



Written Testimony of

**Most Reverend Mark Seitz
Bishop of El Paso**

**For a Hearing of the
House Committee on Homeland Security
Subcommittee on Border Security, Facilitation and Operations**

"The Impacts of Trump Policies on Border Communities"

**Tuesday, April 30, 2019
310 Cannon House Office Building**

My name is Bishop Mark Seitz. I am the Catholic Bishop of the Diocese of El Paso, Texas and work with the U.S. Conference of Catholic Bishops' (USCCB) Committee on Migration. The Committee on Migration oversees the work of the Department of Migration and Refugee Services (MRS) within USCCB. On behalf of USCCB/MRS, I would like to thank the House Committee on Homeland Security and the Subcommittee on Border Security, Facilitation and Operations, as well as the Subcommittee Chair Representative Kathleen Rice (D-NY) and Ranking Member Representative Clay Higgins (R-LA) for the opportunity to testify today.

USCCB/MRS has operated programs, working in a public/private partnership with the U.S. government, to help protect unaccompanied children from all over the world for nearly 40 years. The Catholic Church in the United States has also long worked to support immigrant families who have experienced immigrant detention, providing legal assistance and pastoral accompaniment and visitation within immigrant detention facilities, as well as social assistance upon release. In addition to the programmatic work of USCCB/MRS through its largely Catholic Charities network, Catholic entities at the U.S./Mexico border have long provided humanitarian assistance and respite for migrants and refugees. For example, in my diocese of El Paso, Texas, our community is currently being led in our response to provide respite for arriving asylum-seeking families by a local entity, Annunciation House.

In this testimony, I will describe our recent experience in El Paso assisting asylum-seeking families who have been released by the Department of Homeland Security (DHS). I will also give context to what we are seeing as the effects of recent policies on our community and the primary factors leading to forced migration of children and families, and offer recommendations to: (1) address root causes of migration; (2) help ensure that immigrant children and families are protected and treated with dignity; and (3) ensure such children and families are in compliance with their immigration proceedings, while maintaining the existing legal and legislative protections such as the Flores Settlement Agreement (Flores) and the Trafficking Victims Protection Reauthorization Act (TVPRA).

1. Catholic Experience Assisting Immigrant Families and Children in Federal Custody

Since 1994, USCCB/MRS has operated the "Safe Passages" program to provide residential care and family reunification services to immigrant children apprehended by DHS and placed in the custody and care of the Office of Refugee Resettlement (ORR), within the Department of Health and Human Services (HHS). In addition to providing programming and care for unaccompanied children, the Catholic Church has been a leading service provider for detained immigrant families. Immigrant detention, particularly the detention of families and children, is an explicit and long-standing concern of the Catholic Church. Each day, the Church witnesses the baleful effects of immigrant detention in ministry, through our pastoral and legal work with those in detention centers as well as in our care for those who have been paroled. Catholic entities serve separated families that struggle to maintain a semblance of normal family life and host support groups for the spouses of detained and deported immigrants. We have seen case after case of families who represent no threat or danger, but who are nonetheless treated as criminals and detained for reasons of enforcement. We further view immigrant detention from the perspective of Biblical tradition, which calls us to care for, act justly toward, and identify with persons on the margins of society, including newcomers and imprisoned persons.

Besides advocating for reform of the existing detention system, USCCB/MRS has operated several alternatives to detention programs to assist immigrant families and other vulnerable populations. From 1999 – 2002, INS (Immigration and Naturalization Service), the legacy DHS department, collaborated with Catholic Charities of New Orleans to work with 39 asylum seekers released from detention and 64 “indefinite detainees” who could not be removed from the United States. The court appearance rate for participants was 97%.¹ From January 2014 to March 2015, the USCCB/MRS (in partnership with Immigration and Customs Enforcement (ICE)) ran a community support alternative to detention program through its Catholic Charities partners in Baton Rouge, Louisiana and in Boston, Massachusetts that utilized case management and served individuals who would have not been ordinarily released from detention. The program yielded an over 95% appearance rate and included four family units.² Additionally, Catholic Charities participated in the Family Case Management Program, a five-city pilot family-based alternative to detention pilot program overseen by ICE from 2015-2017.³

2. Recent Experience of Humanitarian Service Entities at the U.S./Mexico Border

Family units have been arriving with increased frequency to the U.S./Mexico Border since 2014.⁴ Until recently, a large number of family units arriving and seeking asylum were released by ICE. Generally, the adults were processed by ICE and were given a credible fear interview, placed on an ankle monitor, and provided a “Notice to Appear” for immigration court, as well as a date for an appointment or “check-in” with local ICE offices in their final destination city. Many of these released families have been served in communities along the border by humanitarian service providers, such as the coalition of service providers led by Annunciation House in the El Paso area. Annunciation House has worked to ensure that as many as these families as possible receive a hot meal, a change of clothes, short term respite and assistance with arranging travel onward in the United States.

In recent months, in addition to ICE releasing families, Customs Border Protection (CBP) has also begun releasing family units directly to humanitarian service providers. In El Paso, we have particularly seen, starting around Christmas, an increase in the number of families arriving to our humanitarian shelters.⁵ The families released to humanitarian service providers from CBP typically

¹ USCCB/MRS, ET AL., THE REAL ALTERNATIVES TO DETENTION 3 (2017), *available at* <https://justiceforimmigrants.org/wp-content/uploads/2017/07/The-Real-Alternatives-to-Detention-FINAL-06.27.17.pdf>.

² *Id.*

³ GEO CARE, FAMILY CASE MANAGEMENT PROGRAM 9 (2017).

⁴ During Fiscal Year 2018, the number of arriving family units increased to roughly 107,000 members arriving at the U.S./Mexico border, up from 76,000 in Fiscal Year 2017. As March 2019, the number of arriving family units was already estimated at over 189,000 for Fiscal Year 2019. *U.S. Border Patrol Southwest Border Apprehensions by Sector FY 2017*, U.S. CUSTOMS AND BORDER PROTECTION (Feb. 11, 2019), <https://www.cbp.gov/newsroom/stats/usbp-sw-border-apprehensions-fy2017>; *U.S. Border Patrol Southwest Border Apprehensions by Sector FY 2018*, U.S. CUSTOMS AND BORDER PROTECTION (Oct. 23, 2018), <https://www.cbp.gov/newsroom/stats/usbp-sw-border-apprehensions>; *Southwest Border Migration*, U.S. CUSTOMS AND BORDER PROTECTION (April 29, 2019), <https://www.cbp.gov/newsroom/stats/sw-border-migration>.

⁵ See e.g., Joseph D. Lyons, *El Paso's Migrant Shelters are Full, and Hundreds are Reportedly Being Released to the Streets*, BUSTLE (Dec. 30, 2018), <https://www.bustle.com/p/el-pasos-migrant-shelters-are-full-hundreds-are-reportedly-being-released-to-the-streets-15577034>; Aaron Martinez, *More Migrants Left by ICE in Downtown El Paso on Christmas; 2,000 Expected by Week's End*, EL PASO TIMES (Dec. 25,

do not seem to have received a credible fear interview, do not wear ankle monitors, and may not have an ICE “check in” appointment in their destination city. The recent addition of CBP releases and differences in the immigration processing for the families (depending on release from ICE or CBP) has created an additional coordination challenges for humanitarian service providers. While these release practices differ depending on the specific border community and level of engagement with local DHS officers, a large number of the families are being released to humanitarian reception centers and those centers are being operated on a charitable and voluntary basis. Specifically, the areas that are receiving the largest number of families releases are being led by Catholic service providers in: (1) El Paso, Texas – coordinated by Annunciation House with support from the El Paso diocese and other religious organizations; (2) McAllen, Texas –coordinated by Catholic Charities Rio Grande Valley with support from the Brownsville diocese; and (3) Tucson and Yuma, Arizona – coordinated by Catholic Community Services of Southern Arizona with support from the Tucson diocese and other religious organizations.

In El Paso, in collaboration with the work of Annunciation House, my diocese is operating two shelters: one on the grounds of the diocesan pastoral center and one located in downtown El Paso. Additionally, parishes in El Paso and in the neighboring diocese of Las Cruces, New Mexico have opened their doors to shelter immigrant families. These days it is not unusual for our network of service providers to assist up to 600-1,000 family members a day. The work that is being undertaken is immediate and vital to ensuring the well-being of the families and avoiding instances in which families are left without any assistance, alone at the local bus station, and at risk for exploitation.

The families that we serve are fleeing great violence and are extremely thankful for the assistance and compassion that they receive at our community respite centers. They are eager to comply with our laws in the United States and do not want to be a burden or pitied; rather, they seek to be treated with dignity and given a chance to find protection, contribute to our country, and provide for their children. Most often, they are looking to reunite with family or a friend, and those sponsors pay for their transport onward and seek to leave our community within 24-48 hours. Sometimes, we encounter particularly vulnerable individuals, such as pregnant women or sick children who need additional care and stay longer in El Paso.

Our community is exceptional, and it has come together to help welcome asylum-seeking families and has shown strength and compassion in this challenging moment. I am personally motivated and inspired by the work of the community and by the migrant families that we are able to serve and accompany. I believe the government has a responsibility to care for people who are arriving with credible claims for asylum and a responsibility to assist anyone in desperate need within our borders. It is an honor for the Church and for Christians in general to serve these vulnerable people. We do not begrudge the opportunity, but our resources and our volunteers are being significantly strained by the scope and duration of the high arrival numbers. The Church and other humanitarian service providers and the local communities along the border are key partners in this effort and need to be recognized by our federal government as such.

2018), <https://www.elpasotimes.com/story/news/immigration/2018/12/25/more-migrants-expected-left-el-paso-bus-station-christmas/2411407002/> (“The announcement of the expected arrival of more than 1,200 migrants in the next few days comes after hundreds of migrants were dropped off at the Downtown El Paso Greyhound bus station over the weekend and on Monday.”).

The impacts of the Administration’s policies are having even more concerning effects on the vulnerable populations of children and families that are coming to our borders. There are serious concerns about the mistreatment families receive along the dangerous migration journey and, sometimes, at the hands of U.S. Border Patrol. I worry that with the continued dehumanizing rhetoric regarding immigrants and refugees, a culture of disrespect and corresponding negative policies for those who come seeking refuge has begun to take form. To this end, my brother Bishops and I remain deeply troubled by the Administration’s recent efforts to curtail the ability of asylum seekers arriving at the U.S./Mexico border to seek protection. In November 2018, the Administration issued a Presidential Proclamation and corresponding interim final rule that attempted to bar individuals from being able to claim asylum if they enter the U.S. through the southern border without going through an official Port of Entry.⁶ Subsequently, in January 2019, the Administration issued the “Migrant Protection Protocols,” or the “Remain in Mexico” policy, which outlined instances where the U.S. government would return certain asylum-seekers to Mexico to wait during the duration of their pending cases in the U.S. immigration court system.⁷ As my brother bishops along the border between Texas and Northern Mexico have noted, these policies harm our immigrant brothers and sisters in need.

I have toured the Casa del Migrante across the border in Juarez, Mexico, run by Padre Javier Caldillo, and seen firsthand how overwhelmed it is in recent months and especially with the implementation of the Remain in Mexico policy in the El Paso sector. The impact of this policy on vulnerable people forced to wait in uncertain and dangerous conditions in Mexico poses grave safety, humanitarian, and due process concerns. I urge the Administration to rethink this policy, particularly as it relates to the institutional obstacles it places on humanitarian entities who operate along the border trying to safely assist and provide respite for immigrants and refugees and the dangerous situations it places asylum-seekers in as they attempt to access legal protection in our country. And, I reiterate the Texas and Northern Mexico bishops’ appeal that, “in the name of our Lord Jesus Christ, that [governments] not adopt policies that have the effect of increasing the suffering of the vulnerable.”⁸

3. Understanding the Root Causes that Cause Families and Children to Flee

Recent efforts have attempted⁹ to frame existing laws, such as Flores and the TVPRA, as primary “pull” factors for arriving asylum-seeking children and families coming to the United States. The

⁶ President Donald J. Trump, Presidential Proclamation Addressing Mass Migration Through the Southern Border of the United States (Nov. 9, 2018), *available at* <https://www.whitehouse.gov/presidential-actions/presidential-proclamation-addressing-mass-migration-southern-border-united-states/>; Aliens Subject to a Bar on Entry Under Certain Presidential Proclamations; Procedures for Protection Claims, 83 Fed. Reg. 55,934 (Nov. 9, 2018).

⁷ DHS Secretary Kirstjen Nielsen, Policy Guidance for Implementation of the Migrant Protection Protocols (Jan. 25, 2019), *available at* https://www.dhs.gov/sites/default/files/publications/19_0129_OPA_migrant-protection-protocols-policy-guidance.pdf.

⁸ Statement of the Bishops of the Border Between Texas and Northern Mexico (March 4, 2019), *available at* <https://www.cdob.org/3-4-19-statement-from-tex-mex-border-bishops/>.

⁹ HOMELAND SECURITY ADVISORY COUNCIL (HSAC), FINAL EMERGENCY INTERIM REPORT - CBP FAMILIES AND CHILDREN CARE 2 (APRIL 16, 2019), *available at* https://www.dhs.gov/sites/default/files/publications/19_0416_hsac-emergency-interim-report.pdf.

reality, however, is that violence and internal displacement continue within the Northern Triangle countries (El Salvador, Guatemala, and Honduras) unabated and that much of the violence is targeted at the vulnerable families and children who are subsequently forced to flee for safety. Through our work on the ground with Catholic partners, we know that entire families, not just children, are currently facing targeted violence and displacement. It is these factors- gang and domestic violence, impunity, and lack of opportunity related to displacement and violence - that cause families to flee north for protection, not awareness of the TVPRA and Flores and its legal litigation progeny.

To this point, a close look at the recent migration influx into Mexico shows a similar pattern to what we are facing in the United States. Mexico is no longer just a sending country, but a transit and destination country for migration - particularly that from the Northern Triangle. Similar to the United States, its asylum system has seen large increases in requests for protection: from just over 1,000 in 2013¹⁰ to nearly 30,000 in 2018.¹¹ In the first two months of 2019, there was a further 185-percent increase in the number of people seeking asylum in Mexico compared to the same period in 2018.¹² There have been similar increases in asylum requests in Costa Rica as well. These spiking numbers demonstrate that increased arrivals to the U.S. are not a result of a hyper-awareness of U.S. immigration laws by arriving families. Rather, there is a larger regional forced migration situation related to violence, political instability, lack of opportunity, climate change and criminal impunity. Due to conditions in the Northern Triangle, families face forced migration; and, many of these families are truly fleeing persecution. Looking at solutions that are focused solely on changes to domestic laws will erode existing protections for such asylum-seeking children and families, while ignoring the larger holistic migration issue that must be addressed on a regional level.

The Church in Guatemala, Honduras and El Salvador is experiencing, publicly reflecting on, and responding to the escalation of violence in urban communities, in rural communities, and to family units. In his pastoral letter, “I See Violence and Strife in the City,” Most Reverend José Luis Escobar Alas, Archbishop of San Salvador, stated: “[t]he faithful know that they are being monitored [by gangs] in their comings and goings in the communities. The same applies to pastoral agents who are constantly watched . . . The exodus of families is heartbreaking . . . It is truly unfortunate and painful that the Church cannot work because of this atmosphere of insecurity and anxiety that shakes our beloved country.”¹³ The Archbishop describes one parish alone that in one year was “exposed to murder, persecution, exodus, and extortion,” including the murder of six active parishioners by stabbing, dismemberment, or firearms.¹⁴

Catholic social teaching recognizes the right to migrate but also recognizes the right not to migrate and that people can and do have the right to remain in their homeland and be able to provide a decent

¹⁰ COMISIÓN MEXICANA DE AYUDA A REFUGIADOS, BOLETÍN ESTADÍSTICO DE SOLICITANTES DE REFUGIO EN MÉXICO (2013), available at https://www.gob.mx/cms/uploads/attachment/file/413013/COMAR_2013.pdf.

¹¹ Rachel Schmidtke, *2018 Migration To and Through Mexico Fact Sheet*, WILSON CENTER (March 15, 2019), <https://www.wilsoncenter.org/article/2018-migration-to-and-through-mexico-fact-sheet>.

¹² *Id.*

¹³ Most Reverend Jose Luis Escobar Alas, *I See Violence and Strife in the City: A Pastoral Letter on the Occasion of the Feast of the Beloved Blessed Oscar Romero*, 18 (March 24, 2016).

¹⁴ *Id.* at 15.

life for themselves and their families. Many programs that have been implemented in Central America by the Church, our federal government and other partners are working to help ensure people can actually have a decent life and have access to a steady job and a safe community. We as a global Church are always reminding people that they have the right to remain in their home country. Unfortunately, due to increased violence and lack of opportunity that is not always something that families who are facing persecution feel is an option; sometimes migration is seen as the only option to protect one's life.

4. Recommendations to Promote Humane Care and Ensure Immigration Compliance:

In light of the increased number of asylum-seeking families we are seeing in El Paso and other border communities, and in consideration of the regional forced migration situation the Western Hemisphere is facing due to violence, poverty and other root causes, we recommend the following ways in which our country can provide humane care to immigrant children and families, promote secure borders and address the migration flow, and ensure compliance with immigration laws:

- **Aggressively Address Smuggling, Trafficking and Criminal Networks Through Economic and Multilateral Efforts.** Many of the families who are coming to the U.S./Mexico border have been exploited. They have been left unprotected and vulnerable by their home country and then have experienced dangerous migration journeys that have left them in debt and vulnerable to violence and death.
 - Short Term: Look to robustly implement existing recent security cooperation arrangements and information-sharing agreements regarding drug, human, and gun traffickers and smugglers with Northern Triangle countries. Consider implementing similar arrangements with Mexico.
 - Long Term: Develop more comprehensive regional intelligence and data sharing mechanisms on transnational criminal organizations and drug, human, and gun smuggling networks to weaken and disband networks. Additionally, look to utilize monetize the estimated \$200 million-\$2.3 billion 2017 smuggling network revenues thought to be collected from smuggling migrants from Guatemala, Honduras and El Salvador to combat existing criminal networks.¹⁵
- **Address Root Causes of Migration with Trauma-Informed and Regional Responses.** Congress should provide more funding for interdisciplinary programming to address root causes of migration in the Northern Triangle. Programming must address the actual social service needs of vulnerable children and families who are currently in forced migration situations. Special consideration should be given to funding initiatives like safe repatriation services, home country needs assessments and referrals, and aid that strengthens educational and work opportunities. Both Congress and the Administration should also look to find ways to support regional asylum systems and alternative avenues for seeking protection in the U.S.
 - Short Term: The Administration should fully reinstate the Central American Minors Program and not look to cut off aid to the Northern Triangle. As noted above, the U.S.

¹⁵ VICTORIA A. GREENFIELD, ET AL., RAND CORP., HUMAN SMUGGLING FROM CENTRAL AMERICA TO THE UNITED STATES (2019), available at https://www.rand.org/pubs/research_briefs/RB10057.html?utm_medium=rand_social&utm_source=twitter&utm_campaign=oea.

should invest in expanded programming to address the needs of vulnerable families and children in the region. The U.S. should also look to expand investments in anti-gang and anti-corruption programming, as well as initiatives to promote human rights in the sending countries.

- Long Term: The U.S. should help to build capacity of the Mexican and other regional asylum systems, encourage consistency in Mexican immigration policy, and address the ongoing humanitarian crisis in Venezuela.
- **Improve Existing Border Processing Polices to Reflect Humanitarian Needs and Retain Flexibility.** Migration is a cyclical and dynamic phenomenon. Current DHS institutional capacity to address influx periods of migration, however, is limited. CBP and ICE need to take approaches from the emergency management field and implement short- and long-term policies that enable greater community stakeholder cooperation, as well as communication and agency flexibility during influx migration periods.
 - Short Term: DHS should acknowledge local community partners on the ground and better coordinate with them to address the current influx. DHS entities, both ICE and CBP, need to better coordinate drop-offs of families and clearly communicate the number of arriving families to humanitarian service providers earlier in the day. Drop offs need to be made, when possible, during business hours. Local city and county governments need to be kept informed of expected number of arrivals and briefed regularly. Furthermore, Congress needs to authorize DHS to have grant-making authority to fund humanitarian service providers in influx periods to increase capacity.
 - Long Term: Congress should fund DHS to build and staff processing facilities along the border and increase Port of Entry infrastructure to improve the orderly flow of goods and the orderly processing of people. Processing facilities should be designed to accommodate the needs of arriving families, children, and other vulnerable populations. Medical professionals and child welfare experts should be staffed at processing centers that receive large numbers of families and children.
- **Invest Robustly in a Variety of Alternatives to Detention Programming for Families.** Congress should more robustly fund alternatives to detention (ATDs) in the DHS budget. Congress should also ensure that DHS is working to expand and pilot diverse alternatives to detention programming - in the form of the Intensive Supervision Appearance Program (ISAP), as well as alternatives to detention programming that utilize case management and, in some cases, NGO civil society participation. Congress should instruct DHS to publicly report on the outcomes of these programs and ensure that a continual pilot period is undertaken to secure transparent and viable data on the effectiveness of such programs. There should be special attention given to addressing the cost and due process concerns for those on detained vs. non-detained docket.
 - Short Term: Congress should ensure DHS immediately begins to implement a pilot of the Family Case Management Program for the top five destination cities for families. Under the FY 2019 DHS Appropriations Agreement from February 2019, ICE is instructed to report within 90 days to Congress about plans to implement some form of family case management alternative to detention programming. DHS can look to start implementing this program immediately by engaging existing government contractors, as well as NGOs who have worked on similar programs in the past.

- Long Term: Congress should require longitudinal studies on the efficacy of alternatives to detention for families, to be overseen by independent monitors. Studies should focus on examining the range of ATDs employed, the cost per day, the overall cost of the program, the ability to effectuate outcomes such as removal or attainment of legal status and demonstrated compliance as a means to ensure future participation.

- **Maintain Family Unity and Family Reunification Principles.** As Pope Francis has stated, the family “is the foundation of co-existence and a remedy against social fragmentation.” Upholding and protecting the family unit, regardless of its national origins and its size, is vital to our faith and to our country.
 - Short Term: DHS must ensure that it utilizes family-friendly processing procedures and does not separate family units unless in situations of child endangerment. These policies need to be robustly implemented and instances of family separation must be documented.
 - Long Term: Congress must look to ensure that family-based immigration principles and laws are maintained.

- **Ensure Efficient Due Process and Humane Policies for Asylum-Seeking Families.**
 - Short Term: Congress should urge the Administration to reverse its Remain in Mexico and November 2019 asylum policies, which if permitted by the courts to proceed, would needlessly increase the suffering of the most vulnerable and violate international protocols.
 - Long Term: Congress should further invest in augmenting the capacity of the immigration courts by hiring more judges and providing additional funding for new courtroom facilities. It should also consider making the immigration courts independent Article I courts. Additionally, Congress should ensure robust funding for legal information programs such as the Legal Orientation Program, Legal Orientation Programs for Custodians of Unaccompanied Children, and the Information Help Desk, which do not fund immigration counsel but help provide information to detained and released immigrants to ensure they know more about compliance requirements.

5. Conclusion

Our nation has had a long and proud history of providing humane treatment to and due process for asylum seekers. I urge us to reject policies and proposals that would abandon this tradition, and I ask our government to remember that those fleeing to our border are not the “other” but fellow children of God. I appreciate the Subcommittee’s consideration of the recommendations set forth above, which seek to address root causes of migration, promote asylum seekers’ humane care, and ensure immigration compliance. As always, the Catholic community of El Paso and the larger Catholic Church stands ready to work with Congress and the Administration to develop and implement compassionate and just policies and procedures relating to the arriving families and children. And, we will continue to pray for these vulnerable migrants and those working with them and on their behalf.