



TESTIMONY OF

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BEFORE

Committee on Homeland Security
Subcommittee on Border Security, Facilitation, and Operations
U.S. House of Representatives

ON

“Unaccompanied Children at the Border: Federal Response and the Way Forward”

2:00 p.m., June 10, 2021
Washington, D.C.

Introduction

Chairwoman Barragán, Ranking Member Higgins, and distinguished Members of the Subcommittee:

It is an honor to appear before you today to discuss the important steps the Department of Homeland Security (DHS or Department) is taking to address the needs of unaccompanied children, as well as our overall efforts along the Southwest Border.

I am proud to serve alongside the many brave men and women of the Department who are working tirelessly to address the surge of migrants, including unaccompanied children, at our Southwest Border. Every day we take significant steps to rebuild and improve the capacity necessary to expand safe and orderly processing at our borders. DHS and the Administration are committed to rebuilding our nation's immigration system and reforming immigration policies consistent with our laws and our values as a nation.

Border Challenges

Challenges at the border, including surges in migration, are not new. Every administration in modern history has had to deal with significant spikes in arrivals at our Southwest Border.

The causes of such migration challenges have always been varied and complex. Over the last few years, however, a number of factors in the Northern Triangle region (El Salvador, Guatemala, and Honduras) have coincided to further exacerbate dislocation and migration in the region. These factors include corruption and political instability; persistent violence, including high rates of gender-based violence; droughts, hurricanes, and other natural disasters; and limited economic opportunity. The COVID-19 global pandemic only compounded this already challenging situation.

Although encounters at the Southwest Border plummeted at the beginning of the pandemic, when public health-related restrictions were first implemented at the border and throughout the region, encounters have steadily increased since then. Between April 2020 and January 2021, for example, the Department saw a 1,000% increase in apprehensions along the Southwest Border. And those numbers have continued to rise. In March and April 2021, U.S. Customs and Border Protection (CBP) encountered more than 170,000 individuals each month at the Southwest Border.

It is important to note that while recent encounter numbers are high, they also somewhat overstate migration flows, particularly among single adults. Since March 2020, the Department has been assisting the Centers for Disease Control and Prevention (CDC) in implementing a public health order temporarily suspending the introduction of certain persons from countries where a communicable disease exists (the "CDC Order") pursuant to Title 42 of the United States Code ("Title 42"). Under that authority, DHS continues to expel the majority of single adults and many families encountered at the border. In part because expulsions do not carry a legal immigration consequence, DHS is seeing significantly higher-than-normal repeated

crossing attempts. In other words, the Department is often encountering the same individual multiple times after being encountered and expelled from the United States.

Thus, although the Department is seeing more total encounters now than in May 2019 (the peak month that year), the number of unique encounters remains lower than the number of such encounters in May 2019. Of course, the high re-encounter rate does not minimize the impact of current encounters on the Department. But it does serve as a reminder that encounter numbers do not tell the whole story and that migration surges have varied and complicated causes.

It is clear that the decision made by many families and children to undertake the dangerous journey to the United States does not come lightly, and it underscores the need for a comprehensive regional approach for addressing irregular migration. There is no one single solution.

The Administration's approach was first laid out by President Biden in his Executive Order on *Creating a Comprehensive Regional Framework to Address the Causes of Migration, to Manage Migration Throughout North and Central America, and to Provide Safe and Orderly Processing of Asylum Seekers at the United States Border*. Among other things, we must deal with the factors that cause individuals to flee in the first place, including the ongoing violence, corruption, natural disasters, and lack of basic opportunities—including poverty and lack of opportunity exacerbated by gender inequality—that plague various countries in the region and that drive people to leave their homes. This is the only true long-term solution.

We must also work collaboratively with countries in the region to provide alternative avenues for migration, including access to temporary work opportunities, and other forms of securing safety, including by increasing the capacity of countries in the region to take and assist displaced persons. Until we address the root causes that push people to migrate in the first place and establish lawful, safe, and orderly pathways for people to seek protection or opportunity, we will likely continue to see an increase in unauthorized migration at our Southwest Border.

Finally, we must reform our procedures for processing individuals at the border, including adjudicating the asylum claims of those who make them. The longstanding system for adjudicating cases arising out of the border was designed years ago, when the demographic makeup of border encounters—including the percentage of individuals making asylum claims—was vastly different than it is today. The current system is simply not designed to efficiently adjudicate the cases we are seeing today, resulting in dysfunction that only exacerbates the country's migration challenges.

Efforts in each of the above areas are already underway. DHS is supporting the Department of State, the U.S. Agency for International Development, and other federal agencies to address drivers of migration in the region, to support other countries as they work to respond to humanitarian needs and improve their respective humanitarian protection systems, and to expand lawful avenues for migration to the United States and other countries. DHS is also developing policies and procedures that promote safe and orderly processing of asylum claims at our borders, and that ensure those claims are adjudicated in a timely and fair manner.

By working closely with partners in the region, and with a whole-of-government approach, we can holistically address the migration dynamics in the region and at the Southwest Border. The work we have already accomplished with unaccompanied children, which I address further below, is an example of what we can achieve.

COVID-19 and Title 42

The global pandemic has exacerbated the challenges we face at the border. In March 2020, DHS began assisting the CDC in implementing its public health order under Title 42, and the Department has continued to work alongside the CDC to implement key safety measures and guidance. The public health and safety of border communities, U.S. government personnel, and those we encounter remain a top priority.

DHS continues to expel the majority of single adults and many of the families it encounters. Unaccompanied children remain excepted from the CDC Order.

In certain situations, the Department may except individuals from the CDC Order, process them under Title 8 of the United States Code, and place them into immigration proceedings. As permitted by the CDC Order, such exceptions are determined on a case-by-case basis in consideration of the totality of the circumstances. In consultation with the CDC, the Department has created a streamlined system to facilitate the efficient processing of individuals in particularly vulnerable situations who may warrant such exception under Title 42. Pursuant to this process, DHS may process certain vulnerable individuals safely while protecting our national security and safeguarding public health. Addressing the situation of migrants in vulnerable situations is aligned with both our national interests and our values as a nation.

DHS employs all necessary safety precautions throughout our facilities in accordance with the CDC's public health guidance, including mandatory face coverings and social distancing to the maximum extent possible. DHS has also followed recommendations to limit the temporary holding capacity within U.S. Border Patrol facilities by up to 75 percent to allow for social distancing.

DHS will continue to assist the CDC in implementing the CDC Order while it reassess the public health need for the order. As Secretary Mayorkas has said before, the Administration will not keep the Title 42 restrictions in place longer than necessary for public health and safety.

Unaccompanied Children

DHS has stopped the prior administration's practice of expelling vulnerable unaccompanied children pursuant to Title 42, and the Department is working in tandem with the Office of Refugee Resettlement (ORR) within the Department of Health and Human Services (HHS) to ensure such children are transferred to ORR custody as promptly and as safely as possible.

The Biden Administration has employed a whole-of-government approach to solve issues related to the care, transfer, and placement of unaccompanied children, and it is strongly committed to preventing the exploitation of this vulnerable population. Generally, when CBP encounters an unaccompanied child, its officers and agents are required to transfer the child to ORR custody

within 72 hours of the unaccompanied child determination. Unaccompanied children are tested for COVID-19 upon transfer to ORR, which is generally responsible for placing such children with sponsors in the United States. In more than 80 percent of cases, a family member in the United States is available to sponsor the child for the duration of the child's immigration proceedings.

In partnership with HHS, the Department has taken steps to identify and create significant efficiencies in the above-described process. Among other things, the Department has assisted HHS to significantly expand its emergency influx shelter capacity; established an interagency Movement Coordination Cell (MCC) to streamline operations in support of the timely transfer of unaccompanied children from DHS to ORR custody; provided hundreds of U.S. Citizenship and Immigration Services (USCIS) officers to help interview and vet potential sponsors; and activated the DHS volunteer workforce, through which approximately 300-400 volunteers across the country are assisting CBP and ORR with oversight and logistics at any given time.

As a result of these efforts, DHS and HHS have been able to drastically reduce the number of unaccompanied children in CBP custody as well as the time such children spend in such custody. On March 29, 2021, more than 5,700 unaccompanied children were in Border Patrol stations. As of June 8, there were 514. On March 29, more than 4,000 children were held over the 72-hour legal limit. As of June 8, there were none. On March 29, the average time of an unaccompanied child in a Border Patrol station was 133 hours. As of June 8, it was 21 hours.

Currently, all unaccompanied children are screened for trafficking by CBP. Incidences of child trafficking, or suspected cases of child trafficking, are reported to Homeland Security Investigations (HSI) within U.S. Immigration and Customs Enforcement (ICE) and, as appropriate, the HHS Office of Trafficking in Persons.

Border Security and Transnational Criminal Organizations

When an individual or family decides to make the long and dangerous journey to our Southwest Border, or makes the difficult decision to send a child alone, these actions often attract corrupt actors seeking to exploit these sensitive populations. Transnational criminal organizations (TCOs) that smuggle or traffic migrants place profit over the value of human life, often with devastating consequences. These organizations are complicit in sexual assaults, human trafficking, and abandonment of vulnerable migrants—including young children. Unfortunately, many migrants fall victim to their manipulation and abuse.

The Department, through CBP and HSI, takes these threats seriously and has long worked to disrupt and dismantle these criminal organizations. In collaboration with federal and international partners, DHS recently announced *Operational Sentinel*, a counter-network targeting operation aimed at holding accountable those with ties to TCO logistical operations.

The intent of this joint effort is to disrupt the upstream and downstream logistical networks of TCOs that are directly and indirectly contributing to the surge of migrants at the Southwest Border. *Operation Sentinel* will leverage law enforcement expertise and authorities to identify TCO targets, their foreign and domestic associates, and assets to employ a series of targeted

enforcement actions and sanctions against them. Such actions may include, but are not limited to, denying access to travel through the revocation of travel documents; the suspension and debarment of trade entities; and the freezing of bank accounts and other financial assets tied to TCO logistical networks.

Central American Minors Program

In close coordination with the Department of State, DHS has been working to reinstitute and strengthen the Central American Minors (CAM) program to reunite eligible children from El Salvador, Guatemala, and Honduras with parents who are lawfully present in the United States. This important program supports family unity and diminishes the need for many unaccompanied children to make the dangerous journey to the border.

On March 10, 2021, the Department of State announced the phased reopening of this program. Interviews for phase one, which involves the processing of previously filed applications, started on April 19. In phase two, the program will begin to accept new applications.

Before this program was terminated under the previous administration, approximately 5,000 children were reunited safely and securely with their families. The abrupt nature of the previous administration's termination of the program left many families in the middle of the process and unable to reunify, despite having taken initial efforts to do so. It will take time to rebuild the CAM program. DHS is committed to strengthening this program and providing children with the protections they need, along with a viable, safe, and legal alternative to the dangerous journey many have attempted to reach our Southwest Border.

Increases in H-2B Nonimmigrant Visas

On May 25, 2021, in accordance with the authority granted by Congress, DHS and the Department of Labor published a temporary final rule increasing the numerical limit, or cap, on H-2B nonimmigrant visas by up to 22,000 additional visas through the end of fiscal year 2021. Of these visas, 6,000 are reserved for nationals of Northern Triangle countries.

This increase represents but one innovative approach to providing additional legal pathways to the United States for individuals in the region while simultaneously supporting the U.S. economy and businesses. By doing so, we have addressed the needs of U.S. employers who are at risk of irreparable economic harm due to a shortage of workers to fill temporary positions, while also establishing safeguards to ensure that U.S. workers are not adversely impacted. Once the temporary job has been completed, these H-2B nonimmigrant visa holders return to their home countries with wages to spend in support of struggling Northern Triangle economies, in addition to any remittances they may have been able to send while working in the United States.

Migrant Protection Protocols

On January 20, 2021, DHS announced it would suspend all new enrollments in the Migrant Protection Protocols (MPP) program. Under MPP, approximately 70,000 individuals were forced to return to Mexico while awaiting their immigration proceedings. On June 1, 2021, as

directed by the President in Executive Order 14010, Secretary Mayorkas completed his review of MPP and terminated the program.

As part of the Administration's phased approach to restore safe and orderly processing at the Southwest Border, DHS began processing into the United States certain individuals who were enrolled in MPP to allow them to pursue their legal claims before the Department of Justice's Executive Office for Immigration Review. The Department worked closely with interagency and international organization partners as well as the Government of Mexico. As a result of these efforts, DHS has safely and efficiently processed more than 11,600 individuals as of June 4 through six ports of entry across the Southwest Border, allowing them the opportunity to pursue their immigration cases in the United States.

The pandemic has underscored the importance of creating innovative procedures that prioritize the safety of those involved. Individuals who may be eligible for this process can register online from any location. Once registered, eligible individuals are contacted by international organizations and provided instructions for accessing designated staging locations, where they receive a health screening and are tested for COVID-19 prior to presentation at a designated port of entry. Those who test positive for COVID-19 are supported by facilitating organizations to isolate and/or seek treatment in line with the policy of the relevant local health authority in Mexico. Following isolation and screening, an individual will again be eligible for facilitated arrival at a designated port of entry.

This innovative and efficient process to address certain individuals who were enrolled in MPP is a testament to our ability to process individuals into the United States in a way that is humane and efficient while still enforcing our immigration laws and maintaining border security and public health.

Family Reunification

In the first weeks of the new Administration, President Biden issued an Executive Order on the *Establishment of Interagency Task Force on the Reunification of Families*. The Task Force's mission is to correct the injustice of the prior administration's practice of separating children from their parents or legal guardians at the U.S.-Mexico Border, including through its Zero-Tolerance Policy.

To date, the Task Force has identified approximately 4,000 children who were victims of the Zero-Tolerance Policy and related initiatives. The Task Force is working to reunite such children with their separated parents or legal guardians.

Conclusion

President Biden and Secretary Mayorkas both have made clear that securing our border does not and should not come at the expense of fulfilling both our legal and humanitarian obligations. Addressing the needs of unaccompanied children and others in a safe, orderly, and efficient manner aligns with our national interest and our values as a nation.

Thank you. I look forward to answering your questions.