



TESTIMONY OF

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BEFORE

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ON

“Oversight of Customs and Border Protection’s Response to the Smuggling of Persons at the Southern Border”

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Chairman Graham, Ranking Member Feinstein, and Members of the Committee, it is a privilege to appear before you today.

U.S. Customs and Border Protection's (CBP) counterterrorism, border security, trade enforcement, agriculture protection, and travel and trade facilitation missions are essential to our homeland and economic security. With more than 60,000 professionals working to protect the American people every day, it is my honor to serve alongside them as Commissioner.

Over the past year, we have made strides across every area of our mission:

- We facilitated record levels of lawful trade and travel, inspecting more than 413.9 million travelers—a 4.2 percent annual increase;
- We interdicted increasing quantities of hard narcotics, including the largest seizure of fentanyl in CBP history;
- We enhanced screening and vetting, including advancements in cargo and conveyance screening technology that provides CBP with a significant capacity to detect dangerous materials and other contraband;
- We continued to implement the Trade Facilitation and Trade Enforcement Act; and
- We remained committed to ensuring that our officers and agents are safe as they carry out their critical duties, and have the best training, policy, and equipment.

Within CBP's broad responsibilities, I recognize that our border security mission and immigration enforcement efforts are of the greatest interest to this Committee. Today, I will outline the border security and humanitarian crisis we are facing at the southwest border, provide an overview of elements of our border security efforts, and highlight our response to the increasingly dangerous and complex phenomenon of human smuggling, especially of families and children.

Border Security

CBP guards the frontline of the United States, and our border security mission—at ports of entry (POE), along our borders, and from the air and sea—is a matter of national security. Through Border Patrol boots on the ground, air support, technology from the private sector, and Department of Defense (DoD) assistance, CBP's ability to detect and interdict illegal border crossings has never been higher.

CBP faces multiple mission threats on our southwest border, including illegal entry of persons, and smuggling of hard narcotics, both at and between ports of entry.

Barriers and Border Security Technology

We are putting the initial investments in border wall system to good use. Ninety-three percent of FY 2017-funded border wall replacement projects—approximately 37 miles—were completed by February 15, 2019. An additional \$1 billion in FY 2018-funded construction contracts were awarded by the end of February 2019.

Critical sections of modern border barrier system in key border areas have made an immediate impact. In Border Patrol's El Centro Sector in California, a two-mile stretch of border immediately west of the Calexico West port of entry has been a consistent hot spot for illegal activity; because of a shopping center just steps away from the border, local pedestrian and vehicle traffic allowed illegal border crossers to quickly vanish into the United States. Since construction of approximately two miles of new steel bollard border wall, complete with capabilities like roads, cameras, and sensors, agents have gained the time they need to respond to illegal activity—preventing border crossers from disappearing into the community. Additionally, the steel bollard design reduces risks to the agents' safety by allowing them to see through the wall.

In El Paso, Texas, CBP replaced 20 miles of vehicle barrier with pedestrian barrier, giving Border Patrol agents new capabilities to impede and deny illegal border crossers. In many parts of the government, construction projects can take two years or more to begin. In contrast, construction on these projects began within months. Today, these projects are nearly complete and are expected to be on time and within budget.

In FY 2019, we received funding for eleven miles of levee pedestrian fencing and 44 miles of primary pedestrian fencing in the Rio Grande Valley Sector. We also received \$100 million for border surveillance technology, including fixed towers, remote video surveillance systems, mobile surveillance capability systems, and innovative towers. These investments assist Border Patrol agents in the field, as they increase CBP's ability to detect illegal activity along the border, increase our operational capabilities, and improve the safety of frontline law enforcement personnel. We will implement the security enhancements supported by these investments aggressively, and deploy capabilities consistent with the requirements of our agents on the ground.

Counter-Narcotics

Drugs are smuggled into our country through cargo shipments, mail, and express consignment; by individual travelers; and by sophisticated criminal organizations. As the smuggling of fentanyl and other opioids increases, and growing rates of methamphetamine devastate communities across the country, CBP plays an important role in preventing dangerous drugs from reaching the American public.

CBP, with the support of Congress, has made significant investments in and improvements to our drug detection and interdiction technology and targeting capabilities at and in between our POEs.

CBP uses advanced detection equipment and technology, including Non-Intrusive Inspection (NII) equipment and radiation detection technologies, to maintain robust cargo, commercial conveyance, and vehicle inspection regimes at our POEs. NII technologies deployed to our Nation's land, sea, and air POEs include large-scale X-ray and gamma-ray imaging systems, as well as a variety of portable and handheld technologies. NII systems enable CBP officers to examine cargo conveyances such as shipping containers, commercial trucks, and rail cars, as well as privately owned vehicles, for the presence of contraband without physically opening or unloading them.

For FY 2019, CBP has received \$564 million for NII at land POEs. This is an historic investment that will allow CBP to transform its efforts to stop illicit drugs from entering the country through legal crossing points. Combined with \$76.9 million for personnel, lab equipment, canine units, and port of entry technologies to support countermeasures against opioid trafficking, CBP will be able to dramatically increase the number of vehicles crossing our borders that are scanned with cutting edge technology, and develop the forensic capabilities necessary to ensure prosecution and criminal sanctions. We appreciate the support of Congress for these critically-needed capabilities.

In the same vein, on February 27, 2019, CBP, in collaboration with the Department of Homeland Security (DHS) Science and Technology Directorate, the Office of National Drug Control Policy, and the U.S. Postal Inspection Service, launched the Opioid Detection Challenge. The Challenge, a \$1.55 million global prize competition, invites innovators to submit novel plans for rapid, nonintrusive detection tools that will help find illicit opioids being trafficked into the United States through international mail. The technologies that emerge from this innovation challenge will be important elements of our multi-layered approach to combat the flow of opioids and other dangerous drugs.

Air and Marine Operations

We maintain the most capable civilian law enforcement air and marine operations in the world, and are accelerating the development and deployment of cutting edge technology to our workforce.

CBP's Air and Marine Operations (AMO) increases CBP's situational awareness, enhances detection and interdiction capabilities, and extends our border security zones, offering greater capacity to stop threats before they reach our shores. AMO's assets provide multi-domain awareness for our partners across DHS, as well as critical aerial and maritime surveillance, interdiction, and operational assistance to our ground personnel. AMO performs its offshore functions in coordination with the U.S Coast Guard and other DHS interagency partners.

In FY 2018, AMO agents totaled 95,801 flight and 36,110 underway hours, including 970 flight hours in 296 sorties to supply communities and perform response and recovery missions after Hurricanes Florence and Michael. AMO also successfully resolved 100 percent of 167 detected conventional aircraft incursions along all U.S. borders. AMO also provided air space security during National Special Security Events.

International Efforts

CBP has also extended our shared zone of security through enhanced international partnerships and capacity building throughout the hemisphere and beyond.

Throughout the world, CBP leverages its attaché and advisor network to engage local immigration, border management, and police authorities, as well as our federal partners such as the Department of State, the United States Agency for International Development (USAID), and

U.S. Immigration and Customs Enforcement to enhance security, improve governance, facilitate lawful travel and trade, and promote prosperity.

For example, CBP efforts in Central America include: training, mentoring, and sharing best practices with local law enforcement; providing assistance in making customs processes more efficient and transparent to enhance trade facilitation; and building the capacity of law enforcement in each country to counter drug smuggling activities, monitor, track, and deter the illicit migration of third country nationals, and facilitate cross-border coordination. These efforts work hand-in-hand with other U.S. agencies in the region, and are supported by the Department of State, to counter transnational organized crime and improve border security.

Based on longstanding awareness of the risks Central America presents related to the irregular movement of persons and contraband into the United States, CBP has maintained a significant portfolio of activities in the region, several involving the placement of CBP staff in-country. As conditions have changed, including risks associated with more significant numbers of irregular migrants and the U.S. government has placed an enhanced policy emphasis on supporting greater prosperity, governance, and security, CBP's activity in recent years has increased and adjusted. This work has been made possible through a combination of CBP mobilizing expertise and greater staff numbers and US foreign assistance support through other federal agencies in support of programs to enable capacity building and sustained interaction directed toward addressing border security and customs concerns.

Through our partnership with the State Department, CBP trains the Mexican interagency along the U.S.-Mexico border on topics such as clandestine tunnel detection, surveillance and tracking, disrupting human smuggling, checkpoint management, interdiction, all-terrain vehicle (ATV) maneuvering, tactical medicine, and more. These efforts improve joint tactical planning, information sharing, and operations to disrupt TCO threats along our border.

At present, our activity model focuses on: capacity building assistance to improve border management capabilities throughout the region; improved passenger screening and threat awareness via implementation of the Automated Targeting System-Global (ATS-G) currently operating in El Salvador and Costa Rica, and implementation of the Joint Security Program (JSP) currently operating in Panama and El Salvador; targeting of U.S.-bound cargo containers via the Container Security Initiative operating in Panama and Honduras; and embassy level representation through a regional attaché office in Panama, supported by TDY assistant attachés in the Northern Triangle countries of El Salvador, Guatemala, and Honduras and currently funded by Border Patrol through 2020. The Department of State funds full time CBP advisors in each of the Northern Triangle governments.

Looking to the future, a model regional approach will embed a network of CBP personnel capable of trusted law enforcement engagement and capacity building, strategic intelligence gathering and analysis, and diplomatic maneuvering. As such, our current advisory efforts will continue to play a role in helping to build local capacity, however, strategic placement throughout the region of subject matter experts would serve to enhance our awareness, analysis, and coordination abilities. This will entail the placement of Office of Intelligence, Office of Trade, and AMO representatives to expand relationships with their counterparts and enable

direct exchange between local and CBP subject matter experts. The expanded placement of law enforcement officials at key facilities in the region, including at international airports under JSP and at the Joint Border Intelligence Center in El Salvador will enable direct links to local law enforcement and facilitate greater intelligence gathering.

These efforts are intended to address our key mission concerns in the region with the full breadth of CBP knowledge and greater staff strength, allowing for enhanced awareness of migratory flows and transnational criminal organizations (TCOs) through a network of intelligence gathering mechanism and intelligence analysts; adaptability to evolving threats and operationalizing responses; and greater ability to improve the trade and investment environment in the Northern Triangle.

Hiring

I have made it the top mission support priority for CBP to attract, hire, train, retain, and support a world-class, resilient workforce. Several dozen improvements to CBP's hiring process, including the establishment of the National Frontline Recruiting Command, implementing an Applicant Care Program, and exploring creative ways to use pay and compensation flexibilities have resulted in significant recruitment and hiring gains. In FY 2018, CBP hired above the attrition rate, with staffing levels of 23,477 CBP officers (an increase of 398) and 19,555 Border Patrol agents (an increase of 118) at the end of the fiscal year. CBP reached total staffing levels of 592 Air Interdiction agents and 343 Marine Interdiction agents at the end of FY 2018. CBP achieved a 95 percent increase in overall Border Patrol agent hires and a 39 percent increase in CBP officer hires from FY 2017 to FY 2018. In fact, in FY18, for the first time in six years, CBP hired more Border Patrol agents than were lost to attrition.

Migration Issues at the Border: A Border Security and Humanitarian Crisis

At the border, we face changing trends in illegal crossings that impact security, exploit our laws, and challenge our resources and personnel. We are seeing increases in illegal crossings and arrivals of inadmissible persons at ports of entry across the entire southwest border.

In the first four months of the fiscal year, CBP has encountered an average of 60,000 migrants crossing illegally and presenting at ports of entry without documents. In February, DHS projects that we will apprehend or encounter over 76,000 migrants, 87 percent of whom are being interdicted crossing the border illegally—a 25 percent increase from January, and what would be the highest February total in more than a decade. By the middle of March—less than six months into the fiscal year—we will have apprehended more people crossing illegally than all of FY 2017.

A Dangerous Journey

Department of Homeland Security (DHS) leadership and I have repeatedly emphasized the dangers posed by the journey from Central America to the United States, including unscrupulous human smugglers; dangerously overcrowded trains, buses, and other transport; and harsh environmental conditions. Every year, Border Patrol agents save thousands of people who are overcome by the conditions on their journey, including people found suffering from dehydration,

heat stroke, starvation, or hypothermia. Our agents have saved people who were drowning in rivers, who were gravely injured, and those who were left for dead by smugglers. In total, Border Patrol agents rescued 4,311 individuals in FY 2018, and have rescued 861 individuals in the first four months of FY 2019.

Desperate migrants pay unscrupulous human smugglers thousands of dollars to aid them on their illegal journey. Every single day, smugglers and traffickers profit from human misery by exploiting people who are seeking a better life. They deceive desperate people about our country's laws, and fuel everything from modern-day slavery to the smuggling of illicit goods. These smugglers, many with ties to transnational criminal organizations, may deprive migrants of food and water, physically assault them, and place them in dangerous travel conditions, such as locking them in tractor-trailers while outside temperatures reach 115 degrees. Still other migrants are trafficked or used as drug mules. Human smugglers have no regard for the health and safety of the migrants who pay them; as a result, many who make the journey become sick, injured, or traumatized. Some even lose their lives.

Migrants travel north from countries where poverty and disease are rampant, and their health can be aggravated by the physical toll of the journey. Many individuals we encounter may have never seen a doctor, received immunizations, or lived in sanitary conditions. Close quarters on trains and buses can hasten the spread of communicable diseases. All of these factors leave migrants vulnerable to serious medical complications.

What Has Changed

I have heard a number of commentators observe that even with these alarming levels of migration, the numbers are lower than the historical peaks, and as a result, they suggest what we are seeing at the border today is not a crisis.

I fundamentally disagree. From the experience of our agents and officers on the ground, it is indeed both a border security—and a humanitarian—crisis.

What many looking at total numbers fail to understand is the difference in what is happening now in terms of who is crossing, the risks that they are facing, and the consequences for our system.

The biggest factor is that, for the first time in history, more than half of all those crossing are members of family units—typically one adult and one child. In fact, the Border Patrol has already apprehended more families crossing illegally than during all of last year—and will eclipse that record total by almost 30,000 in the first five months of FY 2019. In February, we saw roughly 40,000 family unit members in four weeks. This represents an almost 340 percent increase, year-to-date, over last year.

At the same time, arrivals of unaccompanied children are also up 50 percent over this time last year, and exceeded 7,000 in February. To put this in context, we are on pace for more than 27,000 children, with parents and unaccompanied to enter our immigration enforcement process in one month—approximately one-fifth of them 5 and under.

Second, migration from Mexico remains at historically low levels, while the majority of illegal border crossings now come from the three countries of Central America, known as the Northern Triangle: Guatemala, Honduras, and El Salvador. The number of Central American migrants exceeded the number of Mexican migrants in four of the past five years and has reached over 75 percent of crossings this fiscal year.

The third major trend is the dramatic increase in claims of fear of return to countries of origin. Between 2000 and 2013, less than one percent of those apprehended or encountered at our border claimed asylum or fear of return. Last year, at our ports of entry, the number of asylum claims doubled to 38,269, with nearly 31 percent of those deemed inadmissible for entry filing a claim.

How Our Broken Immigration System is a Pull Factor for Migrants

These increases and demographic changes in crossings are direct responses to the vulnerabilities in our legal framework that have become well known to smugglers and migrants. These weaknesses in our laws now represent the most significant factors impacting border security and include:

- The asylum gap—where approximately 80 percent of individuals meet the initial credible fear bar in the asylum process, while only 10-20 percent are found to have valid asylum claims at the end of immigration court proceedings;
- The disparate treatment under the Trafficking Victims Protection Reauthorization Act, which allows for children arriving from Mexico and Canada to be repatriated, but not children from other countries, including those in Central America; and
- The inability to keep families together while they complete expeditious and fair immigration proceedings. Instead, crossing with a child is a near guarantee of a speedy release and an indefinite stay in the U.S.

These statutory deficiencies ensure a high likelihood of success and the trends they invite have significant ramifications. Central American families are coming to our border now because they know that DHS must release them within 20 days, under court order, and that they will be allowed to stay in the U.S. indefinitely while awaiting immigration court proceedings. To be clear, these families are not concerned with being caught by the Border Patrol—they are actually turning themselves in, knowing that they will be processed and released with a court date years in the future. Smugglers are exploiting these loopholes to encourage more migration.

The perception that our system will allow them to stay in the US indefinitely is clearly the driving pull factor for those making the decision to journey to our border.

Along with important push factors, which include high levels of insecurity, limited economic opportunity, and weak governance in many parts of Central America, this perception about our immigration system incentivizes migrants to put their lives in the hands of smugglers and make the dangerous trek north to the Southwest border. The cost of these pull and push factors is seen every day in profits derived by transnational criminal organizations, in the lives lost along the journey, and in the loss of youth and energy in the countries of the Northern Triangle.

Additionally, regardless of whether an individual who has entered illegally has a valid case for protection or asylum, they are increasingly unlikely to be repatriated. Assurance of release due to court rulings, compounded by a multi-year immigration court backlog, means that there is no border enforcement for families. Indeed, only 1.5% of family units from Central America apprehended in FY 2017 have been removed to their countries of origin, despite the fact that most will not end up having valid claims to remain in the U.S. when their court proceeding concludes.

Additional Border Security Challenges

Exacerbating these challenges, the U.S. Border Patrol is now apprehending larger and larger groups—more than 70 groups of migrants with over 100 members (primarily Guatemalan and Honduran families) have been apprehended this year in remote areas of the border so far this fiscal year. The largest of these included 330 migrants who arrived in the boot heel of New Mexico, 94 miles from the nearest Border Patrol Station. Human smugglers choose the timing and location for these large group crossings strategically, in order to disrupt border security efforts, create a diversion for smuggling of narcotics, and allow single adults seeking to evade capture to attempt to sneak in. Even worse, these smugglers visit horrible violence, sexual assault, and extortion on some of the most vulnerable people in our hemisphere.

Since October 2018, CBP has seen multiple uses of migrant caravans in an attempt to ease access to the US border. CBP has defined a caravan as a large group of migrants, generally 500 or more, who depart as an organized group from Central or South America and maintain group integrity while entering Mexico and transiting to the U.S. border. The new phenomenon of large organized groups transiting Mexico has found success in accelerating migrants' timelines to reach the border by utilizing transportation services provided by state and local governments assisting in moving migrants throughout Mexico.

We know human smugglers are presenting diversified offerings to intending migrants, including an “express” five to seven day route from Western Guatemala to the U.S. border, and we continue to see the issue of large groups of migrants forming into “caravans” to make their way north. The new Mexican Administration’s policies of regularizing the presence of migrants, rather than enforcing Mexican immigration law through repatriation, has contributed to both phenomena.

Given the modified routes and awareness of the certainty of release if migrants arrive as a family unit, we are seeing more families arriving with young children, and more cases of sick children arriving at the border. Accordingly, given the volume and special care and custody requirements presented by these increasing numbers, the demographics of those crossing, and the increase in medical issues, CBP needs urgent and sustained interagency support to safely and appropriately manage the flows, especially of families and children, and to provide for medical needs. CBP is working with its interagency partners to meet these needs.

The border security and humanitarian crisis at the Southern Border continues to present significant operational challenges to CBP and DHS, and current trends indicate that it will worsen as we enter the warmer spring months.

Countering the Crisis

CBP is working to effectively manage this unsustainable situation on our southwest border. We have taken steps to increase our capacity to care for the historic influx of migrants at our southwest border. The FY 2019 budget provides significant funding for facilities and humanitarian aid for migrants at our southwest border.

Expanding Care

On December 25, 2018, I directed CBP to complete secondary medical reviews of all children who were in Border Patrol custody that day by either contract medical professionals or a CBP agent and officer trained as an EMT and paramedic.

On January 28, 2019, I issued a directive guiding CBP's deployment of interim enhanced medical efforts to mitigate risk to, and improve care for, individuals in CBP custody along the southwest border as a result of surges in UAC and family units.

CBP has also requested, and received, medical field support from the United States Coast Guard and the U.S. Public Health Service Commissioned Corps. Those teams have deployed to the Yuma, Tucson, and El Paso Sectors and have increased CBP's capacity to perform medical checks of children at intake. CBP is also expanding its use of contracted medical personnel to perform medical screening and triage in areas of the southwest border where we are experiencing the highest volume of UAC and family unit apprehensions.

CBP has engaged with ICE regarding any available surge options for transportation to Family Residential Centers and/or supervised release. We are also reviewing all possible custody options to relieve recent crowding in Border Patrol stations and checkpoints in the El Paso Sector, including any options identified by nongovernmental organizations and/or local partners for temporary housing that can safely accommodate those in our custody.

We are also coordinating with the Centers for Disease Control and Prevention to gather data on infectious diseases among migrants in custody, and develop recommendations for further CBP action. CBP and DHS are also seeking advice from external medical experts, including the American Pediatric Association and others.

This past fall, DHS Secretary Nielsen and I requested that the Homeland Security Advisory Council review best practices for the care of children and families, and make recommendations to better inform CBP policies and procedures in the future. Chaired by former Drug Enforcement Administration Administrator Karen Tandy, the HSAC panel has already toured CBP facilities and met with nongovernmental experts, and will continue to do so as they complete their work, anticipated for early this year. CBP supports these efforts and will pursue recommendations from this process.

Centralized Processing Center

In the El Paso Sector alone, we have seen a 434 percent increase in apprehensions this fiscal year. Many of these are family units and UAC arriving in large groups, which exacerbates capacity constraints in our facilities.

Facilities housing migrants near El Paso have reached capacity numerous times in the first quarter of the fiscal year, a situation that degrades both the efficiency of migrant processing and the quality of care for detained migrants.

To help address this influx, CBP is currently taking steps to establish a Centralized Processing Center (CPC) in the El Paso Sector. This will help us protect the health and safety of those in custody while streamlining operations and reducing time-in-custody. The El Paso CPC, modeled in part on the CPC established in 2015 in the Rio Grande Valley Sector, will provide a centralized location for the processing of family units and UAC in an appropriate environment and will facilitate consistent medical assessments in one location before DHS transfers the UAC to shelters funded by HHS/Office of Refugee Resettlement.

Conclusions

There are solutions to this crisis, and many of them have broad support. We need to continue to support the governments in Central America to improve economic opportunities, to address poverty and hunger, and to improve governance and security; we must work with the new Administration in Mexico to address the TCOs that prey on migrants; and we must invest in border security, including a modern border barrier system, additional agents and officers, and air and marine support.

All of these steps will make a difference.

But we must also confront and address the vulnerabilities in our legal framework for lasting change at the border. As we engage in discussion of CBP's border security and immigration missions today, I urge the Committee to consider the acute need for legislative action.

I appreciate the opportunity to testify, and would be glad to answer your questions.