

TESTIMONY OF

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Chairwoman Rice, Ranking Member Higgins and Members of the subcommittee: The Migrant Protection Protocols (MPP) is an important step in regaining control of our southern border. When the MPP was implemented, the numbers of illegal aliens crossing our border illegally was at unprecedented levels. The MPP requires that certain foreign individuals entering or seeking admission to the U.S. from Mexico – illegally or without proper documentation – may be returned to Mexico and wait outside of the U.S. for the duration of their immigration proceedings, where Mexico will provide them with all appropriate humanitarian protections for the duration of their stay.

Our country is facing a security and humanitarian crisis on the Southern border. I applaud DHS for using all appropriate resources and authorities to address the crisis and execute our mission to secure the borders, enforce immigration and customs laws, facilitate legal trade and travel, counter traffickers, smugglers and transnational criminal organizations, and interdict drugs and illegal contraband. That is their job and that is their mission as dictated by Congress in the enactment of laws that CBP and ICE enforce.

Reading straight from the DHS website that is available for all to see, I will quote. The MPP will help restore a safe and orderly immigration process, decrease the number of those taking advantage of the immigration system, and the ability of smugglers and traffickers to prey on vulnerable populations, and reduce threats to life, national security, and public safety, while ensuring that vulnerable populations receive the protections they need. As a 34-year veteran of immigration enforcement who has served in the Border Patrol, the INS, ICE from the front line and on the street all the way to the first Acting Director of ICE who came through the ranks. I agree with the DHS assessment because I have seen the border crisis and the exploitation of our laws first hand.

Historically, the majority of illegal aliens that came here were single adult males from Mexico who could be quickly processed and removed to Mexico in less than an hour. As a Border Patrol Agent, you could process an alien from Mexico within 20 minutes and after accepting a voluntary return would be returned to Mexico through a Port of Entry within minutes. However, those dynamics have changed where we now have over 70% of all illegal entrants into the US this fiscal year being family units and unaccompanied children and mostly from Central America. Even though over 85% of all Central Americans that arrive at our border claim fear, less than 10-15% get relief from our courts because they simply don't qualify for asylum or they don't show up for their case. The last numbers I saw for the Immigration Court reports showed almost half of those that claim fear at the border don't file a case with EOIR. Once they are released into the US, which is their primary goal, they disappear and wait for the next DACA or Amnesty to roll around.

Misguided court decisions and outdated laws and the failure of Congress to close the loopholes that have caused this unprecedented surge has made it easier for illegal aliens to enter and remain in the U.S. if they are adults who arrive with children, unaccompanied alien children, or individuals who fraudulently claim asylum. There are only about 3000 designated family beds to deal with the almost 14000 family unit arrests during the peak months which mean most will be released and never spend a day in custody. Out of the most recent 100,00 family units that have been ordered removed after due process, less than 2% have left. In June of this year, just 5 months ago, the Acting Secretary of DHS testified that 90% of all family units in the most recent pilot study failed to show up in court after being released from the border. The MPP will help to ensure that those who claim asylum and want to see a judge and get due process will actually see a judge. I hear from many, including some here today, that these migrants have the right to claim asylum and they have the right to see a judge and they demand due process. I agree. But there is a flip side to that coin. After due process, if ordered removed by a judge, that order needs to be followed up

and executed or there would be no integrity in the entire process. 95% of everyone ICE removes from this country after due processes are removed from a bed. Those that are not detained and released are seldom returned to their country because they are in flight and hiding.

While we may not be at record highs right now because of the actions of this President and not this legislative body, the numbers are still at a crisis level and overwhelming the U.S. immigration system, leading to a “system” that enables smugglers and traffickers to flourish and often leaves aliens in limbo for years. This has been a prime cause of our over 800, 000 case backlog in immigration courts and delivers no consequences to aliens who have entered illegally.

The loopholes that Congress has failed to close along with the numerous enticements such as abolish ICE, no more immigration detention, free health care for aliens, sanctuary cities, a pathway to citizenship for those here illegally, all encourage more people to make that dangerous journey which will bankroll criminal cartels. The same cartels that are smuggling drugs into this country at alarming rates. ICE seized enough opioids last year to kill every man, woman, and child in this country twice. 31% of women are being sexually assaulted making that journey and children are dying. Border Patrol rescued over 4000 migrants who may have died if they were not found and saved by our Border Patrol Agents. You don't hear a lot about that because some people are too busy calling them racists and Nazis.

The MPP will provide a safer and more orderly process that will discourage individuals from attempting illegal entry and making false claims to stay in the U.S., and allow more resources to be dedicated to individuals who legitimately qualify for asylum.

I am not an attorney as those seated next to me are. But I have enforced immigration laws for over 34 years. According to the government attorneys and again available on the DHS website it reads that Section 235 of the Immigration and Nationality Act (INA) addresses the inspection of aliens seeking to be admitted into the U.S. and provides specific procedures regarding the treatment of those not clearly entitled to admission, including those who apply for asylum. Section 235(b)(2)(C) provides that “in the case of an alien . . . who is arriving on land (whether or not at a designated port of arrival) from a foreign territory contiguous to the U.S.,” the Secretary of Homeland Security “may return the alien to that territory pending a [removal] proceeding under § 240” of the INA.” Mexico is our partner in MPP along with the United Nation's IOM.

With certain exceptions, MPP applies to aliens arriving in the U.S. on land from Mexico (including those apprehended along the border) who are not clearly admissible and who are placed in removal proceedings under INA § 240. This includes aliens who claim a fear of return to Mexico at any point during apprehension, processing, or such proceedings, but who have been assessed not to be more likely than not to face persecution or torture in Mexico. Unaccompanied alien children and aliens in expedited removal proceedings will not be subject to MPP. Other individuals from vulnerable populations may be excluded on a case-by-case basis.

DHS has set up the system in a way that I think makes sense. This again is explained clearly on their website. Certain aliens attempting to enter the U.S. illegally or without documentation, including those who claim asylum will no longer be released into the country, where they often fail to file an asylum application and/or disappear before an immigration judge can determine the merits of any claim. Instead, these aliens will be given a “Notice to Appear” for their immigration court hearing and will be returned to Mexico until their hearing date.

While aliens await their hearings in Mexico, the Mexican government has made its own determination to provide such individuals the ability to stay in Mexico, under applicable protection based on the type of status given to them.

Aliens who need to return to the U.S. to attend their immigration court hearings will be allowed to enter and attend those hearings. Aliens whose claims are found meritorious by an immigration judge will be allowed to remain in the U.S. Those determined to be without valid claims will be removed from the U.S. to their country of nationality or citizenship.

DHS is working closely with the U.S. Department of Justice's Executive Office for Immigration Review to streamline the process and conclude removal proceedings as expeditiously as possible. Consistent with the law, aliens in removal proceedings can use counsel of their choosing at no expense to the U.S. Government. Aliens subject to MPP will be afforded the same right and provided with a list of legal services providers in the area, which offer services at little or no expense to the migrant.

Again, this program makes sense. MPP will reduce the number of aliens taking advantage of U.S. law and discourage false asylum claims. Aliens will not be permitted to disappear into the U.S. before a court issues a final decision on whether they will be admitted and provided protection under U.S. law. Instead, they will await a determination in Mexico and receive appropriate humanitarian protections there. This will allow DHS to more effectively assist legitimate asylum-seekers and individuals fleeing persecution, as migrants with non-meritorious or even fraudulent claims will no longer have an incentive for making the journey. Moreover, MPP will reduce the extraordinary strain on our border security and immigration system, freeing up personnel and resources to better protect our sovereignty and the rule of law by restoring integrity to the American immigration system.

Now, there is a crisis on our border. Even though many said that there were no caravans, there were and we saw them. Others said that it was a manufactured crisis and now we know it wasn't. The President has been right from day one on this and has done everything he can, thinking out of the box but within the law and trying to secure our border and protect our sovereignty. As a matter of fact, on May 7th of this year the 9th Circuit stayed an injunction against the MPP and has allowed it to continue. Illegal crossings are down considerably from the high in May but we are still at high numbers beyond last year. The significant gains made on this issue are because of our President and the men and women of CBP and ICE not because of anyone in this room.

I am here at another hearing that will again push a false narrative about this Administration and the men and women that work for it. Another hearing that will examine a policy implemented by the Administration in an attempt to secure our nation. However, I have seen no hearings in the House regarding the three loopholes that are causing this crisis such as the abuse of the asylum process, the Flores agreement or the TVPRA. No hearing on sanctuary cities and the numerous victims of crimes at the hands of those released back into the street rather than being turned over to ICE. No hearing on the obvious widespread fraud surrounding the asylum process. No hearings on the willful and disgusting attacks against the men and women who serve within the Border Patrol and ICE. No hearing about how we secure our border. Why is this important? Because this is not just a humanitarian issue in our border. The Border Patrol has said that 40-50% of their manpower is no longer on the front line, defending our border because they are dealing with these families and UACs. When half of our Border Patrol is not on the line, the border is more vulnerable to drug smuggling and the smuggling of bad operators such as cartel members, gang members and those who want to come to this country to do us harm. If you are someone in this world that wants to come to this country to blow up a building, our border is vulnerable. It's hard to buy a plane ticket to the US or get a visa to the US after 9-11 because of all the security checks and derog searches conducted. If you want to get here quickly and easily you will come the same way 12-20 million others did, illegally through our southern border, especially now because half of the border is unguarded. The President recognized this and has taken unprecedented actions to address this crisis. I applaud him for doing it. Now it is time for this body to legislate and address this crisis and protect our nation.