifles and

⁴ Unofficial USBP data reports that between FY 2012 and 06/16/2017, approximately 4,939 aliens have been apprehended with suspected or confirmed gang affiliations, including 1,972 suspected of being affiliated with MS-13.

⁵ Memo: Implementing the President's Border Security and Immigration Enforcement Improvements Policies. February 20, 2017. https://www.dhs.gov/sites/default/files/publications/17_0220_S1_Implementing-the-Presidents-Border-Security-Immigration-Enforcement-Improvement-Policies.pdf.

high-capacity magazines, and the seizure of methamphetamine, cocaine and heroin associated with the gang's illicit narcotics trafficking activities.

Working with our Federal, state, and local law enforcement partners, the JTF-W will target individuals and organizations whose criminal conduct undermines border security or the integrity of the immigration system. These include offenses related to alien smuggling or trafficking, drug trafficking, illegal entry and reentry, visa fraud, identity theft, unlawful possession or use of official documents, and acts of violence committed against persons or property at or near the border. We will take all appropriate steps to implement the provisions of the President's executive orders, which support the Department's efforts to disrupt and dismantle TCOs that are fortifying their illicit networks in the border region. Through integration, collaboration, and coordination efforts, JTF-W will prioritize efforts to disrupt and dismantle TCOs and illicit networks presenting the greatest risk to the Homeland. CBP remains committed to securing our borders and keeping Americans safe by responding to any and all challenges in the dynamic border environments in which we operate.

Additionally, CBP's Office of Intelligence (OI), Intelligence Operations Directorate (IOD) recently established an MS-13 Working Group that will also be collaborating with ICE/HSI's National Gang Unit (NGU) to identify, target, and arrest and/or remove MS-13 members from the United States and address MS-13 from a single DHS Enterprise. CBP and ICE will lead this combined effort that includes law enforcement and analytical participation from a variety of CBP components, as well as several other federal offices, agencies and departments.

Conclusion

With the support of Congress, CBP continues to work closely with our DHS, federal, and international partners to combat the threats posed by TCOs, including MS-13. Chairman Grassley, Ranking Member Feinstein, and distinguished Members of the Committee, thank you for this opportunity to testify today on this important issue. I look forward to answering your questions.